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Climate and Environmental Justice and Public Participation Assessment Report

Albania

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1. LIST OF ABBREVIATIONS

ABS	Access and Benefit-Sharing
AC	Aarhus Convention
AFD	Agence Française de Development
AKIP	Alliance Against the Import of Waste
AMBU	Water Resources Management Agency
AMSHC	Agency for the Support of Civil Society
AOS	Albanian Ornithological Society
ASCS	Agency for Supporting Civil Society
BAT	Best Available Techniques
CBD	Convention on Biological Diversity
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEJ	Climate and Environmental Justice
CESE	<i>Conseil Economique, Social et Environnemental</i> (French for 'European Economic and Social Committee')
CITES	Convention on International Trade in Endangered Species
CJEU	Court of Justice of the European Union
CLP	Classification, Labelling, and Packaging
CNDP	<i>Commission Nationale du Débat Public</i> (French for 'National Commission on Public Debate')
CPC	Civil Procedure Code
CPDP	Committee on Petitions and Public Deliberations
CR	Clearance Rate
CSO	Civil Society Organization
DCM	Decision of Council of Ministers
DSF	<i>Document Stratégique de Façade</i> (French for 'façade strategic documents')
DSIPs	Directive-Specific Implementation Plans
DT	Disposition Time
ECtHR	European Court of Human Rights
EIA	Environmental Impact Assessment
ELD	Environmental Liability Directive
EPA	Environmental Protection Agency
EPI	Environmental Performance Index
ESIA	Environmental and Social Impact Assessment
EU ETS	European Union Emissions Trading System
EU	European Union
FI	Fisheries Inspectorate
FOI	Freedom of Information
GBV	Gender-Based Violence
GHG	Greenhouse Gas
GP	General Prosecutor
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
HIJ	High Inspector of Justice
HJC	High Judicial Council
HPC	High Prosecution Council
HPP	Hydropower Project
INSTAT	Institute of Statistics of Albania
LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex
LGUs	Local Government Units
MARD	Ministry of Agriculture and Rural Development
MoIE	Ministry of Infrastructure and Energy

MoJ	Ministry of Justice
MoTE	Ministry of Tourism and Environment
NAPA	National Agency of Protected Areas
NEA	National Environmental Agency
NFA	National Forestry Agency
NITP	National Inspectorate of Territorial Protection
OSCE	Organization for Security and Co-operation in Europe
PIC	Prior Informed Consent
PPNEA	Protection and Preservation of Natural Environment in Albania
Ramsar	Convention on Wetlands of International Importance
REACH	Registration, Evaluation, Authorisation, and Restriction of Chemicals
SCCOC	Special Courts for Corruption and Organized Crime and the Special Court of Appeals for Corruption and Organized Crime
SEA	Strategic Environmental Assessment
SLAPP	Strategic Lawsuits Against Public Participation
SoM	School of Magistrates
SPCOC	Special Prosecution structure for the fight against Corruption and Organised Crime
UNDP	United Nations Development Programme
UNWOMEN	United Nations Entity for Gender Equality and the Empowerment of Women
VOC	Volatile Organic Compounds
WEEE	Waste Electrical and Electronic Equipment Directive

2. EXECUTIVE SUMMARY

The Climate and Environmental Justice Convergence (CEJ Convergence) Project, encompassing Albania, North Macedonia, and Montenegro, aims to strengthen Citizens' right of access to environmental participation and justice through effective application of the standards of the Aarhus Convention. By aligning with European Union (EU) standards, the project supports regional convergence, while addressing systemic gaps in environmental governance and justice. This assessment report focuses on Albania's progress and challenges in achieving environmental justice and public participation, and addresses those systemic gaps.

2.1 Key Findings

2.1.1 Environmental Governance Framework

Led by the Ministry of Tourism and Environment (MoTE) and supported by the National Environmental Agency (NEA) and the National Agency of Protected Areas (NAPA), Albania operates within a multi-tiered, governance framework. Although these institutional structures are in place, the system faces challenges due to gaps in enforcement, limited resources, and administrative processes. These obstacles hinder effective governance and environmental protection, making it more difficult to safeguard communities and ecosystems.

2.1.2 Legal Framework and EU Alignment

Albania has made substantial progress in transposing European Union directives, including the Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) Directives. *Albania's legislation has a low level of alignment with the Environmental Liability Directive (2004/35/EC), primarily through the 2011 Law on the Protection of the Environment, while full implementation is hindered by the absence of secondary legislation, limited technical expertise required for enforcement of the "polluter pays" principle and inadequate mechanisms for assessing environmental damage. However, MoTE is committed to bridging these gaps and aligning Albania's relevant legislative framework with EU standards.*

Albania's legislation aligns with Directive 2008/99/EC on Environmental Crime through its Criminal Code as amended in 2019. However, this Directive was repealed and replaced by Directive (EU) 2024/1203 on environmental protection through criminal law, therefore further amendments will be needed to ensure full alignment with the EU acquis.

2.1.3 Public Participation

Albania legislation is fully aligned with both Directive 2003/4/EC on Public Access to Environmental Information and Directive 2003/35/EC on Public Participation and Access to Justice, demonstrating its commitment to harmonizing national legislation with the European Union's environmental acquis. These directives are crucial components of the Aarhus Convention, which seeks to ensure the public's right to access environmental information, participate in environmental decision-making, and seek justice in environmental matters.

Although public participation in environmental decision-making is legally required, there is a need for law enforcement. Rural communities and specific groups of the local communities such as the ones with special needs face significant barriers to participation, including logistical constraints, limited access to information. Public consultations, particularly in EIAs, often fail to

engage stakeholders meaningfully. Local governments engage with communities through donor-supported projects, such as participatory budgeting. However, public institutions often view consultations as formalities, undermining meaningful involvement.

Albania will revise the Decision of Council of Ministers No 994 of 2.07.2008, “On Public Opinion in Environmental Decision-Making: Public Involvement in the Formulation of Programs, Policies, and Action Plans in Albania,” or the drafting of new legislation to ensure full compliance with Directive 2003/35/EC on public participation and national sectorial legislation. MoTE has expressed Albania’s government’s commitment to revitalize Aarhus Centers, introduce digital tools for accessible information, establish a public feedback system, and benchmark against successful EU models, to be completed within 2027.

2.1.4 Environmental Justice System

The principle of environmental justice ensures ecosystems are protected, communities are safeguarded, and individuals can participate in decision-making. Despite a robust theoretical framework, systemic weaknesses hinder equitable access to environmental benefits and protection.

Albania's environmental justice and governance frameworks demonstrate progress in aligning with EU standards, but reveal significant gaps in implementation, enforcement, and public participation. Strengthening institutional capacity, addressing procedural inefficiencies, and fostering trust between public institutions and communities are essential if transparent and effective environmental governance are to be achieved.

MoTE has highlighted Albania’s commitment to achieving further improvement of the implementation of the Environmental crime directive by strengthening environmental inspection and enforcement at national level and strengthens the capacities of all relevant actors to combat environmental crimes.

2.1.5 Judicial Enforcement and Access to Justice

Administrative, criminal, and civil courts are responsible for adjudicating environmental disputes in Albania, yet systemic issues severely limit their effectiveness. While the legal framework supports public interest litigation, procedural and financial barriers often deter individuals and CSOs from pursuing cases. Administrative courts struggle with backlogs and capacity constraints, while criminal courts often impose minor penalties that fail to deter serious environmental offenses. Civil courts, though a venue for compensation claims, are rarely utilized due to high costs, procedural complexities, and the lack of supporting regulations. These barriers hinder access to justice for individuals and civil society organizations (CSOs), perpetuating a cycle of weak accountability for environmental violations.

2.1.6 Institutional Capacity and Coordination

Environmental governance in Albania is hampered by fragmented responsibilities among institutions, lack of expertise regarding the reporting of environmental crimes, and insufficient coordination. The lack of specialized training and technical tools further limits the effectiveness of inspections and enforcement efforts. Key challenges include ambiguities in legal frameworks, limited financial and human resources and inadequate public awareness and engagement.

2.2 Recommendations

By addressing the priorities identified in this Assessment Report, Albania can enhance its environmental governance framework, foster public trust, and align with EU directives. This paves the way for sustainable development and environmental justice.

2.2.1 Strengthening the Legal Framework

Reforming the Criminal Code to address severe and repeat environmental offenses with stricter penalties is essential if violations and violators are to be deterred. Albania must also prioritize the development of secondary legislation to fully implement the Environmental Liability Directive, establishing clear procedures for assessing and remediating environmental damage. Furthermore, introducing legal mechanisms such as collective lawsuits would streamline judicial processes and reduce systemic delays.

2.2.2 Enhancing Judicial Enforcement

Specialized training programs for judges, prosecutors, and other legal practitioners should be implemented to improve their ability to handle complex environmental cases. Magistrates' training programs providing recognized and specialized certifications for the subject matter, would contribute to establishing a pool of qualified magistrates specializing in environmental law. These programs should also be supported by capacity-building programs for government agencies, equipping them with the tools and expertise necessary to enforce the legal framework comprehensively.

2.2.3 Incorporating Climate Resilience into Legal Frameworks

There is limited integration of climate adaptation measures into infrastructure planning and development. To mitigate these gaps, climate vulnerability assessments should be mandated for major projects, and climate adaptation strategies must be embedded in local development plans. Establishing accountability frameworks to meet greenhouse gas reduction targets is also crucial for advancing climate resilience.

2.2.4 Enhancing Public Participation

Public consultations often lack inclusivity, particularly for rural and marginalized communities. Developing culturally appropriate and sensitive consultation tools will help engage diverse stakeholders more effectively. Transparency can be improved by providing clear feedback on how public input influences decision-making processes. Partnering with CSOs will further amplify community voices and ensure participatory governance.

2.2.5 Capacity Building and Institutional Coordination

Limited resources and fragmented institutional responsibilities undermine effective governance. Equipping inspection agencies with advanced monitoring technologies and providing adequate staff training are essential if capacity is to be enhanced. Institutionalizing cross-sectoral collaboration through regular meetings and shared action plans can improve coordination. Additionally, allocating public funds to CSOs could support independent environmental monitoring and advocacy efforts.

2.2.6 Increasing Transparency and Accountability

Limited access to environmental data erodes public trust and engagement. Developing an online portal to centralize access to environmental permits, assessments, and compliance records can significantly enhance transparency. Creating a national registry for documenting environmental harm would enhance transparency and accountability, ensuring that the "polluter pays" principle is effectively applied. Training stakeholders on using digital tools will encourage broader engagement, while public awareness campaigns will further promote the portal's usage and benefits.

3. INTRODUCTION

3.1 The Rationale

This report is part of a broader CEJ Convergence Project, which seeks to strengthen environmental governance, public participation, and judicial access across the Western Balkans. The report aims to address critical gaps in ensuring justice for both people and the environment and serves a dual purpose: diagnosing the current state of Albania's environmental justice system as well as public participation and proposing actionable steps to strengthen it.

Albania's environmental performance, as assessed by the 2024 Environmental Performance Index (EPI)¹, presents a mixed picture with notable areas of concern. The country ranks 52nd out of 180 nations, with an overall score of 52.2, reflecting a modest improvement of 5.5 points over the past decade.

EPI, as well as official European² and national³ sources, reveal critical environmental challenges, particularly in air quality, water resource management, biodiversity conservation, and climate change mitigation. The need for robust environmental governance is emphasized. Low rankings⁴ in Air Pollution (148th) and Climate Change Mitigation (143rd), alongside stagnation in Biodiversity & Habitat (86th), underscore the importance of stronger policies and enforcement mechanisms.

Environmental justice is an essential principle, ensuring that ecosystems are protected, communities are safeguarded from harm, and individuals are empowered to participate meaningfully in environmental decision-making. However, systemic weaknesses in Albania's governance structures, public engagement processes, and justice mechanisms have hindered progress, requiring targeted interventions.

