

Franet National contribution to the Fundamental Rights Report 2024

Albania

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Contents

1. Impact of the cost-of-living crisis and rising poverty in the EU	3
1.1. Legal measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.	3
1.2. Policy measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.	6
2. Threats to democratic values – Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression	12
2.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.....	12
2.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.	18

1. Impact of the cost-of-living crisis and rising poverty in the EU

1.1. Legal measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

On January 18, 2023, ¹Law No. 98/2022, titled "On the Creation of Solidarity Contribution During the Energy Crisis," came into effect. This law serves the purpose of establishing temporary regulations for implementing a solidarity contribution during the energy crisis. The primary objective of this law is to redistribute surplus income to support social initiatives while implementing extraordinary and time-limited measures to safeguard consumers, especially those in need, from price increases resulting from the Russia-Ukraine war. This law is applicable to all electricity producers who are tax residents in the Republic of Albania and sell their products at liberalized prices. The "solidarity contribution" represents a temporary and exceptional measure aimed at redistributing the surplus earnings of energy producers to alleviate social impacts. Extra revenues generated by electricity producers are subject to a mandatory temporary solidarity contribution. This contribution is calculated based on the additional income generated in the fiscal year from the sale of electricity on the open market at prices exceeding 8.5 ALL/kWh. The funds collected through the solidarity contribution are transferred to a dedicated state budget account and are transparently allocated to support various social packages aimed at assisting citizens.

The increase in energy prices has affected energy consumers and impacted the budgets of states that have implemented social measures to address this crisis. However, commercial energy producers selling their energy at much higher prices than the usual market rates have benefited from the price hike. In a situation where consumers are exposed to extremely high prices, damaging Europe's economy, European Union countries have deemed it necessary to temporarily limit the extraordinary income of

¹ Albania, Official Gazette, Law No. 98/2022, "On the Creation of Solidarity Contribution During the Energy Crisis," published on the official gazette of the Republic of Albania on 18 January 2023; Link to access the text of the law in Albanian language: <https://qbz.gov.al/share/mXg03Ld1Ty6YVQzpoutYCG>

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

energy producers by imposing various restrictions. Such laws have been enacted by countries like Italy, Greece, Spain, Romania, etc., and are being considered by all EU member states. The European Union views the imposition of restrictions on extraordinary income as one of the mechanisms to emerge from the crisis. Consequently, it has approved Council Regulation (EU) 2022/1854 on October 6, 2022, "For an emergency intervention to address high energy prices." Following this, the proposal for the approval of this draft law is presented, which establishes a temporary and mandatory solidarity contribution for electricity producers in the free market in Albania who have gained extraordinary income during this period. Thus, the government has intervened to determine specific measures to be taken against public or private, domestic or foreign entities involved in the processing, transportation, and trade of oil, gas, and their by-products during the entire duration of the special situation in the Albanian market indicated by situations influenced by the international market. Therefore, the government has taken a series of measures to limit revenues for both wholesale and retail hydrocarbon trading companies to protect the public interest. The income generated from the solidarity contribution will be used to finance social packages for citizens and businesses.²

Decision of the Council of Ministers No. 118, dated March 1, 2023³, concerning the Approval of the National Hospital Plan 2023-2030 ensures a comprehensive approach to the operation of the public healthcare system. It aims to provide high-quality, accessible, and secure healthcare services to vulnerable groups, including the elderly, children, women, and individuals with disabilities.

The plan emphasizes the provision of free healthcare services in primary healthcare for vulnerable groups and uninsured individuals, with a nominal fee for specialized services, following a referral from a general practitioner. Even citizens not contributing to the healthcare contribution scheme can benefit from the List of Reimbursement Medicines and receive free healthcare services from their family doctors. This legal act is not directly related to the rising of cost or energy crisis, but it does support the vulnerable groups.

² Albania, Parliament, Explanatory Report of the draft law "On the Creation of Solidarity Contribution During the Energy Crisis" <https://parlament.al/dokumentacioni/aktet/64d4f000-bf00-428e-885c-d24187bedde9>

³ Albania, Council of Minister, Decision of the Council of Ministers No. 118, dated March 1, 2023 "Approval of the National Hospital Plan 2023-2030", Link to access the text of the decision in Albanian language: <https://qbz.gov.al/share/Ltz2Bca6QlCp7eiV21-lbw>

Decision of Council of Ministers, No. 119, dated March 1, 2023⁴, Regarding the Utilization of Public Funds for the Transportation of Educational Employees Working and Students: This decision outlines the provision of financial support from public funds to cover transportation expenses for specific groups. It includes students attending public pre-university educational institutions for basic education and public kindergartens. The support is directed towards students and families who come from economically disadvantaged backgrounds and need to travel over two kilometres to access the nearest public institutions providing basic education (schools, or public kindergartens). These provisions also apply to students with disabilities who possess the legal status of being disabled, specifically those with blindness, deafness, paraplegia, or tetraplegia. This legal act is not directly related to the rising of cost or energy crisis but it does support the vulnerable groups.

