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Subject: Albania: Screening report on Cluster 1 - Fundamentals

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# Screening report

## *Albania*

### Cluster 1 – Fundamentals

#### Functioning of Democratic Institutions

Date of screening meetings:

Explanatory meeting: 26 September 2022

Bilateral meeting: 16 January 2023

#### Public Administration Reform

**Date of screening meetings:**

Explanatory meeting: 19 September 2022

Bilateral meeting: 12 December

#### Chapter 23 – Judiciary and Fundamental Rights

Date of screening meetings:

Explanatory meeting: 27 and 28 September 2018; 27 September 2022

Bilateral meeting: 24 and 25 November 2022

#### Chapter 24 – Justice, freedom and security

**Date of screening meetings:**

Explanatory meeting: 22 and 23 September 2022

Bilateral meeting: 8, 9 and 10 November 2022

## **Economic Criteria**

### **Date of screening meetings:**

Explanatory meeting: 30 September 2022

Bilateral meeting: 09 December 2022

## **Chapter 5 – Public Procurement**

### **Date of screening meetings:**

Explanatory meeting: 15 September 2022

Bilateral meeting: 18 November 2022

## **Chapter 18 – Statistics**

### **Date of screening meetings:**

Explanatory meeting: 12 and 13 February 2019, update on 16 September 2022

Bilateral meeting: 16 and 17 November 2022

## **Chapter 32 – Financial Control**

### **Date of screening meetings:**

Explanatory meeting: 19 September 2022

Bilateral meeting: 9 December 2022

# PREAMBLE

After the first Intergovernmental Conference on accession negotiations with Albania in July 2022, the Commission launched immediately the screening process.

The screening is based on the enhanced enlargement methodology, which was adopted in 2020 and organises the negotiating chapters in thematic clusters in order to inject dynamism into the negotiating process and to foster cross-fertilisation of efforts beyond individual chapters. These thematic clusters bring together the chapters / areas according to broader themes and will allow a stronger focus on core sectors. Within each individual cluster, screening is carried out through meetings on a chapter-by-chapter basis. The substance of those clusters and chapters, as set out in Annex II of the Negotiating Framework, mirror the requirements for membership stemming from the Copenhagen criteria.

Regional cooperation and good neighbourly relations remain essential elements of the enlargement process.

It is important to continue the dialogue with civil society and other stakeholders, with the aim of ensuring the support of citizens for the EU accession process. Albania is expected to strategically communicate the benefits and obligations of the accession process to its public.

## A) INTRODUCTION

The enhanced enlargement methodology<sup>1</sup>, adopted in 2020, put the **Fundamentals cluster** at the heart of the accession negotiations, as reflected in the Negotiating Framework with Albania. Accordingly, Albania will need to fully embrace and implement reforms in the fundamental areas of rule of law, in particular judicial reform and the fight against corruption and organised crime, fundamental rights, the strengthening of democratic institutions and public administration reform, as well as economic criteria. This will in turn foster solid and accelerated economic growth and social convergence.

The cluster therefore includes the following elements which taken together are the basis for a stable, democratic, modern and well-functioning state:

- **Functioning democratic institutions** ensuring that power derives from the people through a representative system with free and fair elections at its core.
- **Reform of Public administration**, including public financial management, to ensure that it is efficient, professional impartial and accountable and serves the interests of citizens and business.
- The EU's founding values include the **rule of law** and respect for human rights. An effective (independent, quality and efficient) **judicial** system and an effective **fight against corruption** are of paramount importance, as is respect for **fundamental rights** in law and in practice. These feature under Chapter 23.
- Under Chapter 24, the EU has common rules for **border** control, **visas**, residence and work permits, external **migration** and asylum. Schengen cooperation entails lifting border controls inside the EU. EU Member States also cooperate in the fight **against organised crime and terrorism**, and in judicial, police and custom matters and are supported by the EU Justice and Home Affairs Agencies.
- In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union, referred to as **Economic Criteria**. Economic governance has become even more central in the enlargement process in recent years.

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<sup>1</sup> COM(2020) 57 final

- EU rules, under *acquis* Chapter 5, ensure that **public procurement** of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.
- EU rules require, under *acquis* Chapter 18, that Member States are able to produce **statistics** based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.
- The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The **financial control** rules of Chapter 32 further protect the EU's financial interests against fraud in the management of EU funds and the Euro against counterfeiting.

The **fundamentals** cannot be seen in isolation, but **interact with each other** and can be mutually reinforcing. A country grounded in democracy and the rule of law will be attractive for foreign investments and international trade, and allow businesses to flourish, thus strengthening economic performance and prosperity of citizens. In turn, thriving economic and social conditions will bolster the social consensus around democracy and the rule of law, and bring resources for the good functioning of public institutions.

This **screening report is structured** according to the **respective areas and chapters** of the cluster. Each area/chapter starts with a short overview of the **main content of the EU *acquis* / European standards**. Each thematic area within a chapter then first summarises the **country's presentations and the outcome of the expert discussions** at the bilateral screening meeting, followed by the **Commission's assessment**<sup>2</sup>.

In the last **section**, the Commission draws from its findings specific **recommendations for the next steps in the accession negotiations process in the present Cluster**.

**Albania stated that it accepts the *acquis* in the Fundamentals cluster and that it does not expect particular difficulties to implement the *acquis* and European standards of this cluster by accession.**

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<sup>2</sup> The Commission assessment is based on information received from the country in the context of the screening, while also drawing from policy dialogue with the country, notably in the Stabilisation and Association bodies, and from monitoring, notably in the context of the Commission's annual Enlargement package country reports. It also takes a variety of other sources into account.

## B) FUNCTIONING OF DEMOCRATIC INSTITUTIONS

While there is no specific model or a single agreed definition of 'democracy' and EU Member States are ultimately responsible to establish their respective internal arrangements, there are principles that pertain to the functioning of democratic institutions, which are common to the Member States and need to be complied with by negotiating countries.

According to Article 2 of the Treaty on European Union (TEU), the Union is founded on the principles of human dignity, freedom, democracy, equality, the rule of law and the respect for human rights. In line with Article 2 TEU, the Charter of Fundamental Rights of the European Union enshrines the fundamental rights that people enjoy in the EU. These principles, which are also addressed in the framework of Chapter 23 on Judiciary and Fundamental Rights, establish a Union founded on “the indivisible, universal values of human dignity, freedom, equality and solidarity; [...] on the principles of democracy and the rule of law” [Preamble]. In addition, the Copenhagen political criteria require that candidate countries consolidate “stable” democratic institutions before they join the EU.

Building on the revised enlargement methodology of February 2020, the functioning of democratic institutions requires a specific structured engagement. To be meaningful and comprehensive, this has been developed along three main pillars:

- (1) the electoral process, including the functioning of the electoral administration, media in the election campaign and the financing of political parties and election campaigns;
- (2) the functioning of parliaments in a democratic system;
- (3) the role of civil society, including the legal, regulatory and policy frameworks for civil society organisations (CSOs), as well as the wider context for an enabling environment.

These pillars encompass elements of hard and soft acquis, as well as European and international standards, principles, guidelines, and codes of good practices. These elements are crosscutting to other chapters under the fundamentals cluster, as the bundle of features that is relevant to assess the proper functioning of democratic institutions intersects other policy areas. Solid democratic stability is linked to the predictability inherent in the rule of law principle, good governance practices, and a society based on fundamental rights protection.

## I. GENERAL FRAMEWORK ON DEMOCRACY

### a. Country presentation

The fundamental values of the constitutional order are defined through the principles enshrined in Article 3 of the Constitution of Albania, which stipulates that the state has the duty to respect and protect the dignity of the person, rights and freedoms, social justice, the constitutional order, pluralism, national identity and inheritance, religious coexistence, and coexistence understanding of Albanians with minorities. These principles are referred to as the bases of the state and their protection is equal to the protection of the independence of the state and the integrity of its territory. Article 7 of the Constitution posits that the system of government be hinged on the **separation and balancing of legislative, executive and judicial powers**.

Albania is a signatory to all main international instruments for the protection and promotion of political rights and freedom of expression. Albania is a parliamentary Republic. The separation and balancing of legislative, executive and judicial powers is enshrined in the Albanian Constitution and in the secondary legal framework. Albania indicated that **checks and balances** are in place. The Constitutional Court is separated from the ordinary judicial system and ensures the supremacy of the Constitution, guarantees democracy and the rights of parliamentary minorities. The Assembly has the role of oversight and monitoring over the Council of Ministers.

The **legislative power** lies within the Assembly. Part III of the Constitution (Articles 64 to 85) describes the conditions for election of the members of Parliament (MPs), rules on incompatibility of mandates, the organisation of the Assembly and the legislative process. Elections are deemed free, equal, general and periodic. According to Law No. 8580/2000 “On political parties”, political parties are established freely. General elections are held every four years. The Assembly is composed of a single chamber with 140 MPs elected through a proportional voting system. The Council of Ministers, each MP and 20 000 electors have the right to initiate a legislative proposal. The Assembly adopts draft laws. Article 81 of the Constitution sets out the cases in which a three-fifth majority of all members of the Assembly is required to adopt a draft law.

The **executive power** lies within the Council of Ministers (Constitution Part V – Articles 95 to 107). The Prime Minister and members of the Council of Ministers are elected by the Assembly. Article 101 of the Constitution provides that in cases of necessity and emergency, the Council of Ministers 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.



The **judicial power** lies within the Courts and the Prosecution Office as set out in Part IX (The Courts – Articles 135 to 147) and Part X (The Office of the Prosecutor – Articles 148 and 149) of the Constitution. The President of the Republic is the Head of State and represents the unity of the people. The President is elected by the Assembly for a term of 5 years, renewable once. The Assembly also elects the People’s Advocate, the Head of the High State Audit, the State Election Commissioner, the members and Chair of the Election Regulatory Commission and the Commissioner for Information and Data Protection, the Board of the Audio-visual Media Authority (AMA) and other independent bodies. Albania assesses that these **independent institutions** guarantee democratic processes and fundamental rights.

As regards implementation of democratic processes, the Assembly seats in eight permanent commissions, some of which are traditionally chaired by the opposition. The Bureau of the Assembly, composed of the Speaker, Deputy Speakers (one of the deputy speakers belongs to the opposition) and the secretaries of parliament’s various secretariats decides on financial and administrative issues. The Assembly has established an inter-institutional mechanism to systematically monitor follow-up and implementation to the recommendations of independent institutions, in addition to the institutions yearly reporting at the Assembly. (Decision No. 49/2017 of the Parliament). An ad-hoc committee on “the Electoral Reform” has been established in February 2022 to draft legislation addressing recommendations of OSCE/ODIHR as regards elections, but has not yet produced any notable results.

#### **b. Commission assessment**

Albania has laid down in its constitutional order the foundation of a democratic state and it is pursuing the consolidation of its democratic institutions. The fundamental values of the constitutional order are defined through the principles enshrined in Article 3 of the Constitution. Albania is a signatory to all main international instruments for the protection and promotion of political rights and freedom of expression. The separation and balancing of legislative, executive and judicial powers is enshrined in the Albanian Constitution and in the secondary legal framework.

#### **c. SUMMARY OF FINDINGS - GENERAL FRAMEWORK ON DEMOCRACY**

Albania has laid down in its constitutional order the foundation of a democratic state and it is pursuing the consolidation of its democratic institutions.

## II. THE ELECTORAL PROCESS

### II.A FREE AND FAIR ELECTIONS

#### a. Country presentation

Elections are primarily regulated by the Constitution, the Electoral Code, the Law on Political Parties, the Law on Guaranteeing the Integrity of Persons Elected, Appointed, or Exercising Public Functions and other relevant laws, decisions, and regulations. Albania has ratified key international human rights instruments pertaining to democracy and the holding of democratic elections, including the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its 1952 Protocol.

Albania's Electoral Code was last amended on 5 October 2020. The structure of the Central Election Commission (CEC) has been organised along three governing bodies with separate functions, comprising the Commissioner and its Deputy, the Regulatory Commission, and the Commission on Appeals and Sanctions. The Lower Level Election administration consists of Regional Election Administration (92 Commissions of Electoral Administration Zones), as well as the polling centre commissions and counting teams. The revised code paved the way for Albanian citizens permanently residing abroad to exercise their voting rights outside the territory of Albania, the introduction of preferential votes, and the application of technology in elections. The right to vote out-of-country is not yet implemented. Amendments also provided additional regulatory safeguards against the misuse of public resources and reinforced guarantees for gender balance on candidate lists.

Primarily, the institutions responsible for the implementation of the electoral legislation are the CEC, the Parliament, the judiciary (Electoral College, Courts, and Prosecutor's Office), the Ministry of Interior and the Audio-visual Media Authority (AMA). Local Government, Media, Political Parties and Public Entities and Institutions also belong to Albania's wider institutional framework for elections.

The Constitutional Court ruled against a provision of the Electoral Code according to which electoral subjects need to pass a national threshold of 1% to enter parliament, arguing that it discriminates against independent candidates. Earlier, the Constitutional Court had ruled to abrogate the provision related to the distribution of parliamentary seats in view of the preferential vote. On 9 December 2022, the Constitutional Court ascertained a violation of the constitutional right of Albanians residing abroad to vote, in the 2021 parliamentary elections, due to a legal gap. It imposed the obligation to the Assembly to complete the legal gap on Out of Country Voting within one year from the entry into force of Court's decision. The Central Election Commission has already started working on drafting and consulting bylaws on OCV, relating mainly to the registration of voters residing abroad. The impending electoral reform will need to address these decisions.

Out of 140 Members of Parliament, 50 are women (35%) and 47% of all MPs are elected for the first time. Thirty-three MPs are under 40 years old.

With regard to accelerated integration, Albania requested to participate in the European cooperation network on elections (ECNE).

#### **b. Commission assessment**

Overall, the **legal framework** is conducive to the organisation of democratic **elections**. The latest report by the OSCE/ODIHR, issued in conclusion to the last round of parliamentary elections held on 25 April 2021, confirmed that these were overall competitive and fundamental freedoms were widely respected. Voters had a choice of candidates, who could campaign freely, under a legal framework which respects fundamental freedoms.

The OSCE/ODIHR maintains that the guarantees in the Constitution and the provisions in the Electoral code are an adequate basis for the conduct of democratic elections. At the same time, several ambiguities and inconsistencies remain to be addressed in the legislation.

Several recommendations issued by the OSCE/ODIHR in conclusions to various rounds of electoral observation, as well as by the Venice Commission, also remain outstanding. The latest electoral reform successfully addressed several issues, while efforts should still be made to:

- address allegations of vote-buying, of misuse of administrative resources at both the national and local levels as well as allegations of pressure on voters and public sector voters,
- secure the de-politicisation of lower-level election commissions,
- guarantee the suffrage rights of persons with disabilities,
- address criminal liability for defamation and the use of campaign materials in the news, and
- ensure out of country vote.

With regard to Albania's accelerated integration request, the possibilities and modalities of participation in ECNE will be explored.

## II.B MEDIA IN ELECTION CAMPAIGN

### a. Country presentation

Albania's legislative framework on the **conduct of the media in election campaigns** relies broadly on the European and international standards, as well as country's national legislative framework. The latter includes, but is not limited to, the Constitution (Art. 22 & 23), the Electoral Code, the Law on Audio-visual Media Services, the Criminal Code and the Law on Electronic Communications. The **institutional framework** includes the Parliament, CEC, AMA and the Administrative Court. Media and NGOs/CSOs are also relevant stakeholders. As regards the conduct of media in election campaigns and elections, relevant provisions are in the Electoral Code and in Law 97/2013 'On audio-visual media in the Republic of Albania'. CEC is responsible for adopting the 'Methodology on Media Monitoring' and fining media outlets in cases of violation of broadcasting rules. AMA monitors broadcasters, reports to CEC (the latter publishes these reports) and, as relevant, proposes sanctions. The Electoral College operating within the Appeal Administrative Court reviews complaints on CEC decisions.

To address **disinformation** during the elections, Albania indicated that it relies on relevant EU standards as set out in EU Communications such as the Commission's Guidelines on Strengthening the Code of Practice on Disinformation (2021), the European Democracy Action Plan (2020), the Action Plan against Disinformation (2018) and the Communication on tackling online disinformation: a European approach (2018). Albania noted that it follows EU regulatory and policy developments around disinformation, including the recent revision of the Code of Practice on Disinformation, through its cooperation, as an observer, in the European Regulators Group for Audiovisual Media Services (ERGA). Albania considers that the Electoral Code, which contains different provisions regarding media coverage of election campaign, provides for impartiality rules that are in line with EU standards.

Albania's legislation reflects certain provisions of the EU and International recommendations/instruments regarding **safety of the journalists** too. The country indicated that it pays particular attention to the European Commission's Recommendation on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union (2021) and recent European Media Freedom Act (2022)<sup>3</sup>. Albania evaluates that its current legal framework has shortcomings, particularly in regards 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 and journalists' protection during protests and demonstrations.

Transparency in **political advertising** services during the election campaign is primarily defined in the Electoral Code (Art. 80, 84 & 85), which sets the obligation for radio and television stations to record all their broadcasts throughout the election campaign period and make them available to the CEC (Art. 85). Political advertising in online media or online platforms is not regulated. Albania's legislation also defines AMA's and CEC's roles in relation to political advertising. The former monitors the election campaign in audio-visual media and presents its findings to the CEC, whilst the latter can request radio/television operators and other electoral subjects to alter their behaviour based on its own findings, monitoring reports, complaints, or denunciations of third parties, verified by CEC. The latter can also impose administrative sanctions.

Albania evaluates that progress has been made in technical and technological capacity for print and broadcast media monitoring during elections. This included the adoption of a new Media Monitoring Methodology based on OSCE/ODIHR manual.

Regarding the fight against **disinformation** during elections, Albania referred to efforts made to improve media literacy by organising trainings for young journalists and students studying journalism on how to recognise and respond to disinformation.

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<sup>3</sup> Albania's legislation also contains provisions on the protection of journalists as witnesses in criminal process (Law no. 10 173/2009); the right to information on documents produced or held by public authorities (Law no. 119/2014); cooperation with the media to ensure to attend and ask questions at the press conferences and similar events (e.g. Parliament, HJC, HPC) on confidentiality of communications and online privacy.

## **b. Commission assessment**

Albania indicated it had made steps in strengthening **the legal and institutional framework** to address **disinformation** during the elections. Independent **media coverage** of electoral campaigns need to be ensured. Certain gaps persist, notably:

- to properly address disinformation during election campaigns,
- to implement electoral code provisions on media coverage in a way conducive to guaranteeing a level playing field instead of in a way that favours the main parties,
- to empower institutions with a meaningful, proportionate and effective monitoring of online media, in particular online platforms and online TV channels, in the election context,
- to review its electoral law with a view to limit the use of party produced content in the news.

*See Chapter 23 – Judiciary and Fundamental Rights regarding media freedom including pluralism and intimidation and attacks against media professionals.*

## **II.C FINANCING OF POLITICAL PARTIES AND ELECTION CAMPAIGN (INCLUDING ANTI-CORRUPTION MEASURES)**

### **a. Country presentation**

The legislative framework for financing of political parties and election campaign consists of the Constitution, the Electoral Code, the Law on Political Parties, the Criminal Code and by-laws adopted by the CEC. The Electoral Code and the Law on Political Parties set out rules on public and private funding of political parties and define the criteria for the allocation of public financial support. The Constitution (Art.9) and the Law on Political Parties (Art. 15/1) provides a basis for making financial resources and expenses of political parties public. However there remain certain legal discrepancies between the law on Political Parties and the Electoral Code. Albania relies on several the EU and International instruments and standards, including the Venice Commission's 'Guidelines for financing of political parties', the OSCE/ODIHR's and Venice Commission's 'Guidelines on Political Party Regulation', and the UN's Convention on Corruption.

Implementation of the legal framework falls under the competences of the Parliament, CEC, namely its Directorate of electoral subject, financial oversight, and observation, Central and Local Government, AMA, Ministry of Economy and Finance, Ministry of Interior and Ministry of Justice. Political parties, Public entities and institutions, CSOs and Citizens are also relevant stakeholders in this institutional framework.

The CEC's role is to supervise the funding of the electoral campaign, in accordance with the Electoral Code, and calculate the budget funds for each party for funding the elections (Art. 88 of the Electoral Code). Through AMA, the CEC monitors political parties' activities on radio and private televisions for election campaigns (Art. 84), approves reporting formats for parties to register donors (Art. 92/2) and publishes independent audit reports within 30 days of their receipt or upon 'completion of verifications' (Art. 92/6). The CEC also monitors and supervises the funding of political parties in accordance with the Law on Political Parties (Art. 15/2).

The 2020 amendment to the Electoral Code aimed to increase transparency of political parties' finances, prevent the misuse of public resources. The new legal provisions now also set limits to donations and campaign finance expenses. In line with ODIHR recommendations, the CEC pursued efforts to strengthen its oversight role over campaign financing, which remain to be completed. As regards the audit regime for the funding of political parties, measures taken so far included, but are not limited to, the improvement of the standard model for financial reporting, as well as strengthened monitoring capacities for CEC and statutory auditors. Additionally, financial audit reports of political parties are now being published. A recommendation from ODIHR on the disclosure of campaign incomes and expenditure before the election date remains to be addressed.

## **b. Commission assessment**

The revision of the legislative framework for **financing of political parties and election campaigns** was a step towards greater transparency and more effective oversight, but important shortcomings remain to be addressed:

- regulations and limits on donations and expenditures which need to be extended to third parties;
- contestants remain to be required to disclose their campaign incomes and expenditures before the day of election;
- CEC capacities to ensure proper monitoring of parties' finances remain to be consolidated to contribute to greater scrutiny, including to a more rigorous audit regime.

## II.D SUMMARY OF FINDINGS - THE ELECTORAL PROCESS

**The legal and institutional framework** allows for a democratic **electoral process**. Further efforts are needed to address several legal ambiguities and discrepancies highlighted by OSCE/ODIHR, as well as other joint recommendations of OSCE/ODIHR and the Venice Commission. The legislation on **media** in election campaigns, in particular on disinformation and online platforms needs to be further strengthened. On **financing of political parties** and election campaigns, the revision of the legislative framework provides for more transparency, but implementation capacity needs to be consolidated.

## III. FUNCTIONING OF PARLIAMENTS IN A DEMOCRATIC SYSTEM

### General Overview

According to the Constitution, sovereignty arises and belongs to the citizens (Article 2). The Assembly is the representative body of the citizens (Article 70) and the holder of the legislative power. The Assembly also exercises political control and oversight of the Government, other public officials, and independent institutions. It can dismiss the Prime Minister if the majority of MPs reject a motion of confidence presented by the Prime Minister (Article 104) or if a majority of the MPs approve a motion of no confidence presented by at least one-fifth of all MPs (Article 105). The Assembly consists of 140 Members elected to a proportional election system with regional competition and national threshold (Article 64.1). Governance is based on a system of elections that are deemed free, equal, general, and periodic (Article 1.3). The Assembly has a four-year mandate (Article 65). The Assembly consists of one single chamber and it holds two sessions a year. The Members of Assembly (MPs) perform their office in accordance with the Constitution, the Rules of Procedure of the Assembly and other national Laws. The Parliament decides with majority voting of more than half of its members, except for cases where the Constitution provides for a qualified majority (Article 78). In the current composition (2021-2025), there are four Parliamentary groups. There are eight Permanent Committees, five Sub-Committees, one ad-hoc Committees, 65 Friendship Group, four MPs Voluntary Organisations and 11 Delegations of the Assembly at international organizations. No Inquiry Committees are currently active. Out of the eight Permanent Committees, three are chaired by the opposition.



### III.A TRANSPARENCY AND ACCOUNTABILITY

#### a. Country presentation

Transparency and accountability are regulated in different pieces of legislation<sup>4</sup>, as well as in the Strategic Plan of the Assembly for the years 2020–2025 and its Action Plan. The latter identifies four top priority areas, i.e. effectiveness of the exercise of representative, legislative and supervisory functions; the role of the Assembly in European integration process and in parliamentary diplomacy; transparency, participation and civic education in the activities of the Assembly; regulatory framework, human resources and infrastructure.

EU and international standards are generally translated in the Albanian legislation. In particular, the provisions on democratic principles (TEU, Articles 9, 10, 12) and on the role of national parliaments (TFEU, Protocol No.1) are set in the Constitutions, the Rules of Procedure of the Assembly (RoP), various Laws and Bureau Decisions. Other elements mentioned in the Commission Decision on a Code of Conduct for the Members of the European Commission and in the Inter-institutional Agreement on a mandatory transparency register (e.g. register, open access to minutes) are also mentioned in the Constitution, the RoP, various Laws and Bureau Decisions. The Commission Decision 2014/838/EU on the publication of information on meetings held between Directors-General of the Commission and organizations or self-employed individuals and the OECD/SIGMA Principles of Public Administration – e.g. on access to public information, appropriate check and balance system – are reflected in Laws, Decisions and Internal Regulations of the Assembly. The provisions of the Commission Decision 2014/839/EU on the publication of information on meetings held between Members of the Commission and organizations or self-employed individuals are reflected in the RoP and Decisions no. 61/2018. Albania indicated that the Venice Commission’s parameters on the relationship between the parliamentary majority and the opposition and in particular the general principles governing parliamentary debates, are reflected in the Albanian Constitution, the RoP and Bureau Decision no. 82 dated 02.06.2021. OECD/SIGMA principles (Principle 7, Chapter 2 “Policy Development and Co-Ordination”, and Principle 2, Chapter 4 “Accountability”) are echoed in the Constitution, RoP, Laws and Decisions.

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<sup>4</sup> Law no. 8471, dated 21.10.1998, “The Constitution of the Republic of Albania”, as amended; Law 119/2014 “On the right to information”; Law 113/2022 “On citizenship”; Law 54/2019 “On the legislative initiative of the citizens having the right to vote in the Republic of Albania”; Law 8580/2000 “On political parties”, as amended; Law No. 9131, dated 08.09.2003 “On the rules of Ethics in the Public Administration”; Rules of Procedure of the Assembly, as amended; Bureau Decision no. 42/2015 “On the adoption of the regulation on the organization and functioning of the public administration of the Albanian Parliament”; Bureau Decision no. 20/2022 “On the adoption of the Manual of Public Participation in decision making processes”; Order of the Secretary General no. 40/2015 “On the appointment of the Coordinator of the right to information in the Parliament”.

As for institutional framework, the Secretary General is the highest civil servant that is elected by the Bureau. The total number of employees is 294 (political staff, civil servants and administrative staff) and the employment relations are based on the Law on civil servants and Labour Code. Albania indicated that among the different Directorates and Services, dedicated staff is allocated to guarantee transparency and accountability, such as the coordinator of the right of information and the coordinator on interest groups.

Article 35 of RoP defines that the Committee meetings are open, i.e. when the media, interest groups or visitors are allowed to attend them. Meetings of the Parliamentary Committees are transmitted live in a dedicated channel of the public broadcaster and social media. With the majority of the votes of all its members, a Committee can decide that a Committee meeting or parts of it shall be held under closed doors. Parliamentary documents such as minutes of meeting of the Plenary Session, Parliamentary Committees, Annual reports of Assembly (Article 106 of RoP), as well as other documents are published in the webpage of the Assembly, albeit not systematically in a timely and user-friendly manner. All sessions of the Parliament are broadcasted live.

Procedures for cooperation between the Assembly and the CSOs are outlined in the Manual of public participation in the Parliament decision-making reviewed and approved in May 2022. The document guides the CSOs on the tools and procedures for getting involved in the legislative decision-making. Albania has a register for lobbyist and one for the registration of CSOs. Since 2022, Albania has been implementing an online platform for the consultations of draft-laws and draft-documents. A coordinator for groups of interest / CSOs assumes the role of overall coordination of consultation processes, while the various consultation processes are managed by the parliamentary committees. The Assembly has a digital platform to monitor the follow-up to the recommendations issued by independent institutions. The Assembly publishes a report on public participation annually. An Institutional Mechanism Platform for monitoring the independent institutions is in place. Accessibility and transparency were partially increased with a new official webpage of the Assembly that was launched in November of 2022, which however lacks a security certificate and thus cannot be accessed from secured servers.

Pursuant to Article 7 of the Law No. 119/2014 “On right to information”, the Assembly initiated in 2021 the drafting of its transparency programme, which remains to be finalised. With the purpose of establishing an open parliament, in 2022 a working group composed of MPs, CSOs and media representatives had a cycle of consultative session that ended in co-creating a document of standards and indicators on parliamentary transparency, accountability and accessibility.

As regards relations with interest groups, after petitions enter the Parliament, they are transmitted to each committee responsible for the topic indicated in the petition. The register for the petitions is accessible online. Albania reported that in 2022 the number of draft laws consulted in permanent Committees were 37 out of 241 (increased compared to previous year), while the number approved amendments from interest groups was 32 out of 220 (decreased compared to previous year).

On the request of the Council of Ministers or one fifth of the entire number of the Members of the Parliament, the Assembly may decide to examine a bill by an accelerated procedure (Article 83.2 of the Constitution). The accelerated procedure is not allowed for the discussion of the draft-laws foreseen by Article 81 para 2 of the Constitution, with the exception of law on the state of emergency (Article 83.3 of the Constitution). There is no particular procedure whereby a draft-law that aims to align the Albanian legislation with the EU legislation would benefit from a specific accelerated procedure.

A request for the review of a draft-law by accelerated procedure is submitted in writing to the Speaker of the Assembly, who announces it at the next plenary sitting. The time period within which the issue should be considered in the committee and in the plenary sitting cannot be less than one week from the date of the submission of the request to the plenary sitting by the Speaker of the Assembly. The Assembly cannot discuss more than three draft-laws reviewed by accelerated procedure in the nine-week work schedule of the Assembly and one draft-law in the three-week calendar of its work.

The numbers of laws approved in 2022 was 84, out of which three were approved with accelerated procedure (in 2021, 4 out of 132 total laws were approved with accelerated procedure).

In terms of future plans of alignment, Albania intends to amend the Code of Conduct of MPs one year before accession at the latest to introduce the obligation that the meetings of the MPs and their staff with the CSOs and lobbyists are only conducted with those registered in the Transparency Register in line with the provisions of Commission Decision of 31 January 2018 on a Code of Conduct for the Members of the European Commission, Art. 7. In addition, Albania aims at amending the Rules of Procedures of the Assembly to extend the application of the Post Legislation Scrutiny not only to the laws approximated with EU acquis but also to the normative acts having the force of law. Albania plans to implement the E-Legislation system that shall integrate the systems of all the institutions included in the law-making process (by 2025) as well as at strengthening the administrative capacities of the Assembly through trainings in order to cope with the increased responsibilities for transparency issues arising from the accession process. Finally, Albania will draft a working plan to achieve the standards and indicators highlighted in the document on transparency, accountability and accessibility.

## **b. Commission assessment**

Albania continues to consolidate its democratic system, of which the Assembly is the cornerstone. The Assembly has an oversight role on the executive, which needs to be further developed. **Accountability** lines between the Assembly and other relevant institutions are established, with the Assembly appointing the management of various authorities, like the Audio-visual Media Authority (AMA) and the Competition Authority, and institutions like the Central Bank or the Ombudsperson. However, these appointments processes are often subject to political bargaining or held up over many months due to political disagreements in the Assembly, occasionally leading to questions on the authority and independence of some of the resulting appointees. The Assembly should strengthen its oversight role over the work of independent institutions, including to ensure systematic monitoring of the independent institutions' recommendations and their follow up.

Overall, the Assembly is empowered to have a crucial role in the EU integration process, which has been further developed recently.

In terms of **transparency**, Albania indicated that important practices have already been consolidated. Their consistent implementation remains key to guarantee that the legislator is accessible and accountable. Further improvements remain necessary to ensure more timely and user friendly public availability of official parliamentary documentation to civil society, the media, other stakeholders, and the broader public. These include, in particular, the minutes of plenary sessions and committee meetings. In addition to more timely publication of such minutes, these could also be made more user friendly.

Public consultation with civil society and interest groups remained formal, including in the context of the National Council on European Integration set up under the auspices of the Assembly. Interaction with NGOs/CSOs and interest groups is happening at formal level, although it could be further intensified and developed into more meaningful exchanges. At present, these interactions on most occasions are overly formalised and due follow up on substance is not always ensured through a sufficiently meaningful dialogue. Particularly when it comes to consultations on new legislative initiatives and processes, NGOs/CSOs and interest groups should be granted greater empowerment and be timely involved to provide meaningful contributions.

### **III.B INTEGRITY**

#### **a. Country presentation**

Integrity is framed around four main legal pillars: i) the Constitution, Laws and Bylaws on the electoral system, the mandate of MPs, relations of MPs with (local) government, organisation and functioning of the Parliament, the rules for establishment and registration and operation of political parties; ii) International Conventions ratified by the Assembly (e.g. United Nations Conventions against Corruption, UNCAC); iii) laws that identify rules and procedure, as well as responsible authorities for conflict of interests and assets declaration, financial obligations and liabilities of elected representatives; iv) Criminal Code and Procedural Code, Law on Criminal Liability of Physical Persons, Law on Judicial Reform and on Foreign Jurisdiction.

According to Article 70.1 of the Constitution, MPs represent the people and are not bound by any obligatory mandate. Article 73.1 indicates that a deputy does not bear responsibility for opinions expressed in the Assembly and votes cast. This provision is not applicable in case of defamation. MPs may not simultaneously exercise any other public office, except for being appointed as members of the Council of Ministers. Other cases of incompatibility are specified by law (Article 70.2 of the Constitution). MPs may not carry out any profit-making activity that stems from the property of the state or of local government, and may not acquire the property of either of the latter (Article 70.3 of the Constitution).

An MP may not be arrested or have his/her liberty deprived in any form or have a personal search of his/her house carried out, without the authorization of the Assembly. S/he may be detained or arrested without authorization when caught during or immediately after the commission of a crime. The General Prosecutor or the Chief Special Prosecutor shall immediately notify the Assembly, which, when it finds that there is no ground for the proceedings, shall order the lifting of the measure. For those cases, the Assembly may hold discussions in closed sessions, for data protection grounds. The decision is made by open vote (Article 73 of the Constitution, as amended in 2012 to limit the immunity of MPs). MPs do not have immunity from criminal prosecution. The Prosecution Office against Organised Crime can launch a criminal proceeding against an MP without prior authorisation of the Parliament.

MPs are obliged to declare asset and private interest also for the spouse, partners, direct family members as well as conflict of interests. Declaration on assets and private interests are submitted to the Albanian High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI). As of 2022, declarations are done through an electronic system and published in HIDAACI webpage. HIDAACI verifies the declarations through a series of tools (it disposes of e.g. access to revenues, financial data and bank account). If a breach of law is identified, HIDAACI can issue penalties and/or fines. Albania reported that in practice, there were cases where MPs were not in a position to justify assets, so HIDAACI could start a case *ex officio*. Declarations of conflicts of interest is published and regularly updated on the Assembly's website. The notifications of conflicts of interest are completed on a case-by-case basis, and the Speaker, at the plenary session, informs the Assembly about these notifications. The Law for Prevention of Conflict of Interest for Public Office provides that MPs cannot be in charge of or member of a steering board of NGO, they cannot be part of private business or partnership of any sort, s/he cannot be a free-lancer or representative of organisation or companies. During the previous legislature, five MPs presented declarations for conflict of interest. In the current legislature, seven MPs presented such declarations.

The Parliament has a register for the gifts received by MPs and a Commission has been established for determining the value of the gifts. On immunity, from 2017-2022, only two requests for the provision of the authorization for the arrest and personal search of the MPs houses were made. In on one case, the authorization was granted only for the personal search of his/her house (2017) and for the other one (during 2022) the MEP resigned and the Assembly terminated the initiated procedure for granting the authorization (for the arrest and search of his house).

Provisions and standards related to integrity as indicated by EU Treaties, the Council of Europe (CoE) Resolutions and Guidelines, as well as OECD Guidelines are reflected in the Albanian legal framework. Albania has not yet ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997). Yet the obligations deriving from the Convention are partially provided in the Albanian legislation.

The Speaker of the Assembly decides the minor disciplinary measures against MPs (e.g. suspending the right to speak or exclusion from a plenary session) during the plenary session and the Chairs of the Permanent Committees during committee meetings. Disciplinary measures are noted in the minutes of the Parliament meeting. More severe disciplinary measures against MPs (e.g. exclusion from a plenary or a Committee up to 10 days) are assessed and decided by the “Secretariat for procedures, voting and ethics” as the first instance, and the Bureau of the Assembly as the second instance. Decisions adopted by the Bureau are publicly available. The authorization to remove the immunity of an MP for arrest or home detention, the removal of freedom of any kind, or personal or house search, is decided by the plenary session after the submission of the report by the Council on the Rules, Mandates and Immunity whereby it is recommended the approval or the refusal of the authorization. The latest amendment to the RoP included in the disciplinary measure, unethical type of behaviour, but also infringement of code. An MP will be handed over a disciplinary measure if s/he has failed to declare lobbying activities, gift or asset. Disciplinary measure can be also accompanied with financial effects. Between 2017 to 2022, a total of 174 disciplinary measures were taken, and 23 in 2023. In that period, most of the measures were minor.

The counselling for the MPs in respect of ethical issues is included in the Code of Conduct is provided during the plenary sessions or parliamentary committees meetings, by the Chairs of the parliamentary and by the Directorate of Human Resources and the Service for Treatment of Members of the Parliament. An advisory and orienting/counselling meeting is organised for all issues related to the Code of Conduct, whenever there are newly appointed MP's. HIDAACI prepares MPs on their obligation to declare conflict of interest and declaration of assets.

The CoE Group of States against Corruption (GRECO) approved the Addendum of the Second Compliance Report on the Fourth Round of Evaluation “Prevention of corruption in relation to members of the Parliament, judges and prosecutors” (September 2020). Albania has implemented satisfactorily nine out of ten GRECO recommendations.

Albania aims at amending the Code of Conduct of MPs one year before accession to introduce the obligation that the meetings of the MPs and their staff with the CSO's and lobbyists are only conducted with those registered in the Transparency Register (Commission Decision of 31 January 2018 on a Code of Conduct for the Members of the European Commission, Art. 7). Albania intends to ratify the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions by 2026. By the same year, Albania plans to extend application of the corruption proofing mechanisms in the law-making processes in Parliament. It also expects to further strengthen the administrative capacities of the Assembly for supporting the MPs in topics on conflict of interests, ethical issues, corruption proofing of legislation.

#### **b. Commission assessment**

**Higher ethical standards in Assembly proceedings are still necessary**, also to foster more constructive political dialogue between opposition and majority.

*See Chapter 23 – Judiciary and Fundamental Rights regarding the fight against corruption, including high level corruption.*



### III.C EFFECTIVENESS

#### a. Country presentation

The functioning of the Parliament is defined in the Constitution, the RoP, various Laws and Bureau decisions<sup>5</sup>. The policy framework is composed of the Strategic Plan of the Assembly 2020–2025 and its Action Plan, as well as the Strategy for Development of Human Resources 2022-2025. On the latter, its strategic objective is to establish an innovative, internationally standardised human resources management system to provide professional support for MPs. Amendments were passed in March 2023 to the effect of strengthening the role of the Assembly in the EU integration process, while the executive branch retains its international representation and negotiation roles.

The EU and international standards and principles on effectiveness, i.e. the RoP of the European Parliament, the CoE parameters on the relationship between the parliamentary majority and the opposition, as well as the OECD/SIGMA principles of public administration, are reflected in the Albanian Constitution and other legal acts. Albania has a proportional composition of the chair and membership of the Parliamentary Committees. The majority chairs all five Sub-Committees.

The Conference of Chairpersons discusses and decides on the work programme, the work calendar of the Assembly and the Permanent Committees. The Legislation Council is an advisory authority, which advises on legal and constitutional matters relating to the text of a draft law, and /or approximation with other legal acts such as Constitutional court jurisprudence and international agreements. The Regulation, Mandates and Immunity Council is an advisory authority, which performs evaluation functions or provides opinions on matters of procedures, related to the Assembly functioning and the decision-making.

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<sup>5</sup> Law no. 8471, dated 21.10.1998, “The Constitution of the Republic of Albania”, as amended; Rules of Procedures of the Assembly, as amended; Law no.9049, dated 10.04.2003 “On the declaration and audit of assets, financial obligations of elected persons and certain public officials” as amended; Law no. 9367, dated 07.04.2005 “On the prevention of conflicts of interests in the exercise of public functions”, as amended; Law no. 152 dated 30.05.2013 “On the civil servant”, as amended; Law no. 15, dated 05.03.2015 “On the role of Parliament in the process of integration of the Republic of Albania in the European Union”; Law no. 119, dated 18.09.2014 “On the right to information”; Law No. 9131, dated 08.09.2003 “On rules of ethics in the Public Administration”; Law no. 10 019, dated 29.12.2008 “The Election Code”, as amended; Decision of Council of Ministers no. 874, dated 29.09.2021 “On the adoption of the rules for the implementation of the principles of ethics, the classification of external activities and the value of gifts that may be accepted during the activity of a public administration official”; Decision of the Assembly Bureau no. 42, dated 16.07.2015 “On the adoption of the Internal regulation of the organization and operation of services of the Parliament of Albania”; Law no 7961, dated 12.07.1995 “On the Labour Code in the Republic of Albania”, as amended; Law no. 8580, dated 17.02.2000, “On Political Parties”; Law No. 8891, dated 02.05.2002 “On the organization and functioning of the Inquiry Committees of the Assembly”.

The eight Permanent Committees review related draft laws, draft decisions and other issues, conduct studies on the effectiveness of laws in force, follow the implementation of laws and control the activity of ministries and other central authorities. They also propose to the Assembly or the Council of Ministers the taking of relevant measures and propose for adoption by the Plenary draft laws, draft statements or draft resolutions.

Other parliamentary bodies are Sub-Committees, Inquiry Committees, Ad-hoc Committees, Friendship Groups, Voluntary Organisations and Permanent Delegations of the Assembly at international organizations. Sub-Committees may be established for certain related issues or tasks for the activity of the permanent committee at the request of the chairperson of the Permanent Committee and proposal of the Conference of Chairpersons. In the present framework, Inquiry Committees may be formed upon request of one fourth of all members as per the Law on Inquiry Committees. The law requires the Assembly to establish an Inquiry Commission to review a certain issue. The findings and conclusions of an Inquiry Committee are not binding to the Court, but the recommendations are forwarded to the Prosecution Office, which decides on whether to open an investigation or not. The ad-hoc Committees can be established by the Assembly to review and prepare legislative initiatives, as well as for any issue of particular importance. Friendship Groups aim to deepen relations between nations. Every MEP is entitled to be part of any friendship group. Their composition reflects, as much as possible, the political composition of the Assembly. As for Voluntary Organisations, MPs may be organised in voluntary parliamentary groups, as far as they declare the intended goal/s to follow, social groups that will benefit from the voluntary group's activity, the label that the group will maintain and the rules of its operation. Permanent Delegations of the Assembly at international organizations carry out their work in accordance with the rules of representation in relevant organisations.

The Parliament approves in Plenary Session Laws, as well as resolutions and decisions for appointment of heads/members of institutions and constitutional bodies or for establishing a certain Committee (e.g. Inquiry Committee). In 2019, there was a temporary increase in the number of decisions (152 decisions in 2019 compared to 81 in 2022). In cases of necessity and emergency, the Council of Ministers may issue normative acts having the force of law for taking temporary measures. The Assembly, in Plenary Session shall approve them within 45 days, otherwise these acts will lose force retroactively (Article 101 of the Constitution). In 2020 and 2021 there was an increase of normative acts due to the Covid-19 pandemic. As regards the legislative process in Permanent Committees, Albania reported an increase in the number of questions asked by MPs on draft laws.

The Parliament exercises oversight function through Permanent Committees for the implementation of policies, laws and other related issues. Albania reported that in 2020, the number of public hearings was 34 compared to seven in 2021. Albania explain this by the Covid-19 pandemic. The Parliament uses different instrument to control the government through interpellations, request for information, motions with debates. Albania assessed that comparing 2021 and 2022, the number of times these tools were used tripled.

On the level of implementation for the Assembly's resolution recommendations by the 24 independent institutions, in 2022, out of the 208 recommendations, 66 were fully implemented, one partially implemented, 16 not implemented and 125 are in process (in 2021, 221 recommendations, 109 fully implemented, four partially implemented, seven not implemented and 91 in process).

The Assembly has also approved a mechanism for periodic and annual monitoring of the institutions. The mechanism was approved in 2017 and in 2019 an online platform was established.

The implementation rate of the Ombudsperson institution's ("People's Advocate") recommendations has increased in the period 2018-2021. A number of old outstanding recommendations has been eventually addressed. The Ombudsperson annual report is however only published after the Assembly has held a debate on it, which affects independence. There has also been a slight increase in the implementation of the recommendations issued by the Supreme Audit Institution. The number of recommendations from the Competition Authority has been steadily decreasing since 2020. Albania hinted that this is due to prolonged open vacancies in this body and the lack of plenary meetings. The Commissioner for Protection from Discrimination has increased the volume of recommendations, out the 49 issued in the recent years, in 2021 there were 24 that could be considered as fully implemented and 25 still in progress. In 2022 there were nine implemented and 12 in progress.

Since 2018, the budget of the Assembly has been increased consistently.

Concerning future plans, Albania aims at amending the regulatory framework of the Assembly one year before accession to the EU to include concepts such as the relationship between the Albanian Parliament and the European Parliament, subsidiarity in line with the European Parliament Rules of Procedure. Albania plans to strengthen the MPs' capacities and to handle the additional responsibilities brought on by the accession process. It also intends to increase the training of administrative and political staff of the Assembly in order to improve the quality of the services provided for the support of the MPs, in order to cope with the increased obligations stemming from the accession process.

## **b. Commission assessment**

The **parliamentary oversight** of the work of independent institutions is in place, but it remains somehow a bureaucratic exercise, for the most part limited to the consideration of their annual reports. Efforts remain necessary to address the impact of political polarisation on parliament effectiveness.

Albania's Constitution must guarantee upon accession the respect of the principle of primacy of EU law over all contrary provisions of national law, by the democratic institutions, including the Parliament, Government as well as by the judicial authorities, including the Constitutional Court.

### **III.D SUMMARY OF FINDINGS – FUNDAMENTAL FUNCTIONING OF PARLIAMENTS IN A DEMOCRATIC SYSTEM**

The Assembly's role has been consolidating over time. Further efforts could be made to increase transparency and accountability, integrity, and effectiveness, including with regard to interactions between the Parliament and NGOs/CSOs and publications.

## IV. THE ROLE OF CIVIL SOCIETY

### IV.A GENERAL FRAMEWORK ON CIVIL SOCIETY

#### a. Country presentation

Freedom of association is guaranteed by the Constitution in its Article 46. The constitution also provides for a limitation to that freedom where organizations or associations would ‘pursue unconstitutional purposes’. The Law on the Non-for-profit organizations is the main legal framework in this field. It defines the rules for the establishment, registration, operation, organization and activity of non-profit organizations. It also provides guarantees against state interference in internal matters of CSOs by stipulating that ‘CSOs shall exercise their activity independently from state bodies and interests, and state bodies do not interfere in the activity of a non-profit organizations’. It further establishes that a CSO may be dissolved through a decision of the highest Court in case of ‘activities contrary with the Albanian Constitution, unlawful activities, when it has not been established in compliance with the requirements of the law, or when it has become insolvent’.

The Law on the registration of non-profit organizations, which was adopted in 2021, defines the registration process of non-profit organizations, as well as the rules for keeping their register for non-profit organizations. Albania presented its ongoing work to establish the National Electronic Register of non-for-profit organisations foreseen by the said law, which aims to simplify the formal procedures for registration and activities of non-profit organizations. It indicated that the platform will be in place in December 2023.

The legal framework on the activities of associations also includes the law on volunteering, which defines the main principles, conditions and criteria for volunteering, the law on the organization and functioning of the Local Action Groups, which sets out opportunities for civic engagement by local communities in rural areas, and the law on the Civil Code of the Republic of Albania, which lays down rights and obligations of the Non-profit organizations.

Civil dialogue is implemented through various means. The main State-CSO dialogue and cooperation structure established by law is the National Council on Civil Society (NCCS), an advisory body to the Council of Ministers bringing together representatives of civil society and government institutions.

The Agency for the Support of Civil Society provides financial assistance to civil society in line with priorities and strategies of the Government Programme. The Agency serves to connect civil society and state institutions.

Albania's main strategy for civil society is its 'Roadmap for the Government policy towards an enabling environment for the development of civil society 2019-2023'. The Roadmap defines 3 strategic orientations and 9 Priority Areas of Action. These cover the institutionalised Government - Civil Society cooperation in policymaking and EU integration and an enabling legal and financial environment for civil society. Albania presented its progress made in implementing the roadmap, informing that it implemented 85% of the measures related to strategic orientation 1 and around 2/3 of the measures related to strategic orientations 2 and 3.

#### **b. Commission assessment**

State institutions recognise the role of Civil Society in the democratic process. The legal and regulatory framework on the right to freedom of assembly and association is generally in line with international standards - *see under Chapter 23 – Judiciary and Fundamental Rights*). The legal, regulatory and institutional framework for civil society is generally in place but a number of improvements are needed for the legal framework to be fully implemented and the institutional framework to become fully operational.

The Law on Registration of Non-Profit Organisations adopted in June 2021 will be fully implemented only once the National Electronic Register of Non-Profit Organisations is established, which is required for the end of 2023. Until then, registration procedures under the 2001 law remain cumbersome as CSOs need to submit paper or electronic files to the district court in Tirana. The new register should ease the registration process and enhance transparency.

