Albania Law Journal
ISSN 2523-1766
LAWJOURNAL.AL ◆ Issue 2 May 2017

PILLAR III
HUMAN RIGHTS

On Several Aspects of Good Governance and the Importance of Civic Engagement

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I. ABSTRACT

This article deals with the concept of good governance and its major elements, among which civic engagement and respect to human rights. Paragraph II of this article explains the concept of good governance, the development of this concept and its main elements. In paragraph III it is provided in detail one fundamental element of good governance, that is public participation in decision making and the instruments that the Albanian legislation provides to citizens in order for them to exercise civic engagement. Paragraph IV deals with another aspect of good governance under the framework of respect to human rights and fundamental freedoms and brings in a concrete example, which illustrates how good governance impacts these rights. The article ends with paragraph V which provides conclusions derived from the analysis and recommendations on how to implement good governance.

KEY WORDS: ECHR; good governance; public information; public consultation; human rights; strategic litigation

ABBREVIATIONS

AHE	Albanian Helsinki Committee
Commissioner	The Information and Data Protection Commissioner
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
IMF	International Monetary Fund
IRSH	Young Intellectuals, Hope Association
OECD	Organization for Economic Co-operation and Development
UNDP	United Nations Development Program
WB	World Bank

II. INTRODUCTION

"Good governance is ensuring respect for human rights and the rule of law; strengthening democracy; promoting transparency and capacity in public administration"[1].

[1] Quote from the speech of former UN Secretary-General Kofi Annan – Reference at https://en.wikipedia.org/wiki/Good_governance

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Good governance is an indeterminate term used in the international development literature to describe how public institutions conduct public affairs and manage public resources. At national level, good governance is linked to aspects such as provision of public services in an efficient manner, by ensuring greater participation of certain categories of population including the poor and the minorities, the opportunity of citizens to check and balance the government, the establishment and enforcement of norms for the protection of the citizens and their rights and the existence of independent judicial systems.The concept of good governance is a relatively new concept that is being developed mainly during recent years and has not found extensive consideration in literature or legal and institutional development in our country. Even in the international arena, this concept is thought to have been developed relatively late, after 1980s, owing to the contribution made by several international organizations.

Therefore, the international debate on good governance was predominantly shaped by international organizations, such as the World Bank, the Organization for Economic Co-operation and Development (OECD) and the United Nations Development Program (UNDP), which have been major players in international development cooperation. Good governance has served as a yardstick for sound development policies and it has been oriented towards core features of the governance structures and processes in OECD countries. These include, for example, effectiveness, efficiency, transparency, accountability, predictability, sound financial management, fighting corruption, as well as the respect for human rights, democracy and the rule of law[2].According to the UN Economic and Social Commission for Asia and the Pacific, good governance has 8 major characteristics; it is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. Good governance assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard during the decision-making process. It is also responsive to the present and future needs of society[3].

The International Monetary Fund (IMF) places great emphasis on good governance when providing policy advice, financial support, and technical assistance to its 184 member countries. IMF limits itself to economic aspects of governance that could have a significant macroeconomic impact. The IMF approach to good governance has been identified also with the Guidelines drafted for the promotion of good governance and fight against corruption[4]. IMF points out the close link that exists between the concept of governance and corruption. Poor governance otherwise known as bad-governance favors the terrain where corruption takes place whilst promotion of good governance helps in the fight against corruption. Governance may be undermined by corruption to the extent that it distorts decision-making processes and their implementation. Corruption is additionally favored by a poor control on expenses and when the government provides goods, services and resources below the market prices. IMF assesses that greater transparency and accountability may improve the quality of economic decision-making

[2] "Good governance in the European Union" - Tanja A. Börzel, Yasemin Pamuk, Andreas Stahn, January 2008
[3] http://www.unescap.org/sites/default/files/good-governance.pdf
[4] Updated on 20 June 2005, accessible in http://www.imf.org/external/np/gov/guide/eng/index.htm

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ISSN 2523-1766
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and strengthen the international financial system. At the same time, these good governance dimensions are crucial for any anti-corruption strategy.