Decision of Council of Ministers, No. 173, dated March 24, 2023, ⁵Concerning the Approval of the National Employment and Skills Strategy 2023-2030, the Action Plan for its Implementation, and the Youth Guarantee Implementation Plan 2023-2030: This decision focuses on the establishment of a referral system in cooperation with local-level structures, specifically Needs Assessment and Referral Units. Its purpose is to identify, evaluate, and provide assistance to various vulnerable groups with diverse requirements, including working-age individuals from families receiving economic support, long-term job seekers, ethnic minorities, and individuals with limited educational backgrounds and qualifications. This legal act is not directly related to the rising of cost or energy crisis but it does support the vulnerable groups.

Joint Instruction of Ministry of Education and Sports and Ministry of Finance and Economy, No. 15, dated July 24, 2023⁶, for the School Year 2023-2024 in the Pre-University Education System establishes priority registration guidelines for various

⁴ Albania, Council of Minister, Decision of Council of Ministers, No. 119, dated March 1, 2023, "On the Utilization of Public Funds for the Transportation of Educational Employees Working and Students. Link to access the text of the decision in Albanian language: <https://qbz.gov.al/share/AubWh67XQeOjeZ-vlEAtKA>

⁵ Albania, Council of Minister, Decision of Council of Ministers, No. 173, dated March 24, 2023," On the Approval of the National Employment and Skills Strategy 2023-2030, the Action Plan for its Implementation, and the Youth Guarantee Implementation Plan 2023-2030"

Link to access the text of the decision in Albanian language: <https://qbz.gov.al/share/7-qucOW0Q6aIGY0Hxl0Hew>

⁶ Albania, Council of Minister, Joint Instruction of Ministry of Education and Sports and Ministry of Finance and Economy, No. 15, dated July 24, 2023, for the School Year 2023-2024 in the Pre-University Education System. Link to access the instruction text in Albanian language: <https://qbz.gov.al/share/km7iUp1NRIK5tXXdgC2FUA>

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

categories of students. This legal measure prioritizes enrolment in preschool educational institutions for children with special needs, particularly those from families in need, national minorities (such as Roma and Egyptians), and children with disabilities. Additionally, it extends priority enrolment to school for children belonging to economically disadvantaged backgrounds, national minorities, those with disabilities, returnees from emigration, as well as children who are victims or potential victims of human trafficking, among others. This legal act is not directly related to the rising of cost or energy crisis but it does support the vulnerable groups.

1.2. Policy measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

Decision of Council of Ministers No. 447, dated July 26, 2023, “On the Approval of the Priority Policies Document 2024-2026”⁷

This decision acknowledges the impact of the energy crisis, which started to manifest in late 2021, and the additional crisis stemming from fluctuations in commodity prices due to Russian aggression in Ukraine. These factors have necessitated multiple adjustments to the state budget, prompting the implementation of specific measures targeting affected sectors. Within the 2023 budget, a 12 billion ALL allocation has been designated to support the energy sector. This allocation aims to maintain stable prices for domestic consumers for a defined duration, contingent on the financial condition of production companies. To address the repercussions of these crises, the Social Resilience Package has been introduced. The Social Resilience Package against the Consequences of the Crisis compensates the increase in basket prices for pensioners according to defined categories, families in the economic assistance scheme, as well as persons with disabilities. It also provides support for farmers and small businesses, and funds the energy price shield for household consumers and small businesses.

⁷ Albania, Council of Minister, Decision of Council of Ministers No. 447, dated July 26, 2023, “On the Approval of the Priority Policies Document 2024-2026: Link to access the text of the decision in Albanian language: https://qbz.gov.al/share/wfOsmLZISQmHKP_G6L_5rA

The Social Resistance Package ⁸ is a national plan aimed at assisting Albanian citizens in vital sectors affected by the economic crisis resulting from the conflict between Russia and Ukraine. The package introduced first on 2022 and reintroduced in 2023 includes measures such as indexing pensions, compensating for the rise in food prices, increasing the minimum wage, and reducing income tax to cope with the economic fallout.

Pension Indexing:

- 3.3 billion lek for indexing pensions, benefiting 673,542 pensioners.
- Compensation of 30,000 lek per month for three consecutive months for specific pensioner categories facing rising grocery prices.

