



DEMOCRACY DECLINE AND SHRINKING CIVIC SPACE – HOW TO REVERSE THE TRENDS?

Policy Paper

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ABSTRACT

This paper argues that shrinking civic space has been a symptomatic manifestation of democratization backslide in Albania during 2015-2020, culminating in 2018-2020. It builds on the assumption that a strong civic space contributes to the consolidation of democracy and if progress in such direction is halted, shrinking civic space becomes a symptom of democratization backslide. It focusses on the identification of the particular governmental policies and practices that have affected civic space in Albania during 2015-2020, based on the analysis of three civic actors: CSOs, media and citizenry. It evidences that the overproduction of laws that are not harmonized and backed by all necessary executive legal-administrative acts and by sufficient human and economic resources has translated into a poor implementation of the legislation that aims the strengthening of the civic space. The civil society sector has experienced increasing governmental pressure and control of CSOs' activity since 2019. The media has witnessed a series of setbacks on freedom of expression particularly since 2018, while citizens' participation in decision-making and public consultations has diminished drastically since 2016-17. Different actors in the civic sector, media and citizens' communities have taken an active stance against these worrying trends. Civic organization has been improved and has grown to include new tools such as legal initiatives, lawsuits, and the internationalization of civic causes. Yet, they have not succeeded in mobilizing far and wide, common unaffected citizens. Most of these civic endeavors have not been connected with each other and have rarely managed to influence governmental policies.

Keywords: *shrinking civic space; civil society organizations; media; citizenry; democratization.*

INTRODUCTION

International reports and national organizations have been increasingly ringing alarm bells on the decline of democracy and the need to “confront illiberalism” in the Western Balkans.¹ The latest report of *Nations in Transit 2020*² underlines that political leaders in the region have stopped hiding behind a facade of nominal compliance and are now openly attacking democratic institutions, attempting to do away with any remaining checks on their power. The outlook once envisaged by the *2018 Nations in Transit*³ was confirmed in the *2020 Nations in Transit* edition: Albania’s transitional or hybrid regime scored an overall decline from democracy towards authoritarianism.⁴ But how does the decline in democratization reflect in the civic space of Albania? Which particular governmental policies and practices have affected this space during 2015-2020 and what have been their repercussions so far?

This paper argues that shrinking civic space has been a symptomatic manifestation of democratization backslide in Albania during 2015-2020. Governmental policies and practices have not prevented the natural growth of civil society organizations (CSOs)⁵, but have nevertheless been an obstacle in the enabling environment of civil society development and the democratization process in general, resulting in a shrinking civic space. The shrink and democratization decline are especially visible during 2018-2020. Rather than attempting to measure the extent to which the civic space in the country has shrunk, it aims to establish whether it is a developing trend and what are some of the executive’s most prominent employed tactics or instruments that caused it.

¹ Schenkkan, Nate (2018), ‘Nations in Transit 2018 – Confronting illiberalism’, Freedom House, p. 3 (https://freedomhouse.org/sites/default/files/2020-02/FH_NationsInTransit_Web_PDF_FINAL_2018_03_16.pdf).

² Csaky, Zselyke (2020), ‘Nations in Transit 2020 - Dropping the democratic facade’, Freedom House (https://freedomhouse.org/sites/default/files/2020-04/05062020_FH_NIT2020_vfinal.pdf).

³ “For Albania, 2018 holds the promise of improved governance as well as the danger of authoritarianism”. See more in Kajsiu, Blendi (2018), ‘Nations in Transit 2018 – Albania’, Freedom House (<https://freedomhouse.org/country/albania/nations-transit/2018>).

⁴ Based on the 2018 Nations in Transit report, the democracy percentage in Albania was 48.21/100. The 2019 Nations in Transit report noted no score changes. The 2020 Nations in Transit report assessed democracy in 47.02/100 percentage, with a decline of 1.19 points. See <https://freedomhouse.org/country/albania/nations-transit/2018> and the following years 2019, 2020.

⁵ By word agreement, the acronym CSO comprises all sort of organization within civil society, such as civil society organizations, non-governmental organizations, non-profit organizations, civic initiatives, etc. unless differently stipulated.

Methodologically, the paper uses primary qualitative and quantitative data. Literature review, reports and media outlet news lay the groundwork for secondary data collection. Semi-structured interviews with civil society activists and quantitative data collected from *Trust in Governance* reports (2015-2020)⁶ are used to validate the findings that emerge from secondary data analysis. The paper doesn't produce new data, but connects existent information in a comparative approach and under a less explored perspective.

Following the introduction, the paper provides a short evidencing of the problem of shrinking civic space. It offers a definition and brief literature review based on grey literature comprising reports and policy analyses. The findings' part focusses on the analysis of legislation and policy initiatives by the government regarding the development of the civic space and its response from the actors involved: CSOs, media and citizens. It starts with a general analysis of enacted legislation on civic space. Continues with the executive policies regarding the enabling environment of CSOs; the government's practices and policies towards the media; citizens' participation in the decision-making process through public consultations and protests; the civic response towards governmental policy and the effects of COVID-19 pandemics in the civic space of Albania. The paper ends with concluding remarks and recommendations on how to improve the civic space in Albania.

⁶ Opinion poll Trust in Governance is an annual survey implemented by the Institute for Democracy and Mediation (IDM) since 2014 with the support of UNDP Albania. The full set of reports is available at <https://idmalbania.org/trust-in-governance/>.

PROBLEM DEFINITION

According to CIVICUS, the civic space is the space where “citizens and civil society organisations are able to organise, participate and communicate without hindrance [...] being able to claim their rights, and influence the political and social structures around them”.⁷ The vitality of the civic space is measured among others by the progress obtained in consolidating human and civil rights, citizens’ participation in the public and civic space, civil society sustainability and resilience, functioning of trade unions, involvement of communities in policy processes, and media independence. Consequently, a shrinking civic space would imply hindrance, delay or obstruction of the organization and social participation of these actors in society. Civic space is thus related to the democratization process.

Grey literature traces the phenomenon of shrinking civic space in Albania back to 2016.⁸ Since then, the term has been gaining more recognition and discursive presence. Some of the indicators of the shrinking civic space include a twofold discreditation by senior government officials of the image and work of CSOs engaged in advocacy and watchdog⁹ on the one hand. And the media discreditation of CSOs which provide services on the other hand, claiming their activity lacks societal impact.¹⁰ Bino et al consider CSOs capture by political parties, brain drain and shortage of specialised human resources in the civil society sector and broad society as indicators of the shrink.¹¹ While Mirel and Vurmo argue that a stronger government has limited the participation of civil actors in decision-making.¹²

⁷ CIVICUS Monitor, ‘Civic space’ (<https://monitor.civicus.org/whatis-civicspace/>).

⁸ Vurmo, Gjergji (2020), ‘Tailor-made laws in the Western Balkans - State capture in disguise’, Brussels: CEPS 11 May (<https://www.ceps.eu/ceps-publications/tailor-made-laws-in-the-western-balkans/>).

⁹ Azizaj, Evelina and Romario Shehu (2020) 2019 Civil Society Organization Sustainability Index for Albania, USAID, ICNL, fhi360, IDM, p. 9 (<https://idmalbania.org/csosi-usaid-report-for-albania/>).

¹⁰ USAID, ICNL, fhi360 (2019), ‘CSO Sustainability Index 2018 for Central and Eastern Europe and Eurasia’, September, p. 19 (<https://idmalbania.org/csosi-usaid-report-for-albania/>). Bino, Blerjana et al (2020), Civil Society Participation in Decision-Making in Albania, Tirana: Institute for Democracy and Mediation, p. 18 (<https://idmalbania.org/wp-content/uploads/2020/03/CSO-Participation-in-Decision-Making-in-Albania.pdf>).

¹¹ Bino, Blerjana et al (2020), Civil Society Participation in Decision-Making in Albania, p. 18.

¹² Mirel, Pierre (2019), ‘European Union-Western Balkans: for a revised membership negotiation framework’, Fondation Robert Schuman (<https://www.robert-schuman.eu/en/european-issues/0529-european-union-western-balkans-for-a-revised-membership-negotiation-framework>). Vurmo, Gjergji

International reports show that Albania's democracy has been backsliding towards authoritarianism and consolidating a hybrid regime. According to *Nations in Transit* reports¹³, between 2015 and 2018, democratic governance has been stable at 3.50/7.00 and slid to 3.25 in 2019. Independent media went from 4.00/7.00 in 2015 to 3.75 between 2016 and 2019. Yet, the result for civil society has remained unchanged at 5.00/7.00 during the same period. It seems to suggest that the sector is not directly affected by changes in the level of democratization, while the civic space as a whole is, serving as a reminder for CSOs not to appropriate civic space as their own exclusive space.¹⁴

The problem of shrinking civic space in Albania became undeniable during the earthquake emergency in 2019 and the Covid-19 pandemic in 2020. By declaring the state of natural disaster, the Government applied restrictions to civil rights.¹⁵ The Covid-19 outbreak in March 2020 unfolded furthermore the problem which became obvious even among consolidated democracies: a weakened civil society cannot but witness "democratic backsliding [...] which eventually tips over into a downward spiral towards authoritarianism."¹⁶

(2020), 'Nations in Transit 2020 - Albania', Washington DC: Freedom House (<https://freedomhouse.org/country/albania/nations-transit/2020>).

¹³ The ratings of Freedom House's Nations in Transit reports are based on a scale of 1 to 7, with 1 representing the lowest and 7 the highest level of democracy. The Democracy Score is a straight average of the seven indicators and is also expressed as a percentage, where 0 represents the lowest and 100 the highest level of democracy. See <https://freedomhouse.org/reports/nations-transit/nations-transit-methodology>.

¹⁴ Balkan Civil Society Development Network (2018), 'What can we do to promote civic space?' p. 7 (<http://www.balkanicsd.net/novo/wp-content/uploads/2018/04/Pogledite-na-zapaden-balkan-i-turcija-ANG-01.pdf>),

¹⁵ Dyrnishi, Arjan in Brandle et al (2020), Democracy and the state of emergency, Friedrich Erbert Stiftung 13 July p. 4-7 (<http://library.fes.de/pdf-files/bueros/belgrad/16359.pdf>); Shehu, Isuf et al (2020), The rule of law in emergency - An analysis of the Albanian case, Tirana: Akademia e Studimeve Politike, May.

¹⁶ Pornschlegel, Sophie (2020), 'Countering shrinking spaces: Recommendations to support EU civil society', European Policy Centre, 11 June, p. 12 (https://wms.flexious.be/editor/plugins/imagemanager/content/2140/PDF/2020/Countering_shrinking_spaces.pdf).

FINDINGS

Legislation Boom Aiming Strengthening Civic Space Versus Poor Implementation

The ruling majority has been quite effective in drafting legislation during 2015-2020. According to Vurmo, 80% - 85% of the approved legislation in parliament has been initiated by the executive. On average, the Parliament of Albania has adopted 268 legal acts per year during this period. It implies that the average time spent by law-makers on each legislative act has been just half of a working day.¹⁷ Such an intensive and short-time legislation process has brought two main consequences: an increased need for law amendments and delayed law application, negatively affecting the civic space. Being aware of the challenge for “assessing the level of implementation of human rights legislation, policies, analyses and strategies [...] due to the absence of comprehensive monitoring and data”¹⁸, this section makes an attempt to analyse the effect of legislation in the civic space during 2015-2020.

