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2024 Rule of Law Report
Country Chapter on the rule of law situation in Albania

Accompanying the document

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

Albania has been implementing a substantial judicial reform since 2016: the entire justice system has been restructured and the vetting of all judges and prosecutors has strengthened accountability. Shortcomings exist on the appointments of non-magistrate members of the High Judicial Council and the High Prosecutorial Council. The High Justice Inspector is operational, but the significant number of magistrate-inspector vacancies constitutes a challenge. Despite the strong independence safeguards in the process of appointments, promotions and transfers of magistrates, it is impacted by limited transparency and challenges in ensuring timely and qualitative evaluations. Concerns about attempted interference and pressure on the judicial system by public officials or politicians remain. The roll-out of the modern integrated electronic case management system has been long pending. Shortage of financial and human resources negatively affects the quality of justice. Challenges remain regarding the length of proceedings and large backlog, while further measures to increase efficiency have yet to be implemented.

A new Anti-Corruption Strategy for 2024-2030 is being prepared. The legal framework to fight corruption is broadly in place. There are encouraging initial results of the Special Anti-Corruption Structure (SPAK) and SPAK courts, however the authorities specialised in the repression and prevention of corruption flag shortages as regards specialised resources and tools available. The number of persons investigated, prosecuted, and convicted for corruption offences has been increasing over the past three years, whereas a recent amnesty law raises concerns. The systematic use of financial investigations and asset confiscations has improved, though limitations in scope limit their impact. Coordination between institutions in charge of corruption prevention and relevant law enforcement structures remains weak. While declarations of assets are verified by the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest, some shortcomings exist in terms of its mandate and human resources. Overall, corruption is prevalent in many areas, including during electoral campaigns. Preventive measures suffer from an overly complex legal framework and continue to have a limited impact, particularly in vulnerable sectors.

Concerns have been raised in relation to the independence of the audio-visual regulatory authority. Limited regulation on transparency of media ownership and high concentration negatively affect media independence. The fair allocation of state advertising and other state resources is not ensured. Concerns exist with regard to the independence of the public broadcaster. While the amendments to the Law on the right to information introduce positive changes, there are shortcomings in terms of implementation. The framework for the protection of journalists is in place, but verbal and physical attacks, smear campaigns and strategic lawsuits against public participation are a cause for concern.

Challenges regarding the quality of the legislative process include the limited effectiveness of public consultations. Amendments to the Law on Inquiry Committees have been criticised for limiting Parliament's oversight role and are under review by the Constitutional Court. Deep political polarisation had a negative impact on the effectiveness, transparency and objectivity of parliamentary work. The Constitutional Court is effective in upholding institutional checks and balances, though Parliament has failed to comply with some of its rulings. The legal framework for the Ombudsperson and the Commissioner against Discrimination is in place, but there are obstacles to their effective working. The environment for civil society organisations is challenging, including in relation to registration requirements and limited public funding.

I. JUSTICE SYSTEM

Albania has a three-tier justice system, including courts of general and specialised jurisdiction and a Constitutional Court¹. Following the reorganisation of the judicial system in 2023², there are thirteen First Instance District Courts of general jurisdiction, and one Court of Appeal. The courts of specialised jurisdiction include two Administrative Courts and two Specialised Courts for Anti-Corruption and Organised Crime³. The High Court serves as a second and final instance court and ensures consistent interpretation and application of the law. Judges and prosecutors are appointed by the High Judicial Council (HJC) and the High Prosecutorial Council (HPC), tasked by the Constitution to ensure the independence and accountability of the judiciary and prosecution⁴. The Prosecution Office is an independent body, which is organised in prosecution offices attached to the judiciary and led by the General Prosecutor⁵. Working arrangements with the European Public Prosecutor's Office (EPPO) are in place⁶. The Albanian Bar Association is an autonomous, self-governing professional organisation.

Independence

The level of perceived judicial independence in Albania is average among both the general public and companies. Overall, 46% of the general population and 45% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024⁷.

Albania has been implementing a substantial judicial reform since 2016, which resulted in the restructuring of the entire justice system. The ongoing judicial reform is based on two pillars. First, the institutional restructuring of the entire judiciary and prosecution, including the reform of the Constitutional Court and the establishment of new self-governing bodies of the judiciary. Second, the transitional re-evaluation of all sitting judges, prosecutors, and senior legal assistants ("vetting")⁸. The continued implementation of the judicial reform has fostered integrity and professionalism in the judiciary, and reduced

¹ See Pillar IV, p. 19 below.

² Council of Ministers (2022) No. 495, dated 21.7.2022 "On the reorganisation of judicial districts and territorial powers of the courts" in reliance to Article 100 of the Constitution and Article 13(5) of Law No. 98/2016, "On the organisation of judicial power in the Republic of Albania", as amended.

³ Both respectively include one court at first instance and one court at appeal level.

⁴ The HCJ and HPC select and appoint magistrates, Court Presidents and Chief prosecutors, and decide on their disciplinary responsibility or dismissal, based on the recommendations of the High Justice Inspector (HJI). The HJI examines complaints, inspects disciplinary violations and initiates disciplinary proceedings against judges and prosecutors at all levels, including members of the Councils and the General Prosecutor. The Constitutional Court reviews disciplinary proceedings initiated against HJC and HPC members.

⁵ Constitution of the Republic of Albania, Article 148.

⁶ A cooperation agreement between the EPPO and the General Prosecution Office was signed in July 2022 to facilitate cooperation in criminal matters and the exchange of information. A similar agreement between EPPO and Special Anti-Corruption Structure (SPAK) was signed in June 2023.

⁷ Eurobarometer survey FL540, conducted among the general public between 14 February and 27 February 2024, and Eurobarometer survey FL541, conducted among companies between 14 February and 5 March 2024. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

⁸ Law No. 84/2016 on the transitional re-evaluation of judges and prosecutors in the Republic of Albania (the "Vetting Law"). See following paragraph below.

political influence throughout the appointment process, thus contributing to a more merit-based career system⁹. The reform notably introduced a revised mechanism for the appointment of Constitutional Court judges, including through a ranking by an independent Justice Appointments Council (JAC). A de-blocking mechanism was also introduced, enabling the first-ranked candidate by the JAC to be appointed¹⁰, if the Parliament fails to agree on a candidate.

The vetting process of all judges and prosecutors has strengthened accountability.

Under the second pillar of the judicial reform, the vetting institutions, including the Independent Qualification Commission, two Public Commissioners and the Appeal Chamber, have since 2017 been conducting the re-evaluation of sitting judges and prosecutors. This process includes the examination of their assets, their professional standing, as well as possible connections to organised crime¹¹. A very large majority of magistrates, 773 out of 805, have been assessed in first instance, resulting in 274 dismissals, mostly for issues relating to unjustified assets; 331 confirmations in office; 164 decisions to terminate the vetting proceedings due to resignation or retirement; and four suspension decisions, with the obligation to undergo training¹². In May 2024, the Appeal Chamber imposed a 15 -year ban from positions of high judicial office to the Chair of the High Prosecutorial Council (HPC), following which the HPC terminated the mandate of the Chair with 9 votes, and elected a new Chair in June 2024¹³. The International Monitoring Operation (IMO), deployed by the European Commission in cooperation with the United States, oversees the vetting process. IMO issued 38 recommendations for appeal, and 12 dissenting or concurring opinions after the final decisions. Thus far, the vetting institution of Public Commissioners has followed all IMO recommendations for appeal. Shortcomings remain with regards to the backlog of vetting cases at the appeal level, in view of the constitutional deadline of June 2026, which will end the mandate of the Appeal Chamber¹⁴. The vetting institutions do not systematically refer cases to prosecution services where the vetting process reveals criminal elements. So far, 34 cases have been referred to prosecution in cases of termination of the vetting process due to resignation, which represents about 10% of the number of resignations and dismissals, resulting in a few convictions, including the conviction of the former Head of the Constitutional Court to 6 months in prison, commuted to one year of probation, for false

⁹ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 38.

¹⁰ Constitution of the Republic of Albania, Article 125.

¹¹ The Independent Qualification Commission (IQC), composed of twelve members, and the two Public Commissioners, were appointed 22 June 2017 for a 5-year period, whereas the Appeal Chamber composed of seven judges, serving as appeal instance for the decisions taken by the IQC has been established for a 9-year period. The mandate of the IQC, and the Public Commissioners has been later extended until the end of 2024. See also: 2023 Screening report, Albania, Cluster 1 – Fundamentals, p. 39, and Law No. 84/2016 on the Transitional Re-Evaluation of Judges and Prosecutors in the Republic of Albania, Article 4.

¹² Data provided by the International Monitoring Operation.

¹³ High Prosecutorial Council (2024), Decision No. 69 concerning the dismissal of the Chair of 21 May 2024; High Prosecutorial Council (2024), Decision No. 70 concerning the appointment of the Chair of 7 June 2024.

¹⁴ Constitution of the Republic of Albania, Article 179/b. Based on the projected average of the Appeal Chamber, about 40 appeal cases risk to remain unsolved at the end of its constitutional mandate.

declaration and concealment during the vetting process¹⁵. Vetted out magistrates may continue to practice as lawyers with some limited restrictions¹⁶.

Shortcomings exist on the appointments of non-magistrate members of the High Judicial Council and the High Prosecutorial Council as regards the background checks and asset verification, as well as the transparency and meritocracy of the process. The High Judicial Council (HJC) and the High Prosecutorial Council (HPC) are both composed of 11 members, six of which are magistrates elected by their peers and five are jurists elected by the Parliament on the basis of a list established by a parliamentary subcommittee¹⁷. The law aims to guarantee that the magistrate members of the HJC and HPC are selected from judges and prosecutors of high moral and professional integrity in accordance with an open and transparent procedure that ensures a fair representation of all levels of the judiciary and prosecution system¹⁸. Non-magistrate members of the justice institutions, including those appointed to the HJC and HPC, are not subject to similar standards of background check and asset declaration applicable to magistrates¹⁹. The legal provisions regulating the election of the non-magistrate members of the Councils by Parliament and their application in practice, do not manage to safeguard the selection of candidates demonstrating the highest level of independence or competence, which is problematic²⁰. The partial renewal of the non-magistrate members of the Councils by the Parliament has been delayed and is still

¹⁵ 2023 Communication on EU Enlargement policy, Albania Report, p. 19.

