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**LAW ENFORCEMENT  
AND EQUAL TREATMENT  
OF CITIZENS IN ALBANIA:  
THE NEED FOR A RENEWED  
AGENDA**



# Center for the Study of Democracy and Governance

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# LAW ENFORCEMENT AND EQUAL TREATMENT OF CITIZENS IN ALBANIA: THE NEED FOR A RENEWED AGENDA

**Dr. Mentor Beqa**

*“Law and order exist for the purpose of establishing justice and when they fail in this purpose, they become the dangerously structured dams that block the flow of social progress.”*

— Dr. Martin Luther King, Jr.

## 1. INTRODUCTION

This policy paper investigates the state of the application of the principle of equality before the law by the law enforcement agencies in Albania. The aims of the paper are: (i) to investigate the existence of institutional documents, strategies, instruments, and mechanisms for monitoring the equal implementation of the law, and compare it to the situation in a wider context of the Balkan region; (ii) to examine the quality of the concrete application of the principle of equality before the law using public data; and, (iii) to provide a set of recommendations to improve the mechanisms of equal application of the law and monitoring of the activities of law enforcement agencies concerning the equal application of the law.

To meet these goals, we used data obtained from the institutions that are the subject of this survey along with other organizations and institutions that have prioritized the investigation of this topic. To discuss the first aim, we used mainly data generated by the Albanian Security Barometer; while to extend the comparison at the regional level, we used data created by the Rule of Law Index. As for the second aim, we produced a list of questions and addressed the institutions subject to this study asking them to provide information about strategies, instruments, and mechanisms of the application and monitoring of the principle of equality before the law. Some of these institutions had not responded by the time this paper was published.

The findings of the paper suggest that the state of equal application of the law by security sector institutions in Albania is at least contestable. The situation is comparable to other Western Balkan countries, but far from the levels reported by the European Union member states. We have also found that security institutions lack the awareness and necessary mechanisms for the priority of implementing and monitoring the application of this important principle. Finally, we recommend: (i) the establishment of a public forum to discuss and raise the awareness of security sector institutions and related entities, on the importance of establishing instruments for monitoring the implementation of the principle of equality before the law; and, (ii) the drafting the necessary documents that set measurable objectives for the implementation of the principle of equality before the law and establishing mechanisms for monitoring the equal application of the law by security sector institutions.

## 2. EQUALITY BEFORE LAW - AN OVERVIEW OF INTERNATIONAL AND DOMESTIC LEGAL DOCUMENTS

### 2.1 'ALL ARE EQUAL BEFORE THE LAW' – THE PRINCIPLE.

'Equality before the law' is an ancient principle, which is of vital importance in all democratic constitutional orders. Almost every constitution worldwide, and international legal order as well, recognize this as a principle of foremost importance. However, the principle that 'everyone is equal before the law' is differently understood in the political, academic, or public discourse.

Equality before the law has at least two fundamentally different meanings. "On the one hand, it pertains to the rights and duties contained in positive law, i.e., the content of the law, and mandates something like the absence of certain distinctions in the distribution of these".<sup>1</sup> On the other hand, the principle upholds that the laws should apply equally to all citizens: in other words, no one is above the law. As Friedrich Hayek has put it, "the great aim of the struggle for liberty has been equality before the law"<sup>2</sup>. This pertains to the practices of the courts, police officers, ministries, - the application without distinction of law by all law enforcement agencies.

Even for the prominent positivist legal theorist Hans Kelsen, there is no other meaning of the notion beyond this. "The particular principle [of so-called equality before the law] means nothing else than that the judicial institutions shall make no distinction, which the applicable law does not itself make".<sup>3</sup>

To make a distinction between the two meanings, we can label the former as 'equality in the law'<sup>1</sup> or the content of the law, which is not of specific interest in this policy paper. The concept of equality before the law we will focus on is rather procedural. We will see

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<sup>1</sup> Frej Klem Thomsen, "Concept, Principle, and Norm-Equality before the Law Reconsidered." *Legal Theory* 24, no. 2 (2018): 3.

<sup>2</sup> Friedrich Hayek, *The Constitution of Liberty*, Chicago: University of Chicago Press, (1960): 127.

<sup>3</sup> Hans Kelsen: "[The particular principle of so-called equality before the law] means nothing else than that the judicial institutions shall make no distinction, which the applicable law does not itself make [...] This principle has hardly anything to do with equality. It states only that the law shall be applied as it is meant to be applied. It is the principle of legitimacy or legality, which is immanent in the essence of any legal order, regardless of whether this order is just or unjust". Quoted from Thomsen, Frej Klem. "Concept, principle, and norm— Equality before the law reconsidered." *Legal Theory* 24, no. 2 (2018), 3.

<sup>1</sup> Frej Klem Thomsen, "Concept, Principle, and Norm-Equality before the Law Reconsidered", 3.

specifically whether security institutions treat persons equally or differently when they apply the law.

## 2.2 INTERNATIONAL LEGAL DOCUMENTS

“All are equal before the law” is enshrined and given a prominent place in all fundamental international legal documents. Article I and 6 of the Universal Declaration of Human Rights states that all human beings are born *free and equal in dignity and rights* and that everyone shall be recognized as a *person before the law*. Article 7 specifies that:

*All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and any incitement to such discrimination. (Universal Declaration of Human Rights 1948).*

This notion clearly stated in UDHR extends to Protocol no. 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms, known as the European Convention on Human Rights, signed in Rome, in 2000. This protocol refers to the *fundamental principle according to which all persons are equal before the law*, after putting forward the notion of non-discrimination based on sex, race, colour, language, religion, political or other opinions, national or social origin, association with a national minority, property, birth or other status, clearly states that:

“No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1” (*European Convention on Human Rights 1950*).

The EU Charter of Fundamental Rights links the principle of equality before the law with the closely related principle of non-discrimination.<sup>2</sup>

Based on these principles, the signatory countries of these documents must respect a set of well-defined rules for the equal treatment of citizens, especially by law enforcement

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<sup>2</sup> Article 20 – “Equality before the law Everyone is equal before the law”. Article 21 - Non-discrimination: “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.” (Charter of Fundamental Rights of the European Union 2012).



officials<sup>1</sup>. United Nations, the Council of Europe, and the European Union have adopted several directives and instruments to materialize these principles in the everyday work of law enforcement agencies. Although some of these legal documents include *soft law*<sup>2</sup>, they direct signatory countries toward embracing the best practices<sup>3</sup>.

The UN Code of Conduct for Law Enforcement Officials, the UN Standard Minimum Rules, and the UN Body of Principles set out several important principles and prerequisites for the performance of law enforcement functions, focusing on the importance of ethical conduct of their mission.<sup>4</sup> In addition, there are numerous directives within the framework of the Council of Europe and the European Union and legal instruments and mechanisms in their implementation, which define the rules and boundaries of the conduct of law enforcement institutions concerning the equal treatment of citizens.