The National Council for Civil Society remains weak, including in its ability to voice priorities of CSOs in policy-making processes and is barely operational/functional. The Law on the National Council should be amended to reflect changes in ministerial portfolios and representation in the Council, and to improve its functioning.

The roll-out of the roadmap on an enabling environment for civil society requires additional efforts and resources to ensure that the environment becomes fully enabling for civil society. The monitoring process of the Roadmap also needs to be improved regarding data collection and dissemination to increase evidence-based policy-making and trust from civil society.

## **IV.B NATIONAL LEGAL, REGULATORY AND POLICY FRAMEWORK FOR CIVIL SOCIETY ORGANISATIONS (CSOs)**

### **a. Country presentation**

Albania does not have a definition of civil society but it does define civil society organisations as well as non-profit organisations and foundations in the 2001 Law on Non-Profit Organizations.

The main strategic document governing the sector is the aforementioned Roadmap for the Government policy towards an enabling environment for the development of civil society 2019-2023. The roadmap envisages to strengthen the role of civil society in policy-making processes, including contributing to the EU accession process. It envisages to support volunteering and active citizenship. It envisages the improvement of the legal framework for the operation of CSOs. As regards the fiscal and funding framework, the roadmap envisages the creation of a public funding framework in line with EU good practices and implementation of supportive financial reporting, accounting and tax treatment of CSOs.

Albania presented the national legal framework regulating the tax regime applicable to civil society organisations, which is governed by the constitution, the law for the value added tax and its implementing provisions, the law on some changes and amendments to the Law on Tax Procedures, the law on Accounting and Financial Statements and the law on income tax. The law sets forth that legal entities that carry out only activities of a religious, humanitarian, charitable, scientific or educational nature, whose property or profit is not used for the benefit of their organizers or members, are exempted from profit tax. CSOs have to submit annual financial statements. Small organisations with annual revenues below 5 million ALL (approx. 40,650 EUR) have fewer reporting requirements.

The Albanian legislation foresees Value Added Tax exemptions for supplies pertaining to certain public interest transactions carried out by non-profit organizations/non for profit bodies.

Albania presented its measures in place for the supervision of non-profit organizations for the purpose of prevention of money laundering and financing of terrorism and its recent legislative initiatives aiming to address MONEYVAL and FATF recommendations, such as the law on the Register of Beneficial Owners and the law On the Central Register of Bank Accounts. These were positively noted by the EU.

The legal framework allows CSOs to freely seek and secure financial support for their activities from various domestic and foreign sources, without pre-screening and preapproval from the state. The legislation in place allows CSOs to engage in economic activity, receive public and foreign funding support and funding from corporations. No legal provision recognizes individual donations.

CSOs are allowed to generate incomes from fees for services, sales, rents, etc. However, the economic activity or activities must have been declared as one of the sources of income, and must not be the main activity or the main goal for which a CSO is established. Tax exemptions apply up to 20% of the annual turnover of the organisation.

The Agency for the Support of Civil Society is the main public body providing financial support for civil society. The agency also serves as secretariat to the National Council on Civil Society. It is funded from various sources, including donations or its own income-generating activities. The Agency provides both project grants and institutional grants, awarded following calls for proposals. The agency awarded 62 grants in 2022 amounting to EUR 821,682, from EUR 943,237 in 2021. Albania outlined its ambition to improve the legal administrative procedures of the grant process within the upcoming two years. The Social Fund Programme managed by the Ministry of Health and Social Protection financially supports CSOs providing social services at the local level.

#### **b. Commission assessment**

The Albanian authorities envisage improving the public funding framework but plans in this regard still need to be more clearly defined. While the Agency for the Support of Civil Society's budget has increased in the last years and reached pre-COVID levels, public funding to CSOs doesn't permit to ensure their sustainability or that of their activities, in particular in their role as service providers.

The tax regime for CSOs is incomplete as it does not allow for individual donations. The legal framework does not provide tax incentives for corporate or individual donations to CSOs. A favourable tax regime for CSOs is part of the enabling environment and should facilitate companies or individuals' donations to CSOs which work for the general interest.



CSOs are subject to general VAT rules for their commercial activities. The law provides for VAT refund for CSO beneficiaries of EU funding and international donor grants was revised recently to ensure a swifter refund process. Its implementation remains to be assessed. For the contracts falling under the legal provisions in place prior to this revision in the law, the system has been lengthy and cumbersome and only a few CSOs reimbursed.

Regarding donations from abroad no particular restrictions apply beyond due diligence required from the financial sector and other professions in relation to money laundering and prevention of terrorist financing.

Dependence of CSOs on foreign donors puts their sustainability at risk. No progress has been made regarding the law on voluntarism listed as one issue to be addressed under the government roadmap

#### **IV.C. THE WIDER CONTEXT FOR AN ENABLING ENVIRONMENT**

##### **a. Country presentation**

CSOs' involvement in the EU accession process is organised in accordance with the Partnership Platform for European Integration. They sit alongside other interest groups in roundtables corresponding to chapters of the EU Acquis. Through the Platform, CSOs are informed on the negotiation process and the progress made, and they can advise on the European integration process.

The law on public consultation governs how public authorities consult civil society on draft laws and policies through public consultations. As a deliverable from its Roadmap for the Government policy towards an enabling environment for the development of civil society 2019-2023, the government has also further adopted Guidelines for civil servants on conducting efficient public consultations. Public consultations are required for draft laws and draft policy strategic documents of high public interest. Matters of state security, secrecy, international relations and agreement, individual administrative acts and administrative acts with a normative character, civil emergency laws and other limitations that are provided in article 4 of the law on public consultation of 2014 are not consulted with CSOs. All other draft acts being consulted and for approval by the Council of Ministers, are accompanied by a public consultation report.

Draft acts are published for consultation on an e-register system called the Electronic Register on Public Consultation and Notification. This web-based consultation site is operational since 2017 while from October 2022 has been upgraded with advanced features and functionalities.

CSOs which are registered on the e-register system are automatically notified of new public consultation processes. Albania informed that over 800 civil society stakeholders, business associations, advisory bodies, research institutes, experts, academia, and development partners are registered in the Electronic Register of Public Notification and Consultation. CSOs that are not registered can still take part in the consultations. They can access the consultation platform to see what drafts are under consultation and provide their comments to a specific contact person/e-mail. Furthermore, many CSO platforms such as the National Resource Centre for Civil Society Organisations in Albania share all the notifications for consultations with their partners. The Albanian authorities indicated that in 2022, 75% of legal acts passed through an extensive public consultation process with participation of stakeholders. Albania also informed that it is taking steps to extend public consultation processes to local governments' acts.

IACCEPT is the index of accepted comments received from CSOs during public consultation process. The authorities indicated that over a four year period, out of 1256 comments received, 856 were accepted and included in the final draft of the act, with an acceptance ratio of 68%. For each act which undergoes consultation, an individual report is produced including information on feedback received and whether it was accepted or not, leading to a measurement through the IRESPONSE index, which is the Institutional Response on Public Consultation feedback. Albania indicated that such reports are produced and published at an average of 85%.

The National Council on Civil Society 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. It is chaired by the Minister of Health and Social Welfare and the deputy is a civil society representative. 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 policy-making and the allocation of public funds to civil society in the country. Albania indicated that it will work in 2023 and 2024 to review the law establishing the National Council, with a view to changing provisions related to its composition and functioning. The Council met 6 times between 2019 and 2022.

Other bodies allow CSO participation in policy-making in various areas. The National Council of Gender Equality, the National Council for the Rights and Protection of the Children and the National Council for Persons with Disabilities are advisory bodies to the government for the respective public policies and include representatives of civil society alongside government representatives and human rights institutions. The government has also established a network of cooperation on anticorruption with 13 CSOs working within the area of the rule of law. CSOs and professional associations can participate in the works of the Investment Council, a consultative body mainly made up of, and established to facilitate the dialogue between, businesses and public institutions.

#### **b. Commission assessment**

The Law on public consultation dates back to 2014 and is generally in line with European standards. Additionally, a number of Councils and other formalised policy planning fora involve membership or observer status of civil society representatives alongside those of public institutions. New procedures for registration of civil society organisations need to be implemented swiftly in line with the set calendar. However, consultations often remain rather pro-forma and not part of a holistic approach regarding civil society as a partner in policymaking. Government decisions fall outside the scope of the law. It is essential that transparency be a guiding principle in policy making and that consultation processes be proactively steered and fully inclusive, extend to **in all legislative and policy initiatives**, and take place through effective institutional mechanisms and fora for dialogue.

Furthermore, the legal framework provides for a 20-working day publication deadline for e-consultation but this is only respected for 60% of the acts and is not always fit for complex policy initiatives. The accelerated procedure does not allow sufficient time for civil society and interested stakeholders to provide meaningful and well thought through contributions.

The National Council on Civil Society has so far failed to deliver on its broad mandate. While it has met to discuss aspects related to the Roadmap, it has not made any meaningful contribution in terms of concrete proposals for policies and legislative changes in this field. The internal organisation in the Council needs to be revised to ensure that the Council can exercise its prerogatives and act as an advisory body contributing to improving the environment for civil society.

The implementation of the Roadmap for the Government policy towards an enabling environment for the development of civil society 2019-2023 needs to be accelerated, including as regards concrete legislative steps such as revision of the law on volunteering.

#### **IV.D SUMMARY OF FINDINGS – THE ROLE OF CIVIL SOCIETY**

Overall, the legal, regulatory and institutional framework for CSOs is in place, but implementation needs to be further reinforced, in particular for the registration procedures. The consultation processes need to be improved to become more inclusive and allow for an enabling environment.

## C) PUBLIC ADMINISTRATION REFORM

A well-functioning and professional public administration is fundamental for a prospective EU Member State. According to the Copenhagen criteria, EU Member States must have the “**administrative and institutional capacity to effectively implement the acquis and ability to take on the obligations of membership**”. In addition, “**citizens’ right to good administration**” is enshrined in the EU Charter of Fundamental Rights (Art. 41). Good quality public administration is the basis for a successful, sustainable and resilient country. Public administrations at national, regional and local level deliver crisis response, provide services, implement reforms, manage investments and, more generally, manage public spending to create expected social value. They develop appropriate policies and translate EU and national law and programmes into concrete actions with long-term effects on economic, social and territorial cohesion, as well as on technological progress. They are responsible for the effective and efficient uptake of the EU Funds. They play a fundamental role in preserving the EU’s shared values. Public administrations are the direct interface between the EU and the citizens. Based on the level of their integrity, they are the main drivers of social trust in national and EU policies.

The Commission looks at the following key aspects to assess quality of public administration, and any need for reforms:

**Strategic framework for public administration reform** - The government ensures a strategic vision and leadership for an agile, innovative and continuously improving public administration responsive to new challenges.

**Policy development and coordination** - The government ensures that policies and budgets are harmonised, effectively planned, co-ordinated across whole-of-government, implemented, monitored and evaluated against clearly defined policy objectives. Ministries develop coherent public policies through an open and participatory process, informed by sound evidence and analysis.

**Public service and human resource management** - Public servants act with professionalism, integrity and neutrality. They are recruited and promoted based on merit and equal opportunities and have the right competencies to deliver their tasks effectively.

**Accountability** - The organisation of the public administration is efficient and effective across all levels of government. Public administration bodies are open and transparent and apply clearly defined internal and external accountability mechanisms. Strong oversight bodies protect the rights of citizens and the public interest.

**Service delivery and digitalisation** - The public administration places users at the centre and delivers high-quality and easily accessible services online and offline to all people and businesses. Digitalisation enables data-driven decisions, effective and efficient processes, as well as quality and accessible services.

**Public financial management** - The public administration plans and manages public finances to ensure that they are sustainable and transparent and allow the delivery of policy objectives. Control, procurement and oversight arrangements are in place to ensure the economic, efficient and effective use of public resources shared across all levels of government.

Albania confirmed that they **accept the *acquis* and European standards in public administration reform and public financial management**. The country is committed to further improve the stability, quality and capacity of the public administration and public financial management. Albania is **moderately prepared** in the area of public administration reform.

## **I. STRATEGIC FRAMEWORK FOR PUBLIC ADMINISTRATION REFORM**

### **a. Country presentation**

Albania presented an overview of the comprehensive strategic framework of public administration reform (SFPAR) that has been implemented since 2015. This is based on five strategic documents: a cross-cutting *PAR Strategy*, a *Public Financial Management Strategy*, a *Decentralisation Strategy*, an *Anti-corruption Strategy* and the *Digital Albania Strategy*. The country informed that the new versions of these strategic documents are currently being developed and planned to be finalised in 2023. The new 2022-2026 Strategy and Action Plan of the Digital Agenda were already adopted in 2022 and the new 2023-2030 Cross-cutting Strategy on Decentralisation and Local Governance, in April 2023. The new strategies are part of the 2022-2030 overarching *National Strategy for Development and European Integration* (NSDEI). NSDEI 2022-2030 includes *Good Governance and Public Administration* as one of its main priority areas. This aims to ensure harmonisation and coherence of all PAR policy components. The country indicated that the development of the strategies follows a principle that any policy action incorporates the EU approximation perspective.

The country indicated that the national interoperability framework, adopted in 2014, is aligned with the current European Interoperability Framework. It plans to further align the national interoperability framework with the updated version of the European Interoperability Framework, which is now being discussed. It would be also recommended that Albania seeks alignment with the proposal for [Interoperable Europe Act](#).

The Digital Agenda of Albania is in line with the [Berlin Declaration on Digital Society and Value-based Digital Government](#), being designed according to the principles described under this document.

Three core institutions make up the Centre of Government (CoGs) and provide instructions and policy coordination: the Prime Minister's Office (PMO), the Ministry of Finance and Economy (MoFE) and the Minister of State and Chief Negotiator. The country indicated that the EU Secretariat, now established under the PMO, will be given functions of vertical and horizontal coordination. It carries thus the central coordination function of the European integration process.

At administrative level, Albania established an *Integrated Policy Management Group* (IPMG) on Good Governance & PAR in 2015. This comprises representatives of line ministries and other government agencies related to good governance and public administration. It includes development partners, civil society representatives and local governments. The country indicated that this institutional architecture ensures the overall government policy coordination, programming, and the implementation of EU integration and national development initiatives related to public administration reform.

The political steering for PAR has been reinforced. The Strategic Planning Committee (SPC) is chaired by the Prime Minister. It steers the process of reforms and makes decisions. The Department of Public Administration, the Department on Good Governance and the Agency for Strategic Programming and Aid Coordination (SASPAC) continue to provide technical support. A new Minister of state for service standards has been appointed to improve the provision of public services from June 2022.

The Albanian administration uses an Integrated Planning System IT tool (IPSIS) as a centralized digital tool to ensure that strategies are interlinked, consistent, monitored and aligned with budgets. The authorities committed to paying particular attention to increasing the quality of reports. To this end, they have been delivering trainings for civil servants over the last three years to help them strengthen their capacity to produce high quality monitoring reports.

Regarding the financial sustainability, the country indicates that all five strategies of PAR have almost all activities costed. The costing is applied based on Medium Term Budget methodology that provides for costing of activities, outputs, and objectives of budget programmes.

Regarding accelerated integration Albania would be interested to request observer status in selected Technical Support Instrument (TSI) projects, in the Expert Group on Public Administration and Governance, and in the European Public Administration Network (EUPAN).

## **b. Commission assessment**

Regarding **legislative and institutional framework**, Albania should develop a robust and consistent strategic framework to achieve public administration and public financial management reforms. The current strategic framework, composed of five different strategic documents, implies a risk of fragmentation of the implementation and monitoring of reforms. In 2023, four out of these five strategic documents will be revised and will cover a seven-year period (2023-2030). The country should ensure coherence between the different documents, as well as with other planning documents.

Albania should ensure alignment with the latest version of the European inter-operability framework. The country contributes to the European Commission's eGovernment Benchmark<sup>6</sup> reports and should continue to do so.

With regard to **implementation**, Albania needs to ensure the systemic coordination between the different structures in charge of implementing and monitoring the reforms and clarify the responsibility for the overall steering of the PAR agenda. Although organisational and management structures for PAR are established, the overall architecture of the Integrated Policy Management Groups (IPMGs) to co-ordinate and lead implementation at the administrative level across all PAR substance areas is complex (six IPMG Thematic Groups and one technical committee cover all PAR and PFM areas). The country should ensure coordination between these different structures. The mandate for the political steering of PAR is blurred. Created in July 2022, the Minister of State for Service Standards is responsible for the good governance area, but whether this covers also PAR is not clear. The responsibility for the overall co-ordination and monitoring of the PAR agenda should be clarified, especially considering the fragmented nature of the current PAR strategic framework. Moreover, the link between technical and political support for PAR needs to be strengthened.

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<sup>6</sup> <https://digital-strategy.ec.europa.eu/en/library/egovernment-benchmark-2022>



Financial sustainability needs to be improved through better reviewing of overall financial resources, as currently, the reform implementation depends heavily on funding from external donors.

The Commission considers it relevant for Albania to obtain observer status in selected Technical Support Instrument (TSI) projects, in the Expert Group on Public Administration and Governance, and in the European Public Administration Network (EUPAN). These initiatives aim to enhance the collaboration of Member States and enlargement countries in view of the accession process. Providing the possibility to Albania of following and observing the work of EU Member States would add significant value on both sides as regards several different policy areas of top EU priority.

### c. SUMMARY OF FINDINGS – STRATEGIC FRAMEWORK FOR PUBLIC ADMINISTRATION REFORM

Albania is **moderately prepared** on its strategic framework for public administration reform. Albania should develop and adopt timely its new strategic framework to ensure continuity of the reforms. The overall consistency and financial sustainability of the strategy should be ensured. The **policy coordination system** to implement reforms remains complex, and the coordination and the political steering for implementing and monitoring the reforms should be enhanced.

## II. POLICY DEVELOPMENT AND COORDINATION

### a. Country presentation

The legal framework for **policy development and coordination** is based upon a set of legal acts, including the *Law on Organisation and Functioning of the State Public Administration*. The country plans to upgrade the existing legislative framework and to develop new regulations and systems for policy planning and coordination, with the objective of full alignment with EU standards.

Regarding **public scrutiny of government work**, the country considers that the existing regulatory framework provides for adequate parliamentary scrutiny and oversight of government policy making. The Assembly exercises its control function for the implementation of legislation or policies in the permanent parliamentary committees and in plenary sessions. Except for draft laws with budgetary impact, there is no legal requirement to ensure that the Government systematically reviews all draft laws initiated by the Parliament. The Government is not legally obliged to submit its annual legislative programme to the Parliament; however, the programme is published in the Official Gazette.

The country adopted the amended *Law on the Role of Parliament* in March 2023 and is currently drafting the Action Plan with measures.

Critical functions for **policy making** are formally assigned to the Centre of Government (CoG) including the Prime Minister's Office (PMO), the Ministry of Finance and Economy (MoFE), responsible to ensure the affordability of policies and to oversee the co-ordination of public sector resource planning, and the Ministry of Justice (MoJ), responsible for ensuring the legal conformity of draft acts. The country considers that the Integrated Policy Management Groups (IPMGs) mechanism allows to address cross-cutting reforms programmes and ensures coordination among CoG entities. The internal organization of the PMO is currently undergoing some changes, most notably with the appointment of the Minister of State and Chief Negotiator. Drafting of the rulebook to clarify roles and responsibilities within the PMO is ongoing.

The country reaffirmed that it has improved the quality of processes at the different steps of **inclusive and evidence-based policy and legislative development** in general, and specifically for policy development in line of EU accession/harmonization. Under the current process, each legal act goes through four preliminary checks before approval. These checks are conducted firstly by the MoJ (verification of legal compliance and cohesion of the act), secondly by the EU Secretariat in the PMO (verification of concordance between the draft act and the EU *acquis* and evaluation of the level of approximation), thirdly by the MoFE (verification of financial affordability) and lastly by the regulatory department in the PMO (regulatory impact assessment). The draft is then submitted for public consultation.

After an initial pilot starting in 2017, the practice of performing **regulatory impact assessments** (RIA) was formalised with the obligation for all draft laws fulfilling RIA criteria to undergo a RIA performed by the line ministry. RIA structures were set in place and capacity increased. Regarding RIA, the Government has intensified training programs for civil servants. Since the start of the process in 2019, 25 training sessions have been organised for the RIA network and all members of RIA units have been certified. In total, 100 civil servants have been trained during the 2019-2022 period. The Government also recognises that capacities still need to be strengthened to improve the quality of legislative development.

The PMO coordinates the policy content of proposals for government decision, including defining the policy preparation process and ensuring coherence with government priorities. Within the PMO, the main body dealing with quality control and monitoring of key policy development processes is the State Agency for Strategic Programming and Aid Coordination (SASPAC). Its mission is to coordinate foreign aid for development programmes and projects, to draft NSDEI and to monitor its implementation, providing methodological support in the design of cross-sectoral and sectoral strategies, with the aim of harmonising them with NSDEI.

The country considers that it has improved processes for **policy planning** and ensures the coherence between policy development and mid-term budget planning (MTBP). This includes a higher integration in the budget planning process between the PMO and MoFE. The ongoing rolling out of the IT tools for an Integrated Planning System is supposed to automate the link between strategic policy planning and budgeting.

In February 2022, the Council of Ministers approved the **National Plan for European Integration** (NPEI) for the 2022 – 2024 period. The implementation of the NPEI is monitored on weekly basis. Information is provided to the Parliament in the quarterly reports submitted to the Parliament.

The country indicates that it has upgraded the institutional set up in the context of the EU integration process: reorganization and strengthening of functions of the EU Secretariat (now within the PMO office), fostering of the coordination with European Commission services, capacity development actions to improve political and technical skills related to the negotiation process, setting up of a network of knowledge transfer, including former chief negotiators and negotiators, as well as the development of an awareness and communication plan related to EU integration focused on citizens and businesses.

Regarding **public consultation**, according to the *Law on Public Notification and Consultation*, each legal act for discussion in the government sessions includes a report on the outcome of the public consultation. This report is made public via the Government online consultation portal or the website of the respective ministry. A minimum duration for written public consultation through the Government online consultation portal (Electronic Registry of Public Notification and Consultation) is established and remains set at a minimum of 20 working days and may be extended to 40 working days regarding especially complex and important matters.

To guide the implementation of this regulation, the Government adopted in 2021 Guidelines on the Public Consultation Process that require public consultation for draft laws and draft policy strategic documents of high public interest, according to some criteria. Stakeholders are to be informed in advance about forthcoming public consultations. As per the new Guideline on Public Consultation Process the Government needs to, within one month after the approval of the annual Analytical Programme, prepare and publish the Annual Public Consultation Plan. Ministries should report quarterly on the implementation of their annual consultation plans and prepare and publish annual reports on the progress of the quality of public consultations.

In 2022, 866 acts were approved, out of which 49 acts were subject of public consultation. Regarding the local level, measures are also taken with regards to extending the public consultation process to Local Government Units. The National Agency for Information Society (NAIS) will prepare an information guideline for the municipalities regarding Electronic Register on Public Notification and Consultation, to inform citizens.

Several measures have been adopted by the Parliament to reinforce its **scrutiny function**, most notably the creation of a network to address the recommendations of the annual European Commission report, the monitoring of progress on implementation and the creation of a joint institution mechanism to ensure the systematic monitoring of independent institutions. The network will be composed of the Assembly, the Ministry of State for Relations with Parliament and six independent institutions. In the coming period, the Assembly plans to enhance the implementation of scrutiny mechanisms by increasing the number of hearing sessions in the parliamentary committees, the number of on-site visits and fact-findings by the members of the parliamentary committees and by developing the use of questions, interpellations, motions with debate and written requests of information directed to the government and its subordinated institutions.

## **b. Commission assessment**

Regarding **legislative and institutional framework**, Albania needs to strengthen the **coordination between policy-making institutions**. The legal basis and the institutional set-up for a coherent policy making system are in place. However, institutional coordination needs to be further improved. Albania has developed processes to ensure the coordination of the development of policies and ensuring that policies are aligned with EU acquis, most notably through the role of the State Agency for Strategic Programming and Aid Coordination (SASPAC). However, coordination between the Centre of Government (CoG) and line ministries and other agencies in planning and monitoring of government work remains limited. The complex system of Integrated Policy Management Groups (IPMGs) should be revised and the institutional set-up simplified and streamlined to improve this coordination.

Albania needs to reinforce the **central quality control function for policy planning and implementation** of the General Secretariat. The roles and responsibilities within the Prime Minister's Office (PMO) should be clarified through the adoption of the rulebook to strengthen the accountability for quality control on key policy development processes by the PMO. Equally, Albania should improve the administrative capacity of line ministries for policy planning, monitoring and data collection.

Albania needs to upgrade the existing regulatory framework on **medium-term policy planning**, improve coherence between policy planning and budgeting and establish a dedicated central quality control function for policy planning and implementation.

The quality of performance of the Integrated Policy Management Groups (IPMGs) varies across sectors and its role in policy coordination needs improvement. Further efforts are needed to upgrade the administrative capacity in both line ministries and PMO as well as to better define and implement policy planning and monitoring functions. The PMO rulebook remains to be adopted. The Integrated Planning System (IPSIS) is not yet fully operational. The medium-term policy-planning set-up is still fragmented, and the planning processes are not fully aligned.

Albania should extend the use of **regulatory impact assessment** to secondary legislation. The regulatory and methodological framework to ensure evidence-based policy making currently covers only primary legislation. Secondary legislation should also be covered. There are institutionalised ex ante tools for policy development and the development of new regulations and systems for government planning.

**Albania still needs to strengthen capacities related to policy development to be aligned with EU standards.** Since 2019, the country has made significant efforts to improve the regulatory impact assessment (RIA) process, including through the provision of dedicated trainings. In practice, RIAs are being systematically used in law making, but the quality of the analysis requires improvement. Training should be developed, as there is currently no regular training on policy making and RIA for civil servants. The Government also needs to continue efforts in the institutionalisation of RIAs and to improve the central quality control function of the General Secretariat in this area.

Albania should extend the scope of the **public consultation** process of the legal acts. The regulatory framework on consultation and participation of the public is partially in place. The public consultation requirement does not apply to secondary legislation and even for draft laws the law allows relatively wide exemptions. As a result, the majority of the legal acts (primary and secondary legislation together) have not undergone public consultation through the online portal. Only 49 acts were subject of public consultation during 2022, out of the 866 acts in total that were approved the same year. As regards public communication, governmental decision-making is not transparent enough and Albania should strengthen its communication to citizens on the Government's agenda and decisions in an accessible way.

Albania should strengthen the implementation of the new guidelines on public consultation, introduced in 2021, to ensure meaningful input by stakeholders in final policy design, improve the quality of the policy and increase public trust in the government.

Albania needs to reinforce the role of **parliamentary oversight of government**. The legislation for adequate parliamentary scrutiny of Government policy making is partially in place. Currently under revision, the *Law on the Role of Parliament* should strengthen the role of the Parliament, reinforce coordination between the Parliament and the Government and systemise the discussion and evaluation of Government-sponsored laws by the Parliament. The existing rules do not require the Government to review draft laws initiated by members of parliament systematically, nor does the Government do so on a regular basis, which can lead to inconsistencies in legislation and policies.

In practice, the Parliament rarely discusses and evaluates the implementation of laws and governmental policies. The role of parliamentary oversight of government performance, including sub-ordinated agencies, remains ad-hoc and needs to be increased.

With regard to the National Plan for European Integration, the structures of the transposition of the *acquis* are well-established, and the established rules are followed in practice. However, the translation of the *acquis* planned for approximation into the national language is inadequate, resulting in delays in the availability of translations and therefore, potential delays and weaknesses in transposition. Moreover, stronger coordination between PMO, the Ministry of Finance and Economy and the Ministry for Europe and Foreign Affairs is needed to further support line ministries in the process of proper planning and costing of the National Plan for European Integration and alignment with the annual analytical plan.

### c. SUMMARY OF FINDINGS – POLICY DEVELOPMENT AND COORDINATION

Albania is **moderately prepared** on its policy development and coordination. In the area of **policy development**, the legislation is **partially aligned** with EU standards, Albania needs to upgrade its regulatory framework to improve medium-term policy planning, to extend the use of regulatory impact assessment to secondary legislation and to reinforce the role of parliamentary oversight of government.

## III. PUBLIC SERVICE AND HUMAN RESOURCES MANAGEMENT

### a. Country presentation

The civil service relationship is regulated by the *Law on Civil Service* and by the Labour code, whereas employment relationship in other state institutions is regulated by the Labour Code. The country intends to amend the 2019 *Law on Organisation and Functioning of State Administration Institutions* to better define entities that are direct service delivery units. This would form the basis to clarify whether employment in them is covered by the Labour Code or the *Law on Civil Service*.

The **recruitment system** in the state administration is highly centralised. The system of pool recruitment for entry level - through open competition procedures - aims to ensure the objectivity of the results. Tests are organised centrally by the Department of Public Administration under PMO and are aligned with the skills required for the future job position. Regarding **senior positions**, the civil service legislation created a pool of Top Management Corps (TMC) for state administration institutions with special rules and regime. The country stated that recruitment procedures for top managerial positions are merit-based, and transparently managed by an independent selection commission. The Prime Minister and Ministers can only select candidates from the pool of competent officials with TMC status, resulting in less political influence over the recruitment process. The country also indicated a strict application of rules against discrimination based on race, ethnicity, gender or sexual orientation. 51% of managerial positions in the public administration are held by women.

The country affirmed that the civil service legislation defines clear criteria for the dismissal of civil servants/ public employees, disciplinary proceeding and measures and stipulates the right to appeal in court against administrative actions or omissions.

The country indicated that the **remuneration system** for the central administration is clearly regulated, with no discretion for the managers to determine basic salary levels. The salary is calculated according to the position and the grade of the civil servant. The methodology for job evaluation ensures the implementation of the principle “Equal pay for equal job”. The same salary system is applied for local government institutions, although the levels are different from those for the central administration.

A **Human Resource Information System** (HRMIS) is in place and supports a number of HR processes. However, the system is not yet able to fully support automated payroll calculation. This is currently only done for a limited number of staff. Reforms are underway to achieve full automation of payroll, but this will take a few years.

Regarding **professional development**, even though foreseen by the civil service legislation, the mechanism for horizontal promotion in salary steps based on performance is not implemented, due to a high degree of subjectivity of the assessment by managers during the performance appraisal exercise. Recent data showed that approximately 80% of employees’ performance is evaluated as “good” or “very good”. Albania is working toward taking necessary measures to reduce subjectivity to the extent possible. The recent interventions in the salary system from April 2023 increased the “seniority component” value that is expected to replace the salary steps mechanism. A revision of the civil service legislation is planned for 2023 to improve performance evaluation mechanisms and career retribution.

In 2022, the Albanian School of Public administration (ASPA) introduced a learning management platform to centralise **civil service training** and facilitate access to training programmes for all public employees. At international level, ASPA and the Department of Public Administration are taking part in several networks for professional development in the public sector.

At EU level, the Department of Public Administration is committed to continue the demarches for obtaining an observer status in the European Public Administration Network (EUPAN).



Regarding **civil service integrity** management, the High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI) has the mandate to administer declarations of assets and their audit, as well as supporting the prevention of conflict of interest. During the 2014-2021 period, 61,933 asset declarations were made public. Over the same period, the HIDAACI's activities led to decide on 2029 administrative sanctions and 518 criminal referrals.

HIDAACI has taken measures to increase its human resources and financial capacities, including the delivery of training sessions in collaboration with international partners and with the Assembly.

In the future, HIDAACI aims to continue the collaboration both with its international partners, and with national authorities in organising training activities, as well as in exchanging good practices with counterpart institutions in the region and EU Member States. Most important topics that are identified are: assets and private interest's verification, anti-money laundering verification, whistleblowing and whistle-blower protection, public procurement procedures, and state budget management procedures. Furthermore, in 2022, HIDAACI revised its organisational structure and requested additional employees for the administration.

#### **b. Commission assessment**

The legislative framework in force is broadly aligned with the core principles of **merit-based and transparent recruitment**. The criteria for demotion and termination of public service are explicit. With regard to implementation, Albania needs to apply consistently the provisions of **merit-based recruitment and promotion** across the administration. The system of pool recruitment for entry level is only partially implemented. Less than half of recruitment processes are pooled, as required by the Law on Civil Service; the others are for individual positions, partly because of job descriptions not being fully harmonised. The country needs to harmonise job descriptions across the administration. Having harmonised job descriptions across the whole public administration could help ensuring a fair, merit-based recruitment process as well as encourage mobility and development of transversal skills. The implementation of centralized and standard recruitment procedures for top managerial positions should contribute to reduce the influence of political connections, but they are not fully applied in practice. The use of exceptions allows for politicisation of Top Management Corps (TMC) positions. There is a high turnover in senior positions and a high number of vacancies despite available candidates, proving that the system does not work as foreseen.

The **digitalization** of human resources processes (recruitment, training) is broadly aligned with EU standards. The efforts to reinforce the attractiveness of the administration (including the continuous increase in salary levels despite the difficult economic context) result in a positive appreciation by civil servants and a high number of applicants in the recruitment procedures.

Albania should ensure that a **salary system** reform is prepared and implemented. The salary system is non-transparent, with limited incentives for progression, and distorted by the application of allowances for work conditions (attributed “arbitrarily” to some institutions by the government). The future revision of the civil service legislation should reform the remuneration policy - based on clear criteria for pay supplements and salary increases - and improve the objectivity of performance appraisal. This improvement would be a precondition to the application of the horizontal career path and thus to the development of mobility across the administration.

Albania should set guidelines on the creation of agencies. The scope of the civil service is comprehensive and defined by the legislative framework. However, the existence and creation of bodies placed under the Labour Code without a comprehensive steering framework, proper oversight or clear accountability lines create fragmentation. The applicability of employment under civil service law or the Labour Code for different functions and entities should be better defined, including through the proposed clarification of the definition of subordinated/service agencies.

The regulatory framework to prevent **corruption** and ensure the **integrity** of public officials and civil servants is comprehensive, yet fragmented. The institutional capacity for verifying assets and assessing conflict of interest declarations should be reinforced (see also Chapters 23 and 24). The resources of the High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI) are insufficient.

### **c. SUMMARY OF FINDINGS – PUBLIC SERVICE AND HUMAN RESOURCES MANAGEMENT**

Albania is **moderately prepared** on its public service and human resources development. The **civil service** regulatory framework is not comprehensive and there are legislative gaps, including the absence of a remuneration policy and the lack of a harmonised job classification. Provisions for merit-based recruitment and promotion are in place but need to be consistently implemented at all levels in practice.

## IV. ORGANISATION AND ACCOUNTABILITY

### a. Country presentation

The *Law on the Organisation and Functioning of the State Administration Institutions* (2012) regulates the **institutional framework**. The central administration is composed of four types of institutions: subordinated institutions, autonomous agencies, direct service delivery units and prefect administration. The types are defined by the nature of the functions the institutions perform, as well as - in the case of autonomous agencies - by the existence of funding external from the general state budget.

Regarding **Citizens' right to good administration**, independent institutions, the People's Advocate of Albania (Ombudsperson) and the Supreme State Audit oversee the public administrations. The People's Advocate has the mandate to protect the rights, freedoms and lawful interests of any person from unlawful or improper public administration behaviour. Contact points in the administration are responsible for supporting the implementation of their recommendations.

**Citizens' right to information** is guaranteed by the legal framework in force. An increasing number of public authorities have adopted and published their transparency programmes. As an independent institution, the Information and Data Protection Commissioner monitors the disclosure of public information by all public authorities and examines complaints for refusal to provide information upon request. The country indicated that the legal framework is being revised, with adoption of amendments to the *Law on the Right to Information* in 2023. The *Law on Open Data and the Re-use of Public Sector Information* will also enter into force the same year. According to the authorities, this upgrading of the regulatory framework will align national legislation with the European Regulation for the Protection of Personal Data and the Police Directive.

For the **right to administrative justice**, appeals procedures are defined by the Code of Administrative Procedures (CAP). Two legal remedies exist for citizens: the administrative appeal and the review. The administrative appeal refers to administrative appeal against the administrative act and administrative objections. The review (or 'reopening') is used when an appeal is not acceptable any more due to the expiry of the deadline. It can be used only when new circumstance or new evidence in writing are discovered. The appeal procedure has to be conducted in two phases. During the first phase, an appeal shall be examined by the competent body itself which has issued the administrative act or procedural action. If the appeal is considered as inadmissible or not fully grounded, the competent body has to transfer it to the superior body without any further checking the legality and suitability of the administrative act. The country undertook the harmonization of sectoral laws with the CAP and identified that a total of 113 legal acts should be aligned with the CAP.

In addition to the CAP, Albania adopted in 2021 the new *Law on Governance with the citizens* that allows to file grievances online and introduces a mediation process intended to solve issues without going to court. The country indicated that 60% of administrative complaints were solved through this mechanism, thus reducing the backlog. As regards this new online procedure to collect complaints, 2000 complaints by week are made both by citizens and businesses, among which 10% are not responded to within the deadline.

The organisation of the administrative justice is defined by the *Law on Administrative Courts and Adjudication of Administrative Disputes*, supplemented by the Civil Procedure Code. It is composed of six administrative Courts, one court of Appeals for Administrative Cases and the High Court, with a separate Chamber to adjudicate administrative disputes.

In terms of **implementation capacity**, regarding **accountability lines**, annual plans, budget and annual reports of subordinated institutions are submitted to the line ministry for approval. The country acknowledges that the distinction between subordinated institutions and autonomous agencies is blurred and not based on clear criteria. Albania indicated that the *Law on the Organisation of the State Administration* is being amended to define clear accountability lines between line ministries and subordinated agencies.

**Access to information** is supported by two main tools: the electronic Requests and Responses Register on the Right to Information that enables direct access of citizens and stakeholders to public information, and the Albania e-government portal that offers the possibility to request public information and complain for refusal of access the information.

Albania provided data related to the backlog of cases in administrative justice. At the start of 2022, there were 6,278 files (in first instance courts) and 18,415 (in the administrative court of appeal). According to the country, the backlog was caused by the limited resources, namely, the small number of judges (only 6 judges). Each judge works with legal advisors. Albania will perform a study on how best to resolve the issue of the backlog of administrative justice cases, considering, *inter alia*, increasing the number of legal advisors to improve the human resources capacity and accelerate the treatment of administrative appeals.

## **b. Commission assessment**

**Albania needs to clarify accountability lines between supervisory and subordinated bodies.** The current legal framework for the organisation of the central administration does not set a clear typology and criteria for the creation of subordinated bodies, neither does it provide for coherent accountability lines between supervisory and subordinated bodies. In addition, the distinction between subordinated institutions and autonomous agencies remains unclear. Agencies such as the State Agency for Strategic Programming and Assistance Coordination, the Agency for Media and Information and the Co-Governance Agency need to be better structured and assigned clear roles. The oversight of subordinated agencies by respective portfolio ministries is insufficient.

**The country should improve the legal framework to implement active and results-oriented steering of the subordinated agencies by line ministries.** The future amendment of the *Law on the Organisation and Functioning of the State Administration* should also establish clear criteria for the creation of subordinated bodies that should be properly followed.

**The Assembly needs to strengthen efforts in supporting the activities of public independent institutions with an oversight role.** Oversight institutions are formally independent, and the People's Advocate (Ombudsman) exercises its power of control of the executive. Nevertheless, the implementation rate of recommendations by oversight institutions remains weak (42% in 2021). Moreover, to ensure effective oversight power, the mandate of the People's Advocate of Albania should cover the entire executive.

**The future legislative framework for access to public information should strengthen the powers of the Information and Data Protection Commissioner** by providing the mechanisms to enforce decisions and the mandate to conduct comprehensive inspections. Equally, the role of the coordinators for the right to information within the public authorities should be strengthened.

**Albania should improve the implementation of appeal procedure.** The legislative framework for the right to administrative justice is in place. However, in practice the capacity of the administrative judicial system is limited. Whereas the level of efficiency of administrative courts is satisfactory, the appeal procedure in administrative judicial cases is not functional. The number of backlog cases remains very high (15,157 cases in administrative court of appeal in 2021, 18,415 cases in 2022). The size of this backlog is major issue as regards with the citizens' right to administrative justice and the country needs to take the necessary measures to implement the appeal procedure in practice and drastically reduce the number of backlog cases.

Legislation is in place for protecting the right of citizens to seek compensation and is applied in practice in judicial cases. However, there is no mechanism for regular monitoring and analysis of the administrative and judicial practice in these matters. Furthermore, the Government does not collect data on payments made in public liability cases. The authorities should reinforce its capacity to detect and mitigate cases of severe maladministration.

### c. SUMMARY OF FINDINGS – ORGANISATION AND ACCOUNTABILITY

Albania is **moderately prepared** on its organisation and accountability system. In terms of **accountability**, the criteria for the creation of subordinated bodies, as well as accountability lines between supervisory and subordinated bodies remain to be clarified in the legislation and applied across the administration. The digitalisation of **delivery of public services** has significantly improved, but access of all citizens to administrative services and equal treatment for all should be guaranteed.

## V. SERVICE DELIVERY TO CITIZENS AND BUSINESSES

### a. Country presentation

Over the last decade, Albania has been implementing a large-scale process of **digitalisation**. This reform targets both the public (provision of online public services to citizens and businesses) and the administration itself (digitalisation of the administration's work processes).

Regarding the **provision of public services**, the Decision of the Council of Ministers on the Establishment of the e-Albania Governmental Portal State Database in 2020 established the e-Albania portal as the single point of contact that enabled access to the online electronic services provided by the public administration. This decision transposes partially the Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, procedures and assistance and problem-solving services.

In 2017, the legal framework introduced legal validity to the administrative documents generated through the e-Albania portal, paving the way for the electronic seal.

In 2019, an Order of the Prime Minister defined the obligations of public administration institutions and service providers into taking the necessary steps to provide public services to citizens and businesses exclusively online through the e-Albania portal. All state documents that were previously required from citizens or businesses are not being required anymore. It is the civil employees' duty to gather these documents on behalf of the citizen and businesses either by downloading their e-sealed version from the e-Albania platform or by requesting them to the providing institution through a dedicated electronic system developed specifically for this purpose.

With regard to the administration's work processes, in 2020, a dedicated electronic system (e-Signed Documents Circulation System) for interaction among all institutions was set up. The purpose of the system is to regulate the procedures for exchange of documents from the citizen's file in electronic form, paperless and bearing electronic signature.

The *Law on e-Government* was adopted in February 2023. Its objective is to determine the rights, obligations and responsibilities of the public authorities and private entities, in relation to the creation, development and management of information infrastructure systems, electronic security standards and information technology.

The digitalisation process is coordinated and implemented by the National Agency for Information Society (NAIS), which is the core institution in terms of digitalisation of government and state services provided to citizens, businesses and public administration in Albania.

As part of the reform, in October 2014, ADISA was established to manage the centralised public service delivery to the citizens. Its mandate includes the implementation of the separation of the front office (FO) from the back office (BO) in all central institutions. In 2021, ADISA had a network of 21 regional service centres across the country. Following the process of digitalisation of public services, ADISA's physical service centres closed as of 1<sup>st</sup> May 2022. Its staff is currently involved with the management of cases from the online platform of governance with the citizens. ADISA's call centre continues to be fully operational in assisting citizens with public services delivery.

With regards to public services, 95% or 1226 of all public services are currently provided online-only on the e-Albania portal. According to the data provided by Albania, the number of applications on e-Albania (either for the provision of e-services or the use of e-sealed documents) has significantly increased by 47% from 2020 to 2022, and there are 2.7 million citizens and businesses registered users.

Regarding electronic sealed documents, currently 55 types of documents with electronic seal are provided on the portal. In 5 years (2017 - 2022), 23.7 million documents were generated. Albania indicated that these documents that are now offered free of charge in their electronic version have generated significant economic gain and save time for citizens and businesses.

The country plans to proceed further with the **re-engineering and customization of public services** to simplify administrative procedures, align to the once-only principle and reduce the service obtainment time. It also considers to reorganise the e-Albania portal through the life events model (for instance birth of a child, change of residence, etc.) by 2026. Regarding accessibility for people with disabilities, the country plans to proceed by the end of 2024 with the transposition of the Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies. From an operational viewpoint, the upcoming plans are to work toward making e-Albania universally accessible to people with special needs (for example access for people with disabilities, simplified version for certain users, foreign language version for foreign users, etc.). Moreover, adopted in 2022, the Digitalisation Agenda Strategy puts the development of digital skills of Albanian citizens as a main priority.

With regard to the **administration's work processes** and the implementation of the e-Signed Documents Circulation System (EDCS), Albania indicated that since 1 January 2020, 240,012 documents and 259 types of documents have been exchanged within government institutions. The EDCS will be extended by the end of 2023 to the remaining institutions/services, and periodic inspections based on the results of EDCS monitoring will be conducted, as from 2023. The services offered by all service provider institutions, whose applications are submitted through the e-Albania platform, are provided only electronically by ensuring the issuance of the final document with electronic signature or electronic seal.

Regarding **cyber-security management**, the organization's information risk management processes is based upon a set of policies and procedures that include all legal, physical and technical controls. On July 17<sup>th</sup> 2022, Albania was hit by a cyber-attack targeting government systems, but the e-Albania platform was not attacked. It was manually shut down as a security measure. Three days after, on 20 July, the system was back in operation and 1,118 out of 1,225 electronic services were online. The country indicated that training programmes on cyber security will be extended and business continuity centres will be installed.



**Regarding data protection**, the country indicated that it applies a “zero trust logic” principle and that all data servers are currently closely monitored. In accordance with the directive with EU, the agency in charge of cyber security has developed a strategy to ensure the protection of citizens’ data, aiming at improving the implementation of security standards based on improved technology for critical infrastructures, improving the ISO-related standards, reinforcing the capacity building in this area and increasing the number of security agents.

#### **b. Commission assessment**

The **legal framework and institutional set-up** to ensure user-oriented administration is in place. Albania should address the issue of equal access to administrative services for digitally illiterate people, people with limited access to IT equipment and people with disabilities.

The country should align with the latest European Interoperability Framework. eIDAS Regulation is currently under revision by the EU in order to develop the technical and regulatory framework for the future EU Digital Identity Wallet. Albania should follow developments in this area in order to align their internal legislation with the new framework.

The Code of Administrative Procedures provides the legislative and methodological framework for simplifying administrative procedures in line with international standards. An action plan for implementation of the Code is in place. However, legal uncertainty for citizens and businesses persists, as well as delays in harmonising sectoral laws and by-laws with the Code.

With regard to **implementation**, Albania needs to provide easy accessibility and user friendliness of administrative services, online and offline, ensuring equal treatment for all. The strong focus on digitalisation of public services has improved the accessibility of citizens to administrative services through the e-Albania portal. However, according to the eGovernment Benchmark, in 2022 Albania performs moderately on online availability (65,2 versus 88 EU27+ average<sup>7</sup>). The overall maturity of the country is among the lowest scoring ones (45,4 versus 70,1 EU27+ average). Moreover, the principle of e-Albania portal as a single contact point and the shut-down of physical offices in May 2022 have also created some difficulties for citizens to access to administrative services due to the lack of awareness of availability of e-services or digital illiteracy or no access to IT equipment. The official support in this area is limited, despite the existence of the call centre supervised by the Agency for the Delivery of Integrated Services (ADISA). Almost one third of the population using online services at least to some degree has evaluated their experience as “not very easy” or “not easy at all”, which raises questions about the user-friendliness of the online platform. The Albanian administration should guarantee equal access to administrative services and equal treatment for all. An overarching policy should be elaborated to guide the extension of online services and the integration of on-line and face-to-face services, while addressing the issue of digital illiteracy.

Regarding **data protection**, Albania should upgrade its regulatory framework to align with EU standards. The Albanian governmental Public Key Infrastructure technology is compliant with the eIDAS Regulations. More work is being done regarding the law of trusted services in order also for it to be fully compliant with eIDAS.

The country should address the issue of online payment limitation. Although online payment is technically possible through the Government Electronic Payment Platform, it is still not available for all services, which makes it difficult to transform services into a fully digital format.

### c. SUMMARY OF FINDINGS – SERVICE DELIVERY TO CITIZENS AND BUSINESSES

Albania is **moderately prepared** on its service delivery system. The digitalisation of **delivery of digital public services** has significantly improved but accessibility to administrative services for all citizens and businesses and equal treatment for all should be guaranteed.

<sup>7</sup> Includes EU27, Iceland, Norway, Montenegro, Republic of Serbia, Switzerland and Türkiye, Albania and N. Macedonia.

## VI. PUBLIC FINANCIAL MANAGEMENT

### a. Country presentation

Albania has in place a well-established **institutional framework** for public financial management. The lead role in the area is assigned to the Ministry of Finance and Economy (MoFE). The ministry is in charge of **budget preparation and implementation**, formulating fiscal policy, managing public debt and ensuring **public internal financial control** - See Chapter - 32 Financial Control. On the **revenue** side, the Tax Administration is responsible for the collection of personal and corporate income taxes, VAT, social insurance levies and other national level taxes. The Customs Agency administers the customs and excise duties.

Albania has adopted a comprehensive **PFM Strategy** in 2014. This provides a detailed analysis of the main structural weaknesses in the area of PFM and outlines the corresponding reform measures. It includes performance indicators and costing of activities. The PFM strategy was formally revised in 2019 with a new action plan adopted and the implementation period extended until 2022.