While Albania's legal framework provides a foundation for environmental governance, significant challenges remain in practice. Administrative courts, for instance, have only handled a limited number of public-interest environmental cases, with most, focused on businesses contesting fines rather than communities challenging harmful projects. Between 2019 and 2022, there were two or three cases brought by communities against hydropower projects reached the courts.

While environmental crimes are increasing, their criminal proceedings represent only 1.4% of the total criminal proceedings nationwide. Moreover, prosecution and criminal courts often struggle with complex environmental cases due to insufficient expertise, resulting in procedural delays and limited convictions for severe offenses like illegal logging, which still accounts for 47–61% of environmental crimes annually.

Civil courts, meanwhile, remain underutilized due to high litigation costs, the complexity of proving environmental damage, and a lack of supporting secondary legislation.

Public participation is also hindered by systemic shortcomings. Despite the fact legal provisions require consultations in EIAs; participation is often procedural. Rural communities, in particular, face barriers due to logistical constraints, lack of awareness, and procedural inefficiencies. Data from recent consultations⁵ reveal low engagement rates, highlighting the disconnection between legislative intent and practical implementation.

¹ <https://epi.yale.edu/country/2024/ALB>

² <https://www.eea.europa.eu/en/countries/cooperating-countries/albania>

³ <https://akm.gov.al/en/reports-and-publications/>

⁴ <https://epi.yale.edu/country/2024/ALB>

⁵ Consultations held in the frame of CEJ Convergence Project during October to December 2024.

These weaknesses in Albania's justice system and governance structures underscore the need to identify and diagnose systemic gaps and propose actionable reforms. In this way, Albania's environmental governance will align with EU standards under Chapter 27 of the Acquis. The focus being on creating an equitable system that empowers communities, strengthens institutional capacity, and ensures that both people and the environment receive the justice they deserve.

3.2 Background and Context of the CEJ Convergence Project

The CEJ Convergence Project aims to enhance access to justice and the effectiveness of public participation in environmental matters in the Western Balkans, with a focus on Albania, North Macedonia, and Montenegro. The Project contributes to regional convergence with European standards and supports the process of EU accession for these countries. The project supports Albania in aligning its legislative, institutional, judicial and participatory frameworks with EU directives and international conventions, particularly the Aarhus Convention. This ensures Albania meets the requirements for transparency, inclusivity, and effective legal remedies in environmental matters.

The CEJ Convergence Project focuses on enhancing access to justice by building the capacities of legal professionals, improving reporting channels, and ensuring accessible legal remedies. The emphasis is also on strengthening public participation practices to improve the quality of environmental decision making at local level, by refining local engagement tools and EIA processes, making them more inclusive. Another key objective is to empower CSOs and communities through financial grants and Capacity Building support initiatives. These foster active involvement in environmental decision-making, while promoting gender-sensitive approaches. By addressing these areas, the CEJ Convergence Project contributes to transparent, inclusive, and effective environmental governance in the Western Balkans.

The CEJ Convergence Project aims to achieve the objective in Albania and the Western Balkans by addressing key systemic challenges, including:

1. Improved Coordination and Governance

- Enhancing the capacity of legal professionals, environmental authorities, and CSOs to implement environmental justice effectively.
- Strengthening reporting channels, legal remedies, and public accessibility to ensure transparency and accountability.

2. Regional Alignment with EU Standards

- Promoting the adoption of best practices, particularly from the French experience in implementing the *Environmental Acquis*.
- Utilizing international legal tools and mechanisms to advance environmental justice.

3. Cross-Cutting Themes

- EU Accession Process: Supporting Albania in aligning its governance systems with European standards.
- Gender Equality: Integrating inclusive practices and promoting gender balance in environmental governance frameworks.

In Albania, the CEJ Convergence Project seeks to refine tools and methods for local-level consultations, improve participatory processes in EIAs, and enhance access to justice for citizens. By addressing systemic gaps and empowering key stakeholders, the project ensures

that Albania's environmental justice and public participation is not only aligned with EU standards, but also responsive to the needs of its citizens.

3.3 Why This Report?

Environmental justice is a fundamental principle that ensures all citizens, regardless of socio-economic status, have equitable access to environmental benefits, protection from environmental harm, and the ability to participate meaningfully in decision-making processes. For Albania, as an EU candidate country, aligning its environmental justice mechanisms with European standards under Chapter 27 of the *Acquis Communautaire* of the negotiations for EU membership is a vital step toward achieving these goals.

These efforts are vital, not only for its EU accession, but also to address systemic challenges in environmental governance, public participation, and access to justice. This report serves as a key deliverable under the CEJ Convergence Project, by focusing and diagnosing the current state of Albania's environmental justice system and identifying actionable steps for reform.

Financed by the Agence Française de Développement (AFD) and implemented by Expertise France (EF), the Climate and Environmental Justice Convergence Project in the Western Balkans focuses on enhancing access to justice and citizen participation in environmental governance. By improving environmental justice systems in Albania, North Macedonia, and Montenegro, the project contributes to regional convergence with European standards, while fostering transparency, accountability, and citizen engagement in environmental decision-making processes.

This report provides an analysis of Albania's current environmental justice system, including its legal framework, institutional capacity, and public participation mechanisms into environmental decision-making processes. It highlights good practices and identifies gaps that can inform further activity and support Albania's compliance with its commitments under the EU directives and the Aarhus Convention.

4. METHODOLOGY

This CEJ Assessment Report employed a robust methodology to evaluate Albania's environmental governance, combining local insights and international benchmarks for actionable recommendations.

Research Phases:

1. Desk Research: Analysis of legal texts, institutional reports, and case law.
2. Stakeholder Engagement: Input from government, judiciary, CSOs, and local actors through interviews and focus groups.
3. Comparative Analysis: Benchmarking Albania against EU standards and practices in France.

Research Approach: The methodology blended qualitative and quantitative approaches to assess Albania's environmental justice framework, identifying strengths, gaps, and actionable recommendations. Desk research analyzed legal and institutional frameworks, while stakeholder engagement gathered diverse perspectives through interviews and focus groups. Comparative analysis benchmarked Albania against EU standards, highlighting areas for improvement.

Stakeholder Engagement: Structured interviews with ministries, NEA, several legal professionals across the judiciary, media, and CSOs examined public participation and governance challenges nationally and locally. Focus groups (including a session on October 23rd, 2024, with 30 participants and one on December 16th, 2024, with 20 stakeholders), addressed barriers to public participation, enforcement challenges, and institutional coordination. Findings emphasized gaps in consultation processes, limited public access to environmental information, and resource constraints, with recommendations for improved frameworks, digital tools, and rural inclusion.

Data Collection: Qualitative data included legal reviews, institutional reports, and case studies; quantitative data analyzed environmental case trends, public participation metrics, and compliance with Aarhus standards. Challenges included outdated records, low rural participation, and inconsistent reporting formats.

Comparative Analysis: Benchmarking highlighted gaps in Albania's systems compared to EU standards, focusing on public participation, institutional capacity, and judicial expertise. Opportunities to adopt EU best practices and align with European standards were identified.

5. DIAGNOSTIC OF THE ENVIRONMENTAL JUSTICE SYSTEM

5.1 System Overview

5.1.1 Legal Framework

Constitutional Foundations

Article 56 of the Constitution sanctions the right of citizens to receive information on the condition of the environment and its protection by state institutions. Public participation in environmental decision-making enables citizens to express themselves, as well as decision-makers to consider the opinions and concerns that are relevant to decision-making. This right increases the quality, accountability and transparency of the decision-making process and contributes to raising public awareness on environmental issues.

Article 59 further emphasizes the state's obligation to maintain ecological balance and sustainable development, mandating the preservation of biodiversity and the prudent use of natural resources for future generations. Additionally, **Article 122** integrates international agreements into the domestic legal framework, giving them precedence over conflicting national legislation. This provision is instrumental in implementing international environmental conventions, such as the Aarhus Convention, directly within the Albanian legal system.

In practice, while the Constitution provides a solid foundation, institutional capacity and enforcement gaps hinder its full realization.

International Conventions and Commitments

Albania is party to several pivotal international environmental conventions, which shape its legal and institutional framework. The most important amongst these ratified international instruments are:

1. **Aarhus Convention** - The Aarhus Convention guarantees the public's right to access environmental information, participate in decision-making, and seek justice in environmental matters. Besides ratifying Aarhus through Law No. 8672/2000, Albania has transposed its principles into national laws such as the Law "On Environmental Protection" (Law No. 10431/2011) and the Law "On Environmental Impact Assessment", strengthening its legal framework. In recent years, the Courts have also established the practice of directly applying the Aarhus in environmental cases.⁶ However, challenges persist, especially in rural areas where participatory processes are limited, often excluding marginalized communities. Ensuring widespread and equitable implementation remains critical.
2. **Espoo Convention** - This convention requires EIAs for projects with potential trans boundary effects, promoting cooperation between neighboring countries. Espoo enhances Albania's ability to assess cross-border environmental risks, although more robust cross-border consultation mechanisms are needed to fully align with its obligations.

⁶ E.g. Judgment no. 322-2021 dated 21.07.2021 of the Supreme Court of Albania, 27 residents of Margegaj village Toka Association vs Ministry of Energy, Ministry of Environment, National Environmental Agency - hydropower plants in the area of Valbona Valley; Judgment, no. 087-2021 dated 31.07.2021, of the Supreme Court of Albania, residents of a village in the Municipality of Kamza and the Organic Agriculture Association vs the Municipality and the National Environmental Agency - construction of a livestock complex with slaughterhouse, restaurant, destroying the Laknas Forest by cutting trees over 35 years old

3. **Kyoto Protocol and Paris Agreement** - Albania's ratification of these international climate agreements commits the country to reducing greenhouse gas emissions and adopting climate change mitigation and adaptation measures. While national policies have integrated these goals, institutional and financial limitations hinder progress, as noted in preparatory assessments for Chapter 27 of Albania's EU integration process.⁷ Strengthening institutional capacity and securing funding are essential for meeting these commitments.
4. **Convention on Biological Diversity (CBD) and CITES** - Albania's participation in the CBD emphasizes its commitment to conserving biodiversity, while CITES regulates the trade in endangered species. Despite progress, challenges such as illegal logging and continue to undermine these efforts. Effective enforcement of biodiversity-related laws and improved monitoring mechanisms are necessary to address these issues.
5. **Basel, Rotterdam, and Stockholm Conventions** - These treaties address the trans boundary movement and management of hazardous waste and chemicals. Albania has incorporated key provisions into its Law on Hazardous Waste Management, reflecting its commitment to environmental safety. However, enforcement remains weak due to insufficient monitoring systems, limiting the country's ability to effectively manage hazardous materials and protect public health.
6. **Ramsar Convention on Wetlands** - This convention protects vital wetland ecosystems such as the Karavasta Lagoon and the Butrint Wetland, which are internationally recognized for their ecological importance. However, urbanization and development pressures threaten these areas. Strengthening regulatory oversight and implementing stricter conservation measures are necessary to prevent habitat degradation.
7. **Bern Convention** - Albania is a party to the Bern Convention, which safeguards European wildlife and natural habitats. The country is particularly focused on conserving habitats critical for migratory species. Transposing the Bern Convention's principles into national policies ensures alignment with broader European biodiversity goals.
8. **Barcelona Convention** - As a Mediterranean nation, Albania plays a vital role in the Barcelona Convention, which seeks to protect the marine and coastal environments of the Mediterranean. Measures such as pollution reduction and sustainable management are aligned with Albania's ecological and economic interests, although implementation requires further investment in infrastructure and monitoring.
9. **Bonn Convention** - This convention fosters international cooperation to protect migratory species. Albania's geographical position along major bird migration routes underscores its importance in the Bonn Convention's objectives. Continued habitat conservation and international partnerships are key to fulfilling its commitments.