¹⁶ Law No. 55/108 on the Profession of Advocate, Article 13(e). Magistrates who have been previously registered as Bar members can practice the profession of lawyer without restriction after the dismissal by vetting, irrespective of the ground of dismissal; magistrates who have not been previously bar members, may practice five years after the vetting decision of dismissal on grounds of unjustified assets.

¹⁷ Constitution of the Republic of Albania, Articles 147 and 149. Non-magistrate members of the HJC and HPC (two members from advocates, two from the corps of pedagogues of law faculties and the School of Magistrates, and one from civil society) are selected as follows. The Secretary General of the Assembly verifies candidate eligibility and sends the list of eligible candidates to a subcommittee established for further assessment and selection of candidates. The subcommittee, composed of three members nominated by the parliamentary majority and two by minority, selects candidates with at least four votes. In case of a tie, candidates are selected by lot. The consolidated list is sent to the Assembly for approval by a two-thirds majority. If the list is rejected, the procedure is repeated in the subcommittee, but not more than two times. If the list is rejected after three attempts, the candidates on the list are deemed selected.

¹⁸ Constitution of the Republic of Albania, Articles 147 and 149. Law No. 115/2016 on Governance Institutions of the Justice System, Articles 7, 10, 11, and 276.

¹⁹ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 39. The report includes a recommendation to align the provisions regulating pre-election of the non-magistrate members of the HJC and HPC with the standards of background check and asset declaration applicable to magistrates.

²⁰ Law No. 115/2016 on Governance Institutions of the Justice System, Articles 35 (13)-(14) and Article 58 (2). Frequent use of disqualifications by the from the list submitted to the subcommittee and frequent recurrence to lot due to the lack of the required voting majority, without due regard to the highest qualifications of the candidates, coupled with the divergent standards in background and asset check mentioned above, is a shortcoming.

ongoing²¹. Challenges regarding competitiveness and transparency have been reported also with regard to the implementation of the current selection procedures by the Parliament²².

The High Justice Inspector is operational, but the significant number of magistrate-inspector vacancies constitutes a challenge. The High Justice Inspector (HJI) is responsible for the examination of complaints and the initiation of disciplinary proceedings against judges and prosecutors²³. The office of the HJI is comprised of 20 inspectors. However, only 9 out of 20 are currently in office. The law provides that at least half of the inspectors need to be magistrates, ensuring an appropriate balance, in line with European standards²⁴. However, there are challenges when it comes to the attractiveness of the position for magistrates, notably judges, reportedly because, upon the termination of the mandate of inspector, his or her career progression perspective is limited²⁵. The inherited backlog was cleared in 2023, processing of all 2104 cases, of which only 1072 for the year 2023²⁶. In terms of operations, the HJI has requested that the Councils impose disciplinary measures against six magistrates²⁷.

²¹ Both ad hoc committees established at the Office of the Ombudsperson have approved the final ranked lists with the majority of its members and submitted them to the Parliament. The Parliament has established its ad hoc committee which should make a final selection of the candidates, following the scrutiny of the Secretary General. The Secretary General has disqualified seven candidates from the advocates list and has included in the procedure the voluntary asset declaration of the candidates, including a detailed list of criteria for the ranking. Apart from the disqualifications, the ranking proposed by the ad hoc committee of the Ombudsperson has been preserved.

²² 2023 Communication on EU Enlargement policy, Albania Report, p. 20. Information received in the context of the country visit to Albania from the High Judicial Council and the High Prosecutorial Council as well as the civil society organisations in the area of the justice system.

²³ Constitution of the Republic of Albania, Article 147/d. The HJI is responsible for the verification of complaints, investigation of violations on its own initiative and the initiation of disciplinary proceedings against judges and prosecutors of all levels, members of the HJC, HPC and the Prosecutor General. The HJI is also responsible for the institutional inspection of courts and prosecution offices. The HJI is elected by a majority of three fifths of all members of the Assembly, for a term of 9-years, without the right to re-election.

²⁴ Law No. 115/2016 on Governance Institutions of the Justice System, Articles 209 and 211; Venice Commission (2016), Rule of Law Checklist, p. 36. Magistrate inspectors are seconded to this position by the High Judicial Council or the High Prosecutorial Council for a period of 5 years with the right of reappointment only once. Only those inspectors who were evaluated at least "very good" while serving as inspectors shall enjoy the right to a renewal of the secondment. In addition to magistrate inspectors, other inspectors are appointed by the HJI by analogy with, to the extent possible, the rules of the Law No. 152/2013 on Civil Service.

²⁵ Law No. 115/2016 on Governance Institutions of the Justice System, Articles 203 (3): "If the High Inspector at the time of election was a judge or prosecutor, he shall return to the position of the appeal judge or prosecutor." Information received in the context of the country visit to Albania from the High Justice Inspector. Article 55(6) of law no. 96/2016 on the status of judges and prosecutors, as amended: "An inspector shall have the right to be assigned to a position at appeal level at the end of the secondment term, in case of having been awarded an evaluation grade of 'very good' in all ethical and professional performance evaluations as inspector."

²⁶ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 41. The HJI was established as an independent institution in 2020. It is the only institution responsible for reviewing and assessing complaints, investigating disciplinary violations, and initiating disciplinary proceedings against magistrates at all levels, members of the HJC and HPC, and the General Prosecutor. The HJI 'inherited' a large number of cases before its establishment, which has been cleared, see, Office of the High Justice Inspector (2024), 2023 Annual Report. The HJI is elected by a 3/5 majority of the members of the Assembly for a 9-year non-renewable term.

²⁷ In one case where the HJI requested dismissal, the High Judicial Council decided on a more lenient measure of suspension.

Despite the strong independence safeguards in the process of appointment, promotion and transfers of magistrates, it is impacted by limited transparency and challenges in ensuring timely and qualitative evaluations. Based on the provisions of the governance law, the information on the appointment, transfer and removal of judges must be public²⁸. However, the same provision, in practice requires anonymisation of the provisions, which is applied by the HJC²⁹. This renders transparency provisions ineffective³⁰. Consistency with vetting decisions in magistrate appointments and promotions, as well as the system of integrity checks prior to entering the magistrate career, remain to be consolidated³¹. The HPC, and to a lesser extent the HJC, are facing challenges in ensuring timely and qualitative evaluations of magistrates' performance³². Based on the legal provisions, promotions may proceed only after a magistrate has been positively evaluated³³. The HPC has not yet started the evaluation of prosecutors based on the 2016 legal framework, but it keeps promoting prosecutors based on evaluations performed by the General Prosecutors Office before the 2016 justice reform³⁴.

There are challenges as regards the random allocation of cases and publicity of proceedings. Rules on random allocation of cases are in place, however due to delays in filling judicial vacancies in several courts, random allocation of cases cannot be applied yet³⁵. The random allocation of cases for prosecutors is regulated by law³⁶ but is not applied in practice³⁷. Hearings in the counselling rooms without the necessary publicity requirements have been reported at district courts' level³⁸.

Concerns about attempted interference and pressure on the judicial system by public officials or politicians remain. While in the reporting period, no sanctions have been taken against public officials or politicians waging accusations against magistrates, self-governing institutions have publicly reacted to such accusations, including by classifying them as undue influence and pressure³⁹. In the reporting period four magistrates and their family members were placed under protection due to threats to personal and family safety⁴⁰.

²⁸ Law No. 115/2016 on the Governance Institutions of the Justice System, Article 98(2).

²⁹ Ibidem.

³⁰ According to the High Judicial Council, legislative proposals have been submitted to the Assembly regarding anonymisation of data. Written contribution from Albania.

³¹ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 41.

³² HJC has finalised evaluation reports for 57 out of 87 planned evaluations in 2023 for judges, based on a new set of adopted by-laws implementing the new legal framework of the 2016 reform. No evaluations have been carried out by the HPC since 2017 following the entry into force of the revised legislation.

³³ Law No. 96/2016 on the Status of Judges and Prosecutors, Article 48.

³⁴ Information received in the context of the country visit to Albania from the High Prosecutorial Council. No evaluations are currently planned.

³⁵ Ibidem.

³⁶ Law no. 97/2016 on the organization and functioning of the Prosecution Office, Article 53. The law also prescribes that the High Inspector of Justice conducts periodic inspections in the prosecution offices on the allocation of cases by lot.

³⁷ 2023 Screening report Albania, Cluster 1 – Fundamentals, pp. 40-41, 44; 2023 Communication on EU Enlargement policy, Albania Report, p. 21.

³⁸ Information received in the context of the country visit to Albania from Courts and the Albanian Bar Association.

³⁹ 2023 Communication on EU Enlargement policy, Albania Report, p. 22.

⁴⁰ High Judicial Council (2024), Statement of 4 March 2024. High Prosecutorial Council (2024), Statement of 28 April 2024. Written contribution received from Albania.

Quality

The legal framework for legal aid is comprehensive and primary and secondary legal aid are delivered at central and local level. Following a reform in 2018 of the legal aid system, broadening the categories of persons that may benefit from legal aid⁴¹, the number of cases involving legal aid significantly increased, from 270 in 2019 to 8 646 in 2022⁴². In 2023, the number of primary legal aid service centres increased⁴³.

Implementation of the new judicial map is ongoing, however, it exposed shortcomings of the judicial system as regards access to justice and the courts' infrastructure. The new judicial map, adopted in July 2022 and based on European Commission for the Efficiency of Justice (CEPEJ) methodology, aims to help optimise human and financial resources, increase specialisation, and efficiency, taking into account the impact of the vetting process⁴⁴. Its implementation, which started in January 2023, has been assessed as overall positive by magistrates and self-governing institutions in terms of efficiency⁴⁵. However, the respect of the right to access justice and the adequacy of the courts' infrastructure⁴⁶ remains poor overall, most seriously at the Court of Appeal. A robust implementation plan for the judicial map is missing⁴⁷.