Compensation for Rising Grocery Prices:

- The government addresses the increase in food prices through the Transparency Board, monitoring production costs, setting and maintaining prices, and preventing abuses for essential products. Traders not adhering to set prices risk losing the right to trade, and their available stock may be confiscated. The Social Resistance Package ensures compensation for rising grocery prices for pensioners, economically assisted families, and individuals with disabilities.

Urban and Interurban Transportation:

- The government covers the fare difference for urban and interurban transportation, ensuring citizens are not financially burdened by fuel price fluctuations.
- Compensation of 100 lek per liter of oil used for transportation.
- Fuel taxes remain unchanged, and no VAT is removed to maintain fiscal stability.

Income Tax Reduction and Exemption:

- Income tax is eliminated for salaries up to 40,000 lek, halved for salaries up to 50,000 lek, and reduced for salaries in the range of 150,000-200,000 lek.

Energy Price Compensation:

The government subsidizes a significant portion of energy bills for households and small businesses. Despite a surge in market energy prices, families and small businesses pay the same pre-crisis rates (9.5 lek per kWh) due to government intervention through the Social Resistance Package.

The package of Social Resistance to the Consequences of the Crisis, of 6 billion Albanian Lek, was presented in 2022 and the fund of 5 billion Albanian Lek, was used through Decision of Council of Ministers no. 159, dated 12.3.2022 "On the financial support of some special categories for mitigating the effects affected by the war in Ukraine".

⁸ Albania, Prime Minister Office, Policy, Social Resistance Package

<https://www.kryeministria.al/paketa-e-rezistences-sociale/>

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

Meanwhile, in line with this policy, 226,351 Albanian Lek, are the forecasts for this package in the 2023 budget.

Table 1 – Promising practice

Promising practice	
Title (original language)	Fuqizojmë Komunitetin
Title (EN)	Improving Community Resilience (ICR)
Organisation (original language)	Agjencia e Shteteve të Bashkuara për Zhvillim Ndërkombëtar në Shqipëri (USAID/Shqipëri) në partneritet me Programin e Kombeve të Bashkuara për Zhvillim (PNUD/Shqipëri)
Organisation (EN)	United States Agency for International Development in Albania (USAID/Albania) partnered with the United Nations Development Programme (UNDP/Albania)
Government / Civil society	Ministry of Health and Social Protection, local governments, non-public actors, local CSOs, international development partners, and the media
Funding body	USAID
Reference (incl. URL, where available)	https://www.undp.org/albania/press-releases/usaids-partners-undp-enhance-resilience-albanian-communities
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2023 - 2026
Type of initiative	International Development Programme
Main target group	Marginalized communities in Durrës, Lezhë, and Kurbin.
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	ICR is a three-year project, which will establish a model of support to marginalized communities in Albania affected by exclusion, discrimination, conflict, or abuse. ICR will enhance the resilience of all people in Albania by ensuring those most underserved receive the support they need. The project will be implemented in Durrës, Lezhë, and Kurbin. ICR will support local government bodies to provide integrated social services including access to

Promising practice	
	<p>justice, healthcare, education, and social protection. Resilience centers that will be established in three selected municipalities will serve to further build knowledge on the model of social care integrated services with public and non-public partners at local level. Local governments will work as part of a cohesive team in partnership with civil society organizations and pilot a model for integrated social care services, which can be replicated.</p> <p>Main results achieved as of October 2023⁹</p> <ul style="list-style-type: none"> • Institutional partnerships built between UNDP and three targeted municipalities, Durres, Kurbin and Lezha to ensure commitment and share responsibility in establishing the Resilience Centers (RCs). • Three needs assessments conducted and mapping the local social care services for vulnerable populations developed and both widely validated with all relevant local stakeholders in Durres, Kurbin and Lezha municipalities. • Responsible party agreements between UNDP and three selected CSOs reached, enabling partnering in this program in making the three resilient centers operational. • Resilience Centers' profile and typology of services defined based on inclusive consultation with national and local relevant actors and pursuant to the needs of vulnerable persons identified in each municipality. • In pursuit of creating a model of support for vulnerable women and men in need affected by social exclusion, discrimination, conflict or abuse, Durres and Kurbin RC has been established and started functioning. Lezha RC is in the process of establishment. • 20 partnerships with three municipalities, relevant regional service provision offices and CSOs were key in co-designing and implementing the RC model. • 150 vulnerable individuals (48% girls, 45% boys and 7% women, victims of domestic violence) out of whom 53 children with disabilities were supported through integrated social care services. • 1090 women and men, boys and girls were engaged in empowerment and advocacy interventions. Vulnerable women and victims of violence were provided

⁹ Albania, UNDP Project update, Improving Community Resilience (ICR)