Since good governance originated in international development cooperation, it is not surprising that the concept entered the European Union (EU) through this gateway and quickly diffused into other policy areas. The EU is either a member or an observer in international development organizations and fora, such as the UN, World Bank or OECD. The European Commission's Directorate-General for Development took the lead in the conceptualization of the EU's good governance agenda and its mainstreaming into all areas of its external relations. In early 2000, the Commission identified the reform of European governance as one of its four strategic objectives. Seeking to address the growing demand for more democracy, transparency, and *subsidiarity*[5], the Commission published a White Paper in July 2001. According to the Commission, the concept of European governance shall encompass five principles of good governance – i.e. openness, participation, accountability, effectiveness and coherence – in a comprehensive framework for consistent policies associating civil society organizations and European institutions. Acknowledging the important role civil society plays in giving voice to the concerns of citizens and delivering services that meet people's needs, the EU internal policy mainly refers to transnational cooperation strategies trying to involve the civil society organizations at all levels of the policy-making process. One of the concluding proposals of the White Paper aims at institutionalising the EU's relations by aiming at the involvement of civil society in EU policy-making through more structured processes of consultation.[6]The numerous aspects of good governance are mostly related to the principles which must govern a state, a corporation, an organization, a public body and any other organization. The most important principles of good governance for the citizens are those related to participation, human rights and democracy. But while the state institutions play a very important role in the promotion and respect of these principles and good governance values, the role and civic engagement, particularly of civil society, is no less important.

III. PUBLIC PARTICIPATION IN DECISION-MAKING

Public consultation during the drafting and approval of draft acts is another very important aspect of good governance, which enables participation of stakeholders and every citizen in important decision-making processes. Consultation makes the dialogue effective and improves policies and content of legal acts. One of the main reasons why a higher level of consultation is sought in decision-making processes is the need to ensure a broader acceptance of the legislation, strategies and policies and consequently, their easier implementation. Participation in public consultations allows avoidance of objections against the acts following approval by stakeholders as well as harmful consequences which may result by their implementation.

[5] The principle of subsidiarity under the framework of the EU consists mpetences among EU and its member states for those fields where the EU does not have an exclusive competence.
[6] "Good governance in the European Union" - Tanja A. Börzel, Yasemin Pamuk, Andreas Stahn, January 2008.

In order to ensure participation in the international voluntary initiative "Open Government Partnership", the Assembly of Albania approved in October 2014 Law No.146/2014 "On notification and public consultation". The law aims to achieve transparency of public institutions, by enabling and encouraging indiscriminate inclusion of the public and stakeholders in policy-making and decision-making processes of high public interest. This law defines the rules of notification and public consultation of draft laws, strategic national and local documents, as well as of policies which have a high public interest. The law requires every central and local institution to make public the legal initiatives it intends to undertake, with the aim of having them consulted with stakeholders or the general public, before their final approval[7]. The law provides some guarantees for the consultation to be effective and non- formal, qualitative and non-superficial. Some of the most important guarantees foreseen by this law are: the obligation of public authorities to approve annual decision-making plans containing all initiatives that undergo a public consultation process for the upcoming year[8]; the obligation of public authorities to publish the text of the draft act in the electronic register of public consultation, so that it can be read by the biggest possible number of stakeholders[9]; the obligation of the public authorities to respect deadlines of public consultation (minimum of 20 days)[10]; the obligation of the public authorities to keep a written record for every consultation as well as to inform all the stakeholders of the recommendations which have been taken into account and of a summary of recommendations which have not been taken into account[11].