Horizontal Environmental Legislation and EU Alignment

The horizontal sector legislation covers various matters which cut across different environmental subject areas. This is in contrast to legislation which is applicable to a specific sector, e.g. water, waste, air etc. Rather than regulating a specific area, these items of legislation are more procedural. They provide for methods, procedures and mechanisms aimed at integrating the environment into other policy areas and at improving decision making and legislative development and implementation.

⁷https://www.swedenabroad.se/globalassets/ambassador/albanien-tirana/development-cooperation/questions-for-clarification-two-new-tenders/screeningpreparatoryassessmentreportchapter27_07nov2019.docx

Albania's horizontal environmental legislation demonstrates substantial progress in aligning with EU directives, with an overall transposition level of 78.6%. The SEA Directive (2001/42/EC) and the EIA Directive (2011/92/EU) are among the most successfully transposed. SEA is implemented through Law No. 91/2013 "On Strategic Environmental Assessment", while EIA is governed by Law No. 10440/2011, and supported by detailed secondary legislation. Public participation and access to environmental information, as mandated by the Aarhus Convention, are also well-aligned via Law No. 119/2014 "On Access to Public Information".

Despite these achievements, gaps remain in the transposition of the Environmental Liability Directive (2004/35/EC), which has only been partially aligned. The secondary legislation required to implement specific provisions on liability and compensation for environmental damage remains pending. Additionally, enforcement and inter-agency coordination remain weak. While transparency and public involvement have improved, institutional capacity and technical expertise within the MoTE and related bodies require strengthening if full compliance is to be achieved.

1. Law "On Environmental Protection" (No. 10431/2011) as amended in 2013 and 2020 (EP Law)

- This framework law is the cornerstone of Albania's environmental legal framework, embedding principles such as sustainable development, the precautionary approach, and the polluter-pays principle. The law provides mechanisms for environmental management, public participation, and institutional accountability. The law aligns partially with **Directive 2003/35/EC** on public participation in environmental decision-making and with the Environmental Liability Directive **2004/35/EC** (ELD). While a robust theoretical foundation has been established, enforcement is constrained by limited resources and weak institutional capacity, especially in remote areas.

A recent analysis⁸ on the status of transposition and implementation of several EU environmental directives in the Balkan countries, found that this law lacks alignment with the ELD, particularly regarding restoration measures and the exclusion of criminal liability and traditional civil damages. Key provisions, such as financial guarantees and criteria for assessing damage, remain unenforceable due to missing secondary legislation.

The absence of secondary legislation has stalled implementation of the EP Law. Critical mechanisms, including the Environmental Fund and rules for damage assessment, have not been established, limiting enforcement to inadequate general provisions under the Civil Code. This gap hinders proper identification, prevention, and remediation of environmental damage, leaving no cases addressed to date. Amendments and harmonized regulations are urgently needed to align the EP Law with the ELD and ensure its effectiveness.

2. Environmental Impact Assessment Law (No. 10440/2011)

- This law considerably transposes **Directive 2011/92/EU** and its amendment, **Directive 2014/52/EU**, ensuring that projects likely to have significant environmental impacts are subject to rigorous assessment. The law mandates public consultations and transparency throughout the EIA process, with provisions for public hearings and access to project documentation. However, practical application is uneven, with public participation often limited by procedural inefficiencies and a lack of awareness, particularly in marginalized communities.

Under Albanian legislation, as mandated by Article 11 of the EIA Law, the developer is responsible for initiating and financing the EIA process. This involves hiring certified and qualified experts or consulting firms to prepare the EIA Report, conduct public consultations, and submitting the required documentation.

⁸ "Are Balkan Countries Safeguarding Their Rivers? A Legal Analysis of Environmental Standards in Six Western Balkan Countries", produced by Client Earth, EuroNatur and Riverwatch - <https://www.clientearth.org/latest/documents/are-balkan-countries-safeguarding-their-rivers-a-legal-analysis-of-environmental-standards-in-six-western-balkan-countries/>

Albania has broadly transposed the scope of the EU EIA Directive. However, incomplete alignment with the criteria set in Annex III of such Directive, particularly regarding risk assessments for climate change impacts and human health considerations, remains a shortfall.⁹

While the structure and requirements for the EIA Report are generally consistent with the EIA Directive, gaps exist in incorporating results from related assessments (e.g., SEAs) and in addressing climate-related vulnerabilities:

Mandatory Cases

Projects listed in Annex I of the EIA Law, which mirrors Annex I of the EU EIA Directive, require an in-depth EIA. These projects include amongst others, large-scale industrial facilities, energy plants, airports, large dams or reservoirs, nuclear power stations, highways and railways and other activities with high potential environmental impacts.

Optional Cases

- Projects listed in Annex II of the EIA Law are subject to a screening process to determine the necessity of a detailed EIA. This decision is based on environmental criteria such as project size, location, and environmental sensitivity, as outlined in Decision of Council of Ministers (DCM) no.686 of 29.07.2015 “On adoption of rules, responsibilities and deadlines for the development of EIA procedure and the procedure of environmental declaration decision transfer”, as amended. Article 8 of the EIA Law specifies that changes or extensions to Annex I and II projects also undergo screening. However, this deviates from the EU Directive by allowing some Annex I modifications to bypass mandatory EIA requirements, creating potential gaps in environmental safeguards.

The EIA process comprises multiple stages and elements designed to assess and mitigate environmental risks comprehensively. Key components include:

- **Screening:** When applicable - for projects of Annex II of the EIA Law
- **Scoping:** During this stage, NEA consults with public institutions, NGOs, and the public to identify significant environmental issues that need to be addressed. The developer is informed about the scope of the EIA Report they need to prepare.
- **EIA Report:** The report must include:
 - A detailed description of the project and its purpose.
 - Baseline environmental data for the affected area.
 - An evaluation of potential environmental impacts, including cumulative and trans boundary effects.
 - Proposed mitigation measures to address adverse effects.
 - An analysis of project alternatives and justification for the chosen option.
 - Documentation of public consultation efforts.

The EIA process involves multiple stakeholders, but the final opinion is issued as an Environmental Declaration (ED) by the MoTE. The National Environmental Agency (NEA) oversees the initial stages, including screening and scoping. The MoTE issues the Environmental Declaration (ED) based on the EIA Report, public feedback, and consultations with relevant authorities.

⁹ “Are Balkan Countries Safeguarding Their Rivers? A Legal Analysis of Environmental Standards in Six Western Balkan Countries”, produced by Client Earth, EuroNatur and Riverwatch - <https://www.clientearth.org/latest/documents/are-balkan-countries-safeguarding-their-rivers-a-legal-analysis-of-environmental-standards-in-six-western-balkan-countries/>

The stages and roles the EIA process goes through are presented below.



First Notice, to be published by NEA after receipt of the Application, is intended to inform the public about the EIA procedure expected and invite the public concerned to submit comments about the scope of the EIA. Scoping Results (including comments received by the public) are communicated to the Developer and published by NEA. A public hearing is to be held no earlier than 30 days from notice of NEA of the Draft EIA Report, and publication should last at least 20 consecutive days.

The Environmental Declaration issued by the MoTE is a critical document in the project approval process:

- **Approval:** Grants the developer the right to proceed to subsequent licensing stages.
- **Conditional Approval:** Allows project implementation under specified conditions designed to mitigate environmental harm.
- **Rejection:** Prohibits the project from proceeding.

However, the EIA Law (Article 20) states that the ED is not binding on authorities granting development consent. This means a project could technically be approved contrary to the ED, providing sufficient justification is given. This loophole is inconsistent with Article 8a of the EIA Directive, which requires the ED to be integrated into the consent decision.

Legal remedies against EIA-related decisions include:

1. Administrative Appeals:

- Stakeholders, including the public and NGOs, may challenge the screening decision, scoping outcomes, or ED by filing an appeal with the NEA or MoTE.

- Administrative review processes are intended to address procedural or substantive deficiencies.

2. Judicial Challenges:

- Decisions such as the ED can be contested in administrative courts. Precedents like the Poçëm HPP case highlight how inadequate public consultation and procedural violations can lead to court nullifications of project approvals.

3. Law on Strategic Environmental Assessment. Law no. 91/2013 "On Strategic Environmental Assessment" (SEA Law) and its accompanying bylaws have transposed the SEA Directive **2001/42/EC** into Albanian legislation. This law integrates environmental considerations into the development of policies, plans, and programs. It requires an assessment of the potential environmental impacts during the planning stages and provides for stakeholder involvement. Despite its alignment with EU standards, implementation challenges persist in ensuring effective stakeholder engagement and the integration of SEA findings into decision-making processes.

Transposition of the SEA Directive into Albanian Law¹⁰

The transposition of the SEA Directive into Albanian law represents a significant step toward harmonizing national legislation with EU environmental standards. The SEA Law and its bylaws, provide a robust legal framework. The SEA Law closely mirrors the requirements of the EU SEA Directive, including its provisions for screening, scoping, public participation, and the content of the SEA report.

However, gaps remain in the full implementation of these provisions. For example, the directive's requirements for the use of small areas at a local level are not explicitly addressed in Albanian law, creating ambiguity in some cases. Moreover, the absence of consistent mechanisms for documenting and reflecting public and stakeholder inputs in the decision-making process highlights a critical area for improvement.

National and Local Plans and Programs Involved

In Albania, the SEA process applies to a wide array of plans and programs at both national and local levels. At the national level, this includes the General National Spatial Plan and other sector-specific strategies like the National Energy and Climate Plan, the National Master Plan for Gas Infrastructure, and the Water Resource Management Strategy. These frameworks are pivotal for development in key areas such as energy, transport, waste management, water resources, and telecommunications. Locally, municipalities are responsible for crafting Local Spatial Plans, which must undergo SEA to ensure they align with environmental protection and sustainable development principles.

The scope of the SEA process is further defined by the SEA Law, which specifies that plans and programs for agriculture, forestry, fishing, industry, mining, tourism, and urban or rural land use also fall under its purview. These plans set the stage for project approvals as stipulated in Annex I and II of the EIA Law. Additionally, revisions or modifications to existing plans can also trigger the SEA process, particularly when there is potential for significant environmental impact, including impacts on protected areas.

Decision-Making Authorities

In Albania, the MoTE holds primary decision-making responsibility for the SEA process, overseeing key stages such as screening and scoping, determining whether a particular plan or

¹⁰ "Are Balkan Countries Safeguarding Their Rivers? A Legal Analysis of Environmental Standards in Six Western Balkan Countries", produced by Client Earth, EuroNatur and Riverwatch - <https://www.clientearth.org/latest/documents/are-balkan-countries-safeguarding-their-rivers-a-legal-analysis-of-environmental-standards-in-six-western-balkan-countries/>

program requires a SEA. For screening decisions, the MoTE consults a range of stakeholders, including local government, public health authorities, agricultural land protection agencies, and environmental NGOs. These consultations are integral to ensuring that environmental considerations are comprehensively addressed.

The SEA process is deeply participatory by design, requiring public hearings and consultations during the preparation of the SEA report. Stakeholders have opportunities to provide input at various stages, from screening to the final approval of the SEA declaration. Despite these provisions, practical challenges persist, such as incomplete documentation of feedback and inconsistent transparency in publishing decisions.

Influence of SEA on Decision-Making

The SEA process is a powerful tool for enhancing the quality of decision-making in Albania. It provides a structured methodology for identifying, assessing, and mitigating potential environmental impacts of proposed plans and programs. By requiring an assessment of alternative approaches, SEA ensures that decision-makers consider environmentally friendly options. This process also helps identify cumulative impacts that might not be apparent when considering projects in isolation.