EC Albania 2020 Report notes that late 2019 and 2020 marked the highest peak of normative acts adopted by the government. The period coincides with the natural disaster emergency situation in the aftermath of the earthquake of November 2019 and the subsequent COVID-19 outbreak since March 2020.¹⁹ During the rapid enacting of legislation, the parliament has passed many laws which contribute to the regulation and development of the civic space in Albania.

Civil society praised the adoption in 2014 of laws “On notification and public consultation” and “On the right to information”. It deemed them as positive developments for the process of democratization and the facilitation of participation of civic actors in decision-making.²⁰ The government adopted several other laws and strategies to safeguard human and civil rights, a selection of which is provided below.

¹⁷ Vurmo, Gjergji (2020), ‘Tailor-made laws in the Western Balkans - State capture in disguise’, p. 7.

¹⁸ European Commission (2020) *Albania 2020 Report*, p. 28 (https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/albania_report_2020.pdf).

¹⁹ European Commission (2020), *Albania 2020 Report*, p. 10.

²⁰ USAID (2015), *The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, p. 13 (<https://idmalbania.org/csosi-usaid-report-for-albania/>).

Table 1: Legislation aiming the strengthening of civic space enacted during 2015-2020

Laws	Strategies and Action Plans
Law 119/2015 “On the establishment and functioning of the National Council for Civil Society” which aimed to increase the participation of the civil sector in the legislation that governs the sector and in strengthening democratization.	2015 Road Map on Policies and Measures for an Enabling Environment for Civil Society 2019 – 2023 Road Map on the Policy of the Government for an Enabling Environment for the Development of Civil Society
Law 45/2016 “On voluntarism” which aimed to regulate and facilitate the act of volunteering, following the advocacy of CSOs.	2015 Road Map on Policies and Measures for an Enabling Environment for Civil Society 2019 – 2023 Road Map on the Policy of the Government for an Enabling Environment for the Development of Civil Society
Law 65/2016 “On social enterprises in the Republic of Albania” regulating civil society efforts in service delivery and community work.	2015 Road Map on Policies and Measures for an Enabling Environment for Civil Society 2019 – 2023 Road Map on the Policy of the Government for an Enabling Environment for the Development of Civil Society
Law 121/2016 “On social care services” and Law 22/2018 “On social housing”, benefitting victims of domestic violence, disadvantaged communities, etc. Law 111/2017 “On legal aid guaranteed by the state” particularly assisting marginalized communities in their right for a just trial.	Social Protection Strategy 2015–2020 National Action Plan for the Integration of Roma and Egyptians for 2016-2020 National Action Plan for Persons with Disabilities 2016-2020 National Strategy on Gender Equality and Action Plan 2016-2020 National Action Plan for LGBTI Persons 2016-2020
Law 75/2019 “On youth” aiming to enhance the activation and participation of youth in society and support the development of youth CSOs.	National Action Plan for Youth 2015 - 2020
Code amendments to laws “On the Family Code”, “On the Labour Code”, “On the Criminal Code”.	National Agenda for Children’s Rights 2017–2020; Juvenile Justice Strategy 2018-2021.

However, the application of legislation has been problematic and slow-paced. The positive effects of legislation in the strengthening of civic space have been delayed and practical improvements were not evident in the desired extent during 2015–2020. Interviews with civil society activists offer a series of reasons that explain why results have been bleak. They relate them to the poor implementation of laws, but even their hustled preparation circumventing public consultation.

The effective implementation of enacted laws has been hampered by the non-harmonization of laws, causing law conflicts in the process of application. Important cases refer to Law no. 91/2019 “On the Audio-visual Media Service,” amended and Law no. 92/2019 “On electronic communication in the Republic of Albania”, amended, better known as the

Anti-defamation Package. They were vetoed by the President of the Republic on grounds of constitution violation.²¹ The Venice Commission considered the amendments as vague and inapplicable in their current form.²² Another crucial case is the Law 8773, on 23.4.2001 “On assemblies” which requires protesters to formally notify the State Police on the modalities of their protest, based on article 5. The Criminal Code on the other hand requires the approval of the State Police for each protest, following article 262. In practice, this conflict has caused the criminalization of many protests and the problem was not addressed during 2015-2020, despite the continuous requests by civic actors.

Laws were adopted and amended within a very short time and still not executed, as happens with Law 163/2014 “On the order of the social workers in the Republic of Albania”. It was approved in 2014, reapproved in 2017 with several amendments and yet, the Social Worker Order was still not established in Albania. The saga of amendments goes on as new changes are foreseen to pass in Parliament during late 2020 and 2021.²³

Circumventing the consultation process has increased the need for law amendments, which has enhanced the overproduction of laws and, in turn, delayed their application. Based on findings of the *Public Administration Reform Monitoring 2019-2020*²⁴, not all draft laws and draft strategies were shared with the public for consultations, even though they were legally obliged to do so. A report by *ResPublica* shows that half of draft laws approved by the parliament were not consulted with the public. On the other hand, according to the law on public consultations, draft-laws initiated by Members of Parliament which make one-third of all

²¹ President of the Republic (2020), ‘Reasons for the return of law no. 91/2019 “For some amendments and additions to law no. 97/2013 “On the audio visual media in the Republic of Albania” as amended”, 12 January (<http://president.al/presidenti-meta-dekreton-kthimin-per-rishqyrtim-ne-kuvend-te-ligjit-nr-91-2019-arsyet-e-kthimit-per-rishqyrtim-te-ligjit/>); President of the Republic (2020), ‘Reasons for the return of law no. 92/2029 “For some additions and changes to the law no. 9918 dated 19.5.2008, “On electronic communications in the Republic of Albania” as amended’, 12 January (<https://president.al/presidenti-meta-dekreton-kthimin-per-rishqyrtim-ne-kuvend-te-ligjit-nr-92-2019-arsyet-e-kthimit-per-rishqyrtim-te-ligjit/>).

²² European Commission for Democracy through Law (2020), ‘Albania - Opinion on draft amendments to the Law n°97/2013 on the Audio visual Media Service’, Strasbourg, 19 June p. 18 ([https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)013-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)013-e)).

²³ Carcani-Mane, Valbona (2020), “[Albania] Parliamentary hearing session on the “Law on the Order of Social Work in Albania”, Child Protection Hub (<https://childhub.org/en/child-protection-news/albania-parliamentary-hearing-session-law-order-social-work-albania>).

²⁴ Based on preliminary findings of the PAR Monitor Albania 2019/2020, part of the Western Balkan Civil Society Empowerment for a Reformed Public Administration 2.0. The report is expected to be published in June 2021. For more information visit <https://www.par-monitor.org/>.

legislative acts, exclude the process of public consultation.²⁵ Such practice debilitates the process of law-making, its application and the rule of law as a whole.

The lack or non-sufficient provision of secondary legislation has been delaying law execution too. For instance, Law 45/2016 “On voluntarism” once approved in 2016, became operational only in 2019 after bylaws were enacted.²⁶ On the other hand, the prevalence of secondary legislation i.e. Decrees of the Council of Ministers (DCMs) over laws and even the constitution has had deteriorating effects on the civic space. The most evident of cases are normative acts issued during the state of natural emergency, on both the 2019 earthquake and the 2020 COVID-19 crisis which put on hold civil and political rights of citizens.

While the executive has been very efficient in drafting the approved legislation, it is responsible for the poor application of legislation. The latter has been related to the lack or non-sufficient provision of functional mechanisms to employ laws; the lack of allocated funds to implement policies; the lack of training of the public administration staff and lack of sharing of best practices for policy implementation.²⁷

The insufficient financial resources allocated to implement the various national strategies and action plans and the lack of progress towards their implementation have been repeatedly noted by the *EC Progress Reports*. Citing the 2020 report “the effective implementation of the national strategy and action plan 2016-2020 on gender equality is hampered by a persistent funding gap”, or “the national action plan for LGBTI persons, which comes to end in 2020, did not produce visible results, partially due to the lack of financial resources”. Following with “the 2016-2020 national action plan for the integration of Roma and Egyptians reached its final year of implementation, however with limited progress”.²⁸ Consequently, the ineffective implementation of strategies that aim to strengthen the civic space, becomes a debilitating practise instead, as it fails to strengthen human rights and civil liberties among members and groups of society.

²⁵ Matlija, Dorian and Irena Dule (2019), ‘Konsultimi publik në Shqipëri 2017-2018’, ResPublika, p. 53 (<http://www.respublica.org.al/wp-content/uploads/2019/04/Konsultimi-Publik-2017-2018-Res-Publica-NED.pdf>).

²⁶ USAID, ICNL, fhi360 (2019), ‘CSO Sustainability Index 2018 for Central and Eastern Europe and Eurasia’, September, p. 2 (<https://idmalbania.org/csosi-usaid-report-for-albania>).

²⁷ Interviews with civil society activists.

²⁸ European Commission (2020) Albania 2020 Report, p. 36-37.

The 2015 EC *Progress Report* observed that “...the legal framework for the protection of human rights is broadly in line with European standards. However, effective implementation of relevant legislation and strategies is limited and the enforcement of human rights protection mechanisms remains insufficient.”²⁹ This account was still shared by the interviews held with civil society activists. However, the European Commission has noted advancement in the legal framework. The once ‘limited implementation of strategies and insufficient mechanisms’, during 2016 to 2020 evolved to ‘mechanisms remained to be strengthened’. Whereas since 2018, EC Report remarked that legislation had become in line with European standards.³⁰ Differently from years 2015-2018 which signalled progress in both legislation and application, the 2019-2020 reports do not note on further advancement of mechanisms ensuring human rights protection.

In conclusion, drafting legislation on human and civil rights can strengthen the civic space in principle. The government of Albania has been very successful in enacting legislation during 2015-2020. However the overproduction of laws, a part of which were not harmonized with each other and most of them were not backed by all necessary executive legal-administrative acts, or by sufficient human and economic resources, has caused implementation problems throughout the period of study. On the other hand, the numerous and fast-adopted legislation enacted by the parliament has required further amendments, making legal norms very unstable. Instead of strengthening the civic space, these practices end up having a negative impact because of their delayed or partial application. The same applies to strategies, action plans and roadmaps which have remained partially implemented during 2015-2020, doing no favours to the sustainability and consolidation of the civic space in the country.

²⁹ European Commission (2015) Albania 2015 Report, [Brussels, SWD (2015) 213 final], 10 November, p. 5, (https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_albania.pdf).

³⁰ European Commission (2016) Albania 2016 Report, [Brussels, SWD (2016) 364 final], 9 November, p. 5 (https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf); European Commission (2018) Albania 2018 Report, [Strasbourg, SWD (2018) 151 final], 17 April, p. 6 (<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>); European Commission (2019) Albania 2019 Report, [Brussels, SWD (2019) 215 final], 29 May, p. 4; (<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>); European Commission (2020), Albania 2020 Report, p. 6.

Stagnated Progress Towards the Enabling Environment for Civil Society

Many civil society organizations in Albania will celebrate their 20th anniversary in the 2020s. As a civic actor, their activity has been contributing to the development of the civic space since the 90s. Their status as mediators between citizens and policymakers, and as a key factor in the country's democratization and integration processes has been accepted by state parties and is encouraged by international donors. In the meantime, CSOs have established monitoring reports and mechanisms to evaluate their operating environment and improve their sustainability. These reports show that difficulties have persisted and hampered the sector's activity during 2015-2020. Overall, CSOs have succeeded to remain operative, despite the unfavourable environment.

