



PUBLIC CONSULTATIONS: EXAMINING TRANSPARENCY AND ACCOUNTABILITY



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¹See: <https://idmalbania.org/publication-cpt/monitoring-report-public-consultation-in-albania-the-illusion-of-inclusion/>

INTRODUCTION

Public consultations are an indispensable instrument for cultivating democratic governance and allowing citizens to participate in decision-making processes. Ensuring their transparency is critical for keeping these processes open and accessible, while requiring institutions to provide clear and timely information about consultation processes.

Similarly, accountability is fundamental for maintaining trust and legitimacy in public consultations. It requires institutions and decision-makers to be transparent, obliged, and receptive toward the citizens that have chosen them. An accountable consultation process is clear and verifiable, it includes participants comments, provides means to address concerns when rules are violated, and overall strengthens the democratic governance process.

Together, these principles construct the foundations of effective and inclusive public consultations. Addressing the weaknesses across all indicators making up these principles is crucial for improving institutional practices and strengthening public trust.

METHODOLOGY

The methodology for monitoring public consultations is grounded in six key principles: transparency, accessibility, effectiveness, accountability, inclusiveness, non-discrimination, and citizen participation. To assess how institutions adhere to these principles, a scoring system with 31 indicators is developed - 15 of which are evaluated annually at the institutional level, and 16 are assessed for individual acts. This system generates a public consultation index that classifies institutional performance as low, average, or high based on the assigned scores.

The monitoring process covered 10 central government institutions between March and June 2024. It analyzed 50 draft acts (laws, public policies, and strategic documents) that were consulted by the Albanian government during 2022–2023.

Data collection methods included desk research and Freedom of Information Requests.

The institutions involved in the monitoring are as follows:

- Ministry of Interior (Moi)
- Ministry of Agriculture and Rural Development (MARD)
- Ministry of Justice (MoJ)
- Ministry of Tourism and Environment (MTE)
- Ministry of Infrastructure and Energy (MIE)
- Council of Ministers (CoM)
- Ministry of Finance and Economy (MFE)
- Agency for Water Resources Management (AWRM)
- Ministry of Education and Sports (MES)
- Ministry of Health and Social Protection (MHSP)

A detailed version of the methodology, including criteria for selection of institutions and draft

acts, and the evaluation matrix outlining the assessment criteria for each indicator, is available on the Institute for Democracy and Mediation's [website](#)².

EXECUTIVE SUMMARY

Among the indicators pertaining to transparency, the 10 monitored institutions performed best when it came to publishing their annual public consultation plans (70%). Most of the other indicators had above average results, including the transparency of comments collected during consultations (64%), the drafting of annual (60%) and individual (60%) reports of public consultations, and the publication of the package of supporting documents for the consultation process (58%). The lowest performing indicator was the one concerning the publishing of individual public consultation plans, which stood at 29%. Out of the 10 institutions, those that performed best on transparency were the Ministry of Interior, the Ministry of Tourism and Environment, and the Council of Ministers (scoring 88%, 73% and 67% respectively).

On the other hand, in terms of accountability, the 10 institutions achieved a total score of 32%. When taking a close look at the indicators making up the accountability metric, there is a clear disparity between the first and the second half. One half of the indicators garnered respectable scores of 45%, 56% and 39%. Therefore, the consultation processes of draft acts were moderately accountable for the drafting phase of the respective acts; had generally been planned out in strategic documents; and tended to provide reasons for why certain suggestions in public consultations were refused or only partially accepted. Meanwhile, the other half fared much worse, receiving scores of 1%, 0% and 4% respectively. Translated into concrete conclusions, the consultation processes under analysis failed to give reasons for excluding certain draft acts from public consultations; failed to show the impact of the consultations within Regulatory Impact Assessment (RIA) reports; and had not published citizen complaint procedures concerning public consultation issues. Out of the 10 institutions, the Ministry of Interior, the Ministry of Justice, and the Ministry of Agriculture and Rural Development scored the highest (24, 21 and 20 points out of 46, respectively), yet this was still only an average performance in absolute terms.

MONITORING RESULTS

While the principle of transparency achieved an average score overall, some indicators demonstrated strong performance, while others underlined serious challenges in providing thorough and unrestricted public consultation processes.

Namely, many institutions regularly published explanatory reports for draft laws, but often lacked additional supporting documents. However, there is a consistent practice of institutions publishing annual consultation plans aside for a few exceptions, the latter not becoming available by certain institutions even following freedom of information requests. Next, detailed and organized plans for individual acts were generally lacking, although some institutions had provided extensive information on how they planned to proceed with their public

² See: <https://idmalbania.org/publication-cpt/monitoring-methodology-for-public-consultation-at-the-central-government-level/>

consultations. Moderate efforts have been made to collect and publish stakeholder comments, yet clarity and detail issues still persisted. Semi-annual and annual public consultation reports were largely published, despite their effectiveness being affected by a general lack of thoroughness and availability. Lastly, institutions showed adequate performance in publishing individual reports, thus creating solid ground upon which the annual reports could be built.