### 2.3 DOMESTIC LEGAL DOCUMENTS

The Albanian legal framework also regulates the equal treatment of citizens by public authorities. The Constitution of the Republic of Albania prescribes, in its second part, the fundamental human rights and freedoms as values that underlie the entire Albanian legal order.

Article 18 of the Constitution sanctions the principles of equality and non-discrimination:

“1. All are equal before the law. 2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language,

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<sup>1</sup> The term "law enforcement officials" includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest and detention. This should be given the widest possible interpretation and includes military and other security personnel as well as immigration officials where they exercise such powers.

<sup>2</sup> Soft law comprises non-binding instruments, established through resolutions of the General Assembly of the United Nations. Soft law instruments may serve to strengthen States' commitment to international agreements, reaffirm international norms, or establish a legal foundation for subsequent treaties

<sup>3</sup> Some of these documents are: (i) UN Code of Conduct for Law Enforcement Officials; (ii) UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; (iii) UN Declaration on the Protection of All Persons from Enforced Disappearances; (iv) UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or UN; (v) UN International Covenant on Civil and Political Rights; (vi) UN Standard Minimum Rules for the Treatment of Prisoners; (vii) UN Declaration on the Elimination of Violence against Women; (viii) UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse.

<sup>4</sup> These include principles like every law enforcement agency should be representative of, and responsive and accountable to, the community as a whole; The effective maintenance of ethical standards among law enforcement officials depends on the existence of a well-conceived, popularly accepted, and humane system of laws; Every law enforcement official is a part of the criminal justice system, the aim of which is to prevent and control crime, and the conduct of every official has an impact on the entire system; Every law enforcement agency should discipline itself to uphold international human rights standards and the actions of law enforcement officials should be open to public scrutiny; Standards for humane conduct of law enforcement officials lack practical value unless their content and meaning become part of the creed of every law enforcement official, through education and training and monitoring. (Amnesty International 1998).

political, religious or philosophical beliefs, economic condition, education, social status, or parentage.” (*Constitution of the Republic of Albania* 2016).

Following this article and EU directives on non-discrimination, the Albanian Parliament approved Law no. 10221, dated 4.2.2010 "On protection from discrimination", amended by law no. 124/2020. This law regulates the application and monitoring of the principle of equality with a non-exhaustive list of protected causes of discrimination, expressly referring to gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious, or philosophical beliefs, economic, educational or social status, pregnancy, parents, parental responsibility, age, marital or marital status, marital status, residence, health status, genetic predisposition, disability, belonging to a particular group - or any other cause (Art. 1). The purpose of this law is to ensure the right of every person to equality before the law and equal protection of the law, equal opportunities, and opportunities to exercise the rights and freedoms of the individual, and effective protection against discrimination.

In Article 7 (amended) it is sanctioned that: “Public authorities have an obligation to promote equality and to prevent discrimination in the exercise of their functions.” The Public Authority to monitor the application of this law is The Commissioner for Protection from Discrimination, an independent public institution, established by law “On protection from discrimination”. The Commissioner for Protection against Discrimination is the responsible authority, which must ensure effective protection from discrimination, as well as from any form of behaviour that promotes discrimination. Other legal documents that sanction the principle of equality are the Labour Code of the Republic of Albania, which prohibits any form of discrimination and in the special legislation for protection from discrimination, in the exercise of the right to employment and profession.

The Code of Administrative Procedure sanctions the principle of equality and non-discrimination (Art. 17), according to which “1. The public body carries out its activity in accordance with the principle of equality” and “3. The public body, in the exercise of its activity, avoids any discrimination due to [...]” any aforementioned sources of discrimination. As for Civil Code, the Commissioner for Protection against Discrimination found that “no initiative has been taken to change the burden of proof during civil proceedings, in cases where the court hears a discrimination case, a requirement of European Union directives in the field of equal treatment and non-discrimination” (Commissioner for Protection from Discrimination 2020, 14)<sup>5</sup>.

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<sup>5</sup> The equality principle is foreseen in other laws such as Law no. 96/2017 "On the protection of national minorities in the Republic of Albania"; Law no. 93/2014 "On the inclusion and accessibility of persons with disabilities"; Law no. 9970/2008 "On gender equality in

### 3. THE STATE OF EQUALITY BEFORE THE LAW: A COMPARATIVE APPROACH

From what follows, it is evident that the Albanian legislation - in content - reflects the presence of the principle of equality before the law and related principles such as non-discrimination. In terms of the first meaning of the notion of equality before the law, very little can be done to improve the legal framework. Regarding the second meaning, the quality of equal application of the law by public authorities, the situation is not so encouraging. In this section, we will use data extracted from the Albanian Security Barometer to analyse the perception of citizens on this matter and compare it with the situation in the region of the Balkans and European Union. To compensate for the methodological difficulty of the comparison, as each survey has its own methodology and questionnaire, we will use data obtained from similar studies such as the Rule of Law Index, a notion closely related to the principle of equality before the law.

#### 3.1 ALBANIAN SECURITY BAROMETER

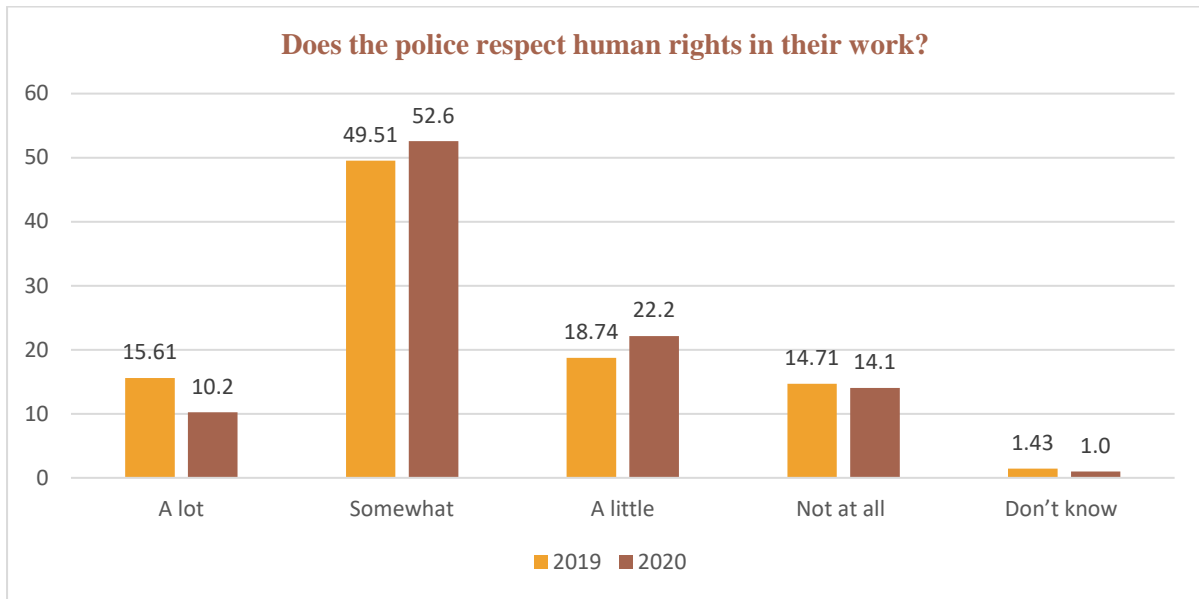
The Albanian Security Barometer provides an intriguing situation of the state of perception of Albanian citizens about the equal application of the law by public authorities. Sections on 'EU Integration and Perception of Key Priorities' and 'Integrity and Trust in Institutions' show a mixed perception about the equal treatment of citizens by public authorities and security institutions.<sup>6</sup> The State Police, being one of the institutions in closest contact with citizens, is considered to have a mixed record on human rights, as shown in graph 1. The data shows that the percentage of those who think that the police respect human rights during the exercise of their duty have decreased by about 4 percentage points. The decrease is slightly higher, among those who think that the police respect these rights to a great extent. This change can be explained by the increased