Even though some institutions, mainly at the central level, have taken steps forward for the implementation of this law, the law in general has been implemented at a slow pace[12]. Whereas public authorities often do not respect the deadlines and procedures foreseen in this law on notification and public consultation, even stakeholders and citizens do not exercise enough positive pressure for the implementation of this law. The law gives to stakeholders and persons the possibility to exercise their right of appeal if their voice is not heard in compliance with the rules and procedures foreseen by provisions therein. The law foresees two ways of appeal for all the stakeholders who claim violation of their right of notification and public consultation. When the draft act has not yet been approved the complaint may be presented to the head of the public institution responsible for the process of notification and public consultation. The law foresees no deadlines for this way of appeal. When the draft law has already been approved, the complaint may be presented to the Information and Data Protection Commissioner (the Commissioner), within 30 days from the date of approval of the act. The Decision of the Commissioner is very important due to the *quasi judicial* nature this independent institution established by law has and due to the nature of the sanction which it imposes on the public

[7] Article 6, Law no. 146/2014.
[8] Article 6, Law no. 146/2014.
[9] Article 6, Law no. 146/2014.
[10] Article 15, Law no. 146/2014
[11] Articles 18 and 19, Law no. 146/2014

[12] http://ahc.org.al/zbatimi-i-ligjit-per-njoftimin-dhe-konsultimin-publik-vazhdon-te-jete-problematik-dhe-ne-nivele-te-uleta/

institution that failed to fulfill the obligations deriving from the lawful process of notification and public consultation. Nonetheless, even though the law was approved over two years ago and the stakeholders continuously complain about the lack of consultation or the presence of formal settings in various consultative processes, the Commissioner has not yet created a consolidated practice in exercising his authority to examine complaints submitted by interested parties. The reason for this being that the interested parties themselves have not been interested in exercising their right of appeal with the Commissioner.

The first decision issued by the Commissioner in exercise of his powers to guarantee implementation of the law as an appeal mechanism for notification and public consultation is decision no. 28, dt. 13.02.2017. This decision followed a complaint submitted by the Albanian Helsinki Committee against the Ministry of Justice[13], which had prepared the draft law on amnesty without going through the process of public consultation, in compliance with requirements and procedures indicated by the law on notification and public consultation. AHC filed a complaint with the Commissioner bringing to the attention of this institution the facts and arguments that the Ministry of Justice when preparing the draft act, had failed to comply with the requirements for notification and public consultation. The Ministry of Justice in its submissions to the Commissioner referred that the nature of the draft law on amnesty is not essentially that of a draft act where the opinions of stakeholders may be reflected. Meanwhile, according to law no. 146/2016, public consultation is excluded **only** during the decision-making process related to issues of national security for as long as they constitute state secret; international relations and multilateral and bilateral agreements; individual administrative acts and administrative acts of a normative nature, save when otherwise specified by separate law; normative acts with the force of law approved by the Council of Ministers; civil emergency acts; and other exceptional issues foreseen by law. The Commissioner found that the restriction claimed by the Ministry of Justice on consulting this draft law did not fall under any of the exemption clauses foreseen by the law on notification and public consultation. The decision of the Commissioner on this case was a success story because it granted the complaint of the AHC against the Ministry of Justice and proposed to the latter to take administrative measures against the responsible person, in compliance with the legislation in force on civil service[14].

This decision was followed by a second decision on failure to comply with the law on notification and public consultation, this time based on a complaint filed by the Association IRSH[15]. IRSH filed a complaint claiming violation of the right to notification and public consultation about the 2017 budget and mid-term budgetary framework 2018-2019 of Shkoder Municipality. The decision of the Commissioner finds that notice for public consultation for these two draft acts was made three days prior to the set date, whereas they were approved 9 days later, thus failing to respect mandatory legal deadlines foreseen in the law on notification and public consultation, which is at least 20 days. As a conclusion, the Commissioner finds that

[13] http://ahc.org.al/jepet-vendimi-i-pare-quasi-gjyqesor-per-cenimin-e-se-drejtes-per-njoftim-dhe-konsultim-publik/
[14] http://www.idp.al/wp-content/uploads/2017/02/Vendim_nr_28-Ministria_e_Drejtesise.pdf
[15] http://www.idp.al/wp-content/uploads/2017/03/Vendim_nr_54-Bashkia_Shkoder.pdf

the process of public consultation of these draft acts was made in violation of the legal provisions of the law on notification and public consultation and granted the request of IRSH, by proposing Shkoder Municipality to take administrative measures against the responsible person, in compliance with the legislation in force on civil service[16].