Albania is currently preparing a new PFM Strategy beyond 2022, based on the outcomes of the main diagnostic tools such as *Public Expenditure and Financial Accountability* (PEFA), *Public Investment Management Assessment* (PIMA) and *Tax Administration Diagnostic Assessment Tool* (TADAT) as well as results of the implementation of the current PFM Strategy. The performance framework and the action plan were updated in 2020 following the earthquake and the outbreak of the COVID-19 pandemic crisis. The implementation of the PFM strategy is regularly monitored and reported by the government. According to the latest government report, the implementation rate is 79% of outputs. Albania has established an annual government-led **PFM policy dialogue** with all relevant stakeholders, including the EU, main IFIs and partner countries, as well as civil society organisations.

In the area of **budgeting**, since 2008, Albania has in place an Organic Budget Law (OBL) which prescribes the process of the budget preparation and implementation. The budgetary process has been in line with the OBL in the recent years. In 2019 Albania has introduced a web-based digital platform for the budget preparation – Albanian Financial Management Information System (AFMIS). The AFMIS is currently used by 11 line ministries and 35 central government institutions.

The **fiscal performance** in Albania has been stable. A number of fiscal rules were introduced in the OBL. The application of fiscal rules was suspended in 2021 following the outbreak of the pandemic crisis. The government remains committed to returning to the application of the fiscal rules in the coming years. From 2015 to 2019, public debt was on a downward trend. The country's overall debt target of 45% of GDP is expected to be achieved in 15 years according to the government plans. The debt servicing costs remain under control. There is a 2022-2026 medium-term **debt management strategy** in place. However, the annual borrowing plan remains to be prepared and published on a regular basis.

MoFE of Albania is responsible for assessing, monitoring and mitigating the **fiscal risks**. A fiscal risk unit within MoFE was established in 2019. It has gradually expanded the scope of its monitoring and reporting. The fiscal risks statement is prepared and published by the MoFE on a regular basis as part of the budget documentation. In recent years, MoFE has strengthened its capacities in dealing with the fiscal risks by allocating additional staff and resources.

The work on **public investment management (PIM)** is coordinated by three institutions: the MoFE, Central Government Unit and State Agency for Strategic Programming and Aid Coordination. The legal basis for the PIM is provided by the Law on management of budgetary system in the Republic of Albania and the Law on concession and public private partnership as well as several decisions of the Council of Ministries and instructions of the MoFE. MoFE is currently revising the decision on public investment procedures with an aim to improve the feasibility analysis and monitoring of the public projects implementation as well as to establish a procedure for endorsement of the list with the strategic projects of national importance. There is no comprehensive **public asset** register nor a clear methodology for the classification, identification, recognition as well as subsequent measurement and de-recognition of the public assets.

To ensure **budget transparency**, Albania is systematically preparing and publishing the budget execution and mid-year reports as well as trimester-based budget performance monitoring reports.

## **b. Commission assessment**

Albania has in place a comprehensive legal basis for PFM as well as a well-established **strategic and institutional framework**. The medium-term budgeting is introduced and the Medium-Term Revenue Strategy is at the final stage of preparation. There is a relevant and credible PFM Reform Programme in place since 2014 and the government has established an annual government-led PFM policy dialogue. To improve the debt management, the government has adopted a comprehensive 2022-2026 medium-term debt management strategy.

**Albania needs to further improve the credibility of the Medium-Term Budget Programme (MTBP) and adopt the Medium-Term Revenue Strategy (MTRS) with a view to increase the tax revenue and support overall tax reforms.** The Organic Budget Law, which is the main legislation regulating the budgetary process, has been systematically implemented in the recent years. The budget calendar is orderly and adhered to, and the budget proposal that is submitted to Parliament is comprehensive and reasonably transparent.

The quality of the MTBP has improved. However, **the credibility of revenue estimates in the MTBP remains weak reflecting the high deviation between the initial estimates and the actual revenue outturns.** The MTBP is also lacking stable sector ceilings to support the policy implementation by the line ministries. The annual budget is frequently amended by the government through the normative acts on an ad hoc basis throughout the fiscal year, often lacking transparency and economic rationalisation, thus reflecting the weaknesses of the planning system. A Medium-Term Revenue Strategy, which is currently at the final stage of preparation, should help to increase the tax revenue and support Albania's tax reforms as well as provide stability and predictability of the tax system.

**As regards fiscal risks, Albania needs to strengthen the capacities of the Ministry of Finance and Economy in order to ensure an effective fiscal risks monitoring.** Albania has gradually expanded the scope of monitoring and reporting. However, further capacities are needed to effectively monitor the fiscal risks in particular those related to the contingent liabilities stemming from public-private partnerships, state-owned enterprises, and guarantees. There is no Fiscal Council in place – an independent oversight body with a mandate to assess the fiscal risks and monitor the compliance with the fiscal rules. Further weaknesses can be noted in monitoring the fiscal risks from the borrowing and debt of SOEs, as well as the local government debt. There is no systematic SOEs debt reporting in place.

**Albania needs to improve public investment management, in particular through establishing a single project pipeline and ensuring that all public projects are subject to the public investment and procurement frameworks irrespective of their funding source.** The MoFE lacks capacity to play an effective role of a gatekeeper in the project selection process as well as in evaluation and monitoring of the implementation. The large capital investment decisions generally lack independent and transparent appraisal of the costs and benefits. There is no functioning single project pipeline in place. Public Investment Management and public-private partnership processes remain to be aligned and fully integrated into the budget cycle. Moreover, all public projects need to be subject to the public investment and procurement frameworks irrespective of their funding source.

**To further improve budget transparency, Albania needs to restore the practice of publishing audit report online in a timely manner as well as to include in the Executive's Budget Proposal data on the financial position of the government and data on the macroeconomic forecast.** The Government publishes all key budget documents within a timeframe consistent with international standards. The government of Albania published the 2022 budget (executive's budget proposal and the enacted budget) in a timely manner for the general public on the website of MoFE and in printed form in the Official Gazette.

In the Open Budget Survey for 2021, Albania's score on budget transparency is 52 out of 100 which is close to the country's score of 2019 – 55. The score of 61 and above would indicate that the country is likely publishing enough material to support informed public debate on the budget. (e.g. Slovenia's score is 66, Croatia's score is 64).

### **c. SUMMARY OF FINDINGS – PUBLIC FINANCIAL MANAGEMENT**

Albania is **moderately prepared** on its public financial management system. Albania has in place a well-established framework for **public finance management**. There is a need, however, to further improve the medium-term budgetary framework and increase the institutional capacities for the fiscal risks monitoring and public investment management.

## D) CHAPTER 23 - JUDICIARY AND FUNDAMENTAL RIGHTS

According to Article 2 of the Treaty on European Union (TEU), the European Union (EU) is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These principles are common to the Member States, in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail, and need to be complied with by candidate countries. Article 49 of the Treaty on European Union states that ‘Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.’

Pursuant to Article 19 (2) TEU Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law. The right to fair trial, as enshrined in Article 6 of the European Convention on Human Rights (ECHR) and Article 47 of the Charter of Fundamental Rights of the EU (CFR), provide that the judiciary must be independent and impartial.

Successfully preventing and fighting corruption is essential both to safeguard EU values and interests, as well as the effectiveness of public policies, and to maintain the rule of law and trust in those who govern and public institutions. Protecting these values is a priority for the EU and its Member States, in line with the EU *acquis* and European standards in the area. Notably, pursuant to Article 67 TFEU, EU should ensure a high level of security, including through the prevention and combating of crime and the approximation of criminal laws. TFEU Article 83 (1) establishes the competence of the Union to draw up minimum rules concerning the definition of criminal offences and sanctions related to corruption. Article 325 TFEU, which tasks the EU and its Member States with the obligation to protect the EU’s budget from fraud and any other illegal activities affecting the EU’s financial interests.

According to TEU Article 6 the EU respects fundamental rights, as guaranteed by the CFR. Moreover, fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

TEU Article 3(2) and Article 67(1) of the Treaty on the Functioning of the EU (TFEU) establish an area of freedom, security and justice.

## **I. JUDICIARY**

### **I.A GENERAL OVERVIEW**

#### **a. Country presentation**

Albania informed that a cross-sector justice strategy is in place, with an action plan for 2021-2025. This is part of a broader long-term reform strategy, implemented since 2016. In 2014, the Assembly established an ad hoc Commission to design the main legislative terms of justice reform. In 2016, a third of the Constitution was amended to address issues related to judicial independence, accountability, integrity, efficiency and professionalism. The reform resulted in substantial institutional developments, including the establishment in 2018 of two new separate bodies High Judicial (HJC) and High Prosecutorial (HPC) councils, the High Inspector of Justice (HIJ), and the Justice Appointments Council (JAC). The reformed institutional framework ensures self-governance of the judiciary, independence of prosecutorial services, accountability of its members, and substantially depoliticised appointments to the Constitutional Court and High Court. The HIJ is the only body mandated to carry out disciplinary investigations on judges and prosecutors and propose disciplinary actions. The HJC and the HPC decide on disciplinary measures respectively.

The Albanian judiciary is organised as a three-instance court system. It consists of district Courts of First Instance for civil and criminal justice, one Court of Appeal (streamlined in a single court as of first of February 2023, from the previous configuration of six District Appeal Courts), High Court, six Administrative Courts of First Instance (to be streamlined to two as of June 2023) and an Administrative Court of Appeal. In addition, there is a Special Court of First Instance Against Corruption and Organised Crime, with a separate Special Court of Appeal. Such specialised bodies adjudicate cases of corruption, organised crime and criminal charges against state officials as listed by the Constitution. Prosecution is composed of a General Prosecution Office, the Prosecution Offices Attached to Courts of Appeal of General Jurisdiction (now one singular Court of Appeal) and the Prosecution Offices Attached to district Courts of First Instance of General Jurisdiction. The Specialised Structure for Anti-Corruption and Organised Crime (SPAK) comprises the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI).



The Constitutional Court is composed of nine judges (three appointed by the President, three by the Assembly, three by the High Court) and is fully operational. All members have been elected via the new constitutional procedures, after having been vetted. At present, the Constitutional Court is functioning with 9 out of 9 judges and has the necessary quorum to hold plenary sessions. Its backlog has been reduced (36 cases were pending in 2022 compared to 87 in 2021). With justice reform, the Law on the Constitutional Court was amended to provide for the right to request a retrial on the basis of decisions issued by an international tribunal. Article 131.f of the Constitution disposes that the Constitutional Court examines individual complaints related to fundamental rights and freedom guaranteed by the constitution after all effective legal means have been exhausted. Article 70.1.C §3 of the Law on Constitutional Court provides that in case an international tribunal rules that an individual that has been subject to fundamental rights and freedoms violation has the right to request reopening of the judicial process before the constitutional court. Article 7.d of the same Law specifies that the Chairperson is elected by secret ballot based on a majority vote of all judges of the court.

As part of the justice reform, Albania introduced a comprehensive transitional re-evaluation (vetting) of all sitting judges and prosecutors; this also covers senior legal advisors and assistants and, upon request, former judges or prosecutors and former legal advisors of the Constitutional Court and High Court<sup>8</sup>. The vetting pertains to three pillars of assessment: proficiency assessment; asset verification, which includes the wealth of the assesses and their close relatives in Albania and abroad; and background assessment, including links to organised criminal networks. The vetting process is ongoing, under the independent external oversight of the International Monitoring Operation, deployed by the European Commission and the U.S. State and Justice departments. By July 2023, 674 persons had undergone the re-evaluation in first instance and 136 appeals were pending. The dedicated budget for the vetting institutions has increased (+34% between 2019 and 2022 for the Independent Qualification Commission, +53% for the Special Appeal Chamber, +12% for the Office of the Public Commissioners). Article 53 of the Vetting Law provides that the general public can denounce relevant facts or circumstances that might constitute evidence related to the re-evaluation criteria. The re-evaluation institutions published a template to facilitate the submission of information by the public. In February 2022, the Parliament has prolonged the mandate of the Independent Qualification Commission and Public Commissioners till the end of 2024.

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<sup>8</sup> Special annex to the Constitution, Law no. 84/2016 “On transitional re-evaluation of judges and prosecutors” (Vetting Law); Constitution of the Republic of Albania, Law no. 8417, 21.10.1998, as amended Articles 3, 17, 42, 43 and Article 179/b; ECHR (CoE) ratified with Law no. 8137/1996, 31.07.1996; Constitutional Court Decision no. 2/2017

## **b. Commission assessment**

Albania is **moderately prepared** on the functioning of the judiciary.

Albania's **legislative and institutional framework** on judiciary has a **high level of alignment** with the EU acquis and European standards. The 2016 judicial reform led to profound reform of **the legal and institutional framework** of the judiciary and prosecution services and put in place legal guarantees to strengthen the independence of the judiciary and prosecution, including: unblocking mechanisms for the appointment of judges and prosecutors; tools to avoid political influence in justice institutions, accountability mechanisms, and **the vetting** of all sitting judges and prosecutors.

The judicial reform led to a full institutional restructuring of the judiciary and prosecution services in line with European standards, including the reform of the Constitutional Court and the establishment of new bodies for the self-governance of the judiciary.

Continuous legal fitness checks and targeted legal changes are necessary to eliminate legal bottlenecks and consolidate the legal framework to further strengthen the independence and integrity of the judicial and prosecutorial systems, ensure efficient delivery of justice, consolidate the capacity of justice institutions, and increase public trust in the judiciary. Notably, provisions regulating pre-election of the non-magistrate members of the HJC and HPC should be aligned with the standards of background check and asset declaration applicable to magistrates.

Any legal initiatives in the justice sector need to be compliant with EU acquis and European standards, and further strengthen the principles of the 2016 justice reform.

Albania has maintained an overall steady **implementation** of the framework put in place by the 2016 justice reform. Albania needs to further consolidate and deepen the implementation of the reformed legal and institutional framework, notably by ensuring effective cooperation between justice institutions, allocation of sufficient resources and efficient systemic functioning of the justice sector. The capacity, independence and efficiency of the independent self-governance bodies of the judiciary needs to be strengthened, including by ensuring quality of their decisions, transparency of their work and effective public communication. The capacity of specialised bodies (SPO, NBI and the Courts for High Level Corruption and Organised Crime) need to be significantly strengthened to ensure that they conduct their work in an efficient manner. The renewal of the HJC and HPC membership should follow the principles of full transparency and independence. All non-magistrate members of the justice institutions, notably those appointed to the HJC and HPC, need to be subject to similar standards of background check and asset declaration applicable to magistrates. The quality of HJC and HPC decisions, including compliance with European law and standards should be ensured.

Further efforts are needed to achieve efficient delivery of justice and quality of judiciary and prosecution services. The acute problems of the backlog of cases, length of proceedings, as well as a lack of integrated case management, weak in-court performance, quality and streamlining of judicial acts, and limited public access need to be forcefully addressed.

The vetting process, carried out under independent international monitoring, has delivered good results in increasing the accountability of the justice sector. Albania must ensure systematic initiation of criminal procedures against judges and prosecutors whose vetting process revealed criminal elements. The vetting institutions are expected to systematically refer cases to prosecution services where there are indications of criminal offences. Prosecution services are encouraged to proactively initiate criminal procedures against judges and prosecutors whose vetting process revealed criminal elements. The vetting process should be orderly finalised before the constitutional deadlines, and appeals accelerated, without prejudice to the quality of the judicial review.

The implementation of the strategic framework is under way, however, strengthened capacities to collect and report data, and further improvement of coordination between the justice institutions remain necessary.

Albania must ensure prompt execution of ECtHR judgements, notably on the right to enforcement of final judicial decisions and excessive length of judicial proceedings.

## **I.B INDEPENDENCE AND IMPARTIALITY**

### **a. Country presentation**

The principles of separation of powers and independence of the judiciary, including through budgetary independence, are entrenched at the level of the Constitution. The 2016 justice reform strengthened related guarantees. A revised mechanism for the appointment of Constitutional Court judges has been introduced, including ranking by the Justice Appointments Council (JAC) and a de-blocking mechanism on appointment. The High Court judges are appointed by President, upon proposal of HJC for a 9 year non-renewable mandate (Article 136 of the Constitution), while the General Prosecutor is elected by Assembly, upon proposal of the HPC. Salary levels and benefits of magistrates are established by law and enjoy specific safeguards. Law 96/2016 sets out specific standards on independence of magistrates during the exercise of their functions.

Transfer of magistrates without consent cannot take place, except under exceptional circumstances explicitly foreseen by law. Judges have the right to appeal against a decision on a transfer without consent before a court. Since 2016, the HJC applied transfer without consent only once in 2018. A mobility scheme was then introduced and no further cases were recorded. According to Article 137 of the Constitution, judges enjoy immunity in connection to the opinions expressed and decisions made while exercising their function (except for self-interest or bad faith).

Autonomy and independence of the prosecution services are guaranteed by Constitution and the Prosecution Office Law.<sup>9</sup> Special Prosecution Office is independent from the Prosecutor General. Article 49 of the Prosecution Office Law states that substitution of a prosecutor in a case is only allowed within the limits prescribed by law and the related decision can be subject to complaint before the HPC. Heads of prosecution offices may issue non-binding, written and reasoned instructions regarding concrete cases; prosecutors have the right to request explanations. HPC pre-assesses and proposes to the Assembly the list of candidates for Prosecutor General.

As regards secret information, the Prosecutor General approves the procedures of information-tracing activities by the secret service, and exercise control over their implementation in relation to citizens' rights and freedoms.

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<sup>9</sup> esp. Law. No. 96.2016 Status Law, and 97/2016 on the Prosecution Office

The HJC is an independent institution composed of eleven members: six coming from the judiciary are chosen by their peers; five non-judge members are elected by the Assembly by qualified majority from the civil society, academia, and the advocacy. The HJC has competence on all aspects related to the status of judges, it supervises the functioning of courts, manages transfers, appointments and allocation of budget. It proposes and administers its own budget and oversees allocation of resources across the whole judicial system. It employs 108 staff members, out of the 128 foreseen. In 2022, it had a budget of EUR 124,100.

The HPC is tasked to guarantee independence, accountability, discipline, status and career of prosecutors. It appoints, evaluates, promotes and decides on transfers of prosecutors at all levels. It also decides on disciplinary measures against prosecutors that are brought by the HIJ, as well as it proposes to the Assembly candidates for Prosecutor General.<sup>10</sup> The HPC has eleven members, six prosecutors chosen by their peers and five non-prosecutors elected by the Assembly by qualified majority. The HPC employs 61 members of staff out of the 72 foreseen and in 2022 had a budget of EUR 1,227,668.

The Office of the General Prosecutor manages the administration and the budget of the Prosecution Offices and is appointed by Assembly by qualified majority. It also represents cases before the High Court and the Constitutional Court. General Prosecutor's Office reports to the Assembly on the situation of criminality and preventive measures. The requirement of impartiality for prosecutors is legally guaranteed.<sup>11</sup>

The Constitution stipulates the conditions for dismissal and suspension of the prosecutor general and the members of the HJC and HPC upon decision of the constitutional court.<sup>12</sup>

The random allocation of cases for prosecutors is regulated by law which also prescribes that the High Inspector of Justice conducts periodic inspections in the prosecution offices on the allocation of cases by lot. The electronic lot procedure is made possible by the current case management system, CAMS.

Legal provisions on conflicts of interest and rules on disciplinary responsibility are in place. The incompatibility of magistrates' functions with political activities, limitations, and other activities are detailed under Title II of the Law on the Status of Judges and Prosecutors. The law also stipulates the terms for verification of assets upon entering the magistrate career and procedures for asset declaration.

It is a criminal offence to exert undue influence over a judge or a prosecutor.

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<sup>10</sup> in accordance with the Art.183, L. 115/2016

<sup>11</sup> Article 6 of the Law on the Organisation and Functioning of the Prosecution Office in the Republic of Albania

<sup>12</sup> Article 147.c and 149.c

## **b. Commission assessment**

Overall, **the legal and institutional framework** in place ensures strong independence and impartiality guarantees. Justice reform strengthened the separation between executive and legislative powers from the judiciary. Independent procedures to appoint, promote, evaluate and dismiss judges and prosecutors, and ensure the right to appeal against related decisions are in place. The remuneration of judges and prosecutors has increased. However, Albania needs to address the decision of the Constitutional Court<sup>13</sup> regarding the determination of the basic reference salary for magistrates, in full respect of the principle of financial independence of magistrates. The High Judicial Council (HJC) and High Prosecutorial Council (HPC) have been reformed and have a heterogeneous composition - magistrates, advocates, academics, civil society representatives – which has been key towards depoliticising, strengthening independence, and empowering self-government. Legislative changes must be introduced to reinforce the integrity of teaching staff at the School of Magistrates, ensuring that former magistrates dismissed through the vetting or who resigned prior to it are not training the next generations of magistrates.

The **implementation** of independence and impartiality provisions have known good progress. Nevertheless, Albania needs to further advance implementation, notably by continued merit-based appointments and career advancement system for magistrates. Concerns remain about undue attempted internal and external interference with the judicial system, political pressure and intimidation, including by public officials or politicians waging accusations against magistrates that need to be prevented and sanctioned. Examples of criminal court cases of active and passive corruption in the judiciary continued to be reported.

Justice Appointment Council should align fully its procedures with the Venice Commission recommendations and enhance transparency. In the appointment process of the HJC and HPC members Albania must reinforce the principles of integrity, independence and ensure genuine competition and transparency, notably with regards to non-magistrate members. Consolidation of the activities for the justice institutions as well as coordination among them remains a priority across a number of sectors.

In addition to the re-evaluation process, the system of integrity checks prior to enter to magistrate careers needs to be thoroughly implemented. It is also crucial that the periodic integrity checks in the course of a magistrate's career are rigorously upheld and the link to the promotion exercise is applied thoroughly. In this regards, applying the same high standards set by the vetting process remain of the essence.

Compulsory random allocation of cases to judges and prosecutors needs to be fully ensured in practice.

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<sup>13</sup> Decision no. 35/22

## I.C ACCOUNTABILITY

### a. Country presentation

Magistrates' disciplinary liability system is regulated by law.<sup>14</sup> The system was reformed in 2016 to align with European standards on accountability of magistrates and of other high public officials in justice institutions. The High Inspector of Justice (HIJ) 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. A third of the foreseen inspectors (12 out of 26) are currently in office. The HIJ 'inherited' a large number of cases before its establishment and is working towards reducing the accumulated backlog. The HIJ is elected by a 3/5 majority of the members of the Assembly for a 9-year non-renewable term.

The HJC and HPC are responsible for disciplinary measures on magistrates based on the HJI disciplinary proceedings, whereas the CC reviews proceedings initiated against Council members.

Article 101 of the Status Law establishes a list of disciplinary misconducts in and outside the exercise of the function. The list is further detailed in the Codes of Ethics adopted by the HJC and the HPC respectively. The right of appeal is foreseen at different stages of the procedure and applies to decisions of the HIJ and HPC. Constitutional Court judges are also disciplinary liable under the law.<sup>15</sup> The CC carries out disciplinary proceedings for its own members.

Asset and background checks are carried out by the HJC and the HPC at different stages of a magistrate's career, including upon recruitment and appointment. By law, HIJ may carry out thematic and institutional inspection of courts and prosecution offices on work aspects of courts, judicial administration, prosecution offices and their administration,<sup>16</sup> upon a motivated written request of the HJC, the HPC, the MoJ, or the General Prosecutor.

The HPC, HJC and HJI have established the rules and procedures to regularly publish their decisions and the minutes of their plenary meetings.

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<sup>14</sup> Law 96/2016

<sup>15</sup> Art. 128, Constitution; Art. 10.c ff, L. 8577/2000

<sup>16</sup> In accordance with Article 194 of Law no. 115/2016 on the "Governance of institutions of the justice system"

## **b. Commission assessment**

**The legal and institutional framework ensure a robust regulation of accountability.** The rules on the composition and seniority of the HJI establish satisfactory impartiality, independence and professionalism guarantees to protect the body from the direct or indirect influence of the legislature and executive.

**Implementation** of the legal framework needs to be ensured, to safeguard and further strengthen the positive results of the vetting, also beyond the vetting process, and demonstrate a solid track record of accountability and integrity in the judicial system at all levels. In this regards, applying the same high standards set by the vetting process remains of the essence. The orderly completion of vetting must be ensured within the constitutional deadlines, and under continued constitutional oversight of the International Monitoring Operation. It remains important to ensure that all state institutions and judicial authorities, including the HPC and HJC, respect the independence and the exclusive jurisdiction of the vetting bodies, as enshrined in the Albanian Constitution, and refrain from taking actions which could contradict or be inconsistent with final vetting decisions.

Asset declarations of the members of the judicial and prosecutorial system must be consistently updated and periodically verified. The weak human resources of the HJI remain a concern. The significant number of HJI vacancies need to be filled. Albania needs to ensure transparent promotion of prosecutors, and closer cooperation between HPC and General Prosecution Office in the process. HPC has not yet started the evaluation of prosecutors, which is a matter to be addressed with utmost urgency. HJC needs to significantly increase the pace of evaluations, while preserving the thoroughness of the process.

Implementing rules for the periodic monitoring of telecommunications of the personnel of the Special Courts for Corruption and Organised Crime, need to be put in place to render the system operational in line with the principles of proportionality, clarity and predictability. The system must be implemented in consistency with European standards. There has been little follow up to the HJC strategic documents on the administrative investigation of whistle-blowers and the review of corruption cases within the HJC.



## **I.D QUALITY**

### **a. Country presentation**

The national judiciary for 2022 employs 318 judges out of which 228 are effectively on duty (90 vacancies), supported by 1057 administrative staff and judicial assistants out of 1187 according to the organizational structure. The organic number of prosecutors in the Republic of Albania is 321. Currently 201 prosecutors are exercising their functions in all three levels of courts. There are 120 vacant positions (including prosecutors suspended from the vetting process). The budget of the justice system has been steadily increased since the justice reform started and in 2022 it amounted to EUR 170 million (including personnel, operational, capital).

The School of Magistrates (SoM) is the sole entry point to the magistrate career. It is regulated under the Governance and Status Laws and has administrative, academic, and financial autonomy.<sup>17</sup> The SoM is responsible for the enrolment, initial and continuous trainings of professionals within the judiciary. The initial training for selected candidates lasts 36 months. The procedure to select candidates to become judges and prosecutors includes a written exam and a psychological and mental health assessment. Candidates also undergo an asset check at the beginning and at the end of their training, conducted by the HJC and the HPC respectively.

Following appointment, magistrates undergo periodical performance evaluations, which shall not interfere with their independence<sup>18</sup>. The evaluations are based on qualitative and quantitative criteria. The obligation to provide well-reasoned judgements is specifically provided for in the Code of Civil Procedure and the Code of Criminal Procedure.

Online access to case law is very limited, however the HJC and the High Court have taken some measures towards the dissemination and unification of judicial practice.

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<sup>17</sup> Articles 243-245, 263, 272 Governance Law; Article 5 and 28 Status Law

<sup>18</sup> Article 69 Status Law

## **b. Commission assessment**

**The legal and institutional framework** introduced by the 2016 justice reform sets a good basis for quality and efficiency of the judicial system. The performance evaluations are based on objective criteria established by law, and may be challenged before a court. Further legislative and institutional measures are necessary to fully address the evolving quality and efficiency needs of the judicial and prosecutorial systems. The HPC has not yet adopted the necessary secondary legislation to regulate different aspects of management of the prosecution office, including the adoption of a complete evaluation procedure for the prosecutors. The regulation of the Councils' relationship with media remains incomplete or contested. Legal changes are necessary to strengthen the capacity of the School of Magistrates.

**Implementation** should be stepped up. Notably, Albania must ensure sufficient human and financial resources to enable the judiciary to function fully, efficiently and independently and guarantee the right to access to justice. Court infrastructure must be significantly improved.

As regards judicial training, the capacity, quality and efficiency of the School of Magistrates needs to be further strengthened. The School of Magistrates must have sufficient resources and quality training staff, composed mainly of justice professionals. Albania needs to revise admission examinations to reflect best European standards and re-orient the admission of magistrates from knowledge-based to skill-based. Planning of recruitment should better address the objective needs of the system in particular in terms of numbers, skills and competences of new magistrates. Initial trainings should enhance its practical focus and strengthen the mentorship programme, including the induction to the job. Methodology and the curricula of continuous trainings should be targeted to the identified needs and specialisation of judges and prosecutors. Both initial and continuous training should deliver more on judge-craft, judicial skills, ethics, and integrity.

Consistency and reasoning of the case law remains weak. In this respect, the High Court's competences of the HC to unify the court decisions and as a result improve the case law should be further enhanced. Evaluation of judges and prosecutors by HJC and HPC should focus specifically on the standards of reasoning court decisions. Transparent monitoring and evaluation of court activities must be ensured. Court rulings must be publicly available and easily accessible.

## **I.E EFFICIENCY**

### **a. Country presentation**

Concerning efficiency, Albania adopted a New Judicial Map in July 2022, which aims to re-distribute the workload among judges and prosecutors more fairly by reallocating courts in view of the accumulated backlogs. The new map aims to help optimise human and financial resources, increase efficiency of the courts, and mitigate the impact of the vetting process. A streamlining of courts as well as other related measures aim to ensure access to justice during the implementation phase. In addition, enhanced specialisation of judges is foreseen. The new judicial map has taken into consideration the CEPEJ methodology. The three-step implementation has 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.

Albania also adopted a specific "Action plan for reducing the number of backlog in the Supreme Court", which envisages legislative and sub-legal acts, as well as organisational measures by the High Court. The High Court backlog remains the highest, followed by the Appeal Court and Tirana District Court.

Albania indicated that a case management system is in place to ensure the random allocation of cases and the collection of some of the main statistical data in the Courts. In February 2021, the HJC adopted a new methodology on collecting statistical data based on the CEPEJ methodology and efficiency indicators. A fully integrated functioning case management system remains to be established at all judicial levels, starting from the prosecution office.

Albania reported that on December 31, 2022 there were 132 769 unresolved cases in all courts in Albania, compared to 125 689 in December 2021, which represent an increase of 5.6%. The courts with the highest backlog are the High Court, the Tirana District Court and the Administrative Court of Appeal. The High Court has the highest backlog with over 35 822 cases, 77% of which are older than two years. Following the new appointments to the High Court, the clearance rate has increased to 117% for criminal cases and 193% for administrative cases. As regards Appeal Courts, the backlog has increased by 43% during the past three years due to a loss of human resources following the vetting process. The average disposition time for a case at appeal level was 893 days in 2022. At the Tirana Appeal Court, the average length for a criminal case was 5 820 days.

## **b. Commission assessment**

Further **legislative and institutional** measures are necessary to fully address the evolving efficiency needs of the judicial and prosecutorial systems. An appraisal of the legal and institutional framework, including review of procedural laws and rules relative to alternative dispute resolution means, is necessary to adopt a remedy action plan to address the important efficiency challenges of the judicial system.

Regarding **implementation**, some efforts to advance efficiency across the judiciary have been made. Efficiency of the judicial system needs to be significantly strengthened, by tackling in particular the length of proceedings, the low clearance rate, and the large backlog of cases through a strategic approach so as to reduce the accumulated backlog. Justice system appointments must be advanced at all levels. Amongst others, the High Court operates with 16 out of 19 judges and an understaffed administration. First instance SPAK court operates with 9 judges out of 16. The increase of the backlog in the Appeal Court due to the loss of human resources, as well as in the first instance courts must be addressed as a matter of priority.

Adequate distribution of courts and prosecutor's offices must be ensured in respect of the right to access to justice, notably thorough the complete implementation and periodic assessment of the judicial map, supported by the necessary budget and effective communication plan. Efforts to ensure a proper allocation of magistrates, including in the context of the implementation of the judicial map, should ensure the respect of the applicable legal framework, notably on transfers and promotions, as well as the respect of the right to access to justice.

Continued efforts are needed to enhance the management of trials and planning of cases and in-court performance as well as quality, streamlining and simplification of judicial procedures. A more effective implementation of rules on trial discipline and procedural deadlines should be ensured with a view to reducing time of proceedings in line with best EU practices. A better re-distribution of workload among judges and courts remains a challenge while a strategic management planning for each court should be considered. The use of safe and unified information and communication technology systems for courts and prosecutor offices at all levels must be significantly increased.

Measures that aim to reduce the workload of judges should be taken. Additional tools should be developed to effectively assist judges and legal assistants in their work. Transferring specific duties from judges to legally trained administrative staff should be explored considering EU best practices in this regard. Better use of alternative dispute resolution should be made. Mediation services are not used or referred by the court. Improved capacities and reputation of mediation services should be enhanced as an immediate measure to reduce court backlog.

Improved cooperation and communication, between courts and other participants in proceedings such as lawyers, prosecution offices, notaries, mediation and enforcement agents should be enhanced notably through electronic means. Collection, publication and reporting of judicial statistical data needs to be improved. The CAMS system for prosecutors does not enable any other information technology activity in the administration of cases or statistical data of the prosecution office and a new case management system should be set up. To address these challenges, an integrated case management system that guarantees safe inter-connectedness with relevant databases and systems has to be established and made operational as soon as possible. To do so, all justice institutions, must demonstrate ownership, leadership and close coordination in the process, notably the High Judicial and Prosecutorial Councils. In addition, the Information Technology Centre for the Justice System (IT Centre) needs to dispose of the necessary human resources and executive powers to effectively operate.

Alternative dispute resolution methods continue to be limited and need to be reinforced. Legislative measures to strengthen the role of mediation and the active role of courts in promoting such alternatives should be considered. Awareness of citizens about the alternative dispute resolution service is low and needs to be improved.

Appraisals and promotions of magistrates must be strengthened through precise rules and indicators on magistrates' efficiency, a greater balance between qualitative and quantitative criteria and increased transparency of the process.

The timely and effective execution of final court decisions, including of the ECtHR, should be ensured.

The average disposition time remains very high, which is of concern, especially at appeal level.

## I.F SUMMARY OF FINDINGS – JUDICIARY

Albania is moderately prepared on the functioning of the judiciary. Albania's legislative and institutional framework has a high level of alignment with the EU acquis and European standards. Albania needs however to further consolidate and deepen the implementation of the reformed legal and institutional framework, in particular with regard to further strengthening the independence of magistrates and of the judicial and prosecutorial systems, consolidation of accountability and integrity at all levels, accessibility and quality of justice, as well as efficient delivery of justice.

## II. ANTI-CORRUPTION

### II.A STRATEGIC AND LEGISLATIVE FRAMEWORK

#### a. Country presentation

Albania confirmed that a cross-cutting **strategy** against corruption and the related action plan are in place for the period 2020-2023. A new strategy for 2023-2030 is under preparation. The strategy aims at strengthening prevention, repression and awareness-raising mechanisms against corruption. An anticorruption coordination committee and a thematic anticorruption group have been set up to report and monitor on implementation. Monitoring reports are published on a quarterly basis.

Albania has a vast set of legislation in the field of **corruption prevention**, covering public administration, declaration of assets, conflict of interests and whistle-blowers protection. It is party to international anti-corruption instruments. The Law on the Ratification of the UN Convention against Corruption (UNCAC) came into force in May 2006. Albania also ratified the United Nations Convention against Transnational Organised Crime and the Civil and Criminal Law Conventions on Corruption of the Council of Europe, which are now part of its domestic legislation.

Albanian authorities indicated that the legislation is **partially aligned** with Directive (EU) 2017/1371 of the European Parliament and the Council on the fight against fraud to the Union's financial interests by means of criminal law. The Criminal Code foresees the criminalisation of corruption as a serious crime, including its cross-border dimension. Provisions for safeguarding and strengthening protection against criminal offences affecting the Union's financial interests still need to be transposed. Moreover, specific provisions need to be adopted in order to define the category of serious offences against the common Value-Added Tax system.

Albania stated that its legislation is **partially aligned** with the Council Framework Decision 2003/568/JHA on combating corruption in the private sector. The Law “On Criminal Liability of Legal Persons” transposes almost all requirements relating to legal persons and the penalties foreseen in Article 164/b of the Criminal Code are compliant with the provisions of the Framework Decision. However, Albania still needs to incorporate some elements of the Framework Decision in the Criminal Code. In addition, in the Law “On Criminal Liability of Legal Persons” proportionality of penalties, taking into account the size and revenues of the legal person is missing.

As regards Council Decision 2008/582/JHA, Albania is not yet a member of the European Contact-Point Network Against Corruption (EACN).

Albania took measures to ensure greater digitalisation of its services to strengthen the fight against corruption. It established a public procurement platform, a procurement complaints platform, an electronic system of tax declaration and digitalised 99% of all tax services. The digital commissariat is the main platform of State Police allowing anonymous reporting of illegal actions and corruption. A case management system is in place at the GDA to handle corruptive practices.

On the protection and legal processing of personal data, Albanian legislation is compliant with the Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office, but further harmonisation is needed for the disciplinary, salary and other benefits schemes of European Delegated Prosecutors.

The legal basis for asset investigation is constituted by Article 36 of the Criminal Procedure Code, Law no. 10 192, dated 3.12.2009 (Anti-Mafia Law) and the Normative Act No. 1, dated 31.01.2020 ‘On Preventive Measures in the Framework of Strengthening the Fight Against Terrorism, Organised Crime, Serious Crimes and Consolidation of Public Security Order’.

The Law on Law no. 9367, dated 07.04.2005, “On the prevention of conflict of interests in the exercise of public functions also regulates the issue of movement of public officials to the private sector (so-called ‘revolving door’), in order to avoid conflict of interest.

The Law on the Prevention of Conflict of Interests in the Exercise of Public Functions (9367/2005) defines conflict of interest as “a situation of conflict between the public duty and the private interests of an official, in which he has direct or indirect private interests that affect, might affect or seem to affect the performance, in an incorrect way, of his public responsibilities and duties”. This law, together with the law on the declaration and audit of assets, financial liabilities of the elected persons and certain public officials (9049/2003), as amended, also regulate asset declaration of elected persons and certain public officials and defines the related prerogatives of the High Inspectorate for the Declaration and Audit of Asset. Failure to submit a declaration incurs in administrative sanctions, while concealment or declaration of false information is a criminal offence (article 257/a of the Criminal Code). According to Albania, there are currently 128 officials concerned by these rules applying in total 128 administrative measures with fines and in 2022, 37 criminal charges were filed in this respect. Campaign finance is regulated mostly in the Electoral Code. The Law on Political Parties has also relevant provisions, which were harmonised in November 2020 with the Electoral Code.

The procedure for exercising the right of access to information is described in the law on the right to information, which envisages administrative accountability for failing to comply with obligations limited only to the information coordinator and the possibility for the Commissioner for Information and Data Protection to issue fines.

The Law No.60, dated 02.06.2019, “On whistleblowing and whistle-blowers protection” contains rules for reporting a suspected act of corruption by whistle-blowers in the public and private sector, it defines mechanisms for protection of whistle-blowers and determines obligations of public authorities and private entities in relation to whistleblowing. Sub-legal acts and other legal acts necessary to ensure the full implementation of the Law are approved. Albania stated the Law on Whistleblowing is **partially aligned** with Directive (EU) 2019/1937. Gaps remains as regards the establishment of a sectorial approach in reporting potential cases of corruption, the creation of whistleblowing units in the private sectors with 50 or more employees and municipalities with more than 10000 inhabitants, and the development of concrete measures of support since the early stages of retaliation. Albania stated that full alignment to EU acquis is expected by 2025, while the adoption of a working plan with the relevant institution to fully ensure the implementation of the Law is planned by 2024.



Regarding **repression**, the Criminal Code foresees the criminal offences of active corruption and passive corruption.<sup>19</sup> It also contains provisions on active and passive corruption in elections<sup>20</sup>, abuse of position and embezzlement<sup>21</sup>, fraud<sup>22</sup>, fraud on subsidies, insurance or loan<sup>23</sup>, abuse of trust<sup>24</sup>, money laundering<sup>25</sup>, abuse of police authority<sup>26</sup>, malfeasance in public procurement, (*Article 258*, abuse of authority in economy (*Article -164/a, 164/b, 244, 259*), forging of documents (*Article 192*), falsification of documents (*Article 186*), abuse of office (*Article 248*) and trading in influence (*Article 245/1.*).

With regard to accelerated integration, Albania requested participation in the Commission Expert Group on whistle-blower protection and in the European Contact-Point Network Against Corruption (EACN).

## **b. Commission assessment**

Overall, the implementation of the inter-sectoral **strategy** against corruption is on track and institutional structures are set up, although significant weaknesses remain. These weaknesses include the need to strengthen ownership, strengthen institutional capacities, and ensure proper budgeting of the strategy's activities. An increase in the budget for the strategy's activities is necessary to contribute to its effective implementation. Concrete steps need to be taken to fully monitor, measure, report, and evaluate the progress on fight against corruption, including dedicated actions for sectors most vulnerable to corruption.

The **legal framework** is partially aligned with the European standards and EU acquis. Albania is **partially aligned** with Directive (EU) 2017/1371 of the European Parliament and the Council on the fight against fraud. Provisions for the seizure and confiscation of gains obtained from a criminal offence are in place. Albania will have to fully transpose Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union. *See also Chapter 24 – justice, freedom and security.* The law on whistleblowing and whistle-blower needs to ensure full alignment with the EU acquis.

Albania needs to increase the coherence of **the legal and institutional framework** on the prevention of corruption and integrity of public officials, which is comprehensive but overly complex, in particular as regards to high level officials. Legislative framework on conflict of interest need to be aligned with the European standards and EU acquis.

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<sup>19</sup> (Articles 244, 244a, 245) (Article 164b, 259, 259a, 260)

<sup>20</sup> (Article 328, 328/b)

<sup>21</sup> (Articles 164)

<sup>22</sup> (Article 143-147)

<sup>23</sup> (Article 144-146)

<sup>24</sup> (Article 143)

<sup>25</sup> (Article 287)

<sup>26</sup> (Article 332a)

Rules on how high level officials engage in contacts with lobbyists and other third parties who seek to influence governmental legislative and other activities need to be further updated to cover all interactions, beyond in person meetings, and to publish the register of such contacts. Rules on post-employment restrictions that apply both to members of the Council of Ministers and to political advisors, including an effective enforcement mechanism regarding these rules need to be put in place, notably regarding persons with top executive functions.

Albania remains a party to all main international anti-corruption conventions, including the United Nations Convention against Corruption. Albania has also **partially aligned** with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, although it has not yet ratified it.

The legislative framework needs to be revised to extend the competence of the SPAK courts to matters related to the execution of their judgements.

**Implementation** needs to be significantly strengthened. Corruption is prevalent in most areas of public and business life, including in all branches of central and local government and institutions and remains an area of serious concern. Overall, anti-corruption measures continue to have a limited impact in particularly vulnerable sectors (public infrastructure, cadastre and property rights, customs, tax administration, education, health, public procurement, PPP contracts, etc.). These sectors require targeted risk assessments, anti-corruption roadmaps and dedicated actions. Weaknesses as regards revising corruption-prone procedures and practices, internal checks and inspection mechanisms in the public administration remain to be addressed.

The vetting of members of the judiciary continues to bring results in the fight against corruption within the judiciary. It is crucial to restore public trust in the judiciary and the law enforcement bodies of the state. Additional efforts are needed, in particular to systematically initiate criminal procedures against judges and prosecutors suspected of criminal conduct during vetting.

The misuse of state resources during electoral campaigns is an area of concern. Albania needs to ensure more transparent political party finances in line with international and European standards. As electoral campaigns are moving increasingly online, special attention should be paid to online and third-party campaigning.

The application of the legal framework on of donations and sponsorships needs to be fully assessed in light of the European standards.

With regard to Albania's accelerated integration request, Albania is already participating in all expert group meetings as foreseen for all candidate countries according to the applicable terms of reference – thus participation is already established to the widest extent currently possible.

## **II.B INSTITUTIONAL FRAMEWORK**

### **a. Country presentation**

As regards **prevention of corruption**, a General Directorate on Anticorruption (GDA) lies within the Ministry of Justice. It conducts administrative investigations for abusive, corrupt, or arbitrary practices by public officials. The GDA has a network of 44 coordinators at the central level and 36 coordinators at the local or regional level. Law n°107/2021 instituted a Co-Governance Platform within to the Prime Minister's Office. Citizens and businesses may report suspected acts of corruption which are forwarded to the GDA. Under the Ministry of Finance and Economy a specialised financial investigation unit, the General Directorate for the Prevention of Money Laundering, collects, analyses and reports to the competent authorities cases of suspected corruption and abuse of power. The 12 subordinate institutions and agencies of the Ministry of Justice have finalised the process of integrity risk assessment and have approved their integrity plans. All line Ministries have adopted their integrity plans. The Supreme State Audit is the highest institution for economic and financial control, established by the Constitution. It can report cases to prosecution and provide recommendations to the government. The High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI) is a central independent institution responsible for controlling assets of elected persons and public officials, preventing conflict of interests and monitoring and investigating cases reported by whistle-blowers. It also has the competence to monitor and issue guidelines for internal and external whistleblowing mechanisms, impose sanctions for non-compliance and other infringements, raise public awareness, draw up reports on and put forward recommendations on the implementation of the Law. HIDAACI has currently 73 employees, the General Inspector is elected by qualified majority of all members of the Parliament for a seven-year mandate. HIDAACI has established an Electronic System of Declaration of assets and private interests with the support of EU and Council of Europe. HIDAACI has competences in respect of the vetting process. The HIDAACI budget has been steadily increased and in 2022 amount to 1,599,543 EUR. Albania mentioned that the Parliament confirmed a budget increase for 2023 in order to ensure adequate human and financial resources for HIDAACI. Monitoring and supervision of political parties financing is attributed to the Central Election Commission, which can issue administrative sanctions.

As regards whistleblowing, by law, whistle-blower reports are also registered and investigated through a responsible unit established internally at every public authority that has more than 80 employees, as well as private entity with more than 100 employees. Until September 2022, the public and private sector created respectively 198 and 565 units responsible for registering and investigating reporting on whistleblowing. A National Register of responsible units has been established for this purpose. Training funded by the EU and other donors was carried out for a total of 1522 employees in the period 2018-2022.

As regards **repression of corruption**, the Specialised Anti-Corruption and Organised Crime Structure (SPAK) and two specialised serious crime courts (SPAK Courts) are the specialised investigative and judicial structures dealing with repression of corruption, established with the justice reform in 2016. SPAK is composed of the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI). The SPO is an independent body from the General Prosecution Office (Article 148(4) of the Constitution) and is in charge of investigating and prosecuting criminal offences of corruption, organised crime and criminal charges against high-level officials (Article 135 (2) of the Constitution). The SPO represents criminal cases within its competence at any level of jurisdiction. The NBI is the specialised section of judicial police, which investigates criminal offences under the jurisdiction of SPO. SPAK has also its own interception unit and the persons in charge of interception are employees of the NBI. Wiretapping procedures are foreseen in the Criminal Procedure Code. The SPAK Courts – first instance and appeal - adjudicate on cases of corruption, organised crime, criminal charges against certain high-ranking state officials and former high ranking state officials.

The head of the special prosecutor's office is elected from the ranks of SPAK prosecutors with the majority of HPC members, for 3 years, without the right of re-appointment. They are selected for a 9-year term by simple majority without the right to reappointment and can be dismissed by 2/3 of the members of the HPC. The director of the NBI is appointed by the HPC following an open competition. SPO prosecutors and administrators, as well as NBI employees must all undergo asset verification and other precautionary assessment measures prior to appointment.

The SPO is operational since December 2019. 17 prosecutors out of the 20 foreseen and 65 administrative staff are employed. The prosecutors at SPO are divided into eight units where one unit deals with corruption. The NBI was established in September 2020. It comprises 60 investigators and has one sector against corruption. Since 2020 the SPAK budget has been steadily increasing to a total of EUR 8,585,124 in 2022. The budget for human resources has been also increased of 84%, amounting to EUR 7,278,372 in 2022.

The Police Oversight Agency is responsible for the prevention, detection and investigation of suspected criminal offenses committed by employees of the State Police, the Guard of the Republic and the Structure for Protection from Fire and for Rescue.

Albania is a member of the Council of Europe's Group of States against Corruption (GRECO).

#### **b. Commission assessment**

The institutional framework on corruption **prevention** has known some developments. Weaknesses remain to be addressed. In particular, the mandate of the Agency for Dialogue and Co-governance to follow up on corruption complaints and the way the latter interacts with the Network of Anti-Corruption Coordinators need to be clarified, as well as the division of roles between the two bodies. The institutional capacity of the General Directorate on Anticorruption (GDA) and of Network of Anti-Corruption Coordinators needs to be significantly strengthened. In particular, the area of policy development, research, monitoring and coordination; prevention of corruption in power structures; education and awareness raising; and the cooperation between corruption prevention and investigation and prosecution authorities in needs to be strengthened. The composition of the Ethics Commission needs to be revised, as presence of a member of the Government is ground for serious concern. The coordination capacity in prevention of corruption remains to be demonstrated, notably in light of high number of coordinators and institutions involved. The capacity of the GDA to conduct effective administrative investigations needs to be demonstrated. Effective cooperation of corruption prevention institutions with law enforcement needs to be demonstrated. HIDAACI needs to continue to improve its capacity to perform efficient verification of the declarations of assets and private interests, and necessary human and financial resources need to be provided. Further measures to make the public consultation process effective need to be put in place. The effectiveness of the implementation of the law on whistle-blowers needs to be further enhanced. The e-procurement, e-appeals and e- complaints systems have already helped to increased transparency in the area of public procurement. The procurement framework requires further strengthening and remains an area prone to corruption alongside government contracts, education, property rights, and health.