The roll-out of the modern integrated electronic case management system in courts and prosecution offices has been long pending. Some progress was made with the establishment of the interoperability working group in June 2023 and the adoption of the interoperability framework setting the basis for the roll-out of the integrated case management system⁴⁸. However, e-justice tools and coordination among the actors responsible are lacking, and the use of electronic communication between courts and parties remains limited⁴⁹.

The training curricula has been partially revised to increase the relevance of the training offered by the School of Magistrates, but shortcomings exist regarding the overall quality of judicial training. Some positive actions have been taken towards increasing the relevance of the continuous training programme⁵⁰. These include ethical training and judge craft, quality of staff, as well as the quality of the entry examination⁵¹.

⁴¹ 2019 Communication on EU Enlargement policy, Albania Report, p. 30.

⁴² Law No. 111/2017 on Legal Aid guaranteed by the State.

⁴³ Input from Albania for the 2024 Rule of Law Report, p. 25.

⁴⁴ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 44. The three-step implementation started in January 2023. The High Judicial Council (HJC) has adopted the main bylaws for the first phase rollout, while the High Prosecutorial Council (HPC) in cooperation with the General Prosecutor has still to complete the regulatory framework for the prosecution system. The specific communication plan has been adopted, but it still needs to be implemented.

⁴⁵ Information received in the context the country visit to Albania from Courts, the High Judicial Council and the High Procedural Council.

⁴⁶ 2023 Communication on EU Enlargement policy, Albania Report, p. 23.

⁴⁷ Ibidem.

⁴⁸ 2023 Communication on EU Enlargement policy, Albania Report, p. 21.

⁴⁹ Information confirmed in the context of the country visit to Albania.

⁵⁰ Input from Albania for the 2024 Rule of Law Report, p. 24. Albania has reported to have improved the methodology for the analysis of training needs, increased communication with courts and prosecution offices at all levels and has started to implement the new methodology with buy-in from courts and prosecution offices, and other institutions that undergo training such as the High Justice Inspector.

⁵¹ 2023 Communication on EU Enlargement policy, Albania Report, pp. 18, 22.

Legal changes remain necessary to strengthen the capacity of the School of Magistrates⁵². The fact that magistrates who have been dismissed through vetting are not prohibited from taking up positions of training staff at the School of Magistrates⁵³ constitutes another shortcoming. The latest exam was concluded in April 2024 with 382 applicants, marking the highest number of applicants since the adoption of the 2016 justice reform. However, shortcomings were reported regarding the organisation of the first phase of the exam, evidenced by the large number of complaints filed^{54,55}.

Shortage of financial and human resources, including magistrates, negatively affects the quality of justice. While the Government has increased investments in the justice system over the past years, Albania's expenditure on justice remains significantly low⁵⁶. Efforts to improve the situation have been made but the shortage of magistrates, notably at appeal level, persists⁵⁷. In 2023, 41 new magistrates were appointed, which constitutes a significant increase⁵⁸ but the number of vacancies remains high⁵⁹. The Court of Appeal functions with only 25 judges' positions filled out of 78. Shortages of judges are also present at the Administrative Court of Appeal and the Tirana District Court of General Jurisdiction⁶⁰. Further increases in the number and quality of students and magistrates admitted to the School of Magistrates remain necessary to fill the vacancies in the short and medium terms⁶¹. All courts of general and specialised jurisdiction, at all levels, currently function with acting chairs, as positions of permanent chairs have not been filled. Legal advisors' positions remain limited, and the applicable legal framework limits the attractiveness of the profession, including due to limited career perspectives⁶². Furthermore, the HJC, HPC and other justice institutions rarely meet and do not discuss on a regular basis matters of common interest related to the quality of justice, nor is there a systematic follow up by way of operational conclusions or broader consultation of other relevant stakeholders which needs to be ensured⁶³.

Mediation systems are in place but are underused in practice. Mediation services are scarcely used or referred by courts as there are issues with respect to the capacities of the

⁵² 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 43. 2023 Communication on EU Enlargement policy, Albania Report, pp. 22-23.

⁵³ Information received in the context of the country visit to Albania from the School of Magistrates.

⁵⁴ Reporter.al (2024), *Provimi i kontestuar i Magjistraturës shkaktonte debat në Kuvend (The disputed examination of the Magistrate causes a debate in the Assembly)*.

⁵⁵ According to the School of Magistrates, all complaints were reviewed by the School and all available quotas were filled. Written contribution from Albania.

⁵⁶ CEPEJ (2023), *Dashboard Western Balkans – 2022 Data Collection*. Based on CEPEJ data, the 2022 budgetary allocation for the judicial system was about EUR 46.6 million. This amounts to over EUR 16.7 per inhabitant.

⁵⁷ Input from Albania for the 2024 Rule of Law Report, p. 15.

⁵⁸ Ibidem.

⁵⁹ There are 325 judges in the existing structure out of which only 247 are effectively in duty. The number of permanent vacancies is 83 and the number of temporary vacancies is 78.

⁶⁰ Input from Albania for the 2024 Rule of Law Report, pp. 13-14; High Judicial Council (2024), *Annual Report 2023*.

⁶¹ 2023 Communication on EU Enlargement policy, Albania Report, p. 22.

⁶² Law No. 98/2016 on Organisation of the Judicial Power; Information received from Courts and the High Judicial Council. The law does not provide, for example, opportunities for promotion of legal advisors.

⁶³ Three regular general meeting between the HPC and the HJC took place during the last five years. One of the two meetings was followed up with operational conclusions and included a broader consultation with other relevant justice institutions, including the HJI, GPO or High Court.

mediation Chamber, awareness and the quality of mediation services provided⁶⁴. There are currently 119 active mediators out of 135 positions envisaged by the Albanian authorities⁶⁵.

There are problems of consistency and reasoning in the case law, as well as shortcomings with regards to public access to final court rulings. The High Court made progress in unifying the case law, however problems of consistency and reasoning of the case law remain⁶⁶. With the exception of the SPAK first instance court, court rulings are generally publicly available⁶⁷.

Efficiency

Challenges remain regarding the length of proceedings and the large backlog. In 2022, disposition time increased for all categories of cases, and especially in second instance for civil and commercial litigious cases. The reasons indicated include judicial vacancies and unequal distribution of cases among courts⁶⁸. There has been an increase from 9,1% to 33,1% for different types of cases awaiting adjudication countrywide⁶⁹. The courts with the largest backlog are the Court of Appeal, the Administrative Court of Appeal and Tirana District Court of general jurisdiction. The High Court continued to reduce its backlog by 12% compared with the previous year, however it remains the court with the highest overall backlog of over 31 827 cases accumulated over the years. Serious delays are experienced with the legal deadlines on publishing the reasoned decisions by court⁷⁰.

Further measures to increase efficiency and stabilise the backlog have yet to be implemented. In May 2024 the High Judicial Council presented the strategy on backlog reduction, which entails important amendments to the Criminal Procedure Code, the Civil Procedure Code, Administrative Law, and the law on the organisation of the judiciary⁷¹. The strategy is the result of the working group on efficiency set up at the High Judicial Council in July 2023. However, consistency of these legal initiatives with the general principles of justice reform and European standards is yet to be fully ensured⁷².

⁶⁴ 2023 Communication on EU Enlargement policy, Albania Report, p. 24.

⁶⁵ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 45.

⁶⁶ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 43.

⁶⁷ Written contribution received from Albania.

⁶⁸ CEPEJ (2023), Dashboard Western Balkans – 2022 Data Collection. The disposition time for civil and commercial litigious cases was approximately 377 days in 2022. This increased by 35% over the 2021-2022 period. The disposition time for administrative cases was approximately 179 days in 2022. This has increased by 18% compared to 2021.

⁶⁹ CEPEJ (2023), Dashboard Western Balkans – 2022 Data Collection. The variation of pending cases at the end of the year between 2021 and 2022 was 14.9% and 9% for first and second instance civil and commercial cases respectively, 17.2% and 14.9% for first and second instance administrative cases respectively, and 33.1% and 14.0% for first and second criminal law cases respectively.

⁷⁰ Information received in the context of the country visit to Albania.

⁷¹ According to the High Judicial Council, the proposals are currently assessed by the Parliament and the Ministry of Justice. Written contribution received from Albania.

⁷² Input from Albania for the 2024 Rule of Law Report, p. 27. The working group consists of HJC members, judges from various court levels, and international partners. So far, it has submitted to the Ministry of Justice an initial proposal for amendments to the legal framework only with regards to administrative justice (Code of Civil Procedure, Law on Administrative Courts and Law on the Organization of Courts). According to information received in the context of the country visit to Albania from the Parliament Legal Committee, this package of legislative amendments is being considered in Parliament since March 2024.

II. ANTI-CORRUPTION FRAMEWORK

The competence to fight corruption is shared between several authorities. Specialised bodies in charge of investigating, prosecuting and adjudicating corruption cases were established in 2016. These are the Special Anti-Corruption Structure (SPAK), comprising the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI) and the Anti-Corruption and Organised Crime courts (SPAK Courts, both of first instance and appeal). The General Prosecution Office (GPO) is competent to investigate cases of petty corruption. In 2024, a dedicated Minister of State for Public Administration and Corruption was appointed to ensure coordination of anti-corruption measures across the government services; the new ministry is to incorporate the General Directorate for Anti-Corruption, currently attached to the Ministry of Justice. Finally, the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) is responsible for collecting and cross-checking asset declarations and conflict of interest of public officials and monitoring and investigating cases reported by whistle-blowers.

The perception among experts and business executives is that the level of corruption in the public sector is high. In the 2023 Corruption Perceptions Index by Transparency International, Albania scores 37/100 and ranks 98th globally⁷³. This perception has been relatively stable over the past five years.

A new Anti-Corruption Strategy for 2024-2030 is being prepared, while the implementation of the current strategy has highlighted shortcomings. Implementation of the Anti-Corruption Strategy for 2015-2023 is overall on track, although shortcomings still exist, such as limited attention to sectors particularly susceptible to corruption, human resource management, anti-corruption measures in local and regional governance, conflict of interest, and codes of ethics and conduct⁷⁴. Monitoring does not prioritise risk analysis and results⁷⁵. A new strategy for 2024-2030 is in preparation by the Government, and adoption is expected during 2024⁷⁶.