However, there are notable gaps in implementation. Some plans, such as the Water Resource Management Strategy and the National Master Plan for Gas Infrastructure, were adopted without completing the SEA process. In other cases, such as the National Energy and Climate Plan, the SEA procedure was initiated but not concluded before adoption. These lapses undermine both the SEA Directive's and the SEA Law's intent, highlighting the need for stronger enforcement mechanisms.

Legal Remedies for Inadequate SEAs

Administrative Remedies

Complaints: Stakeholders, including the public, can appeal both screening decisions and final SEA declarations issued by the MoTE. These appeals must be submitted within 30 days of the decision's publication, in accordance with the Code of Administrative Procedures.

Judicial Remedies

Judicial Review: Stakeholders have the right to contest the failure to initiate or properly conduct a SEA process, including cases where public participation is insufficient or screening and scoping stages are bypassed. This review can address procedural flaws and ensure compliance with SEA requirements.

While these legal remedies offer a safeguard against procedural flaws, their effectiveness is constrained by the limited transparency of the SEA process in practice. For example, screening decisions are often not published, and reports on SEA implementation are rarely made public.

4. Law on Environmental Permits (No. 10448/2011) - Provides a comprehensive framework for managing activities with potential environmental impacts. This law partially transposes the EU Industrial Emissions Directive (2010/75/EU) and Directive 2004/35/EC on Environmental Liability and emphasizes principles like "polluter pays", Best Available Techniques (BAT), and public participation for high-impact activities. Despite progress, implementation is challenged by limited institutional capacity, weak public awareness, and insufficient data systems. Recent reforms have streamlined procedures, but further investments are required to align fully with EU standards and ensure effective enforcement. Enforcement is hindered by gaps in technical expertise and financial resources, which limit its effectiveness in addressing complex cases of environmental harm.

5. Law on Access to Information (No. 119/2014) - This law aligns with Directive 2003/4/EC, guaranteeing public access to environmental information held by government institutions. It aims to foster transparency and enable informed public participation in environmental governance. However, its implementation is often undermined by outdated data systems and inadequate dissemination practices, which limit the accessibility of critical information for citizens and CSOs.

6. The Criminal Code (No. 7895/1995), as amended by Law No. 44/2019, which introduced new offenses and enhanced penalties to address a range of environmental violations. This code explicitly addresses environmental crimes, focusing on the protection of air, water, soil, biodiversity, and natural resources. These provisions are designed to hold individuals and legal entities accountable for actions that harm the environment. While Albania has made substantial progress in aligning its criminal law provisions with Directive 2008/99/EC, challenges remain in enforcement, proportionality of penalties, and institutional capacity.

The following table provides a detailed summary of environmental crimes and associated penalties in the Albanian Criminal Code:

Article	Offense Description	Penalty Range ¹¹
201	Pollution of air, water, and soil through illegal actions, resulting in harm to ecosystems, biodiversity, or human health.	Fine or up to 15 years' imprisonment
201/a	Improper waste management, including collection, disposal, or treatment, causing significant environmental harm.	Fine or up to 15 years' imprisonment
201/b	Illegal transportation of waste, violating national or international regulations.	Fine or up to 5 years' imprisonment
201/c	Conducting hazardous activities, such as operating facilities that handle dangerous substances, without proper authorization.	Fine or up to 15 years' imprisonment
201/ç	Handling nuclear materials or dangerous radioactive substances illegally, causing potential or actual harm.	Fine or up to 20 years' imprisonment
202	Damaging protected species of flora and fauna, such as illegal hunting or destruction of habitats.	Fine or up to 7 years' imprisonment
202/a	Trading in protected species, including their parts or derivatives, in violation of regulations.	Fine or up to 3 years' imprisonment
202/b	Degrading habitats in protected areas, impacting ecosystems.	Fine or up to 5 years' imprisonment
203	Producing or handling ozone-depleting substances in violation of regulations.	1 to 7 years' imprisonment
204	Illegal fishing during prohibited periods or using banned methods.	Fine or up to 2 years' imprisonment
205	Illegal logging of forests, especially during moratoriums or in protected areas.	Fine or up to 1 year's imprisonment
206	Illegal logging of decorative or fruit trees.	Fine or up to 3 months' imprisonment
206/a	Willful destruction of forests through fire, leading to environmental and material harm.	5 to 20 years' imprisonment
206/b	Negligent destruction of forests through fire, resulting in significant damage.	2 to 8 years' imprisonment
207	Violating plant and animal quarantine regulations, resulting in disease or ecological harm.	Fine

Transposition of EU Directive 2008/99/EC

Directive 2008/99/EC¹² mandates criminal penalties for serious environmental offenses, and Albania has integrated these into its legal framework. However, the implementation faces several challenges:

¹¹ Article 34 of the Criminal Code outlines general rules regarding fines. Although it does not differentiate between individuals and legal entities, it stipulates that the amount of a fine shall be determined by the court on a case-by-case basis, within the range of 100,000 (one hundred thousand) to 10 (ten) million Albanian Lek.

¹² Replaced by Directive (EU) 2024/1203. EU Member States have until 21 May 2026 to implement the new regime.

1. **Proportionality of Penalties:** While penalties in the Albanian Criminal Code are significant, as a deterrent they are limited due to inconsistencies in enforcement and judicial practices.
2. **Institutional Capacity:** Albania's law enforcement agencies often lack the resources and training to effectively investigate, prosecute and judge environmental crimes. Collaboration between institutions remains weak, limiting the practical application of these laws.
3. **Alignment Gaps:** Although the criminal provisions are aligned with EU directives, additional measures, such as incorporating restorative justice practices and strengthening administrative frameworks, are necessary for full compliance.
4. **Public and Institutional Awareness:** Low awareness among institutions and the public contributes to limited reporting and enforcement actions as a response to environmental crimes. This is compounded by the perception of such crimes as "victimless".

Sectoral Environmental Legislation and EU Alignment¹³

1. **Air Quality:** Albania's air quality legislation demonstrates moderate alignment with EU directives, with a transposition level of 66.8%. The Ambient Air Quality Directive (2008/50/EC) is nearly fully transposed, achieving 96% alignment through Law No. 162/2014 "On the Protection of Ambient Air Quality", and Decision of the Council of Ministers (DCM) No. 352/2014, which defines air quality assessment criteria and pollutant thresholds.

The VOCs Petrol Directive (94/63/EC) and Stage II VOCs Petrol Directive (2009/126/EC) are fully transposed via DCM No. 1075/2015 and DCM No. 909/2016, which regulate emissions from petrol storage, distribution, and vehicle refueling. However, the National Emission Ceilings Directive (2016/2284/EC) is at an early transposition stage (20%) with a draft governmental order pending adoption, and the Sulphur Content Directive (2016/802/EC) is only 18% transposed, partially covered under DCM No. 781/2012 regarding the quality of liquid fuels.

Implementation remains limited due to an underdeveloped air quality monitoring network. Although seven monitoring stations exist, their coverage is insufficient, particularly in rural areas. A consolidated emissions inventory and national ceilings are absent, severely hampering compliance with EU standards. Institutional capacity gaps within the MoTE, the NEA, and other bodies exacerbate the challenges. Investments in monitoring infrastructure and administrative reforms are urgently required.

2. **Waste Management:** The waste management sector has a transposition level of 53.5%, reflecting uneven progress across directives. The Waste Framework Directive (2008/98/EC) is only 34% transposed, primarily through Law No. 10 463/2011 "On Integrated Waste Management", which defines the waste hierarchy and the "polluter pays" principle. The Landfill Directive (1999/31/EC) and Packaging Waste Directive (94/62/EC) are at 81% transposition, supported by DCM No. 452/2012 "On Landfills" and DCM No. 177/2012 "On Packaging Waste". The Batteries and Accumulators Directive (2006/66/EC) is also advanced at 82%, implemented through DCM No. 866/2013.

Critical gaps exist in the Ship Recycling Regulation (1257/2013/EU) (1% transposition) and WEEE Directive (2012/19/EU) (38%). The lack of extended producer responsibility (EPR) schemes and regional waste management systems hinders implementation. Hazardous waste, such as e-waste, is sporadically managed, with municipalities struggling to implement waste tariffs or infrastructure. Institutional fragmentation among, the Ministry of Infrastructure and Energy (MoIE), and local governments impedes coordinated action

¹³Screening Preparatory Assessment (SPA), part of program Supporting Albanian Negotiations in Environment, Chapter 27 (SANE27); https://www.swedenabroad.se/globalassets/ambassador/albanien-tirana/development-screeningpreparatoryassessmentreportchapter27_07nov2019.docx

3. Water Quality: Water legislation is only 35% transposed. The Drinking Water Directive (98/83/EC) and Bathing Water Directive (2006/7/EC) are fully aligned through Law No. 9115/2003 "On the Administration of Drinking Water Quality" and Law No. 8102/1996 "On Public Health", supplemented by DCM No. 267/2009. However, the Water Framework Directive (2000/60/EC) is partially transposed (41%) under Law No. 111/2012 "On Integrated Water Management". Other critical directives, such as the Marine Strategy Framework Directive (2008/56/EC) and the Groundwater Directive (2006/118/EC), remain largely unaddressed.

Implementation is undermined by outdated infrastructure and insufficient investment. Urban wastewater treatment is inadequate, with minimal coverage in rural areas. The National Agency for Water Resource Management (AMBU) faces coordination challenges with other institutions, hampering progress. Updated legislation, increased funding, and capacity building are essential for compliance.

4. Nature Protection:

Albania has made significant strides in advancing its environmental development policy, particularly in nature protection.

The nature protection and biodiversity conservation objectives are also integrated into the broader context of Albania's National Strategy for Development and Integration.

Albania's nature protection legislation is weak, with a transposition level of 33%. The Birds Directive (2009/147/EC) and Habitats Directive (92/43/EEC) are advanced at 65% and 86%, respectively, implemented through Law No. 10006/2008 "On Biodiversity" and DCM No. 866/2012 "On Protected Areas". The CITES Regulation (338/97/EC) is partially transposed (56%) via Law No. 9025/2003 on the ratification of the Convention on International Trade in Endangered Species.

Gaps persist in implementation of the Access and Benefit-Sharing (ABS) Regulation (511/2014/EU) and other regulations on seal products and animal skins. Implementation suffers due to limited funding, weak enforcement, and insufficient capacity at the National Agency for Protected Areas (NAPA). Addressing these shortcomings requires stronger institutional frameworks and public awareness campaigns.

5. Industrial Pollution: Industrial pollution control legislation is moderately aligned, with a transposition level of 44.5%. The Industrial Emissions Directive (2010/75/EU) is at 70% alignment under Law No. 10448/2011 "On Environmental Permits", while the Seveso III Directive (2012/18/EU) is only 9% transposed. Other directives, such as the Medium Combustion Plants Directive (2015/2193/EU), remain underdeveloped.

Implementation is inconsistent due to insufficient technical capacity and enforcement mechanisms. Industries often lack the expertise to meet emission standards, necessitating transitional periods and Directive-Specific Implementation Plans (DSIPs).

6. Climate Change: Albania's climate change legislation is in the early stages of alignment with EU directives, achieving a transposition level of 12.2%. The Regulation on Fluorinated Greenhouse Gases (EU) 517/2014 has reached an advanced alignment of 79.1%, primarily through DCM No. 865, dated 10.12.2014, which addresses the reduction and stabilization of these gases. The Ozone Depleting Substances Regulation (EC) 1005/2009 was partially aligned in 2019 with DCM No. 10, dated 09.01.2019, but the transposition level remains at 22.7%.

The EU Emissions Trading System Directive (2003/87/EC) and related mechanisms, such as the Effort Sharing Decision (406/2009/EC), remain unaddressed. A draft law aimed at partially transposing the EU ETS was in advanced stages in 2019, but has yet to be adopted.