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society"; Law no. 18/2017 "On the rights and protection of children"; aw no. 111/2017 "On legal aid guaranteed by the state"; Law no. 93/2014 "On the Inclusion and Accessibility of Persons with Disabilities"; Law no. 44/2012 "On mental health"; Law no. 8328, dated 16.4.1998, "On the rights and treatment of prisoners and detainees", amended.

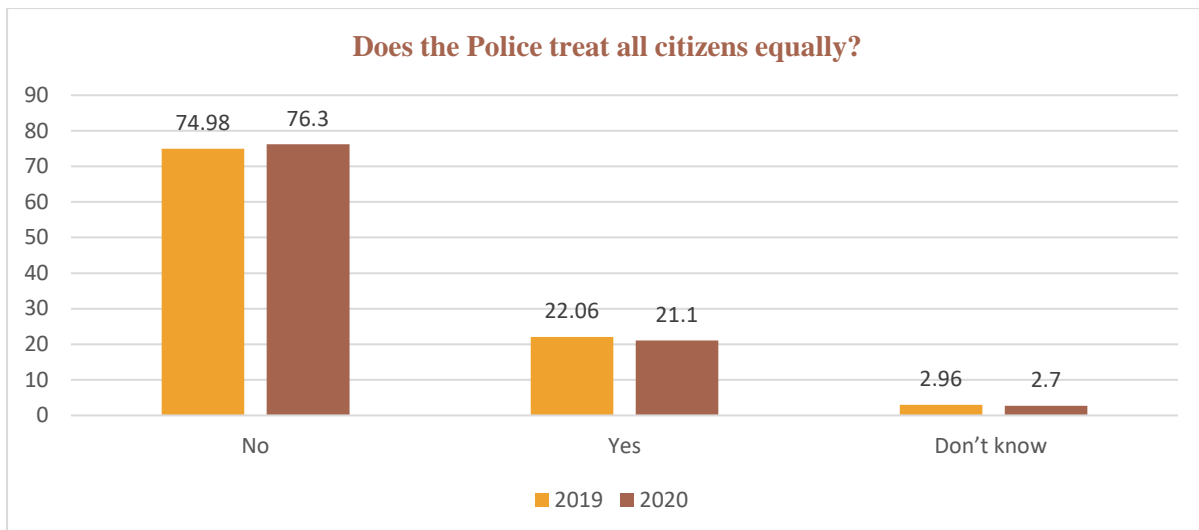
<sup>6</sup> Arjan Dyrmishi, "Albanian Security Barometer National Survey 2020", Center for the Study of Democracy and Governance, Tirana, November 2020, 65. Accessible at: [http://csdgalbania.org/wp-content/uploads/2021/03/Security\\_barometer\\_2020\\_ENGLISH-WEB.pdf](http://csdgalbania.org/wp-content/uploads/2021/03/Security_barometer_2020_ENGLISH-WEB.pdf)

interactions police had with citizens amid protests of measures imposed to prevent the spread of the pandemic during 2020.<sup>7</sup>



*Graph 1: Perception of police compliance with human rights*

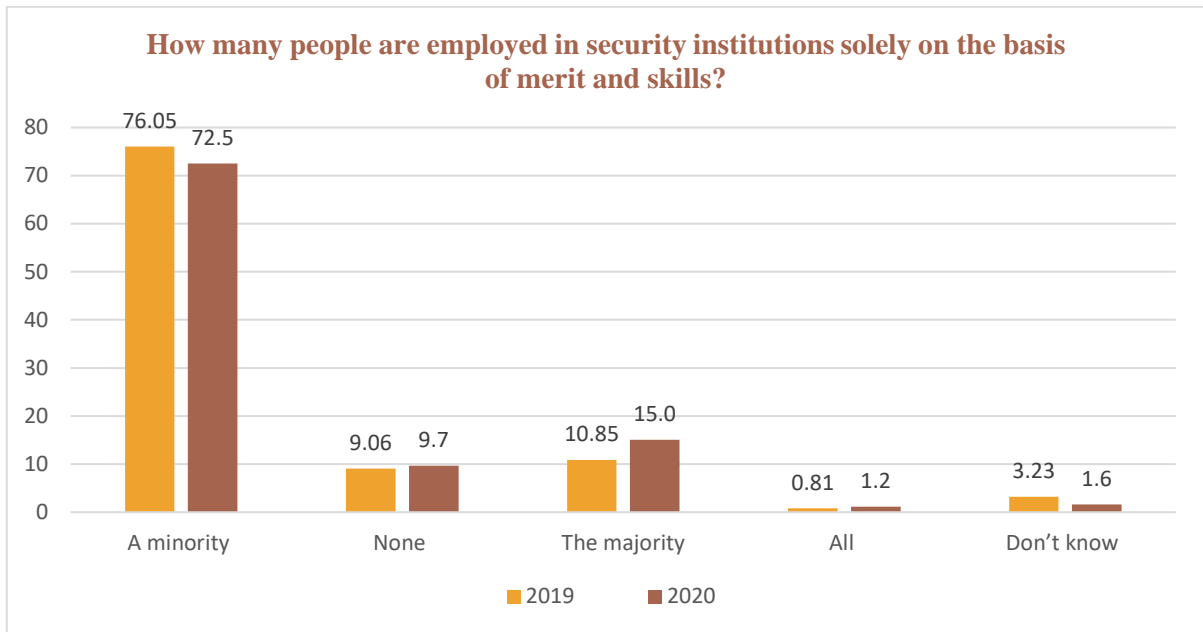
One of the most concerning findings of the Barometer is the widespread perception of unequal treatment of citizens by state police. Three-quarters of respondents think that citizens are not treated equally. Moreover, there is a slight increase in this perception compared to one year earlier.