On **repression**, specialised bodies in charge of investigating, prosecuting and adjudicating corruption cases – the Anti-Corruption and Organised Crime courts and the SPAK, comprising the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI) – have been established. General prosecution services have the competence to investigate petty corruption. The capacity of the Specialised Structure for Anti-Corruption and Organised Crime (SPAK) needs to be strengthened. The number of prosecutors, investigators, including financial investigators, legal assistants and administrative staff needs to increase to reflect the operational needs of SPAK. The significantly increasing workload needs to be addressed with concrete tools to allow the institution to function effectively in the medium and long term. Notably, an integrated criminal policy approach including prioritisation of cases and a backlog action plan should be introduced. The issue of overcrowded premises need to be addressed. Albania needs to ensure that SPAK has access to all relevant tools, including specialised expertise in financial investigations, special investigative measures and qualitative access to all relevant databases. The organisation of SPAK needs further consolidation. The establishment of more specialised units within SPAK, including the NBI must be considered. Further cooperation between prosecutors, investigators and state authorities is required to effectively address corruption. SPAK needs a modern case management system and electronic collection of data at SPAK, which is currently done manually. SPAK should implement a clear communication policy, including its interactions with press. A more pro-active approach to fight high level corruption is also needed. There is scope to increase the quality of investigations, by broadening the scope of complex investigations, ensuring full use of special investigative measures, and adequate preparation for trials. The systematic use of financial investigations and asset confiscations have improved however they remain too limited in scope. The number of cases brought to court should be further increased. The actual implementation capacity of competent institutions to repress corruption effectively and systematically remains yet to be proven, especially at the high level, despite some initial good results. *See also Chapter 24, Justice, Freedom and Security.*

Currently the NBI does not have sufficient operational capacity to address the needs of the SPO, in particular specific knowledge and expertise of the newly recruited investigators needs to be strengthened. In the investigations on corruption and organised crime, the Special Prosecution Office continues to largely rely on the Albanian State Police. This cooperation needs to be further assessed, clarified and formalised. Higher level of operational capacity of the NBI is needed as well as effective working modality among the ASP, NBI and the Special Prosecution Office. The envisaged recruitment of the Judicial Police Service officers at the NBI, with an aim to raise its operational capacity, should be preceded by the clarification of their functional roles and agreement on the selection criteria.

## **II.C TRACK-RECORD**

### **a. Country presentation**

SPAK conducted criminal proceedings and financial investigations in several high-level cases. From 2020 to November 2022, SPAK has registered a total number of 24 investigations against former high-level public officials for criminal offenses of corruption. As of September 2022, the total number of investigations opened amount to 655. Out of these, 126 investigations were completed.

As regards asset investigation, for the period 2020-2021, based on the Criminal Procedure Code, six seizing decisions and 41 confiscation decisions were taken in the course of criminal proceedings. In the same time-frame, on the ground of the Anti-mafia law, 20 requests for seizure were approved and 7 court decisions for confiscation were issued, while over 600 properties underwent verification. In accordance with the Normative Act no. 1, dated 31.01.2020, out of the 145 requests for seizure, 143 were approved; out of the 134 requests for confiscation, 68 Court decisions were issued.

For the period December 2019-June 2022, the number of cases registered at SPO amounted to 1100, the number of cases sent to court is equal to 145. For the same period the overall number of cases with final convictions is 1757, with a total of 1972 individuals convicted.

From 2016 to 2022, the number cases reported and investigated through either the external or internal channel amounted to 20 and 58 respectively, for a total of 78 investigated cases. Seven requests for protection were submitted and investigated. The sanction mechanism is in place and approximately 200 fines were issued.

### **b. Commission assessment**

Anti-Corruption and Organised Crime courts (SPAK courts) capacity needs to be enhanced to meet the operational needs. Notably, unfilled judicial vacancies and understaffing, lengthy proceedings, inefficient trial management, including the practice of numerous postponements beyond legal deadlines and excessive formality in drawing up judgements, put an important burden on the efficiency of SPAK courts. The systematic filing of appeals also overloads the system and need to be addressed.

Further decisive progress towards establishing a solid track-record of proactive investigations, prosecution, and final convictions in corruption cases, particularly at high level, remains to be ensured. Seizure and final confiscation/recovery of assets resulting from corruption-related offences is still rather limited.

The **legal and institutional** frameworks are generally fit to enable a solid track-record in fight against corruption.

As regards **implementation**, the track record of successful investigations, indictments and final convictions of corruption continues to be rather limited, especially in terms of tackling high level corruption. Some final convictions on corruption charges against high-ranking officials have nonetheless been pronounced although so far no convictions refer to acts of corruption classified as serious crime. There is a discrepancy between the number of investigations and the number of final convictions. Increasing the number of final convictions of high-level officials should remain an important priority to further tackle a culture of impunity.

Seizure and confiscation/recovery of criminal assets resulting from corruption-related offences is still rather limited. The amounts of assets seized are not reflected in the amounts confiscated. Additional efforts are needed to ensure effective follow-up through confiscation. Progress has been made on the amount of non-conviction-based confiscation procedures under the Anti-Mafia Law. The number of criminal proceedings involving the confiscation of assets remain low however. Results on seizure and confiscation abroad also need to improve. This matter requires more efforts during the investigation phase and trial phase. The level of specialisation and expertise in seizure and confiscation of assets, including in courts, should be increased and guidelines established.

## **II.D SUMMARY OF FINDINGS – FIGHT AGAINST CORRUPTION**

Albania has **some level of preparation** in the fight against corruption.

Albania's legislative and institutional framework on anti-corruption is **partially aligned** with the EU *acquis*. Corruption is prevalent in most areas of public and business life, including in all branches of central and local government and institutions and remains an area of serious concern. Overall, anti-corruption measures have a limited impact in particularly vulnerable sectors. Albania needs to address the high complexity of the corruption prevention framework and ensure its efficiency notably in risk sectors such as property, public procurement and public finance. Regarding implementation, Albania needs to make decisive progress towards tackling impunity and the generalised and wide-spread nature of corruption, consolidation of operational and human capacities of SPAK and SPAK courts and towards establishing a solid track-record in the systemic repression of corruption, notably at high level, including final confiscation of assets. Albania must address systematically and effectively the recommendations of Council of Europe's Group of States against Corruption (GRECO).



### III. FUNDAMENTAL RIGHTS

#### III.A GENERAL FRAMEWORK

##### a. Country presentation

Albania stated that the protection of fundamental rights is duly entrenched in the Constitution (Articles 3, 8 and 15-53). Albania has ratified a number of international conventions protecting human rights (full list in annex). Article 122 para 2 of the Constitution provides that an international agreement that has been ratified by law supersedes domestic legislation in case of incompatibility. Albania is also an observer in the EU's Fundamental Rights Agency. The independent institutions tasked with monitoring the respect for fundamental rights include the People's Advocate / Ombudsperson institution, the Commission for Protection from Discrimination and the Commissioner for the Right to Information and Personal Data Protection.

##### b. Commission assessment

Albania's **legal and institutional** framework is **partially aligned** with EU acquis and European standards on fundamental rights. Albania still has to address remaining gaps, notably to fully align with outstanding recommendations of the Council of Europe's bodies, ensure alignment with EU acquis, and observe the rights and freedoms protected by the Charter of Fundamental Rights and the European Convention of Human Rights.

The **implementation** needs to be strengthened to guarantee the enjoyment of human rights in practice. In this regard, efforts to strengthen the implementation capacity are essential across all sectors. It is of particular importance that the capacity of independent human rights bodies be strengthened, including the People's Advocate (PA), the Commissioner for the Right to Information and Protection of Personal Data and the Commissioner for the Right to Information and Protection of Personal Data. Blockages and delays in the parliamentary appointment procedure of independent institutions need to be addressed and the appointments need to be carried out in line with procedures ensuring to the highest possible extent the authority, impartiality, independence and legitimacy of the institutions. The People's Advocate should adopt and publish its annual report before presentation to the parliament. Albania needs to strengthen implementation of the People's Advocate's recommendations.

### **III.B RIGHT TO LIFE AND TO THE INTEGRITY OF THE PERSON, HUMAN DIGNITY**

#### **a. Country presentation**

The Constitution protects the right to life and human dignity. Capital punishment is abolished in all circumstances and Albania has ratified Protocols 6 and 13 to the ECHR. The Criminal Code includes an article on murder committed due blood feud which provides for a sentence of imprisonment of 30 years to life. The criminal Code also includes an article related to forced disappearances, which provides for a sentence of up to 15 years. Albania ratified the International Convention for the Protection of all Persons from Enforced Disappearances in 2007. The Authority on Opening the Communist state security files (the Authority) has been established by law in 2015, and subsequent revisions charged the Authority with further responsibilities. The Law envisages cooperation of the Authority with relevant state institutions for the identification and recovery of bodies of missing person, provides a definition of missing persons and recognizes the right to information of families of missing persons. A database of missing persons has been set up. The Authority has started administrative investigation for certain burial sites. A draft Decision to regulate the roles and responsibilities of each institution is in preparation. Legislation to rehabilitate the politically persecuted persons has been adopted and some compensation has been provided to survivors.

In July 2018, at the Western Balkans Berlin Process summit, the Western Balkans partners, including Albania, adopted a Joint Declaration on Missing Persons, committing to make progress on the matter. The same year, the Council of Ministers and the International Commission on Missing Persons (ICMP) signed a Cooperation Agreement to advance efforts to locate persons who went missing during the communist period and ensure that the whereabouts of the missing and the circumstances of their disappearance are investigated effectively.

#### **b. Commission assessment**

Regarding the legal and institutional framework, the country needs to align with Article 3 of the EU Charter of Fundamental Rights to explicitly prohibit cloning and include provisions in the fields of medicine and biology to strengthen legal guarantees on the integrity of the person. Blood feuds have declined drastically. However, there is a lack of precise overview on existing cases and blood feuds are still frequently cited by Albanian citizens lodging asylum applications in the EU. The country should ensure the issue of blood feuds is treated as a violation against fundamental values and principles and treated as a criminal issue. Systematic monitoring of existing cases should be available to assess the situation periodically.

On missing persons from the communist era, the legislative and institutional framework should be strengthened. Since 1991 none of the approximately 6,000 missing have been exhumed or identified by the state. Sufficient resources should be allocated to reinforce identification capacities and to formalise institutional coordination arrangements. Albania is encouraged to establish a single, harmonised and comprehensive and publicly accessible database of missing persons.

### **III.C PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT AND PRISON SYSTEM**

#### **a. Country presentation**

The Constitution prohibits torture, cruel, inhuman or degrading punishment or treatment. The penitentiary package of 2020 includes the Law on Organization and Functioning of the Probation Service, the Law on the Execution of Criminal Decisions, the Law on Prison Police and the Law on the Rights and Treatment of Convicts with Imprisonment Sanctions and Pretrial Detainees. The authorities state that reforming the penitentiary system is a priority aimed at shifting towards a restorative justice approach. The People's Advocate acts as National Preventive Mechanism pursuant to the Optional Protocol to the UN Convention against Torture. The main strategic document in this sector is Penitentiary action plan 2019-2022 which expired at the end of the year. Currently 20 out of 23 penitentiary institutions (including one special institution for juveniles) are accommodating 5369 prisoners – an occupancy rate of 94%. In the absence of a forensic institution, all male forensic psychiatric patients have been transferred to Lezha Prison as an interim measure, while women and minors have been transferred to Tirana Hospital.

#### **b. Commission assessment**

**The legal and institutional framework** is generally in place and the criminal code foresees a minimum sentence of four years imprisonment for those convicted of torture. The People's Advocate (Ombudsman) / National Preventive Mechanism (NPM) carries out its mandate through periodic inspections and ex officio cases. The NPM has also followed up on complaints against the state police in the context of actions during public protests.

The introduction of the probation service has yielded mildly positive effects. Alternatives to detention are available, including for juveniles. However, they are not used sufficiently, neither by the courts when sentencing prisoners nor in the progress of juveniles' sentences. In addition, there is a lack of rehabilitation options. Electronic monitoring is not available since 2017 due to an unsettled legal dispute.

Concerning **implementation**, Albania still needs to make progress on addressing all recommendations of the European Committee for the Prevention of Torture and of the National Preventive Mechanism. The conditions in prisons and detention centres require improvement. The effects of the penitentiary reform on long standing issues including corruption and poor management are yet to be seen. Similarly, poor infrastructure, healthcare and security are persistent issues. Despite advances in providing employment and reintegration programmes for some prisoners, these are yet to be made more widely available. Rehabilitation efforts are not sufficiently funded or structured enough to provide genuine assistance.

One longstanding concerns is the long overdue transfer of forensic psychiatric patients (those under compulsory treatment and criminally irresponsible) to facilities adequate for their treatment and outside the prison system. A memorandum of understanding signed between the Ministers of Justice and Health and Social Protection is in place. However, despite progress with the closure of the Penitentiary Institution of Zahari, Kruja and the transfer of patients to special units in Lezha Prison, the situation is not satisfactory. The Lezha sections are overcrowded (380 patients for 198 places) and of carceral rather than medical nature. This long-standing human rights violation needs to be urgently solved. The authorities plan to apply for EU funding to establish a Special Medical Institution.

Albania must implement the ECtHR judgements finding instances of inhuman and degrading treatment in psychiatric facilities.

The country needs to implement a comprehensive, legal and structural reform prioritising prisoner's rehabilitation and reintegration during the time they are serving their sentence (not as an alternative). It is also necessary to establish a progressive system of risk and needs assessment to make effective dynamic security, leading to a gradual and progressive release of prisoners while balancing the public security risks. In the context of the reform, Albania should introduce measures to enable the functioning of the network of institutions engaged during pre-release stages and to introduce an effective post penal release.

### **III.D RIGHT TO MARRY AND RIGHT TO FOUND A FAMILY**

#### **a. Country presentation**

The Constitution protects the right to marry and found a family, while the family code stipulates that marriage can be concluded between a man and a woman who are 18 years or older.

## **b. Commission assessment**

**The legal and institutional framework** is generally in line with European standards. Despite legal prohibition of underage marriage, this phenomenon still persists, notably among the Roma and Egyptian communities and needs to be effectively eradicated, and is primarily driven by gender inequality, poverty and social exclusion. Laws to protect adolescents from child marriage are ineffective or applied inconsistently. Albania needs to improve the implementation of the legal framework and develop policy actions to address the phenomenon. Policy measures should be geared towards awareness raising at community level, including formal and non-formal education, as well as at prevention and support for children affected by child marriage.

## **III.E PROTECTION OF PERSONAL DATA**

### **a. Country presentation**

Protection of personal data is provided for in the Constitution. Albania ratified the Protocol amending the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108+) in 2022. It is also a party to the Additional Protocol regarding supervisory authorities and trans-border data flows. The Law on the Protection of Personal Data last amended in 2021 is the main domestic instrument. This is complemented with sublegal acts, including over 35 instructions from the Information and Data Protection Commissioner (IDP). A new draft Law on Personal Data Protection is in preparation, which aims to align with the EU's General Data Protection Regulation and the Law Enforcement Directive.

The General Directorate of Personal Data Protection Office within the Information and Data Protection Commissioner has a staff of 12 handling complaints and inspections. In 2021, the IDP handled 362 complaints, carried out 46 inspections, handed out recommendations in 42 cases, decisions in 12 cases and administrative sanctions on 31 cases. The office also carries out awareness-raising activities.

### **b. Commission assessment**

Albania's existing **legal and institutional framework** is **not in line** with the EU acquis. Albania needs to align the law on personal data protection with the EU General Data Protection Regulation 2016/679 and the Law Enforcement Directive 2016/680. The law needs to ensure the organisational autonomy of the Information and Data Protection (IDP) Commissioner and empower it to adopt binding decisions.

Concerning **the implementation**, the capacity and powers of the IDP Commissioner will need to be increased if it is to handle the new responsibilities stemming from the expected new law in an effective manner. Awareness on the right to personal data protection as a fundamental right is still at a low level among public institutions as well as the general public.

Two significant data leaks that took place in 2021 were followed by further breaches of publicly owned databases in 2022. Albania needs to take robust measures in law and practice to prevent such occurrences.

The respect of the right to privacy must be ensured. Unauthorised use of surveillance videos by police forces in several cases has demonstrated the need to strengthen legal safeguards and ensure legal consistency. Surveillance data have been used outside control from the judiciary.

### **III.F FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION**

#### **a. Country presentation**

Articles 10 and 24 of the Constitution cover issues of freedom of thought conscience and religion. Albania has no official religion and equality of religious communities is recognized by the State. The State Committee on Cults is the central institution co-ordinating relations with religious communities. Regarding the fight against anti-Semitism, the Parliament adopted the working definition of anti-Semitism, defined by the International Holocaust Remembrance Alliance in 2020.

#### **b. Commission assessment**

The legal framework is generally in line with the EU acquis and European standards, and is conducive to enjoyment of the right of freedom of thought, conscience and religion.

The dependence of some religious groups on financial support from third parties or States can create vulnerabilities as this can be a means for exerting influence. The restitution of properties belonging to religious groups and expropriated by the state during communism remains an unresolved issue.

### III.G FREEDOM OF EXPRESSION INCLUDING FREEDOM AND PLURALISM OF THE MEDIA

#### a. Country presentation

Article 22 of the Constitution guarantees **freedom of expression**, while Article 17 specifies the limitations to this right. Article 23 provides for the right to information. Albania's legal framework notably includes the Law on Audiovisual Media Services, amended in May 2017, and more recently in April 2023 in order to align with the Audiovisual Media Services Directive 2010/13/EU. Following the reaction of the media community and a Venice Commission Opinion, 2019-2020 amendments to the Law on Audiovisual Services, the so called anti-defamation package, have been removed from the agenda of the Parliament. Albania has signed up to the Declaration for the Future of Internet.

The Audiovisual Media Authority (AMA) is the main regulatory body in this sector. The AMA board is composed of a Chairman, the Deputy Chairman and five members appointed by the Assembly. The majority of the AMA's budget is financed through licensing fees and fees for broadcasting services. The AMA complaints Council received 300 complaints in 2021, mainly for violations of human rights. Between 2018 and 2022, AMA imposed five administrative fines for violations of human rights.

The public service broadcaster Albanian Radio and Television is composed of 16 TV Channels and 11 radio channels. It is funded primarily through TV licenses. Financing from the State budget is reserved for specific projects such as the digital switchover and for broadcasting outside the territory of Albania.

As regards media self-regulation, the Journalist Code of Ethics by Albanian Media Institute provides the framework and standards to the Albanian Media Council (AMC), which has started to function as the voluntary self-regulation mechanism.

*Issues relating to electronic communication and audio-visual media services are covered in Chapter 10.*

#### b. Commission assessment

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 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 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.

### **III.H FREEDOM OF ASSEMBLY AND ASSOCIATION**

#### **a. Country presentation**

The Constitution recognises freedom of association and assembly. The Law on Assemblies provides for the exercise of this freedom, including conditions for limiting this right. Albania has a notification system in place as well as an urgency procedure. Regarding freedom of association, the Constitution prohibits organisations or associations that pursue unconstitutional purposes. Albania considers its legal framework to be in line with the EU Charter of Fundamental Rights and the European Convention on Human Rights.

*Aspects related to labour and trade union rights and social dialogue are dealt with in Chapter 19, while political parties and civil society organisations are covered in the Functioning of Democratic Institutions.*

## **b. Commission assessment**

**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 protester 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.

## **III.I NON-DISCRIMINATION**

### **a. Country presentation**

Equality and anti-discrimination principles are enshrined in the Constitution and national legislation. The Constitution includes a non-exhaustive list of defined grounds while the Law on Protection against Discrimination includes an open list of grounds. Albania has ratified protocol 12 to the ECHR providing a general prohibition of discrimination. According to Albania, its legal framework is partly aligned with the Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

The Commissioner for Protection from Discrimination (CPD) is the independent body in charge of providing redress in cases of discrimination pursuant to the Law on Protection against Discrimination. It has powers in support and litigation and can also act *ex officio* to initiate an inquiry into a suspected case of discrimination. The CPD has regional offices in Shkodër, Korçë and Fier. In 2021, 324 cases were handled by the CDP of which 168 were in the field of employment, 143 in the field of goods and services and 13 in the field of education. The CPD established a discrimination in 57 cases out of 232 decisions taken in 2021.

## **b. Commission assessment**

The legal and institutional framework **partially aligned** with EU *acquis* and European standards. The Law on Protection from Discrimination covers direct, indirect, intersectional and multiple discrimination and discrimination by association. Albania needs to gradually align its legislative framework with the EU *acquis* and to ensure harmonisation.

The implementation capacity and the enforcement of the law by the Commissioner for Protection from Discrimination needs to be increased, and it needs to step up its action to address all instances of discrimination on all protected grounds.

The number of complaints submitted to the Commissioner for Protection from Discrimination (CPD) has tripled in the past year indicating greater trust in the institution and an increased awareness. Despite the law's open list of grounds, most cases handled by the CPD concern alleged discrimination on the basis of race, sexual orientation/gender identity or disability. In 2021, 15 court decisions have confirmed the CPD's decision on discrimination and 2 court decisions established discrimination challenging the CDP's decision on non-discrimination. 14 out of 49 court decisions recognised discrimination and compensation, based on the CPD's expert opinion provided to court. The implementation of the legal and policy framework needs to be further strengthened including by providing specialised training to law enforcement and the judiciary.

## **III.J MEASURES FOR COMBATting RACISM AND XENOPHOBIA, HATE SPEECH AND HATE CRIME**

### **a. Country presentation**

Albania informed that the Criminal Code includes articles on genocide, crimes against humanity and war crimes. It also contains provisions on incitement to hatred and insult due to racist or xenophobic motives through computer systems. The Law on Protection against Discrimination furthermore explicitly prohibits discrimination based on race and ethnicity.

The Albanian Criminal Code criminalizes several acts, such as dissemination of racist or xenophobic materials through the computer system (119/a), insulting due to racist or xenophobic motives through the computer system (119/b) computer dissemination of materials favouring genocide or crimes against humanity (74/a) incitement of hatred or disputes (265) and call for national hatred (266) which are considered as hate speech.

There is no specific offence in the Criminal Code labelled as hate crime, but Article 50 (j) of the Criminal Code, provides that the commission of the offence due to motives related to gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious, or philosophical convictions, health status, genetic predispositions, or disability, are circumstances that aggravate the punishment and should be taken into account by the court when determining the sentence.

Albania indicates that its legal framework is partly aligned with the Council Framework Decision 2008/913/JHA, on combating certain forms and expressions of racism and xenophobia by means of criminal law.

The Counter-Terrorism Directorate of the State Police handles crimes related to encouragement of hatred in the Criminal Code. The Investigation Directorate includes a dedicated unit on Investigation of Computer Crimes which covers online hate speech and dissemination of racist or xenophobic material via computer systems. In 2021, two persons were sentenced for this last offence. No other convictions for hate crime or hate speech were handed down in that year.

#### **b. Commission assessment**

The legal framework on combating racism and xenophobia is **partially aligned** with the EU acquis. The legal and institutional framework needs to be completed to align with the EU *acquis* and European standards regarding hate crime and hate speech. Overall, implementation in these areas requires further improvement.

The capacity of law enforcement and criminal justice officials to adequately respond to instances of hate crime and hate speech needs to be enhanced. Training law enforcement, prosecutorial services and judiciary in responding to instances of hate crime and hate speech is an obligation under the EU acquis and of importance in this context, as a lack of a criminal response not only affects the criminalisation of such conducts but also the provision of an effective remedy to its victims. Greater awareness raising is also needed to eliminate hate speech, particularly in rural and remote areas.

While officially the country reports hate crime data to the ODIHR, very few cases are actually recorded on the ODIHR's dedicated platform. The systematic collection of disaggregated data and statistics on hate crime needs to be ensured, as recommended by the ODIHR. Albanian civil society organisations do not contribute to the ODIHR hate crime reporting.

### III.K GENDER EQUALITY AND WOMEN'S RIGHTS

#### a. Country presentation

The other main laws include the Law on Gender Equality and the Law on Measures Against Violence in Family Relations as amended. Albania has gradually introduced gender budgeting since 2012 and INSTAT collects sex-disaggregated data and gender statistics. Albania is a party to the main international Conventions.

The National Council on Gender Equality's primary task is to lead, define and develop state policies on gender equality as well as to coordinate, implement, monitor and evaluate policies and measures for preventing and combatting all forms of violence covered by the Istanbul Convention. The Ministry of Health and Social Protection is responsible for gender equality and issues related to gender-based violence. Gender equality focal points are nominated in line ministries while at the local level the responsibilities lie with the gender equality officers/local coordinators against domestic violence in Municipalities. In some municipalities it is the same person, whereas in big municipalities they are two different people.

Albania's work in this field is guided by the National Strategy for Gender Equality 2021 – 2030. Its four strategic goals are inspired by the EU's Gender Equality Strategy 2020-2025 and the Gender Action Plan (GAP III) 2021-2025.

Albania indicates that 18 shelters (including two national shelters) for victims of gender-based violence exist throughout the country. The country also put in place 3 specialized sexual violence referral centres.

With regard to accelerated integration, Albania requested participation in the European Institute for Gender Equality (EIGE).

## **b. Commission assessment**

**The legal and institutional framework is partially aligned** with the EU acquis and European standards. The gender equality law has not been amended since its adoption in 2008 and requires updating to keep up with latest standards in this field. Following ratification in February 2022 of the ILO Convention 190 on Violence and Harassment in the World of Work, the legal framework needs to be further harmonised. The legal framework on gender-based violence is not fully aligned with the Istanbul Convention. Albania needs to ensure reintegration of, and access to services for, victims of violence. The Criminal Code needs to be amended to ensure the definition of rape includes the a lack of consent as a constitutive element of the offence as provided for in the Istanbul Convention and the Commission proposal for a directive on combating violence against women and domestic violence (Article 5). Albania needs to ensure full alignment of its legislative framework with the EU acquis and European standards in the area.

In practice, despite the legal provisions regarding equal treatment in employment and occupation being aligned with Directive 2000/78/EC, women remain underrepresented in the labour market and a gender pay gap exists. Gender quotas for elections are in place at national and local level and the political representation of women at parliamentary (35.7% of MPs) and local level (33.3% of mayors) is comparable to levels in the EU.

Albania last produced a gender equality index in 2020. Having an up-to-date gender equality index is important for evidence-based policy-making in the sector. The same is true for the periodical surveys on violence against women produced by INSTAT, which has not produced any update since 2018. Albania needs to ensure systematic and updated collection of disaggregated data.

Following submission of its fifth periodic report, the CEDAW Committee adopted a list of issues in March 2022 where Albania needs to demonstrate progress, including the legislative framework and definition of discrimination against women, employment, gender-based violence, and disadvantaged and marginalised groups of women. Albania submitted its first report on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). The conclusions of the Committee of the Parties to the Istanbul Convention of December 2021 noted progress but urged Albania to increase resources to put legal provisions into practice.

The response to cases of gender-based violence is coordinated by Referral Mechanisms Against Domestic Violence established in 61 Municipalities. The Gender Equality Mechanism lacks adequate financial and human resources which could negatively affect the implementation of the 2021-2030 national strategy. Systemic follow-up by law enforcement and the judiciary must be ensured. In 2021, 1265 cases were registered in courts leading to 1147 convictions. The shelters remain largely dependent on donor funding for their functioning.

With regard to Albania's accelerated integration request, cooperation between EIGE and Albania is already established and part of the EIGE IPA project and Albania is involved in measuring and monitoring activities, including through the Gender Equality Index.

### **III.L RIGHTS OF THE CHILD**

#### **a. Country presentation**

The legal framework includes the Law on the rights and protection of the child. Other laws include specific provisions for children. Albania is a party to international agreements in this field including the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).

The work in this field is guided by the Child Rights National Agenda 2021-26, the objectives of which are better governance for the implementation of the rights of the child, the elimination of all forms of violence and protection of children, ensuring child friendly systems and services and child rights in digital environments. It also contains measures to combat child marriage. The national deinstitutionalisation plan included in the economic reform program aims to develop alternative childcare services and to close social care institutions. However, adequate funding is lacking and capacities remain insufficient.

The National Council of Child Rights and Protection is an advisory body including representatives from line ministries, civil society, independent bodies and ten children. The Ministry of Health & Social Protection coordinates actions concerning rights and protection of children. The State Agency for Rights and Protection of the Child is responsible for the integrated system of child protection, monitoring implementation of the Law and for supporting child protection structures at local level which include child protection units at municipal level. In 2021, Child Protection Units managed 2 389 cases of children in need of protection.

Albania states that there are currently in total 81 Child Services Centres benefitting 6.125 children. The child centres include 30 residential facilities (9 public & 21 private); 51 community service centres (22 public & 31 private).

*Aspects related to social services are dealt with under Chapter 19.*

The age of criminal liability is set at fourteen and Albania has a Criminal Justice for Children Code in place. The law provides measures to protect child victims and witnesses during the criminal procedure and foresees a number of alternative sanctions ("diversion orders") to imprisonment for juvenile offenders. Albania reports that the reform has led to an increase in the use of alternatives to detention and diversion, resulting in a significant decrease in the number of convictions of juveniles. Albania indicates that there are six child friendly sections in court, seven in prosecutor's offices and 16 in State Police stations.

With regard to accelerated integration, Albania requested participation in the EU Network for Children's Rights.

#### **b. Commission assessment**

**The legal and institutional framework is partially aligned** with EU acquis and European standards.

The institutional capacity requires strengthening and to be made sustainable. National Council of Child Rights and Protection which is an advisory body including representatives from line ministries, civil society, independent bodies and ten children is meeting sporadically. While legislation has increased the responsibilities of the Ministry of Health & Social Protection and the State Agency for Rights and Protection of the Child, funds and human resources allocated to it have been insufficient for the proper implementation of their mandate. This situation is likely to hamper any meaningful improvement in the coordination and monitoring of the rights of the child. In 2021, a new State Minister for Youth and Children was introduced in the Government, without an allocated budget and with limited support staff.



The child protection system needs to be reinforced. Currently, the number of child protection workers corresponds to 60% of the required number (249 out of 421) with less than 25% of full-time employees. The legislation requires all child protection workers to have a background in social work but currently only 78 out of 236 (33%) have such experience. The child protection structure continues to suffer from a lack of consistent investment in capacities including in sectors of education and health. The principle of a multi-disciplinary approach is clearly stipulated in the normative framework and its importance is widely acknowledged. However, coordination remains problematic and faces challenges of structural and technical nature. Meanwhile, case management is hampered by a lack of social care services to tend to the protection needs of the child. These challenges seriously undermine the availability, accessibility, coverage, and effectiveness of child protection services in Albania.

Violence, including sexual violence are a concern. Further efforts are needed to ensure an adequate and systematic response to all types of violence against children and to address violations of child rights. Targeted investment is needed to address all forms of violence against children including responding to offline and online threats by improving prevention, investigation, and child-friendly information and social and legal assistance to victims.

The process of de-institutionalisation and ensuring alternative community-based childcare services, thereby allowing for the closure of social care institutions needs to be accelerated. Indications received in 2022 gauged the number of children and young persons separated from their families and accommodated in the social care system at around 900. Of these, more than half are estimated to be housed in institutions.

Despite improvements with the application of diversion and alternatives to detention, the continued practice of applying pre-trial detention measures for children in conflict with the law is not in line with European standards which provide for this to be only applied as a measure of last resort and for a limited period based on an individual assessment of the child best interests. Further training of judges in using alternatives is necessary in this regard. Similarly, use of child-friendly interview techniques needs to accompany the establishment of the new child-friendly sections in police stations and prosecution offices.

Albania needs to adopt and effectively implement the Draft Juvenile Justice Strategy 2022-2026. Albania needs to invest more in diverting juveniles from the criminal justice process and further strengthening restorative justice. This also requires inter-disciplinary/inter-institutional coordination at central and local level. Law enforcement and justice professionals need to be trained on the best interests of the child.

The Albanian participation in the EU Network for Children's Rights will be confirmed during the second semester 2023.

### **III. MRIGHTS OF PERSONS WITH DISABILITIES**

#### **A. COUNTRY PRESENTATION**

The rights of persons with disabilities are constitutionally guaranteed and further specified in the Law on Inclusion and Accessibility for Persons with Disabilities. A number of other laws notably regulating social assistance are also relevant in this context. Albania is a party to the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Albania has also modernised its disability assessment system to bring it in line with the WHO and CRPD standards.

The National Action Plan for Persons with Disabilities in Albania 2021- 2025 includes objectives covering equal access to justice, enhanced accessibility, higher labour market participation, access to quality education, healthcare and political participation of persons with disabilities.

The National Council of Disability is an advisory body composed of representatives from line ministries and organisations of persons with disabilities. The Ministry of Health and Social Protection coordinates actions concerning rights of persons with disabilities. At the local level, municipalities' social services unit include a disability focal point.

The support for persons with disabilities is provided through a variety of means, including through payment of disability financial support. 28 community day care services are available for children with disabilities, while 18 residential facilities (7 of them public and 11 non-public) are currently housing 351 persons with disabilities (50 children and 301 adults).

With regard to accelerated integration, Albania requested participation in the Disability Platform.

*Aspects related to social services, assistance and benefits are dealt with under Chapter 19.*

## **b. Commission assessment**

**The legal and institutional framework** is partially compliant with the EU *acquis* and international conventions, and EU strategy in the area and gaps must be addressed. Albania has not ratified the Optional Protocol to the UNCRPD.

Implementation of the national action plan for persons with disabilities needs to ensure additional necessary budget, starting with concrete actions to close the current funding gap estimated at about 40%. The implementation of the reform of the disability assessment system on the basis of a 'bio-psycho-social' model is a positive step.

Addressing discrimination and violence against persons with disabilities, improving accessibility, availability of public services and promoting employment of persons with disabilities all require intense efforts.

Adults and children with disabilities continue to be placed in residential care centres, in violation of their rights under the UNCRPD. In order to implement the deinstitutionalisation plan, adequate financial resources need to be made available to ensure independent living and implementation of standards on community-based services. Transitioning to community-based care and providing for independent living of persons with disabilities must be made a priority. Despite an increase in the number of teaching assistants, children with disabilities are not always guaranteed access to quality education.

Albania notably needs to put an end to institutionalization of children with disabilities and set up plans to speed up case assessment of children with disabilities in development centres. The Family Code needs to be amended to this end and a comprehensive Law on Alternative Care in line with the United Nations Alternative Care Guidelines should be developed. A drastic shift in funding must be operated to move from institutional to community-based care. The proper operation of childcare services (family support and alternative care services) entails that local authorities prevent unnecessary separation of children and provide appropriate family and community-based care where children are separated, backed by appropriate funding.

The Commission may consider the possibility for participation on the disability platform. To that end a formal request would be necessary.

### III.N RIGHTS OF LESBIAN, GAY, TRANSGENDER, INTERSEX AND QUEER PERSONS

#### a. Country presentation

Sexual orientation, gender identity and sex characteristics are among the protected grounds in the Law on Protection from Discrimination. The Ministry of Health and Social Protection is responsible for ensuring non-discrimination on the basis of sexual orientation.

The National Action Plan for LGBTIQ+ people 2021-2027 aims to improve access for LGBTIQ persons to public services and specialized support services, to ensure security through improving the legal framework and its effective implementation as well as creating a more accepting society. The government of Albania also presented measures of support to the LGBTIQ community such as the organization of annual Pride parades.

#### b. Commission assessment

**The legal and institutional framework is partially aligned** with EU acquis and European standards. Albania does not have legislation recognising civil cohabitation or same-sex marriage, which would require amendments to the family code.

The adoption of the national action plan for LGBTIQ persons (2021-2027) following an inclusive and participatory consultation process is an achievement. Aside from various measures to fight discrimination and improve access to services, the plan also foresees the approval of the legal gender recognition law. Its implementation needs to be ensured.

Discrimination against LGBTIQ persons is still prevalent in Albania, especially as regards access to healthcare, education, justice, employment and housing. Physical assaults and hate speech remain common, particularly on social media. Public acceptance of LGBTIQ persons remain low, particularly in rural areas. Politicians need to refrain from using discriminatory language. Despite having a clear mandate to work on discrimination affecting the LGBTIQ community, very few cases of discrimination of LGBTIQ persons have been confirmed by the Commissioner for Protection from Discrimination – with only two cases in 2021.

Albania needs to take measures to ensure systematic reporting, sanctioning and effective redress in cases of discrimination, hate speech and physical violence against LGBTIQ persons.

### III.O RIGHT TO PROPERTY

#### a. Country presentation

The Constitution guarantees the right to private property and provides that limitations of this right must be the public interest, based on law and against fair compensation for the owner. Albania acknowledges the very complex situation in the field of property rights, reflecting the post-communist transition. It recognises the fragmentation of legislation, lack of effectiveness in coping with long standing property rights issues, and lack of standardisation in decision making processes related to property has had a major impact on the enjoyment of property rights throughout the country. Albania informed that improvements have been made to the legislative framework to reflect European standards, notably through the adoption of Laws 111/2019 on Cadastre and on the treatment of property and finalisation of process of compensation and 20/2022 on finalising the transitional ownership process. Albania has reported that these legal acts have brought clarification to the applicable legal framework in the area. Albania also recognises a systematic lack of enforcement of final decisions on the right of restitution or compensation of properties confiscated during communism, including decisions of the European Court of Human Rights. Albania reported that the revised Law on treatment of property and the process of compensation is being implemented by the ATP to address the systemic shortcomings identified. A compensation scheme introduced by law 133/2015 on the treatment of property and finalisation of the property compensation process is Albania's response to the ECtHR pilot judgment. It aims at establishing an efficient and realistic formula and a fair compensation within defined deadlines. The Agency for the Treatment of Property (ATP) created in 2015 handles the requests for recognition of property and compensation. The ATP has a temporary mandate – it should examine all requests by the end of 2024 and process payments for all final decisions by 2026.

A comprehensive reform was initiated in 2018 with the view to ensure accurate registration of all property and its identifiable owner. The State Cadastre Agency (SCA) is established to address issues of legalisation, restitution and registration of immovable properties and the first registration process is ongoing. Albania indicated plans to complete the first registration of immovable properties for the remaining 300 cadastral zones and to complete the transitory ownership process by end of 2028.

## **b. Commission assessment**

Albania needs to ensure full alignment of its legislative framework with European standards and to implement recommendations of the Council of Europe and judgements of the ECtHR in this field. Albania adopted implementing legislation on the Law on cadastre and the Law on the finalisation of transitional ownership processes, but significant implementation challenges remain.

The state cadastre needs to put in place effective corruption prevention measures, and accordingly, establish high standards of transparency and efficiency in the procedures, develop an efficient integrated land management system and proceed vigorously with systematic digitisation and diligent reconciliation of legal titles and cadastral maps.

Albania has taken steps to address the longstanding issues deriving from the communist past and historically poor state of the land registry but more efforts are needed to finalise the transitional ownership processes, first registrations of properties and rightful compensations for properties illegally expropriated during the communist era.

The Agency for the Treatment of Property (ATP) have not taken any decision since February 2021 awaiting the now adopted amendments to the Law no. 133/201. Albania should ensure the ATP has the means to fulfil its mandate and that the compensation scheme is effectively implemented. ATP will have to deal with the 7 000 unexamined claims and over 4 000 decisions affected by the ECtHR decision Beshiri et al v Albania by 2024 as well as the execution of all decisions by 2026. Under 800 decisions have been executed so far.

It is estimated that approximately 80% of the data on registered properties is incorrect and approximately 10% (over half a million properties) of the country's territory remains entirely unregistered. Since the establishment of the SCA in 2018, almost 118 000 properties have undergone the first registration procedure. Significantly increased efforts are needed in order to reach the goal of a finalised procedure by 2028. An efficient and transparent property registration and integrated management system, which offers clear and secure property titles, needs to be in place to ensure the right to property in practice. All cadastral data, including ownership titles and cadastral maps, should be digitised and carefully updated to systematically remove overlapping or inaccurate data.

The SCA's work is hampered by a high turnover of employees, including in managerial posts. There are also concerns over reports of corruption. In this respect, the SCA needs to urgently conduct a risk assessment and adopt a subsequent action plan to address corruption and other irregularities related to property registration. This includes revising the business processes and the way services are delivered to citizens. Transparency in the work of the SCA requires improvement.

Albania needs to ensure full implementation of court judgements in field of property rights, including those of the ECtHR, as a matter of priority. Albania needs to ensure that the right to a fair trial and the right to effective remedy are respected in cases of expropriation and removal of properties. The ECtHR case of Sharxhi and others v. Albania from 2018 was put under enhanced supervision by the Committee of Ministers in 2022 and Albania has yet to clarify existing remedies for unlawful expropriation and demolition as well as clarify the duration for providing compensation in cases of expropriation. There are numerous pending court cases in Albania related to expropriation of private properties. All limitations on private property must be applied in a manner compliant to the ECHR standards.

Albania needs to complete the transitional processes in the area of property rights by strategic documents within legal deadlines. The transparency and quality of the property register needs to be improved and the ATP and SCA need to be provided with financial means and human capacity to fulfil their mandate.

### III.P PROCEDURAL RIGHTS

#### a. Country presentation

Albania presented its alignment with the six Directives in the field of procedural rights and gaps that remain towards full transposition. On the right to information in criminal proceedings (Directive 2012/13/EU), the main gap is considered the non-application in administrative proceedings. As regards the right to interpretation and translation (Directive 2010/64/EU), Albania found gaps concerning the absence of interpretation of communications between suspected or accused persons and their legal representative and a lack of definition of essential documents. Moreover, Albania notes that provisions related to European Arrest Warrants proceedings have yet to be transposed. Concerning the right of access to a lawyer in criminal proceedings and the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (Directive 2013/48/EU), the gaps which Albania flagged concern the right to communicate with a third party/a consular authority, the absence of provisions on providing information of the possible consequences of waiving the right to a lawyer as well as shortcomings in the transposition of provisions to the specific rights of minors under the Directive. Albania indicated that the right to presumption of innocence (Directive (EU) 2016/343), as well as the right to be present at the trial and related rights are guaranteed in the Constitution, the Criminal Procedure Code and the Juvenile Justice Code. Moreover, Albania considers that the Law on legal aid provides for the right to legal aid for suspects and accused persons in criminal proceedings and is compliant with Directive (EU) 2016/1919, with the exception of provisions relating European arrest warrant proceedings, which are not transposed. According to Albania, procedural safeguards for children are largely in place.

#### b. Commission assessment

Albania's legal and institutional framework is **partially aligned** with EU acquis. Gaps remain, notably with regard provisions covering procedural rights in European Arrest Warrant proceedings.

Concerning the right to information in criminal proceedings (Directive 2012/13/EU), the main issue is the lack of procedural safeguards for suspects and accused persons in certain proceedings that, in Albania's legal system, are considered to be administrative, but which, as Albania acknowledges, may lead to the imposition of a penalty which is criminal in nature. This issue also affects the transposition of the other EU Procedural Rights Directives. Moreover, the refusal or failure to grant access to a case file as provided under Directive 2012/13/EU, is not yet subject to judicial review, with effective remedies.



As regards the right to interpretation and translation (Directive 2010/64/EU), the main gaps concern the absence of a right to interpretation for communications between suspected or accused persons and their legal counsel and the absence of a right to a written translation for essential documents (i.e. decisions depriving a person of their liberty, charges or indictments, and judgments).

Concerning the right of access to a lawyer in criminal proceedings and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (Directive 2013/48/EU), the Commission agrees with Albania on the identified gaps. Moreover, adequate facilities for confidential client-lawyer consultations need to be ensured by courts, prosecutors' offices, and the police.

With regards to Directive (EU) 2016/343, a clear legal prohibition on public references to guilt made by public authorities before a final conviction as well as provisions on effective redress in the event of a breach of such prohibition are missing under Albanian law. As regards the framework to hold trials *in absentia* under Albanian law, it is unclear whether the suspect/accused person is informed of the consequences of non-appearance.

Based on the information provided by Albania, child specific procedural safeguards appear to be in place, although full alignment with Directive (EU) 2016/800 remains outstanding. In particular, certain shortcomings were acknowledged with regards to protecting the privacy of children during the proceedings including in terms of insufficient media self-regulation.

Albania also acknowledged the need to bolster training on procedural rights and their application, in particular with regards to the rights enshrined in Directive 2012/13/EU.

Implementation capacity needs to be further strengthened.

Concerning free legal aid, the legal framework is being applied with primary and secondary legal aid being delivered at central and local level through ten centres across the country, however legal aid schemes are still poor and not fully functional. The budget allocated for legal aid in 2021 amounted to EUR 547 696, an increase of 31% against the previous year. The budget implemented in 2021 amounted to EUR 245 739. However, ensuring the functioning of the ‘legal clinics’ requires dedicated state budget to make the legal clinics fully functional. It remains important to improve the collection and reporting of statistical data on free legal aid. Albania affirmed that the Law on legal aid provides for the right to legal aid for suspects and accused persons in criminal proceedings, in accordance with Directive (EU) 2016/1919. It should however be noted that provisions related to the right of access to a lawyer and the right to legal aid in European arrest warrant proceedings are not yet included in Albanian legislation and will need to be implemented once the surrender procedure, provided under Framework Decision 2002/584/JHA, is in force in this State.

### III.Q RIGHTS OF VICTIMS OF CRIMES

#### a. Country presentation

Albania indicated that it has transposed the Directive 2012/29/EU on minimum standards on the rights and support of victims of crime and it presented a number of areas which still require alignment. Concerning Directive 2004/80/EC on Compensation to Crime Victims, Albania identified a number of issues which are yet to be transposed into its legal framework. These notably concern the right to financial compensation for victims of violent criminal offenses or their heirs – state compensation is as yet not provided for, only from the perpetrator . Albania has no specific mechanism or legislation on state compensation for victims of violent crimes. Under the Criminal Procedure Code and Civil Procedure Code victims can get compensation in courts.

Victims of a criminal offence have the right to claim compensation against the offender in the form of “restitution of property and reimbursement for the injury”. In civil proceedings, the right to compensation can be exercised only following a conviction in criminal proceedings, against the offender as well as against the State when the offender was acting in an official capacity.

With regard to Directive 2011/99/EU on the European Protection Order, Albania stated that it is **partially aligned**.

Albania stated that it has two national centres for victims' treatment, 16 centres at the local level and two centres for the treatment of victims of sexual violence and serious forms of violence against children. The Strategy on Victims' Rights 2020-2025 aims at ensuring a safe environment for victims to report crime, improving support and protection to the most vulnerable victims and facilitating victims' access to compensation.

With regard to accelerated integration, Albania requested to join the European Network on Victims' Rights (ENVR).

#### **b. Commission assessment**

Albania's legal and institutional framework is **partially aligned** with EU acquis. In particular, Albania needs to take some further legislative steps to align its legislation with the requirements of Directive 2012/29/EU on the rights, support and protection of victims of crime, the 2004 Compensation Directive and the two EU instruments on mutual recognition of protection measures (Directive 2011/99/EU on the European protection order in criminal matters and Regulation (EU) No. 606/2013 on protection measures in civil matters). The case-law of the High Court has clarified the definition and scope of 'victim' as including indirect victims such as family members, the cohabitant or, in exceptional circumstances, other persons. In 2007, the Joint Panels of the High Court also clarified the definition of damage as including both 'moral harm' and 'existential harm' suffered by the victim.

The right to obtain a decision on compensation within a reasonable time remains a challenge both within criminal and civil proceedings. The number of cases concerning the length of proceedings brought before the ECtHR has shown that the implementation of the right to an effective remedy in Albania remains deficient. While under the law criminal courts should primarily seek to assess damages and the amount of compensation to be awarded, in practice, they regularly – if not systematically – defer compensation claims to civil proceedings without carrying out the required assessment. This practice hinders the right of victims to obtain a decision on compensation within a reasonable time. In addition, the referral of compensation claims to civil proceedings has also resulted in higher judicial costs for victims and their re-victimisation, given that victims often have to testify again and/or undergo a medical examination.

With regard to victims of serious human rights violations committed during the communist regime, by law they are entitled to thorough investigation. In practice, however, the effectiveness of the right is not fully ensured.

With regard to Albania's accelerated integration request, the Commission sees positively Albania's request for participation in the European Network on Victims' Rights (ENVR).

### **III.R RIGHTS OF PERSONS BELONGING TO MINORITIES AND CULTURAL RIGHTS**

#### **a. Country presentation**

Albania stated that it recognises 9 national minorities in its territory: the Greek, Macedonian, Aromanian, Roma, Egyptian, Montenegrin, Bosniak, Serb and Bulgarian minorities. The protection of rights of national minorities is constitutionally guaranteed. Albania is a State party to the Framework Convention on the Protection of National Minorities of the Council of Europe but not the Charter on Regional and Minority Languages. The main law in this field is the 2017 Law on Protection of National Minorities in the Republic of Albania.

The law includes a definition of national minorities and provides legal recognition of all existing national minorities in Albania, based on subjective (self-identification) and objective criteria. The Law provides for the implementation of specific rights of national minorities on self-identification, non-discrimination, educational, cultural rights, and representation in economic, social, public life. There are also a number of sub-legal acts in this field.

The National Minorities Committee coordinates activities and administers the fund for national minorities which supports projects protecting the rights of national minorities, preserving and promoting their cultural, ethnic, linguistic, traditional and religious identities. At the local level, there are 61 focal points for minority issues in municipalities.

A series of pilot censuses were conducted during the reporting period, including in areas populated by minorities, ahead of the full-scale population and housing census expected to take place in 2023. It is important for Albania to conduct the national census in a smooth and transparent manner and in line with international standards.

While the National Action Plan for Equality, Inclusion and Participation of Roma and Egyptians 2021-2025 aims to align the country national strategy with the "EU Roma Framework for equality, inclusion and participation 2020-2030", significant gaps remain to be addressed. The Action Plan includes components on anti-gypsyism and measures to encounter and fight discrimination. In 2021, the Commissioner for Protection from Discrimination confirmed discrimination against Roma and Egyptian in four cases.