In 2015, the Albanian Parliament successfully approved Law 119/2015 "On the establishment and functioning of the National Council for Civil Society", a consultative body to assist the government in the development of the civil sector. The law was followed by the approval of the 2015-2019 "Roadmap for drafting policy and measures for an enabling environment to Civil Society". These acts institutionally acknowledged the role of CSOs in strengthening the civic space in Albania, and in facilitating cooperation and communication with state institutions in the fields of European integration, human rights, rule of law and democratization. The National Council for Civil Society and the Roadmap intended to pave the way for the regulation and further development of civil society in Albania as a civic actor. However, the country's *Monitoring Matrix Reports* and *CSO Sustainability Index* reveal very few positive achievements in this regard. Those are generally linked to CSOs advocacy initiatives³¹, rather than governmental policies.

Between 2016 and 2019, the National Council for Civil Society's operation has been reported as weak in terms of influence, and short of results. According to the 2018 *Monitoring Matrix Report*, this failure represents a "missed opportunity to engage in effective dialogue with the Government."³² The same report signalled regress in the participation of

³¹ E.g. in 2019 the Government issued an instruction for VAT reimbursement for CSOs benefitting from foreign donations funds, after the successful advocacy led by Partners Albania. Its implementation though is yet under monitoring. See Hoxha, Juliana et al (2020), Monitoring matrix on enabling environment for civil society development, Tirana: Partners' Albania for Change and Development, p. 46, (<https://partnersalbania.org/publication/monitoring-matrix-on-enabling-environment-for-csos-development-country-report-for-albania-2019/>).

³² Hoxha, Juliana et al (2019), Monitoring matrix on enabling environment for civil society development – Country report for Albania May 2018-2019, Tirana: Partners' Albania for Change and

civil society in the public consultation of draft laws or policies concerning the sector itself, underscoring the limits of the National Council for Civil Society's effectiveness.³³

In a similar vein, the government's main strategic document, the 2015-2019 Roadmap recorded little or no progress in most of its proposed actions. The *CSO Sustainability Index* 2019 found that 80 percent of the roadmap's planned actions had not been implemented.³⁴ For instance, the lengthy and highly bureaucratic process of registration, deregistration or amending of CSOs' legal organs, by the Tirana District Court, which services all CSOs of Albania has remained unchanged³⁵ since 2015. During 2020 the government announced the public consultation of the draft law on the registration of CSOs. Generally, the civic sector considered specific sections as problematic, vague, unclear. They worry about increased pressure and intimidation and the potential breach of freedom of association,³⁶ providing additional possibilities for shrinking civic space.

In financial terms, even though the law foresees VAT exemption for CSOs benefiting from European Union funds, problems of implementation have persisted. The timeframe for refunds has hampered further CSOs activity. To make things worse, the law 25/2018 "On accounting and financial statements" set new reporting requirements and thus increased the bureaucratic burden on CSOs. Moreover, the 2019 *CSO Sustainability Index* indicates that banks are now requiring CSOs to provide statute amendments and minutes of board meetings for delivering their transactions, thus "placing them under increased control".³⁷

In addition, financial unsustainability has remained a persisting problem during 2015-2020, especially for local CSOs. Despite an increase in

Development, , p. 8 (<http://partnersalbania.org/wp-content/uploads/2019/07/Monitoring-Matrix-Country-Report-for-Albania-2018.pdf?fbclid=IwAR2GGlwWPkXUetYr6NQdVI-Y3dv4L-BQTWS1SPCfri1qcXwtvVzAEcKbyTw>).

³³ Ibid, p. 30.

³⁴ Azizaj, Evelina and Romario Shehu (2020) 2019 Civil Society Organization Sustainability Index for Albania. p. 2.

³⁵ Ibid, p. 2.

³⁶ Group of CSOs (2020) 'Kërkesë për seancë dëgjimore me përfaqësues të organizatave të shoqërisë civile për projektligjin "Për Regjistrimin e Organizatave Jofitimprurëse", 20 October, p. 2, 4 (http://resourcecentre.al/wp-content/uploads/2020/10/Per-projektligjin-Per-Regjistrimin-e-OJFve_Nga-organizatat-e-shoqerise-civile_Final.pdf).

³⁷ Azizaj, Evelina and Romario Shehu (2020) 2019 Civil Society Organization Sustainability Index for Albania, p. 5.

philanthropy in the aftermath of the 2019 earthquake³⁸, various reports³⁹ noted the absence of laws regulating charitable activity and providing fiscal incentives to enable donations from third parties to benefit CSOs activity.

Public funding continues to be limited and non-transparent.⁴⁰ This is why interviewed activists declare low trust and are critical of the role⁴¹ of the Agency for Supporting Civil Society (ASCS) which manages the biggest public funds for CSOs in the country. The amount of public funding of ASCS has not changed during 2015-2020⁴² (101,000,000 lek in total per year, for all project calls). On the eve of the Covid-19 outbreak, CSOs publicly requested greater governmental support.⁴³ The government not only didn't approve the request, but it nearly halved the budget of ASCS and reallocated the fund to different state sectors, in response to the Covid-19 crisis. Thus, the civil society budget for 2020 became 61,000,000 lek,⁴⁴ the lowest over the entire 2015-2020 period. The reduction of funds is a manifestation of shrinking civic space governmental policies. On the other hand, it debilitated the role of the Agency itself in the strengthening of the civic sector during 2020, when the sector mostly needed the Agency's leadership and support.

After the first 2015-2019 Roadmap timeframe ended in 2019, the government approved the revised 2019-2023 Road Map on the Policy of

³⁸ Hoxha, Juliana et al (2019), Monitoring matrix on enabling environment for civil society development – Country report for Albania May 2018-2019, p. 22-23.

³⁹ Hoxha, Juliana et al (2018), Monitoring matrix on enabling environment for civil society development – Country report for Albania 2017, Tirana: Partners' Albania for Change and Development, p. 8 (<http://partnersalbania.org/wp-content/uploads/2018/07/Monitoring-Matrix-report-for-Albania-2017.pdf>); Hoxha, Juliana et al (2019), Monitoring matrix on enabling environment for civil society development – Country report for Albania May 2018-2019, p. 46.

⁴⁰ Evidenced by many interviews with CSO activists and reports. For instance see Hoxha, Juliana et al (2019), Monitoring matrix on enabling environment for civil society development – Country report for Albania May 2018-2019, p. 26; European Commission (2020) Albania 2020 Report, p. 14.

⁴¹ Vurmo, Gjergji and Orsiola Kurti, (2014), 'Bringing ASCS closer to the civil society', Institute for Democracy and Mediation, December (https://idmalbania.org/wp-content/uploads/2017/02/AMSHC-paper_ENG.pdf).

⁴² Agjencia për Mbështetjen e Shoqërisë Civile, 'Raporte monitorimi', (<http://www.amshc.gov.al/web/raporte/monitorimi/>).

⁴³ Newsbomb (2020), 'Organizatet e shoqërisë civile letër Ramës: Kërkojmë mbështetje financiare', 24 March (<https://www.newsbomb.al/organizatat-e-shoqerise-civile-leter-rames-kerkojme-mbeshtetje-financiare-kane-ngelur-jashte-paketes-ekonomike-grupet-sociale-me-ne-nevoje-letra-e-plote-199860>).

⁴⁴ Agjencia për Mbështetjen e Shoqërisë Civile (2020), 'Treguesit e buxhetit të katër mujorit të II të vitit 2020 për institucionin AMSHC', no. arch. 249, 22 September (http://www.amshc.gov.al/web/raporte/monitorimi/2020/Raporti_per_4-mujorin_2_te_vitit_2020.pdf).

the Government for an Enabling Environment for the Development of Civil Society. CSOs participated in the consultation of the draft. The *EC Progress Report 2020* remarked that “its implementation depends to a large extent on donor funding”.⁴⁵ CSOs on the other hand retain low expectations on the application of the 2019-2023 Roadmap,⁴⁶ persisting on the inapplicability of strategies, which do not facilitate their development and consequently shrink the civic space.

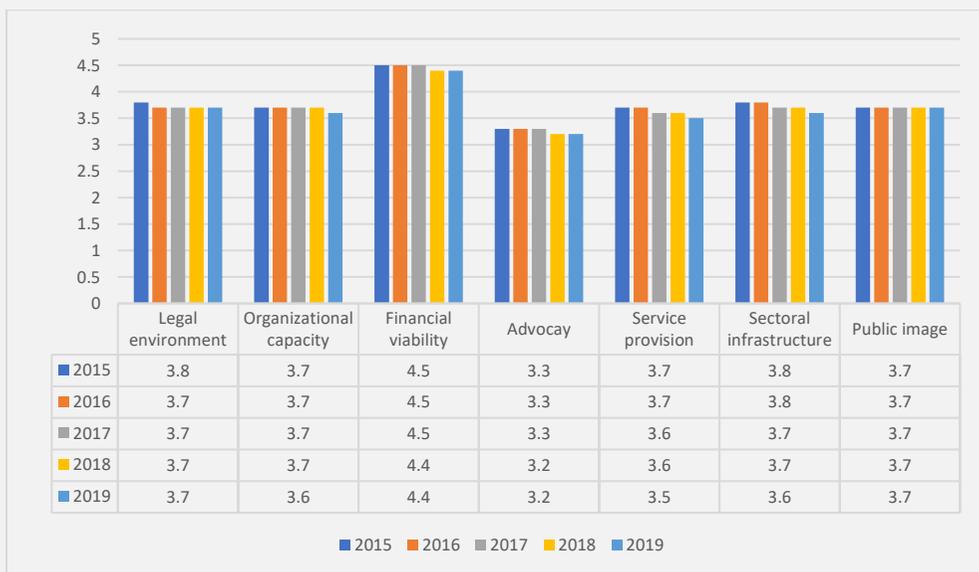
Yet, the *CSO Sustainability Index* (see Figure 1) has reported minor improvements of the civic sector during 2015-2020. It evaluates the sustainability of CSOs in seven dimensions. Based on data published in Figure 1,⁴⁷ CSOs have progressed despite a challenging environment. They have consolidated their organizational capacities and have slightly enhanced their financial viability. Advocacy sustainability has advanced slowly. Sectoral infrastructure and service provision have improved too. Years 2018-2019 mark the most positive period for the sustainability of CSOs as the majority of the dimensions have slightly progressed, except of the legal environment and public image. Data show that the legal environment has not been evolving since 2016. Financial stability and advocacy recorded their last advancement in 2018 and the public image is the only dimension which has stagnated since 2015. The dimensions which rely directly to their autonomous efforts like sectoral infrastructure, service provision and organizational capacity have improved during 2018-2019. While the dimensions that are directly connected to governmental policies and the public perception find it hard to progress.

⁴⁵ European Commission (2020) Albania 2020 Report, p. 13.

⁴⁶ Azizaj, Evelina and Romario Shehu (2020) 2019 Civil Society Organization Sustainability Index for Albania, p. 2.

⁴⁷ The Civil Society Organization Sustainability Index is an annual index developed by USAID and implemented by IDM Albania, as local partner since 2010. The ratings of CSO Sustainability Index are based on a scale from 1.0-7.0, with 1.0 representing the most enhanced sustainability and 7.0 the most impeded sustainability. Specifically, 1.0-3.0 show enhanced sustainability; 3.1-5.0 show evolving sustainability; 5.1-7.0 show impeded sustainability. A full list of reports is accessed at <https://idmalbania.org/csosi-usaid-report-for-albania/>

Figure 1: CSO Sustainability Index during 2015-2019



Source: *The Civil Society Organization Sustainability Index* (USAID, FHI 360, IDM Albania) 2015; 2016; 2017; 2018; 2019.