*Graph 2: Perception of equal treatment of citizens by the police*

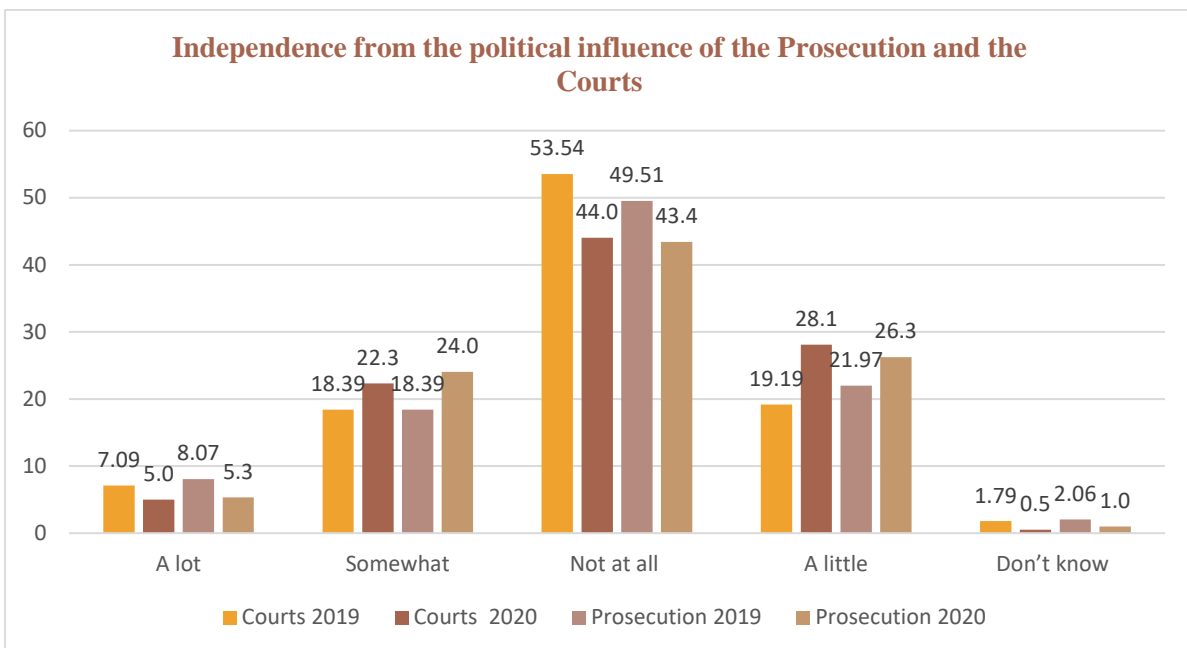
<sup>7</sup> Ibid., 65.

The barometer shows that 85 percent of respondents don't believe that security institutions treat people equally during the recruitment process. This sentiment is not just for security institutions, but it is shared for all public administration.



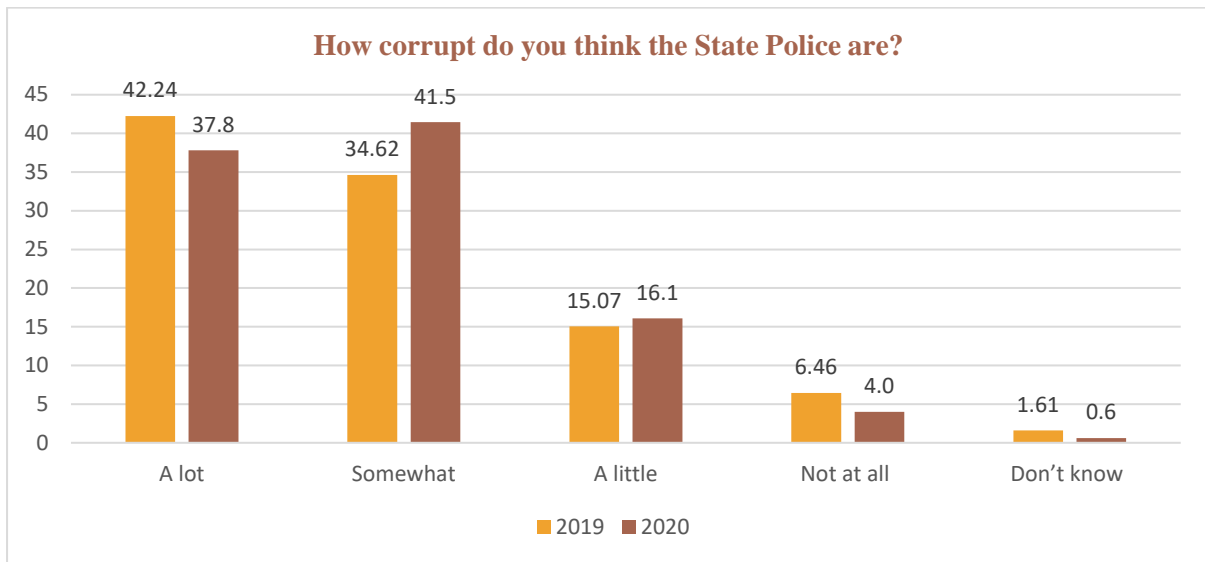
*Graph 3: Perception of merit- and skill-based employment in security institutions.*

Although the barometer is not designed to identify the causes of unequal treatment of citizens by security institutions, we can infer from barometer data that the main factors that affect attitudes are corruption and the politicization of public institutions.



*Graph 4: Perception of independence of Office of the Prosecutor General and courts from political influence.*

It is a widely accepted idea that one of the main consequences of corruption is the distortion of decision-making by public authorities, which results in unequal treatment of the subjects of law, meaning that public officials favour some citizens at the expense of others. Widespread corruption in security sector institutions as the barometer findings show,<sup>8</sup> is inevitably accompanied by unequal treatment of citizens by these institutions. In 2019, 76.8% thought that corruption in the State Police was very or somewhat widespread, which increased to 79.3% in 2020, as is shown in graph 5.