<https://www.undp.org/albania/projects/improving-community-resilience-icr>

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

Promising practice	
	emergency support, mentoring employment programs, psycho-social counselling, referral support, parenting support for women with children with disabilities.
Highlight any element of the actions that is transferable (max. 500 chars)	Local governments will work as part of a cohesive team in partnership with civil society organizations and pilot a model for integrated social care services, which can be replicated.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>UNDP intends to build and strengthen partnerships with various state and non-state actors, including non-profit organizations (NGOs).</p> <p>The program emphasizes increasing awareness and knowledge about human rights and legal entitlements, particularly among vulnerable individuals.</p> <p>Involving youth in self-help networks and support activities contributes to building a sustainable foundation for community resilience and recovery. Youth engagement can have a long-lasting impact on social change and community development.</p> <p>Developing tools for early-warning systems and preparedness plans for vulnerable groups is a proactive approach to addressing potential issues.</p>
Give reasons why you consider the practice as having concrete measurable impact	The individuals actively engaged in the initiatives conducted within the local resilience centres in the initial three municipalities will undergo registration and data capture procedures for the explicit purposes of monitoring and reporting. The data compiled at the conclusion of the project in 2026 will serve as a tangible representation of the program's quantifiable effects.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	Resilience centres that will be established in three selected municipalities will serve to further build knowledge on the model of social care integrated services with public and non-public partners at local level. Further on, these centres will serve as a convener and catalyst for adequately facing the challenges and finding adequate solutions with vulnerable people at the centre. Finally, resilience centres will serve as reference models for elevation and strategic replication in other municipalities.

Promising practice	
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice</p>	<p>The implementation of the ICR will be carried out through collaborative efforts involving key stakeholders, including the Ministry of Health and Social Protection, local governmental bodies, non-governmental entities, local Civil Society Organizations (CSOs), international development partners, and media outlets.</p>
<p>Explain, if applicable, how the practice provides for review and assessment</p>	<p>N/A 2023 is the first year of project implementation.</p>

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

2. Threats to democratic values – Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression

2.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.

Table 2 – Challenges

Based on a scan of legislative and policy and other developments and the public discourse please identify **three major challenges** to democracy emerged in the course of 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Attacks and threats to the safety of civil society organisations, human rights defenders and journalists	

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
<p>Legal and administrative constraints, harassment, intimidation, and reprisals against civil society organisations, human rights defenders (including SLAPPs - strategic lawsuits against public participation)</p>	<p>Journalist Elton Qyno of TV Ora News was interrogated by Albania's Special Prosecution Against Corruption and Organized Crime (SPAK) regarding his sources for a story related to the high-profile investigation known as "Case 75." Initially asked to sign a declaration not to publish confidential information, Qyno later faced pressure to reveal his sources. SPAK obtained court orders ¹⁰ to raid his home and workplace, seizing equipment without proper authorization. The SPAK investigation involves a criminal group implicated in multiple killings, with one member, N.D, becoming a SPAK collaborator. Qyno had published information and conversations involving alleged criminals, deemed as evidence under investigation secrecy. Following public reactions, SPAK stated they interviewed Qyno to understand how he obtained the information.</p> <p>While Qyno was being questioned, SPAK swiftly secured three court orders within one and a half hours to control his residence, workplace, and seize computer data for source identification. SPAK confiscated Qyno's computer, mobile phones, car key, USB, documents, and CD. Qyno's lawyer appealed the seizure order, arguing it violated established standards for source protection. In a previous case, the High Court set criteria for such orders, and the lawyer contends that the SPAK orders do not align with these standards.</p> <p>In addition, the intermediate decision of the European Court of Human Rights (ECHR) in the case Shullaku and others v. Albania¹¹ emphasizes that the Albanian authorities are required to refrain from seizing any devices for data storage and computer/electronic devices belonging to the applicants, who are journalists.</p> <p>Furthermore, Respublica published an article reporting that the Human Rights Committee at the UN has urged Albania to promptly halt access to and processing of materials seized by SPAK from journalist Elton Qyno¹²</p>

¹⁰ Albania, International Media, <https://www.mapmf.org/alert/30984>

Albania, SPAK, Press release.