As for accountability, it emerged as one of the weakest principles, indicating systemic weaknesses in justifying decisions and addressing public input. While three indicators under this principle demonstrated moderate achievements in the processes of planning and drafting draft-acts, notable weaknesses were present in managing feedback and complaints.

Namely, preliminary consultations in the acts' drafting phase were not often organized, reflecting the lack of information regarding stakeholder participation early in the drafting process. Next, institutions were more likely than not to align draft acts with strategic documents and annual plans. When it came to drafting tables of comments and providing explanations on the latter's rejection/partial acceptance, the institutions were generally deficient, showcasing that it is not a common practice. There were virtually no complaint mechanisms in place as concerning public consultations, and institutions lacked clear instructions for stakeholders to address violations in the consultation process. Justifications for excluding certain acts from public consultations were entirely absent. Additionally, there was no common practice of institutions producing or publishing Regulatory Impact Assessments, except for some draft laws. In the rare instances where RIA reports did exist, they did not detail the impact of public consultations.

Table 1. Transparency and accountability indicators from highest to lowest performing

Indicator	Score %
1. Transparency of the annual public consultation plan	70%
2. Transparency of comments collected by the institution	64%
3. Publication of semi-annual and annual public consultation reports	60%
4. Publication of the individual report on public consultations	60%
5. Publication of the package of supporting documents for public consultation	58%
6. Draft acts originating from government's strategic documents and annual plan of public consultations	56%
7. Accountability for the drafting phase of the act/preliminary consultation	45%
8. Institutions' provision of reasonings for rejecting or partially accepting comments in public consultations	39%
9. Publication of individual public consultation plans	29%
10. Demonstrating the impact of public consultation in the RIA report	4%
11. Establishing citizen complaint procedures for public consultation violations	1%
12. Institutions' provision of reasoning for the exclusion of draft acts from public consultations	0%

COMPARISON OF INSTITUTIONAL PERFORMANCE

Institutional performance under Transparency varied significantly. The highest scoring institutions were the Ministry of Interior scoring 88%, the Ministry of Tourism and Environment with 73%, and the Council of Ministers with 67%. Contrariwise, the lowest-scoring institutions were the Ministry of Health and Social Protection scoring only 4%, the Ministry of Education and Sports with 35%, and the Agency for Water Resources Management with 42%.

Among the 50 monitored draft-acts, most of them scored moderately on transparency, with just 6 acts achieving the maximum score of 8 points. Draft laws such as the “Draft Law on the Implementation of Extended Producer Responsibilities”, or the decisions of the Council of Ministers like the “Decision on the Approval of the Emergency Plan for Natural Gas in the Republic of Albania”, were among the highest scoring acts. On the other hand, certain acts that attracted considerable public attention and debate, such as the “Law on the Special Treatment of Students in the Integrated Study Program of General Medicine in Public Higher Education Institutions”, scored zero points for transparency.

Table 2. Institutional performance on transparency

Institution	MoI	MARD	MoJ	MTE	MIE	CoM	MFE	AWRM	MES	MHSP	Total
Points for Transparency (Max. 48)	42	30	28	35	24	32	26	20	17	2	256/480
Percentage for Transparency	88%	63%	58%	73%	50%	67%	54%	42%	35%	4%	53%

Table 3. Institutional performance on accountability

Institution	MoI	MARD	MoJ	MTE	MIE	CoM	MFE	AWRM	MES	MHSP	Total
Points for Accountability (Max. 46)	24	20	21	13	16	17	6	16	13	2	148/460
Points for Accountability	52%	43%	46%	28%	35%	37%	13%	35%	28%	4%	32%

For Accountability, The Ministry of Interior, Ministry of Justice, and Ministry of Agriculture and Rural Development scored highest (24, 21, and 20 points, respectively), but with an average performance. The institutions with the lowest score were the Ministry of Finances and Economy with 6 points and the Ministry of Health and Social Protection with 2 points. None of the 50 monitored draft-acts received high scores and one in five consultations received zero points.

RECOMMENDATIONS

To improve the transparency and accountability levels in public consultation processes, institutions should:

- Publish comprehensive supporting materials alongside draft acts, to provide context and facilitate informed participation;
- Make annual consultation plans publicly available, altogether with individual consultation plans for each consulted draft act, to keep stakeholders informed of upcoming consultations;
- Disclose all feedback received during consultations, while clearly identifying non-governmental stakeholders to avoid ambiguity and ensure accurate tracking of input;
- Consistently publish post-consultation reports on a semi-annual and annual basis;
- Provide a rationale for the inclusion or exclusion of certain draft acts from consultations;
- Compile and publish tables of generated comments for each consultation, clearly indicating how the input influenced the final draft and the RIA;
- Provide comprehensive information concerning the drafting of consulted acts and the nongovernmental actors participating in both the drafting and consultation phases;
- Provide citizens and stakeholders with clear instructions on complaints procedures related to public consultations.