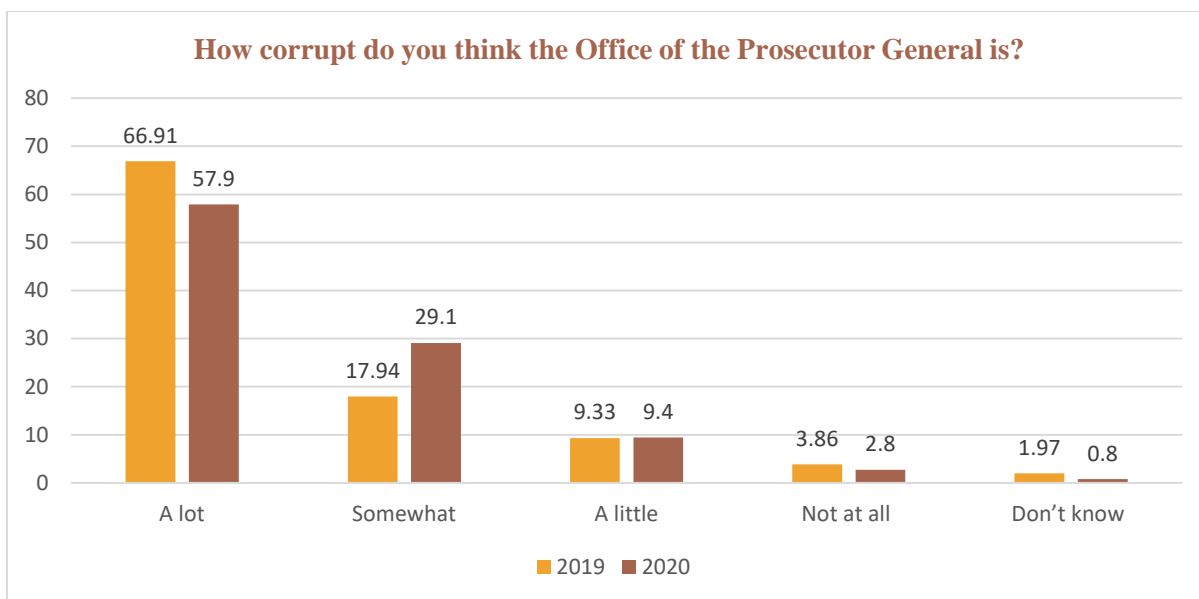


*Graph 5: Perception of corruption in the State Police.*

The perception of corruption in the justice institutions is also high. Graph 6 shows that 57.9% of the citizens think that the Office of the Prosecutor General Office is very corrupt, while graph 6 shows that of all the institutions, the courts received the highest percentage of responses perceiving it as highly corrupt, 64.7%. Likewise, only 10.5% of citizens think that the courts are a little or not at all corrupt, marking the lowest percentage compared to other institutions.<sup>9</sup>

<sup>8</sup> Arjan Dyrnishi, "Albanian Security Barometer National Survey 2020", 56-58.

<sup>9</sup> Ibid., 77.



*Graph 6: Perception of corruption in the Office of the Prosecutor General.*

Besides corruption, respondents believe that security institutions are highly politicized. This also measures the public’s opinion on the political independence of security institutions. As in the case of corruption, it seems that the perception is that citizens are discriminated against based on political affiliation and their willingness to bribe public officials.<sup>10</sup> As it is demonstrated by Security Barometer, there is a widespread perception among Albanian citizens that security institutions do not treat them equally. Surely, this is not just an Albanian phenomenon.

### 3.2 RULE OF LAW INDEX

The World Justice Project Rule of Law Index 2020 is the latest report in an annual series measuring the rule of law based on the experiences and perceptions of the general public and in-country legal practitioners and experts worldwide. It presents a portrait of the rule of law in 128 countries and jurisdictions by providing scores and rankings based on eight factors: constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal

<sup>10</sup> The barometer shows that citizens are generally divided between those who think the military is very or somewhat independent of political influence, at 43%, and those who think that this institution is slightly or not at all independent, at 54.4% [...]. State Police are perceived by more people to be under the influence of politics, as more than two-thirds, 66.8%, think that this institution is a little or not at all independent from political influence [...]. Some 60% think that SHISH is a little or not at all independent from political influence [...]. Customs remains the institution that is perceived as little or not at all independent of the political influence by the largest share of citizens, 70.2%, compared to other executive institutions [...]. Even regarding the independence of justice institutions from political influence, a large percentage of citizens, over two-thirds, think that these institutions are only a little or not at all independent. See Arjan Dyrnishi, “Albanian Security Barometer National Survey 2020”, 69–70.

justice..<sup>11</sup> Based on the criteria, we can conclude that the notion of *rule of law* is very similar if not another name for the principle of equality before the law. As someone puts it, “this idea [...] is also one of the meanings of the amorphous term rule of law”..<sup>12</sup>

The Rule of Law Index presents a gloomy situation in the Balkans when it comes to the rule of law. According to its data, Kosovo is the country that performs best in the Western Balkans. Albania and Serbia are the countries with the worst performance in terms of rule of law (as shown in table 2), confirming in one way the results of the Albanian Security Barometer.

Position	Country	Score
1.	Denmark	0.90
2.	Norway	0.89
3.	Finland	0.87
4.	Sweden	0.86
5.	Netherlands	0.84

*Table 1: Countries with the best performance in terms of rule of law.*

**Source:** Rule of Law Index 2020

Position	Country	Score
54.	Kosovo	0.54
58.	North Macedonia	0.53
64.	Bosnia and Herzegovina	0.52
75.	Serbia	0.50
78.	Albania	0.50

*Table 2: Ranking of Western Balkan countries in terms of rule of law, out of 120 countries.*

**Source:** Rule of Law Index 2020

\*Montenegro is not part of the index.

<sup>11</sup> World Justice Project. 2021. “Rule of Law Index 2020.” Washington DC.  
[https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf)









<sup>12</sup> Darn Acemoglu and Alexander Wolitzky, “A Theory of Equality Before the Law.” *The Economic Journal* 131, nr. 636 (2021): 1429.



All the four universal principles of the rule of law: accountability, just laws, open government, accessible and impartial dispute resolution, are closely related to equality before the law. Western Balkan countries score very low almost in all measured criteria, with the lowest score in the fight against corruption and highest score in order and security.