The legal framework to fight corruption is broadly in place. Criminal and procedural legislation was fully revised in 2016, in line with European standards⁷⁷. It contains provisions criminalising corruption, including active and passive bribery and trading in influence. Provisions for the seizure and confiscation of gains obtained from a criminal offence are in place. Albania has ratified the UN Convention against Corruption (UNCAC)⁷⁸. A draft law aimed to create an office to manage asset recovery, was submitted to public consultation in March 2024 and, according to the Ministry of the Interior, is expected to be adopted in the third quarter of 2024. The Code of Criminal procedure does not grant competence to Special Courts for Anti-Corruption and Organised Crime over matters related to the execution of

⁷³ Transparency International, Corruption Perceptions Index 2023 (2024). The level of perceived corruption is categorized as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁷⁴ 2023 Communication on EU Enlargement policy, Albania Report, pp. 27-28.

⁷⁵ 2023 Communication on EU Enlargement policy, Albania Report, p. 25.

⁷⁶ Information received in the context of the country visit to Albania.

⁷⁷ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 43.

⁷⁸ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 46.

their judgments including those in relation to corruption⁷⁹. The fight against organised criminal networks, which often use corruption as a tool, is a challenge in Albania⁸⁰. Therefore, a working group for the revision of the Criminal Code, under the lead of the Ministry of Justice, has been established with the aim to adopt the revised code by 2026. So far, concerns have been voiced with regard to the level of consultation and inclusiveness of debates⁸¹. Albania is not a signatory party to the OECD Anti-Bribery Convention yet⁸².

There are encouraging initial results of SPAK and SPAK courts, however the authorities specialised in the repression and prevention of corruption, flag shortages as regards specialised resources and tools available. Since their establishment, SPAK and SPAK courts have showed positive results in investigation, prosecution and final convictions⁸³. Other corruption repressive structures, notably the GPO and law enforcement, still encounter challenges in detection and effective investigation of corruption. The number of referrals to SPAK from other authorities (such as tax, Financial Investigation Unit at the Ministry of Finance, HIDAACI, customs and police) remain very limited,⁸⁴ despite an increase in 2023 of referrals from police⁸⁵. The number of databases to which the SPO and NBI have direct access has gradually increased⁸⁶, however NBI reports shortcomings in simultaneous access to all state databases, and specific shortcomings to access data of state cadastre as mandated by the law⁸⁷. The NBI currently has 60 investigators, while the launch of a selection procedure to hire Judicial Police Services officers, as envisaged by the SPAK Law⁸⁸, is still pending. SPAK courts indicate shortage of administrative staff, lack of an effective case management system, and continuously increasing workload⁸⁹. The institutional framework for prevention has seen some development, but its implementation continues to have a limited impact. The General Directorate on Anticorruption (GDA)⁹⁰ coordinates a network of 44 coordinators at the central level and 36 coordinators at the local or regional

⁷⁹ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 48.

⁸⁰ In its 2024 report, Europol indicates that crime is borderless (68% of the most threatening criminal networks have activities and presence in both EU and non-EU countries, and Albania is among the Countries outside the EU with most activity. More in general 71% of networks engage in corruption to facilitate criminal activity or obstruct law enforcement or judicial proceedings. Europol, Decoding the EU's most threatening criminal networks, Publications Office of the European Union (2024).

⁸¹ Information received in the context of the country visit to Albania.

⁸² OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Ratification Status <https://www.oecd.org/daf/anti-bribery/WGBRatificationStatus.pdf>.

⁸³ 2023 Communication on EU Enlargement policy, Albania Report, pp. 24-25.

⁸⁴ Information received in the context of the country visit to Albania from SPAK.

⁸⁵ SPAK 2023 Annual Report, p. 47.

⁸⁶ 2023 Communication on EU Enlargement policy, Albania Report, p. 42.

⁸⁷ Law No. 95/2016 on the Organisation and Functioning of Institutions for Combating Corruption and Organised Crime, Article 28 (3).

⁸⁸ Law No. 47/2021 amending Law No. 95/2016 on the Organisation and Functioning of Institutions for Combating Corruption and Organised Crime.

⁸⁹ Written contribution from SPAK in the context of the country visit to Albania. The total number of new cases increased, with 2775 new cases in 2023, compared to 2059 new cases in 2022.

⁹⁰ The Minister of State for Public Administration and Corruption, established in 2024, is supported by the GDA. The GDA has been transferred from the Ministry of Justice to the Prime Minister's Office to coordinate the network of 44 anti-corruption coordinators, carry out strategic planning, analysis and communication, and conduct administrative investigations for potential corrupt practices by public officials. In 2022, the administrative investigations conducted by the Anti-corruption Directorate General led to 20 criminal reports (compared with 12 in 2021), and 43 administrative reports comprising 259 disciplinary measures.

level. A co-governance platform within the Prime Minister's Office has been established, allowing citizens and businesses to report suspected acts of corruption which are forwarded to the GDA⁹¹. GDA human resources remain limited: out of nearly 30 employees, the majority are dedicated to conducting administrative investigations and liaising with anti-corruption coordinators deployed at various institutions⁹³. This leaves only a small number of staff members available to oversee and monitor the implementation of the strategy, all while managing additional work duties. In June 2024, Council of Ministers adopted a decision regarding GDA's competences and transfer under the coordination of the Minister of State for Public Administration and Corruption⁹⁴. The decision failed to address the abovementioned shortcomings.

The number of persons investigated, prosecuted, and convicted for corruption offences has been increasing over the past three years, whereas a recent amnesty law raises concerns. In 2022, 186 people were convicted for public sector corruption and seven for high-level corruption, while 298 new cases were sent to court for public sector and none for high-level corruption, 18 people were convicted of corruption in the judicial system, including a former Prosecutor General. On high-profile cases, criminal convictions were pronounced by the SPAK courts in high-level corruption cases⁹⁵. In April 2024, Albania passed a law granting amnesty to approximately 700 prisoners and reducing the sentence of over 400 individuals, including mid-level officials, deputy mayors and secretary-generals convicted for corruption⁹⁶. Out of these, 40 individuals convicted by Special Courts for Anti-Corruption and Organised Crime for exercising unlawful influence on public officials fall under the scope of exemption from serving their sentence and 60 individuals are entitled to benefit from a reduction of their sentence⁹⁷.

The State police remain highly vulnerable to corruption as evidenced by a large number of complaints to the Police Oversight Agency and arrests, despite some anti-corruption efforts. The Police Oversight Agency is responsible for the prevention, detection and investigation of suspected criminal offences, including corruption, committed by employees of law enforcement agencies. In 2023, the Agency received 1 522 complaints directly and 4 203 complaints via a dedicated phonenumber. The Agency recommended the launch of disciplinary investigations for 95 employees, for 15 of them for serious violations. During the same year, the Agency referred 342 law enforcement employees to criminal prosecution, largely for "abuse of duty" and "passive corruption". With a view to ensuring the integrity of the police personnel, in 2023, 72 individuals underwent periodic and transitional evaluation,

⁹¹ Law No. 107/2021 on Co-Governance.

⁹² According to the authorities, a cooperation agreement is being prepared. Written contribution received from Albania.

⁹³ Input from Albania for the 2024 Rule of Law Report, pp. 33-34.

⁹⁴ Council of Ministers Decision No. 436 of 26 June 2024.

⁹⁵ Criminal convictions were pronounced by the SPAK Courts, notably the conviction of a former Minister of Environment to 10 years in prison and of a Member of Parliament to four years in prison as part of an investigation into the concession contracts on urban waste treatment (the incinerators' affair), reduced to 6.8 and 2.8 years respectively due to shortened trial. A former deputy prime minister was indicted by SPAK for criminal offences, including passive corruption, as part of the investigations on the 'incinerators' case. A former deputy minister of health was arrested in connection to a procurement case. Investigations launched previously on high level officials have continued. 2023 Communication on EU Enlargement policy, Albania Report, p. 25.

⁹⁶ Data confirmed by SPAK in July 2024.

⁹⁷ Written contribution from SPAK in the context of the country visit to Albania.

with decisions ranging from confirmation to removal from positions⁹⁸. As of December 2023, all police officers were obliged by government order to declare whether they used specific encrypted communication applications. The encrypted messaging via these applications had shown a high level of criminal infiltration and corruption within the ranks of the police⁹⁹. Following the order of 17 June 2024 on the integrity verification process within the police, police officers were obliged to turn in completed self-declaration forms by 30 June¹⁰⁰¹⁰¹.

The systematic use of financial investigations and asset confiscations has improved, though limitations in scope restrict their impact. Seizures of assets for all crimes declined in 2023. Albania reported about EUR 21 million worth of seized assets (compared with EUR 46 million in 2022). The confiscation of assets for all crimes increased in 2023 to EUR 11 million in value. Seizures of assets from corruption-related crimes totalled EUR 6 million in value in 2023, compared with EUR 38 million in 2022. The confiscation of assets for corruption-related crimes declined (EUR 280,458 in 2023 compared to EUR 847,195 in 2022). Although the systematic use of special investigative measures has improved, it is too low compared to the operational needs, which also affects consistency between preliminary assets seizure and final confiscations.

Coordination between institutions in charge of corruption prevention and relevant law enforcement structures is weak. Shortcomings in cooperation between the State Audit Institution, and the Ministry of Finance and Economy are prevalent and the number of referrals to law enforcement for judicial follow-up is limited¹⁰². The law¹⁰³ guarantees the independence of the State Audit Institution. Only 50% of recommendations issued in 2021 by the State Audit Institution are fully or partially implemented¹⁰⁴. In 2023, the State Audit Institution referred 13 cases with suspicions of crime to the Special Prosecutor's Office¹⁰⁵.

While declarations of assets and interests are verified by the HIDAACI, some shortcomings exist in terms of mandate and human resources, which risk to impact the effectiveness of its examinations. The HIDAACI verifies declarations of assets and interests by public office holders, including at senior level, and ascertains conflicts of interest¹⁰⁶. HIDAACI has 73 employees¹⁰⁷. Around 4 000 elected and public officials are obliged to submit annual asset declarations. Since October 2022, the asset declarations are submitted in electronic format and in hard copy. However, their publication has been suspended in 2023

⁹⁸ Written contribution from the Police Oversight Agency in the context of the country visit to Albania.