What is of interest in the Decision No. 54 of 21.03.2017 of the Commissioner is the fact that draft budget and the mid-term budgetary framework of Shkoder Municipality have been considered draft acts which should undergo the process of notification and public consultation. Indeed, the Decision makes no analysis to identify the category foreseen by the law on notification and public consultation under which these draft acts fall. However, a legal analysis of the features of these draft acts points out that they do fall neither under the category of the draft-law nor under the category of strategies at national or local level. Consequently, the Commissioner has indirectly assessed these draft acts as policies of public interest. Dissection of this notion in the Commissioner's jurisprudence is very important because the law on notification and public consultation provides for no clear definition of what policies of public interest are and which are the draft acts that need to be considered as such.

The two above analyzed cases constitute the first two cases of the jurisprudence on violation of the right to notification and public consultation. It is important that stakeholders exercise a positive pressure for the implementation of the law and exercising of their right of appeal with the responsible bodies and then the court. Exercise of the right of appeal would discipline public institutions and make them more responsible for the fulfillment of requests indicated by the law on notification and public consultation. On the other hand, the case-law would make the law more effective, by giving life to its provisions which very often may be subjectively interpreted by public authorities and/or stakeholders.

IV. RESPECT FOR THE HUMAN RIGHTS AND FREEDOMS

Another important aspect related to good governance concerns the obligation of the state and its institutions as regards respect of human rights and freedoms of citizens. This is a negative obligation when the state must refrain from infringing these rights and freedoms or interfering in the way individuals exercise these rights. The state's obligation may be positive when the state takes proactive actions or protective measures for the effective enjoyment and exercising of these rights and freedoms. Respect for the rights and freedoms of citizens constitutes one of the five key priorities established by the European Union for the opening of negotiations to become part of the European family. The European Commission's Progress Report 2016 for Albania assesses that the legal framework for the protection of rights of citizens is broadly in line with the European standards. Albania has ratified most of the human rights convention. However, the enforcement of human rights protection mechanisms needs further strengthening[17].

[16] Commissioner Decision no.54, dt. 21.03.2017.
[17] https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf

The European Convention on Human Rights constitutes one of the most important international acts ratified by our country which indicates the obligation to ensure the rights and freedoms foreseen by the Convention to everyone falling within its jurisdiction. The importance of this Convention is embodied as well as in the provisions of the Constitution of our country, which in article 17 foresees that the limitation of rights and freedoms may not infringe their essence and in no case may they exceed the limitations provided for in the ECHR. This Convention, through its defense mechanism, the European Court of Human Rights has produced a diverse jurisprudence for several member states of the Council of Europe. The Convention, thanks to this jurisprudence has been transformed into a living instrument which is developed and improved on constant basis. The reason for this is that the cases tried by this court throughout the years have elaborated the interpretation and analysis made to the alleged violations and the law, depending on the specific case but also to the legislative and social development in member states of the Council of Europe. While a diversity of cases, having as a party thereto several developed democratic countries of the Council of Europe, concerning the rights and freedoms foreseen in the Convention ,have been tried by the ECtHR and, the Albanian cases tried by this Court mostly concern the right to property and the right to a due legal process. Cases tried by this Court having our country as the defendant in relation to rights and freedoms of the convention including the right to life, right to respect for private life and privacy, freedom of thought, conscious and religion, freedom of expression, freedom of association and organization, right to marry or prohibition against discrimination are missing or they are only few in number. ECtHR, in most of the decisions concerning the alleged violation of these rights, has ruled non-admissibility based on the reasoning that the claimed violation has not been reasoned before the national authorities or that the domestic means of appeal have not been exhausted.