Implementation is minimal, even for transposed directives. A National Strategy and Action Plan for Greenhouse Gas Mitigation and Adaptation, adopted under DCM No. 466, dated 03.07.2019, aims to improve coordination but require significant updates to support compliance. Institutional capacity remains weak, with limited expertise in monitoring and enforcing climate-related regulations.

7. Noise: Albania's noise legislation aligns with the Environmental Noise Directive (2002/49/EC) at an advanced level of 86%. The primary legal framework is provided by Law No. 9774, dated 12.07.2007, "On the Assessment and Administration of Environmental Noise", and amended by Law No. 39/2013. Key secondary legislation includes DCM No. 587/2010, which regulates noise monitoring, and Guideline No. 1/2018, setting requirements for noise action plans.

Implementation is in its initial stages. Noise monitoring is limited, with data collected from only 11 cities using a single piece of equipment. Strategic noise maps and action plans are not developed and administrative capacities within the NEA and municipalities remain inadequate. The establishment of a Noise Technical Council at the MoTE is urgently required.

8. Chemicals: Albania's chemicals legislation is partially aligned, with a transposition level of 29.4%. The main legal framework is Law No. 27, dated 17.03.2016, "On the Management of Chemicals", which became effective in 2018. The PIC Regulation (EC) No. 649/2012 is fully transposed, achieving 96% alignment, while the REACH Regulation (EC) No. 1907/2006 and CLP Regulation (EC) No. 1272/2008 are only partially transposed at 20% and 41%, respectively.

Implementation is in the early stages due to the absence of a Chemical Office, which is mandated under the law to oversee regulation enforcement. Coordination between the MoTE, customs, and inspectorates is weak, requiring significant improvement. Establishing the Chemical Office, and updating the National Plan for Chemical Safety Management, is critical steps for progress.

5.1.2 Review of Current Legislation and Practices on Public Participation in Environmental Decision-Making

1. Right to gather and establish CSOs: The registration and operation requirements for Albanian CSOs are regulated by Law No. 8788/2001, (amended in 2007 and 2013) "On Non-Profit Organizations". The law broadly follows international standards but includes provisions, mainly on centralized legal registration and taxation, which are not conducive with the principle of an enabling environment for CSOs to operate free of restrictions or government interference.

2. Right to Information: Transparency of Albanian public institutions is regulated by Law No. 119/2014, "On the Right to Information". The law provides transparency requirements for public authorities, provisions for Freedom of Information (FOI) requests, and for monitoring mechanisms. It obliges public authorities to publish their organizational structure; full text of conventions, legislation, rules and regulations governing their work; policy documents; budget, expenses, and procurement records; and FOI request and complaint forms. In addition to the FOI request and complaint templates, public authorities are required to have a 'Coordinator for the Right to Information.' This person serves as an institutional contact point to who requests, and complaints are communicated. There are clear deadlines for the public authorities to provide the requested information.

If a public authority fails or refuses to provide the requested information without reason, the person requesting the information has the right to file a complaint with the Commissioner for the Right of Information and Personal Data Protection, who may fine the public authorities or force them to release the information. Public authorities may withhold information if it is related to, or

adversely affects, national security, trade secrets, personal data, copyright, intergovernmental relations, monetary and fiscal policies, ongoing criminal or administrative investigations, and intra-governmental consultations for the development of public policies.

Despite the restrictions, the law states that information may not be withheld if a higher public interest demands it be made public. However, the 'public interest' provision is undefined, thus proving public institutions substantial latitude to legally restrict or deny information.

3. Public Participation: The central piece of the legislative framework to enable CSO participation in decision-making is Law No. 146/2014 "On Public Notification and Consultation. It regulates the public consultation process by outlining the responsibilities of public institutions to enable the contribution of the public, CSOs, and other interest groups in the environmental decision-making process for laws, national and local strategic documents, and other public policy issues. The law has clear provisions to ensure that public institutions implement a transparent and timely consultation process. The institutions must provide background information for the draft policy document explaining the need for the document, rationale for draft, and other relevant information. Inputs must be provided within 20 days from the announcement for consultation. They may be submitted through a dedicated online public consultation portal or via e-mail.

Additionally, public hearings may be organized by the public institution interested in gathering inputs through direct discussions. Following the draft of a policy document, public institutions are obliged to begin a consultation process. However, it is optional for them to start a consultation process to gather inputs before drafting the document. After the consultation process, the new draft document must include a report on the recommendations accepted.

Those rejected should be argued and made public via e-mail or publication in print or electronic media. There are several exemptions from the consultation process. The exemptions relate to decision-making on national security issues which are classified, international agreements, individual administrative acts, normative acts with legislative power of the Council of Ministers, civil emergency, and other issues defined by law as exempt. Furthermore, while CSOs may engage in consultations after the draft policy document has been prepared, there are no provisions to enable consultations prior or during the drafting process. Meanwhile, the Albanian Assembly's consultation and recommendation procedures are broadly based on the legal requirements of the Law "On Public Consultation" (Law No. 146/2014), but they are based on their "Manual i Pjesëmarrjes së Publikut në Procesin Vendimmarrës të Kuvendit" (Manual for Public Participation in the Decision-Making Process of the Assembly).

Communication between CSOs and the Assembly's committees is facilitated through a parliamentary co-ordinator. The recommendations provided by CSOs must be included in the final committee report for a bill. Additionally, CSOs may submit petitions to the Assembly (the Speaker), which are then forwarded to the relevant committees for consideration. Despite these provisions, there are some shortcomings in this regulatory framework which undermine CSOs' effective and transparent contribution to the legislative process.

5.1.3 Stakeholders Framework

I. Governmental Agencies and Institutions

1. Ministry of Tourism and Environment

The MoTE serves as the central authority in Albania for developing and implementing environmental policies and legislation. It is responsible for drafting laws, regulations, and strategies aimed at environmental protection, sustainable tourism development, and the management of natural resources. MTE oversees the alignment of national policies with

international environmental agreements and EU directives, particularly those pertinent to Albania's EU accession process. Additionally, the ministry coordinates with various stakeholders, including governmental agencies, non-governmental organizations (NGOs), and international partners, to ensure cohesive and effective environmental governance.

Beyond policy development, MoTE supervises the implementation of environmental programs and projects across the country. MoTE monitors the Agencies tasked with ensuring compliance with environmental standards, management of protected areas, and promotes initiatives that balance economic development with ecological sustainability. The ministry also plays a crucial role in public engagement by facilitating access to environmental information and encouraging community participation in decision-making processes.

Since Albania has already opened accession negotiations with the EU, aligning Albanian legislation with the EU Acquis and fulfilling the recommendations of the European Commission regarding the respective chapters represents a key objective for this institution. Specifically, among the short-term objectives that must be achieved by this institution are:

- a) Taking measures to revise and improve the strategy for EIAs and the evaluations of environmental impact for projects, plans, and programs in the sectors of hydropower, construction, tourism, transport, and mining.
- b) Strengthening the fight against environmental crime and the enforcement of laws related to nature and biodiversity protection, especially in protected areas.
- c) Enhancing inspection capacities through increased professionalism and budgetary support to effectively address environmental crimes.

2. National Environmental Agency

Established in 2014, the NEA, under the MoTE, is Albania's central authority for environmental protection and monitoring. Its mission is to safeguard, preserve, and improve the environment for current and future generations by mitigating risks to human health, promoting sustainable use of natural resources, and enhancing the quality of life. Since 2020, NEA has overseen environmental inspection activities, taking on responsibilities previously held by the State Inspectorate for Environment, Water, Forests, and Tourism. A central office operates four Regional Environmental Agencies, and a staff of 304 people.

The NEA is responsible for conducting environmental assessments, issuing permits, overseeing EIAs, and ensuring compliance with environmental laws through inspections and penalties. The NEA collects and analyzes data on air and water quality, biodiversity, and pollution, informing policy decisions and public awareness. The agency also manages waste, including hazardous waste, and reports nationally and internationally on its findings. REAs enforce environmental regulations locally, handle licensing, monitor activities, and address violations in cooperation with law enforcement.

By promoting transparency and facilitating public access to environmental information in line with the Aarhus Convention, NEA encourages public participation in decision-making and strengthens Albania's environmental governance. The work of NEA supports sustainable resource management, aligns with international commitments, and contributes to Albania's overall development goals.

3. National Agency for Protected Areas

The NAPA, operating under the MoTE, is dedicated to the management and preservation of Albania's protected areas, including national parks, nature reserves, and other ecologically significant sites. NAPA's responsibilities encompass the development and implementation of management plans that aim to conserve biodiversity, protect habitats, and promote sustainable

tourism. The agency conducts scientific research, monitors wildlife populations, and implements conservation projects to maintain the ecological integrity of these areas.

Engaging with local communities is a fundamental aspect of NAPA's approach. The agency collaborates with residents, NGOs, and other stakeholders to promote sustainable livelihoods compatible with conservation objectives. Through educational programs and community involvement, NAPA fosters a sense of stewardship and encourages practices that support both environmental and socio-economic goals. Balancing conservation efforts with community development, NAPA contributes to the long-term sustainability of Albania's natural heritage.

4. National Forestry Agency

The National Forestry Agency (NFA), is tasked with the stewardship of the nation's forest resources. Operating under the MoTE, NFA's primary responsibilities encompass the management, preservation, and sustainable development of forests, recognizing them as vital national assets. This includes overseeing the implementation of forestry policies, conducting comprehensive forest inventories, and developing management plans that align with both national legislation and international environmental standards. By ensuring the sustainable and multifunctional use of forest resources, NFA significantly contributes to biodiversity conservation, climate change mitigation, and the enhancement of ecosystem services.

In addition to its management duties, NFA plays a crucial role in monitoring and enforcing compliance with forestry laws and regulations. It collaborates with various stakeholders, including local communities, NGOs, and international partners, to promote sustainable forestry practices and combat illegal activities such as unauthorized logging and land encroachment. The agency also engages in public awareness campaigns and educational programs to foster a culture of environmental stewardship among citizens. Through these efforts, NFA aims to balance the ecological, economic, and social functions of forests, ensuring their preservation and sustainable use for present and future generations.

5. Ministry of Agriculture and Rural Development

The Ministry of Agriculture and Rural Development (MARD) is responsible for the development of the country's economy by promoting agriculture in line with program sectors focused on environmental protection, such as controlled fishing, the protection of biodiversity, and forestry. Within the Ministry of Agriculture, the Fisheries Inspectorate, which operates at the local level, is responsible for inspecting and addressing illegal fishing activities.

6. Water Resources Management Agency

Established in 2018, the Water Resources Management Agency (AMBU) is tasked with the good governance of water resources to meet essential needs, while ensuring the sustainability of ecosystems. The agency promotes competitive and efficient use of water resources, prioritizing economic profitability and long-term sustainability in its management practices.

7. National Inspectorate of Territorial Protection

The National Inspectorate of Territorial Protection (NITP) is a central institution responsible for preventing, protecting, supervising, and controlling the implementation of legislation aimed at safeguarding land, air, water, and forests from pollution, damage, or illegal activities of any kind. Its environmental inspection efforts focus on ensuring compliance with environmental legislation within areas under its jurisdiction and verifying that inspected activities align with legal requirements and the conditions of environmental permits.

Subordinated to the Ministry of Interior, NITP plays a critical role in enforcing environmental laws and regulations in Albania, ensuring the sustainable management and protection of natural

resources. Responsibilities include overseeing activities related to environmental protection, integrated water resource management, and the responsible exploitation of natural resources. The inspectorate supervises and regulates quarrying activities to ensure compliance with legal and environmental standards. Additionally, NITP enforces laws that protect forests and addresses environmental violations such as illegal logging, water pollution, waste dumping, forest degradation, and industrial pollution. NITP's mandate is to preserve biodiversity and promote sustainable resource use.