CSOs’ improvements in the civic sector during the past five years appear to be more connected to foreign donors and CSOs’ own efforts⁴⁸, rather than governmental policies. Their capacity-building programmes have started to produce visible results and the sector is now growing like a normal organic body that matures by facing challenges.⁴⁹ CSOs autonomous organization advanced as well with the founding of the National Resource Centre for Civil Society in Albania in 2019. The center serves as a platform of information and service provision for CSOs and is funded by international donors. Within a few months of activity, interviewed activists were confident on the importance and relevance of this center, which apparently has inspired more trust than the state Agency for Supporting Civil Society.⁵⁰

The public perception of CSOs’ activity has also increased since 2015 (see Figure 2). The highest degree of trust was reached in 2017-2018 and has remained almost constant for three years in a row, from 2017 to 2019. Generally, the public assumes that political influence is low among CSOs. The highest political influence perception is noted in 2017 that coincides

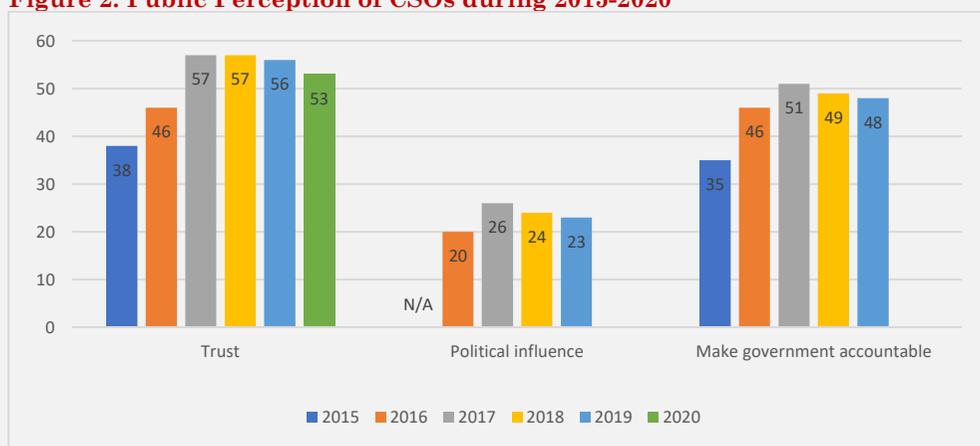
⁴⁸ Azizaj, Evelina and Romario Shehu (2020) 2019 Civil Society Organization Sustainability Index Albania, p. 3-4.

⁴⁹ Based on the interview statement of a civil activist.

⁵⁰ Based on interview statements by civil society activists.

with the general election year, while the trend goes down in the following years. As per CSOs' ability to hold the Government accountable, public perception shows that CSOs have been efficient in their watchdog endeavours. Their perception on the ability to put pressure on public institutions has been meliorating from 2015 to 2017, when 51 percent of respondents were positive regarding the power of CSOs to make the government accountable. Since 2018 figures have been slightly decreasing. They correspond to the public perception on the increase of the government's unaccountability itself. *Trust in Governance* reports of 2017-2020 show that 61 percent of respondents believed the government lacked accountability in 2017. The figure increased to 63 percent in 2018 and 65 percent in 2019 and 64 percent in 2020⁵¹, coinciding with the perceived weakened pressure from CSOs.

Figure 2: Public Perception of CSOs during 2015-2020



Source: Public opinion poll *Trust in Governance* (IDM, UNDP) 2015; 2016; 2017; 2018; 2019; 2020.

In conclusion, CSOs' improvements in sustainability during the past five years came from their natural growth, autonomous efforts and donors support, rather than the outcome of the legal or policy framework. As demonstrated above, this framework has become increasingly burdensome in time. Despite the positive legal initiatives that were undertaken in 2015, the government has not managed to apply the specific policies that create an enabling environment for the operation of civil society. Only 20 percent of the foreseen measures of the 2015-2019 Roadmap for civil society were applied by public institutions and the civic sector is not confident in the execution of the 2019-2023 Roadmap either.

⁵¹ The list of the opinion poll *Trust in Governance* is found at <https://idmalbania.org/trust-in-governance/> Cited figures refer to the following annual reports pages: 2017: p. 31, 2018: p. 38, 2019: p. 53, 2020: p. 47.

Governmental policies have failed to take concrete action against problems raised by the sector and on the other hand, they have increased control and intimidation. Both practices and policies have contributed to the shrinking of the civic space in Albania, topping in 2018-2020.

The Media Purge and the Anti-Defamation Package Reform

The anti-defamation package has been the ultimate major attempt to discipline the media, but it is not the last one.⁵² During 2015-2020 many initiatives and practices aimed to tell the media how to behave, ranging from the Prime Minister lecturing journalists on how not to raise disturbing questions⁵³, to shutting down critical media outlets. Subsequent attacks between 2015-2017 and then again between 2017-2020 are two waves of media intimidation that share the same pattern. They started with the anti-libel draft-legislation in 2015, were followed by dismissals of critical journalists and broadcasts, money laundering charges, confiscations of medias and culminated when the Parliament approved the anti-defamation package in 2019-2020. The following section provides a series of governmental policies and practices towards the media which have prevented the contribution of this civic actor in society and the civic space, therefore causing shrinking civic space.

In 2015, the ruling majority in the parliament initiated procedures to issue prison sentences for libel against public officials. In the end, strong opposing reactions from international organizations led to the withdrawal of the draft law.⁵⁴ Nevertheless, such reactions were not sufficient to stop the closure of *Agon Channel*, a TV station critical of the government. In court, the money laundering accusations used to justify this closing proved to be unfounded, “costing the impoverished country millions of euros in legal fees”.⁵⁵ Precedents were recorded in 2016 as well. This time, the

⁵² Read more at Exit News (2020b), ‘Cukali: Politicians Pressured Media into Not Joining Self-Regulation Platform ‘Ethical Media Alliance Self-Regulation’, 19 November (<https://exit.al/en/2020/11/19/cukali-politicians-pressured-media-into-not-joining-self-regulation-platform-ethical-media-alliance-self-regulation/>).

⁵³ Exit News (2018b) ‘Journalist refuses to back down, Rama breaks off press conference’, 18 May <https://exit.al/en/2018/05/18/journalist-refuses-to-back-down-rama-breaks-off-press-conference/>

⁵⁴ OSCE (2015), ‘Albania should reject bill introducing imprisonment for libel of public officials, says OSCE Representative and calls for full decriminalization’, Vienna, 12 November (<https://www.osce.org/fom/199446>).

⁵⁵ Daragahu, Borzohu (2019), ‘First they came for the morning show: How Albania’s government shut down an entire TV station that dared to criticize it’, Independent, 15 September (<https://www.independent.co.uk/news/world/europe/albania-agon-tv-press-freedom-censorship-corruption-francesco-becchetti-a9103496.html>).

national TV outlet *Vision Plus* discontinued the investigative documentary television series *Publicus*. The Information Office of the European Union Delegation in 2017 awarded the second prize of Investigatory Journalism in 2016 to the director of the series. Alluding that the series was shut down by political order, he explained that the government was not worried by freedom of speech *per se*. It serves as a democracy indicator and is allowed as long as media products are empty of critical content. Whenever the media provides evidence for governmental misbehaviours, it becomes a threat.⁵⁶

The trend continued in 2017, but the target moved to individuals. Within one week, the managers of two medias didn't prolong the work contracts of two prominent media executives. The dismissed journalists argued that managers chose to adopt editorial policies favouring the government, acting against journalistic principles.⁵⁷ In 2019, after exposing a major infrastructural fraud with public funds and keeping up their critical approach, TV managers closed two other shows *The unexposed* and *A Show on the basis of "internal reform"*.⁵⁸ In 2020, public authorities fined and threatened to shut down the *Ora RTV* due to breaching the Covid-19 protocol during a broadcast.⁵⁹ At the time, the media was actively positioned against the government's policy of demolishing the National Theatre. The critical media owner faced accuses of money laundering and state institutions confiscated his *Yldon Media Group* assets.

2019 and early 2020 topped when the ruling majority approved the amendments of the anti-defamation package, which were contested by the media and civil actors. To remedy the situation and backing the protest of the journalists' associations, the European Commission demanded⁶⁰ the revision of the package based on the recommendations provided by the

⁵⁶ Based on Exit News (2017), 'Artan Rama dhe Publicus fitojnë çmimin e dytë të Gazetarisë Investigative', 9 June (<https://exit.al/artan-rama-dhe-publicus-fitojne-cmimin-e-dyte-te-gazetarise-investigative/>).

⁵⁷ Agolli, Ilirian (2017), 'Tiranë: Largohen nga puna gazetarë të njohur', *Zëri i Amerikës*, 12 January (<https://www.zeriamerikes.com/a/alfred-lela-armand-shkullaku-largime-nga-puna-media/3673675.html>).

⁵⁸ Karaj, Vladimir (2019) 'Last TV Shows Critical of Albanian Government are Cancelled', *BalkanInsight* 29 August (<https://balkaninsight.com/2019/08/29/last-tv-shows-critical-of-the-government-are-closed-down-in-albania/>).

⁵⁹ Ora News (2020), 'Skandal, ISSh kërkon mbylljen e sinjalit të RTV Ora', 15 May (<https://www.oranews.tv/article/skandal-ishsh-kerkon-mbylljen-e-sinjalit-te-rtv-ora>). The Audiovisual Media Authority reacted and clarified that there was no intention to shut down the media. Read more at Autoriteti i Mediave Audiovize (2020), 'Njoftim për mediat', 15 May (<http://ama.gov.al/2020/05/15/njoftim-per-mediat/>).

⁶⁰ European Commission (2020) *Albania 2020 Report*, p. 30.

Venice Commission, under the request of the Council of Europe. The EC Progress Report stated that the amendments “fell short of international standards and principles of media freedom and raised concerns about increased censorship and self-censorship, and about possible setbacks on freedom of expression in the country”.⁶¹

In such an environment, harsh language against journalists has been common,⁶² while intimidation and attacks from the executive branch have been on the rise. The labour and social rights of journalists have not been fully respected during 2015-2020. Labour informality is still present, causing fragile job security.⁶³ Based on a BIRN report from 2015,⁶⁴ Albanian media has experienced concerning rates of censorship. It is caused by pressure from institutions through state-sponsored advertising, big advertisers, and the media owner’s economic interests, which are reflected in the editorial policy. Censorship manifests in decisions to avoid coverage of certain news, and includes “positive/ PR coverage of political and financial partners”, which discourages or annihilates critical and investigative journalism. The report notes that another disconcerting and widespread phenomenon is journalistic self-censorship due to the economic and political interests of media owners, lack of physical security and lack of job security. A similar account is reported by the *EC Albania 2020 Report*.⁶⁵ The *Nations in Transit 2018* report made alike observations for the “at first sight vibrant media sector”, which in practice functions more as an “extension of the economic and political interests that finance them, than as watchdogs that hold power accountable”.⁶⁶ These practices have endured in 2019 and 2020, despite the persistence of

⁶¹ Ibid.

⁶² For a few examples on gender discrimination refer to <https://politiko.al/ske-faj-qe-sje-pergatitur-ilva-tare-flet-per-ndodhine-me-edi-ramen/> For journalist threatening and intimidation refer to <https://kshm.al/en/2020/08/18/amc-protests-against-the-insulting-and-threatening-messages-towards-the-journalist-beti-njuma-by-the-mayor-of-tirana/> For a general overview on human rights obligations refer to <https://exit.al/en/2019/06/21/international-media-freedom-delegation-albania-not-meeting-human-rights-obligations/>

⁶³ During the Covid-19 crisis more than 40 journalists lost their job and around 30% suffered salary cuts. Read more at Gërguri, Dren (2020), ‘Çipa: Media pësoi goditje të rëndë nga pandemia, mbi 40 gazetarë humbën vendin e punës ndërkaq rreth 30% e gazetarëve pësuan ulje të pagave’, Portalb, 25 June (<https://portalb.mk/691471-cipa-media-pesoi-goditje-te-rende-nga-pandemia-mbi-40-gazetare-humben-vendin-e-punes-nderkaq-rreth-30-e-gazetareve-pesuan-ulje-te-pagave/>).