<https://spak.gov.al/deklarate-per-mediat-date-14-12-2023/>

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Lack of media freedom a/o media pluralism; disinformation (incl. online)	
Foreign interference	
Lack of (processes for) transparent, accountable, democratic and pluralistic participation in law and policymaking; incl. access to information	
Lack of election integrity (incl. electoral process, political campaigning and party financing)	<p>In the framework of the initiative “Building electoral integrity and sustainability of political parties: Increasing the oversight role and demands of citizens in support of CSOs, media, and academia,” implemented by the Albanian Helsinki Committee, in partnership with the Institute of Political Studies, Civic Resistance, and BIRN Albania, supported financially by the British Embassy in Tirana, a monitoring report of local elections of May 2023, has been published¹³. The monitoring report on the electoral process in Albania during 2023 highlights several key challenges. The primary concerns revealed in this report is around the delayed Electoral Reform and the continued use of</p>

¹¹ Albania, National Media, Interim Decision of EHCR

<https://citizens-channel.com/wp-content/uploads/2021/04/Vendimi-i-plote-i-Gjykates-Evropiane-per-te-Drejtat-e-Njeriut.pdf>

¹² Albania, Civil Society Organization, *Respublica*

<https://www.respublica.org.al/e-paprecedent-okb-alarmohet-dhe-urdheron-pezuillimin-e-veprimeve-te-spak-ndaj-gazetarit-elton-qyno/>

¹³ Albania, Civil Society Organization, Albanian Helsinki Committee: Final report on the findings and recommendations of monitoring the elections for local government bodies May 14, 2023

<https://ahc.org.al/wp-content/uploads/2023/09/Final-Report-on-Election-Monitoring-2023.pdf>

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>an outdated Electoral Code. This reflects a lack of responsiveness to the changing electoral landscape, potentially undermining the credibility of the electoral process. In addition, the report identifies deficiencies in the publication of voter lists, particularly the failure to do so in a timely manner in specific municipalities, which raises questions about transparency. Delays in publishing decisions and instructions by the Central Election Commission, coupled with ineffective investigations and disproportionate sanctions concerning the use of state resources by political parties, contribute to an unequal electoral playing field that favours larger political entities. Moreover, the delay in verifying the accuracy of self-declaration forms and the apparent disinterest of political parties in scrutinizing their potential candidates can result in the inclusion of individuals with questionable backgrounds in the election process. The unequal distribution of funds to political parties, disproportionately benefiting larger parties, introduces concerns regarding the fairness of elections. Furthermore, the late submission of lists of commissioners for Voting Centre Commissions creates the potential for last-minute replacements, thereby compromising the impartiality of the electoral process. Failure to adhere to campaign deadlines can create uneven conditions, favouring financially stronger parties.</p> <p>Moreover, challenges within the voting process itself, such as electronic voting equipment malfunctions, voter confusion on equipment usage, and the presence of unauthorized individuals around voting centres, contributed to a chaotic and potentially undemocratic voting environment. The practice of family voting and the failure to properly document assistance for impaired voters introduced the risk of electoral fraud and lack of transparency, posing a significant threat to democracy.</p>
Disproportionate use of law enforcement measures (surveillance, police violence, unlawful arrest etc.)	

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations', Article 8

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Corruption, including misuse of EU funds	<p>According to a news article on 5th of October, 2023¹⁴, OLAF, the anti-fraud office of the EU Commission, has completed its inquiries into corruption related to the allocation of EU funds under Albania's IPARD II agricultural program. Subsequent disbursements of funds are on hold until 2025. The IPARD II program provides pre-accession support for rural development, aiming to bolster rural and agri-food reforms in aspiring EU member states. Albania received €71 million in support between 2014 and 2020, and IPARD III, initiated in 2021, allocates €112 million to the country. However, the program was temporarily suspended in July due to OLAF's investigation into on-the-ground fund distribution irregularities. As a precautionary measure to safeguard the EU's financial interests, the European Commission halted reimbursements to Albanian authorities for IPARD II-related expenses. In August 2023, OLAF concluded its investigative report, which was transmitted to the Albanian government for their response. The details and findings of the investigation have not been disclosed, as OLAF cited potential interference with future legal proceedings as the reason for withholding this information.</p>
Lack of (effective judicial protection by) independent and impartial courts	
Threats to (the independence of) the fundamental rights institutional landscape (NHRIs, equality bodies, data protection authorities and similar bodies), incl. closure of fundamental rights	

¹⁴ Albania, Media Organization, Euractiv: OLAF concludes investigation into Albanian funds case, findings not yet public, 5 October, 2023, link: <https://www.euractiv.com/section/politics/news/olaf-concludes-investigation-into-albanian-funds-case-findings-not-yet-public/>