⁹⁹ Ministry of Interior (2023), Press release of 04.12.2023.

¹⁰⁰ Press release of the Albanian State Police, 17.06.2024 (<https://asp.gov.al/thellohet-procesi-i-verifikimit-te-integritetit-te-punonjeseve-te-policise-se-shtetit/>).

¹⁰¹ According to the authorities, the adoption of a new law on the State Police is expected in 2024 with a view to including measures to address corruption and integrity risks related to the Albanian State Police. Written contribution received from Albania.

¹⁰² According to the authorities, a Memorandum of Understanding is underway between the National Coordinator Against Corruption and the General Prosecution Office. Written contribution received from Albania.

¹⁰³ Law No. 154/2014 on the Organisation and Function of the State Supreme Audit Institution.

¹⁰⁴ 2023 Communication on EU Enlargement policy, Albania Report, p. 74.

¹⁰⁵ Input from Albania for the 2024 Rule of Law Report.

¹⁰⁶ Law No. 9049/2003 on the Declaration and Audit of Assets, Financial Obligations of Elected Persons, and Certain Public Officials (as amended in June 2017).

¹⁰⁷ Written contribution received from Albania.

by HIDAACI due to alleged cybersecurity concerns¹⁰⁸. In 2023, HIDAACI conducted 187 full audits for 187 candidates to justice institutions and 34 persons in the State Police, the Republican Guard and Police Surveillance Agency. However, HIDAACI's mandate does not include the verification of assets potentially concealed through private entities or through ownership by other individuals, which limit the effectiveness of audits.

The regulation of revolving doors, conflicts of interests, lobbying and political party financing is incomplete. Albania's legal framework does not regulate large online platform and third-party campaigning. The legal framework on conflict of interests, donations, sponsorships, and political party financing is not aligned with European standards¹⁰⁹. There are no rules on post-employment restrictions for both members of the Council of Ministers and political advisors. An Ethics Commission composed mainly of senior civil officials and a Minister, was set up in 2021 to enforce the Ministerial Code of Ethics¹¹⁰. However, the presence of a Minister among its members was found to be against the principle of independence and impartiality from the executive¹¹¹. Rules on how high-level government officials engage with lobbyists and other third parties do not cover all interactions beyond in-person meetings, and do not contain a requirement to publish information of such interactions. Rules on transparency of contacts of high-level government officials with lobbyists and other third parties, and in post-employment restrictions to avoid conflict of interest, are also inadequate¹¹²¹¹³.

The low number of whistleblowers' reports is, according to stakeholders, due to self-censorship and lack of trust in the effectiveness of the measures of protection. The legal framework on whistleblower protection is partially aligned with the EU acquis¹¹⁴. During 2023, HIDAACI reviewed 13 new whistleblower reports and one request for protection against retaliation, and in 11 cases an administrative fine was imposed. Additional cases were referred directly to the national bodies competent to assess the breaches reported by the whistleblowers, including the State Audit Institution for auditing public funds, the Prosecutor's Office and State Police, the Independent Qualification Commission, and the Head of the Central Public Authority. Stakeholders point to self-censorship and lack of trust in the effectiveness of protection measures as the main reasons for the low number of whistle-blowers' reports¹¹⁵.

Overall, corruption is prevalent in many areas, including during electoral campaigns, with preventive measures suffering from an overly complex legal framework and continuing to have limited impact in vulnerable sectors. Limited transparency in public procurement procedures, especially for public-private partnerships, are a source of concern¹¹⁶. The misuse of state resources during electoral campaigns is an area of concern.

¹⁰⁸ Input from Albania for the 2024 Rule of Law Report.

¹⁰⁹ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 48.

¹¹⁰ Ministerial Code of Ethics No. 830, 15.09.2023.

¹¹¹ As also established by GRECO (2023), Fifth Evaluation Round, Albania Compliance Report, pp. 6-7.

¹¹² 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 48. As also established by GRECO (2023), Fifth Evaluation Round, Albania Compliance Report.

¹¹³ According to the authorities, work is underway for the revision of the Ministerial Code of Ethics. Written contribution received from Albania.

¹¹⁴ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 47.

¹¹⁵ Information received in the context of the country visit to Albania.

¹¹⁶ 2023 Communication on EU Enlargement policy, Albania Report, p. 103.

Corruption risks seem to exist in particular in the health, education, and property sectors and within the police¹¹⁷, as well as at the State Cadastre Agency (SCA)¹¹⁸. Internal checks and inspection mechanisms in the public administration are weak and ineffective¹¹⁹. Digitalisation measures helped to tackle petty corruption but did not address major issues in internal administrative processes¹²⁰.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Constitution provides the overall framework for the protection of the freedom of expression, media freedom and the right to information¹²¹. The tasks, organisational structure and rules of procedure of the national audio-visual media regulatory authority and the public broadcaster, Albanian Radio and Television, are prescribed in law¹²². The right to information and access to public documents is regulated by the Law on the Right to Information, as last amended in 2023¹²³. Defamation is a criminal offence¹²⁴.

Concerns have been raised with regard to the independence of the Audio-Visual Regulatory Authority (AMA) due to the bi-partisan formula for election of board members and their political affiliation. AMA is composed of its Chairperson, Deputy Chairperson and five Board members. The law provides that AMA members shall be appointed by the Parliament, with three members having the support of the majority, three members having the support of the opposition, while the chairperson shall be elected by consensus of the political parties in the parliament¹²⁵. The members of the board are required by law to have at least ten years of experience in a number of relevant areas. AMA's budget is based on fees levied from the media industry¹²⁶, but in exceptional circumstances, it can seek funding from the state to carry out special tasks. The bipartisan formula for the election of AMA members, including its chairperson as well as the political affiliation and conflicts of interest of its members have raised concern¹²⁷. The 2024 Media Pluralism Monitor (MPM) considers this to be an area of medium risk referring in particular to the risk of political and corporate influence in the appointment procedures of AMA Board members, the political background of the Chair and Board members and shortcomings in enforcement of the Broadcasting Code on those media outlets which air pre-recorded political content during electoral campaigns¹²⁸. In 2023, AMA approved the Audiovisual Broadcasting Code which

¹¹⁷ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 48.

¹¹⁸ This is indicated by the high number of corruption complaints involving this institution (70% of all citizens' complaints refer to the State Cadastre Agency) and investigations and arrests for corruption or misappropriations that have been launched against its employees (at the local offices in Vlora, Durrës and elsewhere). Input from Albania for the 2024 Rule of Law Report.

¹¹⁹ 2023 Communication on EU Enlargement policy, Albania Report, p. 26.

¹²⁰ 2023 Communication on EU Enlargement policy, Albania Report, p. 24.

¹²¹ Constitution of the Republic of Albania, Articles 22 and 23.

¹²² Law No. 97/2013 on Audiovisual Media Services, amended by Law No. 22/2016, Law No. 91/2017, Constitutional Court Decision No. 55/ 2016, Law No. 30/2023.

¹²³ Law No. 119/2014 on the Right to Information.

¹²⁴ Article 120 of the Criminal Code, punishable with a criminal fine; Reporters without Borders (2024), World Press Freedom Index, Albania: Albania ranks 99 compared to 96 in 2023.

¹²⁵ Law No. 97/2013 on Audiovisual Media Services, Article 9.

¹²⁶ Including fees for issue and renewal of licenses/authorizations, annual processing fees, administrative fees for processing of applications and percentages from taxes levied.

¹²⁷ See Venice Commission (2020), Opinion 980/2020 on the draft amendments on the Law No. 97/2013 on Audiovisual Media Service, paras. 33-37.

¹²⁸ 2024 Media Pluralism Monitor, country report for Albania, p. 13.

promotes adherence to ethical standards for audiovisual media, particularly regarding ethical reporting, including on gender issues.

Self-regulation in the media sector is weak as it is impacted by limited resources, a polarised media landscape and persisting inflammatory rhetoric in the public debate.

The Alliance for Ethical Journalism acts as self-regulatory body for the media and is set up by the Albanian Media Council, bringing together media representatives committed to rigorously implementing the Code of Ethics for Journalists. The Alliance has developed a complaint mechanism based on complaints received from the public regarding ethical violations and provides recommendations to its members. However, the membership of the Alliance is still limited, it is dependent on donor support, and its recommendations are not always implemented, notably due to the division of the media landscape along political lines¹²⁹.

Limited regulation on transparency of media ownership and high concentration negatively impact media independence.

Albanian law provides for limited transparency rules requiring the disclosure of company ownership, applicable to the audiovisual and print media¹³⁰. Online media are not regulated. With a view to continue to participate in the Creative Europe Programme, the law on audiovisual media was amended in 2023 to align it with the EU *acquis*. The Audiovisual Media Law lays down limited safeguards against concentration of media ownership and monopolies. Some provisions of the law according to which one single entity shall not own more than 40% of the capital of a media were repealed by the Constitutional Court in 2016¹³¹. The remaining limited rules are applicable only to audiovisual media, and printed press and online media are not subject to any ownership restrictions. The legislation does not provide for any limitations in cross-media ownership concentration. The legal and regulatory framework has led over time to high degree of concentration in the Albanian media environment¹³² which was also highlighted as a major risk by the shareholders¹³³ and by MPM 2024, which maintained its high-risk score for market plurality in Albania's media landscape in 2023¹³⁴. MPM 2024 maintains its high-risk score for transparency of media ownership¹³⁵.

The fair allocation of state advertising and other state resources is not ensured. The legal framework does not provide for a clear and transparent distribution of public sector

¹²⁹ Information received in the context of the country visit to Albania from civil society organisations in the field of media.

¹³⁰ A recent amendment to the Law No. 97/2013 on Audiovisual Media Services, approved by Law No. 30/2023, has introduced a new provision intended to increase the ownership transparency of beneficial owners in the audiovisual media. A special Law No. 112/2020 on Registration of Beneficial Owners, as amended by Law No. 6/2022, set more detailed rules on registration and publication of beneficial owners.

¹³¹ Constitutional Court, Decision no. 56 of 27 July 2016.