## **b. Commission assessment**

**The legal and institutional framework is partially aligned** with EU acquis. Albania needs to adopt remaining implementing legislation related to its 2017 framework law on the protection of national minorities related to free self-identification and the use of languages. Any decision or initiative in this regard must be in line with European standards and the rights protected by the Framework Convention on National Minorities. Further data on the ethnic composition of the country will be gathered via the upcoming census which will include voluntary questions on ethnic identity.

The state Committee on National Minorities has an approved budget for the year 2023 but is not yet fully operational and able to contribute appropriately to the enforcement of the rights of national minorities, in line with the Law on the Protection of National Minorities of 2017. The Committee is preparing its first strategic development plan and internal rules of procedures intended for adoption in the course of 2023. The by-law establishing the Fund for National Minorities to support initiatives and projects aimed at protecting the rights of national minorities, preserving and promoting their distinct cultural, ethnic, linguistic, traditional and religious identity of national minorities was adopted only recently. Regarding the Roma and Egyptian minority, the overall capacity for coordination of policies is weak. Participation of Roma in the local administration needs to be improved, and inter-ministerial, national and local coordination on Roma inclusion needs to be strengthened.

As set out in the January 2023 Commission Communication,<sup>27</sup> Albania needs to allocate adequate national for the implementation of the policy measures, reinforce capacity and coordination role of the National Roma contact Point, include a specific section on Roma participation in the relevant national policies. Albania has invested efforts in education for Roma and Egyptian children. Enhanced efforts are required to fulfil the Poznan commitment of increasing to 90% the enrolment and completion rate of Roma in primary education and 50% in secondary education. The continued issue of school segregation needs to be systematically addressed. In this regard, Albania needs to implement the May 2022 ECtHR ruling concerning school segregation. Albania took measures to improve access to employment, however they are not giving the required results, rates of Roma and Egyptian employment remains too low, as is access to universal health insurance coverage. Roma and Egyptian families benefit from facilitated access to social housing but the legalisation of Roma settlements and Roma and Egyptians' access to house ownership documents, needs to be completed. Lack of digital skills and access to technologies is an increasing problem notably because impedes their access to public services, which are now digital (healthcare, education, employment, social protection etc.). Additional efforts and resources are required to accelerate the inclusion of Roma and Egyptians, tackle anti-gypsyism and discrimination as well as educational and spatial segregation, and reduce the gap with the rest of the population.

The Poznan Declaration, a dynamic policy document progressively adapting to the evolving situation on Roma inclusion policy, remains a central policy element. Better understanding of its content and implementation of commitments taken is required. Albania needs to increase the administrative capacities to work on Roma inclusion and improve the inter-ministerial as well as national and local coordination. Albania should continue to implement the Poznan commitments and the recommendations adopted during the 5th Roma Seminar.

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<sup>27</sup> 9 January 2023 COM (2023) 7 final and SWD (2023) 3 final

### III.S. SUMMARY OF FINDINGS – FUNDAMENTAL RIGHTS

Albania's legal and institutional framework is **partially aligned** with EU *acquis* and European standards on fundamental rights. Implementation needs to be strengthened to guarantee the full enjoyment of human rights in practice, notably with regard to strengthening the capacities of the independent fundamental rights institutions, protection of personal data and freedom of expression, gender equality and non-discrimination, rights of the child, rights of persons with disabilities, as well as completion of the transitional processes in the area of property rights and ensuring protection of persons belonging to minorities.

#### IV. EU CITIZENSHIP RIGHTS

##### a. Country presentation

Albania stated that most of the requirements of the *acquis* on the right to vote and stand as a candidate in elections to the European Parliament and the right to vote and to stand as a candidate in municipal elections are yet to be transposed into the legal framework.

Concerning the right to move and reside freely within the European Union, Albania stated that its legal framework (Law on Foreigners) is not aligned with the Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. Albania considers that ISO standards for security elements for issuing identity cards and biometric passports for Albanian citizens are fully aligned with the provisions of EU Regulations. Albania intends to take measures for transposition of Directive 2004/38/EC and for ensuring full applicability of EU Regulations (EU) 2016/1191, 2021/1157, 2021/953 and Implementing Decision (EU) 2021/1073 one year before accession.

Concerning diplomatic and consular protection, Albania considers its legal framework to not be in line with Council Directive (EU) 2015/637 to facilitate consular protection for unrepresented EU citizens and Council Directive (EU) 2019/997 on EU Emergency Travel Document (repealing Decision 94/409/CSP). Transposition would be foreseen one year prior to accession.

Albania also presented its legal framework regulating investor citizenship. The Law on Citizenship regulates the principles and conditions for acquisition of Albanian citizenship, the procedure for acquisition of citizenship by specific contributions and the situation, rights and obligations of persons who have applied for citizenship. The Agency of Special Citizenship Programs (ASCP) is in charge of the management of the special citizenship scheme, including with regard to the citizenship for special contribution in the field of art and culture and for special contribution in the field of education, science and sports. Since July 2020, Albania has had legislation in place allowing to set up an investor citizenship scheme. However, Albania publicly stated at the highest level in March 2023 that it would not implement the scheme pending a ruling by the Court of Justice of the EU on a similar scheme in an EU Member State.

#### **b. Commission assessment**

It is a concern that Albania, in addition to its programmes for acquiring Albanian citizenship on the basis of special merit in the fields of arts, culture, education, science and sports, without requiring applicants to have a prior residency in Albania to be eligible has introduced a possibility to launch a tender for a public-private partnership that would serve to roll out an investors' citizenship scheme. It is positive that the scheme has not to date been rolled out in practice.

Such a scheme, if implemented, would pose risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime, and would be incompatible with the EU *acquis* on EU citizenship (Article 20 TFEU) and the principle of sincere cooperation (Article 4(3) TEU). As a candidate country, Albania should refrain from developing and implementing an investor citizenship scheme.

#### **c. SUMMARY OF FINDINGS – EU CITIZENSHIP RIGHTS**

**The legal and institutional framework** is not aligned with the EU *acquis* on the rights of EU citizens. Albania needs to ensure full alignment of its legislative framework with the EU *acquis* to ensure full enjoyment of all EU citizenship rights upon accession. Albania should refrain from developing and implementing an investor citizenship scheme.



## E) CHAPTER 24 – JUSTICE, FREEDOM AND SECURITY

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, external migration, asylum, police cooperation, the fight against organised crime and against terrorism, cooperation in the field of drugs, and judicial cooperation in criminal and civil matters, Member States need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards.

In order to tackle organised crime and its dynamic nature efficiently, the entire law enforcement and judicial chains need to have a strategic, integrated approach, as well as an adequate level of resources and specialisation. A professional, reliable and efficient police organisation is of paramount importance to ensure the rule of law within the country and to be a reliable partner for other Member States, EU agencies, third countries and international partners in relevant investigations and criminal cases, as well as other judicial proceedings with a transnational aspect. Efficient cooperation in civil and criminal matters between Member States is key to the proper functioning of the EU.

Migration is a core element of Chapter 24, which requires Member States to apply a common set of rules and standards on legal migration and on the fight against irregular migration. Member States also apply common standards in asylum matters and are required to have the ability to process asylum requests effectively and in a timely manner, an adequate hosting capacity in their reception centres and to be prepared to react in case of a sudden significant increase in the migrant influx. Member States also have a common visa policy for short-stay visas, including on the list of third countries whose nationals must be in possession of a visa when crossing the external borders of the Schengen area.

The most detailed part of the EU's policies on justice, freedom and security is the Schengen acquis, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen acquis are implemented following a separate Council decision to be taken after accession.

**Albania has some level of preparation/is moderately prepared to implement the EU acquis in this area.**

## I. FIGHT AGAINST ORGANISED CRIME

### I.A STRATEGIC AND LEGAL FRAMEWORK

#### a. Country presentation

Albania presented that its legal framework for the **fight against organised crime** is primarily based on the Criminal Code and the Criminal Procedure Code, as well as other criminal legislation, including the Anti-Mafia Law. Albania implements its Strategy against organised and serious crimes for 2021-2025. Following the expiration of its Action Plan for 2021-2022, a new Action Plan for 2023-2025 was adopted in February 2023. Albania is a party to the United Nations Convention against Transnational Organised Crime (Palermo convention) and its two additional Protocols.

Albania indicated that its legislation was partially aligned with the EU *acquis* on the fight against organised crime<sup>28</sup>.

#### b. Commission assessment

Albania's legal framework in the field of the fight against organised crime and law enforcement cooperation is **partially aligned** with the EU *acquis* in the area of the fight against organised crime. Albania has identified gaps in its legislation and should ensure further amendment of its legislation to fully comply with all relevant EU instruments in this field, notably in the field of cybercrime, trafficking in human beings and trafficking in firearms.

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<sup>28</sup> Partial alignment was indicated notably with regard to Framework Decision 2008/841/JHA on the fight against organised crime, Council resolution of 30 November 2009 on the exchange of DNA analysis results, Framework Decision 2008/977/JHA on the protection of personal data processed within the framework of police and judicial cooperation in criminal matters and Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. Legislation is not aligned with Council Framework Decision 2009/905/JHA on Accreditation of forensic service providers carrying out laboratory activities.

## **I.B INSTITUTIONAL FRAMEWORK**

### **a. Country presentation**

The main institutions responsible for the fight against organised crime are the Ministry of Interior (notably the general directorate of state police and the agency for the administration of seized and confiscated property), the prosecution and judicial system (including the special anti-corruption and organised crime structure (SPAK), its special prosecution office (SPO), its national bureau of investigation (NBI), and the general prosecution office), and the Ministry of Finance and Economy (including a financial investigation unit). Independent institutions such as the financial supervisory authority, the state intelligence agency and the Bank of Albania are also involved. An inter-institutional Steering Committee on Home Affairs coordinates the actions of various institutional actors involved in the fight against organised crime.

### **b. Commission assessment**

Legal and institutional reforms conducted in recent years have strengthened the capacities of the ASP's Operational Directorate. However, staff rotations are frequent, affecting the ASP operational capacity. In March 2023, the ASP announced a long awaited organisational and structural reform which was approved in April 2023 and applied as of May 2023. Results of the implementation are still pending.

Albania should provide the relevant institutions with adequate resources in order to ensure continuity in the fight against organised crime. The connection of the Special Prosecution Office and National Bureau of Investigation to all relevant databases should be increased and cover all databases to which the ASP has access.

After the transfer of some of the former Serious Crime Prosecution Office's competences to local prosecution offices, judicial police officers need further training to investigate, in particular on financial crime, money laundering and illicit trafficking offences. The direction of the planned reform of the Security Academy for police training should be clarified and should progress.

## **I.C IMPLEMENTATION CAPACITY AND TRACK RECORD**

### **a. Country presentation**

Albania's Special Prosecution Office has 17 prosecutors, and the NBI has 60 investigators. The Albanian State Police has a total of 11 932 officers, equivalent to 260 officers per 100 000 inhabitants (compared to an EU average of 335.3 – Eurostat, 2019-2021). Special units within the police and prosecution have access to 44 national registers (Deepsee), but no direct access to the electronic register of mobile phone subscribers and IP addresses from internet service providers. The NBI has signed a number of agreements with other law enforcement agencies, notably to allow investigators access to databases of the Albanian State Police and of the General Directorate for Taxation. e

### **b. Commission assessment**

Albania has a large informal sector and its economy is primarily cash-based. Crimes that generate large amounts of money include drug trafficking, tax evasion, smuggling and trafficking in human beings.

Law enforcement authorities' response to organised crime, notably the investigation of large criminal networks, needs to be more proactive and systematic. Albania should step up the use of special investigation techniques.

Specialised training, better co-ordination between institutions and adequate budgetary resources are needed across the board but in particular in relatively new and quickly developing areas such as cybercrime. Further consolidation of the Special Prosecution Office and the National Bureau of Investigation is needed regarding the administrative capacities, trainings, access to databases and international and national cooperation.

The unauthorised use of surveillance videos by police forces in several cases has demonstrated the need to strengthen legal safeguards and ensure legal consistency. Surveillance data have been used outside control from the judiciary. The right to privacy should be enforced in line with EU data protection standards.

## **I.D FINANCIAL INVESTIGATIONS**

### **a. Country presentation**

Albania indicated that financial investigations are started simultaneously in every case referred to the SPAK as well as to the prosecution offices at the Courts of first instance, for all criminal offenses subject to the scope of law on preventing and combating organised crime, trafficking, corruption and other crimes through preventive measures against unexplained wealth. In addition, financial investigations are carried out in parallel, regardless the existence of a criminal proceeding, in every case where a certain criminal activity is generating criminal assets.

A centralised bank account register and a beneficial ownership register are in place. The system of rogatory letters of the Ministry of Justice and its interaction with the General Prosecution Office are fully operational. Albania indicated that it was necessary to complete the digitalisation of the properties register and to expand the databases to which financial investigators have access, to develop electronic systems for the exchange of information between countries, to facilitate electronic signatures on documents, to digitalise the registers of yachts, ships, aircraft, airplanes and helicopters, and to allow access to financial investigators, as well as to develop staff capacity to increase cooperation, joint operations with EU countries and beyond.

### **b. Commission assessment**

Albania should further allow ‘suspicious transactions reports’ as evidence in court. While the General Prosecutor’s Office has issued a general instruction on financial investigations, no such instruction exists within SPAK. Action should be taken to require prosecutors to conduct financial investigation to a much greater extent.

Financial investigations are not systematically accompanied by criminal proceedings from the start, and their effectiveness remains limited. The systematic use of parallel financial investigations when dealing with organised crime and financial crime, terrorism, and money laundering needs to be ensured. Albania needs to strengthen its capacity to run complex financial investigations in parallel to criminal investigations and notably to improve the financial investigation techniques of police and prosecutors. Albania should more systematically target the money flows supporting criminal organisations rather than single individuals. With regard to law enforcement, access to financial information, the transparency obligations of entities obliged to report under the beneficial ownership register needs to be monitored and administrative sanctions should be imposed in cases of violation.

## **I.E CRIMINALISATION AND INVESTIGATION OF MONEY LAUNDERING**

### **a. Country presentation**

Albania indicated that its legal framework was largely aligned with Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, with still a few amendments of a technical nature to be adopted to reach full alignment. Albania has set up an inter-institutional group to implement the international cooperation review group (ICRG) of the financial action task force (FATF). Albania has established the General Directorate for the Prevention of Money Laundering in the Ministry of Finance as a financial intelligence unit (FIU) and is a member of the EGMONT Group of Financial Intelligence Units and of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

Albania signed 45 memoranda of understanding related to the exchange of financial intelligence data with third countries, 12 of which are with EU Member States. In addition, the General Prosecution has a dedicated electronic register 'PRESTO' to ensure that all money laundering cases are tracked with a view to increase effectiveness in the seizure and confiscation of criminal proceeds. A cooperation agreement has been signed between the Special Prosecution Office and General Prosecutor's Office, and another one between the Ministry of the Interior, the General Prosecutor's Office and Ministry of Finance and Economy (signed also by other subordinate agencies of both ministries).

### **b. Commission assessment**

Despite recent progress, Albania's legislation is partially aligned with the EU *acquis* in this area. Albania is on the Financial Action Task Force (FATF) list of jurisdictions under increased monitoring since February 2020. The FATF plenary in February 2023 welcomed Albania's work to address strategic deficiencies and observed that the country had substantially completed its action plan to address FATF recommendations. However, due to concerns about the draft fiscal and criminal amnesty legislation, Albania remains on the FATF "grey list". At its June 2023 plenary the FATF decided to organise an on-site visit to verify that the implementation of Albania's AML/CFT reforms has begun and is being sustained, and that the necessary political commitment remains in place to sustain implementation in the future. The FATF will continue monitoring Albania and any VTC programme developments to continue monitoring Albania. A potential adoption and implementation of such a law should not jeopardise progress in the areas of free movement of capital, taxation and the fight against money laundering and be in line with the international standards in this regard. An adequate and consistent track record of persons with final convictions for money laundering needs to be further demonstrated.

Albania needs to step up the implementation of the anti-mafia law on preventive assets seizure and confiscation, including no-conviction based confiscation and third party confiscation, to freeze assets related to criminal activities and promote their social re-use. The financial ceiling for cash transactions should be enforced.

## **I.F CONFISCATION, FREEZING OF PROPERTY AND FINANCIAL PENALTIES**

### **a. Country presentation**

Albania indicated that it had a robust legal framework for confiscating criminal proceeds<sup>29</sup>. Albania's legal framework provides for three types of confiscation: criminal confiscation, confiscation regardless of the existence of a conviction decision, and administrative confiscation. Albania has an Agency of Administration of Seized and Confiscated Assets (AASCA-AMO). Although the legal framework provides for the establishment of an asset recovery office, it has not yet been set up. Albania indicated that it is expected to be set up in 2023.

Albania expressed interest to join the EU Asset Recovery Offices Platform" (ARO platform), based on accelerated integration.

### **b. Commission assessment**

Albania needs to step up the implementation of the anti-mafia law on preventive assets seizure and confiscation - including no-conviction based confiscation and third-party confiscation - to freeze assets related to criminal activities and promote their social re-use. The financial ceiling for cash transactions should be enforced. The adoption of a tax and criminal amnesty against the advice of the EU and Moneyval could jeopardise progress in the area of the fight against money laundering. *See Chapter 4 - Free Movement of Capital and Chapter 16 - Taxation.*

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<sup>29</sup> It includes notably the law for the administration of seized and confiscated assets, the anti-mafia law, and the specific law on preventing and striking, organized crime and trafficking, corruption, and other crimes, through preventive measures against assets. The latter does not cover all the criminal acts specified in the Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence – notably: Sexual Exploitation and Child Pornography, Fraud, Counterfeiting of Currency, Environmental Crime, Murder, Cybercrime.

Albania needs to urgently establish an asset recovery office, as this issue has been long outstanding in Albania despite multiple support provided in the last years and improve its track record on seizure and final confiscations, as the total number of proceeds of crime seized/confiscated remains low. There is no strategic or systematic approach to identifying and confiscating criminal assets located abroad or not reachable. Albania should also urgently improve its capacity to manage frozen or confiscated assets so that they do not lose economic value.

With regard to Albania's accelerated integration request concerning the EU Asset Recovery Offices Platform, which is a Commission-led, tight network of practitioners that rely on personal connection and trust as much as the legislative framework allowing cooperation to trace and freeze assets cross border, the first step would be for Albania to set up an ARO. When this requirement is met, the Commission will evaluate the opportunity to invite Albania where relevant, on an ad-hoc basis.

## **I.G CYBERCRIME**

### **a. Country presentation**

According to Albania, the country's legal framework is **partially aligned** with Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 and fully aligned with Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems. Albania is party to the Budapest Convention on cybercrime and has signed (but not yet ratified) the Second Additional Protocol to the Convention on enhanced co-operation and disclosure of electronic evidence. Albania implements a National Cyber Security Strategy 2020-2025 and its action plan, and a Cybercrime Investigation Strategy 2021-2025 and its action plan.

Investigations on the cyberattacks targeting Albanian public administrations and the Albanian State Police in 2022 are ongoing.

### **b. Commission assessment**

Albania should adopt legal and sub-legal acts in line with its Cyber Security Strategy 2020-2025 and sign the Second Additional Protocol to the Convention on enhanced co-operation and disclosure of electronic evidence.



In the area of cybercrime, Albania's track record is limited and should be enhanced, notably through the establishment of a more effective law enforcement response focusing on the detection, traceability and prosecution of cyber criminals. The ASP's cybercrime unit has a central forensic laboratory but should increase its capacity to deal with such cases. Albania should raise awareness among the prosecutors to enhance the use of the 24/7 points of contact network established by the Council of Europe Convention on Cybercrime. Capacities for investigating and prosecuting crimes against children committed through the internet need to be strengthened.

## **I.H CHILD SEXUAL ABUSE, INCLUDING ONLINE**

### **a. Country presentation**

Albania has ratified the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse. Albania indicated that its legal framework is **partially aligned** with EU *acquis*<sup>30</sup>. Albania uses an intelligence database ('Memex') to collect information and evidence, and gather intelligence. The ASP has a limited number of trained first responders outside the capital. The Sector for Investigation of Pornography with Minors has been established to investigate cases of criminal offenses committed through the use of technology, where minors are included as victims, such as those of pornography with minors, etc. The functions of Specialist and Assistant Specialist for education in schools and work with young people are foreseen also in the local police structures. Police officers who deal with cases involving minors have been trained. Measures concerning prevention and detection of minor victims are provided in the Criminal Code.

In Albania, telephone numbers are available to minors 24 hours a day, 7 days a week such as: emergency number 112 and the National Child Counselling Line . This is an instrument aiming to advise children and refer their needs to the relevant institutions.

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<sup>30</sup> Albania indicated that it is fully aligned with Council Decision 2000/375/JHA to combat child pornography on the Internet and **partially aligned** with Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse (notably, need to align the responsibility of legal persons).

## b. Commission assessment

All forms of online child sexual abuse should be criminalised. Particular attention should be placed on protection and prevention (including prevention of re-victimisation) of child sexual abuse online and offline.

### I.I TRAFFICKING IN FIREARMS (INCLUDING CONTROL OF FIREARMS, ESSENTIAL COMPONENTS AND AMMUNITION)

#### a. Country presentation

Albania indicated that its legal framework was **partially aligned** with the EU *acquis* in this field<sup>31</sup>. Albania is party to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime and reported a partial alignment of the UN Protocol with its Criminal Code. Albania implements a national strategy for the control of small arms and light weapons (SALW) 2019-2024 and its action plan 2022-2024, and is actively engaged in the implementation of the Regional Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of SALW and their ammunition in the Western Balkans by 2024<sup>32</sup>, which is part of the EU Action Plan on firearms trafficking since 2020. At operational level, Albania is also an active jurisdiction in different operational actions of the EMPACT firearms. The National Commission on Small Arms and Light Weapons and a Firearms Focal Point are two main actors in assessing and coordinating direct actions against the threats and risks of firearms misuse and trafficking.

<sup>31</sup> Main legal instruments on firearms, essential components and ammunition: Directive (EU) 2021/555 of 24 March 2021 on control of the acquisition and possession of weapons, Regulation 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in FA and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition, Commission Implementing Regulation (EU) 2018/337 of 5 March 2018 amending Implementing Regulation (EU) 2015/2403 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable, Commission Implementing Directive (EU) 2019/69 of 16 January 2019 laying down technical specifications for alarm and signal weapons under Council Directive 91/477/EEC on control of the acquisition and possession of weapons, Commission Implementing Directive (EU) 2019/68 of 16 January 2019 establishing technical specifications for the marking of firearms and their essential components under Council Directive 91/477/EEC on control of the acquisition and possession of weapons.

<sup>32</sup> Adopted in 2019 by the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC).

Albania has a consolidated architecture for the identification and tracking of firearms through the use of national databases such as: national electronic registry for weapons ('SIMA'), in which more than 75% of firearm possessors have been registered), 'iBase' (ballistic data on all military weapons and ammunitions seized in a criminal case) and 'iArms' (Interpol tracing system). Two additional databases are in progress – 'Evofinder' (currently being populated with data) and 'Traffic' (to exchange ballistic information). At border crossing points, the border police implement standard control procedures to detect weapons.

#### **b. Commission assessment**

Albania needs to fully harmonise the national legislation with the body of EU legislation on firearms, essential components and ammunition and modify the Criminal Code to fully harmonise it with the UN Protocol of firearms. . Albania also needs to align its actions with the goals of the Regional Roadmap to better control small arms and light weapons (SALW) in the Western Balkans. Albania needs to increase its efforts on awareness raising, outreach and education on the dangers and risks related to the misuse, illicit possession, and trafficking of firearms/SALW, as well as reduction of illicit firearms through legalisation, voluntary surrender and deactivation.

All the above-mentioned actions are important to reduce illegal possession and trafficking of firearms. Large numbers of firearms are available in Albania. These are used by Albanian criminal groups and trafficked, primarily to neighbouring countries. Albania is a source, a destination and a transit country for SALW. The exchange of information among different national stakeholders (law enforcement agencies, prosecution and judiciary system) is still low, which jeopardises the receipt of unified data from the police and prosecution office. Albania should transform the firearms focal point into a permanent structure, enhance its capacities and ensure the interoperability of databases. Albania needs to establish the necessary infrastructure for the deactivation of firearms and strengthen inventory management and increase the oversight capabilities as well as the stockpile physical security and safety.

## I.J TRAFFICKING IN HUMAN BEINGS

### a. Country presentation

Albania indicated that its legal framework on trafficking in human beings was **partially aligned** with the EU *acquis*<sup>33</sup>. It is party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children and to the Council of Europe Convention on Actions against Trafficking in Human Beings. Albania implements a National Action Plan for the Fight against Human Trafficking 2021-2023, in the broader context of the strategy against organised and serious crime. Albania has a National Referral Mechanism (NRM) for the Protection of Victims and Potential Victims of Trafficking and several mobile units in charge of identifying victims and potential victims of trafficking, as well as national and regional anti-trafficking committees.

### b. Commission assessment

Albania is a country of origin, transit and destination of trafficking in human beings and needs to strengthen its anti-trafficking measures. Albanian citizens are trafficked to neighbouring countries and EU Member States for the purposes of sexual exploitation, forced labour and forced criminality.. Children placed in institutions and children from the Roma and Egyptian communities are particularly vulnerable to trafficking.

Early identification and victim protection need to be enhanced. The national referral mechanism for (potential) victims of trafficking is functional and assistance is provided. However, the identification of potential victims remains insufficient within the Albanian territory, also among vulnerable migrants entering the country.

The improved legislative framework for victims, including amendments to the Criminal Procedural Code, is yet to be implemented. The implementation of the national Action Plan against trafficking in persons 2021–2023 should be supported by adequate funding. NGO-run shelters remain underfunded. Anti-trafficking efforts should increase, in particular by strengthening the child protection system.

The number of final convictions for trafficking in human beings is very low and a track record is needed in this field. The victim-centred approach should be better and more consistently integrated in investigations and prosecutions.

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<sup>33</sup> Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims

## **I.K LAW ENFORCEMENT COOPERATION**

### **a. Country presentation**

Albania has an agreement at operational and strategic level with Europol since 2013 and has appointed a liaison officer to EUROPOL, with a second one appointed in February 2023. An agreement is in place between the Albanian State Police and the Special Prosecution Office and the National Bureau of Investigation respectively to allow them to access SIENA. The implementation of the agreement is fully effective and NBI has confirmed its commitment to deploy a permanent Liaison Officer to Europol headquarters. A similar agreement is in place between the Albanian State Police and the Customs Agency and is operational, with three users exchanging data in Europol SIENA channel. Albania is an observer at the European Network of Fugitive Active Search Teams (ENFAST) and actively participates in the European Multidisciplinary Platform Against Criminal Threats (EMPACT). It has appointed a National EMPACT Coordinator. Albania indicated that exchanges of data for fingerprints comply with the Framework Decision 2008/977/JHA on the protection of personal data processed within the framework of police and judicial cooperation in criminal matters.

Albania is party to the Police Cooperation Convention for Southeast Europe (PCCSEE). Albania has 35 bilateral agreements with countries party to the PCCSEE Convention, including five Member States<sup>34</sup>. These agreements cover various areas in the field of security, including the fight against organised crime, terrorism, violent extremism, cross-border crime, and police training. Albania also has an international police cooperation agreement with the UK. Within the Albanian State Police (ASP), the Department for International Relations is the main structure for international cooperation.

Albania has police liaison officers detached to nine third countries<sup>35</sup>, including five Member States, and three international organisations<sup>36</sup>. Albania has been a member of Interpol since 1991. The flow of information sent via the Interpol global police communication channel 24/7 system is transmitted to the National Contact Bureau Interpol Tirana. Albania is equipped with CODIS 9.0 for DNA data and AFFIS system for dactyloscopic data. The accreditation of forensic service providers carrying out laboratory activities is in process.

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<sup>34</sup> Austria, Bulgaria, Hungary, Romania, Slovenia.

<sup>35</sup> Germany (1), France (1), Belgium (1), Italy (2), Greece (2), Turkey (1), Kosovo\* (1), United States of America (1), United Kingdom (1).

<sup>36</sup> Europol (1, The Hague), Interpol (1, Lyon), the Southeast European Law Enforcement Center (1, SELEC – Bucharest).

\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence

Albania is operational, with three users exchanging data in Europol SIENA channel. The cooperation between the Albanian Security Academy and the EU Agency for Law Enforcement Training (CEPOL) is well established and based on a working arrangement. A dedicated contact point is in place. Albania benefits from full access to the CEPOL Exchange Programme and participates in the CEPOL-led Partnership against Crime and Terrorism project in the Western Balkans. Albania considers that for secure data transfer between partner countries within PCCSEE as well as in future with all EU Member states, agencies and institutions the Trans European Services for Telematics between administrations (TESTA) network connection should be used.

Albania requested accelerated integration with regard to Europol, with increased cooperation as main focus, including increased access to databases and an ability to impact the policy cycle of the agency, with regard to CEPOL, with regard to the Prüm regulation, and with regard to the European Network for Protection of Public Figures (ENPPF).

#### **b. Commission assessment**

Albania is actively participating in international and regional law enforcement cooperation, yielding positive results. A number of police operations are regularly conducted in cooperation with Europol, authorities of EU Member States, notably in the context of EMPACT (where Albania is very active), but also of the other countries of the region and with Interpol. The General Directorate for Taxation, the Financial Intelligence Unit and the Customs administration should make the necessary steps to obtain effective access to SIENA. Confidential treatment of intelligence shared by EU Member States is of crucial importance.

The track record of investigations, prosecutions and convictions, as well as final confiscation of assets, in the fight against organised crime and money laundering, especially at high level, needs to be further improved. The number of proactive investigations should be increased, as well as the number of cases brought to court based on reports and information of High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI), the Financial Intelligence Unit (FIU) and the State Supreme Audit.

With regard to the accelerated integration request concerning Europol, countries having operational agreements in place with Europol can take part as observers in Heads of Europol National Units HENU meetings. They are held four times per year and Albania has been regularly attending. This is the most relevant forum for Albania as it covers operational matters. Meetings of the Management Boards of Europol are not open to non-EU countries as they cover internal matters (human resources, budget, etc.). On databases, Albania has already access to the SIENA channel, which is the most relevant on operational matters.

Concerning CEPOL, third countries having a Working Arrangement with CEPOL are invited to CEPOL "National Unit meetings" taking place twice a year. Albania has not taken part in last ones despite being invited. CEPOL trainings are channelled via the IPA-funded WBPact project. Albanian law enforcement agencies have also access to numerous CEPOL trainings available online.

The possibility for deeper engagement of Albania in the Prüm cooperation framework will be explored.

With regard to ENPPF the request has been transmitted to the general coordination group of the Network, and will be evaluated.

## **I.L SUMMARY OF FINDINGS – FIGHT AGAINST ORGANISED CRIME**

Albania has some level of preparation in the fight against organised crime. Law enforcement cooperation with EU Member States, EUROPOL and EUROJUST, as well as a very active involvement in EMPACT, are yielding positive results. Further efforts are needed to consolidate the track record of investigations, prosecutions, final convictions and seizure and confiscation of assets related to organised crime.

## **II. COOPERATION IN THE FIELD OF DRUGS**

### **II.A STRATEGIC AND LEGISLATIVE FRAMEWORK**

#### **a. Country presentation**

Albania indicated that its legislation was **partially aligned** with EU acquis<sup>37</sup>. Albania is party to the main international conventions on drugs<sup>38</sup>. Albania does not have a specific national drugs strategy. This matter is covered by the National Strategy against Organized Crime and Serious Crime for the period 2021-2025, and its Action Plan for 2021-2022. The action plan for 2023-2025 was adopted in February 2023. Policy documents in the health sector address relevant components of drug demand reduction strategies. Albania is currently preparing a law on the cultivation and processing of cannabis and the production of its by-products for medical and industrial purposes.

<sup>37</sup> Legal framework is mainly composed of the Law on prevention of organised Crime, trafficking and Corruption through preventive measures against property, the Law On the prevention and fight against trafficking of narcotic or psychotropic substances, the Law on the narcotic drugs and psychotropic substances, the Law for the control of substances used for the production of narcotic substances, and the Law on Public Health.

<sup>38</sup> UN Single Convention on Narcotic Drugs of 1961, the UN Single Convention on Psychotropic Substances of 1971, the UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the Palermo Convention and its protocols.

## b. Commission assessment

Albania's legislation is **partially aligned** with EU *acquis*, notably with regard to the criminalisation of the trafficking of illicit drugs and on the transmission of samples of controlled substances<sup>39</sup>. Albania should adopt a legal basis for appointing a national contact point, for procedures for the transmission of samples of seized drugs<sup>40</sup>, and for an appropriate process for the destruction of precursors

Although Albania does not have a dedicated strategy on drugs covering all aspects, it takes a balanced approach to drug policy, focusing both on law enforcement and supply reduction issues as on demand reduction and prevention, which is in line with the EU approach. In relation to the draft law presented to parliament to allow the cultivation and processing of cannabis for medical and industrial purposes, it would be important to ensure that mechanisms are in place to effectively prevent this cannabis from being diverted to unlawful markets.

Constant efforts are needed to align the national legislation with the EU list of psychoactive substances, which is updated frequently.

## II.B INSTITUTIONAL FRAMEWORK

### a. Country presentation

The Ministry of the Interior<sup>41</sup> and the Ministry of Health and Social Protection/Institute of Public Health are the lead bodies in, respectively, the fight against drug trafficking and drug-demand reduction. Albania has not yet established a National Centre of Information on Drugs (national drug observatory). The Institute of Public Health is mandated to collect and report data on drugs in the country as well as other data, according to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)'s standard tables. Consultations for establishing the Early Warning System on New *Psychoactive Substances* (EWS) and updating the legislation regarding psychoactive substances and precursors started.

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<sup>39</sup> Notably, amendments of the criminal code are necessary to fully comply the Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking and Albania should adopt measures in line with Council Decision 2001/419/JHA of 28 May 2001 on the transmission of samples of controlled substances.

<sup>40</sup> in line with the Council Recommendation of 30 March 2004 regarding guidelines for taking samples of seized drugs.

<sup>41</sup> Within the Ministry of Interior, the General Directorate of the State Police plays the main role in the implementation of measures on the reduction and supply of drugs. Within the latter, an Anti-Narcotics Unit (7 staff) and a Narcotics and Trafficking Investigation Unit (23 staff) are specialised structures dedicated to the fight against drugs. In twelve Police Districts/Directorates, there are twelve Sections/Units for Narcotics Investigation, with 121 police officers engaged only in the fight against drugs.



The main structures fighting against drug trafficking are the Special Structure Against Corruption and Organised Crime (SPAK), and Prosecution Offices of general jurisdiction.

#### **b. Commission assessment**

In order to implement a comprehensive data collection system on drugs, Albania needs to establish a National Drug Observatory and allocate sufficient human and financial resources.

Albania should strengthen and operationalise the institutional framework by appointing a national contact point, establishing a National Drug Observatory and provide it with adequate resources and ensuring safe and secure storage of seized drugs and precursors, as well as their effective destruction in appropriate circumstances.

Albania still needs to set up an **early warning system on the information exchange** about new psychoactive substances.

### **II.C IMPLEMENTATION CAPACITY AND TRACK RECORD**

#### **a. Country presentation**

Albania indicates that it ensures prevention and significant reduction of drug production and trafficking, notably by implementing special methods of investigation. Albania considers that it has the necessary institutional framework and tools to properly implement the legislation in the field of the fight against drugs.

Nevertheless, Albania also indicates that it needs to strengthen the capacities of specialised units for the fight against drugs through training and equipment, and that it does not have an incinerator for drugs destruction. An adequate mechanism on identification and evaluation of new drugs is not yet in place. The Institute of Public Health notably conducts studies on the prevalence of drug use at the population level and on the implementation of the health promotion strategic framework in force. It also carries out promotional activities on awareness of the consequences of drug use in schools and in the community, in cooperation with relevant partners. The Addictology and Clinical Toxicology Service functions as a specialised university centre for the treatment of drug addiction at the national level, offering mainly detoxification and overdose treatment, and operates as an inpatient and outpatient service.

With regards to international cooperation, Albania cooperates notably with Europol, the Southeast Law Enforcement Centre (SELEC), Interpol, the United States Drug Enforcement Administration (DEA), and the United Nations office on drugs and crime. In addition, Albania has a working arrangement with EMCDDA and makes efforts to increase its reporting capacity on drug-related issues in line with EMCDDA guidelines/protocols.

Albania requested accelerated integration with the EMCDDA.

#### **b. Commission assessment**

Drug production and trafficking is a widespread phenomenon in Albania. Albania should develop a solid track record of drug seizures and ensure that criminal assets are systematically confiscated.

Albania's law enforcement authorities have a good level of cooperation with their counterparts in EU Member States in tackling the trafficking of narcotics.

The lack of secure storage for drugs and drug precursors prior to destruction remains an issue of concern. Albania should itself with an incinerator.

Albania should secure sufficient national funding and human resources to further develop data collection in close cooperation with EMCDDA for all drug-related indicators and fill the existing gaps.

Continuous and enhanced proactive cooperation is needed with Europol and law enforcement agencies of the EU Member States and of partners in the Western Balkans region to achieve further results.

With regard to Albania's request for accelerated integration with the EMCDDA, the first step would be for Albania to engage further on the cooperation already offered under the IPA8 project. The establishment of an Early Warning System and a National Drug Observatory are pre-requisite to consider the possibility to grant Albania an observer status. Albania should take full advantage of the cooperation with the EMCDDA project to achieve these objectives.

**II.D SUMMARY OF FINDINGS – COOPERATION IN THE FIELD OF DRUGS**

Law enforcement authorities have a good level of cooperation with their counterparts in EU Member States. Albania needs to adopt an overarching strategic framework in the area of drugs and to strengthen and operationalise its institutional framework, in particular by establishing a National Drugs Observatory and an operational national early warning system on the information exchange about new psychoactive substances. Albania needs to develop a solid track record of drug seizures and destruction and confiscation of the corresponding assets.

**III. FIGHT AGAINST TERRORISM**

**III.A. STRATEGIC AND LEGAL FRAMEWORK**

**a. Country presentation**

Albania evaluated that its legal framework was fairly advanced in aligning with the EU *acquis* in the field of fight against terrorism<sup>42</sup>. Albania adopted a new cross-cutting strategy for the prevention of violent extremism and the fight against terrorism and two related action plans in February 2023.

Albania is a party to the International Convention for the Suppression of the Financing of Terrorism and to all Council of Europe counter-terrorism conventions, including those covering the seizure and confiscation of the proceeds of crime and the financing of terrorism.

<sup>42</sup> where 50% is fully aligned, 27% **partially aligned**, 18% of acts not yet aligned and 5% not relevant for harmonisation.

## b. Commission assessment

Albania's legal framework is **partially aligned** with the EU *acquis*. Amendments are required notably on the definition of a terrorist organisation, the criminalisation of certain actions such as illegal data interference, and with regard to the assistance, support and compensation for victims of terrorism<sup>43</sup>. Concerning critical infrastructures protection, amendments are required on the adoption of security plans for each facility and Albania should aim at aligning its legal framework to the most recent EU framework<sup>44</sup>. Albania does not have legislation addressing the dissemination of terrorist content online<sup>45</sup> nor legislation on the marketing and use of explosive precursors<sup>46</sup>.

Albania needs to provide adequate resources, enhance inter-agency and international cooperation, and strengthen the case management and referral mechanisms.

## III.B. INSTITUTIONAL FRAMEWORK

### a. Country presentation

The Counter Terrorism Directorate of the Albanian State Police is the lead body on counter-terrorism, and includes a Financing of Terrorism Investigation Unit. The Coordination Centre for Countering Violent Extremism (CVE), within the Ministry of Interior, is in charge of capacity-building, coordinating CVE activities across government institutions and overseeing the implementation of the CVE-related parts of the national CVE/CT strategy.

Albania has set up a Passenger Information Unit and Passenger Database that collects, processes, exchanges and distributes flight passenger data. Albania is considering establishing a fusion centre or similar body to conduct, *inter alia*, joint national threat assessments.

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<sup>43</sup> Directive of the European Parliament and of the Council of 15 March 2017 (EU) 2017/541 on combating terrorism – Albanian legislation does not envisage the “supply or the use” of explosives or weapons, including chemical, biological, radiological or nuclear weapons (Art. 3(1)/f of the directive); doesn't incriminate the illegal data interference, as referred to in Article 5 of this Directive; doesn't envisage the phrase “supplying information or material resources”. (Art. 3(2)b of the directive); there are no provisions that incriminate the aspects envisaged in the (Art. 9 (2 )(a)(b) and 10/a, (Art. 12 (c), 13, and 15(4) of the Directive). There is no provision in Albanian with regard to assistance and support specifically for victims of terrorism. There is no definition in Albanian legislation on how victims of terrorist acts will be compensated, medical treatment and legal aid, or assistance and support specifically for victims of terrorism, resident in another country Art. 24, 25, 26 of this Directive.

<sup>44</sup> Directive on Critical Entities Resilience (EU)2022/2557 (will repeal directive 2008/114/EC as of 18.10.2024).

<sup>45</sup> In line with Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021.

<sup>46</sup> In line with Regulation (EU) 2019/1148 of the European Parliament and of the Council of 20 June 2019.

## **b. Commission assessment**

Albania should ensure that the new set-up of the Coordination Centre for CVE provides for the continuity of the centre's work on **countering violent extremism** and that the centre will continue to have the authority and resources to carry out its important inter-ministerial coordination function. Changes in the centre's leadership have repeatedly led to the loss of institutional memory and negatively impacted the centre's effectiveness; the centre should therefore establish the necessary internal administrative procedures and enhance knowledge and information management. Local communities and local security councils should be further empowered in their capacities to prevent violent extremism.

## **III.C. IMPLEMENTATION CAPACITY AND TRACK RECORD**

### **a. Country presentation**

Albania implements a **bilateral arrangement** with the European Commission on operationalising the Joint Action Plan on Counter-Terrorism for the Western Balkans. Albania actively participated in the implementation of the Western Balkan counter-terrorism initiative, under the Integrative Internal Security Governance (IISG).

The Counter Terrorism Directorate of the Albanian State Police has a dedicated CT Siena Channel and has access in SIRIUS platform. Albanias Liaison Officer to Europol can collect and transmit relevant terrorism related data.

On **prevention of terrorism**, the CVE Coordination Centre carries out capacity building at local and national level on preventing and countering violent extremism, including in cooperation with civil society, and coordinates the reintegration and rehabilitation of returnees from the conflict zones in Syria and Iraq.

Albania requested accelerated integration with regard to the fight against terrorism.

## **b. Commission assessment**

The implementation of the bilateral arrangement with the European Commission implementing the Joint Action Plan on Counter-Terrorism for the Western Balkans is good and a revision to update the arrangement was signed between the Commission and Albania in December 2022.

**Regional cooperation** and the exchange of sensitive information with Europol and Member States is satisfactory. Albania should make more proactive use of the Europol European Counter-Terrorism Centre's communication platforms products, services and capabilities. Coordination between counterterrorism and CVE actors/actions needs to be improved. The creation of a CT-CVE agency and a body that should be in charge to produce a joint national threat assessment, under consideration by the Albanian authorities, could contribute to this.

The CVE Coordination Centre and the ASP's Counter-Terrorism Directorate lead the inter-institutional work on the **reintegration and rehabilitation of returnees** from Syria in an overall effective and professional manner, with the Counter-Terrorism Directorate also carrying out criminal investigations and ensuring monitoring. Albania should continue its efforts towards the reintegration and rehabilitation of returnees from Syria, and on the investigation and prosecution of those suspect of criminal offences. It should strengthen the case management and referral mechanisms for returnees and individuals at risk of radicalisation. Prison radicalisation and online terrorist content require attention.

Further work is needed to address **terrorism financing and money laundering**. Albania should continue to investigate links between organised crime and terrorism and update the indicators for the development of the Firearms Focal Point on the basis of Council Conclusions of 13 July 2021 on the implementation of the National Firearms Focal Points (NFFPs) in the EU Member States. The authorities should ensure effective implementation of targeted financial sanctions mandated by the UN Security Council, *inter alia* by enhancing the involvement of financial institutions and other relevant actors and through effective inspections, in line with the FATF action plan. The work on preventing risks of terrorism financing in the case of instrumentalisation of non-profit organisations by radicalised groups needs to continue.

Measures and capacities to address **terrorist content online** should be improved.

Counterterrorism and CVE activities remain largely donors based. Adequate State funding should be ensured.

With regard to Albania's accelerated integration request, the cooperation with Albania in the fight against terrorism is already extensive. The bilateral arrangement in place between Albania and the European Commission since November 2019, revised in December 2022, provides clear guidance. The Radicalisation Awareness Network – Western Balkans is available to continue its support. Once Albania has aligned its legal framework with the EU legislation on explosive precursors, it could be invited as observer in the standing committee on explosives precursors.

### III.D. SUMMARY OF FINDINGS – FIGHT AGAINST TERRORISM

Regional cooperation and the exchange of sensitive information with Europol and the Member States is satisfactory. Further work is needed to address terrorism financing and money laundering, and terrorist content online.

## IV. JUDICIAL COOPERATION IN CRIMINAL, CIVIL AND COMMERCIAL MATTERS

### IV.A STRATEGIC, LEGAL AND INSTITUTIONAL FRAMEWORK – GENERAL OVERVIEW

#### a. Country presentation

Albania indicated that its legal framework<sup>47</sup> for judicial cooperation in criminal, civil and commercial matters was **partially aligned** with the EU *acquis*. EU regulations governing judicial cooperation in civil and commercial matters will be directly applicable in Albania upon accession.

The Ministry of Justice is the central authority of Albania, responsible for international cooperation in civil, commercial and criminal matters. Albania is an observer in the European Judicial Training Network and has EU candidate country status in the European judicial network.

#### b. Commission assessment

The legislative framework of Albania is partially aligned with the EU *acquis*. Further alignment of the legal framework for cooperation in civil, commercial and criminal matters is needed.

<sup>47</sup> Mainly, the law on private international law and the Civil Procedure Code.

Albania has the basic principles of judicial cooperation in civil, commercial and criminal matters enshrined in its legislation and it has acceded to a large number of international conventions. Albania should ratify on the remaining relevant international convention in the field of judicial cooperation, notably the Hague Convention on Choice of Court Agreements (2005) the Protocol on the Law Applicable to Maintenance Obligations (2007), the Protocol amending the Additional Protocol to the Convention on the Transfer of Sentenced Persons (CETS No. 222), the Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence (CETS No. 224), the Protocol amending the European Convention on the Suppression of Terrorism (ETS No. 190), the Convention on the Protection of the Environment through Criminal Law (ETS No. 172 (which are signed but not ratified).

#### **IV.B IMPLEMENTATION CAPACITY AND PERFORMANCE – GENERAL OVERVIEW**

##### **a. Country presentation**

Albania has bilateral cooperation in the field of civil, family, matrimonial, commercial and/or criminal matters with nine third countries.

For the purpose of **communication with other countries**, Albania uses the ‘M-file’ system which allows case filing, case data calling, monitoring and track record of cases, case administration, and real time monitoring and oversight. This system enables the full digitalisation of communications in matters of international judicial cooperation.

##### **b. Commission assessment**

The administrative capacity needs to be stepped up to meet EU requirements on judicial cooperation both in criminal, and civil and commercial matters and to implement in a timely manner requests for mutual legal assistance preparing the ground for cooperation on the basis of the principle of mutual recognition at a later stage. Adequate human and institutional resources to accommodate effective judicial cooperation needs to be allocated in order to increase the efficiency of the handling of requests.

Albania should further improve international cooperation, by ensuring timely implementation of multilateral instruments, and increasing its institutional capacity.



## IV.C. COOPERATION IN CIVIL AND COMMERCIAL MATTERS

### a. Country presentation

On **judicial cooperation in civil and commercial matters**, Albania is party to the Hague Conference on Private International Law and has ratified 14 conventions in this context<sup>48</sup>. It is also party to UN Conventions on foreign arbitral award and contracts for the international sales of goods<sup>49</sup>, as well as Council of Europe instruments on the information on foreign law and on legal aid<sup>50</sup>.

With regard to **service of documents**<sup>51</sup> and **taking of evidence**<sup>52</sup>, Albania indicated that its legislative framework was **partially aligned** with the EU *acquis*. Amendments are necessary, notably to allow direct transmission of documents and direct transmission of evidence between the courts, to align reasons for refusal and possibilities to use communication technologies to hear witnesses or experts.

<sup>48</sup> Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents; Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children; Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption; Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption; Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters; Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters; Convention of 25 October 1980 on International Access to Justice; Convention of 1 February 1971 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters; Convention of 1 March 1954 on Civil Procedure; Convention of 25 October 1980 on the Civil Aspects of International Child Abduction; Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations; Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations; Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations; Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions.

<sup>49</sup> Convention of 7 June 1959 on the recognition and the enforcement of foreign arbitral awards; Convention of 1 January 1988 on the contracts for the international sale of goods; Bilateral agreements on Legal Assistance in Civil, Family, Matrimonial, Commercial and/or Criminal Matters with nine third countries.

<sup>50</sup> European Convention of 17 December 1969 on the information on foreign law; European Agreement of 28 February 1977 on the transmission of applications for legal aid.