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
bodies, legal changes, budget cuts and harassment	
Institutional issues linked to checks and balances (lack of parliamentary oversight, lack of implementation of final court decisions by executive, etc.)	
Other major developments threatening democratic values	<p>Public Consultation and engagement of Civil Society in decision making processes</p> <p>The European Commission's Screening Report on Cluster 1¹⁵, focused on public consultation, underscores that public engagement with civil society and interest groups in Albania remains largely formal. Even though interactions with NGOs/CSOs and interest groups exist at a formal level, there's room for greater depth and more meaningful exchanges. Currently, these interactions are often overly procedural, and substantive follow-up is not consistently achieved through genuinely meaningful dialogues. Particularly in the context of consultations on new legislative initiatives and processes, it is recommended that NGOs/CSOs and interest groups be granted greater empowerment and involved promptly to enable more substantial contributions. A separate study conducted by IDM¹⁶, an active civil society organization in Albania, echoes these concerns. It reveals that the legal and regulatory framework for public consultation in the country, despite being in place for nearly a decade, faces various challenges. These issues primarily revolve around the lack of clarity in the law, leading to subjective exclusions from public consultation. Furthermore, there's a need for explicit requirements for alternative consultation methods, beyond online portals, to</p>

¹⁵ Albania, European Commission Screening Report 2023

https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania_en

¹⁶ Albania, Civil Society Organization, IDM Report

<https://idmalbania.org/research-report-a-decade-of-public-consultation-law-in-albania-call-for-reform/>

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	ensure broader accessibility. Reports on the results of consultation processes lack evidence of the impact of non-state actors on government-led consultations. Stakeholders perceive a lack of responsiveness from policy-making authorities, leading to diminished trust in consultations. The existing monitoring system primarily focuses on quantitative data, lacking qualitative insights into the effectiveness and impact of consultations. There is a need for more effective internal complaint mechanisms and oversight, including the strengthening of parliamentary oversight.

2.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.

Table 3 – Case law

Case law	
Deciding body (in original language)	Gjykata Kushtetuese
Deciding body (in English)	Constitutional Court
Case number (also European Case Law Identifier ECLI , where applicable)	No.62
Parties	The Albanian Helsinki Committee (AHC) in partnership with the organizations Civil Rights Defender (Tirana Branch), the Albanian Media Council, the Alliance against LGBT Discrimination, and the Balkan Network for Investigative Journalism Albania – Balkans (BIRN Albania)
Decision date	20.11.2023

Case law	
Web link to the decision (if available)	https://www.gjk.gov.al/templates/NEModules/kerkese_list/konsulto.php?id_kerkesa_vendimi=3939&language=Lng1
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	The right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
Key facts of the case (max. 250 words)	<p>The Albanian Helsinki Committee, Civil Rights Defender Tirana Branch, Albanian Media Council, Alliance Against LGBT Discrimination, and the Balkan Investigative Reporting Network in Albania (BIRN Albania) addressed the Constitutional Court in January 2023 through a request, seeking the annulment of some provisions¹⁷ of Law No. 80/2021 "On the registration of non-profit organizations". Their argument is that these provisions violate the constitutional right to organize, as stated in Article 46 of the Constitution and Article 11 of the Law on Non-profit Organizations. This goes against the criteria for intervention in Article 17 of the Constitution and the principle of equality before the law in Article 18 of the Constitution.</p> <p>According to the petitioners, the provisions in question create ambiguity and insecurity, and some of them lack a clear and defined meaning, leaving room and discretion for authorities. They impose a burden on non-profit organizations and may hinder the facilitation and promotion of the right to organize.</p> <p>In this decision, the court analyzed the contested provisions to assess whether they impose a restriction on the freedom of</p>

¹⁷ Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, The contested provisions of Law No. 80/2021 aim to determine the registered data (Article 5, point 2), the registration obligation (Article 8), naming rules (Article 9, point 1), other mandatory registrations (Article 17, point 3, letter "a"), entity deregistration (Article 20, point 2, letter "c"), chancellor's competencies (Article 26, Article 28, point 6, and Article 29, point 1), simultaneous registration (Article 36, points 1 and 2); administrative offenses (Article 49, points 2 to 6); transitional regime (Article 50, point 5). Additionally, the petitioners have also sought the annulment of the words "chancellor/or chancellor" in addition to the above in Articles 29, point 1, 30, 33, points 2 and 6, 34, 35, point 1, 41, 44, point 3, and 46, point 1, of Law No. 80/2021.