¹³² 2023 Communication on EU Enlargement policy, Albania Report, pp. 31-32. Written contribution from AMA in the context of the country visit to Albania: In April 2024, AMA adopted a regulation on requirements and procedures for reviewing changes regarding the ownership structure and the transparency of ownership-related data of audiovisual service providers, AMA Decision No. 40 dated 26.04.2024.

¹³³ Information received in the context of the country visit to Albania. See also: Balkan Investigative Reporting Network (2023), Media Ownership Monitor, Albania.

¹³⁴ In particular, the MPM 2024 referred to the high degree of horizontal concentration in the broadcast and newspaper market, and the lack of thresholds in the legal framework to limit concentration of ownership and audiences. 2024 Media Pluralism Monitor, country report for Albania, pp. 14-16.

¹³⁵ 2024 Media Pluralism Monitor, country report for Albania, p. 14.

advertising in line with international standards. MPM 2024 concludes that state advertising is not distributed fairly and in a transparent manner¹³⁶. The state advertising procurement procedure allows sub-contracting in a way which enables the circumvention of the open and competitive standards set out by normal public procurement rules¹³⁷. Furthermore, advertising is often commissioned in the context of projects implemented by central or local government agencies that are not subject to procurement rules. MPM 2024 therefore has maintained its medium risk indicator of state regulation of resources and support to the media sector, with no change in percentage since 2021¹³⁸. Independence of media is further impacted by the intersection of political, business, and other interests, in terms of funding and content¹³⁹. High-profile business groups further increased their economic penetration in the media market during the reporting period and their strong links to political interests are a serious concern¹⁴⁰.

Concerns exist with regard to the independence of the public broadcaster. The Albanian Public Broadcaster Albanian Radio Television (RTSH) is composed of a General Director, Steering Council and a Management Board. The Steering Council consists of 10 members and a chairperson appointed by the Parliament, with five members supported by the majority, five members supported by the opposition, whereas the chairperson is elected by consensus of the political parties in the Parliament¹⁴¹. The system to elect board members mirrors the political balances in the Parliament. The members of the Steering Council are required by law to have at least ten years' experience in relevant areas. The process to fill two vacancies on the Steering Council started in March 2022 was finalised in July 2024 when the Parliament voted to fill the remaining vacancy in the steering board of the public broadcaster, thus ensuring its full membership. The Parliament has yet to fully adhere to procedures that ensure the greatest level of independence, impartiality, and legitimacy of the public broadcaster¹⁴². In June 2023, the Steering Council elected by unanimity a new Director-General. The fact that the appointee held the position of Secretary for relations with media and civil society of the ruling party until September 2021 has raised concerns about the independence of the public broadcaster.¹⁴³ Over 30 media workers were dismissed by the newly appointed management in what the media community described as an opaque process violating procedures¹⁴⁴. MPM 2024 has significantly increased the risk score, within the medium risk band, relating to the independence of public service media, following the

¹³⁶ 2024 Media Pluralism Monitor, country report for Albania, p. 18.

¹³⁷ Advertising and other service contracts, such as awareness raising and information campaigns, are often awarded to advertising agencies, who then outsource the contract without any specific criteria. Through such practices, agencies channel money to media outlets directly or indirectly through advertising agencies or other third parties. These transfers are of concern, as they take on the role of subsidies in an environment where audience measurement is not available, and no clear rules exist on the distribution of state advertisements.

¹³⁸ 2024 Media Pluralism Monitor, country report for Albania, p. 18.

¹³⁹ 2023 Communication on EU Enlargement policy, Albania Report, p. 31.

¹⁴⁰ 2023 Communication on EU Enlargement policy, Albania Report, p. 33.

¹⁴¹ Law No. 97/2013 on Audiovisual Media Services.

¹⁴² 2023 Communication on EU Enlargement policy, Albania Report, p. 33.

¹⁴³ See also: 2024 Media Pluralism Monitor, country report for Albania, p. 19.

¹⁴⁴ Information received in the context of the country visit to Albania.

above-mentioned appointment of the new Director-General of the RTSH¹⁴⁵. RTSH's budget relies mainly on TV set tariff and in part on state budget¹⁴⁶.

While the amendments to the law on the right to information introduce positive changes, there are a wide range of exemptions and shortcomings in terms of implementation. The right to information is set out in the Constitution of Albania and further regulated in law on access to information¹⁴⁷ which is broadly aligned with European standards¹⁴⁸. In 2023 Albania adopted changes to the law on the right to information, including stronger accountability for breaches of the law¹⁴⁹, and stronger sanctioning power of the Commissioner, but their implementation is still to be followed in practice. The independence of the Commissioner for the Right to Information is adequately guaranteed by the law¹⁵⁰. Public authorities may withhold information related to national security, trade secrets, privacy, copyright, fiscal policies, ongoing criminal or administrative investigations, and intra-governmental consultations. The lack of a clear definition of the "public interest" provision gives public institutions significant discretion to legally restrict or deny access to information. In addition, prompt access to information is hampered by long binding deadlines and an institutional culture of withholding replies, which affects disproportionately journalists, as they file most information requests. Media actors see the newly introduced media accreditation regulations by Parliament as limiting the access to information for journalists¹⁵¹. MPM 2024 reports a medium risk on the right to information¹⁵². The Media Information Agency (MIA) was established in 2021 by decision of the government with the task to inform and communicate with the public and media, as well as prepare government positions and surveys on matters of public interest¹⁵³. MIA has been criticised by civil society organisations and independent observers as reducing media access to direct and transparent information from government institutions¹⁵⁴. Media organisations have reported on further concentration of public information during 2023, with concerns that systematic attempts by political actors and government, at both local and central levels, to feed media with pre-prepared content, risks amounting to disinformation¹⁵⁵.

¹⁴⁵ 2024 Media Pluralism Monitor, country report for Albania, p. 19.

¹⁴⁶ Other sources include: the license fee; contracts with third parties for various transmissions, utilising its free technical capacities; marketing of musical productions, video and audiocassettes, books, newspapers, and magazines related to its programs; activities of public performances; advertisements and publication of other paid messages; sponsorships and donations.

¹⁴⁷ Constitution of the Republic of Albania, Article 23. Law No. 119/2014 on the Right to information.

¹⁴⁸ Albania has ratified the Council of Europe Convention "On access to official documents" by Law No. 45/2022 "For the ratification of the Convention of the Council of Europe "On access to official documents".

¹⁴⁹ 2023 Communication on EU Enlargement policy, Albania Report, p. 33. The remit of application for sanctions has been expanded to cover the head of state institutions or senior civil servants in case of malpractice and failure to enforce the orders of the Commissioner for the Right to Information.

¹⁵⁰ Law No. 119/2014 on the Right to information, Article 29. The law ensures that the Commissioner is elected for a five-year term mandate with a right to re-election, establishing the criteria for selection, termination of the mandate, and enshrines the budgetary independence that may originate from donors without conflict of interest, aside from the state budget.

¹⁵¹ Information received in the context of the country visit to Albania.

¹⁵² 2024 Media Pluralism Monitor, country report for Albania.

¹⁵³ Council of Ministers Decision No. 512 dated 18.09.2021, "On the establishment, organization and functioning of the Agency for Media and Information".

¹⁵⁴ Information received in the context of the country visit to Albania. See amongst others: Res Publica, Right to information 2022 – Is it aiming to go one step higher? p. 24.

¹⁵⁵ Information received from media organisations in the context of the country visit to Albania.

Verbal and physical attacks, smear campaigns and strategic lawsuits against public participation (SLAPP) against journalists are a cause for concern. Defamation is a criminal offence, and the legal framework does not provide for safeguards regarding SLAPP¹⁵⁶. The civil law provisions on fraudulent or inaccurate publications are not aligned with European standards¹⁵⁷ and are used to launch SLAPP against journalists¹⁵⁸. Journalists have the right to protect their sources and refuse to testify in criminal, civil and administrative cases, with some narrowly defined exceptions¹⁵⁹. Nonetheless, in February 2024, the High Court deemed lawful the seizure by the Special Prosecution Office against Organised Crime and Corruption (SPAK) of phones and computers belonging to a journalist who was reporting on an organised crime case under SPAK investigation¹⁶⁰. Safe Journalists Network has reported 18 cases of attacks against journalists in 2022 and 24 cases in 2023¹⁶¹. Intimidation of journalists by high state officials and police officers is a concern¹⁶². Media organisations reported a rise in lawsuits against journalists throughout 2023 to 65 civil¹⁶³ and six criminal cases at all court levels confirmed by the authorities¹⁶⁴. The monitoring and transparent reporting of the judicial cases involving journalists and media professionals is not systematically undertaken and needs to be significantly enhanced. Cases of intimidation and threats against journalists, notably online, remain underreported due to fear of retaliation, victimisation, and lack of trust in the effectiveness of institutional or law enforcement follow up¹⁶⁵. Limited access to legal assistance and limited support from media outlets in cases of attacks leaves journalists vulnerable to threats and violence¹⁶⁶. The use of force including in relation to journalists by law enforcement authorities, in particular in the context of demonstrations, continues to be of concern¹⁶⁷. The Council of Europe Platform to promote the protection of journalism and the safety of journalists has published six alerts since July 2023¹⁶⁸. The registered incidents relate to above-mentioned physical assault, threats, verbal insults, intimidation by high state officials and home search. Limited job security and poor working conditions for journalists pose serious challenges in terms of self-censorship,

¹⁵⁶ 2023 Communication on EU Enlargement policy, Albania Report, p. 32; European Civic Forum (2024), Civic Space Report 2024 – Western Balkans (Balkan Civil Society Development Network), p. 339.

¹⁵⁷ 2023 Communication on EU Enlargement policy, Albania Report, p. 32.

¹⁵⁸ 2023 Communication on EU Enlargement policy, Albania Report, p. 32.

¹⁵⁹ Criminal Procedure Code, Art. 159 (3).

¹⁶⁰ Constitution, Article 22. Decisions no. 501 and 502 dated 13.12.2023 of the Special Court on Corruption and Organised Crime.

¹⁶¹ In 2023, the Mapping Media Freedom platform registered at least five physical attacks (three of them resulting in injury) involving 11 journalists or media professionals. Media Freedom Rapid Response (2023), Mapping Media Freedom - Monitoring Report 2023, pp. 35-36.