<sup>51</sup> Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents)

<sup>52</sup> Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

With regard to the **applicable law**<sup>53</sup>, Albania indicated that its legislative framework was **partially aligned** with the EU *acquis*. Notably, there are no provisions on overriding mandatory provisions or on *negotiorum gestio*. With regard to **jurisdiction and recognition and enforcement of judgements in civil and commercial matters**<sup>54</sup>, Albania indicated that its legislative framework was **partially aligned** with the EU *acquis*. The competent authorities designated by the Civil Procedure Code for recognition purposes are the Courts of Appeal. There are no specific regime for matrimonial property regimes and no provisions on registered partnerships.

As regards **mediation**<sup>55</sup>, Albania stated that its legislative framework was **partially aligned** with the EU *acquis*. Notably, there is no specific provisions referring to direct international cooperation between mediators/chambers of mediation.

The Albanian Chamber of Mediators is composed of 135 members.

Regarding **family law and successions**, Albania stated that its legislative framework was **partially aligned** with the EU *acquis*<sup>56</sup>. Amendments are needed to further align measures on child abduction, child support regarding direct execution of foreign maintenance court orders and child protection orders.

On **insolvency**, Albania stated that its legislative framework was **partially aligned** with the EU *acquis*<sup>57</sup>. Albania has a National Insolvency Agency.

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<sup>53</sup> Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I); Regulation (EC) No 864/2007 on the law applicable to non-contractual obligation (Rome II).

<sup>54</sup> Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters ("Brussels I Regulation"). COUNCIL REGULATION (EU) 2016/1104 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships; COUNCIL REGULATION (EU) 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes

<sup>55</sup> Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters.

<sup>56</sup> Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast); Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations; Council Regulation No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation; Regulation (EU) No 650/2012 of the European Parliament and the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

<sup>57</sup> Council Framework Decision 2015/848/JHA On Insolvency Procedure; Directive (EU) 2019/1023 On preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt

On **legal aid**, Albania stated that its legislative framework was **partially aligned** with the EU *acquis*<sup>58</sup>. Notably, there are no provisions for direct cross border cooperation.

#### **b. Commission assessment**

Albania should notably finalize internal procedures to become party to the Hague Convention on Choice of Court Agreements, the Protocol on the Law Applicable to Maintenance Obligations, Convention on International Settlement Agreements Resulting from Mediation and the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters.

On mediation, there are currently only 90 active mediators out of the 135 mentioned by the Albanian authorities. The quality and the reputation of mediators is still poor and the chamber is under-financed. There are also some outstanding questions of the enforceability of mediation agreements, notably with regards to property titles, which corresponds to a significant percentage of ongoing disputes. Adequate resources should be allocated to mediation.

### **IV.D COOPERATION IN CRIMINAL MATTERS**

#### **a. Country presentation**

On **judicial cooperation in criminal matters**, Albania is party to some relevant Council of Europe conventions<sup>59</sup>. It is also party to relevant United Nations conventions. Albania has bilateral agreements for judicial cooperation in criminal matters with eight third countries<sup>60</sup>, some of which cover extradition and the transfer of sentenced persons.

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<sup>58</sup> Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross border disputes by establishing minimum common rules relating to legal aid for such disputes.

<sup>59</sup> Convention on extradition and its four Additional Protocols; Convention on the supervision of conditionally sentenced or conditionally released offenders; Convention for Mutual legal assistance in criminal matters and its two Additional Protocols.

<sup>60</sup> Russia, the UK, Egypt, North Macedonia, the USA, Türkiye, Kosovo and Kuwait.

20 Joint Investigation Teams are active in the function of investigations at the Special Prosecutor's Office against Corruption and Organised Crime and 18 Joint Investigation Teams are active in the framework of international cooperation, supported financially and assisted by EUROJUST. Albania has a cooperation agreement with **Eurojust** and has a liaison prosecutor deployed to the Hague. A working arrangement on the cooperation between the **European Public Prosecutor's Office (EPPO)** and the Prosecutor General's Office of Albania has been signed in July 2022. A working arrangement on the cooperation between the EPPO and the Special Anti-Corruption and Organised Crime Structure of the (SPAK) was concluded in June 2023. Albania is a member of the European judicial network and other European and international networks<sup>61</sup>.

As regards **mutual legal assistance**, Albania indicated that its legislation was **partially aligned** with the EU *acquis*<sup>62</sup>. Albania is implementing bilateral agreements on mutual legal assistance with nine countries, including five Member States<sup>63</sup>.

With regard to the principle of **mutual recognition of judgements in criminal matters**, Albania indicated that its legislation was **partially aligned** with EU *acquis*<sup>64</sup>. Notably, there is no direct enforcement of judgements. Amendments are necessary notably to allow direct enforcement without procedure of recognition, to abolish "double criminality" as a ground for refusal, and to align the procedure of forwarding the foreign request and relative documentation. Furthermore, Albania there is not directly applicable provision on the prevention and settlement of conflicts of exercise of jurisdiction. The same applies with regards to mutual recognition of freezing orders and confiscation orders<sup>65</sup>, as the concept of mutual recognition is unique to judicial cooperation among EU Member States. Albania indicated that they are a party to the Warsaw Convention<sup>66</sup>.

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<sup>61</sup> Camden Asset Recovery Inter-Agency (CARIN) Network, European Network of Prosecutors for Environment (ENPE), Consultative Council of European Prosecutors; International Association of Prosecutors (IAP), International Association of Criminal Law (IAPL) SEEPAG – The Southeast European Prosecutors' Advisory Group, a judicial cooperation mechanism, formed by the countries of the Southeast European region to facilitate international judicial cooperation.

<sup>62</sup> Convention on Mutual Legal Assistance in Criminal Matters between Member States of the European Union and its protocols.

<sup>63</sup> Czechia, Greece, Italy, Kosovo, Romania, North Macedonia, Türkiye, Russia, Slovenia

<sup>64</sup> Council Framework Decision 2008/909/JHA on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union; Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions of supervision measures as an alternative to provisional detention; Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions; Council Framework Decision 2009/829/JHA on mutual recognition of decisions on supervision measures as an alternative to provisional detention; Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal matters.

<sup>65</sup> Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders.

<sup>66</sup> Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Warsaw, 16.V.2005, CETS No.198.

On **extradition**<sup>67</sup>, Albania indicated that its legislation was compatible with the EU *acquis*. Extraditions, incoming and outgoing requests are carried out by the Ministry of Justice as Central Authority, through the Directorate of Foreign Jurisdictional Relations in the General Prosecutor's Office, the Directorate of Foreign Jurisdictional Relations in SPAK, and NBC Interpol – Tirana.

With regard to **detention related instruments**, Albania indicated that it needs to increase the capacity of the penitentiary system to guarantee the enforcement of foreign judgements within this system.

With regard to **criminal records**, Albania indicated that its legislation was **partially aligned** with the EU *acquis*<sup>68</sup>. Amendments are necessary notably to allow direct exchange of data, and to set up a procedure to rule the unification of domestic database with the European Criminal Record Information System (ECRIS).

With regard to accelerated integration, Albania requested further cooperation with Eurojust.

## **b. Commission assessment**

Albania needs to further align its legislation notably with regard to mutual recognition of judgements in criminal matters.

Albania actively participates in the work of Eurojust and was involved in 83 new cases between April 2022 and February 2023, most of them related to money laundering activities, drug trafficking and organised crime. The country has appointed two contact points for Eurojust, one of which, from the General Prosecutors Office of Albania, has been designated National Correspondent for Terrorism Matters.

With regard to Albania's accelerated integration request, in December 2022, the Joint Investigation Teams Network granted observer status to Albania. The Commission underlines that all cooperation elements are already in place (cooperation agreements, secondment of liaison prosecutors, appointment of contact points, participation in various expert/focus groups).

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<sup>67</sup> Framework Decision 2002/584/JHA on the European arrest warrant and extradition procedures.

<sup>68</sup> Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States and Decision 2009/316/JHA on the establishment of the European Criminal Records Information System (ECRIS); Directive (EU) 2019/884 of the European Parliament and of the Council of 17 April 2019 amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third-country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA.

#### IV.F SUMMARY OF FINDINGS – JUDICIAL COOPERATION IN CRIMINAL, CIVIL AND COMMERCIAL MATTERS.

Albania needs to step up its administrative capacity to meet EU requirements on judicial cooperation in criminal, civil and commercial matters.

### V. LEGAL AND IRREGULAR MIGRATION

#### V.A STRATEGIC AND LEGAL FRAMEWORK

##### a. Country presentation

Albania indicated that its legislative framework on migration is **partially aligned** with the EU *acquis*. Albania is a party to the main international and Council of Europe conventions in the field of migration<sup>69</sup>, including the Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organised Crime.

Albania implemented a National Strategy for Migration Management 2019-2022 and its action plan, with regular monitoring reports, as well as a National Strategy for Integrated Border Management (2021-2027) and its action plan 2021-2023. The Ministry of Interior has updated its contingency plan for a possible substantial number of arrivals of migrants and asylum seekers, but the plan has not yet been adopted.

##### b. Commission assessment

The legal framework on migration is **partially aligned** with the EU *acquis*. Albania should update its National Strategy for Migration and its related action plan.

The contingency plan for a possible substantial number of arrivals of migrants and asylum seekers needs to be updated to include appropriate budget allocations and clear modalities for its triggering.

Albania should continue to seek concluding readmission agreements or arrangements with countries of origin.

<sup>69</sup> ILO Migration for Employment Convention, ILO Migrant Workers (Supplementary Provisions) Convention, European Convention on the Legal Status of Migrant Workers, European Convention on the Participation of Foreigners in Public Life at Local Level, United Nations Convention relating to the Status of Refugees, Convention on the Rights of the Child, Convention relating to the Status of Stateless Persons, 1954, Convention on the Reduction of Statelessness, 1961, International Convention on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Discrimination, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Council of Europe Convention on the Transfer of Proceedings in Criminal Matters.

## V.B INSTITUTIONAL FRAMEWORK

### a. Country presentation

The Ministry of Interior, the Ministry of Finance and Economy and the Ministry of Europe and Foreign Affairs are the **main actors in the field of migration**.

### b. Commission assessment

A possible reinstatement of investigative powers within the Border and Migration Police Department, which has been announced in the context of the planned reform of the Albanian State Police, is welcome.

## V.C IMPLEMENTATION CAPACITY AND PERFORMANCE

### a. Country presentation

Albania indicated that it was increasingly becoming a destination country for a number of categories of foreigners, including immigrants seeking employment, students, asylum seekers and refugees. At the end of 2021, there were 14,921 foreigners with a residence permit in Albania. Albania received 9,106 applications for residence permit in 2021. In recent years, Albania has also faced the challenges of a transit country, mainly for irregular immigrants from the Middle East and North Africa aiming to reach EU Member States.

With regard to **reception capacities**, the open National Reception Centre, recently refurbished, allows for up to 250 beds and has a dedicated family friendly space. For irregular migrants, Albania has a closed reception centre in Karreç with a capacity of 100 persons as well as three local transit reception centres, with a respective capacity to host 110, 60 and 31 persons.

There are currently no separate premises for detention of unaccompanied minors, nor separated specialised detention facilities for women at risk and people with serious medical conditions.

Albania has a National Electronic Register for Foreigners.

Comprehensive training and joint exercises are organised for key border officials and frontline officers.

The UNIC permit system is under construction and has been operational since February 2023. Foreigners can get approval of work permit, lodging application for visa if necessary and apply for for a residence permit, via the electronic service e-Albania platform.

Albania also requested observer's status in the European Migration Network.

#### **b. Commission assessment**

The overall **staffing** of the ASP's Department for Border and Migration remains limited, despite recent increases.

Permanent training structures should be established in compliance with basic training standards for EU border guards.

The capacity of the **reception centres** is sufficient for the migration pressure Albania is currently facing. The only closed reception centre for third-country nationals who are the subject of return procedures still awaits urgent refurbishment. Albania should ensure adequate reception capacities and establish alternative to detention for children, women at risk and people with serious medical conditions, as provided for in the Law on foreigners. Coordination with child protection and anti-trafficking departments should improve.

The high turnover of **officers at the border** should be addressed. Border and Migration Police officers should increase their capacities to identify refugees and migrants with specific needs.

**Unaccompanied minors** travelling from Albania to EU Member States are a source of concern. Greater attention should be given to the successful reintegration of returnees, especially the most vulnerable. Migration counters established in municipalities should be formalised and strengthened to facilitate reintegration and more police officers should continue to be trained to escort returnees to Albania.

With regard to the accelerated integration request, the process for Albania to be granted observer status in the European Migration Network has been initiated.



## V.D LEGAL MIGRATION

### a. Country presentation

In the field of **legal migration**, Albania indicated that some articles in various directives<sup>70</sup> cannot be applied in the Albanian legislation on foreigners. Thus, that amendments are needed to further align with these provisions with regard to family reunification, EU Blue Card and single permit.. Albania indicated that support of experts would be needed to draft legislation and strategic documents in this field.

### b. Commission assessment

In the field of **legal migration**, amendments are necessary, notably to align with certain provisions on family reunification, with the single permit, and with the recent changes on the EU blue card<sup>71</sup>.

## V.E IRREGULAR MIGRATION

### a. Country presentation

In the field of **irregular migration**, Albania indicated that its legislation had been aligned with a number of provisions of the EU *acquis*<sup>72</sup>, notably with regard to the criminal framework to prevent the facilitation of the unauthorised entry, transit and residence, common standards and procedures for returning illegally staying third-country nationals, the organisation of joint flights for removals of third-country nationals who are subjects of individual removal orders. The law on foreigners provides obligations for employers, as well as sanctions in the form of a fine in case of violation of the provisions of the legislation on the employment of aliens. Albania has a **readmission agreement** with the EU and implementing protocols are in place with 15 Member States (one under negotiation with Greece). In addition, Albania has concluded 10 bilateral readmission agreements with non-EU countries. Draft readmission agreements have been proposed by the Albanian authorities to several countries of origin but have not been signed yet.

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<sup>70</sup> Notably, Council Directive 2003/86 on the right to family reunification, Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast), Council Directive 2009/50 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment.

<sup>71</sup> Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment.

<sup>72</sup> Council framework Decision 2002/946/JHA of 28 November 2002 on strengthening of the penal framework to prevent the facilitation of the unauthorised entry, transit and residence; Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals; Council Decision of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders, Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air.

For **readmission**, communications are processed through secured channels and there is intensive cooperation between all competent bodies dealing with readmission issues, public services, institutions and other organisations. Technical equipment and training are available, and specialised training for return escorts was provided by Frontex. Standard Operational Procedures are implemented on irregular migration /return and readmission.

#### **b. Commission assessment**

In the field of **irregular migration**, amendments are necessary, notably to align with employer's sanctions.

In the framework of its **readmission agreement** with the EU, Albania swiftly honours requests from Member States for the readmission of both its own and third country nationals. Albania faces difficulties in concluding readmission agreements with countries of origin.

**Return of migrants** should be done only in line with the national and international legal and procedural framework. Albania should apply return procedures in compliance with its law on foreigners and in line with the EU *acquis*.

Cooperation between Albania and Frontex on return operations is very good.

#### **V.F SUMMARY OF FINDINGS – LEGAL AND IRREGULAR MIGRATION**

Cooperation with Member States and Frontex on readmission and return operations is very good. Albania needs to ensure adequate reception and contingency capacities. Albania needs to apply return procedures in compliance with the law on foreigners and in line with the EU *acquis*.

## VI. ASYLUM

### VI.A STRATEGIC, LEGAL AND INSTITUTIONAL FRAMEWORK

#### a. Country presentation

Albania indicated that its legal framework in the field of asylum<sup>73</sup> was **partially aligned** with the EU *acquis*<sup>74</sup>. Although, in accordance with the law on asylum, asylum seekers have the right to access public services at the same level as Albanian nationals, the lack of alignment with other legal acts prevents effective access.

Albania is party to the Geneva convention relating to the status of refugees and its protocol.

The Ministry of Interior, through its Department of Border and Migration, is responsible for the identification and registration of request for international protection and to issue a residence permit. The Ministry of Education and Sports, the Ministry of Health and Social Protection, and the Ministry of Finance and Economy are respectively responsible for providing education, medical care and social welfare, as well as work permits to asylum seekers.

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<sup>73</sup> The law on asylum and its 15 by-laws, as well as the law on foreigners.

<sup>74</sup> Further amendments are required to fully align with: Directive 2013/32 of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection; Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection; Directive 2011/95 of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, Directive 2013/33 of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, Council Directive 2011/55 of 20 July 2011 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, Regulation 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice "EURODAC"<sup>74</sup>, Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person; Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010.

Through its asylum office, the Ministry of Interior issues first instance decisions on asylum claims, which can be appealed in front of a national commission for asylum and refugees. The decisions of this commission can be further challenged in front of an administrative court, whose decision is final.

#### **b. Commission assessment**

The legal framework on **asylum** is **partially aligned** with the EU *acquis*. Amendments are required notably on certain legal definitions and procedures (e.g., for cases in which minors can make an application on their own behalf or when the application of an unaccompanied minor has to be lodged by a representative, or for reduction or withdrawal of material reception conditions), on the possibility to designate another authority to be temporarily involved in conducting interviews of third-country nationals in case of a high number of simultaneous applications for international protection, and on the possibility not to carry out the personal interview in certain circumstances, and on alternatives to detention. The relevant legal provisions should be adopted or amended in order to ensure that asylum seekers get effective access to public services, in line with the law on asylum.

An efficient and quality implementation of the law on asylum remains to be achieved and requires additional administrative capacities.

### **VI.B. IMPLEMENTATION CAPACITY AND PERFORMANCE**

#### **a. Country presentation**

Albania has a permanent reception centre for asylum in Babrru, which provides accommodation and basic living conditions for asylum seekers, and integration measures for persons who where granted asylum. Separate rooms are available for persons, including minors, travelling alone, and adequate equipment is available for persons with a disability. Unaccompanied minors are accommodated in premises reserved for families. In addition, Albania has three local temporary reception centres close to its borders, for irregular migrants with a respective capacity to host 110, 60 and 31 persons. Albania's open centre has a capacity of up to 220 people. It employs 17 staff, including a doctor, a social worker and a psychologist and is equipped with facilities for children, libraries, internet cafés and sports facilities.

The international organisation for migration (IOM), the United Nations High Commissioner for Refugees (UNHRC) and Caritas provide assistance to vulnerable categories.

Albania indicated that under the current conditions, it does not have sufficient capacity to face a mass influx of asylum seekers as referred to in the draft contingency plan.

The registration of asylum seekers is done electronically in the National Electronic Register for Foreigners, where fingerprints and photos are stored. The database can generate real time statistics according to the parameters required by the EU.

Albania requested accelerated integration with regard to the EUAA.

#### **b. Commission assessment**

With regard to the **asylum procedure**, the capacities of the Border and Migration Police to identify persons with specific protection needs are still to be improved. The Directorate for Asylum, Foreigners and Citizenship also needs expanded capacity and training to assess individual claims, particularly the information on the country of origin and cases involving vulnerable people. The case management of **unaccompanied children** is not handled as an integrated process, as required by the law on asylum. Referrals to asylum procedure should be implemented systematically. There are shortcomings in the implementation of return procedures at the border with Greece.

The monitoring by the Ombudsperson's Office in border areas and its engagement with the Border and Migration Police on the findings reinforces Albania's rights-based approach towards asylum seekers.

Albania needs to increase its administrative and implementation capacities, including through protection sensitive training, and by allocating separate premises for relevant categories of asylum seekers, such as women and unaccompanied minors in reception centers.

There is a lack of qualified interpreters at the **temporary receptions centres** during and after the pre-screening process. A higher ration of female interpreters in temporary reception centres should be encouraged to increase the capacity to identify women at risk and potential cases of trafficking in human beings.

Albania will have to prepare – including through adequate staff increases – for a situation where the number of asylum claims may further increase . Albania should ensure regular data exchanges on asylum with the EU.

With regard to Albania's request on accelerated integration, Albania already receives support from the EUAA within the framework of the Roadmap for cooperation with the aim of strengthening the national asylum and reception systems in line with the Common European Asylum System and EU standards. The possibility to allow its participation as observer to expert working groups in the EUAA that would be of relevance for the Western Balkan region will be explored.

## VI.C SUMMARY OF FINDINGS – ASYLUM

Cooperation with the EUAA on strengthening the national asylum and reception system continues. An effective and quality implementation of the law on asylum remains to be achieved and requires additional administrative capacities. Referrals to asylum procedure should be implemented systematically.

## VII. VISA POLICY

### VII.A STRATEGIC, LEGAL AND INSTITUTIONAL FRAMEWORK

#### a. Country presentation

Albania indicated that its legal framework in the field of visa<sup>75</sup> was **partially aligned** with the EU *acquis*.

The competent authority for accepting and issuing visas is the Diplomatic and Consular Missions of the Ministry for Europe and Foreign Affairs.

Albania has all year round visa-free arrangements with eight countries that are not on the EU's visa-free list<sup>76</sup>. In addition, third country nationals who have a ten year residence permit in the United Arab Emirates (UAE) are also granted visa-free access. Nationals from six countries<sup>77</sup> who need a visa to travel into the EU, benefitted from seasonal visa waiver until the end of 2022. In 2023, this seasonal visa-free regime is applicable between 20 April and 31 December 2023) for the nationals of five countries<sup>78</sup>. Nationals of Egypt and Russia benefitted from seasonal visa waiver until the end of September 2022. India, Egypt and Russia are not on the list of countries whose citizens benefit from the seasonal visa exemption in 2023.

<sup>75</sup> The law on foreigners and its by-laws.

<sup>76</sup> Armenia, Azerbaijan, Belarus, China, Guyana, Kazakhstan, Kuwait, and Turkey.

<sup>77</sup> Bahrain, India, Oman, Qatar, Saudi Arabia and Thailand.

<sup>78</sup> Bahrain, Oman, Qatar, Saudi Arabia and Thailand.

With regard to the visa code<sup>79</sup>, Albania has developed its own visa system (e-Visa). This system is used by all competent authorities to receive, verify, evaluate and issue or refuse visas electronically (with a QR code) or a visa sticker. to issue digitally sealed electronic visa or visa sticker. Procedures for the application process and verification process are similar to the ones provided in the EU *acquis* – however, fingerprint data are currently not administered.

Albania issues one-entry visas at the border for a duration of one to 15 days. The MEFA only issues visas that meet the legal criteria and has strived to reduce these statistics from 101 in 2018 to 2 in 2021 and 2 in 2022, and no visas issued at the border for January-June 2023.

Visa fees are set based on reciprocity.

When a request for visa is rejected, the Consul informs the applicant of the decision accompanied by the relevant comments and legal framework on visa refusal. The applicant can appeal within five days or apply again after three months.

#### **b. Commission assessment**

Albania's legal framework is **partially aligned** with the EU *acquis*. The Commission's fifth report under the visa suspension mechanism<sup>80</sup> concluded that Albania continues to fulfil the country-specific requirements. However, Albania's visa policy is not fully aligned with EU rules, including as regards the EU list of countries from which the nationals are under visa obligation. In addition, the practice of temporary lifting visa requirements is in not in line with the EU *acquis*.

The decision to withdraw India, Egypt and Russia from the list of countries whose citizens benefit from the seasonal visa exemption in 2023 is very welcome in view of progressive alignment with EU visa policy and in view of addressing concerns linked to irregular migration on the Western Balkan route.

Albania should refrain from developing an investor citizenship scheme.

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<sup>79</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) and its amendments

<sup>80</sup> COM/2022/715 final/2

## VII.B IMPLEMENTATION CAPACITY AND PERFORMANCE

### a. Country presentation

With regard to the technical specifications on the standards for biometric features related to the development of the Visa Information System<sup>81</sup>, Albania stated that the Visa Stickers issued by the Albanian Diplomatic and Consular Missions complied with all International Civil Aviation Organisation (ICAO) standards and that the Albanian e-Visa system complied with the relevant ISO standards<sup>82</sup>. The digitally sealed visa is compliant to electronic iDentification Authentication and trust Services (eIDAS). Currently, biometric data is only taken for Type D visa holders that are required to apply for a Residence Permit. Biometric data of visa applicants are not processed by the Albanian Diplomatic and Consular Missions and a standard operating procedure needs to be adopted. The security element of fingerprint scanning needs to be added to the visa issuing procedure and they need to be compliant with the EU uniform format for visas<sup>83</sup>.

Every system request made by relevant empowered staff is monitored and registered in the e-Visa and the Total Information Management System (TIMS) system logs. Technically, E-Visa and TIMS can be interoperable with EU VIS. Albania indicated that it aimed to have access to the Public Register of Authentic identity and travel Documents Online (PRADO) containing specimens of all travel documents, by border control authorities and diplomatic and consular staff.

### b. Commission assessment

Compliance with the requirements of the Visa Information System (VIS) will require further technical adaptations. Subject to some additional specialised training on the VIS, Albania has an adequate administrative capacity at central and regional level to implement EU visa policy.

In principle six months ahead of accession, Albania will receive the classified technical specifications for the production of the uniform format for visa which it needs to start issuing by the time of accession. Albania needs to develop a high-level capacity for collecting and storing biometric data, in line with EU standards for security features and biometrics in passports and travel documents as well as data protection rules. . Albania needs to develop the relevant rules, capacities and procedures to collect fingerprints, and the adequate IT structure to be compatible with EURODAC upon accession.

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<sup>81</sup> Commission Decision of 22 September 2006 laying down the technical specifications on the standards for biometric features related to the development of the Visa Information System.

<sup>82</sup> ISO 27001 for “Information Security Management”, ISO 9001 for “Quality Management Systems”, ISO 20000-1 for “Information technology”.

<sup>83</sup> Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas as amended (by Reg. 334/222, 1791/2006; 856/2008 and Reg 2017/1370)



Albania needs to continuously address the issue of unfounded asylum claims of Albanian nationals within the EU.

## VII.D SUMMARY OF FINDINGS – VISA

Albania's **visa policy** needs to be fully aligned with the EU one. The number of Albanian citizens lodging asylum requests in EU Member States still requires continuous and sustained efforts.

## VIII. SCHENGEN AND EXTERNAL BORDERS

### VIII.A. STRATEGIC AND LEGAL FRAMEWORK

#### a. Country presentation

According to Albania, its legal framework is **partially aligned** with the EU *acquis* in the field of external border management<sup>84</sup>. Amendments are required notably to align some definitions<sup>85</sup> of the Schengen border code<sup>86</sup> and the entry/exit system<sup>87</sup>, to establish a National Coordination Centre for Integrated Border Management, to harmonise penalties linked to the obligations of carriers transporting foreign nationals passengers<sup>88</sup> and to further align legislation on the local border traffic<sup>89</sup> and communication of passengers data<sup>90</sup>. With regard to the entry-exit system, entry/exit is recorded for both Albanian and foreign citizens, and the data retention period and procedures are not fully aligned with the EU *acquis*.

<sup>84</sup> The law on border control is the main legal basis for the control of Albania's borders.

<sup>85</sup> concepts of external border, third country national (entry/exit system),

<sup>86</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification), as amended by Regulation (EU) 2016/1624 and by Regulation (EU) 2017/458.

<sup>87</sup> Regulation (EU) 2017/2225 of the European Parliament and of the Council of 30 November 2017 amending Regulation (EU) 2016/399 as regards the use of the Entry/Exit System; Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011.

<sup>88</sup> Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (laying down the obligations of carriers transporting foreign nationals).

<sup>89</sup> Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention.

<sup>90</sup> Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data; Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

The Law on Border Control introducing Advance Passenger Information and Passenger Name Record (PNR) in Albanian legislation is not in line with the EU *acquis*. A passenger information unit was established in February 2022 within the Albanian State Police. The transfer of PNR data from the EU to Albania is not possible under the current legal framework.

Due to the specific nature of the EU *acquis* with regard to the Schengen area, many provisions will be aligned upon accession or upon joining the Schengen area, including relevant provisions related to the obligations of the Member States towards the Commission and the powers of the Commission.

Albania has signed agreements for cross border cooperation, shared border crossing points and joint patrolling with Montenegro, Kosovo, and North Macedonia, as well as protocols on hot pursuit with Kosovo and North Macedonia. Cooperation agreements are also in place with Greece and Italy.

Albania implements an Integrated Border Management strategy 2021-2027 and action plan 2021–2023.

#### **b. Commission assessment**

The legislative framework for the management of Albania's external borders is **partially aligned** with EU *acquis*. The Law on Border Control introducing Advance Passenger Information (API) and Passenger Name Record (PNR) in Albanian legislation is not in line with the EU *acquis*. The transfer of PNR data from the EU to Albania is not possible in the current EU legal framework.

With regard to the Schengen *acquis*, the legal framework still needs significant alignment, as Albania will join the Schengen area only after it has joined the EU. The current legal framework is a good basis to build on.

## VIII.B INSTITUTIONAL FRAMEWORK

### a. Country presentation

The Directorate General of the State Police (department for border and migration) and the Albanian customs administration are the main actors for border control and border surveillance.

Albania uses various **IT systems in the field of border management**<sup>91</sup>, notably the 'Total Information Management System' (TIMS), which includes a module on entry-exit that can issue alerts (e.g., Interpol wanted persons/stolen documents, lost and stolen licence plates, etc.), a search system (persons, documents or motor vehicles), a register of foreigners (foreign citizens residing in Albania) and the civil status register (NCR – data of Albanian citizens). Albania also has a Foreigners' Electronic Register to register foreigners present on its territory.

For the **management of the green border**, Albania uses the 'SmartDec' system, which is a land border violation detection system. Thermal detectors are installed on the border line and send images in real time for tracking any movement (motion detection). Albania also uses Automatic Name Plate Recognition Cameras at the Morin border crossing point. This system stores photographs of vehicle license plates at the entrances and exits of border crossing points, and can be integrated with police databases.

### b. Commission assessment

## VIII.C IMPLEMENTATION CAPACITY AND PERFORMANCE

### a. Country presentation

The EU is assisting Albania in building an integrated radar system for the surveillance of the 'blue' (sea) border. Albania has committed to invest significant resources to modernise border infrastructure and improve surveillance of the 'green' (land) and 'blue' borders.

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<sup>91</sup> The State Police is administrator of IT systems DATACOM and LAN to collect, analyse, process and transmit data internally and with other law enforcement institutions, including internationally. Access to these systems is available to each Local Police Directorate, the Country Director for Border and Migration; the Police Stations, the Border Crossing Points and wherever there are State Police Structures. The levels of user access to digital systems, according to the work position and the 'need to know' principle, are determined by the Information Management Sector, in the Directorate of Information Management and Data Protection. The Total Information Management System (TIMS) includes a module on entry-exit (registration of persons, identification documentation of citizens/vehicles entering/exiting through the border control of Albania) that can issue alerts (e.g., Interpol wanted persons/stolen documents, lost and stolen licence plates, etc.), a search system (persons, documents or motor vehicles), a register of foreigners (foreign citizens residing in Albania) and the civil status register (NCR – data of Albanian citizens). Albania also has Foreigners' Electronic Register (FER) covering: residence permit for foreign citizens (who enter Albania for reasons such as employment, business, education, etc.); the administration of irregular foreign nationals; the e-visa module, which allows foreign citizens to be provided with a visa, in order to enter Albania; the management of applications for residence permits from irregular foreigners according to different categories; an irregular aliens module dealing with victims of human trafficking and asylum seekers. The FER system is in the process of being integrated with the e-Albania platform.

The Border Control Module of the Total Information Management System (TIMS) is not interoperable with E-Visa, and TIMS does not enable the automatic calculation of the days of authorized stay. No check is possible with fingerprints, except for the second line check.

Albania indicated that travel documents comply with international security standards.

Albania was the first third country to see the deployment of a joint operation by Frontex under a Status Agreement on its territory in 2019.

The Ministry of Interior has a working Arrangement on operational cooperation with Frontex and an updated working arrangement is currently under discussion.

Albania requested accelerated integration with regard to Frontex, with increased cooperation as main focus, including increased access to databases and an ability to impact the policy cycle of the agency.

#### **b. Commission assessment**

Cooperation with Frontex is good . A new Status Agreement and a new Working Arrangement are expected to be concluded soon. Bilateral cooperation should be further stepped up.

Albania should establish a risk-analysis system based on the Common Integrated Risk Analysis model developed by Frontex.

Inter-agency cooperation is *steadily improving*. The Navy, Coast Guard and Border and Migration Police conduct regular joint, integrated ‘blue’ border patrols. Since 2018, the Border and Migration Police has no investigative powers; consequently, no specific structures from border police are engaged in investigations of border crimes related offences. This hampers in particular the detection of cases of people smuggling and trafficking in human beings.

The total information management system database system is connected with Interpol’s system, enabling the border police to identify internationally wanted persons, stolen vehicles and lost/stolen travel documents.

Albania has to ensure that the Personal Identification Secure Comparison and Evaluation System (PISCES) is operated in line with the EU *acquis* on personal data protection.

Albania announced that the production and delivery of its biometric documents will be entrusted to a newly established State Agency. Albania will need to continue ensuring that the international standards governing the production of secure identification documents are respected, including regarding the protection of personal data.

Preparations to join the Schengen area require significant resources, so careful and thorough planning of individual steps is necessary.

With regard to the accelerated integration request concerning Frontex, cooperation is already very comprehensive with Albania, with a Joint Operation in place since 2019 under a Status Agreement and a new Status Agreement to be signed soon. Albania border and migration police is taking part very regularly in international conferences, expert groups, workshops, trainings organised by Frontex. Albania could possibly obtain observer status in the Frontex Country Working Group on Return and Readmission, which consists in expert-level meetings taking place regularly or *ad hoc* to discuss cooperation on readmission with specific third countries. This would be in both the EU’s and Albania’s interest and in line with the EU Action Plan for the Western Balkans on migration, to try to improve return and readmission with countries of origin.

On databases, Albania has repeatedly flagged an interest to access Eurodac. The Eurodac Regulation does not provide for the participation or exchange of information with third countries, such as candidate countries, and no modification on this point is considered currently. EU data protection rules require a specific legal basis in EU law to collect, store and share personal data of the kind held in Eurodac.

## VIII.D. SUMMARY OF FINDINGS – SCHENGEN AND EXTERNAL BORDERS

Operational cooperation with Frontex is good and should continue developing. The high turnover of officers at the border should be addressed.

### IX. COUNTERFEITING OF THE EURO (CRIMINAL ASPECTS)

#### IX.A. STRATEGIC, LEGAL AND INSTITUTIONAL FRAMEWORK

##### a. Country presentation

Albania indicated that its legal framework was in line with the main requirements of EU *acquis*<sup>92</sup> in the field of counterfeiting of the euro. Counterfeiting money, putting counterfeit money in circulation and manufacturing or keeping equipment for counterfeiting money are criminalised. Legislation ensures the principle of non-discrimination between national and foreign currency (including the euro), with regards to both regulatory procedures and sanctions as well as treatment as a criminal offence or the relevant foreseen punishment/penalties.

The Bank of Albania is responsible for the authentication of banknotes and coins. Law enforcement agencies coordination is ensured by the sector for investigation of economic and financial crime within the Albanian State Police.

Albania is party to the Geneva Convention<sup>9</sup> for the Suppression of Counterfeiting Currency, signed at Geneva on 20 April 1929 and its Protocol.

##### b. Commission assessment

Albania's legal framework has a high level of alignment with the EU *acquis*. The remaining amendments should be adopted.

<sup>92</sup> Directive 2014/62/EU on the protection of the euro and other currencies against counterfeiting

## **IX.B. IMPLEMENTATION CAPACITY AND PERFORMANCE**

### **a. Country presentation**

Technical analysis is provided by the Bank of Albania, through its national analysis centre and its coin national analysis centre, which are both equipped with the necessary administrative and technical capacities. The national analysis centre uses an electronic database to register and collect technical and statistical data relating to counterfeit notes and coins.

### **b. Commission assessment**

Albania needs to set up a National Central Office on currency counterfeiting.

## **IX.C. SUMMARY OF FINDINGS – COUNTERFEITING OF THE EURO (CRIMINAL ASPECTS)**

Albania needs to set up a National Central Office on currency counterfeiting.

## **X. MEASURES TO FIGHT CORRUPTION IN THE FIELD OF JUSTICE AND HOME AFFAIRS**

### **X.A. STRATEGIC, LEGAL AND INSTITUTIONAL FRAMEWORK**

#### **a. Country presentation**

Albania has a specific set of rules to fight corruption in the field of justice and home affairs. Rules are in place with regard to the acceptance and administration of donations and gifts in the State Police, to the protection of whistle-blowers, and for the approval of the types of additional services provided by the State Police and payment fees, for legal entities and natural persons, public or private. A dedicated body is responsible for the prevention, control, and management of the conflict of interest in the State Police.

The Ministry of Interior adopted an integrity plan for 2022-2024.

## **b. Commission assessment**

Fighting corruption in the field of Justice and Home Affairs should be strengthened. Albania has an **adequate** legal and an ethics framework in place to prevent corruption in the field of justice and home affairs. *See general anti-corruption measures under Chapter 23 - Judiciary and Fundamental Rights.*

## **X.B. IMPLEMENTATION CAPACITY AND PERFORMANCE**

### **a. Country presentation**

Citizens can use digital tools in order to report abuse and corruption. Complaints are handled by the Police Oversight Agency, which also conducts inspections and investigations.

### **b. Commission assessment**

Implementation of the legal and ethics framework should be stepped up.

In the field of justice and home affairs, corruption risks with regard to law enforcement officers, including at the borders and during criminal investigations, should be adequately assessed and addressed. Furthermore, measures to strengthen integrity across the law enforcement sector and the judiciary should be further pursued, including to protect the systems from attempts of undue interferences in ongoing investigation of criminal cases and leaks of information.

The Police Oversight Agency should be further consolidated and results should be monitored.

## **X.C SUMMARY OF FINDINGS – MEASURES TO FIGHT CORRUPTION IN THE FIELD OF JUSTICE AND HOME AFFAIRS**

Corruption risks should be adequately assessed and addressed. Measures to strengthen integrity across the law enforcement sector and the judiciary should be further pursued. The Police Oversight Agency should be further consolidated and results should be monitored.



## **F) ECONOMIC CRITERIA**

In line with the conclusions of the European Council in Copenhagen in June 1993, accession to the EU requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union. Being a functioning market economy requires a broad consensus about essentials of economic policy and macro-economic stability, also reflected in sustainable public finances and external accounts. It is further characterised by limited state influence on competitiveness and a free interplay of market forces through price and trade liberalisation, the absence of any significant barriers to market entry and exit and by a well-developed financial sector. An adequate legal system has to be in place, which includes a system of property rights and enables market participants to enforce contracts and laws.

The capacity to cope with competitive pressure and market forces within the Union requires sufficient human and physical capital, adequate sectoral and enterprise structures capable of innovation and an infrastructure, which facilitates the integration of the national market, connects it to other countries at competitive costs and enables sufficient trade and investment integration within its region and with the EU. Overall, the more an economy is integrated with the Union before accession, the better will it be able to take on the obligations of membership.

### **I. FUNCTIONING MARKET ECONOMY**

#### **I.A MACROECONOMIC STABILITY**

##### **a. Country presentation**

Albania stated that its macroeconomic stability has greatly improved over the last decade, evidenced by the resilience of its economy against recent economic shocks and its enhanced institutional capacity to deal with such shocks. Macroeconomic stability has been strengthened by prudent fiscal policies as well as policies supporting a stable financial sector and a continuously increasing labour market participation with falling unemployment rates. Albania expects fiscal sustainability to strengthen further in the coming years, supported by its fiscal rules and its commitment to a gradual reduction of the public debt ratio. Albania recognises that continuing reforms to increase legal security and reduce informality would add to the improvement of the functioning of product markets and the overall functioning of the market economy.

Albania's macroeconomic stability increased over the last 10 years and its economy showed resilience against the impact of external shocks since 2009, the latest being the earthquake in 2019, the COVID-19 pandemic 2020/21 and the impact of the Russian invasion of Ukraine since 2022. Relevant institutions, such as ministries, local governments, tax and labour directorates, schools, social and health services ensured business continuity during these crises, and also gained valuable experience with swift support, control and mitigation measures, which increases their capacity to cope with future challenges.

Over the decade 2012-21, Albania's real GDP growth averaged 2.5 %. A period of low growth between 2012 and 2016 was followed an economic upturn in 2017 and 2018, when growth at times reached 4%. A drought and a major earthquake slowed economic growth in 2019 to 2.2%, followed by a 3.5% contraction in 2020 in the wake of the COVID-19. The economy experienced a strong rebound in 2021 with real growth of 8.3% and estimated 3.6% in 2022 as macroeconomic fundamentals remained broadly solid. Main growth drivers were exports and private consumption, fuelled by increasing employment and incomes. On the production side, growth was mainly supported by industry, construction, and services.

The current account deficit declined from an average 10.9 % of GDP in 2010-2014 to an average of 7.7 % in 2015-2019. This was driven by increasing exports – especially tourism, except for 2020 in the wake of COVID-19. Foreign direct investment (FDI) inflows decreased from above 8% of GDP in 2015-2019 to 6.4% of GDP in 2022, due to the completion of large energy projects. The sustainability of external balances is supported by solid net FDI inflows as the primary source of financing, and by relatively high foreign reserves, reflected the gradual appreciation of the currency.

Albania's flexible exchange rate regime and the independent monetary policy targeting inflation helped dampen inflation, exchange rate volatility, and credit and exchange rate risk premiums over the last decade. In 2022, inflation increased from the earlier average of 1.7% (2012-2021) to 7% but remained below the regional average. The external debt ratio fell from 74% in 2015 to 63.1% in 2022 and repayment capacity and the external debt risk profile improved. This aided Albania's market access, allowing it to issue sovereign Eurobonds with improving conditions and longer maturities since 2015. Sovereign ratings remained unchanged over the last 5 years below investment grade at B+ (S&P) and B1 (Moody's), with a stable outlook.

The fiscal deficit remained at around 4% from 2010 to 2015 then fell to below 2% of GDP in 2016-19, supported by increasing revenue and decreasing interest and capital expenditure in terms of GDP). Following a sharp increase in 2020 to 6.8% due to the impact of the pandemic and the earthquake, it has then declined to 3.7% of GDP in 2022, helped by strong revenue growth and the high increase of nominal GDP. The public debt ratio also fell from 74.5% in 2020 to 64.6% in 2022 (below the pre-crisis level of 2019).

Albania expects the improvement of its macro-economic stability to continue. Following a projected slowdown in 2023 due to the impact of Russia's war of aggression against Ukraine and rising inflation, Albania expects an average GDP growth of 3.9% up to 2030, mainly driven by domestic demand and a further reduction in the unemployment rate below 10% and a small but positive contribution of net foreign demand. The current account deficit is expected to narrow to an average of 5% of GDP, fully financed by FDI inflows which are projected to stabilise at an average of 6% of GDP. The public debt-to GDP ratio is projected to fall to 60% by 2030 by keeping the primary balance surplus in line with the fiscal rule applicable from 2024. This improvement in the budget balance is to be supported by expected gains from tax reforms (2-3% of GDP by 2025) and a 1-2% of GDP reduction in the expenditure ratio (due to improved management of public investment and public enterprises).

Despite some progress, Albania sees scope to accelerate convergence to EU income levels by stepping up structural reforms and leveraging its natural resources and its demography. According to one of the 3 presented convergence scenarios Albania could reach about 35% of EU's per capita GDP (in Euro) in 2040 (compared to 17.5% in 2022), assuming 1.5% average annual growth of the EU and 4.5% for Albania.

*Chapter 17 - Economic and Monetary Policy, is dealt with under cluster 3.*

## **b. Commission assessment**

Albania's macroeconomic stability has improved during the last decade and its economy has showed a good level of resilience when faced with several shocks between 2019 and 2022. The authorities showed flexibility and implemented effective policies in stabilising the economy during the shocks, supported by an overall appropriate policy mix. Since the Bank of Albania moved to inflation targeting in 2004, annual inflation remained below the targeted 3% until end 2021, reflecting a monetary policy conducive to price stability which also helped to keep inflation to an average of 7% in 2022, the lowest in the region. Albania's dependence on remittances has reduced and its external stability has improved due the increased service surplus, which has narrowed the current account deficit, mainly financed by FDI. The drop of the external debt ratio as well as increasing foreign reserves, also support the improved external position and Albania's improved access to the international capital market demonstrated by its Eurobond issuances over the last 5 years. However, significant external financing needs, a large negative net international investment position, and tighter financing conditions since 2022 pose risks. The trade deficit remains high, and reliance on rainfall-dependent hydroelectric production results in volatile electricity import needs, which also weigh on public finances as they are required to bridge the difference between domestic and international electricity prices.

Fiscal consolidation between 2016 and 2019 improved fiscal sustainability and resumed following the COVID-19 crisis-related rise, but Albania still has the second highest debt ratio in the region. The 2023-2030 medium-term plans and the introduction of the non-negative primary balance rule as of 2024 signal the government's commitment to strengthen fiscal sustainability. However, following this plan, the public debt ratio would only fall to 60% of GDP in 2029, while interest expenditure is projected to increase to 3.7% over the same period. Although revenue-related reforms increased the tax revenue ratio from 22.6% of GDP in 2012 to 26.5% in 2022 it is still below the average for a middle-income country and that of its regional peers. Albania does not yet foresee a medium-term increase of its tax revenue ratio above 30%, even though this might be necessary to sustain fiscal stability and finance its large investment needs. The fiscal space remains limited, heightening the country's vulnerability to external shocks and its elevated exposure to natural and climate change-related risks.

Despite real growth above the EU-27 average, per capita GDP in purchasing power standards remained at 30% of the EU average since 2013, before increasing to 32% in 2021 and 34% in 2022. Despite its very recent acceleration, this slow pace of convergence is below that of regional peers, which highlights the need for productivity-enhancing reforms to allow for an increase in the potential growth rate.

## **I.B FUNCTIONING OF PRODUCT MARKETS**

### **a. Country presentation**

Albanian administrative requirements for construction permits have been eased. Businesses now benefit from more reliable electricity supply and the growing digitalisation of public services, including tax and customs offices, reducing time to process tax files and opportunities for bribery. This also contributes to the formalisation of the economy, another element of which was the introduction of automated electronic VAT invoicing (“fiscalisation”) starting in 2021, which it considers a major reform to reduce unfair competition from VAT evasion. Another formalisation measure is the automatic exchange of information on financial accounts, which helped to reduce undeclared income by taxpayers and individuals and increased social contributions by 7% in 2022.

Conditions for market exit improved with the modernisation of the bankruptcy legislation and contract enforcement benefitted from the reinstatement of private bailiff services at reasonable costs, and the reduced duration of a lawsuit. The latter is part of the ongoing broad judicial sector reform. Further measures to improve legal security for businesses are foreseen, including via a modernised case management by 2025, improving professional capacity of judges for commercial cases and the establishment of a Commercial Section in the Tirana District Court. Albania also plans legal amendments to resolve contract enforcement issues on bank loans, new laws on public and private bailiff services and plans to improve and digitise the cadastre.

*[NB: Chapter 1, the Free Movement of Goods, Chapter 3, Right of Establishment and Freedom to Provide Services, Chapter 8, Competition Policy, and Chapter 9, Financial Services, are dealt with under cluster 2, while Chapter 20, Enterprise and Industrial Policy, is dealt with under cluster 3].*

## **b. Commission assessment**

The state's presence in the Albanian economy is limited, though strong state influence remains in the energy sector through public enterprises and partly administered electricity prices and subsidisation. Overall public services improved and Albania scores 46% in the EU e-governance benchmark compared to an EU average performance of 68% and ranked second in the Western Balkans in 2022. The digitalisation of public services and of the tax administration is contributing to the formalisation of the economy, along with the successful activities to reduce under-reported labour, but the extent of informal activity in the economy still presents a major obstacle not only for businesses, because it hinders fair competition, but also to raising productivity of the economy because it limits access to finance and public services including formal training, while lowering fiscal revenue. Contract enforcement improved while overall legal certainty and the fight against corruption are set to improve significantly with the completion of the judicial reform. Although there was some progress as regards the process of cadastral registration and digitisation, an efficient and transparent property registration and integrated land management system, which offers clear and secure property titles, is not yet in place to ensure property rights in practice.

## **I.C FUNCTIONING OF THE FINANCIAL MARKET**

### **a. Country presentation**

Albania's financial sector remains dominated by banks, which account for 90% of financial sector assets. The Albanian banking sector remained stable during the crisis years 2020-2022, and is well capitalized with sufficient liquidity and profitability, benefitting from the Bank of Albania's efforts to strengthen regulation and supervision. In the last 10 years, credit quality has improved noticeably, and the NPL-ratio dropped since 2013 by 18 pps to 5.0% end 2022. Credit growth was negative from 2013 to 2018 due to the resolution of NPLs, but has since recovered and accelerated across segments, purposes and currencies to 12% y-o-y in 2022, increasing the private credit-to-GDP ratio to 38.5 % supported by a decreasing average loan interest rate until mid-2022 which also helped to increase the loan portfolio of SMEs to 30% of total loans. Since mid-2022, the transmission of the increased policy rate led to an average loan interest rate increase by 1 pp and has lowered household's loan demand.

While shares of foreign currency assets and liabilities remained balanced, the presence of foreign currencies in banks' balance sheets is still significant. The share of foreign currency loans in total bank loans was about 52% in 2022 with a decreasing share of unhedged foreign currency loans (down to 18%) whereas the share of foreign currency deposits increased to 55.2% (from 48% in 2011). The share of government securities in banks' total assets remained quite high (about 25 %), exposing banks to sovereign risk.