Overall Score	Regional Rank	Income Rank	Global Rank
0.5	9/14	29/42	78/128
Score Change	Rank Change		
-0.01 ▼	-4 ▼		

	Factor Score	Score Change	Regional Rank	Income Rank	Global Rank
 <b>Constraints on Government Powers</b>	0.45	-0.03*	7/14	32/42	96/128
 <b>Absence of Corruption</b>	0.37	0.02	11/14	37/42	100/128
 <b>Open Government</b>	0.47	0.00	10/14	28/42	77/128
 <b>Fundamental Rights</b>	0.59	-0.02	5/14	17/42	54/128
 <b>Order and Security</b>	0.79	-0.01	7/14	7/42	36/128
 <b>Regulatory Enforcement</b>	0.44	0.00	11/14	37/42	98/128
 <b>Civil Justice</b>	0.48	0.03	12/14	33/42	87/128
 <b>Criminal Justice</b>	0.43	-0.04	8/14	27/42	72/128

\* Indicates statistically significant change at the 10 percent level

Legend: Low (dark grey), Medium (light grey), High (white)

*Table 3: Albania's overall score.*

**Source:** Rule of law index 2020

#### 4. STRATEGIES AND MONITORING MECHANISMS IN SECURITY SECTOR INSTITUTIONS

The institutional structure of the security sector in Albania comprises of a web of autonomous, interrelated agencies, it is part of the executive branch of the government and the judicial and prosecution system. The executive, legislative, and judiciary institutions are all involved in the control and supervisory processes of the security sector

in Albania. The parliament has also established several independent institutions and commissions that serve to control the passing and implementation of laws.<sup>13</sup> Since our purpose here is not to discuss national mechanisms control over security institutions, we will focus more on whether there are internal institutional mechanisms and other external mechanisms of independent institutions, specialized in monitoring the equal application of the law. Besides our independent research, we asked security agencies in Albania to provide information whether they had:

- i. A normative document (a strategy, a manual, etc.) describing citizens' rights before the law, strategies to advance the objectives of the agency in terms of equal application of the law, and the monitoring of the results.
- ii. A normative training framework and whether they apply for periodic training programs in terms of the respect of human rights and equal treatment before the law.
- iii. An analytical model to quantify and analyse the application of the law by their agency.
- iv. A practice of systematic surveys, whether domestic or external, measuring the perception of officials or citizens about equal application of the law.
- v. A consolidated practice and protocol for administering and investigating citizens' complaints?

The information provided by institutions is partial at best (some institutions did not respond by the time this article was submitted) and when complemented with the data collected from their official websites, it turns out that the security sector institutions generally lack strategies and instruments for training officials about human rights and the monitoring equal application of the law.

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<sup>13</sup> For a general overview of national monitoring institutions and mechanisms of the security sector in Albania see Geron Kamberi and Erdi Memaj, "The Albanian public's trust in security: Stumbling blocks to EU negotiations", Friedrich Ebert Stiftung, Tirana, 2020. Accessible at: <https://csdgalbania.org/the-albanian-publics-trust-in-security-stumbling-blocks-to-eu-negotiations/>

## 4.1 STATE POLICE

State Police is subject to oversight and control by several institutions from the executive, judiciary, and Parliament. The executive control and oversight on the work and functionality of the State Police are mostly exercised through the Minister of the Interior. The most important tool of oversight utilized by the Ministry of Interior to supervise the work of the State Police is the Albanian Service of Internal Control. The Parliament has three permanent commissions that perform control and oversight, namely National Security Committee, Committee on Legal Matters, Public Administration and Human Rights, and Committee on Economy and Finances. Several independent institutions exert oversight over the police, such as the Ombudsperson, the Commissioner for Protection against Discrimination, etc. State Police is subject to the control of the judiciary; however, “the judiciary system as a way of control and oversight of the State Police is a poor remedy to problems relating to police abuses, issues of bad practices, and violations”.<sup>14</sup>

The State Police has a consolidated system for collecting and processing citizens' complaints. In recent years, due to the application of information technology, the registration of complaints by citizens has become easier. The police also produce reports based on the data collected from the complaint's examination process.

However, this control system, in general, cannot replace the internal mechanisms for monitoring the legality of state police activity in a specific element such as equality of the citizens before the law. Beyond the requirements of the law, the state police do not have a comprehensive system specialized in measuring, evaluating to draw lessons from, in terms of respecting human rights and in particular the equal application of the law.

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<sup>14</sup> Geron Kamberi and Erdi Memaj, “The Albanian Public's Trust in Security: Stumbling Blocks to EU Negotiations”, 28.

## 4.2 ARMED FORCES

Armed Forces occupy a special position in Albania's constitutional order due to their specific mission. Due to this position, the three main institutions that exert control over the armed forces are the president, the prime minister, and the minister of defence. Prime Minister and Minister of Defence are the responsible institutions for exercising civilian control over Armed Forces during peace times while the President of the Republic is the Commander in Chief during war times. Armed Forces, besides its mission to guarantee territorial integrity, engage routinely in civilian missions. Lastly because of restrictions related to COVID-19, the government ordered the mobilization of the military in cities to enforce the curfew rules that impeded the public from freely moving during certain hours. This was conducted through the marching of military armoured vehicles and infantry on the main roads of cities. The military is engaged in states of emergency as well as during the management of the post-Earthquake situation or other situations created by natural disasters such as floods or fires. However, as other studies have revealed, "such a mobilization of the military to perform their duties in a time of peace, was not performed properly"..<sup>15</sup> Keeping this in mind, except for Standard Operation Procedures, protocols of civilian engagement, Armed Forces lack systematic training and monitoring in matters of human rights.

## 4.3 STATE INTELLIGENCE SERVICE

The State Intelligence Service acts as an autonomous agency subordinated to the Prime Minister while it is subject to oversight and control of Parliament, President, and Prime Minister's Office. The State Intelligence Service, due to its discrete mission, is less transparent and its activities are out of the public eye. This could potentially create situations where the activity of the Service conflicts with human rights, either in the exercise of the activity in fulfilment of the mission or the internal bureaucratic and administrative life of the institution. Although there is a consolidated legislative, executive, and presidential oversight system, the Service lacks a protocol of training of the officials on human rights matters.

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<sup>15</sup> Ibid., 20.

#### 4.4 JUDICIAL SYSTEM

The judicial system in Albania is organized and operates as an independent authority. Through the ongoing Justice Reform, many of the existing institutions were reformed and new ones were created. The emphasis of the reform was on creating a network of institutions that would help 'to clean' the judicial system of endemic corruption, inefficiency, and corporatism. At the top of the pyramid of the judicial system stands the High Judicial Council, an institution created after this all-encompassing justice reform. Since our topic is related to the notion of equality before the law - a fundamental principle for the existence and functioning of a fair judicial system - we will focus only on the institutions of oversight and control of the work of the judicial system.

In this context, the most important institutions are those that implement the vetting process of prosecutors and judges. The institutions that deal with this process are (i) Independent Qualification Commission; (ii) Special Appellate College; (iii) Institution of Public Commissioners; and (iv) International Monitoring Operation. The re-evaluation process of judges and prosecutors is carried out based on three criteria: (i) re-evaluation of wealth, (ii) personal character, and (ii) professional skills. To minimize subjectivity in the re-evaluation process, these institutions have developed algorithm-based models that identify possible fraud by judges and prosecutors based on the three indicators mentioned above. However, the re-evaluation process has not been without flaws, so an independent system of monitoring the equal implementation of the law, even in the case of the vetting process, is necessary.