¹⁶² 2023 Communication on EU Enlargement policy, Albania Report, p. 32.

¹⁶³ Center Science and Innovation for Development – SCiDEV, Multi stakeholder discussion on “Advancing Safety of Journalists and Media Freedom in Albania: Charting the Course for EU Integration”, 5 March 2024, Tirana, Albania.

¹⁶⁴ Written contribution received from Albania.

¹⁶⁵ Information received from civil society organisations from media sector.

¹⁶⁶ 2023 Screening report Albania, Cluster 1 – Fundamentals, pp. 8 and 57. Albania evaluates that its current legal framework has shortcomings, particularly in regard to guaranteeing specific personal protection to journalists and other media professionals, whose safety is under risk of physical attack linked to their work. Albania’s legislation also does not contain provisions on journalists’ protection from cyber-attacks.

¹⁶⁷ 2023 Communication on EU Enlargement policy, Albania Report, p. 32.

¹⁶⁸ Council of Europe, Platform to promote the protection of journalism and safety of journalists – Albania.

pressure from political actors and a reduced resistance to disinformation¹⁶⁹. For these reasons MPM 2024 considers this to be an area presenting medium risk¹⁷⁰.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Albania is a unicameral parliamentary democracy with 140 members of the Parliament elected through a proportional voting system every four years¹⁷¹. The Government, including the Prime Minister and members of the Council of Ministers¹⁷², are elected by the Parliament, which also elects the President of the Republic every five years. Legislation is adopted by the Parliament upon the initiative of the Government, any member of Parliament or at least 20 000 voters. The President has the power to refuse to publish a law and return it to the Assembly for further review. The Parliament can overturn the President's veto through an absolute majority¹⁷³. The Constitutional Court checks legal acts and international agreements for compliance with the Constitution, settles conflicts of constitutional nature between public authorities of central or local level, and checks compliance of final individual cases with human rights.¹⁷⁴ Several independent authorities and bodies aim to protect and promote human rights, including the Commissioner for Protection from Discrimination (CPD)¹⁷⁵ and the Ombudsperson, which is accredited with A status by the Global Alliance of Human Rights Institutions¹⁷⁶.

Challenges regarding the quality of the legislative process include the limited effectiveness of public consultations. Public consultation processes and safeguards to improve the quality of the law-making process are in place¹⁷⁷. There is a statutory twenty-day time-limit for carrying out public consultations, the electronic web portal is operational and has been updated, and an annual progress report is published on the progress of public consultations¹⁷⁸. However, the implementation of these rules in practice remains rather formal. Institutions such as the Council of Ministers and Parliament rely on separate online platforms for public consultations, with different public consultation standards¹⁷⁹. Measures to encourage high participation and awareness, timely consultations and due follow up to consultations are not always ensured, particularly regarding consultations on legislative

¹⁶⁹ 2023 Communication on EU Enlargement policy, Albania Report, p. 34.

¹⁷⁰ 2024 Media Pluralism Monitor, country report for Albania, pp. 12-13.

¹⁷¹ Constitution of the Republic of Albania, Article 64.

¹⁷² Constitution of the Republic of Albania, Part V, Articles 95 to 107.

¹⁷³ Constitution of the Republic of Albania, Article 85; Rule of Procedure of the Assembly of the Republic of Albania, Article 86.

¹⁷⁴ Constitution of the Republic of Albania, Article 124.

¹⁷⁵ The CPD is the equality body in Albania, established by Law No. 10221/2010, as amended by the Law No. 124/2020, that is aligned with four European Directives in the field of non-discrimination.

¹⁷⁶ Chart of the status of national institutions – Accreditation status as of December 2020..

¹⁷⁷ The process of public consultation in Albania is regulated by Law No. 146/2014 "On Public Notification and Consultation" and relevant bylaws, and other regulatory acts. It is monitored by the Office of the Prime Minister. The Electronic Register for Public Announcements and Consultations makes public all draft laws. Direct consultations and public meetings with interested parties (often civil society) can be set up. Upon completion of the public consultation process, opinions and recommendations are gathered by the public consultation coordinator of the relevant public body. Their review is carried out by the public body responsible for drafting the act.

¹⁷⁸ GRECO (2023), Fifth Evaluation Round, Albania Compliance Report, p. 9.

¹⁷⁹ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 20. Information received in the context of the country visit to Albania. See also: public consultation platforms of the Council of Ministers and the Parliament.

initiatives of the Parliament¹⁸⁰. Most legal initiatives (90%) are tabled by the executive, however effectiveness of public consultations on these legal initiatives remains limited as also underlined by GRECO¹⁸¹. Shortcomings include the lack of timely publication for stakeholders, making it difficult for civil society, the media and the broader public to be able to respond¹⁸². The frequent use by the Government of normative acts having the force of law for amending the state budget raises shortcomings, including in relation to public consultation and transparency¹⁸³, as these acts are reserved for temporary measures in cases of necessity and emergency¹⁸⁴.

Amendments to the Law on Inquiry Committees have been criticised for limiting the Parliament's oversight role and are under review by the Constitutional Court.

According to the Constitution, the Assembly has the right and, upon request of one-fourth of its members, is obliged, to designate inquiry committees to review a particular matter. The findings and conclusions of an Inquiry Committee, which are not binding, may be forwarded to the Prosecution Office, which in turn decides on whether or not to open an investigation¹⁸⁵. The Law on the Inquiry Committees was amended in December 2023. It introduces new conditions that need to be met for the establishment of an inquiry committee, specifies criteria that may justify holding closed hearings, and provides that requests for questioning witnesses or obtaining other evidence require majority decisions¹⁸⁶. The amendments have been criticised by civil society organisations and opposition as weakening this tool¹⁸⁷. On 9 July 2024 the Constitutional Court found some of the amendments unconstitutional, as they infringe the right of parliamentary minorities to establish committees of inquiry and fail to guarantee the effective oversight of the parliamentary work by the minority groups¹⁸⁸. The decisions of the Parliament refusing the establishment of individual inquiry committees remain subject to constitutional review and have been systematically referred to the Constitutional Court in case of disagreement.

Deep political polarisation has had a negative impact on the effectiveness, transparency and objectivity of parliamentary work. During the 2023 autumn session, there were continuous clashes in Parliament between the ruling majority and a part of the opposition, the latter causing disruptions to its work. This context led the ruling majority to use its voting

¹⁸⁰ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 13. Information received in the context of the country visit to Albania.

¹⁸¹ GRECO (2023), Fifth Evaluation Round, Albania Compliance Report, p. 18.

¹⁸² Legislative amendments, calendars, and agendas, voting records.

¹⁸³ Normative Act No. 1 of 21 February 2024; Normative Act No. 5 of 18 October 2023; Normative Act No. 6 of 14 December 2023; Ministry of Finance (2023) Statement of the Minister of Finance and Economy of 18 October 2023 on the approval of the Normative Act for Changes to the 2023 Budget. The International Monetary Fund (IMF) has issued a recommendation to Albania to limit the use of normative acts to alter the budget in the context of the 2023 Article IV Consultation. IMF (2023), IMF Country Report No. 24/7, Albania (Press Release and Staff Report).

¹⁸⁴ Constitution of the Republic of Albania, Article 101. The Constitution provides that in cases of necessity and emergency, the Government may issue normative acts having the force of law for taking temporary measures, which must be approved by the Assembly within 45 days or lose force retroactively.

¹⁸⁵ Constitution of the Republic of Albania, Article 77.2.

¹⁸⁶ Previously, previously requests could be made by any member of the commission. See also: Law 106/2023, amending Law 8891/2002 on the Organization and Operation of the Investigative Commissions of the Assembly; 2023 Screening report Albania, Cluster 1 – Fundamentals, pp. 15-16.

¹⁸⁷ Information received from civil society organisations in the context of the country visit to Albania; Balkan Insight (2023), Albania's Socialists Move to Limit Parliamentary Investigative Committees.

¹⁸⁸ Constitutional Court of the Republic of Albania (2024), Press release of 9 July 2024.

strength to pass laws without debate. The ruling majority amended the Parliament's rules of procedure to increase disciplinary measures for members of Parliament disrupting its work¹⁸⁹. On 19 June the Constitutional Court found some of the amendments regarding expulsion and suspension of the members of the Parliament unconstitutional¹⁹⁰. From October 2023 to March 2024, the Ethics Secretariat took a record number of 68 punitive measures against roughly 50% of the opposition members of Parliament¹⁹¹ out of which eight were taken based on the amended rules of procedure¹⁹². The meetings of the Ethics Secretariat were conducted behind closed doors and with the participation of only ruling majority members of Parliament, followed by the publication of their minutes and decisions on the Parliament's official website. The work of standing committees moved online during parts of the reporting period, limiting transparency regarding quorum¹⁹³.

The Constitutional Court is effective in upholding institutional checks and balances, though Parliament has failed to comply with some of its rulings. All nine members of the Court have been elected via the new constitutional procedures, after having been vetted in the context of the 2016 justice reform. Since it regained full functionality when seven vacancies were filled in December 2022, the Court has dealt effectively with a number of important cases and reduced its backlog¹⁹⁴. During the reporting period, the Parliament failed to implement some rulings of the Constitutional Court, including one relating to the right of citizens residing abroad to take part in elections¹⁹⁵.

On 1 January 2024, Albania had 24 leading judgments of the European Court of Human Rights pending implementation¹⁹⁶. At that time, Albania's rate of leading judgments from the past ten years that remained pending was at 96%, and the average time

¹⁸⁹ Freedom House (2024), Nations in Transit, Country report, Albania.

¹⁹⁰ Constitutional Court of the Republic of Albania (2024), Press release of 19 June 2024.

¹⁹¹ Institute for Political Studies (2023), Monitoring report on the Assembly proceedings September-December 2023.

¹⁹² Written contribution received from Albania.

¹⁹³ In November 2023, the proceedings of the standing committees moved online, through a decision was deemed illegal by the opposition as the Assembly's Rules of Procedure establish that parliamentary proceedings can be held remotely only during exceptional circumstances defined as "the state of war or natural disasters". In December 2023, the Rules of Procedure were amended to expand the definition of exceptional measures to "the inability to hold physical meetings" as grounds to hold virtual meetings.