Financial intermediation has been growing steadily, but there is further potential to increase it as the stock of private sector loans stood only at 34% of GDP in 2022 and borrowing of small enterprises only at 10% of GDP. The total loan to deposit ratio, at around 48% is only about half of the regions average. The small but growing non-bank financial sector expanded to 38 institutions with assets of 12 % of GDP, including the insurance market, and increased its role in financial intermediation. A higher diversification of financing sources could improve access to finance by providing business financing beyond traditional bank loans. Following a positive assessment of its supervisory framework in 2021, BoA requested the formal equivalence assessment of its regulatory and supervisory framework by the European Banking Authority. This would further reduce costs and support the competitiveness of the Albanian banking sector.

The implementation of the National Strategy on the Payment System and the modernisation of the payments systems led to a significant increase in the number of adults with a bank account (from about 40% in 2015 to 69% in 2021). Non-cash payments also increased, which also help formalisation and anti-money-laundering. The drafting and implementation of the strategy on financial education, expected to be finalised in 2023, will also support the increasing financial inclusion.

*[NB: chapter 4, Financial Services, is dealt with under cluster 2].*

## **b. Commission assessment**

The improvement of financial stability and the increasing financial inclusion and public trust into the financial sector are impressive, but overall, the role the financial sector plays in the economy remains low, also in regional comparison. The ongoing and planned reforms and alignment with EU standards are set to continue developing and diversifying the financial sector, which is necessary to increase the low financial intermediation and access to finance to the regional level and to help to reduce bank's exposure to government securities in the medium-term. Although the NPL ratio decreased strongly, it still needs to be reduced below 5% by enhancing NPL resolution procedures. The increased hedging of foreign currency loans only partly addresses the risks from the high presence of foreign currencies in domestic transactions which is likely to persist unless their common use is addressed by the government in a comprehensive manner.

Compliance with FATF principles for voluntary tax compliance programmes and a swift completion of the action plan Albania agreed with FATF are necessary to keep trust into international financial transactions with Albania and to lower transaction costs as will the EBA's third party equivalence assessment.

## **I.D FUNCTIONING OF THE LABOUR MARKET**

### **a. Country presentation**

Since 2014, the positive economic development generated growing labour demand and broad-based employment growth in industry, construction and services. Solid employment growth has helped lower the unemployment rate (age group 15-64) from 17.5% to 11% (end 2022) although the youth unemployment rate remains high at about 21% (but down from 30% in 2016). Mobilisation of a part of the inactive population generated most of the labour supply and labour market participation rates increased from 64.9% in 2012 to 74.8% in 2022, while the gap between male and female participation narrowed from 17 pps to 11.6 pps.



As the population and in particular the working age population is shrinking, due to emigration, Albania expects the mobilisation of inactive population including youth to drive labour supply and increasing labour force participation rates in future, and projects that the unemployment rate will fall to 8.3% in 2025. Nominal wage growth averaged 2.5% annually in 2015–2020, while minimum wages increased by 3.6% a year on average. In an effort to support the vulnerable/low income category from the high inflation, enhance higher consumption, and increase employment, particularly among youth category who is highly interested to emigrate, the government increased in April 2023 the minimum wage by 17.6%. Reported wages increased by 6.6 % in 2021, partly due to stepped up efforts to address the widespread practice of under-reporting salaries.

*[NB: Chapter 19, social policy and employment, is dealt with under cluster 3].*

#### **b. Commission assessment**

The labour market significantly improved with labour force participation rates and gender participation gap approaching the EU-28 averages (74.8% /11 pps in 2022) while the unemployment and inactivity rates dropped. The decreased, but still high, youth unemployment indicates that too little support to youth transition into the labour market. There was progress in the restructuring and improvement of employment offices, in the outreach of active labour market policies and their link with social assistance, and in reducing informal labour, but gaps persist in the quality and level of public services to support and place the unemployed and to control safety standards and informal labour. The major challenge for the labour market lies in the mismatch between the increasing demand for skilled labour on one side and the low level of education of about half of the adult job-seekers who have at most primary education and career choices and content of education of the young on the other side. The ongoing reforms of VET and the digital skills agenda are addressing this challenge, but their funding is low, their implementation slow and they do not yet address the lack of adult's participation in training and upskilling, which is significantly below the EU-27 average. In addition, migration adds to the decrease of the working age population and to the shortages of labour with skills in demand which pose a risk to Albania's transition to a more sophisticated economy of a higher productivity.

## I.E SUMMARY OF FINDINGS – FUNCTIONING MARKET ECONOMY

Albania is **between a moderate and a good level of preparation** in becoming a functioning market economy. There continues to be a broad domestic consensus on the fundamentals of economic policy including a limited role of the state in the economy and a political commitment to market liberalisation. Fiscal space and debt sustainability improved moderately but the tax revenue ratio remained below potential and limits the creation of sufficient fiscal space for dealing with domestic and external shocks and for financing productivity enhancing investments. Weak legal security, a high level of informal economic activity (despite some progress on this over the last couple few years), a low level of financial sector development and difficulties with the registration of land titles continue to limit the effective functioning of the market economy, which is reflected in slow convergence and growth below potential. Albania submits its Economic Reform Programme (ERP) regularly and in time to the European Commission, and the authorities have remained committed to stability-oriented policies based on a broadly appropriate policy mix over the last decade. There was only a partial follow-up of the EU's policy recommendations set out in the successive enlargement packages and of the jointly agreed policy guidance in the context of the ERP exercise. Albania should step up the implementation of policy guidance jointly agreed at the annual Economic and Financial Dialogue between the EU with the Western Balkans and Türkiye, based on the Commission's assessment of its Economic Reform Programmes.

## II. THE CAPACITY TO COPE WITH COMPETITIVE PRESSURE & MARKET FORCES WITHIN THE UNION

### II.A EDUCATION AND INNOVATION

#### a. Country presentation

Since 2014, Albania has embarked on significant reforms of the pre-university education system, on (1) Curriculum development and reform; (2) Information and communication technology (ICT) in education; and (3) Teacher and school leadership policies. Teachers' salaries have increased significantly since 2007 and entry requirements to the teaching profession have become stricter.

Albania has had one of the strongest increases in reading and mathematic performance since its first participation in PISA tests in 2009, especially in mathematics (for which the gap to the OECD average narrowed to 50 points, though it remained wide in reading (82 points) and science (72 points)). The enrolment ratio into pre-school education (children aged 3 to 6 years) remained broadly unchanged since it reached 81.3 % in 2015. Overall, the gross enrolment ratio (GER) in basic education (6-14 year old children) has been decreasing in the last 4 years, from 100.7 % for the school year 2017-2018 to 95.7 % in 2021-2022, while that of tertiary education increased from 53.9 % to 61.3 % over the same period.

The national education strategy 2021–2026 is focused on the implementation and adaptation of a new curriculum, which includes the introduction of compulsory English as well as software coding and ICT skills from the first year of basic education. Albania plans to improve the quality of its schools, foreseeing libraries, laboratories, and “smartlabs” in all schools by 2026, and introducing mandatory, career long teacher training, and training of more English and ICT teachers.

Quality control issues weakened the employability and credibility of vocational training (VET), and the share of upper secondary students choosing VET fell from 19.5 % in 2019 to 17.7% in 2021. The adoption of a new VET Law, including the regulation and quality control of VET providers, and the subsequent founding of a national agency for employment and skills in 2017 are designed to address these weaknesses and form the basis for the ongoing comprehensive reform of VET and vocational qualifications. The national employment and skills strategy 2030 (“Skills2030”) aims to increase attendance in secondary VET of secondary school age youth to 25%, to reduce the skills mismatch for all occupations and to address the digital skills gap in the labour market

The national strategy for Science, Technology and Innovation 2023-2030 should raise public expenditure on research from 0.06% in 2018 to 1% GDP, to promote research cooperation between academia, industry and government. A new law on science in Albania should also be finalised. Albania is fully associated to Horizon Europe and participated in 2021 with 9 projects in the EU’s Framework Programmes for Research and Innovation. In 2022 Albania was included in the EU innovation scoreboard for the first time as statistics became available.

*[NB: Chapter 25, Science and Research and Chapter 26, Education and Culture, are dealt with under cluster 3].*

## **b. Commission assessment**

The PISA assessments show strongly improved mean scores of Albanian students since 2009 but 2018 results in reading and science did not improve compared to the respective 2015 scores. Overall the gap to the OECD average remains very significant, as about half of 15-year olds tested showed less than basic proficiency in three main competences. However, overall education outcomes have improved although limited progress has been made in expanding pre-school education, the rate of young persons neither in education nor in employment or training (NEET) remained high, and education quality is lower in rural areas. The ongoing comprehensive reforms of the pre-university education and VET could address many of the identified weaknesses of the education system and raise the quality of education if sufficiently funded. The broadly unchanged level of funding over the last 10 years (about 3% of GDP compared to an average 5% in the EU) slowed the pace of implementation of the ambitious education reforms and are set to continue delaying the convergence to a higher education outcome level as the medium term fiscal plans do not foresee a significant increase of the financing.

Data availability related to Albania's research and innovation capacity and expenditure is very limited, but Albania is by far the least successful performer of all countries associated to Horizon 2020, and its private sector participation in the programme is particularly low. In terms of scientific publications and university ranking it performs far below regional peers. The very low importance attached to R&D in Albania is also reflected in the low share of university enrolment in the natural sciences and in technology. This is an obstacle to a transition to a higher value economy and lowers attractiveness for technology related FDI. Despite some increase of public expenditure allocations for research and development (R&D) during the last 3 years, the planned budgetary funds for R&D remain below the 1% of GDP target of the national strategy on science 2015-2022 and its successor strategy (the EU average is 2.3% of GDP).

## II.B PHYSICAL CAPITAL AND QUALITY OF INFRASTRUCTURE

### a. Country presentation

Maritime freight is Albania's dominant means of freight transport, but it has only recorded incremental growth as limitations of cargo capacities persisted in the main maritime infrastructure. Albania therefore foresees regional interconnectivity projects (which are either ongoing or in an advanced stage of preparation) to increase the container port handling capacity of its largest port in Durrës and ensure a connection to a regional transport corridor, establishing railways connections with Kosovo and Greece. It also foresees an additional airport close to tourist areas in the south. In addition, investments into the Adriatic-Ionian road corridor (318 km) and a connection of the port of Durrës to a Kosovo dry port are expected to reduce travel time and freight cost for exports, complemented by agreements on the facilitation of customs procedures.

Investment in road infrastructure over the last decade helped to reduce the time needed to transport goods to the EU but capacity of main road corridors remains limited. Air passenger growth due to increasing tourist arrival numbers had brought passenger handling capacity of the only international airport in Tirana to its limit, but capacity has been increased recently due to the expansion of Tirana Airport and the opening of Kukes International Airport. The poor condition of Albanian railways and its lack of connections with Greece, North Macedonia or Kosovo remain major obstacles for rail freight, which decreased by about 34% in the 2010-2019 period, whereas passenger transport via railways is basically non-existent.

Albania's transport master plan targets increases between 30% and 40% in freight volumes via road, container and rail and in passenger transport via air, road and rail by 2030. New investments to revitalise the Albanian railways are to be accompanied by a reform of the rail sector, separating public infrastructure management from public and private rail transport operators. This reform also foresees the establishment of an independent railway regulatory authority and a rail safety authority.

Albania's international internet connectivity has increased 10-fold since 2015 to more than 700 GB/s in 2021 and is well interconnected with its neighboring countries. However, the share of internal broadband connections of more than 100 Mb/s is still low and the broadband offer in rural areas remains low, and large investments are needed to develop "very high-capacity networks". In June 2022, Albania adopted a digital agenda and action plan for 2022-2026. Albania's telecommunications market has been open for competition since 2008. 4G mobile service coverage increased from 80% to 98.9% between 2016 and 2020, though 5G networks have yet to be introduced.

Albania increased its installed electricity production capacity to 2,605 MWh (99% from hydropower, 1% photovoltaic) covering about 70% of its electricity demand while the rest is imported. Losses in the distribution electricity system were reduced from 45.07 % to 20.62 % and it has a high net transfer capacity. Albania is a frontrunner when it comes to implementation of auctions for renewables energy projects. It sees the key challenge in the energy sector in the need to increase domestic electricity generation and diversify it from hydropower. It plans to increase energy efficiency by 8.4% and the share of renewable energy in final energy supply to 54.4% in 2030 by including additional photovoltaic capacity of 490 MW and wind power stations of total 300 MW by 2030 and an upgrading of hydropower (at Skavica). Albania is committed to aligning with the Energy Community energy *acquis*.

*[NB: Chapter 14, Transport, Chapter 15, Energy, and Chapter 21, trans-European networks are dealt with under cluster 4].*

## **b. Commission assessment**

The physical infrastructure of Albania has improved significantly since 2010, in particular road and air transport infrastructure, as well as electricity generation, water supply and digital communication networks. However, large gaps remain, some of which are being addressed by planned or ongoing projects, mostly with international support, and will greatly improve the conditions for goods trade and regional integration over the next decade. Any improvement in infrastructure also requires an increase of maintenance, which is especially challenging for Albania due to the high risk of damage from natural disasters and its limited public revenue and administrative capacity. A key challenge with impact on external and fiscal balances is to lower the dependency on hydro-electric production, and ensure sufficient electricity supply not only by increasing and diversifying generation capacity from other renewable sources, but also by reducing transmission losses and by increasing energy efficiency, which has seen only moderate progress so far. This will require large investments in addition to investment needs into sustainable water and land management which also arise from Albania's high level of exposure to climate change risks.

Progress has been slow on the improvement of the governance of public-owned utilities in energy and water and the management of public investment. However, an accelerated pace of reform implementation in these areas is necessary to ensure a sustainable efficient upgrading of infrastructure and to achieve Albania's planned gains in expenditure efficiency.

## II.C SECTORAL AND ENTERPRISE STRUCTURE

### a. Country presentation

The share of agriculture in Albania's gross value added gradually decreased to 20.3% in 2021, after having increased from 19.1% to 22.6% between 2009 and 2015. During the same period, the share of construction fell to 11.3% of gross value added while manufacturing rose by 1.7 pps to 7.4% and services by 3 pps to 55.3%. Services took over from agriculture as the sector with the largest share of employment (44.3 % in 2021), while agricultural employment declined gradually from 44.1% to 33.7% and employment in the manufacturing sector gradually increased from 8.1% to 11.2 % in 2021.

In 2021, 99.8% of Albania's enterprises (not including farms) were SMEs with between 1 to 249 employees, a ratio largely unchanged since 2015. The distribution of SMEs according to their size in terms of the number of employees is broadly similar to the EU average, but differs with regard to contributions to employment and value-added which are significantly higher in Albania. This is because Albanian micro enterprises provide the largest share of overall employment, while in the EU large enterprises do, though the share of Albania's micro enterprises with 1 to 4 employees and their contribution to employment decreased in the last 5 years to 37% in 2020. The share of SMEs with 10 or more employees increased significantly from 66.3% to 74.1%, providing 45% of jobs in 2020.

*[NB: Chapter 20, Enterprise and Industrial policy, is dealt with under cluster 3, and Chapter 11, Agriculture, is dealt with under cluster 5].*

### b. Commission assessment

Albania's economic structure has continued to gradually shift towards services and industry away from a dominant agricultural sector, whose decline has been accompanied by decreasing investment in the sector while its wages remained the lowest. However it remains a significant part of the economy, its share in employment still accounts for over 50% in more than half of Albanian prefectures. Attention should be given to analysing the needs of the sector in terms of investment, innovation and adaptation to climate change effects, and also to raising agricultural productivity, which would substantially raise rural incomes.

The service sector, which is mainly tourism, transport and trade, is driving the economic transformation and saw much faster growth than industry and manufacturing. However, Albania scored below regional peers in the Travel and Tourism Competitiveness Index (TTCI) published by the World Economic Forum) and attracted less FDI projects in the sector in 2015-20 (according to the fDI-market report). Albania's export programme stresses the potential of manufactured exports but compared to regional peers it lacks medium-level technology companies and attracts less FDI in this area. Most sectors of economic importance that attract FDI in Albania like trade, real estate and energy typically have little innovative activity or technology transfer. There are few medium-sized and very few large companies present in Albania, which usually contribute more to R&D, training and exports than micro enterprises. In this context, the increasing share of small and medium-sized enterprises in the last five years is a promising development that should be nurtured as it signals an ongoing structural change towards larger enterprises.

## **II.D. ECONOMIC INTEGRATION WITH THE EU AND PRICE COMPETITIVENESS**

### **a. Country presentation**

Albania maintains an open trade policy, is member of WTO and CEFTA and, in addition to the SAA with the EU, it has concluded trade agreements with Turkey, EFTA and the UK (in 2021). External trade (total exports and imports) averaged 75.7% of GDP 2015-2019, dropped to 61.6% of GDP in 2020 then rebounding to 76.4% of GDP in 2021. The EU remains Albania's main trading and investment partner, although the EU's share in Albania's foreign trade has decreased somewhat due to faster growth in trade with non-EU countries and growing regional integration. A large part of FDI stocks in Albania are of EU origin. FDI flows to Albania from the EU made up 59.7% of all FDI inflows in 2021 and 57.6% of non-Albanian owners of the increasing share of foreign or jointly owned Albanian enterprises (5.6% in 2021) are from the EU (mostly from Italy and Greece). Over a third of all enterprises are located in Tirana, though the share of those in Berat, Dibër and Korçë have increased in the last five years.

Exports are dominated by services, which increased from average 24% of GDP (2015-2019) and following a COVID-related drop in 2020/21 to 28.2% of GDP in 2022, (about 65% travel and transport related, and more than half of services exports destined to EU), while goods exports (mainly textiles, footwear, base metals, electricity and construction materials) jumped from an average of 14% in 2021 to 17% of GDP in 2022 (about two thirds destined to EU). The share of goods (in volume) exported to CEFTA parties increased gradually to 18.7 % in 2021, with the main exports being base metals, minerals and vegetable products. Kosovo is Albania's main export destination in CEFTA, while most of Albania's CEFTA imports come from Serbia.



Key obstacles for increasing exports to EU are the lack of international certification and of compliance with safety and quality standards, in particular for agricultural products, despite the price competitiveness of Albanian exporters. Albania has established the National Trade Facilitation Committee (NTFC), which drafted an export programme for 2023-2027 aiming to improve sector linkages and export competitiveness and the Albanian businesses position in global value chains. In its 2023-2027 export programme, Albania has identified future opportunities for increasing and diversifying exports to the EU in the areas of automotive parts manufacturing (in expectation of nearshoring of value chains), agri-food processing and sustainable tourism, including “blue” tourism.

Albania is committed to deepening regional economic integration, notably through the Common Regional Market, for which parties have agreed to facilitate mutual recognition of certificates and to lower customs fees.

#### **b. Commission assessment**

Although Albania has an open economy with few trade restrictions, external trade remains below potential. Exports remain dominated by services, with the EU remained the main destination for exports of both goods and services. Due to faster growth in trade with non-EU countries, the EU’s share in Albania’s foreign trade has somewhat decreased.

Albania is making efforts to support higher and more diverse exports, an increase in FDI and proactively seeks to facilitate intraregional trade. The improvement of transport infrastructure is likely to improve price competitiveness when transport costs decrease. Despite this it needs to address obstacles due the lack of standardisation and certification, in particular in the trade with the EU, which may be helped via more public services and financial support, for example by facilitating access to laboratories or subsidising certification fees.

## II.E SUMMARY OF FINDINGS – THE CAPACITY TO COPE WITH COMPETITIVE PRESSURE & MARKET FORCES WITHIN THE UNION

Albania has reached **some level of preparation** in its capacity to cope with competitive pressure and market forces within the Union. Albania's energy and transport infrastructure, the digitalisation of the economy and education outcomes have greatly improved, but significant gaps to regional and European levels remain, also regarding conditions for an inclusive and balanced economic development. Investment into all areas of physical infrastructure needs to continue on a high level, complemented by improved public investment management and governance reforms. Albania's competitiveness continues to be hindered by a lack of entrepreneurial and technological know-how, unmet investment needs in human development, and persistently low spending on R&D. Its transition to an economy of higher productivity will require higher quality and levels of education outcomes, and incentives to invest into research. Increasing coverage and adequacy of social protection and health insurance is necessary to reduce the share of population at risk of poverty to enable an inclusive and socially balanced economic development while narrowing the gap in living standards to the region. Addressing these issues with accelerated and efficient reforms supported by more political attention and higher levels of public funding than in the past could increase productivity, broaden the limited diversification of production and exports and unleash Albania's growth potential. Albania should step up the implementation of policy guidance jointly agreed at the annual Economic and Financial Dialogue between the EU with the Western Balkans and Türkiye, based on the Commission's assessment of its Economic Reform Programmes.

## G) CHAPTER 5 – PUBLIC PROCUREMENT

The three key requirements under Chapter 5 are: First, Public Procurement is regulated by duly enforced policies and procedures that reflect the principles of the Treaty on the Functioning of the European Union and the European Union acquis and are supported by suitably competent and adequately resourced institutions. Second, contracting authorities are adequately staffed and resourced and carry out their work in accordance with applicable regulations and recognised good practice, interacting with an open and competitive supply market. Third, in case of alleged breaches of procurement rules, aggrieved parties have access to justice through an independent, transparent, effective and efficient remedies system.

In addition, the European Commission examines measures taken to promote integrity, prevent and fight corruption under all three dimensions.

### I. GENERAL FRAMEWORK FOR PUBLIC PROCUREMENT

#### I.A STRATEGIC, LEGAL AND INSTITUTIONAL FRAMEWORK

##### a. Country presentation

Albania indicates that its **legal framework**, as amended, in the classic procurement sector, utilities and defence and security procurement has a high level of alignment with the *acquis*.

A *National Strategy of Public procurement 2020-2023* lays out a comprehensive set of activities in the field of public contracts, concessions and public-private partnerships (PPPs) for both **The legal and institutional framework** to be undertaken in 2020-2023. A first monitoring report on its implementation relied on real time “open data” from the electronic procurement system.

Albania indicates that the *Law on Public Procurement*” (PPL, no.162/2020) was adopted in 2020 to align the legal framework with the EU classic Public Procurement Directive and the Utilities Procurement Directive. The PPL is completed by various bylaws. Further amendments to the legal framework are required to achieve full alignment with the EU classic public procurement and utilities directives, referring *inter alia* to the applicable thresholds, the exemptions from the scope of the PPL (procurement for the purposes of diplomatic missions, Bank of Albania, cultural sector procurement which will also require modifications to the related sectoral legislation), subcontracting limitations, rules on the exclusion of economic operators. Albania indicates that these amendments will be completed by the time of accession. With respect to the alignment of the thresholds Albania indicates that it will take place gradually, possibly by the end of 2023. The authorities maintain that while the thresholds for supplies and services contracts are higher than in the EU Public Procurement Directives, this does not impact on the procedural requirements. Such discrepancy mainly affects the minimum periods applied in procedures as well as the deadlines for the submission of complaints.

Albania reassured that the authorities would ensure that the procurement rules and procedures to be used for projects under inter-governmental agreements concluded for the implementation of joint projects, and in particular under the economic cooperation agreement concluded between Albania and the United Arab Emirates, are and will be in line with the PPL, the obligations under the SAA, and the EU public procurement *acquis*.

Albania indicates that its *Law No. 36/2020 on Public Procurement in the Field of Defence and Security*, adopted on 16 April 2020 has a high level of alignment with the *acquis*, but recognises that further alignment is needed.

Albania indicates that its legislation in the area of PPPs and concessions is **partially aligned** with the *acquis*. It is planned that new draft legislation on PPPs and concessions will be prepared by the end of 2023.

Albania presents the **responsible institutions** in the field of public procurement. The *Public Procurement Agency (PPA)* is the central public procurement body responsible for developing, implementing and monitoring the public procurement policy as well as for the practical functioning of the system, while the *Ministry of Finance and Economy* together with the *Concessions Treatment Agency (ATRAKO)* are the main actors for PPPs and concessions. Currently ATRAKO falls under the Ministry of Finance and Economy. A review of the institutional set-up is under consideration. Albania has 1,303 contracting authorities (CAs) active in 2022.

A *National State Agency for Centralized Procurements (NSACP)* was established in 2018 under the domain of the Ministry of the Interior and is subordinate to the minister. The NSACP is responsible for the award of contracts for 24 categories of goods and services defined in relevant implementing provisions.

Under the *Action Plan 2020-2023 of the Anti-Corruption Strategy, Specific Objective A2: Increasing transparency in planning, detailing, management and control of budgetary funds* relates to public procurement and aims at (1) improving the planning process, (2) mechanisms for improving the implementation of contracts, and (3) mechanisms for improving tender documents and technical specifications. Finally, under the *Regional Anti-corruption and Illicit Finance Roadmap for the Western Balkans Roadmap, GOAL 1: Preventing and countering corruption in public procurement, including in times of crises*, Albania has committed to increasing transparency, strengthening award criteria and establishing effective review.

#### **b. Commission assessment**

Albania's **public procurement system** is moderately prepared for accession. The regulatory framework is more prescriptive than the EU Directives in many instances, which the authorities explained is a design choice favouring control over efficiency during a transition period. Provisions such as the requirement of a bid security at 2% of the procurement maximum value in all public procurement procedures above the low monetary thresholds may act as barriers to market access. As the system matures and capacity across contracting authorities and the PPA increases, Albania should reduce unnecessary requirements and transaction costs for small value purchases in the medium-term by reviewing its implementing regulations.

In the *classic sector*, there is a high level of alignment with the *acquis*. **Albania needs to further align its PPL with the EU acquis.** It needs, inter alia, to review the thresholds for supplies and services contracts to align the minimum periods applied in procurement procedures, as well as deadlines for submission of appeals, with the EU Public Procurement Directives.. Other provisions that need to be aligned in the Albanian legislation include various exemptions from the scope of the PPL, grounds for exclusions of economic operators, provisions on subcontracting.

The mandatory standard documentation used in public procurement is comprehensive, detailed and of generally high quality. At the same time, since it is very prescriptive, it limits options and solutions that should be available to contracting authorities and entities, for example as regards criteria and methods of evaluation of tenders.

In the *utilities sector*, the legislation has a high level of alignment to the *acquis*.

Albania needs to ensure that all legal and financial instruments used in the area of public procurement and concessions, including inter-governmental agreements concluded with third countries for the implementation of joint projects, comply with the principles of transparency, competition, equal treatment and non-discrimination.

**Further alignment with the EU *acquis* is also needed in the area of concessions and PPPs.** The Law on Concessions and Public-Private Partnerships Law (CPPPL) and its implementing regulations on concessions/PPPs are **partially aligned** with the EU *acquis*. Further alignment is required and is expected to be introduced by way of the future new law on the issue, addressing *inter alia* issues such unsolicited proposals, operating risk, legislative scope.

The *Law No. 36/2020 on Public Procurement in the Field of Defence and Security* has a high level of alignment with Directive 2009/81. The national legislation has to be further amended to align with the *acquis*, including with respect to the national law's material and personal scope, the definitions, thresholds and procurements procedures.

## **I.B IMPLEMENTATION CAPACITY**

### **a. Country presentation**

Albania indicates that its **public procurement market** represents approximately 8.9% of the GDP in 2021. From January to September 2022, 4,832 public procurement procedures were published on the Electronic Procurement System for the value of EUR 1.04bn.

In terms of **monitoring of contract award and implementation**, Albania describes their efforts and achievements in increasing competition and transparency, through a strong focus on open procedures, mandatory publication of tender notices as of relatively low thresholds and the increasing use of framework contracts.

Albania has a comprehensive central **electronic procurement system (EPS)** on which it publishes tender and contract notices, and other important information and guidance. The use of the portal is mandatory, including for low-value procurement. Standard tendering documents for each type of procedure and contract are published on the PPA website, and the procurement forecast register is prepared and posted online. Albania informs that the current notification system is under review to assess the options for ensuring compatibility with the EU TED forms.

Albania describes efforts to increase the *level of competition* in the market. On average 2.5 bids were submitted in procedures with a value above the threshold for small value procurement (unchanged in 2022 from 2021). However, in the highest value category of works, the average number of tenders increased from 4 in 2021 to 4.3 in 2022. Contract award following a procedure with a single bidder has decreased over the years, most recently from 23% in 2020 to 20% in 2021.

Albania indicates that the simplified open procedure is the most applied procedure, followed by the open procedure and the small value procurement. Negotiation without prior publication was used in 3.9% of all launched procurement procedures and 0.7% in terms of value from January to September 2022. The number of the negotiated procedures without prior publication has been significantly reduced in the past years and Albania is working towards reducing it further.

Albania reports that it has strengthened the use of framework agreements since 2018 and that it monitors their implementation closely. With 552 published procedures for framework agreements in the period January to September 2022 with a maximum budget of EUR 419.8 million, this amounts to 11% of all procedures and 40% in terms of value (a sharp increase from approximately EUR 216 million in 2020, compared to approximately EUR 166 million in 2019 and approximately EUR 86 million in 2018). Albania indicates that this has contributed significantly to reducing the use of the negotiated procedure without prior publication of a contract notice.

Also, centralised procurement is used for standard products and services of common interest, approximately amounting to 10% of all published procedures and 20% of the total value of public procurement (January - September 2022).

The *share of cancelled procedures* in the total number of published procedures was 20.5%. The main reason for cancellation is reported to be unpredictable events beyond the control of the CA (67%), followed by lack of compliant bids (18%) and lack of bids received (12%). Only 2% of the cancellations are due to the Public Procurement Commission (PPC) cancelling the procedure and 1% is due to bids exceeding the allocated budget.

In terms of the *share of participation of foreign bidders*, Albania highlights that all tender documents for contracts above the higher thresholds are available in English to encourage the participation of foreign economic operators. There is participation by economic operators from the EU even in low value simplified procedures below the threshold. Overall, in the period from January to September 2022, EU economic operators participated in 0.52% of procedures and were awarded the contract in 0.35% of the procedures. Albania indicates that the *use of the most economically advantageous tender (MEAT)* criterion in line with the PPL and the EU directives is at 7.4% in terms of number of procedures, but 34% as share of value (January-September 2022). The use of MEAT criterion has been improving rapidly as more and more CAs and PPA staff receive training. The same holds true for green and social procurement. Albania plans to adopt an *Instruction for the use of MEAT criteria based on cost* by 2023 to encourage the continuous increase in the use of the MEAT criteria.

Albania explains, that to enhance participation of small and medium-sized enterprises (SMEs), the PPL requires justifying if contracting authorities have not divided procurement above the high threshold into lots in the classic sector. Implementing rules explicitly require division of procurement into lots wherever possible.

288 *concessions /PPPs contracts* have been concluded in Albania up to 2021, 67.7% are based on unsolicited proposals. Albania presents the historical evolution of awarding concessions/PPPs. Starting from the year 2000 Albania had a great demand for concessions/PPPs to finance public infrastructure, followed by a period of using these contracts for expanding energy production capacity during the years 2005-2013. In 2013, an amendment of the law removed unsolicited proposals for roads and restricted their use to ports, airports, the generation and distribution of electricity or heat, and the distribution of natural gas, and removed the bonus payment for the preparation of unsolicited proposals. After that, a total of 52 concessions/PPP contracts were signed within 9 years - in sectors such as transport/infrastructure, education, health, environment and fiscal control. Albania indicates that it plans to strengthen ATRAKO's monitoring capacities based on increasing staffing and administrative capacity, in addition to the legal amendments it plans to align with the EU Directive 2014/23.



Regarding the **capacity to manage public procurement**, Albania indicates the area of **professionalisation** as the weakest element in the public procurement system. The country highlights its commitment and plans to strengthen administrative capacities of the contracting authorities through trainings. A certification programme for staff involved in procurement is under preparation including training for basic and advanced certification. To advance the professionalization of the procurement function, Albania plans to introduce the requirement for mandatory certification of the procurement specialists through secondary legislation in 2023.

To strengthen compliance, the PPA assists the contracting authorities/entities in the implementation of the public procurement processes, by checking and giving recommendations for the tender documents before publication of the procedures in the electronic procurement system.

As regards the accelerated integration, Albania expressed interest in participation in the Expert Group on eProcurement, Informal Green Public Procurement Advisory Group, and for the publication of procurement notices on Tenders Electronic Daily (TED).

#### **b. Commission assessment**

Albania is **moderately prepared** in terms of implementation and enforcement capacity. Overall, the public procurement system puts more emphasis on transparency, integrity and competition in procurement operations than on efficiency. The increased use of framework agreements is a positive trend, but the secondary legislation should be more flexible and user-friendly.

The comprehensive *e-procurement system* (EPS) has increased transparency and resulted in easier access, simplification, lower transaction costs and improved data collection and monitoring. Until accession Albania needs to ensure compatibility of its notification forms with the EU TED system.

Albania needs to continue to closely monitor the implementation of the public procurement law and promote the increased use of the most economically advantageous tender (MEAT) award criterion. Further efforts are required to increase participation in public procurement as the average number of tenderers remains low in procedures above the EU thresholds and one fifth of all contracts were awarded as a result of a procedure in which only one tender was submitted in 2021. Also, the share of foreign bidders remains very low.

In the area of *concessions/PPPs*, value-for-money analysis is still not systematically carried out before approval of all PPPs, although required by law. The Ministry of Finance and Economy has started conducting regular monitoring and reporting on PPPs in 2020, publishing comprehensive annual reports for 2020 and 2021 on its website. The technical skills and capacity to design and assess concessions and PPPs require further development.

**To further improve the functioning of the public procurement system in Albania, the PPA needs to strengthen support to contracting authorities.** The PPA should prioritise the implementation of the planned professionalisation measures and further strengthen and institutionalise training for contracting authorities. The contracting authorities currently lack the **capacity to manage public procurement processes** effectively. To strengthen compliance with procurement rules Albania needs to further improve the quality of supporting documents and guidance. No comprehensive manual or article-by-article commentary on the provisions of the PPL and Decisions of the Council of Ministers (DCM) are available, covering the whole procurement process, all types of procurement procedures and tools.

With regard to Albania's accelerated integration request, the Commission considers favourably Albania's observer status in the Expert Group on eProcurement and in the Informal Green Public Procurement Advisory Group as well as the publication of procurement notices on Tenders Electronic Daily (TED).

## **I. C SUMMARY OF FINDINGS – GENERAL FRAMEWORK FOR PUBLIC PROCUREMENT**

The legal framework in the classic and utilities sectors has a high level of alignment with the EU *acquis*. Albania still needs to review the thresholds for supplies and services contracts to align the minimum periods applied in procurement procedures, as well as deadlines for submission of appeals, with the EU Public Procurement Directives. In the area of concessions, Albania is **partially aligned** with the EU *acquis*. Further alignment is needed to address *inter alia* issues such unsolicited proposals, operating risk, legislative scope. The legislation on public procurement has a high level of alignment with the EU *acquis* in the field of defence procurement.

Albania is moderately prepared in terms of implementation and enforcement capacity. Overall, the public procurement system puts more emphasis on transparency, integrity and competition in procurement operations than on efficiency. To further improve the functioning of the public procurement system in Albania, the PPA needs to strengthen support to contracting authorities.

## II. EFFICIENT REMEDY SYSTEM

### a. Country presentation

In the area of remedies, Albania considers its **legislation** has a high level of alignment with the *acquis* as the 2020 PPL implements the EU Procurement Remedies Directive. However, Albania informed that they are working on a policy paper to explore options for increasing the efficiency of the review system through an amendment of the PPL. Albania is aware that the thresholds for supplies and services contracts which are higher than the corresponding EU thresholds result in not fully compliant time periods.

The **Public Procurement Commission (PPC)** is an administrative body which reviews complaints related to public procurement procedures, as well as concessions/PPPs. The review system for public procurement consists of a review by the contracting authority/ entity and/or an administrative review by the PPC whose decisions can be appealed in front of the Administrative Court of Appeal. The Supreme Court decides on appeals against the decisions of the Administrative Court of Appeal. Appeal to the court does not suspend the award procedure, the conclusion of the contract or the execution of the obligations between the parties.

For concessions/PPPs, the legislator has provided for the administrative review procedure only to the PPC. Regarding the decision of the PPC, the complainant can bring an appeal before the relevant court responsible for reviewing administrative disputes. Appeal to the court does not suspend the award procedure, the conclusion of the contract or the execution of the obligations between the parties.

In October 2021, the PPC launched a new **e-complaints management system** for electronic submission of complaints and management of cases as well as e-signature of documents and acts. As provided for under the 2020 PPL and implemented under the new e-complaints system, public procurement-related complaints go automatically and simultaneously to the contracting authority/entity and the PPC. The new system provides real-time statistics, monthly bulletins and information for interested parties, including for visually impaired people through a special access engine. A smart search function allows to filter both, complaints and decisions in real time. In addition, all decisions of the PPC are published on its website. Albania informed that economic operators have access to information published in the e-appeals system. Efforts are ongoing to increase further the transparency of the review procedure while ensuring the protection of personal data and/or information that could be considered as sensitive/business secret by economic operators. About 1000 economic operators and contracting authorities have been trained on the use of the new system. Training of new procurement officers in the use of the e-complaint system will continue.

Albania presented data on the improvements made in the **functioning of the remedy system**. The processing of complaints within the legal deadline for PPC to decide improved further in 2021 to 89.2 % (as compared to 78% in 2020) with a similar number of complaints received (768, as compared to 741 in 2020). The median decision-making time reduced from 20 days in 2020 to 17 days in 2021 and to 12 days in 2022 (January-September), while the share of cases filed in Court reduced from 9.8% in 2020 to 7.8% in 2021 to 3.8% in 2022 (January-September).

In terms of **administrative capacity**, Albania states that the PPC has a total number of 36 staff positions, of which 83% are filled, 73% with women. Recruitments are expected to be finalised by June 2023.

The PPC highlights the attention paid to **training and capacity development** of the PPC staff and of contracting authorities. The PPC organised twelve training events/ conferences in 2021/22 with a view to increasing the quality (analysis and justification of PPC decision-making), as well as the effectiveness in reviewing complaints. It entered into cooperation agreements with (i) the University of Tirana on continuous professional development and certification of public procurement officers, as well as attraction of talent into the profession, with (ii) the High Judicial Council on capacity building for the PPC and high judicial bodies and with (iii) the Italian National Anticorruption Authority on knowledge exchange and learning. Within the year 2023, Albania plans to finalise a cooperation agreement for the establishment of joint training curricula for procurement officers with the judiciary, the High Judicial Council, the High Prosecution Council and the School of Magistrates. Capacity building of the members of the PPC and its support staff will continue through 2023. The PPC further plans to organise a conference each year to consolidate the capacity of the network of procurement officials.

As regards the accelerated integration, Albania expressed interest in participating in the Expert Group “Network of first instance review bodies on public procurement”.

## **b. Commission assessment**

The Albanian Constitution and the PPL contain provisions on the **right to legal remedy** which have a high level of alignment with the Remedies Directive. Albania needs to align to the legal appeal time periods for supply and service contracts in its procurement legislation with the *acquis* and ensure that *acquis*-compliant appeal time periods apply.

Albania has ensured a high level of transparency through the comprehensive e-appeals and e-complaints management system for electronic submission and management of cases launched in 2021. The implementation of the appeals system is improving with significant progress made in terms of timely processing of complaints.

On **administrative capacity**, important groundwork has been done in 2021 and 2022 with initiating a system of certification, continuous training and awareness raising supported by new cooperation agreements and multi-stakeholder conferences.

The capacity of the PPC and the Administrative Court to deal with a high number of appeals needs to be further improved.

With regard to accelerated integration, the Commission considers favourably Albania's observer status in in the Expert Group "Network of first instance review bodies on public procurement".

### **c. SUMMARY OF FINDINGS EFFICIENT REMEDY SYSTEM**

Albania has a high level of alignment with the Remedies Directive. The implementation of comprehensive e-appeals and e-complaints management system for electronic submission and management of cases has ensured a high level of transparency and improved timely processing of complaints. The capacity of the PPC to deal with a high number of complaints needs to be further improved.

## **III. THE FIGHT AGAINST CORRUPTION IN PUBLIC PROCUREMENT**

### **a. Country presentation**

Regarding the **legal and strategic framework**, Albania explains that the PPA conducts *administrative investigations*, based on the PPL (art.129-132). Also called *ex-post monitoring*, the administrative investigation procedure aims at verifying the legality of procurement procedures selected based on risk indicators defined in the internal regulation of the PPA. The exercise aims not only to highlight irregularities and problems, to hold the responsible persons who are found in breach of the rules, to account. It also serves to analyse the practice and give relevant recommendations. At the end of this process, the PPA prepares and publishes on its website a summary with the main deficiencies in the procurement procedures subject to administrative investigation and provides general recommendations to prevent irregularities in the future.

Albania explains provisions on ‘Administrative misdemeanours’ under the PPL, which attribute disciplinary measures or impose fines according to the procedural mistake and the contract value (art. 132), for cases where the PPA established violations of the PPL through its administrative investigation.

The *Criminal Code* includes a provision on ‘Breaching the equality of participants in public bids or auctions’, which is punishable with imprisonment from 1 to 5 years (art 258).

Albania’s *Public Procurement Strategy 2020-23* includes a [Specific Objective 6 on integrity](#) which foresees two measures: (1) to develop and implement an Integrity and Accountability Policy within the contracting authorities in accordance with the PPL, and (2) to build capacities and raise awareness of Integrity in the field of public procurement.

Regarding **the implementation and enforcement of the anti-corruption framework**, Albania reports that the PPA conducted ex-post monitoring of over 20% of all procurement procedures in 2022, a quarter of which resulted in a decision on an administrative measure (fine or disciplinary measure) under article 132 of the PPL (January-September).

Under criminal law (art. 258), 106 procurement-specific cases were investigated in 2022 (January-September). In this period 16 criminal proceedings with 30 persons were completed, of which approximately third was dismissed, a third was sent to the court with a request for trial and a third was transferred to the Prosecutor’s Offices of the judicial districts. In the same period, the Special Court of Appeal for Corruption and Organized Crime (SPAK) issued a final decision on 7 cases, overturning one decision of the first instance to declare the defendant as guilty, and enforcing the remaining six decisions at the first instance, five of which found 23 defendants as guilty under art 258 and one found the 3 defendants not guilty.

Albania reports that it has put in place, as integrity measure, a self-declaration form on conflict of interest that must be signed by the persons responsible for the procurement procedure in contracting authorities in accordance with article 26 of the PPL and guideline no. 3 of PPA. Albania has signed Memoranda of Understanding for the fight against corruption with the ALSAI, the General Prosecutor’s Office (GPO), the Special Prosecutor Against Corruption and Organised Crime (SPAK) and the General Anti-Corruption Directorate (GACD). Albania informs that it is working on a red flag system in the EPS to help detect corruption.

## **b. Commission assessment**

Albania has put in place a **legal and strategic framework** for fighting corruption in the public procurement sector as described above under country presentation with specific provisions on corruption in public procurement, notably under the PPL and the Criminal Code. *See general anti-corruption measures under Chapter 23, Judiciary and Fundamental Rights.*

In terms of **developing an effective system for the prevention of corruption** in public procurement, Albania should focus on **further strengthening the functioning of the overall system to increase competition, compliance and professionalisation**. Albania has laid a good foundation by significantly improving transparency through its comprehensive electronic procurement and e-appeals system, and in terms of providing access to redress to participants through developing its review system.

**Albania should strengthen the internal control systems** as the first line of defence, in particular the mechanisms for detecting and reporting of irregularities within contracting authorities. *see measures under Chapter 32.* The PPA should focus on its core tasks of policy guidance, support and monitoring of the functioning of the full PP system. The PPA is advised to review the ex-post administrative investigation procedure. Its compatibility and complementarity with the internal audit and financial inspection functions needs to be clarified.

Albania should **continue to develop its red flag system** within the ESPP and strengthen the data analysis, reporting and follow-up of cases. It should also further implement the integrity measures foreseen under the Public Procurement and Anti-Corruption Strategies.

In terms of prosecution and adjudication, **Albania needs to continue building a track record on prosecution and adjudication of corruption cases in public procurement**. Albania has steadily increased the number of investigations carried out and completed on corruption in public procurement. It has built a nascent track record on adjudication, with the SPAK playing a key role. The PPA should further develop and fully implement existing cooperation agreements with other institutions, especially with the financial police and public prosecution, with a view to strengthen and speed up the follow-up of reported cases, including by pooling scarce expertise related to tender specifications or procurement technicalities *See general anti-corruption measures under Chapter 23 - Judiciary and Fundamental Rights. Chapter.*

### c. SUMMARY OF FINDINGS – THE FIGHT AGAINST CORRUPTION IN PUBLIC PROCUREMENT

Albania has put in place a legal and strategic framework for fighting corruption in the public procurement sector. The country should focus on further strengthening the functioning of the overall system to increase competition, compliance and professionalisation. Contracting authorities need more capacity to manage public procurement processes effectively; a transparent and effective public procurement system is crucial to mitigate corruption risks in this area.



## H) CHAPTER 18 – STATISTICS

The EU *acquis* in statistics is almost exclusively legislation that is directly applicable in Member States, i.e. European Parliament and Council Regulations and Commission Regulations. EU rules require that Member States are able to produce good quality statistics in line with the principles of the European statistics Code of Practice and based on professional independence, impartiality, reliability, transparency, and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information. The statistical *acquis* therefore also contains a wide range of methodological handbooks, classifications and manuals in the various statistical domains such as agriculture, economic and monetary policy, demographic and social statistics and research.

### I. STATISTICAL INFRASTRUCTURE

#### a. Country presentation

The Institute of Statistics (INSTAT) is the main producer and the overall co-ordinator of official statistics in Albania. The National Bank and the Ministry of Finance and Economy are also official producers of statistics. Albania has a Statistical Council and a National Commission for Nomenclature. The Law on official statistics, adopted in 2018, provides a strong and comprehensive legal basis for INSTAT and the national statistical system (NSS). The Law is compliant with Regulation (EC) No 223/2009 on the development, production and dissemination of European statistics. The Official Statistics Programme 2022-2026, adopted as a separate law, sets the strategic objectives for the development of the NSS and is in line with Eurostat's statistical requirements compendium. INSTAT coordinates the Albanian statistical system, including methodology for statistical surveys. Memoranda of understanding are in place for the majority of other producers of statistics.

The Council of Ministers adopted a Decision 2017 “on the commitment of the Council of Ministers to maintain confidence in statistics”, in compliance with Regulation (EC) No 223/2009. Albania is fully committed to respecting EU standards on the quality of official statistics, the European Statistics Code of Practice principles and to guarantee the professional independence of INSTAT.

Regarding **metadata**, Albania reported a high level of compliance with Regulation (EC) No 223/2009 on the development, production and dissemination of European statistics. Edamis 4 is used for data transmission to Eurostat. INSTAT has continued the harmonization of the code lists in dissemination database based on the code lists in Eurostat’s metadata server, which are mapped with national code lists. INSTAT plans to develop the strategy for the SDMX implementation and action plan by 2023 and to migrate to SDMX-RI in 2024.

INSTAT’s workforce currently consists of 219 employees out of the allocated 236 positions. By 2026 INSTAT aims to increase the overall number of employees to 266.

**b. Commission assessment**

The statistical infrastructure is partially in line with the *acquis* and international standards. INSTAT is the main producer of official statistics and important parts of the statistical *acquis* are implemented by or in coordination with the other two statistical producers, the National Bank and the Ministry of Finance and Economy. Coordination mechanisms between the three institutions are set up. The allocation of adequate resources is crucial to achieve full compliance in key statistics across the board. In this context, INSTAT is encouraged to have an active policy retaining staff and to pro-actively fill vacancies.

**c. SUMMARY OF FINDINGS – STATISTICAL INFRASTRUCTURE**

Albania’s statistical infrastructure is partially in line with the *acquis*. The allocation of adequate resources is needed to achieve full alignment with the *acquis* .

**II. CLASSIFICATION AND REGISTERS**

**a. Country presentation**

The major European statistical classifications are implemented, i.e. NACE Rev. 2 (Statistical classification of economic activities in the European Community), the Combined Nomenclature, COICOP (Classification of individual consumption by purpose), CPA 2.1 (Classification of products by activity), ISCO-08 (International standard classification of occupations), ISCED 2011 (International standard classification of education), GEONOM (Country nomenclature of external trade statistics and statistics of trade between Member States) and the NUTS (Nomenclature of territorial units for statistics).

As regards accelerated integration Albania asked for its Statistics Office to participate in Task Force and Working groups discussions on new legislation and initiatives, especially on monitoring of sustainable development goals (SDG), and to extend their participation in workshops, study visits, short term or long term trainings

#### **b. Commission assessment**

The main classifications are in place. INSTAT has been implementing NACE Rev. 2, the Combined Nomenclature, COICOP, CPA Ver. 2.1, ISCO-08, ISCED 2011, GEONOM and NUTS, with various degree of *acquis* compliance. In all areas, as well as for the statistical business register and integrated farm statistics, further work is required to reach full compliance.

Albania is well integrated in Eurostat's expert group meetings. As regards the Eurostat's task forces, Albania can be invited to participate if they can contribute to the implementation of the mandate and achieve results expected by the task force. Albania is already participating in 14 task forces. Albania is encouraged to keep participating in the statistics trainings be it under the IPA, the European Master in Official Statistics or the European Statistical Training.

#### **c. SUMMARY OF FINDINGS – CLASSIFICATION AND REGISTERS**

Albania has implemented the main EU classification with various degrees of *acquis* compliance. Further work on statistical registers is required for full compliance with the *acquis*.