Constantly, print and electronic media in our country, in particular investigative media, People's Advocate and the civil society report vital problems faced by different communities of citizens which are mostly related to failure to provide public services or the poor quality of these provided services by the public authorities at central and local level. Some of these cases reported by the media are not addressed properly by the public authorities, and the latter, quite often, justify lack of public services with limited financial and budgetary sources. Most of citizens do not speak out loud and they do not exercise the legal means to make sure that their rights are implemented equally. Moreover, these citizens do not exercise positive pressure on public authorities, in order to influence policy-making and decision-making that will effect positive changes to their life.

Judicial protection of human rights and freedoms strengthens the good governance mechanisms as it makes them liable to enforce the law and increase transparency, accountability and responsibility towards citizens. However, nowadays citizens are less interested in requesting judicial protection of their rights, especially economic and social rights. The factors which have lead to this situation are different and they are linked to lack of awareness or culture of requesting rights or poverty, which for the categories in need has shifted their attention from the daily violation of the law encountered by them. In particular, the problems existing in the judicial system throughout 27 years of transition have resulted in citizens' lack of trust in justice. The

missed access to justice and poor quality of free legal aid, has also influenced the failure to develop a consolidated case-law for requesting through the court the violated rights and freedoms. The court hearings monitored by the Albanian Helsinki Committee show that the ex officio lawyers assigned by the court and the prosecutor's office very often perform the duty of the defense counsel formally and they lack professionalism[18].

Requesting through the judicial channels the rights or freedoms, especially when they are violated by public authorities or when the latter through intentional omission or negligence create obstacles to effective exercising of these rights is useful for the creation of positive models of good governance and increasing and strengthening civic engagement to challenge these institutions and exercise positive pressure on them. An important role in this regard is played by nonprofit organizations that have established legal clinics to assist the society's categories in need, which are financially unable to contract lawyers to start court proceedings to request their rights. In particular, there are pivotal cases, which aim at creating new legal and institutional practices where, through the representation of a person or group of persons, the successful settlement of a case will be useful for the settlement of problems involving of a higher number of individuals who are under same or similar conditions. These cases are otherwise known as cases of *strategic litigation* or *class action* cases.

In many countries the litigation for public interest/*strategic litigation* is developed as a process via which it is requested "acceleration of social changes through orders of the court, which aim at reforming legal norms, enforcing existing legislation or issuing legal norms[19]." Regardless of the positive aspects of this form of access to the court, in the Albanian context, its enforcement concerning the request to enforce economic and social rights and provision of public services is problematic as regards the standing of non profit organisations as plaintiffs. Similarly to other countries, the rules of access to court are restrictive concerning representation in trial of non-profit organizations and especially their active standing. Under these circumstances, organizations represent cases through lawyers of Legal Clinics, instead of them being the claimants.

One of the cases followed recently by the Albanian Helsinki Committee[20] concerns the inhabitants of the Visoka village, in Mallakaster, who have never had the water supply system in place. This case concerns lack of action of public authorities for provision of drinking water in this village, and consequently the life of 1400 inhabitants is made difficult, as they have to walk for miles to fetch water from natural resources. While this problem is not settled by the central and local authorities, the inhabitants of the area have drilled wells up to 200m depth, but the water contains high percentage of gas, oil and solar. The Directorate of Public Health in Fier and the State Inspectorate of Environment, Forests and Water made the physical-chemical and

[18] http://ahc.org.al/wp-content/uploads/2017/04/Albanian_2016_Human-Rights-Report_AHC.pdf
[19] Helen Hershkoff, Public Interest Litigation: Selected Issues and Examples, accessed from http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/PublicInterestLitigation%5B1%5D.pdf
[20] http://ahc.org.al/te-sigurohet-uje-i-pijshem-dhe-ti-jepet-fund-ndotjes-per-banoret-e-visokes/

microbial analysis of samples from these water wells, and the result was that water, as regards the organoleptic properties, smells like hydrocarbon and the physical-chemical parameters have changed significantly, especially chlorine and ammonia. The problems in the Visoka village are systemic and consist in omission by the state authorities as regards not only the provision of public utility of drinking water, but also the taking of measures for exploiting alternative polluted sources.