⁶⁴ Halo, Adela et al (2015), A blind eye on news: self-censorship in the Albanian media, Tirana: BIRN, p. 6 (<https://birn.eu.com/wp-content/uploads/2017/05/Report-on-self-censorship-in-the-Albanian-media.pdf>).

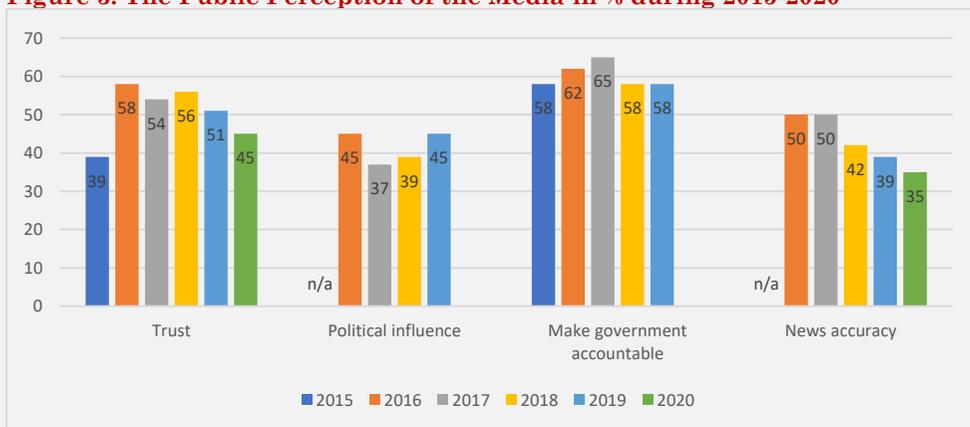
⁶⁵ European Commission (2020) Albania 2020 Report, p. 31.

⁶⁶ Kajsiu, Blendi (2018), ‘Nations in Transit 2018 – Albania’.

media professionals who refused to submit. They continued producing quality investigations and increased donors' attention in their efforts.⁶⁷

During 2015-2020, the government and public institutions have used new practices which became dominant and normal in 2019-2020.⁶⁸ Instead of inviting the media in their activities, the government has been distributing ready-made public relations videos for media publication. It has substantially reduced the number of press conferences and has been carefully pre-selecting the journalists attending them.⁶⁹ Media activists claim that public institutions have decreased the number of replies for freedom of information requests to journalists coming from critical outlets. Fines and lawsuits against media representatives have persisted.⁷⁰ Intimidation mechanisms include fiscal prosecution threats and the anti-slander package. Even the *World Press Freedom Index* by Reporters without Frontiers has made a similar assessment of the media situation in Albania, ranking them in the 82nd place in 2015 (out of 180 countries), then the 75th in 2018, and the 84th in 2020.⁷¹

Figure 3: The Public Perception of the Media in % during 2015-2020



Source: Public opinion poll *Trust in Governance* (IDM, UNDP) 2015; 2016; 2017; 2018; 2019; 2020.

⁶⁷ Interview with civil society activist.

⁶⁸ Interview with civil society activist.

⁶⁹ Exit News (2020a), 'AEJ Condemns Exclusion of Critical Journalist from Media Discussion with Prime Minister Edi Rama', 5 October (<https://exit.al/en/2020/10/05/135416/>).

⁷⁰ During 2010-2020 there have been around 120 lawsuits for slander against journalists and media. Around 37 of them, or 1/3 of all lawsuits happened in 2018-2019. See more at Nazifi, Ermal and Michael J. Orghia (2020), *Qeverisja e internetit në Shqipëri dhe roli i saj në lirinë e medias*, Tiranë: BIRN Albania, p. 22; p. 50 (<https://birn.eu.com/wp-content/uploads/2020/09/Qeverisja-e-internetit.pdf>).

⁷¹ Reporters Without Borders, *World Press Freedom Index* (<https://rsf.org/en/ranking>).

Reporters without Frontiers' index and the *Trust in Governance* reports confirm the same account. Data from 2016, 2017 and 2018 show the highest level of public trust in the media, the lowest perception of political interference in relation to other years and good media efficiency in holding the government to account. After 2018, trust diminishes, political influence increases, government's accountability stagnates, while news accuracy perception drops by 11 percent, suggesting a rise in propaganda. 2017 signals the end of the first wave of media intimidation, and at the same time the initiation of the second wave which is still in action in 2020.

In short, the government's policies during 2015-2020, its public discourse and attacks on the media and independent journalism throughout this period have constrained the right of expression and hampered media independence. In doing so, they curtailed the civic space, especially during the second wave of intimidations 2017-2020. The second wave hold a harsher public discourse of public officials against journalists, increased number of lawsuits, a deteriorated legal environment and suppression of critical voices.

Citizens' Engagement in Decision-Making and Participatory Democracy – Practices of Public Consultations

Civic engagement is a crucial indicator of a healthy civic space and democracy. Citizens participate in the decision-making process by means of public consultations, public hearings, periodic contact with representatives and public officials, through and with civil society, as well as by protests and petitions. This section focusses on the public consultation policy and process, on the citizens' participation in decision-making and freedom of assembly during 2015-2020. Data show that despite mechanisms of public consultations regulating it, civic engagement has diminished since 2016-17, which is a worrying indicator for the civic space.

Passing the law 146/2014 "On public consultation and notification" aimed to strengthen the civic space on the basis of the principles of participatory democracy and cooperation between state institutions, civil society and citizens. The application of this mechanism seemed promising in 2014, based on the consultation practice of the following draft-laws. Law 115/2014 "On the territorial and administrative division of local government units in the Republic of Albania" was one of the first draft-

laws to apply the mechanism.⁷² A public consultation process consisting of two rounds of discussions with experts and civil society representatives was enabled with international funds from the Support to the Territorial and Administrative Reform project and implemented by UNDP Albania. CSOs were also consulted in the justice reform process, in all its drafting, public consultation, approval and monitoring phases.⁷³ However, in the case of the law on higher education, despite going through the consultation process, the draft law did not reflect the input of civil society and was approved by the Parliament in 2015, unchanged.

A monitoring report by *ResPublica* on the application of public consultations during 2017-2018 argues that the law itself is not sufficient to guarantee a meaningful participatory dimension if the government does not commit to the process. The report finds⁷⁴ that the Albanian Government is not interested in the implementation of the law, due to the following practices. Prior notifications for consultations are not used. When advertised, they lack legal requisitions. The public shows little interest, while the participation of the few CSOs involved is based on advocacy interests. The online platform is not user-friendly and, in two-third of all instances, the public authorities do not provide feedback on the recommendations received. Yearly monitoring reports on public consultations are rarely published by ministries or municipalities. The report concludes that most of the draft laws that are approved do not apply the procedure, while the ones that do so, apply it formally.

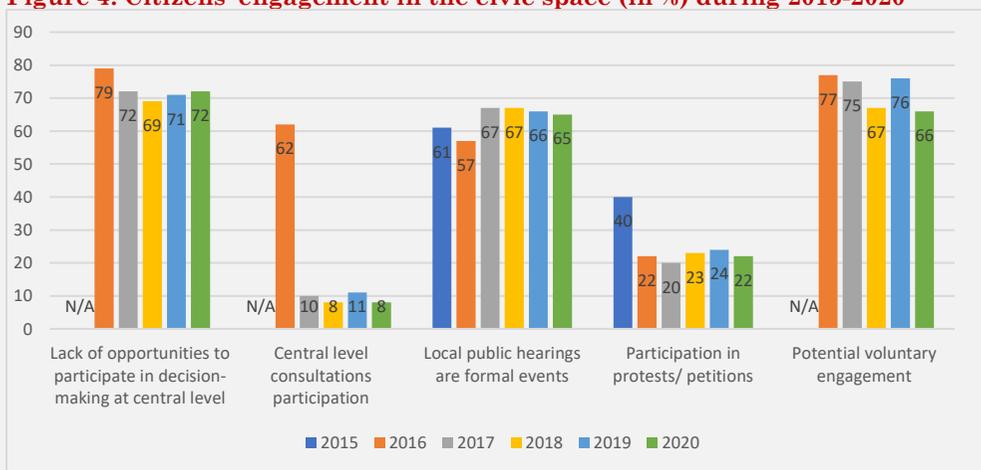
The Trust in Governance reports (see Figure 4) show that the participation of citizens in public consultations has diminished drastically since 2016.

⁷² UNDP Albania (2015), 'Support to Territorial and Administrative Reform - What is the programme about?' (https://www.al.undp.org/content/albania/en/home/operations/projects/democratic_governance/support-to-territorial-and-administrative-reform.html).

⁷³ Dobrush, Andi (2016) 'How Albania is reforming its troubled justice system?', Open Society Foundation Albania, 12 February (<https://www.osfa.al/publikime/how-albania-is-reforming-its-troubled-justice-system>).

⁷⁴ Matlija, Dorian and Dule, Irena (2019), 'Konsultimi publik në Shqipëri 2017-2018', p. 52-53.

Figure 4: Citizens' engagement in the civic space (in %) during 2015-2020



Source: Public opinion poll *Trust in Governance* (IDM, UNDP) 2015; 2016; 2017; 2018; 2019; 2020.

Figure 4 data infer that a steady majority of citizens believe that there has been lack of opportunities for participation in decision-making. Although the situation appeared to be slightly improving until 2018, the rise in perceptions on the lack of opportunities in 2019, stopped the ascending trend. Potential voluntary engagement remained high as well, which suggests that people want to be engaged, but are not incentivised to mobilise, or face impediments to volunteering. The latter has been linked to deficiencies in the law on voluntarism itself.⁷⁵ The decrease of participation in protests or petitions since 2016 also shows a lack of mobilization and reinforces the perception that participatory mechanisms on both the central and local levels are in decline.

Public discourse legitimizes protests as the last democratic mean that occurs when a society has exhausted all other democratic means. Based on our figure 4, the other democratic means are decision-making participation opportunities and public consultations. The public perception shows that citizens have not been satisfied with the application of those means, especially during 2017-2019. A strong majority of 79 percent of respondents believed they lacked decision-making opportunities in 2016, even though 62 percent of respondents had participated in public consultations. From the same sampling, 57 percent assessed public hearings as formal events. However, only 22 percent of respondents had participated in protests in 2016. Year 2018 shows that

⁷⁵ Interview with civil society activist. For instance, CSOs that engage volunteers need to register them in Tirana, on each activity they participate in. The requisition demotivates CSOs to involve volunteers.

respondents were aware of the existence of more decision-making participation opportunities, however, only 8 percent of them had participated in a public consultation and 67 percent believed that public hearings were formal. Yet, only 23 percent of respondents had participated in protests. Data infer that protesting has not raised significantly in response to declining participation in decision-making. This issue requires more detailed study, but figures demonstrate already worryingly less active citizenry and as a result, shrinking of the civic space during 2015-2020.