#### 4.5 PROSECUTION SYSTEM

The prosecution system, since the adaptation of the changes made by justice reform, is no longer a centralized system where the most important figure of the system was the General Prosecutor. Nowadays, the prosecution system consists of a complex of institutions that include the HCP, the General Prosecutor, the Special Prosecution, prosecutors at the courts of appeal with general jurisdiction; prosecutions at the courts of the first instance with general jurisdiction. The prosecution is organized and operates within the judicial system. The High Council of the Prosecution guarantees the independence, accountability, discipline, status, and career of the prosecutors of the Republic of Albania, while Independent Qualification Commission is responsible for the transitional re-evaluation of

prosecutors. HCP and General Prosecutor are responsible institutions to guarantee that prosecution conducts the activity per the legal requirements for equal treatment of citizens before the law. In all reports, including the 2020 Albanian Security Barometer, the prosecution institution is among the least trusted institutions by the citizens. Although, after the justice reform, awareness has increased and 'transparency programs' have been created, citizens are sceptical about the work of the prosecution and expect more concrete results.

#### 4.6 HIGH INSPECTOR OF JUSTICE

The High Inspector of Justice is the institution responsible for verifying complaints, initiating investigations of possible abuses, and initiating disciplinary proceedings against judges and prosecutors of all levels, members of the High Judicial Council, members of the High Prosecution Council, and General Prosecutor. For the verification of complaints or the investigation of disciplinary violations against the subjects, the Inspector can proceed based on the written complaint of any person concerned natural or legal person, or a public body. The High Inspector investigates suspected violations mainly, based on public data or provided in the framework of institutional and thematic inspections, on every aspect of the work of the judiciary. So, this institution is the fundamental internal mechanism of control and supervision of the judicial system. The office of the High Inspector of Justice has a consolidated protocol and system of registering and examining the complaints. During 2021, the office has administered almost four thousand complaints against officials of the judiciary system, 1253 of these are being inspected, while 32 decisions have been issued to initiate disciplinary investigation<sup>16</sup>. This high level of complaints indicates possible violations of the principle of equality before the law and the high level of distrust of citizens in the decisions of justice institutions.

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<sup>16</sup> The official website of the High Inspector of Justice updates the number of complaints daily. For more information visit <https://ild.al/sq/kreu/>

## 5. CONCLUSIONS AND RECOMMENDATIONS

This analysis highlights the lack of internal mechanisms and lack of an independent national mechanism that monitors and evaluates the implementation of the principle of ‘equality of citizens before the law’ by the law enforcement agencies in Albania. Even though there is a comprehensive institutional framework in the security sector, instruments, and mechanisms to monitor the equal application of the law (and the respect of human rights more generally), beyond classical forms such as complaints redress, are few or non-existent. Therefore, we recommend:

### 5.1 NATIONAL COALITION ON HUMAN RIGHTS

The creation of the National Coalition on Human Rights, a forum comprising of governmental and non-governmental organizations to redress the question of human rights from security sector institutions perspective. A permanent forum bringing together representatives from the parliament, government, security sector institutions, watchdog institutions such as Ombudsperson and Commissioner for Protection Against Discrimination, and organizations from civil society with experience dealing with human rights issues, such as Albanian Helsinki Committee, etc., would be the appropriate step forward. The agenda of such a forum would be a matter of discussion.

### 5.2 STRATEGIES AND MANUALS

From the above analysis, it is concluded that there is an urgent need to improve the documentary scope in the field of respect for human rights by security institutions. All institutions addressed in this paper lack written strategies for the objectives of institutions in the field of respect for human rights and especially in the equal treatment of citizens. The drafting of strategies would be the starting point for enhancing the respect of the principle of equality before the law in a wider context of trust-building strategies.

### 5.3 TRAINING PROTOCOLS

In the absence of an awareness of the importance of the principle of equality before the law, security institutions do not provide specific training for their officials in the field of human rights. The situation in the State Police and the State Intelligence Service is urgent. Training of officials of these institutions based on international documents that regulate and limit the activity of security institutions seems to be urgent.

#### 5.4 INTERNAL SURVEYS

As studies reveal, much research has examined public views about fair treatment of citizens by law enforcement officials, but nearly nothing is known about law enforcement officials' perceptions of impartiality and justice within their occupation.<sup>17</sup> It is especially urgent to have insights on whether police officers themselves believe whether the police treat people in neutral, unbiased, and fair ways. So, the application of internal surveys for domestic or public use is a necessity. It would increase the awareness of the organization to take measures to improve the work in certain areas that are identified as weak points by surveys.

#### 5.5 INTERNAL MONITORING MECHANISMS

One of the important and even more difficult elements to be realized is the creation of internal mechanisms for monitoring the equal application of the law by the institutions in question. Here we are talking about non-traditional monitoring instruments. What we are suggesting is the construction of big data processing models that can help to statistically identify possible violations of the principle of equality before the law by security institutions.

#### 5.6 NATIONAL MONITORING MECHANISM

Ombudsperson and Commissioner for Protection Against Discrimination are two independent national institutions with the legal responsibility to monitor the compliance of the security sector with human rights in their everyday work. These two institutions (each have a sphere of activity defined by law) are set in motion mainly by the complaints that citizens have against security institutions. It would be appropriate if these institutions had a more proactive approach to overseeing the observance of the principle of equality before the law by security sector institutions. Opening a discussion on the creation of common monitoring mechanisms and instruments, comprising of algorithm-based models, would be a step in the right direction.

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<sup>17</sup> Eugene A. Paoline III, Jacinta M. Gau, "An Empirical Assessment of the Sources of Police Job Satisfaction", pp 55-81