The right to water is not entitled to judicial protection as an independent right, but it is generally invoked in the framework of other rights. Before taking the initiative to approach the court, in line with the requirements of article 129 of the Code of Administrative Procedures and article 16 of the law 49/2012 "On organization and functioning of administrative courts and adjudication of administrative disputes", AHC assisted the inhabitants with the exhaustion of administrative appeal. The inhabitants approached the Municipality of Mallakastra, the National Agency of Water Supply and Waste Water Disposal and the Ministry of Transport and Infrastructure with an administrative petition for production, treatment, transmission and supply with drinking water for Visoka village, Administrative Unit of Centre, the Municipality of Mallakaster. Omission by the public administration bodies, central or local, to perform administrative activity according to the public function has created legal consequences on the subjective rights and lawful interests of inhabitants. In a situation of lack of solution to this case by these authorities within the time limits foreseen in the legislation in force, the inhabitants will have the right to approach the court with a request to oblige the municipality of Mallakaster, the National Agency of Water Supply and Waste Water Disposal and the Ministry of Transport and Infrastructure to take an administrative action in order to provide the public service of drinking water supply. Moreover, inhabitants have the right to request compensation for damage caused to them because of failure to be supplied with drinking water during their period of stay and living in the Visoka village.

Representation of such cases in the domestic system is difficult because the procedural means of requesting the right are not sanctioned clearly in the procedural legislation while the courts very often are reluctant to enforce the ECHR directly. However the follow-up and representation of such cases strengthens judicial protection of human rights and freedoms and creates positive examples of requesting these rights, which are then borrowed and elaborated further by citizens who are under similar situation of violation. Therefore the importance of civic engagement and participation of organizations that protect human rights and freedoms in requesting and restoring the infringed rights or freedoms are of special importance and have a positive impact on improvement of good governance.

V. CONCLUSIONS AND RECOMMENDATIONS

The concept of good governance is a relatively new concept that is being developed mainly during recent years under the framework of development policies of international organizations like WB, OECD, UND and IMF. The latter, when performing the assessment of financial governance of countries, indicates the stringent relationship existing between good governance and corruption, provided that a weak governance or the bad-governance fertilizes the ground on which corruption grows. Main characteristics of good governance are not indicated exhaustively

and may change depending upon the organization. For instance, according to the UN Economic and Social Commission for Asia and the Pacific, good governance has 8 major characteristics: (i) participation; (ii) consensus; (iii) accountability; (iv) transparency; (v) responsiveness; (vi) effectiveness and efficiency; (vii) equitability and inclusiveness; (viii) respect for the rule of law. While, according to the EU Commission , European governance will include five principles of good governance which are the following: (i) openness; (ii) participation; (iii) accountability; (iv) effectiveness; and (v) coherence. Visibly, despite the different definitions of the concept of good governance, adopted by different international organizations, the concept of good governance the same elements aiming at bringing the citizens closer to the decision making process and to provide citizens with the right instruments to exercise an impact on it. The most important principles of good governance for the citizens are those related to participation, human rights and democracy. As a result one of the main aspects of good governance is public consultation during drafting and approval of draft acts, which enables participation of stakeholders and of every citizen in important decision-making processes.