Actual legislation imposes barriers to the full application of the freedom of assembly in Albania. Spontaneous assemblies are not foreseen by the Law 8773/2001 “On assemblies”. The law requires the notification of the State Police for each organization of protests, but in practice the Police applies the Criminal Code which requires a permission. During 2015-2020, the Ombudsperson, many CSOs and the European Commission Progress Reports have repeatedly requested the parliament and the government to amend legislation and legalise the right to spontaneous assembly, but they have not addressed the issue yet. Albanian citizens are still imprisoned and sentenced for participating in a peaceful protest, which can become illegal if the Police decides so.⁷⁶ Notwithstanding these obstacles, the number of citizens imprisoned and convicted for illegal assembly or opposing a police law enforcement officer has increased during 2018-2020, serving as another evidence for a shrank civic space.⁷⁷

To sum it up, law 146/2014 “On public consultation and notification” has been a strengthening mechanism of civic space in principle, but its application has been formal and not inclusive. Citizens’ participation in public consultation has fallen drastically since 2017 and so has participation in protests which reached its lowest point in 2017. It has been slightly raising since then, but years 2018-2020 hold an increasing number of lawsuits against citizens who have participated in unlawful protests. Regardless of calls, law 8773/2001 “On assemblies” and the Criminal Code were not amended during 2015-2020 and spontaneous or

⁷⁶ For example, in 2018 students gathered spontaneously in protests at the Ministry of Education. Even though they blocked the traffic for several days, the police didn’t intervene. In the same year, protesters in the zone of Astir were arrested and processed for participating in unlawful gatherings, traffic block, etc.

⁷⁷ For further comparison and detailed analysis refer to Avokati i Popullit (2019), Annual Report – on the activity of the Ombudsman’s Institution, year 2018, May, p. 64-69

(<https://www.avokatipopullit.gov.al/media/manager/website/reports/Annual%20Report%202018.pdf>); and Avokati i Popullit (2020b), Annual Report – the activity of the People’s Advocate Institution year 2019, p. 104-114
(<https://www.avokatipopullit.gov.al/media/manager/website/reports/Annual%20Report%202019.pdf>).

unapproved protests are practically not allowed. The deteriorated application of the public consultation mechanism and the decreased participation of citizens in decision-making has been evident since 2017 onwards, providing evidence for shrinking civic space particularly during 2017-2020.

Civic Response to Governmental Policies

The Civil Society Index for Albania noted in 2010 that the weakest dimension and “the major deficiencies (of civil society) consist of the low degree of civic engagement and also the limited impact” of their work in society.⁷⁸ While participation in decision-making and active citizenry have suffered further decrease since 2017, the increased civic organization documented since 2016 amounts to something of “an awakening of civil society”.⁷⁹ Civic organisation has come in reaction to various governmental policies and reforms such as the education reform, waste management policy, energy policy, cultural policy, infrastructural policy, etc. during the past five years. It peaked in 2018, when university students all over the country joined in peaceful protests. Over the years, CSOs have diversified the methods and instruments employed in civic struggles by using legal initiatives proposals, petitions, lawsuits and the internationalization of the causes in support of the various civic struggles. Civic organization gained vitality and sustainability during these years especially in 2018-2020. However, the efforts of civic actors such as CSOs and media were not massively supported by the citizens and rarely affected governmental policy. The deficiency of connecting causes, nationalizing struggles and influencing policymaking lies in the shrink of the civic space.

The students’ protests against the reform on higher education were the highlight of 2015.⁸⁰ These protests achieved national media coverage when activists of the *For the University Movement* threw eggs at the car of the Prime Minister, after his visit at the University of Tirana. Their act expressed discontent with the law 80/2015 “On higher education and research”. The students involved in the action were arrested and eight of

⁷⁸ Vurmo, Gjergji et al (2010), *Civil Society Index for Albania*, In search of citizens and impact, Tirana: IDM, p. 2 (http://www.civicus.org/images/stories/csi/csi_phase2/csi%20albania%20acr_eng.pdf).

⁷⁹ Lamallari, Besfort (2017), ‘Nations in Transit 2017 – Albania’, Freedom House <https://freedomhouse.org/country/albania/nations-transit/2017>).

⁸⁰ Lamallari, Besfort (2016), ‘Nations in Transit 2016 – Albania’, Freedom House (<https://freedomhouse.org/country/albania/nations-transit/2016>).

them were sentenced to two months in prison, which was equalled to 60 hours of voluntary work.⁸¹ The case lasted almost two years.

A ten-year old disputed governmental policy on waste import management also sparked protests in 2016. It revitalised the environmentalist movement in Albania, which had peaked in November 2013 with protests against the dismantlement of Syria's chemical weapons in Albania. The ruling majority revived in 2016 the law 10463/2011 "On waste management integration". The law was considered an example of state capture⁸² and was suspended in 2013 in response to massive civic opposition to waste import. It was eventually amended and successfully adopted by the same government in 2016. The long civic opposition led by the *Alliance against the Import of Waste* during 2010-2013 against the law 10463/2011, was also revived in 2016. This time it was much less powerful and less well organized. The amended law and the rich environmentalist civic resistance legacy paved the way for *Nisma Thurje* to file a formal report with the Anti-Corruption Prosecution against concessionary procedures applied on the waste incinerator of Fier in 2020.⁸³ Regardless of its results, this was one of the first protests post 2013 that managed to mobilize some dozens of citizens, apart from CSOs advocating for environment protection.

During 2016-2020, the environmentalist movement backed by CSOs continued with grassroots action by local communities, activists and artist against the construction of power-plants in national natural parks or river banks such as by the rivers Valbona, Vjosa, Devoll, and Mat. Affected communities and activists blended energy policy to environment policy, sustainable development and tourism. Hydro plant projects have been evaluated by involved citizens as threatening to the environment, the water supply and the micro economy of the nearby communities.⁸⁴ Citizens and activists claim that most of the projects have not been

⁸¹ Panorama Online (2019), 'Dënimi për studentët që qelluan Ramën me vezë. Apeli nuk u pranon ankimimin. Ja arsytet', 18 March (<http://www.panorama.com.al/denimi-per-studentet-qe-qelluan-ramen-me-veze-apeli-nuk-u-pranon-ankimimin-ja-arsyet/>).

⁸² Kajsiu, Blendi (2011) 'Importi i mbetjeve si simptomë e kapjes', Panorma Online, 2 November (<http://www.panorama.com.al/importi-i-mbetjeve-si-simptome-e-kapjes/>).

⁸³ Exit News (2020c), 'Fier Waste Incinerator Concessionary Reported to Anti-Corruption Prosecution', 24 June (<https://exit.al/en/2020/06/24/fier-waste-incinerator-concessionary-reported-to-anti-corruption-prosecution/>).

⁸⁴ BIRN Albania (2018) 'BIRN Albania's documentary 'Free flow' premiered', 11 June (<https://birn.eu.com/news-and-events/birn-albanias-documentary-free-flow-premiered/>).

consulted with the local communities and the latter have been informed when the hydro plants started being built.⁸⁵

Thanks to extended scientific research, firm activism, several court cases, and solidarity among communities, activists, academia, artists, media and donors, a few of these projects were temporally suspended with a court decision, e.g. the Poçem plant on Vjosa river in 2017.⁸⁶ Based on the complaint by the Albanian CSO *EcoAlbania* and its international partners *Riverwatch* and *EuroNatur*, part of the *Save the Blue Heart of Europe* initiative, the Energy Community Secretariat officially opened a dispute against Albania's procedures on hydropower plants' contracts in September 2020.⁸⁷ The effects of the dispute remain to be seen, but the environmental cause has managed to organise local communities in cooperation with national and international CSOs who have offered professional legal expertise⁸⁸ and attracted mediatic attention. It has fostered international cooperation between CSOs and inter-professionalism among various professionals. For instance musicians were involved in a series of concert-protests calling for the protection of rivers and nature during 2016-2017.⁸⁹

However, the construction of hydro power plants has rarely stopped and the ecosystem has already been damaged irreversibly. The hydro plants of Dragobi and Çeremi, in the river Valbona are being built, despite being located in protected zones of the national park and when the lawsuit is

⁸⁵ For a more detailed account on this struggle see Baxhaku, Elton (2018), *Free flow*, Documentary, Tirana: BIRN (<https://www.youtube.com/watch?v=RPnQWY8KsE8>).

⁸⁶ The Poçem hydro plant on the river Vjosa was the first environmental lawsuit in Albania. The decision of the Administrative Court of Tirana on May 2, 2017 noted that the Environmental Impact Assessment of the project was not issued in accordance with the law and proper public consultation with the affected community were absent. Therefore, the projected dam must not be constructed. Read more at: Environmental Justice Atlas (2019), 'Poçem hydropower dam stopped', 18 August (<https://ejatlas.org/print/pocem-hydropower-dam-albania>).

⁸⁷ Balkanrivers (2020) 'Energy Community tightens policy guidelines on small hydropower projects and opens procedures against Albania', 24 September (<https://www.balkanrivers.net/en/news/energy-community-tightens-policy-guidelines-small-hydropower-projects-and-opens-procedures>). And Erebara, Gjergj (2020), 'Albania 'Breached EU Directive' in Awarding Hydropower Plant Contract', Balkan Insight, 15 September (<https://balkaninsight.com/2020/09/15/albania-breached-eu-directive-in-awarding-hydropower-plant-contract/>).

⁸⁸ WWF (2017) 'Legal struggle of local communities to protect Valbona Valley National Park from hydropower development', 12 July (<https://wwf.panda.org/?304271/Legal-struggle-of-local-communities-to-protect-Valbona-Valley-National-Park-from-hydropower-development>).

⁸⁹ Tirana Echo (2016) 'Musical protest to protect Albanian Alps and refuse waste import muted by Albanian media owners', 1 November (<http://www.tiranaecho.com/albania/musical-protest-to-protect-albanian-alps-and-refuse-waste-import-muted-blocked-by-albanian-media-owners/>).

still to be resolved by the High Court.⁹⁰ Even though many local communities face the same threat, this struggle has not managed to become a national issue and mobilize citizens. It hasn't impacted the change of governmental policy neither.⁹¹

2018 started with the protests of citizens in Kukës, demonstrating against the highway toll in *Rruga e Kombit*. Initiated by merchants' associations and supported by ordinary citizens, the protests ended in confrontation with the State Police. This was the first massive protest post 2013 which engaged hundreds of citizens of Kukës and the region. In response, the State Police imposed a police regime in town. Numerous citizens were arrested unlawfully and in violation of civil rights according to the Ombudsperson.⁹² Many others were intimidated to refrain from protesting. The tactic ended the protest, but the government backed from its initial plan and found a mechanism to lower the toll fee for local inhabitants, by directly subsidizing the concession holder.⁹³

Meanwhile, the capital Tirana, witnessed three enduring protests that took place simultaneously during 2018: the resistance against the demolition of the National Theatre, the protests of Astir residents against 'the new ring road project' and the students' protests on the condition of the higher education system. All three groups demanded sustainable urban development in three different dimensions: cultural, infrastructural, and societal. Yet, protests did not manage to align or unite their efforts into their mutual cause, despite their remarkable organization, originality and activism.⁹⁴

Each protest brought novelty to the civic engagement in Albania. Students' protests gave a lesson on freedom of expression with their

⁹⁰ Ndivat, Entela (2020) 'Punimet për HEC-et kthejnë ujën e ftohtë të Valbonës në një rrjedhë të zbardhur nga inertet', Citizens Channel, 25 September (<https://citizens-channel.com/2020/09/25/punimet-per-hec-et-kthejne-ujin-e-kalter-te-valbones-ne-nje-rrjedhe-te-zbardhur-nga-inertet/>).

⁹¹ Amidst protests, the government has continued to approve the building of hydro plants such as those on the river Cem, issued in 2018 and 2019. More in EcoAlbania (2020), 'Lumi Cem – i kërcënuar nga ndërtimi i hidrocentraleve', 20 June (<https://www.ecoalbania.org/sq/2020/06/20/lumi-cem-i-kercenuar-nga-ndertimi-i-hidrocentraleve/>).