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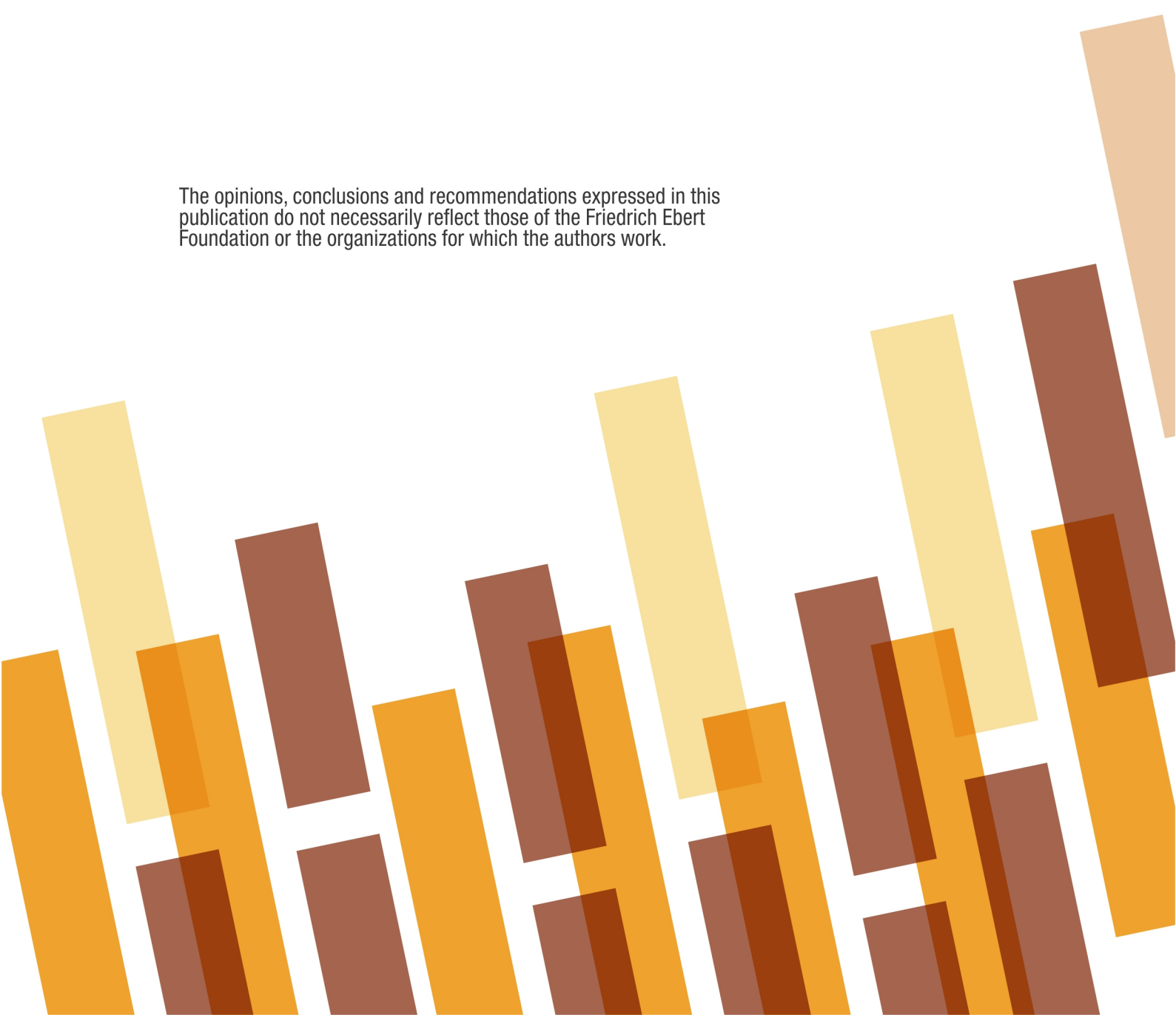
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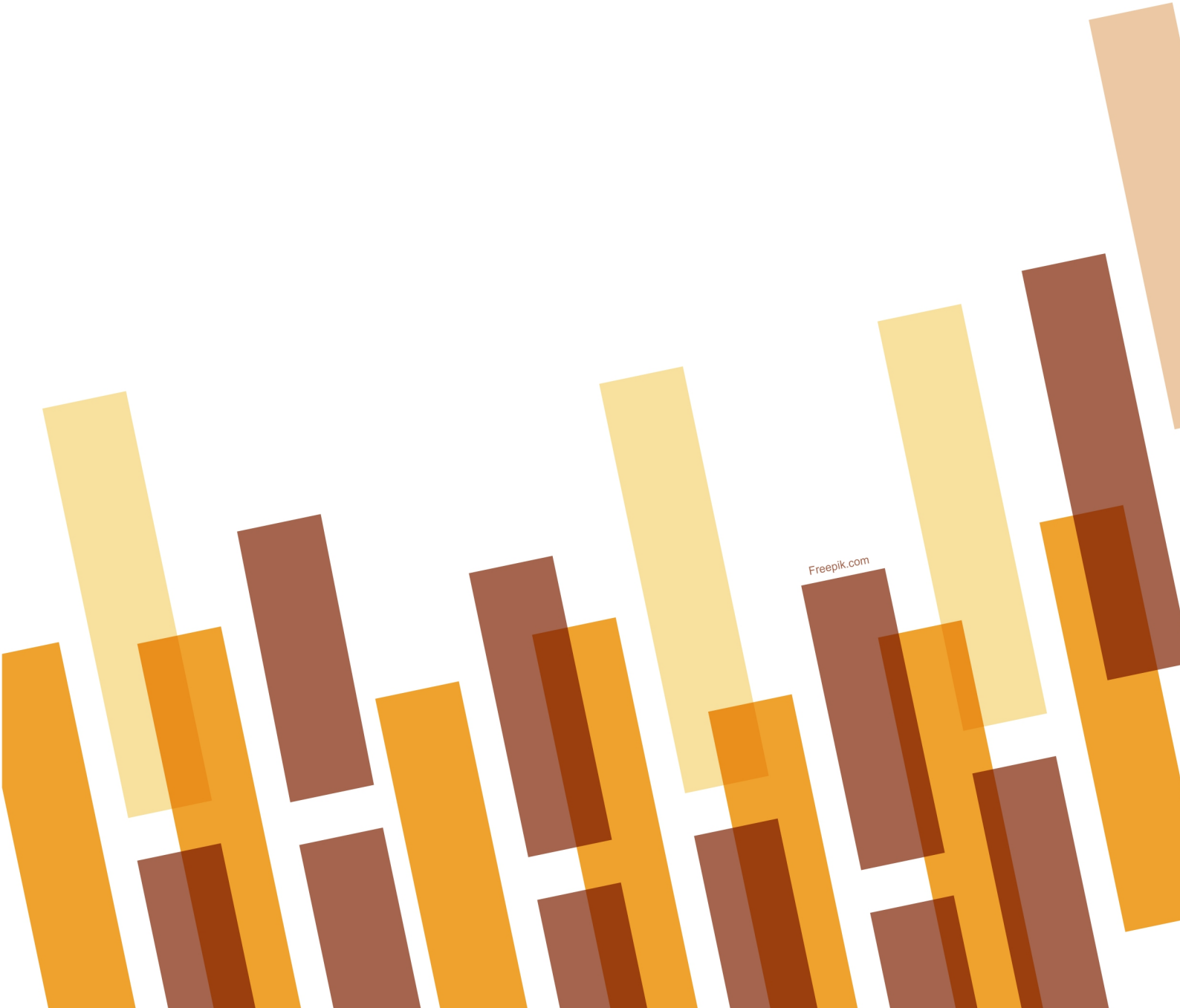
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