As it was held above, the public consultation law was approved during 2014. It established a series of obligations for public authorities and of rights for citizens under the framework of public consultation of important acts impacting citizens. Nevertheless the law has been implemented at a slow pace. This is due to the fact that from the one hand public authorities often do not respect the deadlines and procedures on notification and public consultation foreseen in this law, and on the other even stakeholders and citizens do not exercise enough positive pressure for the implementation of this law. An important aspect of this law is the opportunity to citizens or interest groups to exercise the right of appeal if their voice is not heard in compliance with the rules and procedures foreseen for information and consultation. The right to appeal includes the right to file an appeal to the Information and Personal Data Protection Commissioner, which is a *quasi-judicial* authority guaranteeing the implementation of the law. However, the Commissioner has not yet created a consolidated juridical practice in exercising his authority, provided that there are only two decisions issued by far, based upon complaints submitted by two not for profit organizations. These decisions constitute the first two cases of the jurisprudence on violation of the right to notification and public consultation. This lack of decisions of the Commissioner is also the result of the lack of interest of the interested parties themselves to exercise their right of appeal with the Commissioner. While it is recommended a proactive behavior of citizens and especially of NGOs in this direction, provided that the exercise of the right to appeal would contribute in disciplining public authorities and would make them more responsible for the fulfillment of requests indicated by the law on notification and public consultation. On the other hand, the case-law would make the law more effective, by giving life to its provisions which very often may be subjectively or unilaterally interpreted by public authorities and/or stakeholders.

Another important aspect related to good governance concerns the obligation of the state and its institutions as regards the respect of the rights and freedoms of citizens. One of the instruments at disposal of citizens for the protection of their rights and freedoms is the judicial path. Nevertheless, nowadays Albanian citizens are very little interested to address Albanian courts

and require judicial protection of their rights, especially their economic and social rights. This is due to a number of factors such as lack of awareness or culture for requesting rights, poverty and particularly the problems accompanying in the judicial system throughout 27 years of transition, resulting in citizens' lack of trust in justice. Even the ECtHR case-law on Albania is poor. It is noticeable that ECtHR case-law for Albania mostly concern the right to property and the right to a due legal process. ECtHR cases with Albania as the defendant in relation to rights and freedoms of the convention including the right to life, right to respect for private life and privacy, freedom of thought, conscious and religion, freedom of expression, freedom of association and organization, right to marry or prohibition against discrimination are missing or they are only few in number. This situation is a direct consequence of lack of protection of human rights in front of Albanian courts, which is a pre-condition to address the ECtHR as well as to the lack of specialization and knowledge of Albanian jurists and judiciary related to human rights and ECHR principles. An important role in this regard is played by nonprofit organizations that have established Legal Clinics to assist the society's categories in need, which are financially unable to contract lawyers to start court proceedings to request their rights judicially.

Judicial protection of human rights and freedoms strengthens the good governance mechanisms as it makes them liable to enforce the law and increase transparency, accountability and responsibility towards citizens. Many countries implement *strategic litigation*, litigation for public interest, as a process via which it is requested "acceleration of social changes through orders of the court, which aim at reforming legal norms, enforcing existing legislation or issuing legal norms". One of the issues of this kind followed recently by the Albanian Helsinki Committee concerns the inhabitants of the Visoka village, in Mallakaster, who have never had the water supply system in place and because of this environmental pollution concerns have emerged. This case concerns lack of action of public authorities for provision of drinking water in this village, and consequently the life of 1400 inhabitants is made difficult, as they have to walk for miles to fetch water from natural resources. Representation of such cases in the domestic system is difficult because the procedural means of requesting the right are not sanctioned clearly in the procedural legislation while the courts very often are reluctant to enforce the ECHR directly.

As a conclusion it may be stated that judicial protection of human rights and freedoms strengthens good governance mechanisms, by placing public authorities under the obligation to enforce the law, increase transparency and accountability toward citizens. Requesting through the judicial channels the rights or freedoms, especially when they are violated by public authorities or when the latter through intentional omission or negligence create obstacles to effective exercising of these rights is useful for the creation of positive models of good governance and for increasing and strengthening civic engagement to challenge these institutions and exercise positive pressure on them. Therefore civic engagement and engagement of NGOs protecting rights and freedoms of citizens bears a particular importance for requiring and 11e-establishing violated rights or freedoms.