⁹² Exit News (2018a), 'Protesta kundër tarifave në Rrugën e Kombit – Çfarë dimë deri më tani?' 3 April (<https://exit.al/protesta-kunder-tarifave-ne-rrugen-e-kombit-cfare-dime-deri-me-tani/>).

⁹³ Exit News (2018c) 'Government plunders state budget for Rruga e Kombit concession holder', 6 September (<https://exit.al/en/2018/09/06/government-plunders-state-budget-for-rruga-e-kombit-concession-holder/>).

⁹⁴ For a detailed analysis see Azizi, Orgest (2020), 'Për një fenomenologji politike të protestës', Peizazhe të fjalës 5 December (<https://peizazhe.com/2020/12/05/per-nje-fenomenologji-politike-te-protestes/>).

creative and critical slogans against public funds theft, brain drain, professors' plagiarism and sexual harassment, etc. They synthesised the precarious situation of the university, the education policies and human resources management in general. Students showed courage in the face of intimidation during the public consultations with the Prime Minister that followed the protests. Although suppression tactics managed to disperse the protests, the students' action forced the government to reshuffle and brought the university and civic engagement to the attention of the broader Albanian society. On the other hand, protests organized by residents in the Astir area of Tirana managed to temporarily suspend a road construction bidding procedure beset by irregularities.⁹⁵ Their houses were demolished in March 2020 and they are still facing charges for their resistance on account of having organized spontaneous and therefore illegal protests.

Finally, the resistance against the demolition of the National Theatre during 2018-2020 drew public attention to the importance of culture and cultural monuments and to the need to protect Albania's national heritage. Throughout the resistance, the *Alliance for the Protection of the National Theatre* organised daily acts such as public talks and public shows. Artists occupied the building and made the theatre a civic communal space. In collaboration with the *Gjirokastra Foundation*, they managed to internationalise the cause for the protection of the building complex. The *Europa Nostra* organization enlisted the complex of the National Theatre in the top of the list of the seven most endangered heritage sites in Europe⁹⁶ and engaged in raising funds to restore it. After its brutal demolition in May 2020, a list of scholars, artists, activists and citizens signed an open letter to the international art community to stop the art-washing politics of Prime Minister Rama.⁹⁷

In 2019, journalists too protested against the anti-defamation package. They received international support from the *European Centre for Press and Media Freedom*, the *European Federation of Journalists*, the *International Press Institute*⁹⁸ and by the Council of Europe and its

⁹⁵ Taylor, Alice Elizabeth (2019b) 'Fifteen Arrests after Citizens Protest against Demolishment of Their Homes', Exit News 14 October (<https://exit.al/en/2019/10/14/fifteen-arrests-after-citizens-protest-against-demolishment-of-their-homes/>).

⁹⁶ Europa Nostra (2020), 'Europe's 7 Most Endangered heritage sites 2020 announced', 24 March (<https://www.europanostra.org/europe-7-most-endangered-heritage-sites-2020-announced/>).

⁹⁷ Di Liscia, Valentina (2020), 'Open letter condemns the "Artwashing" of Albanian Prime Minister's politics', Hyperallergic 19 May, (<https://hyperallergic.com/565114/open-letter-condemns-artwashing-albania/>).

⁹⁸ Based on *ibid.*

Human Rights Commissioner.⁹⁹ Even though the advocacy did not prevent the approval of the package by the Parliament, it ensured the recommendation of the European Commission for the amendment of the laws, in compliance with freedom of expression.

After many years of efforts, the labour movement showed signs of self-organisation in 2019.¹⁰⁰ CSOs have provided support to workers to set up collective organizations, as a result of which new labour unions have been formed, such as the Unified Miners of Bulqiza Union. The private company that manages the mine dismissed the chair and other miners due to the very act of founding a labour union.¹⁰¹ Meanwhile the workers in the Ballsh refinery conducted a series of protests from 2018, followed by a 44-days hunger strike in 2020 demanding their unpaid salaries. Only after one of the workers tried to commit suicide in November 2020, protesters and the government agreed to negotiate and managed to find a solution.¹⁰²

Since 2019 the broader civil society has also been engaged in two initiatives to change the electoral system in the country. The first was a petition signed by more than 50,000 citizens and delivered to the Parliament by representatives of *Nisma Thurje*, supported by two members of parliament. The other was a procedural request initiated by a group of citizens aiming to organise a referendum on the electoral system that was rejected by the Central Electoral Commission. This is not a separate episode as Albanian citizens have been denied several times the right to express their will in a referendum, due to the absence of the law on referenda.

To address this gap in the legislation, INFOÇIP, a non-governmental organisation based in Tirana, took the initiative to draft such a law that enhances participatory democracy. In 2016 legal experts engaged in drafting the law organized consultations with other civil society representatives. The draft-law was finalised in 2018. A refined version

⁹⁹ Commissioner for Human Rights (2019) 'Commissioner urges Albania's Parliament to review bills which restrict freedom of expression', Strasbourg: Council of Europe 17 December (<https://www.coe.int/en/web/commissioner/-/commissioner-urges-albania-s-parliament-to-review-bills-which-restrict-freedom-of-expression>).

¹⁰⁰ Xhafa, Edlira (2020), 'The difficult birth of an independent labour movement in Albania', 14 January (<https://smbb.substack.com/p/the-difficult-birth-of-an-independent>).

¹⁰¹ Curri, Sami (2020) 'Vendimi i Komisionerit: Albchrome i shkarkoi minatorët për shkak të angazhimit sindikal', Reporter.al 3 November (<https://www.reporter.al/vendimi-i-komisionerit-albchrome-i-shkarkoi-minatorët-per-shkak-te-angazhimit-sindikal/>).

¹⁰² Exit News (2020d), 'Ballsh oil workers salary to come from COVID-19 fund', 19 November (<https://exit.al/en/2020/11/19/ballsh-oil-workers-salary-to-come-from-covid-19-fund/>).

was then accepted for legislative proceedings in the parliament in September 2020 and was backed by one MP.¹⁰³ If approved, the law on referenda and the possible bylaws for its implementation would provide the legal basis for the facilitation of the participation of citizens in decision-making and strengthen civic space.

This section of the paper presented a few cases of several struggles that have been organised in Albania between 2015 and 2020. What unites these endeavours is that most of them were not connected with each other but repeat one another, without managing to establish precedents. The majority of the projects were not consulted with the public and the citizens' reaction came when most of the damage was already done. Per consequence, civic struggles scored temporary achievements that failed to inspire large-scale citizen participation and change governmental policy. For instance, the National Theatre demolition on 17 May 2020 was immediately followed by another symbolic demolition: the restored National Theatre of Opera and Ballet was not inaugurated by artists but by a TV show starring the Prime Minister and analysts.¹⁰⁴ However, the cooperation between communities, citizens, informal groups and CSOs has improved during 2015-2020, particularly since 2016 due to the inclusive efforts dedicated to the environmentalist cause. The general public has become more aware of the work carried out by civil society and is therefore putting more trust in the system. At the same time, civic struggle has gained organizational capacities during 2016-2020. The repertoire of civic action has also grown. In addition to the traditional means of protests, strikes, hunger strikes and petitions, it has included new tools, such as legal initiatives, lawsuits and the international solidarity and cooperation among CSOs and international institutions.

The Impact of Covid-19 Restrictions on Civic Space

Covid-19 pandemic government measures during 2020 shrank furthermore civic space in Albania. In March 2020, the Albanian government notified the Council of Europe about the restrictions on human rights and freedoms that it has taken in response to the Covid-19

¹⁰³ INFOCIP (2020), 'Projektligji "Për referendumet" hyn në proces legjislativ. Nisma e INFOÇIP, e konsultuar me shoqërinë civile një hap më pranë realizimit përfundimtar', September (<https://www.infocip.org/al/?p=13560>).

¹⁰⁴ Dritare (2020), "Shija e tmerrshme e përrimit të TKOB", 21 May (<https://dritare.net/ngjarjet-edites/shija-e-tmerrshme-e-perurimit-te-tob-191>).

pandemic, in accordance with the normative act no. 3/2020.¹⁰⁵ To strengthen the enforcement of these restrictions, the executive initiated amendments to the Criminal Code in April 2020. Their purpose was to further regulate the state of exception and the state of emergency in cases of a natural disaster, which included epidemics. The draft foresaw higher fines and prison sentences up to 3 years for those who breached quarantine legal provisions. The amendments of the Criminal Code were passed by the parliament and decreed by the president. Several civil society organizations pleaded with the government to refrain from amending the code because, in their view, such actions were not adhering to the foreseen procedure, were disproportionate and therefore “did not respect the principle of humanity foreseen by the Criminal Code and violated human rights and liberties”.¹⁰⁶ The amendment of the Criminal Code legalised further more every bylaw issued by public authorities in relation to the Covid-19 epidemic situation and criminalised the violation of protocols. As a result, the government banned the right to assembly during the state of emergency by order the Ministry of Health no. 132, on 8.3.2020 and limited gatherings to a participation of less than ten persons following the order of the Ministry of Health no. 633, on 17.11.2020.¹⁰⁷

In May 2020, ten civil society activists were detained during their participation in the publicly notified protest, standing in an open space and respecting social distance. They protested against the demolition of the National Theatre and the extended duration of the Covid-19 lockdown. The police intervention was justified as a means to impose distancing restrictions during the pandemic and prosecute violators. However, as shown by media images, there were more police officers present in the spot, than actual protesters.¹⁰⁸ The same day, the media also reported that other citizens were having gatherings at the seaside undisturbed by the

¹⁰⁵ Këshilli i Ministrave (2020) ‘Për marrjen e masave të veçanta administrative gjatë kohëzgjatjes së periudhës së infeksionit të shkaktuar nga COVID-19’, Normative Act no. 3, dated 15.3.2020, Fletore Zyrtare (37) 15 March (<https://qbz.gov.al/eli/akt-normativ/2020/03/15/3>).

¹⁰⁶ Komiteti Shqiptar i Helsinkit (2020), “Deklaratë e përbashkët për median”, 11 April (<https://ahc.org.al/deklarate-e-perbashket-per-median/>).

¹⁰⁷ For more details read the Order of the Minister of Health and Social Protection no. 132, dated 8.3.2020 “Për mbylljen e aktiviteteve publike dhe jopublike dhe anulimin e grumbullimeve masive në vende të mbyllura apo të hapura at <https://qbz.gov.al/eli/urdher/2020/03/08/132/9f294e1a-c737-4fc6-a46a-aaa2a825c3eb> and the Order of the Minister of Health and Social Protection, no. 633, on 17.11.2020 “Për ndalimin e grumbullimeve në vende të mbyllura apo të hapura” at <https://qbz.gov.al/eli/urdher/2020/11/17/633/5c8ca1e2-0838-4488-9f0b-2ecfbc756f45>

¹⁰⁸ Avokati i Popullit (2020a), “Avokati i Popullit reagon mbi përplasjet në sheshin "Skënderbej", 9 May (<https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/this-article-is-available-only-in-albanian-479/>)

police.¹⁰⁹ On May 17th 2020, the State Police intervened in the demolition of the National Theatre. They detained 64 citizens¹¹⁰ and charged nine others for protesting illegally, without a police permit and in infringement of legal acts banning protests during the state of emergency.¹¹¹ According to the Ombudsperson's report on this event, the State Police had violated citizens' rights, used disproportionate violence and became a potential Covid-19 spreader.¹¹²

However, the Ombudsperson notes that public authorities of the public administration have organised gatherings, meetings, public consultations and concerts in the open during the pandemics, while protests organised by citizens weren't allowed by the police.¹¹³ These double standards suggest that the problem was probably linked to the purpose of the gathering, rather than to the number of persons involved in it. Various CSOs requested the revision of legal acts banning freedom of assembly and the criminalization of the right to protest in pandemics,¹¹⁴ but neither of their requests or the recommendations of the Ombudsperson were considered by the government. While developments linked to the restrictions of the civic space documented throughout 2020 and during the pandemic warrant further investigation, State Police arbitrary practices ring the red alarm bells about the risk of consolidating a state police, acting in a permanent state of exception in Albania.