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

Case law	
	<p>organization and if such restriction aligns with the criteria outlined in Article 17 of the Constitution. This article serves as the standard for evaluating any interference with the fundamental rights and freedoms of individuals that might be constrained. During the analysis of these criteria, the court also considered the principle of legal certainty, which, among other requirements, mandates that the law or its specific provisions be clear, well-defined, and understandable in their content.</p>
<p>The key legal question raised by the Court</p>	<p>The group of CSOs have requested the annulment of several provisions of the law no 80/2021 “On the registration of non-profit organizations” assert that a presumption in favour of the establishment and legality of the organization, encompassing its constitution, objectives, activities, and any restriction on the right to organize, including sanctions, must align with international standards stipulated by law and serve a legitimate purpose. The law should be precise, secure, and predictable, particularly concerning provisions that grant discretion to state authorities. Limitations, including sanctions, should be proportionate to the intended purpose. According to the CSOs, the contested provisions fail to meet these requirements, creating ambiguity, insecurity, and lacking clear and defined meanings, thus providing room and discretion for authorities. Such provisions impose a burden on the non-profit organization and may impede the facilitation and promotion of the right to organize. Additionally, they argue that provisions assigning specific competencies to a designated office do not meet international guarantees and standards, as the office is not an independent and decision-making authority.</p> <p>According to the interested parties (Council of Ministers and Assembly of Albania), the allegations of infringing the right to organize, contrary to the criteria for intervention under Article 17 of the Constitution, are unfounded. The contested provisions respect the principle of legal certainty and do not impose onerous and insurmountable barriers on organizations. The law does not create ambiguity and insecurity regarding the data held about the organization and access to this data by third parties, nor does it provide space for inappropriate interventions. The contested provisions do not leave room for interpretation, and the use of references in other laws enables legislators to ensure coherence between legislative and sub-legislative acts, ensuring legal certainty and regulating issues in accordance with all legislation.</p>

Case law	
	<p>The Court's Assessment on the Violation of the Freedom of Organization in Relation to the Principle of Legal Certainty:</p> <ul style="list-style-type: none"> • <u>Obligation for registration within a 30-day period¹⁸:</u> <ul style="list-style-type: none"> - The Court evaluates that the provisions of this article (regarding the obligation of non-profit organizations to submit the registration request to the Tirana District Court within a 30-day period) are not clear and predictable. In these conditions, they do not meet the criteria of Article 17 of the Constitution for legal limitation, nor the requirements of the principle of legal certainty. • <u>Competencies of the Chancellor according to the contested provisions in the law:</u> <ul style="list-style-type: none"> - The Court considers that Article 46 of the Constitution clearly stipulates that the registration of organizations or associations is done in court, thus determining the competent authority to decide on registration, following a procedure established by law. - Considering the procedures outlined in the law for the registration of non-profit organizations, it is assessed that the competencies granted to the Chancellor (competencies for decisions on other registrations, processing, examination of requests, as well as the preservation of notified and deposited data in the register, etc.) go beyond the competencies of judicial management and administration. These competencies inherently have a judicial nature and, for this reason, must be exercised by a judge or court. In these conditions, the court is the sole competent authority regarding any action carried out by the organization or association, both concerning the acquisition or termination of legal personality and actions related to the exercise of this activity. • <u>The other provisions¹⁹ of Law 80/2021</u>, according to which the High Judicial Council, upon the Chancellor's proposal, approves the format and content of certificates of verification and the Official Registration Notification Bulletin, as well as extracts from the electronic register and the application for their issuance, are considered matters of judicial management and administration by

¹⁸Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

¹⁹ Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Articles 41 and 44, point 3,

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8

Case law	
	<p>the Court. In these circumstances, they are not deemed incompatible with Article 46 of the Constitution.</p> <p>The Court's Assessment on the Violation of Freedom of Organization in Relation to the Principle of Proportionality of Intervention.</p> <ul style="list-style-type: none"> • <u>Provisions²⁰ determining the fine amount for administrative violations.</u> <ul style="list-style-type: none"> - In the court's assessment, these sanctions are not considered necessary and essential to justify the achievement of the purpose and objective for which they are envisaged, transforming them into an arbitrary limitation of the constitutional freedom of organization. To be proportional, the intervention must correspond to the severity of the violation, and the punishment should be commensurate with the gravity of the offense it aims to punish. - Above, the court finds unfounded provisions related to administrative fines ranging from 0.1% to 1% of the annual income declared by the non-profit organization if it registers false data in the electronic register or fails to fulfill the initial registration obligation and other mandatory registrations within the specified legal deadlines. • <u>Other claims²¹ of Law 80/2021</u> <ul style="list-style-type: none"> - Claims regarding the contested provisions concerning data registration (point 2), naming rules (point 1), other mandatory registrations regarding annual financial statements (point 3, letter a), deregistration of the entity (point 2, letter c), simultaneous registration (points 1 and 2), and transitional regime (point 5) are found unsubstantiated by the court. <p>This decision is crucial for safeguarding autonomy, the right to free organization, and the rights of non-governmental and non-profit entities, ensuring fair procedures in accordance with constitutional and international standards.</p>
<p>Result of the case in terms of factual outcome, and in terms of</p>	<p>After the public hearings held by the Constitutional Court on October 10, 2023, and November 6, 2023, on 20th of October, it was decided to partially accept the request.</p>

²⁰ Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 49

²¹ Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations Article 5, point 2; Article 9, point 1; Article 17, point 3, letter a; Article 20, point 2, letter c; Article 36, points 1 and 2; and Article 50, point 5

Case law	
assessment of the legal question raised	More concretely: Non-profit organizations no longer face the obligation of initial registration with the Tirana Judicial District Court within a 30-day deadline. Repeal of provisions burdening the chancellor with specific attributes, now consolidating the Court as the sole competent body regarding any organizational actions. Elimination of elements imposing administrative sanctions on non-profit organizations, previously subject to fines based on false data declaration or failure to meet registration obligations within legal deadlines

Note: There is no development during 2023 in this area, despite the assessment provided by the European Commission in the Screening Report 2023.