¹⁹⁴ 2023 Communication on EU Enlargement policy, Albania Report, pp. 4, 22. The appointments to the Court have been completed with all nine judges now in office, of whom eight with full nine-year mandate. In December 2022, the Court ordered the Parliament to advance the required legislative changes to advance the implementation of out-of-country voting within one year. The Court also delivered a decision on the regulatory framework for the salaries of magistrates in December 2022.

¹⁹⁵ Court rulings with effect on legislation not yet implemented by the Parliament include: Ruling 30_22- which relates to a disposition of the Civil Procedure Code; Ruling 37_22- which relates to mandatory insurance in public transport; Ruling 38_22- which relates to OCV; Ruling 39_22 which relates to criminal code provisions adopted during the pandemic; Rulings 01_23 and 02_23- which relate to Xhacka's mandate.

¹⁹⁶ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

that the judgments had been pending implementation was 3 years and 11 months¹⁹⁷. The oldest leading judgment, pending implementation for 10 years, concerns the failure to implement domestic decisions by the public administration, in particular reinstatement in public service, the lack of an effective remedy in this respect, as well as the violation of the property rights on account of the non-enforcement of the final court decisions¹⁹⁸. The 2018 ECtHR case law *Sharxhi and others v. Albania* was put under enhanced supervision by the Committee of Ministers in 2022, and Albania has yet to clarify existing remedies that have been put in place to address unlawful expropriation and demolition as well as to clarify the duration for providing compensation in cases of expropriation¹⁹⁹. As regards the respect of payment deadlines, on 31 December 2023 there were 22 cases in total awaiting confirmation of payments (compared to 16 in 2022)²⁰⁰. On 1 July 2024, the number of leading judgments pending implementation had increased to 30²⁰¹.

The legal framework for the Ombudsperson and the Commissioner against Discrimination is in place, but there are obstacles to their effective working. Both the Ombudsperson and the Commissioner against Discrimination (CPD) are elected by the Parliament. The mandate of the current Heads of these institutions expired in 2022 and 2023, respectively. However, the Parliament has not yet appointed their successors, with the delays also creating a perception of politicisation which weakens these independent institutions²⁰². While the Ombudsperson's legal framework is assessed as compliant with the Paris principles, concerns have been raised regarding the fact that its annual report is published only after the Parliament has debated on it, which may affect its independence.²⁰³ The largest number of complaints received in 2023 concerned the rights of the child (282 complaints, 20% overall)²⁰⁴. The implementation rate of the recommendations issued by the Ombudsperson remains overall low²⁰⁵. The CPD has reported to enjoy a stable level of public trust and awareness about its competences but also insufficient human resources²⁰⁶. The Courts uphold the decisions of the CPD in the vast majority of cases²⁰⁷.

¹⁹⁷ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network on Enlargement Countries for the 2024 Rule of Law Report, p. 1.

¹⁹⁸ Judgment of the European Court of Human Rights of 25 March 2014, *Memishaj v. Albania*, 40430/08, pending implementation since 2014.

¹⁹⁹ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 65.

²⁰⁰ Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 137.

²⁰¹ Data according to the online database of the Council of Europe (HUDOC).

²⁰² 2023 Communication on EU Enlargement policy, Albania Report, p. 10.

²⁰³ Information received in the context of the country visit to Albania and discussion in the context of the 15th Stabilisation and Association Agreement Justice Freedom and Security Subcommittee on March 20-21 2023.

²⁰⁴ Written contribution from the Office of the Ombudsperson (People's Advocate) in the context of the country visit to Albania.

²⁰⁵ The implementation rate was 64% in 2022 and 65% in 2023, according to the Office of the Ombudsperson (People's Advocate).

²⁰⁶ Written contribution from the Office of the Commissioner for the Protection from Discrimination (CPD) of Albania in the context of the country visit to Albania. In 2023, 276 complaints were submitted to CPD (CPD 2023 Annual Report, p. 33). Despite the open list of grounds set out in Law No. 10 221 on Protection from Discrimination as amended by Law No. 124/2020, most cases handled by the CPD concern alleged discrimination on the basis of race, sexual orientation/gender identity or disability.

²⁰⁷ Written contribution from the Office of the Commissioner for the Protection from Discrimination in the context of the country visit to Albania.

The environment for civil society is challenging, including in relation to registration requirements and limited public funding for civil society organisations. The civic space has been rated as “narrowed” due to concerns about the state of press freedom and restrictions to the right to peaceful assembly²⁰⁸. The right to free assembly and association is guaranteed by law and generally observed²⁰⁹. A strategy for civil society is in place²¹⁰, but shortcomings with implementation and coordination remain²¹¹. Registration procedures remain cumbersome due to delays in the processing of the requests by courts and the partial functioning of a National Electronic Register of Non-Profit Organisations, which was expected to be established by the end of 2023²¹². The level of public funding complies with the minimum legal requirement but does not permit to ensure the financial viability of CSOs.²¹³ The lack of possibility of individual donations or tax incentives for corporate donations to CSOs constitutes an obstacle for access to funding²¹⁴. CSOs are subject to specific VAT treatment since 2023, however transitional rules are not effectively implemented or functional²¹⁵. Donations from abroad are allowed, with due diligence required from the financial sector and other professions in relation to money laundering and prevention of terrorist financing²¹⁶. Dependence of CSOs solely on foreign donors puts their sustainability at risk²¹⁷. The National Council for Civil Society (NCCS) remains weak and legal changes are needed to improve its functioning, including its ability to voice priorities of CSOs in policy-making processes and address its major operational shortcomings²¹⁸. The law on voluntarism has been criticised as it does not facilitate the engagement in voluntary activities²¹⁹. Reports of civil society indicate problems of implementation of the strategy for civil society, limited evidence-based policy making and low trust from civil society²²⁰.

²⁰⁸ Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed. Civicus (2023), Monitor tracking civic space-Albania. See also, Civicus (2023), Members of the Human Rights Council must protect and expand civic space, Statement of 09 October 2023.

²⁰⁹ Constitution Art. 46-47.

²¹⁰ Decision No. 539 of 25.7.2019 for the approval of the guidelines for the Government policy towards an enabling environment for the development of civil society 2019-2023.

²¹¹ 2023 Screening report Albania, Cluster 1 – Fundamentals, pp. 17-21.

²¹² 2023 Screening report, Albania, p. 18.

²¹³ 2023 Screening report, Albania, pp. 17-21.

²¹⁴ Ibidem.

²¹⁵ Information received in the context of the country visit to Albania; see also: European Civic Forum (2024), Civic Space Report 2024 – Western Balkans (Balkan Civil Society Development Network), p. 340.

²¹⁶ Law No. 80/2021 on Registration of Non-profit Organisations.

²¹⁷ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 24.

²¹⁸ 2023 Communication on EU Enlargement policy, Albania Report, pp. 18, 20; 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 21. The NCCS is the main state-CSO structure for dialogue and cooperation established by Law No. 119/2015 on the Establishment and Functioning of the National Council for Civil Society. It is an advisory body to the Council of Ministers and provides for the dialogue and cooperation among CSOs’ representatives and the Government Institutions’ representatives. It is composed of 27 members, 13 from the public institutions, 13 from the civil society and 1 member from the business community. The law stipulates that the Council makes recommendations to the government notably as regards the development of laws and policies affecting civic space, participation in policymaking and the allocation of public funds to civil society in the country. However, it has so far failed to deliver on its broad mandate and its internal organisation does not allow it to exercise its prerogatives. In 2023, Albania indicated plans to review the legal framework in 2024 with a view to changing provisions related to its composition and functioning. See also: European Civic Forum (2024), Civic Space Report 2024 – Western Balkans (Balkan Civil Society Development Network), p. 342.

²¹⁹ Law No. 45/2016 on Voluntarism is the main legal act regulating volunteering in Albania. Its objectives (Article 2 of the law) include legally regulating volunteering, increasing civic engagement and participation

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en.

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of individuals in social life. However, several recommendations have been made by civil society for the law to effectively promote volunteerism. See, for example: Partners Albania for Change and Development (2021), *Legal Opinion on volunteering legal framework and its implementation*.

²²⁰ 2023 Screening report Albania, Cluster 1 – Fundamentals, p. 21; Information received from civil society organisations in the context of the country visit to Albania; European Civic Forum (2024), *Civic Space Report 2024 – Western Balkans* (Balkan Civil Society Development Network), p. 343, which notes that low public availability of information is a challenge and CSOs perceive government decision-making as lacking transparency, with limited use of evidence from external sources and inconsistent inclusion of civil society input in policy development processes.

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Annex II: Country visit to Albania

The Commission services held hybrid meetings in March 2024 with:

- Administrative Court of Appeal
- Albanian Chamber of Advocacy
- Albanian Helsinki Committee
- Albanian Media Council
- Albanian Media Institute
- Audiovisual Media Authority (AMA)
- Balkan Investigative Reporting Network Albania, BIRN Albania
- Center for the Study of Democracy and Governance
- Center Science and Innovation for Development – SCiDEV
- Constitutional Court
- Court of Appeal of General Jurisdiction
- CSSP - Berlin Center for Integrative Mediation
- European Centre
- Faktoje.al
- General Prosecutor's Office
- High Court
- High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI)
- High Judicial Council (HJC)
- High Justice Inspector (HJI)
- High Prosecutorial Council (HPC)
- Institute for Democracy and Mediation
- Institute for Policy and Legal Studies
- Media and Information Agency
- Ministry of Justice
- Ministry of State for Public Administration and Anti-Corruption
- Ministry of the Interior
- National Bureau of Investigation (NBI)
- Office of State Minister and Chief Negotiator for Media Dialogue
- Ombudsperson/People's Advocate
- Parliament, Legal Committee
- Parliament, Media Committee
- Partners Albania for Change and Development
- Public Service Broadcaster Radio Televizioni Shqiptar (RTSH)
- School of Magistrates
- Special Prosecution Office (SPO)
- Specialised Structure for Anti-Corruption and Organised Crime (SPAK) Courts
- State Audit Office