### **III. SECTORAL STATISTICS**

#### **III.A MACROECONOMIC STATISTICS**

## a. Country presentation

In the area of macroeconomic statistics INSTAT is compiling non-financial accounts statistics, the Bank of Albania (BoA) the balance of payments statistics, the international investment position statistics, macro-financial statistics and financial accounts, meanwhile the Ministry of Finance and Economy (MoFE) the government finance statistics. The **national accounts** are based on the European system of accounts (ESA) 2010. Annual Gross Domestic Product (GDP) is regularly produced by production and expenditure approach; income approach will be introduced as part of the 2024 main revision. [It is based mostly on direct estimation methods.] No quarterly data are provided on GDP by income, population and employment. Gross National Income (GNI) has been published since reference year 1996 but has not been submitted to Eurostat, as transmission of data for GNI for Own Resources is not required until EU accession. Regional data on employment measured in persons and in hours worked, compensation of employees, gross fixed capital formation and household accounts are not yet delivered. Furthermore, Gross Value Added is not provided with the required timeliness of T+12 months. Certain data sets are being prepared as experimental estimates and there will be improvements implemented with the 2024 main revision. Albania is partly aligned to ESA 2010, on the quarterly and annual national accounts (main aggregates) and on regional accounts. INSTAT compiles **annual sector accounts**, but not the quarterly sector accounts. The level of compliance on annual sector accounts is low and there is no compliance with quarterly sector accounts. Albania is planning improvements on this in a 2024 revision. **Financial accounts** are compiled in line with ESA 2010, but their level of compliance is low. The table on **pensions entitlements** has not been compiled.

The **supply and use tables** (SUT) are based on the ESA 2010. Albania made significant improvements in compiling the supply and use and input-output tables (IOT), which are regularly and timely transmitted to Eurostat. SUT and IOT are evaluated as partly aligned. In particular, the compulsory “third quadrant” variables related to the income approach to GDP are missing in the Use tables. Work is ongoing to, amongst others, produce SUT and IOT in an integrated manner at current and previous years' prices.

The area of **excessive deficit procedure statistics** and the **government finance statistics (GFS)** is covered by a MoU between the MoFE, BoA and INSTAT. Albania uses the relevant EU statistical guidelines to compile GFS and EDP statistics. GFS and EDP tables have been transmitted to Eurostat since 2014, twice a year, with ‘not for publication status’. Albania evaluates its EDP and GFS statistics as partly aligned. The main objective is to reach a full compliance with the ESA 2010 in October 2023. Albania has been using a new Albanian integrated GFS compilation system since 2021, which ensures consistency of GFS data used by INSTAT, MoFE and BoA.

The Bank of Albania is responsible for compiling the **balance of payments (BoP)** and external debt statistics. External statistics are compiled in broad conformity with international manuals: IMF's BPM6, OECD BD4 and UN MSITS. BoP and international investment position statistics are published quarterly and are also transmitted to Eurostat. Albania evaluates that it is partly aligned on this area.

The Bank of Albania stated that **foreign direct investment** statistics (FDI) are compiled in broad conformity with international manuals IMF's BPM6 and OECD BD4. Albania transmits four questionnaires to Eurostat through Edamis. Albania evaluates its level of compliance as high. In the coming five years Albania plans to increase the coverage of FDI data with fellow companies and to improve the outward estimation of FDI.

The Bank of Albania is responsible for compiling **International Trade in Services statistics**. The statistics are compiled in broad conformity with the international manuals: IMF's BPM6 and UN MSITS. Albania continuously works on improving the quality of the transmitted statistics.

Albania compiles detailed data on **international trade in goods statistics** on a monthly basis and transmits these data to Eurostat still using the old data format. Albania intends to fully align the data transmission format (to DOC MET 400 CCs standard) and transmit updated national metadata to Eurostat in 2023. Trade by enterprise characteristics (TEC) are compiled annually but not transmitted to Eurostat. As for transmission of trade by invoicing currency (TIC), Albania transmits these data to Eurostat annually using the old data format.

**Price statistics** are produced by INSTAT. The harmonised index of consumer prices (**HICP**) is produced on a monthly basis. HICP has been transmitted to Eurostat since 2021. The harmonised index of consumer prices at constant tax rates (HICP-CT) is calculated for 2021 and is not yet transmitted to Eurostat. Both HICP and HICP-CT are assessed to be partly aligned with the EU *acquis*. The house price index (HPI) is at low level of compliance. INSTAT plans to sign a MoU with the Cadastre Agency in 2024 and plans an experimental HPI in 2026. Albania has full compliance with the *acquis* on **purchasing power parities (PPP)** and transmits most of the data sets to Eurostat. Data about consumer prices and market rents is compiled and used to establish statistics in compliance with Regulations 31 (EEC) and 11 (EAEC); however, Albania does not yet provide any of the data about remuneration of national civil servants, which is necessary for the calculation of annual updates to remunerations and pensions of EU Staff under Regulation 31 (EEC) and 11 (EAEC).

## b. Commission assessment

Statistics on **national accounts** are partially in line with ESA 2010. Albania is partly aligned to ESA 2010 on the quarterly and annual national accounts (main aggregates) and on regional accounts; transmission tables remain to be developed in a complete manner. Regional data on employment measured in persons and in hours worked, compensation of employees, gross fixed capital formation and household accounts are not yet delivered. Furthermore, Gross Value Added is not provided with the required timeliness of T+12 months. Certain data sets are being prepared as experimental estimates and there will be improvements implemented with the 2024 main revision. INSTAT currently compiles annual GDP data according to the production and expenditure approach, but not the income approach as required by the *acquis*. GNI has been published since reference year 1996, but data submission to Eurostat is not yet required. Substantial further work is necessary to improve alignment of both the **annual sector accounts** and **financial accounts**, which have a low level of compliance. Quarterly sector accounts are not compliant. The table on pensions entitlements has not been compiled. The Commission suggests Albania to prepare a roadmap towards full compliance in a comprehensive way.

In cooperation with the Ministry of Finance and the Bank of Albania, INSTAT is compiling the **excessive deficit procedure statistics (EDP)** and the **government finance statistics (GFS)**. The alignment with ESA 2010 is not yet reached and substantial further work is necessary to reach the full compliance (in terms of adherence to ESA 2010). At the same time, as regards GFS, Albania has made good progress by delivering data within all tables of the ESA transmission programme. Albania transmits the EDP and GFS tables to Eurostat twice a year, but with ‘not for publication status’. This working method is not compliant with the principle of transparency. The Albanian statistical authorities should lift the embargo on publishing the GFS data submitted to Eurostat for this to be made available to users as soon as possible<sup>93</sup>. Albania foresees improvements during 2024 to fully align to ESA 2010. Basic quality issues and EDP data issues also need to be permanently resolved. The Commission (Eurostat) will then need to be able to assess the quality of data (regarding coverage, completeness, timeliness, and adherence to ESA 2010) as this needs to be sufficient to be used within the context of EDP. Eurostat’s expectation is that straightforward quality issues be addressed quickly on a continuous basis. For the EDP data, coverage should be improved.

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<sup>93</sup> The Commission considers that the data submitted to Eurostat should be available for users within and outside the Commission, as it is more aligned with international statistical standards than the data currently transmitted to other international organisations and published.

The **supply and use tables** are based on ESA 2010 and the supply and use and input-output tables are regularly and timely transmitted to Eurostat. SUT and IOT are evaluated as partly aligned. In particular, the compulsory “third quadrant” variables related to the income approach to GDP are missing in the Use tables. Albania is also encouraged to make SUT and IOT data at A\*64 product/industry level publicly available. Work is ongoing to, amongst others, produce SUT and IOT in an integrated manner at current and previous years' prices.

Statistics on **balance of payments** and external debt statistics are compiled by the Bank of Albania, partly in line with international the balance of payments manuals. The BoP and international investment position statistics are published quarterly and also transmitted to Eurostat. Further work is required to reach full compliance with the *acquis*.

Statistics on **international trade in services** are partly in line with the international manuals (BPM6 and UN MSITS). Further work is required to achieve a full coverage both in terms of geographical breakdown and by type of service.

**Foreign direct investment** statistics are compiled by the National Bank and have reached high level of compliance with the EU *acquis*. Work is underway to increase the coverage of FDI data with fellow companies and to improve the outward estimation of FDI.

Albania compiles detailed data on **international trade in goods statistics** on a monthly basis and transmits these data to Eurostat still using the old format. Work is underway to fully align the transmission format by 2023. As for transmission of trade by invoicing currency (TIC), Albania transmits these data to Eurostat annually using the old format. As regards trade by enterprise characteristics (TEC), data are compiled annually but remain to be transmitted to Eurostat.

**Price statistics** are partly aligned with the EU *acquis*. The HICP is produced on a monthly basis and has been transmitted to Eurostat since 2021. The HICP-CT is calculated for 2021 but not yet transmitted to Eurostat. There is presently no compliance in relation to the house price index (HPI) and the Owner-Occupied Housing Price Index OOHPI. The calculation of an experimental HPI is planned for 2026 Albania has full compliance with the *acquis* on **purchasing power parities** and most of the datasets transmitted to Eurostat. Regarding the provision of data about remuneration of national civil servants for the calculation of updates to the remunerations and pensions of EU Staff, Albania should start the preparation of these data sets as soon as possible, in order to be ready to provide them at the latest one year before accession.

### III.B BUSINESS STATISTICS

#### a. Country presentation

Regarding the **statistical business register (SBR)**, Albania is partly aligned with the EU *acquis*, in particular the new Regulation (EU) 2019/2152 on European business statistics (EBS). Further efforts are needed for full implementation of the statistical units and the mandatory variables. For **short-term business statistics (STS)** several, but not yet all, datasets are produced; STS data are regularly transmitted to Eurostat on construction indicators, labour, industrial producer prices, services turnover and retail trade sales volume, while indicators on business registrations and bankruptcies, industrial turnover, industrial production and services producer prices are not transmitted. Albania uses the NACE classification for **structural business statistics (SBS)**; NACE Rev.2 was implemented by Albania for the first time for reference year 2010. On SBS Albania covers most indicators, with some exceptions on variables listed in the EU Regulations, and eight SBS datasets are transmitted to Eurostat. As regards **business demography** statistics, although data are available in the SBR, so far Albania only publishes statistics for active enterprises and new enterprises. Albania plans to gradually produce and transmit the business demography statistics, starting with enterprise births, deaths and survivals in 2023. Albania collects **industrial production** statistics annually since 2018; the survey till 2022 was based on the CPA and covers mining and quarrying and manufacturing PRODCOM data.. Albania plans to produce all variables required by the Regulation on European business statistics and to transmit the time series to Eurostat by 2024.

**Foreign affiliates statistics (FATS)** are not produced yet; the production is planned in the Statistical Programme (2022-26). INSTAT is responsible for inward FATS and the Bank of Albania for outward FATS.

As regards **science, technology and innovation statistics**, Albania is implementing the community innovation survey (CIS) from 2017 following the previous Commission implementing Regulation (EU) No 995/2012. The questionnaire is fully in line with the relevant harmonised data collection CIS designed by Eurostat. CIS statistics were published for the first time in 2020. Albania transmitted data on CIS 2020 and the quality report to Eurostat in 2023. Albania is partly aligned regarding **information and communication technologies (ICT) statistics**. Albania implements both the survey on ICT usage and e-commerce in enterprises and on ICT usage in households and by individuals, annually. The questionnaires of both surveys are fully in line with the harmonised model questionnaires designed by Eurostat. As regards ICT usage and e-commerce in enterprises, time series start from 2015 and data from 2021-2022 was transmitted to Eurostat. Albania's time series for households and individuals starts in 2018 and data has been transmitted to Eurostat since 2018.



**Research and development statistics** are partly aligned. R&D surveys have been regularly implemented since 2017, following the old Commission implementing Regulation (EU) No 995/2012. In 2021, a survey on R&D was carried out in four sectors of performance. No data are published yet due to quality issues. Government budget allocations for research and development (GBARD) statistics and quality reports were transmitted to EUROSTAT for the first time for the reference year 2019-2020.

Albania is producing both monthly and annual **tourism statistics**. The survey on supply side (internal tourism) is partly aligned. While Albania's survey on demand side (holiday and trips) is fully in line with Eurostat's harmonised model questionnaire; data from 2017-2021 transmitted to Eurostat is only partly aligned. Production and transmission of annual data broken-down by NUTS 3 and the Degree of Urbanisation classification (DEGURBA) is planned to be produced by 2026.

#### **b. Commission assessment**

Albania is partly aligned with the new European **business statistics** Regulation and further efforts are needed for full implementation of the statistical units and the mandatory variables. Several datasets on **short-term business statistics** are produced and transmitted to Eurostat, but the indicators on business registrations and bankruptcies, industrial turnover industrial production and services producer prices are not transmitted. Albania uses the NACE classification for **structural business statistics**, which are aligned to the previous EU *acquis* but not yet to the most recent. On SBS Albania covers most indicators and eight SBS datasets are transmitted to Eurostat. Albania plans to gradually produce and transmit the **business demography statistics**, starting with enterprise births, deaths and survivals in 2023. This will require adequate human resources. **Industrial production** statistics by CPA are collected annually since 2018 but the data has not been transmitted to Eurostat as not fully compliant with the regulation. Albania produced all the variables required by the Regulation 2019/2152 and transmitted the data for the reference year 2022 to Eurostat in 2023. **Foreign affiliates statistics** are not produced yet – their production is planned in the Statistical Program (2022-26).

Albania does not produce **foreign affiliates statistics** (FATS) data yet. Albania is encouraged to timely implement FATS statistics.

As regards **science, technology and innovation statistics**, Albania is implementing the community innovation survey, but follows the old Commission implementing regulation. CIS statistics were published for the first time in 2020. Eurostat is looking forward to analysing the recently transmitted CIS 2020 data and the quality report in 2023. Albania is partly aligned on **information and communication technologies statistics**. It compiles both the survey on ICT usage and e-commerce in enterprises and on ICT usage in households and by individuals, annually. Albania transmits data to Eurostat for ICT usage and e-commerce in enterprises for survey years 2021 and 2022 and for households and individuals for years 2018-2021. The data transmitted to Eurostat is partly aligned with the existing regulations. **Research and development statistics** are partly aligned. R&D data has not been sent to Eurostat. GBARD statistics and quality report were transmitted to Eurostat for the first time for the reference year 2019-2020.

Albania is producing both monthly and annual **tourism statistics**. Both, the supply side (internal tourism) and the demand side (holiday and trips) are partly aligned; even if the questionnaire for the “Holidays and trips” is fully in line with the harmonised model questionnaire of Eurostat. Data from 2017-2020 were transmitted to Eurostat. Data for 2021 has not been transmitted yet (except the aggregate datasets for participation and outbound same-day visits). Work is ongoing to produce and transmit annual data broken-down by NUTS 3 regional level and by degree of urbanisation by 2026.

### III.C SOCIAL STATISTICS

#### a. Country presentation

A dedicated law and methodology covers the **census of population and housing**, and its legislation is **partially aligned** with the relevant EU *acquis*. Due to technical issues, the census data collection process will take place in autumn 2023, with the main results planned to be published in June 2024.

**Demographic statistics** are partially compliant with the EU *acquis*. INSTAT transmits both mandatory and voluntary statistics on demography to Eurostat and has increased the number of indicators over the years, in particular on vital statistics and population. International migration, acquisitions of citizenship and migrant population statistics under EU Regulation have not been provided to the Commission (Eurostat) yet. As regards, **asylum** and the remaining **migration statistics** under Regulation on Community statistics on migration and international protection, no data have been transmitted yet. Albania has informed that work is underway to increase the availability of data sources to be able to provide and transmit all the required disaggregated data by 2026. The compilation of the statistical population register will help complying with EU Regulation on migration and international protection.

Regarding **labour market statistics**, the main indicators of labour force survey (LFS) are partly aligned to the relevant Eurostat methodology. LFS is conducted on a quarterly basis. Albania plans to implement the new LFS Regulation by 2025 and – in the long term – will produce the monthly data on unemployment. Regarding earnings and labour cost, Albania has reached partial alignment with the EU *acquis*. It is conducting the labour cost surveys (LCS) and the structure of earnings surveys (SES), but the regulations on labour cost index (LCI) and economic activities covered by the LCI are not yet implemented. Both the LCS and SES are conducted every four years and include all the required variables. Nine out of the 13 required datasets on earnings and labour cost are transmitted to Eurostat.

Regarding **public health and health & safety at work statistics**, in 2020 INSTAT conducted a pilot project for European health interview survey (EHIS) wave-3, fully in line with the relevant Commission implementing regulation. The survey will be implemented for the second time in 2026 (EHIS wave 4). Statistics on total health care expenditures are not yet developed; Albania plans to adopt the relevant legislation and manuals by 2026.

Albania is partially compliant with the EU *acquis* on European social protection statistics (**ESSPROS**). Work to implement ESSPROS started in 2019, some data sets for years 2018-2020 were transmitted to Eurostat in 2022; [such data and metadata have been validated and disseminated in 2023](#). Albania intends to further develop the national statistical system to ensure ESSPROS data transmission to Eurostat by 2026.

Albania has high level of compliance with the **survey of income and living conditions** (SILC) before Regulation (EU) 2019/1700 and Commission implementing regulations. INSTAT transmits annually four micro data files on household and individual level to Eurostat. Albania indicated it lacks capacities to develop SILC on time and is working to meet Regulation (EU) 2019/1700 requirements – especially concerning timeliness and quality reporting. Albania estimates it will fully comply with Regulation (EU) 2019/1700 by 2026. Albania is conducting both the household budget surveys (HBS) and time use surveys, but those are not transmitted to Eurostat.

As regards **education statistics** INSTAT is producing and publishing updated data on enrolments and graduates using International Standard Classification of Education ISCED-2011 to classify data and produce statistics. INSTAT prepared and transmitted to Eurostat the first UNESCO-OECD-Eurostat (UOE) questionnaire in autumn 2022. Adult education survey (AES) was conducted in 2017 as a pilot survey. Regular statistics on indicators on lifelong learning and early school leavers are produced based on LFS. Albania it is partly aligned with AES and LFS, but does not yet participate to the continuing vocational training survey (CVTS).

## **b. Commission assessment**

**Demographic statistics** are **partially aligned** with the EU *acquis*. INSTAT transmits both mandatory and voluntary statistics on demography to Eurostat and has increased the number of indicators over the years, in particular on vital statistics and population. As regards **asylum and migration statistics**, INSTAT produces some indicators according to the Regulation on Community statistics on migration and international protection, but no data are transmitted yet. Work is underway to increase the availability of data sources to be able to provide and transmit all the required disaggregated data by 2026. The compilation of the statistical population register by 2026 will help improving asylum and migration statistics. The law and methodology on the **population and housing census (PHC)** is **partially aligned** with the relevant EU *acquis*. It is essential that the PHC will take place in autumn 2023, and the census data be available in mid-2024.

**Labour market statistics** are partly aligned. The main indicators of labour force survey are produced partly aligned with the relevant Eurostat methodology. Preparations to implement the new LFS regulation by 2025 and to produce monthly data on unemployment are ongoing. Albania is conducting the labour cost surveys and the structure of earnings surveys, but the regulations on labour cost index and economic activities covered by the LCI are not yet implemented. On earnings and labour cost statistics Albania is partly aligned.

Regarding **public health and health & safety at work statistics**, in 2020 Albania INSTAT conducted a pilot project EHIS wave-3, in line with the relevant Commission implementing regulation. The survey will be implemented for the second time (EHIS wave 4) in 2026. Statistics on total health care expenditures are not yet developed; Albania plans to adopt the relevant legislation and manuals by 2026. Alignment regarding data on accidents at work (ESAW) and on causes of death (COD) is at a low level and data are not transmitted for these two areas. Further work is required for these areas.

Albania is partly aligned with the EU *acquis* on **ESSPROS**. Following the first datasets transmitted to Eurostat in 2022 work is underway to ensure ESSPROS data transmission for all data sets to Eurostat by 2026.

Albania has high level alignment with the **survey of income and living conditions** (SILC) before Regulation (EU) 2019/1700. The administrative capacity needs to be strengthened to meet Regulation (EU) 2019/1700, in particular to improve timeliness and quality reporting. The Commission encourages Albania to start the transmission of the household budget surveys and time use surveys, which are already compiled by INSTAT.

Regarding **education statistics**, INSTAT is producing and publishing data on enrolments and graduates using ISCED-2011. The first UNESCO-OECD-Eurostat questionnaire was prepared and transmitted to Eurostat in autumn 2022. The adult education survey was conducted in 2017 as a pilot survey. Regular statistics on indicators on lifelong learning and early school leavers are produced based on LFS. Albania is partly aligned with LFS and aligned with AES but does not yet implement the continuing vocational training survey (CVTS).

### III.D AGRICULTURAL STATISTICS

#### a. Country presentation

**Agricultural statistics** are partially compliant with the EU *acquis*. Crop statistics, integrated farm statistics (including the agricultural census) and agro-environmental indicators are partly aligned, while permanent crops, livestock, meat and eggs statistics, milk and milk product statistics and agricultural accounts and prices have low level of compliance with the relevant EU regulations. 41 out of 57 datasets are transmitted to Eurostat. The next agricultural census is planned for 2024; the still draft agricultural census law should enter into force in 2023. **Fisheries statistics** are partly aligned with the EU *acquis*. Five out of the required seven datasets are transmitted to Eurostat. The 2018 the Sector Review of Agricultural Statistics in Albania prepared by Eurostat defined 23 recommendations, out of which 16 has been implemented.

## b. Commission assessment

Although 41 out of 57 datasets are transmitted to Eurostat, Albania has low level of alignment with the EU *acquis* on agricultural statistics. Crop statistics, integrated farm statistics (including the agricultural census), and agro-environmental indicators are partly aligned, while permanent crops, livestock, meat and eggs statistics, milk and milk product statistics and agricultural accounts and prices are even less aligned with the relevant EU *acquis*. The level of compliance for organic production and farming is not yet assessed. The next census of agricultural holdings is planned for 2024; the still draft agricultural census law should enter into force in 2023 and first results will be available in 2025. **Fisheries statistics** are partly aligned with the EU *acquis*. Five out of the required seven datasets are transmitted to Eurostat.

16 out of the 23 recommendations of the 2018 Sector Review of Agricultural Statistics have been implemented. Albania is encouraged to implement the remaining seven recommendations and also to adapt its alignment plans to the recently adopted Regulation (EU) No 2022/2379 on statistics on agricultural input and output, which places new requirements for agricultural statistics.

## III.E ENVIRONMENT, ENERGY AND TRANSPORT STATISTICS

### a. Country presentation

Albania has reached partial compliance with **environment and sustainable development indicators**. INSTAT compiles and transmits to Eurostat one dataset, environmental taxes, out of the requested three monetary environmental accounts. The level of compliance is low. The situation is similar regarding physical environment accounts, where the economy-wide material flow accounts are produced and transmitted. Work is ongoing to compile air emission accounts, with 2016 data transmitted to Eurostat. Within three years all the physical account modules should be ready for transmission. Out of the required six datasets on waste INSTAT transmits four datasets to Eurostat (two partially completed). Albania is partly aligned in this area. INSTAT does not produce any data on forest accounts but transmits the Joint Forest Sector Questionnaire (JFSQ) of Eurostat/FAO/ECE/ITTO to Eurostat.

The National Agency for Natural Resources (NANR) is responsible for the collection, compilation and dissemination of **energy statistics**. Albania is implementing the requirements of the EU *acquis* regarding annual energy statistics and quality report. NANR has been compiling annual energy balances and annual questionnaires. INSTAT is transmitting the questionnaire data to Eurostat. Monthly statistics, oil, electricity and natural gas data are available and are transmitted to Eurostat, although the timeliness of transmission is not respected. Monthly oil statistics to monitor stock building obligations under the EU oil *acquis* remain unsatisfactory. Transmission of monthly coal data started in January 2023. In 2020, NANR started to collect data on prices charged to industrial end-users, as well as the breakdown of electricity prices per component pursuant.

As regards **transport statistics**, Albania's legal framework on road transport statistics is not yet in line with the EU *acquis*. Albania has not yet set up a survey on road freight transport. The only data produced on road freight transport are variables on characteristics of the vehicles circulating in Albanian territory. It plans to carry out the road freight survey in 2025. Albania is collecting both annual and monthly data on railway transport statistics, based on Regulation (EU) 2018/643 on rail transport statistics, with partial compliance. No data are transmitted to Eurostat. Due to the capacity of its inland waterway ports, it does not meet the reporting requirements of the Regulation (EU) 2018/974 on inland waterways transport statistics. Data on air passenger, freight, mail and flights are produced and published on a monthly basis by administrative sources and are partly compliant with the relevant EU *acquis*. No data are transmitted to Eurostat. Albania is **partially aligned** with the EU *acquis* on maritime transport statistics; data are not transmitted to Eurostat. Albania produces data on a voluntary basis for the Common Questionnaire (Eurostat/ITF/UNECE), data are transmitted annually for the road and rail questionnaires. Regional data on vehicle stock and safety at NUTS 2 level are produced annually as of 2019. The standard goods classification for transport statistics NST-2007 is implemented and in force since 2019, and is aligned with Regulation (EC) 1304/2007.

## b. Commission assessment

**Environment and sustainable development indicators** are **partially aligned** with the EU *acquis*. Out of the three required monetary environment accounts INSTAT compiles and transmits to Eurostat one dataset, environmental taxes. The level of alignment is low. The situation is similar regarding physical environment accounts, where the economy-wide material flow accounts are produced and transmitted. Work is ongoing to compile air emission accounts, 2016 data is already transmitted to Eurostat. Work is underway to ready all the physical account modules for transmission in the next three years. Four out of the required six datasets on waste statistics are transmitted to Eurostat. Albania does not produce any data on forest accounts but transmits to Eurostat the Joint Forest Sector Questionnaire (JFSQ) of Eurostat/FAO/ECE/ITTO. Substantial further work is required to reach full compliance in the area of environment statistics.

The National Agency for Natural Resources is responsible to collect, compile and disseminate **energy statistics**. Albania has implemented the requirements of the *acquis* regarding annual energy statistics and quality report. NANR has been compiling annual energy balances and annual questionnaires. INSTAT is transmitting the questionnaire to Eurostat. Concerning monthly statistics, oil, electricity and natural gas data are available and transmitted to Eurostat, although the timeliness of transmission is not respected. Monthly oil statistics to monitor stock building obligations under the oil *acquis* remain unsatisfactory. In order to bring its work in this area to a successful conclusion, Albania should intensify its efforts and also report this data on stocks. In 2020, NANR started to collect data on prices charged to industrial end-users, as well as the breakdown of electricity prices per component pursuant. Substantial further work is required to reach full alignment with the EU *acquis* in the area of energy statistics. Albania is further encouraged to provide data on hydropower statistics, as soon as possible.



As regards **transport statistics**, Albania has not yet set up a survey on road freight transport, but plans to carry it out in 2025. Albania is collecting both annual and monthly data on railway transport statistics, with partial compliance, but no data are transmitted to Eurostat. Albania has is partly aligned with the EU *acquis* on air and maritime transport statistics, but no data are transmitted to Eurostat. The EU *acquis* on inland waterways transport statistics is not applicable to Albania. Albania produces data on a voluntary basis for the Common Questionnaire (Eurostat/ITF/UNECE), and such data are transmitted annually for road and rail transport. Regional data on vehicle stock and safety are produced annually as of 2019 but not transmitted to Eurostat. The NST 2007 classification is implemented and in force as of 2019 and aligned with Regulation (EC) 1304/2007. Further work is required to reach full compliance in the area of transport statistics, and sufficient staff is needed to carry out the tasks. Albania is encouraged to start transmitting transport data, so that all validation and quality checks could be performed by Eurostat.

### III.F. SUMMARY OF FINDINGS – SECTORAL STATISTICS

Albania is **partially aligned** with the EU *acquis* on sectoral statistics. Further progress is needed in all statistical areas to reach full alignment.

## IV. FIGHT AGAINST CORRUPTION

### a. Country presentation

The Law on official statistics outlines the principles and the provisions necessary to fight corruption in the area of statistics. INSTAT's code of ethics is in line with the law on preventing conflict of interests in public functions, the law on ethic rules in public administration and the law on whistleblowing and whistle-blower protection. In 2017 Albania adopted the decision on the 'Commitment of the Council of Ministers to maintain confidentiality in statistics'.

### b. Commission assessment

The law on official statistics outlines the principles and the provisions necessary to fight corruption in the area of statistics. INSTAT's code of ethics is in line with the law on preventing conflict of interests in public functions, the law on ethic rules in public administration and the law on whistleblowing and whistle-blower protection. *See general anti-corruption measures under Chapter 23 - Judiciary and Fundamental Rights.*

### c. SUMMARY OF FINDINGS– FIGHT AGAINST CORRUPTION

Albania has structures in place to prevent corruption in statistics.

## I) CHAPTER 32 – FINANCIAL CONTROL

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the Euro against counterfeiting.

- The acquis under this chapter relates to the adoption internationally recognised frameworks and standards, as well as EU good practice, on **public internal financial control (PIFC)**, based upon the principle of decentralised managerial accountability. PIFC should apply across the entire public sector and include the internal control of financial management of both national and EU funds. In particular, the acquis requires the existence of effective and transparent management systems, including accountability arrangements for the achievement of objectives; a functionally independent internal audit; and relevant organisational structures, including central co-ordination of PIFC development across the public sector.
- This chapter also requires an institutionally, operationally and financially independent **external audit** institution that implements its audit mandate in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI) and reports to the parliament on the use of public sector resources.
- In addition, this chapter also covers the **protection of the EU's financial interests** against fraud in the management of EU funds and the **protection of the euro against counterfeiting**.

### I. PUBLIC INTERNAL FINANCIAL CONTROL (PIFC)

#### I.A INTERNAL CONTROL AND MANAGERIAL ACCOUNTABILITY

##### a. Country presentation

Adopted in 2010, the *Law on Financial Management and Control* (FMC Law) regulates the processes and requirements related to the **internal control system** and defines the delegation of duties in public units. As part of the country's plan to upgrade the internal control regulatory framework, amendments to the FMC Law were adopted in February 2023. The amendments aim at increasing the effectiveness of the operations of the internal control system, strengthening the sanctioning measures for the proper functioning of the internal control system and extending the monitoring of internal control requirements to state owned enterprises.

An assessment of the coherence of internal control provision in other law has been initiated and a gradual adjustment to ensure the coherence of these laws with the FMC Law is envisaged, with involvement of the Central Harmonization Unit. The country also indicated that in 2023, it plans to revise and improve the sub-legal basis of financial management and control in order to implement the rules and procedures for an effective system of internal control in all public units.

The **strategic framework for Public Internal Financial Control (PIFC)** is included in the 2015-2020 Cross-Cutting Strategy for Public Administration Reform - and its action plan for 2018-2022 - and the 2019-2022 Public Financial Management Strategy. These two strategies will be revised in 2023 to define measures for the improvement of internal control instruments. PIFC strategic measures are also further defined in the 2021-2022 PIFC policy document developed by the Central Harmonisation Unit (CHU) and adopted by the Government in December 2020. Having expired in 2022, this paper will not be revised, as this content will be covered by the revised strategies on PAR and PFM. The 2015 – 2023 Sectorial Strategy for Anti-corruption addresses the role of the internal auditors in fighting fraud and corruption.

Regarding the **institutional set-up**, the CHU oversees coordinating the set-up and development of public internal financial control in public sector institutions. Other functions include the preparation of laws and guidelines for internal control and internal audit, the development and updating of strategies and methodological guidelines, the monitoring of financial management and control in public sector units, as well as external quality assessments of internal audit units. The CHU also supports capacity building by organising awareness seminars and continuous professional trainings for financial management and control, accountability and internal audit in public sector institutions. It is further responsible for the professional development strategy at national level, including the certification of internal auditors.

The CHU drafts the PIFC annual report. The report is presented to the Council of Ministers and discussed in the Parliament. It provides recommendations related to the PIFC system and is one of the main instruments used by the Ministry of Finance and Economy (MoFE) as a guide for institutions as to how to follow-up the implementation of PIFC requirements.

The general analysis of performance indicators by the MoFE and of self-assessments by government units in 2021 showed that the **internal control system is partially effective**. The country indicated that the **internal control regulatory framework** has improved and that institutions have established the basic conditions for an effective control environment and a structured process for the integration of strategic and operational objectives. To improve the internal control system, the country has implemented several actions, most notably to reinforce the implementation of procedures and to strengthen the capacities of civil servants. The CHU conducted quality assessment of 120 public units regarding the implementation of FMC requirements during the period 2015-2022. In addition, the MoFE provided technical assistance to 20 public institutions, based on their risk level. Training sessions on implementation of the managerial accountability system have been delivered in cooperation with the Albanian School of Public Administration (ASPA). 743 employees were trained in 2022, compared to 102 employees the previous year. Two national conferences on the development of the internal control system were also organised to raise high-level management awareness of the importance of the system.

With respect to **managerial accountability**, the use of delegation of authority/responsibilities, mainly in relation to procurement and salary payments, has significantly increased. However, difficulties remain in establishing a clear definition of responsibilities and functions within public units on internal control. Moreover, the analysis conducted by the MoFE highlighted the low commitment of managers to coordination, communication and periodic reporting on the achievement of objectives and performance indicators between institutions and their subordinate units.

As for **risk management**, the implementation of procedures related to risk identification is not fully satisfactory, although the number of institutions that have drafted and implemented risk management instruments has increased. The annual analysis carried out by the MoFE on the evaluation of the internal control system in the general government units showed that 104 out of 138 units have a risk register, out of which 47 have a consolidated risk register for the whole institution.

Regarding **fraud**, although institutions have legal procedures and relevant whistle blowing structures in place, the analysis showed a low level of implementation of these procedures, resulting in a low number of reported irregularities and a lack of concrete data on corruption and fraud. Identifying this weakness as one of the most pressing issues, the country indicated that it intends to provide guidance to public units, to update internal regulations and to intensify the trainings with public officials on reporting requirements.

As for future developments, the CHU plans to expand its support to public institutions in reviewing current policies and procedures in accordance with organisational, process or system changes. It will provide technical assistance on implementation of delegation instruction and procedures.

The public institutions will also proceed with the drafting and approval of written procedures on reporting rules, which will focus also on objectives, performance indicators and related risks. In the units, top management will conduct periodic self-assessment of the internal control system to identify potential deficiencies and implement more effective controls. Finally, the country plans to further develop trainings and awareness sessions on strengthening managerial accountability and implementing an effective internal control system.

#### **b. Commission assessment**

Albania's **regulatory framework** for PIFC, the *Law on Financial Management and Control* (FMC Law) is in largely line with international standards and forms a sound legal basis for the development of a functioning internal control system. The Government committed to finalise the revision of the FMC Law and have it approved by 2023. The revised version of the legislation is expected to further support the implementation of internal control, including through the strengthening of sanctioning measures. The revised FMC should clarify key stakeholder roles and responsibilities for an effective system, mainly for the functions of FMC and Risk Coordinators. There is no specific analysis of the coherence of PIFC legislation with other horizontal legislation.

**The revision of the PAR and PFM strategy in 2023 should outline clear and ambitious measures to enhance internal control and to provide guidance on further implementation of targets.** The general analysis, including the analysis of performance indicators by the Ministry of Finance and Economy (MoFE) in 2021, shows that the effectiveness of the **internal control** system remains to be strengthened further. The implementation of recommendations made in the annual public internal financial control report across budget institutions should be strengthened, beyond the MoFE. There are still institutions that have not fulfilled the legal requirements of reporting on the internal control system to the MoFE. In particular, sub-ordinated agencies and local government units have the weakest internal control systems.

Regarding **the institutional set-up**, the Central Harmonisation Unit (CHU) is actively monitoring developments in the PIFC domain and provides active guidance and support across the government units that currently fall within its scope. However, institutional responsibilities for steering PIFC reforms at central government level need to be clarified and coordinated with the overall public administration reform.

There is a **lack of systematic reporting** and concrete measures to address issues related to the internal control system. There is thus a need a comprehensive approach for a regular and standard reporting to senior management of public institutions.

**Albania should strengthen managerial accountability and implement the delegation of administrative decisions in practice.** Although the country has made significant efforts to raise top management awareness, the use of regular procedures of delegation of tasks and responsibilities is unsatisfactory. Despite guidance by the MoFE through the regulatory framework or technical assistance, there are few institutions that implement documented delegation procedures. It is therefore necessary to take measures to clearly define terms, rules and procedures to be followed in the process of delegating tasks. The adopted instructions on the delegation of financial responsibilities need to be implemented and accompanied with a wider reform on delegation of operational and administrative responsibilities to have a comprehensive approach on managerial accountability.

As regards **risk management**, the implementation of procedures related to risk identification is lagging behind, although the number of institutions that have drafted and implemented risk management instruments has increased. Risk management is not systemically incorporated in the management of financial and operational processes. The level of development of risk registers and risk strategies is low across institutions.

## **I.B INTERNAL AUDIT**

### **a. Country presentation**

The **legal requirement for the development of internal audit** is set out in the *Law on Internal Audit in the Public Sector* (IA Law). The legislation is applicable to all general government units and other institutions that carry out public functions and rely on public funds. The Law provides for the independence of internal auditors and prescribes that internal audit units and internal auditors shall be organisationally and functionally separated of other organisational units.

Amendments to the IA Law were approved in January 2023. These amendments clarify the role of internal audit services to report on irregularities and corruption, and clarify the procedure for detection of irregularities. These amendments foresee that internal auditors would have to interrupt their audit activities immediately after detecting potential irregularities and inform the head of internal audit. This information would be then relayed to the head of the institution.

**Financial inspection** is distinct from the function of internal audit and is performed by the Ministry of Finance and Economy (MoFE). The current version of the IA Law stipulates that - when a potential irregularity/corruption is suspected - the internal audit report needs to be followed up by financial inspection after the end of the audit. In the revised version of the IA Law, new amendments will specify that the audit should be interrupted immediately in order to follow up with inspection process.

As for the **institutional set-up**, according to the *Law on Internal audit*, all public units must establish an internal audit service. So far, 135 public units have established an internal audit unit as internal function in government units, ministries, public and independent institutions, as well as in local self-government units.

The CHU carried out external quality assessment of internal audit activities in public entities to evaluate the level of compliance of the internal audit activity with the requirements of the International Professional Practices Framework (IPPF). According to the assessment, only 45% of the assessed internal audit units were “generally” or “partially” compliant with the standards of the IPPF.

The level of effective implementation of **internal audits recommendations** remains weak. A series of guidelines and instructions for improving monitoring and reporting on the implementation of internal audit recommendations have been prepared and distributed for consideration to the internal audit structures. The application of these guidelines should help internal auditors to improve quality of audits according to standards.

On **certification**, the CHU has applied a new internal audit Certification Programme, in compliance with internationally accepted standards since 2016. Currently, 342 internal auditors (out of 433) employed in public units are certified as “Internal Auditors in public sector”.

For **capacity-development**, the CHU organises an annual Programme for Continuous Professional Development Training (CPD), covering key issues related to internal audit activity in the public sector, including fraud and corruption risk detection. The country plans to strengthen the professional capacities, skills and abilities of internal auditors through improved CPD trainings and certification programmes. Specific modules on financial management control have been included during the CPD programme of IA.

#### **b. Commission assessment**

**The legislation governing the internal audit function should be strengthened.** The internal audit (IA) Law is broadly compliant with international standards. However, the regulatory framework should address remaining legislative gaps and the revision of the Law (currently under revision by the Parliament) should foresee the setting up of clear procedures of the role and function of the internal audit when identifying and reporting irregularities or fraud and corruption cases. The revision should also increase the commitment of managers to coordination, communication and periodic reporting regarding the achievement of objectives and performance indicators between institutions and their subordinate units.

**Albania needs to strengthen the impact of the internal audit activities.** Challenges remain in the implementation of internal audit and reporting requirements across the administration. The monitoring of audit recommendations does not enable the promotion of the effective implementation of the recommendations and thus limit the final impact of the audit. Despite improvements in the implementation, such as guidelines for monitoring and reporting of the implementation of internal audit recommendations, weaknesses remain. The internal audit function still does not issue audit opinions on the effectiveness of the internal control systems across budget entities and the quality control of internal audit should be improved. Reporting procedures to the financial inspection should also be clarified.

**Albania should address human resources gaps for internal audit.** The internal audit function suffers from a lack of staff due to retirements and staff turnover of auditors, as well as low commitment and awareness of top management of the value and role of the internal auditing. The development of professional skills and knowledge in the field of auditing also remains challenging, although Albania has made significant efforts to increase the skills and capacities of auditors to detect cases of irregularities and/or financial fraud. Albania should ensure that all auditors are certified and further develop professional skills in order to create a professional internal auditing function in the public sector, aligned with integrity values.



## I.C SUMMARY OF FINDINGS – PUBLIC INTERNAL FINANCIAL CONTROL (PIFC)

Albania is **partially aligned** with the *acquis* on **public financial internal control**. The legislative framework is broadly in line with EU standards. The internal control system is only partially effective and managerial accountability remains limited in practice. Albania should improve the implementation of effective internal control and reinforce the monitoring by the Central Harmonisation Unit.

## II. EXTERNAL AUDIT

### a. Country presentation

The **State Audit Institution (SAI)** is established under the Constitution, which mandates its independence. The 2014 *Law on the Organisation and Function of the State Supreme Audit Institution* sets out in more detail the SAI's functional, operational and financial independence and provides the legal structure for its mandate and organisation. It specifies that the SAI's audit activity covers the areas of compliance, legality, regularity, financial management, effectiveness of management of public funds and state property, IT. The Law is aligned with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI) and with the Lima and Mexico Declarations, which foresee functional, institutional and financial independence of the SAIs, as well as implementation of both financial and performance audits.

The *Law on Local Government Finance* provides for municipalities to be audited on an annual basis. The country indicated that this is an important challenge in terms of SAIs capacity, as this obligation implies performing financial audits for *all* municipalities.

The **strategic framework**, the 2018-2022 the State Audit Institution (SAI)'s Development Strategy expired in December 2022. The new strategy 2023-27 has been developed and has been published on the SAI website.

As for **reporting and cooperation with the Parliament**, the SAI submits external audits reports to the Parliament, most notably the *annual report of the institution for the previous year*, the *report on the implementation of the state budget*, the *report on the implementation of audit recommendations*, as well as *final audit reports*. The SAI is broadening the type of audits it performs, with an ambition to increase the relative importance of financial and performance audits, as well as introducing systems audits. All audit reports are public and are shared with the Parliament. There is regular and timely reporting. The SAI also periodically updates the electronic platform of the Parliament with the recommendations given to the institutions, and the status of their implementation. However, there is still no memorandum of understanding between the SAI and the Parliament, on establishing a sub-committee dedicated to the follow-up of SAI's audits. The SAI does present its main reports (annual report, budget report) to the Economy and Budget Committee of Parliament. The authorities indicated that there is no timeline yet established to improve regularity in reporting and cooperation with the Parliament.

In recent years, the SAI has approved a set of regulations and audit manuals to support the implementation of International Standards of Supreme Audit Institutions (ISSAI). The SAI audit objectives have gradually shifted from compliance and regularity audits towards performance audits, following a risk-based external audit approach.

Regarding **audit impact**, the implementation rate of the audit recommendations in 2020 and 2021 was 47% and 55% respectively.

The new SAI's Development Strategy will focus on three main objectives: strengthening the role of the SAI in supporting the Parliament for effective accountability and scrutiny, increasing the impact of audit work by improving the level of implementation of recommendations and developing professional capacities for knowledge and innovation in audit work.

## **b. Commission assessment**

The regulatory framework is aligned with EU standards, the Constitution and the *Law on the Organisation and Function of the State Supreme Audit Institution* (SAI) provide for independence of the SAI.

**Albania should increase the level of implementation of external audit recommendations and develop the parliamentary scrutiny of audited bodies.** The **quality of audit work** needs to be strengthened to be fully compliant with INTOSAI standards. Regarding **impact of audit work**, the level of implementation of external audit recommendations is still insufficient, despite a high rate of recommendations being accepted by institutions. The parliamentary scrutiny of audited bodies in the implementation of the recommendations is still limited and should be increased, through more frequent parliamentary hearings and the establishment of a parliamentary monitoring framework to regularly assess government's follow-up action.

### c. SUMMARY OF FINDINGS – EXTERNAL AUDIT

The impact of **internal** and **external audit** functions needs to be increased to be fully compliant with EU professional standards and principles.

## III. PROTECTION OF EU'S FINANCIAL INTERESTS

### a. Country presentation

Albania considers its **criminal legislation** to be **partially aligned** with the Directive 2017/1371 of the European Parliament and the Council on the fight against fraud to the Union's financial interests by means of criminal law. The country plans to revise the Criminal Code to address the identified legal deficiencies and to reach alignment with the Directive. The new Criminal Code is planned to be adopted by the end of 2023, as part of the National Plan on European Integration for period 2023 - 2025.

As regards with the alignment with the revision of the European Anti-Fraud Office (OLAF) Regulation No.883/2013, the existing legislation defines the obligation to provide OLAF with the necessary information and operational cooperation, most notably in case of investigations.

There is currently no **anti-fraud strategy** on the protection of the European Union's financial interests. The Ministry of Finance and Economy (MoFE) has established a working group to develop a national anti-fraud strategy that should be approved by the end of 2024.

As **institutional set-up**, the country has established an Anti-Fraud Co-ordination Service (AFCOS) to facilitate the cooperation with the European Anti-Fraud Office (OLAF). AFCOS is set up in the Ministry of Finance and Economy, within the Public Financial Inspection Directorate (PFID). The PFID structure is supported on a case-by-case basis by 74 external inspectors. An AFCOS network, involving other relevant authorities, has been set up and meets regularly. The country indicates that the existing institutional framework ensures a satisfying cooperation with OLAF. Meanwhile, it plans to integrate new measures to strengthen this cooperation in its future strategy.

The country has stepped up efforts in **reporting irregularities**, including the approval of a manual of procedures for managing irregularities. These actions have resulted in an increased number of reported irregularities. The recovered financial amount related to reported irregularities during the 2017-2022 period amounts to EUR 1,327,318.60. The country acknowledges that further improvement and trainings in this area are needed and plans to request additional trainings and further support, through cooperation with OLAF and through TAIEX programmes.

#### **b. Commission assessment**

The existing **legislative framework** is **partially aligned** with the EU acquis. The country should revise the criminal legislation to reach alignment with the Directive 2017/1371 of the European Parliament and the Council on the fight against fraud to the Union's financial interests by means of criminal law.

**Albania should adopt a national anti-fraud strategy on the protection of the European Union's financial interests** and should continue ensuring the efficient and effective functioning of the anti-fraud coordination service (AFCOS) and the corresponding network. Although cooperation on investigations has improved, Albania needs to step up its efforts in developing a solid track record on cooperation on investigations by providing, among others, effective operational assistance to investigators from the European Anti-Fraud Office (OLAF) so they can fully discharge their duty in carrying out an on-the-spot check in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (EC, Euratom) No 2185/1996. Albania should also continue its efforts in developing a track record on reporting of irregularities.

For **protection of EU’s financial interests**, Albania still needs to fully align its national legislation with the EU directive on the fight against fraud to the EU’s financial interests by means of criminal law.

#### IV. PROTECTION OF THE EURO AGAINST COUNTERFEITING

##### a. Country presentation

The **protection of the euro against counterfeiting** is ensured by the *Law on the Bank of Albania*, by the Criminal Code and by a set of by-laws and regulations. This regulatory framework stipulates the obligation and procedure for banks, financial and other credit institutions to check the authenticity and fitness of banknotes, to withdraw from circulation and to transmit to the Bank of Albania all suspected counterfeit banknotes and coins detected during the authentication procedure. In 2019, Albania ratified the 1929 International Convention for the Suppression of Counterfeiting Currency.

As for the **institutional set-up**, currency protection is covered by three main institutions: the Prosecution Office, the General Directorate of State Police and the Bank of Albania (BoA). The Bank of Albania is the responsible authority to seize and confiscate counterfeit coins and banknotes. BoA also operates effective functions (technical analysis) and cooperates with domestic and European counterpart structures (European Central Bank, DG-ECFIN). Within the General Directorate of State Police, the National Centre Office coordinates and centralises all information that facilitates the investigation, prevention and punishment of counterfeiting of currency.

The current **cooperation** among the three responsible internal institutions is built around good practices on exchange of information. A Cooperation Agreement on the protection of currency against counterfeiting was signed between Bank of Albania, the General Prosecution Office and the Ministry of Interior of Albania in January 2023. This agreement facilitates the cooperation between these institutions on the protection of currency from counterfeiting at national level.. Regarding technical cooperation, the Bank of Albania owns and uses a database application (SMMDf) for registering technical and statistical data related to counterfeit notes and coins. The country plans to improve this system and to allow access to authorized staff from the State Police and General Prosecution Office.

The mentioned authorities also regularly participate in the activities of the **Pericles Programme**. The country plans to maintain participation of the Albanian officials in all available exchange, assistance and training programmes - including the Pericles programme - for the protection of the euro against counterfeiting.

#### **b. Commission assessment**

Albania is **partially aligned** with the *acquis* regarding procedures for gathering, storing, and withdrawing counterfeit banknotes and coins from circulation.

As for the **institutional set-up**, cooperation between the three competent national authorities for currency protection (Bank of Albania, State Police and General Prosecutor) should be enhanced and formalised through the signature of a cooperation agreement. From a technical viewpoint, shared access to the database application (SMMDF) should support institutional cooperation. *See general anti-corruption measures under Chapter 23 - Judiciary and Fundamental Rights.*

#### **c. SUMMARY OF FINDINGS – PROTECTION OF THE EURO AGAINST COUNTERFEITING**

For **protection of the euro against counterfeiting**, the country should establish formally and reinforce cooperation between the national competent authorities.