Beyond its enforcement role, the NITP collaborates with local government, law enforcement agencies, and other inspectorates to coordinate efforts in environmental governance. By ensuring public access to information and fostering transparency, NITP supports public participation in decision-making processes related to environmental protection. The inspectorate's oversight of compliance with environmental standards in construction, resource management, and industrial activities underscores its commitment to safeguarding Albania's ecological integrity, while advancing sustainable development practices.

8. Ministry of Justice

The MoJ is a critical institution in shaping and overseeing Albania's legal framework, including laws that pertain to environmental justice. The ministry drafts and amends legislation related to judicial and administrative procedures, ensuring compliance with constitutional principles and international obligations, including EU directives and conventions such as the Aarhus Convention. By structuring legal pathways for public participation, access to information, and environmental litigation, MoJ establishes the framework through which citizens, businesses, and NGOs can seek redress or challenge decisions affecting the environment.

In its enforcement capacity, MoJ collaborates with courts and prosecution offices to enhance the effectiveness of environmental laws. It also provides institutional oversight for the judicial training processes, ensuring that legal professionals understand the complexities of environmental legislation. Through its role in judicial reform, the ministry supports the development of mechanisms that streamline access to justice in environmental matters, contributing to transparency, accountability, and public trust in the legal system.

9. Ombudsman (People's Advocate)

The Ombudsman serves as an independent oversight body ensuring that citizens' rights, including environmental rights, are respected by public institutions. Its tasks include addressing of complaints related to environmental harm, lack of access to information, or inadequate public participation in decision-making. By investigating these cases, the Ombudsman may hold government agencies accountable and issues recommendations for corrective actions.

Through its advocacy role, the Ombudsman promotes greater transparency and public involvement in environmental governance. The Ombudsman may also engage in broader discussions on systemic challenges, such as gaps in enforcement and institutional capacity, contributing to the overall improvement of Albania's environmental governance framework. Under its specific legislation, the People's Advocate holds solely monitoring and advisory functions regarding the activities of public administration institutions.

10. Local Government Units

Local Government Units (LGUs) in Albania are important actors for implementing and enforcing environmental policy at the grassroots level. They are empowered under the Law "On Local Self-Government" to address environmental issues within their jurisdictions, such as urban planning, waste management, water resources, and air quality. LGUs are responsible for developing and implementing local environmental strategies and action plans in alignment with national policies. They oversee the issuance of permits for certain activities, such as small-scale construction

projects, and ensure compliance with environmental regulations through local inspection mechanisms.

A key role of LGUs is facilitating public participation in environmental decision-making processes. They are often tasked with organizing public consultations during the EIA process for projects under their jurisdiction. LGUs also serve as a point of contact for community members to raise concerns or complaints about local environmental issues, such as illegal dumping or unregulated construction. By providing a platform for citizen engagement, LGUs enhance transparency and accountability, ensuring that local development aligns with sustainable practices and community interests.

II. Judiciary and Enforcement

The judiciary is a cornerstone of Albania's environmental governance framework, tasked with upholding environmental laws, adjudicating disputes, and ensuring access to justice in environmental matters. However, judges face challenges in navigating the technical complexities of environmental cases due to limited expertise and lack of procedural guidelines tailored to environmental governance.

1. Courts

Administrative Courts (three levels: District, Appeal and Supreme Court): These courts manage disputes related to EIAs, environmental permits, and other administrative decisions. These courts are expected to ensure that public decisions comply with national legislation and EU directives. However, several issues hinder the effectiveness of administrative legal action, such as lack of specialized training in environmental law, inconsistent interpretation of the law, cases backlog and difficulties in ensuring technical/scientific expertise.

Criminal Courts (three levels: District, Appeal and Supreme Court – first two levels branched into normal and serious crimes criminal courts): These courts address cases involving severe environmental violations, such as illegal logging, pollution, and hazardous waste management. They play a critical role in enforcing the Criminal Code's provisions related to environmental crimes. However, underreporting, weak investigation capacities, and low conviction rates hinder the effectiveness of criminal enforcement.

Civil Courts (three levels: District, Appeal and Supreme Court): These courts adjudicate cases involving compensation for environmental damages, contractual disputes over environmental services, and other private legal actions. Despite legal provisions allowing affected individuals to seek redress, a lack of secondary legislation required to define environmental damage, the costs of litigation and the burden of proof all remain significant barriers, particularly for vulnerable and remote communities.

The Special Courts for Corruption and Organized Crime and the Special Court of Appeals for Corruption and Organized Crime (SCCOC) are newly established judicial structures resulting from the 2016 constitutional amendments and substitute the Serious Crime Courts. These courts handle corruption and organized crime cases, investigated and prosecuted by the special prosecution structures.

Constitutional Court: The Constitutional Court offers a mechanism for challenging laws, policies, or administrative actions that violate constitutional rights to a healthy environment. However, procedural barriers like time limits and legal standing, as well as limited public awareness, restrict the court's accessibility.

The High Judicial Council (HJC) is an independent institution established by the constitutional amendments of 2016 and has been established with the view to replacing the former High Council of Justice. The Council is responsible for appointing, evaluating, promoting and transferring judges of all levels, proposing to the President of the Republic the candidates for judges of the Supreme Court, including other competences as stipulated by the Constitution and the legal framework regulating the institutions governing the judiciary.¹⁴ The Council is composed of 11 members, six of whom are elected by the judges of all levels of the judiciary, and five members elected by the Assembly among lawyers who are not judges. The Council is designed to grant enhanced independence from political interference, and the MoJ may only participate in the meetings of the HJC when issues of strategic planning and budget are discussed, but does not have voting rights or any responsibility towards inspection and evaluation of judges.

The High Prosecution Council (HPC) is in charge of guaranteeing the independence, accountability, status, and career of prosecutors in the Republic of Albania. HPC is vested with the competence to appoint, evaluate, promote and transfer prosecutors of all levels, as well as on cases of disciplinary misconduct by the latter. HPC bears a special competence to propose to the Assembly candidates for General Prosecutor (GP), and other competences included in the Constitution and the law on the institutions governing the judiciary.¹⁵ This council is composed of 11 members, elected for a five year term, six of whom are selected amongst prosecutors of all levels, and five elected by the Assembly among lawyers sourced from the judicial or prosecution system.¹⁶

High Justice Inspector (HJI) is an institution governing the judiciary, and is responsible for the verification of complaints, the investigation of violations on its own initiative, and the initiation of disciplinary proceedings against judges and prosecutors of all levels, as well as members of the HJC, HPC and the GP.¹⁷ Following an investigation, HJI may initiate proceedings against a judge or prosecutor before HJC or HPC. As such, the initiation of disciplinary proceedings is no longer a competence of the Ministry of Justice or the former Inspectorate of the High Council of Justice. The High Inspector is elected by a 3/5 majority of all members of the Assembly, for a nine-year term.¹⁸

2.A Prosecution Offices

The General Prosecutor's Office in Albania is headed by the General Prosecutor, who operates under the provisions of Article 38 of Law no. 97/2016, "On the Organization and Functioning of the Prosecution in the Republic of Albania." The General Prosecutor has several key responsibilities, including representing the prosecution in the High Court and the Constitutional Court, issuing general written instructions for prosecutors within the jurisdiction of the General Prosecution Office, and supervising their implementation. Additionally, the office ensures the efficient functioning of the prosecution administration within the general jurisdiction system.

Prosecutor's offices attached to the First Instance, and Appeal Courts within the General Jurisdiction, are tasked with pursuing criminal cases reported by citizens, public officials, or referred by the judicial police. They represent the prosecution in court on behalf of the state, monitor the enforcement of criminal decisions, and take preventive interim measures as necessary. In cases involving environmental crimes, it is the duty of the relevant public authority to report the incident to the prosecution. Prosecutors must clearly distinguish between

¹⁴ Constitution art. 147 para 1 and 147/a para 1, 2 and 3 as well as Law 115/2016 "On governance institutions of the justice system"

¹⁵ Constitution Art. 149 para 1 and 149/a

¹⁶ Constitution Art. 149

¹⁷ Constitution Art. 147/d para. 1

¹⁸ Constitution Art. 147/d para 3

administrative violations, which result in administrative penalties, and actions that constitute criminal offenses, ensuring proper legal action is taken.

As a central institution in Albania's enforcement framework for environmental protection, the General Prosecutor's Office plays a vital role in investigating and prosecuting environmental crimes such as illegal logging, water pollution, and unregulated construction. Collaborating with police and environmental inspectorates, GPO ensures that environmental offenders are held accountable under the law. Furthermore, the office contributes to legal reform initiatives and international collaborations, enhancing its capacity to handle complex environmental cases through specialized training and coordination with EU bodies. This proactive approach reinforces the enforcement of environmental laws and supports Albania's broader efforts toward sustainable environmental governance.

2.B Special Prosecution Units

One of the pillars of the 2016 justice reform was the strengthening of the fight against corruption and organized crime. For this purpose, the 2016 constitutional amendments and the subsequently adopted legal framework foresee the establishment of a Special Prosecution structure for the fight against Corruption and Organized Crime (SPCOC), and of a Special Investigation Unit called the National Bureau of Investigation (NBI), both of which constitute the "Special Anti-Corruption and Organized Crime Structure" (Albanian acronym: SPAK).¹⁹ The rationale behind these amendments is the creation of structures with a special mandate to fight endemic corruption and organized crime, free from political influence, and from the influence of the GP. SPCOC conducts the criminal prosecution and investigation of the criminal offenses of corruption, organized crime and criminal offences committed by high ranking state officials, such as the President of the Republic, Speaker of the Assembly, Prime Minister, a member of the Council of Ministers, judges and prosecutors up to the Supreme and Constitutional Court, the GP, HJI, the Mayors, members of the Assembly, deputy ministers, the members of the HJC and HPC, and heads of central or independent institutions as defined by the Constitution or by law, including charges against the former officials mentioned above.²⁰ SPCOC investigates and prosecutes any other offense closely related to the investigation or criminal cases within its competences. SPCOC represents the accusation before the SCCOC and the Supreme Court.²¹

3. School of Magistrates

The School of Magistrates (SoM) plays a pivotal role in strengthening Albania's judiciary addressing environmental issues and upholding environmental law. Tasked with training future judges and prosecutors, SoM includes environmental law as part of its curriculum, emphasizing the application of national and international environmental legislation, ensuring judicial candidates are prepared to handle the complexities of causes related to environmental crime, public participation rights, and liability for environmental damage. The institution also facilitates the recruitment and initial training of magistrate candidates and offers continuous professional development for acting magistrates, as well as conducting testing for legal advisors to the Constitutional Court, legal assistants to the Supreme Court, Administrative Court, and the General Prosecutor's Office.

While the School's activities include continuous training programs, until recently these have not been specifically focused on environmental law. Within the magistrate continuous training curriculum, only three days are dedicated to the investigation and prosecution of environmental crimes, and in recent years, only one specialized two days training on environmental law was conducted in October 2022 by EuroNatur, Res Publica and Eco Albania. However, in the 2023-2024 academic year, there was significant development. A new, 40-hour curriculum was

¹⁹ Law 95/2016 "On the organization and functioning of institutions for combating corruption and organized crime"

²⁰ Constitution Art. 135 para 2 and Art. 148/4

²¹ Constitution Art. 148/dh para 1

introduced in the initial training program, covering administrative, civil, and criminal aspects of both international and domestic environmental legislation. Developed with the support of the Organization for Security and Co-operation in Europe (OSCE) presence in Albania and a joint team of domestic and international experts, this program will address 15 specific topics, marking a crucial step forward in building judicial capacity in environmental law.