¹⁰⁹ BalkanWeb (2020), 'VIP-at shqiptarë nuk pyesin për koronavirusin', 9 May

(<https://www.balkanweb.com/vip-at-shqiptare-nuk-pyesin-per-koronavirusin-me-bikini-ne-plazhet-e-jugut-e-duke-festuar-prane-zjarrit-gjate-darkave-ne-borsh/>).

¹¹⁰ Policia e Shtetit (2020a) 'Raporti i ngjarjeve për 72 orët e fundit, Policia e Shtetit', 18 May (<https://www.asp.gov.al/raporti-i-ngjarjeve-per-72-oret-e-fundit-policia-e-shtetit-34/>).

¹¹¹ Policia e Shtetit (2020b) 'Tiranë – Organizuan protestë të paligjshme, procedohen penalisht 9 persona', 19 May (<https://www.asp.gov.al/tirane-organizuan-proteste-te-paligjshme-procedohen-penalisht-9-persona/>).

¹¹² Avokati i Popullit (2020c), 'Rekomandime mbi veprimet/ mosveprimet e kundërligjshme të strukturave të Policisë së Shtetit gjatë dhe pas prishjes së godinës së Teatrit Kombëtar, 17 November, p. 6; 8; 19; 31-32 (<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20Teatri%20Kombetar%20nëntor%202020.pdf>).

¹¹³ Avokati i Popullit (2020d), 'Rekomandim për marrjen e masave të nevojshme për respektimin e lirisë kushtetuese të tubimit edhe gjatë gjendjes së jashtëzakonshme', p. 7, (<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20marrjen%20e%20masave%20t%C3%AB%20nevojshme%20p%C3%ABr%20respektimin%20e%20liris%C3%AB%20kushtetuese%20t%C3%AB%20tubimit%20edhe%20gjat%C3%AB%20gjendjes%20s%C3%AB%20jasht%C3%ABzakonshme.%20.pdf>).

¹¹⁴ Qendresa Qytetare (2020), '35 organizata dhe sindikata letër të hapur institucioneve për të drejtën e protestës në kohë pandemie', 19 November (<https://qq.com.al/index.php/2020/11/19/35-organizata-dhe-sindikata-leter-te-hapur-institucioneve-per-te-drejten-e-protestes-ne-kohe-pandemie-mungesa-e-protestes-vret-demokracine-e-per-pasoje-jeten-e-qytetareve-te-cilet-nese-qeverisen-nuk/>).

CONCLUSIONS AND RECOMMENDATIONS

This paper examined the development of civic space in Albania during 2015-2020. It built on the assumption that a strong civic space contributes to the consolidation of democracy and if progress in such direction is halted, shrinking civic space becomes a symptom of democratization backslide. The focus of the analysis were governmental policies and practices which have affected the civic space and its contributors: CSOs, media and citizenry. The trend of development of the civic space was measured by the progress obtained in consolidating human and civil rights, focussed on law and strategies application. Citizens' participation in the public and civic space was assessed by the participation in public consultation, decision-making opportunities and freedom of assembly. The civil society sustainability and resilience was evaluated according to policies on freedom of association and the enabling environment of civil society, and media independence by policies and practices towards freedom of expression. Based on the analysis, the following conclusions emerge:

1. Shrinking civic space has been a trend in Albania during 2015-2020 and it is a symptom of democratization backslide. It has manifested itself in the continuous setbacks of freedom of information and freedom of assembly, particularly from 2018 to 2020; the increased control on civil society since 2019 and the drastically diminished citizens' participation in decision-making, public consultations and protests since 2016-17. The COVID-19 outbreak policies and measures enhanced furthermore the existing trend.
2. The Albanian executive and parliament have been effective in crafting legislation during 2015-2020. A series of laws and amendments have been approved by the parliament that aimed to strengthen the civic space. However, their implementation by means of strategies, action plans, roadmaps, and the like has been problematic and slow-paced. The overproduction of laws that are not backed by all necessary executive legal-administrative acts and by sufficient human and economic resources has translated into a poor implementation of this legislation. At the same time, the overproduction of laws which do not align or harmonise with each other or with their respective executive legal-administrative acts has had negative spill-over effects, impacting the application of the rule of law *per se* and obstructing the civic space.
3. The government has not been applying a meaningful and valid public consultation process. CSOs and citizens confirm that their participation has been limited and diminishing since 2016.

Circumventing the consultation process has increased the need for law amendments, which has enhanced the overproduction of laws and, in turn, delayed their application.

4. The National Council for Civil Society has missed the opportunity to increase cooperation between CSOs and the government. The latter's main strategic document, the 2015-2019 Roadmap for an Enabling Environment for Civil Society in Albania, fell short of implementing some 80 percent of its planned actions. Instead of facilitating procedures, the government's actions and practices have placed CSOs under increased control, debilitating their functioning and thus, contributing to the shrinking of the civic space in the country. The reviewed Roadmap 2019-2023 offers little hope that documented concerns will be addressed.
5. During 2015-2020, public funding for CSOs has remained limited and non-transparent. Due to the Covid-19 crisis, the government reallocated the funds of the Agency for the Support of Civil Society in 2020, leading to a significant reduction in funding for CSOs, by more than 40 percent compared to the previous year. This drop brought the sector's budget to its lowest level in the past 5 years. It debilitated furthermore the role of the Agency in the strengthening of the civic sector in Albania.
6. Data show that CSOs have progressed during 2015-2020. However, their evolution appears to be more connected to donors and autonomous efforts than to the legal or policy framework, which remains burdensome.
7. The media sector has experienced harsh language against journalists, intimidation, attacks, censorship, and self-censorship. The anti-defamation package has been the culmination of a series of growing 'concerns about increased censorship and self-censorship, and setbacks on freedom of expression in the country', especially in 2019 and 2020. It evidences shrank of civic space as a consequence of governmental policy and practices.
8. Ever since 2016, Albania has witnessed an 'awakening of civil society' and improved civic organization post 2013. The civic action repertoire has grown to include new instruments such as legal initiatives, lawsuits and the internationalization of civic causes, alongside other traditional tools such as protests, petitions and hunger strikes. The fact that Members of Parliament have publicly backed civic legal initiatives, especially during 2019-2020, has been a positive development. However, most of these civic endeavours are not connected with each other and have rarely managed to affect governmental policies.

9. Improved civic organization has not increased civic engagement in decision-making. The latter has decreased drastically since 2016 and remains one of the most evident manifestations of a shrinking civic space in the country.
10. Laws impose barriers to the full application of the freedom of assembly in Albania. Spontaneous assemblies are not foreseen by the law on assemblies. Due to conflicting legislation with the Criminal Code, the formal ‘notification’ requirement for organizing a protest is routinely practiced as a ‘permission’ requirement by the State Police. Despite repeated recommendations from national and international institutions, the problem has not been addressed and remains at the root of a series of violations of freedom of assembly. The latter occurred especially during 2018-2020 when the number of illegal protests and citizens detained for participating in them increased significantly.
11. The government applied higher fines and prison sentences for those breaching legal provisions during the state of emergency or natural disaster, after the amendment of the Criminal Code, during the Covid-19 outbreak. Several civil society organizations considered sentences to be disproportionate, contrary to the principle of humanity foreseen by the Criminal Code and in breach of human rights and liberties. Their application rings alarm bells for the shrinking of the civic space in Albania, but also for the risk of consolidating a state police acting in a permanent state of exception.

To start addressing the problem, the following recommendations, inspired by the literature and interviews with civil society activists, seem in order:

- Parliament should revise the anti-defamation package in accordance with the Venice Commission Recommendation and the central government should support the development of self-regulatory bodies within the media itself.
- Parliament should amend the law 119/2015 “On the establishment and functioning of the National Council for Civil Society” to guarantee the independence of the National Council for Civil Society from state interference. The parliament should consider the amendment of a series of laws that have been hampering the environment of civil society during 2015-2020, such as the law 45/2016 “On voluntarism”, law 65/2016 “On social enterprises in the Republic of Albania”, and the law 25/2018 “On accounting and financial statements”.
- Parliament should advance the normal procedure of the draft-law “On referendums” initiated by civil society organizations, in the permanent committees of the parliament. The law would legalise the right of

- referenda of the Albanian citizens and add a tool to their decision-making participation, strengthening civic space.
- Parliament should amend law 144/2014 “On notification and public consultation” based on a wide, inclusive, and meaningful consultation process with CSOs, legal experts and researchers to determine all the needs and issues for implementation and address them accordingly.
 - Parliament should amend law 8773/ 2001 “On assemblies” to guarantee the implementation of the freedom of peaceful assembly. The need to legalise the right to spontaneously assembly and to differentiate between police ‘notification’ and ‘permission’ should be taken seriously after the repeated recommendation of various national and international actors. The State Police should digitalize the notification process via the virtual platform e-Albania.
 - Central and local government should engage in systematic consultations with civil society, informal groups, and local communities to advance reforms and enable a continuous policy dialogue. Public officials’ practitioners should diversify the methodology of public consultation including an array of methods such as town hall meetings, citizens’ assemblies, participatory budgeting, etc. in accordance with the issue and topic of concern.
 - Civil servants of public institutions should form consultative groups and hold periodical specialised meetings with civil society representatives and independent experts. The civil service and civil society share mutual goals and form part of the same social realm. Their enhanced collaboration can reinforce efforts, improve public service and strengthen civic space.
 - Central government should seriously engage in the application of the roadmap 2019-2023 for the enabling environment for civil society. The Agency for the Support of Civil Society should increase its budget and the transparency for its public grants distributions.
 - The Agency for the Support of Civil Society should go through an inclusive and consulted reforming process aiming the strengthening of its role and contribution in the advancement of the civil society sector in Albania. It should add transparency and inclusiveness of all involved actors in the selection of its governing bodies. It should engage in public consultations with CSOs for the selection of priorities and areas supported by state funding. It should enhance the transparency of the evaluation process of project calls applications and the principles governing the distribution of public funding to civil society organizations project calls’ beneficiaries.
 - Central government should invest in the specialization of human resources and infrastructure for data collection and transparency.

Evaluators and data analysts in all state institutions should comprehensively monitor, assess and evaluate the implementation of human rights legislation, policies and strategies. The Albanian School of Public Administration should train civil servants and other public officials, centrally and locally to advance data gathering and monitoring skills, and share best practices from the centre to the periphery.

- Local CSOs in particular should strengthen their capacities in public consultations methods, monitoring and evaluation of public policies in order to become better civic actors, hold public institutions accountable and better connect communities to institutions. The National Resource Centre for Civil Society in Albania should assist local organizations and grass-root groups by sharing best practices in law application and finances.
- Multi-disciplinary teams including researchers, investigative journalists, scientists, legal experts, and practitioners should research in depth about state capture and its effects in the civic space, democratization, political culture and overall public space of Albania. Each actor is indispensable and irreplaceable for the task.

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