The legal and institutional framework is generally aligned with EU acquis and European standards covering **freedom of assembly and association**. No particular restrictions can be noted on the exercise of free assembly and association. Instances of excessive use of force in policing of assemblies have been reported as well as detention and arrests of 58 protesters were criticized by human rights organisations as not aligned with the law and international practices. Attention needs to be paid to ensure that actions in these contexts are in line with Albanian law and international practices. Albania must ensure that the rule on the application of detention by police is compliant with the right to liberty and security. Police may detain a suspect for a period not exceeding 10 hours. The ombudsman reported several procedural irregularities with the detention of individuals for longer than 10 hours, including on the margins of protests.

Albania has some level of preparation / is moderately prepared in the area of **freedom of expression**. Albania's legal and institutional framework is partially aligned with the EU acquis and European standards. Advancement has been made regarding alignment with the Audio-visual Media Services Directive. Some steps have been taken as regards measures to guarantee the free exercise of the journalistic profession. Nevertheless, attentive follow up will be needed so that the formal measures and safeguards are effectively implemented and they permeate the day-to-day routine of journalists. Legal requirements should be introduced to address high media market concentration, by strengthening transparency and instating limitations to media ownership and to audience reach. Albania should strengthen rules on transparency of media financing and ownership, including owners' interests in media and non-media sector. Rules on allocation of state advertising and other state resources for the purpose of purchasing goods and services are not in place. Legislation should include strong enforcement mechanisms, by independent institutions on opening investigations into possible

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations', Article 8

breeches on ownership rules, in line with Council of Europe's standards as well as regarding hidden owners' interests, possible concentration, coordinated behaviour, unfair competition and possible favours related to avoidance of copyrights and benefit from state advertisements and state funds. Defamation remains a criminal offence and needs to be addressed in light of European standards and best practice examples. The civil law provisions on fraudulent or inaccurate publications need to be aligned with European standards. Legal changes should reflect, amongst others the Council of Europe and the Venice Commission recommendations and be submitted to proper consultation with media organisations. The audio-visual regulatory authority AMA is fully operational but the independence of the body has been questioned due to the bipartisan election formula and the direct political links of some of its board 57 members. The law should guarantee organisational autonomy to AMA and strengthen merit-based appointments of AMA board and senior staff. Legal changes should be enacted to strengthen the independence of the public broadcaster, notably to ensure that the regulator has a pluralistic composition, is composed of qualified individuals, represents the media community, and enjoys autonomy from government and corporate control. Implementation capacity needs to be further strengthened. Recent scandals concerning breaches of public procurement rules in ART led to a change in management in November 2021. Two vacancies in the board remained to be filled as of June 2023. The creation of the Media and Information Agency centralising all government public relations complicates media access to direct and transparent information from governmental institutions. Albania needs to take measures to protect the safety of journalists and media workers against intimidation, threats and attacks and demonstrate full and effective investigation of past instances of violence. Journalists' associations are weak due to limited resources. A structured dialogue between the media community and the government should be set up to address the challenges of freedom of expression, including media freedom and pluralism. Media workers have poor working and precarious contractual conditions which make them vulnerable to self-censorship and less resilient against disinformation. The government should support an independent self-regulatory body for the online media sector as well as quality journalism education and training. The independent self-regulatory bodies should support the enforcement of journalists' labour rights. With respect to the right to access to information of public interest, measures are needed to improve access to information for journalists, including shorter and binding deadlines for answers based on best European practices. The rules also should ensure that sanctions are also imposed on the head of the institution or senior civil servants in case of malpractice and failure to enforce the orders of the Commissioner for the Right to Information. Implementation of the law on access to information must be improved based on best European practices to strengthen the will, improve organisational knowledge and human capacity of public authorities to ensure better performance on access to information for citizens and

media. To secure legal safety and security (rule of law) of the rights of applicants in access to information procedures, as long as the position of Media Information Agency (MIA) is not formalized by law in access to information procedure, MIA should not handle information requests in the name of the holders of information.

¹Albania, Law No. 80/2021 'On the Registration of Non-Profit Organizations, Article 8