By integrating environmental law into its foundational and professional training programs, SoM enhances the judiciary's ability to adjudicate environmental cases effectively. These efforts contribute to safeguarding Albania's natural resources and ensuring the protection of citizens' environmental rights while aligning the judiciary with international best practices.

4. Albanian State Police

The Albanian State Police plays a crucial supporting role in environmental protection, working alongside inspectorates and prosecutors to enforce environmental laws. Police officers are involved in investigating environmental crimes, securing crime scenes, and collecting evidence in cases such as illegal dumping, deforestation, and habitat destruction. They collaborate with local authorities to prevent unauthorized activities that damage the environment, ensuring compliance with environmental regulations and contributing to broader enforcement efforts.

In addition to enforcement, State Police actively participates in public awareness campaigns to prevent environmental violations. By partnering with communities and NGOs, they foster compliance with environmental laws and regulations. Their involvement is particularly critical in addressing environmental crimes linked to organized crime, where dismantling illegal networks requires coordinated and multifaceted efforts. This dual focus on prevention and enforcement underscores the importance of their role in environmental governance.

Under the Ministry of Interior, the General Directorate of Police prioritizes crime prevention across Albania, including territorial control to combat environmental crimes. A primary focus is the identification and prosecution of illegal constructions and other environmental offences. Through their duties as judicial police officers, State Police officers contribute significantly to the investigation of these offenses. Judicial Police functions in Albania are carried out by sections within prosecution offices and by services within the State Police and Border Police, as well as other authorized state institutions such as the General Directorate of Customs, the General Directorate of Taxes, and the Military Police, reflecting a comprehensive approach to enforcing environmental and criminal laws.

5. Academy of Security

The Academy of Security, is part of the Albanian State Police, and focuses on the education, specialization, and training of officers and agents of the Albanian State Police and other law enforcement institutions. The Academy provides study programmers, specialized courses, and training on policing, law enforcement, and security issues. Topics related to environmental crimes are included in both the basic curriculum and in ongoing training programs for career officers and agents.

Currently, environmental crime topics are covered for only three hours in the ongoing training program. However, there is a goal to enrich these topics within the ongoing training curriculum that began in 2023.

III. Non-Governmental Organizations

1. The evolution of the environmental movement in Albania

Post 1990, the environmental movement began with the aim of increasing awareness of the severe environmental degradation caused by decades of industrial pollution, deforestation, and

unsustainable agricultural practices under centralized planning. Environmental NGOs began playing a crucial role in advocating for environmental protection and sustainable development. Efforts focused on issues such as cleaning polluted rivers, preserving biodiversity hotspots, and curbing illegal logging. After 2000, NGOs began to advocate for legal improvements and strengthening enforcement through establishing partnership and the first networks at a national level.

Along with an increased number of environmental groups, specialization on specific environmental topics such as nature protection and biodiversity, climate change, environmental education, etc. have emerged. Increasing numbers of community based groups focus their activities at local level on environmental concerns and the protection of environmental rights for local communities.

Albania has seen a steady growth in the number and diversity of environmental groups, reflecting an increased societal awareness of ecological issues. Besides the number of groups there is their range of activities, such as nature protection and biodiversity conservation, climate change mitigation and adaptation, sustainable development, and environmental education. This allows for more targeted and effective advocacy, as well as the development of expertise in addressing complex environmental challenges. Additionally, there has been a significant increase in community-based groups that center their activities at the local level. These grassroots initiatives are actively addressing environmental concerns unique to their regions, advocating for the protection of environmental rights, and empowering local communities to take ownership of sustainable practices. Such groups often collaborate with national organizations and international partners to amplify their efforts, creating a more robust and inclusive environmental movement across Albania.

CSOs in Albania have been pivotal in advocating for environmental protection, policy reform, and community engagement. Many NGOs conduct research, implement conservation projects, and offer legal assistance to communities affected by environmental harm. They also act as watchdogs, monitoring government actions and ensuring accountability for enforcing environmental laws. In addition to individual efforts, NGOs have organized themselves into networks, such as the Advisory Group against Environmental Crime (established in 2019) with OSCE support. This informal, independent, and voluntary group of environmental experts, CSOs, and journalists works to raise awareness at national and local level, aiding government policies in combating environmental crime, and fostering collaboration with responsible authorities and communities.

NGOs enhance the accountability and effectiveness of Albania's environmental governance and play a crucial role in building bridges between policymakers and communities to address environmental challenges comprehensively.

The Agency for the Support of Civil Society (AMSHC) in Albania is a governmental institution established to strengthen and support CSOs across the country. AMSHC's primary mission is to promote sustainable development, good governance, and active citizenship by providing financial grants, capacity-building opportunities, and technical assistance to NGOs and community-based groups. Over the years, the agency has supported various initiatives in areas such as environmental protection, education, human rights, and social inclusion, contributing to Albania's broader development goals. Nevertheless, such support remains insufficient and frequently unable to address the main environmental concerns raised by CSOs.

2. Aarhus Convention a powerful tool for the environmental movement

On October 26, 2000 Albania ratified the Aarhus Convention, thereby demonstrating its commitment to environmental protection and public participation in environmental matters. With

the support of the OSCE, three Aarhus Information Centers were established in Tirana, Shkoder, and Vlora. These assist MoTE and its subordinated agencies by providing environmental information and promoting the continuous application of the Convention's obligations. The centers have been instrumental in conducting awareness campaigns of the three pillars of the Convention: access to information, public participation in decision-making, and access to justice in environmental matters.

The first pillar, the right of the public to access and request environmental information, is effectively ensured through Albania's legal framework on environmental protection and the right to information. This framework mandates the systematic dissemination of environmental information, regular public updates on environmental issues, and opportunities for public participation in decision-making. While the legislation ensures public access to information for individuals, organizations, and groups, effective implementation, particularly regarding participation in decision-making on major projects with environmental impacts, remains a challenge. The legal framework also provides civil society actors with avenues to initiate legal proceedings, and CSOs have played a critical role in advocating for environmental justice through administrative courts, contributing to the development of jurisprudence aligned with the Convention.²²

IV. Universities and Academia

Law faculties and other faculties in Albania, particularly those pertaining to the University of Tirana and other major institutions, contribute to environmental governance through education and research. They provide foundational knowledge of environmental law to future lawyers, policymakers, and administrators. Courses typically cover domestic legislation, international and EU law relevant to environmental governance.

Research conducted by academic institutions often informs policymaking and legislative reform. Through partnerships with NGOs, government agencies, and international organizations, faculties undertake studies and provide expertise on topics such as public participation, EIAs, industrial pollution, biodiversity and nature conservation and climate change adaptation. Their contributions are instrumental in bridging the gap between theory and practice, fostering a deeper understanding of environmental challenges and solutions in the Albanian context.

V. Media

The media in Albania acts as a vital watchdog in environmental governance, raising awareness of environmental issues and holding institutions accountable for their actions. Investigative journalism often exposes illegal activities, such as unregulated construction and deforestation, bringing these issues to public attention and prompting institutional responses. Media outlets also serve as platforms for public discourse, enabling citizens and experts to voice their opinions on environmental policies and practices.

By disseminating information on environmental laws, public consultations, and government initiatives, the media plays a crucial role in fostering transparency and public participation. Its coverage helps bridge the gap between policymakers and the public, ensuring that environmental issues remain a priority in Albania's national agenda. Despite the importance of the media in raising awareness and increasing public information and participation in environmental issues and decision-making, environmental issues rarely make the front page or prime time television.

VI. International Organizations

International organizations such as the EU, United Nations Development Programme (UNDP), OSCE and the World Bank play a pivotal role in shaping Albania's environmental governance. They provide funding, technical assistance, and capacity-building to support the implementation

²² Litigations initiated by Eco Albania, Toka Association, Organic Agriculture Association, Res Publica, AOS, PPNEA etc.

of environmental laws and policies. These organizations also facilitate Albania's alignment with EU directives and international agreements, such as the Paris Agreement and the Aarhus Convention.

Through their initiatives, international organizations promote best practice, foster regional cooperation, and address trans boundary environmental challenges. Partnerships with Albanian institutions and NGOs enhance the country's ability to meet its environmental commitments and develop sustainably.

VII. Business Community

The business community in Albania, particularly industries with significant environmental impacts, such as construction, energy, and tourism, plays a dual role in environmental governance. On the one hand, businesses are responsible for complying with environmental laws, obtaining necessary permits, and implementing sustainable practices. On the other hand, they have the potential to drive positive change by adopting innovative technologies and corporate social responsibility initiatives.

Collaboration between businesses and government agencies is essential if challenges such as pollution, resource management, and climate change are to be addressed. Through partnerships and compliance with environmental standards, the business community can contribute to Albania's sustainable development goals while enhancing its own economic viability.

5.1.4 Enforcement and Judicial Practices

Albania's environmental enforcement and judicial systems are structured to uphold environmental laws through various channels, including administrative inspections, police and prosecutorial investigations, and judicial proceedings across administrative, criminal, and civil courts.

Despite a comprehensive legal framework, several procedural challenges and institutional weaknesses hinder effective enforcement. The below analysis provides detailed insight into the procedures, effectiveness, and gaps within each enforcement channel.

1. Administrative Enforcement Through Inspections

In Albania, administrative enforcement plays a critical role in ensuring compliance with environmental laws. Environmental inspecting functions in Albania are central to enforcing laws aimed at protecting natural resources, ensuring sustainable development, and preventing crimes against the environment. However, the current inspection processes face significant challenges, from legal ambiguities to limited resources. Understanding the procedural mechanisms and addressing their shortcomings are critical steps toward strengthening the environmental governance framework in the country. These agencies operate under the framework established by Law No. 10431/2011, "On Environmental Protection", and related specific regulations.

Inspection-Related Institutions:

- Governmental bodies that include inspection functions such as NEA, NAPA, NFA, the Fisheries Inspectorate (FI) within the MARD and NIPT play a significant role in inspections related to environmental crimes.
- LGUs also have inspection responsibilities under relevant environmental laws, particularly regarding waste management, forest protection, and protected areas.

The Inspection Process

The inspection process in Albania follows a structured, yet often fragmented, pathway. This reflects both the strengths and weaknesses of the institutional framework. Inspections generally begin with routine checks or responses to specific complaints or reports of violations. Various entities, including national inspectorates and LGUs, are involved, depending on the nature of the environmental issue.

Initiation: Inspections can be initiated in several ways:

- **Scheduled Monitoring:** Regularly planned visits by inspectorates to monitor compliance with environmental regulations, such as waste management or biodiversity protection.
- **Responsive Actions:** Triggered by reports from the public, CSOs, or media, or when anomalies are identified through remote sensing or other surveillance technologies.
- **Inter-agency Requests:** Sometimes, inspections are prompted by other government agencies, such as MoTE or the police, which identify suspected violations during their operations.

On-Site Investigations: Once initiated, inspectors visit the site to assess compliance. Their tasks involve:

1. **Documentation:** Gathering photographic evidence, taking samples (water, soil, air), and reviewing permits or records maintained by the entity under inspection.
2. **Verification:** Checking the operations against legal requirements and ensuring adherence to specific conditions outlined in permits, such as emission limits or waste disposal practices.
3. **Engagement:** Interacting with site personnel to understand processes and seek clarification on observed anomalies.

The effectiveness of on-site investigations depends heavily on the inspectors' expertise, availability of equipment, and access to necessary documents. In many cases, inspectors face difficulties due to a lack of specialized training or insufficient resources, such as vehicles and technical tools.

Reporting and Referral: After completing the on-site investigation, inspectors compile detailed reports outlining their findings. These reports:

- Highlight any detected violations.
- Determine penalties or corrective measures.
- Serve as evidence if the case proceeds to legal or administrative adjudication.

If criminal activities, such as illegal logging or hazardous waste disposal, are identified, the case is referred to law enforcement agencies or the prosecutor's office for further action. The inspector's ability to secure and preserve evidence is crucial at this stage, as poorly documented cases can falter in court.

Statistical Data: In 2023, approximately 2,500 inspections were conducted, with violations identified in 15–20% of cases. Fines issued by NEA totaled 460,000 Euro, reflecting the financial consequences of non-compliance.²³

Gaps and Weaknesses

Key limitations hindering effective enforcement include:

- **Legal Ambiguities:** Inspectors often encounter unclear regulations regarding evidence collection and permissible actions during an inspection. These ambiguities can lead to disputes over procedural validity, affecting the strength of cases in court.

²³ General Report of Inspections 2023 – Albanian Central Inspectorate; <https://insq.gov.al/wp-content/uploads/2024/04/RPI-2023.pdf>

- **Resource Constraints:** Inspectors frequently operate without essential tools such as portable testing kits, GPS devices, or specialized software for environmental monitoring. This limits their ability to detect, subtle or conceal violations.
- **Coordination Gaps:** The fragmented nature of Albania's institutional framework results in overlapping responsibilities and poor communication between inspectorates, LGUs, and law enforcement agencies. For instance, illegal waste dumping may fall under multiple agencies, leading to confusion about which entity is responsible for enforcement.
- **Evidence Preservation:** Collecting and safeguarding evidence during inspections is a critical, but weak, link. Inspectors must ensure that evidence, such as samples or documents, is handled correctly to avoid legal challenges later.
- **Training Deficiencies:** Inspectors often lack advanced training in handling emerging environmental issues, such as hazardous waste management or modern pollution control techniques. This leads to less rigorous assessments of complex operations.
- **Public Awareness:** Many violations remain unreported due to the public's limited understanding of environmental regulations and reporting mechanisms, reducing the scope and impact of enforcement actions.

2. Police and Prosecution Enforcement Through Investigations and Criminal Proceedings

When administrative violations escalate to criminal offenses, enforcement is handled by the police and the prosecutor's office. The enforcement of environmental law through police and prosecutorial procedures is a complex, multi-layered process in Albania, reflecting both progress and challenges. The foundation for these efforts is built upon national legislation, international conventions, and institutional cooperation, aiming to combat environmental crime effectively.

In December 2024, Albania established a long overdue, dedicated police unit to tackle environmental crimes. This police unit is currently included within the central directorate with just two officers. However, the plan is ambitious: the goal is to expand to all 12 main districts in Albania, ensuring each has at least one officer focused solely on environmental crimes.²⁴

Criminal protection of the environment is exclusively addressed in the Criminal Code. Unlawful actions or inactions that harm environmental elements (e.g., air, water, soil, plants, and forests) are classified as criminal offenses if they are intentional and explicitly outlined in the Criminal Code. Environmental violations not covered by this code are deemed administrative offenses.

Legal ambiguities exist concerning the scope of administrative authority, and the distinction between environmental crimes and administrative offences remains unclear. Albania's environmental protection framework relies on differentiating administrative law from criminal law, but it lacks clear definitions. E.g. Law 57/2020 "On Forests" mandates that actions damaging the national forest fund fall under the jurisdiction of the NFA for administrative offenses, while criminal offenses are to be referred to specialized forest protection units within the MoTE, which in turn should refer further to police and/or prosecution.

Nonetheless, improvements to the criminal code's environmental provisions are necessary with the aim of refining definitions, clarifying provisions, and harmonizing the code with sectoral legislation. For instance, Article 201/c of the Criminal Code uses the phrase "*...it is possible to cause serious damage...*" which is problematic. Environmental harm is either caused or not caused. The term "it is possible" aligns with the concept of an attempted criminal offense, but such an attempt is not a recognized legal institution in environmental crimes. Similarly, Article 205 criminalizes unauthorized cutting or damaging of forests unless categorized as an administrative offense, punishable by fines or up to one year of imprisonment. However, under forest law, all such actions are listed as administrative offenses, rendering Article 205 practically ineffective and unenforceable.

²⁴ <https://balkandetoxlife.eu/2024/12/18/albania-establishes-new-environmental-crime-police-unit/>

Clear criteria linking the extent of environmental harm to either administrative or criminal penalties are crucial. Addressing inconsistencies and improving clarity in the legal framework will enhance the enforcement of environmental protection laws.

Procedures and Evidence Gathering

Environmental crimes in Albania range from illegal waste disposal to unauthorized exploitation of natural resources and may also fall within the scope of organized and transnational crime. The process begins with evidence collection by specialized inspection agencies such as NITP and NEA. Police play a pivotal role in initial investigations, often collaborating with environmental experts to identify violations.

Evidence gathering is hindered by gaps in technical expertise and a lack of resources. Insufficient training for officers and inspectors limits their ability to investigate complex cases involving corruption or transnational networks. Improvements are needed in equipment and methodologies to detect crimes such as air and water pollution, illegal wildlife trafficking, and hazardous waste disposal.

Prosecutorial Review and Filing Charges

The prosecutorial process involves a detailed review of evidence collected by police and other agencies. Prosecutors ensure that cases meet legal thresholds for prosecution under the Albanian Criminal Code, which has been updated to align with EU directives. The amendments of the Criminal Code in 2019 introduced new offenses related to environmental crimes, reflecting international standards.

Prosecutors work closely with investigative agencies to address legal and procedural gaps that might impede the successful filing of charges. However, a recurring issue is the insufficient coordination between agencies, leading to delays and inefficiencies. Additionally, the lack of specialized environmental prosecutors further complicates the judicial process.

Statistical Data (2019-2022)

Key Trends:

- Specific weight of registered proceedings: Environmental crimes occupy 1.4 % of the total proceedings nationwide.
- Environmental crimes are increasing: There is a consistent rise in the number of registered cases of environmental crimes across Albania.
- Dominant Crime: *Illegal Logging* consistently holds the highest share among environmental crimes, accounting for 47-61% annually.
- Other Crimes: Crimes such as *Air, Water, and Soil Pollution* and *Habitat Destruction in Protected Areas* constitute 10-40% of total cases during the period.

Overall Changes:

- Registered Environmental Cases: Showed an overall increase with notable growth in 2020 (+24.44%) and 2022 (+18.47%).
- Environmental Cases Sent to Court: Fluctuated, with a decline in 2019 (-15.38%) and 2022 (-6.25%), but a significant increase in 2021 (+25%).
- Defendants Sent for Trial: Increased substantially in 2021 (+27.14%) and 2022 (+15.73%).
- Convictions for Environmental Crimes: Showed marked growth, with the highest increase in 2021 (+38.29%).

Gaps and Weaknesses

Despite some improvements, several challenges continue to hinder the effective enforcement of environmental laws:

- **Ambiguities of Legal Framework:**
 - Unclear definitions of environmental crimes reduce the effectiveness of prosecution.
 - Sanctions are often disproportionate to the harm caused.
 - Discernment between administrative offenses and criminal acts are often unclear.
- **Insufficient Institutional Capacity:**
 - Lack of trained personnel; only 12 prosecutors had received some training on environmental crime were active in 2022, against a backdrop of rising cases.
 - Limited access to forensic laboratories and advanced investigative tools hinders thorough examinations of environmental damage
- **Public and Political Priorities:**
 - Environmental crimes are perceived as low-priority offenses and “victimless”, reducing societal pressure for stringent enforcement, affecting resource allocation and public engagement.
- **Coordination Issues:**
 - Fragmented responsibilities among agencies lead to delays. For example, overlapping jurisdictions between the NEA and NITP accounted for 15% of unresolved cases in 2022.²⁵

4. *Judicial Enforcement in Administrative, Criminal, and Civil Cases*

Procedures

Judicial enforcement in Albania spans three distinct legal domains—administrative, criminal, and civil courts—each with a specific role in addressing environmental violations and disputes.

Administrative Courts

Administrative courts oversee disputes involving government decisions on environmental issues, such as permits, fines, or project approvals. Typical cases include:

- Businesses challenging fines for environmental violations.
- Public Entities (individuals, communities, NGOs) contesting environmentally harmful government-approved projects—a growing trend over the past decade.

Claimants must present evidence of procedural or substantive irregularities, with judges reviewing the legality of actions by bodies like NEA. Common cases involve fines for waste disposal or emissions violations. Decisions are based on administrative documentation and legal provisions applicable.

Criminal Courts

Criminal courts handle environmental offenses as provided for by the Criminal Code in Articles 201–207. These procedures involve:

1. Indictment: Evidence presentation, often lacking technical environmental assessments.
2. Trial: Testimonies, expert opinions, and forensic evidence (e.g., soil samples).
3. Sentencing: Penalties may include fines and/or imprisonment.

Despite their deterrent potential, gaps in investigative rigor and judicial expertise often result in lenient sentences or acquittals.

Civil Courts

Civil courts manage compensation claims for environmental harm, requiring plaintiffs to prove:

- Harm: Tangible damage to health, property, or resources.
- Causation: A direct link between harm and the defendant's actions.
- Liability: Adherence to the “polluter pays” principle.

²⁵ Rapport National du HIJ : Coopération pour la Protection de l’Environnement par les Autorités Nationales d’Inspection de la Justice” (COPEIJ) – Albania 2023

While potentially powerful, civil lawsuits remain underutilized due to procedural barriers, duration (length of time involved), lack of regulations related to quantification of environmental damage, and limited public awareness. High litigation costs and the complexity of proving causation further discourage affected parties from seeking legal redress.

While this multifaceted structure is essential for comprehensive enforcement, it also highlights significant systemic challenges that undermine effective environmental governance.

Diagnostics of Access to Justice Issues

■ Barriers and Enablers in Environmental Justice Advocacy: SLAPPs, Activist Criminalization

Albania's environmental justice landscape faces notable challenges for individuals and CSOs, yet progress is evident through emerging legal protections and advocacy successes. In 2023, 73 lawsuits were filed against journalists in general, up from 42 the previous year, highlighting an increasing use of SLAPPs to pressure journalists, activists, and CSOs for different matters, related or not with environmental activism.²⁶ SLAPPs increasingly target environmental activists, exemplified by the rise in lawsuits, including a criminal defamation case against activist Lavdosh Ferruni by Italian company Renco²⁷, which he accused of corrupt practices. His May 2024 acquittal affirmed the importance of public interest defense. Similarly, investigative journalist Artan Rama faced defamation charges from Albtek Energy over critical reporting on Elbasan's waste incinerator contract²⁸, highlighting corporate resistance to scrutiny²⁹.

Another case involved Gener 2's defamation suit against TOKA and its Director, Catherine Bohne, over opposition to hydropower projects in Valbona Valley³⁰. Despite dismissal at the Tirana District Court, the case remains under appeal, illustrating the ongoing pressures activists face. Beyond lawsuits, harassment and intimidation are prevalent, with activists and communities opposing development projects reporting threats and detentions, as seen in Divjaka-Karavasta and Zall Gjocaj³¹.

Institutional and media shortcomings further compound these issues. While Albania's Aarhus Convention-aligned framework promises public consultation, implementation often lacks substance, and environmental organizations struggle for consistent legal standing. Media coverage of environmental issues remains limited, though high-profile campaigns, such as protecting the Vjosa River, demonstrate its potential.

Amid these struggles, significant victories offer hope. Successful legal challenges, such as halting hydroelectric projects and securing the Vjosa River's protected status, showcase judicial potential when mobilized effectively. Albania's legal alignment with Aarhus provides a foundation for progress, and recent rulings have bolstered environmental protection. NGOs play a crucial role, filling institutional gaps by offering legal support, raising awareness, and fostering engagement.

²⁶ <https://www.cna.al/english/aktualitet/shqetesim-ne-rritje-per-padite-slapp-ndaj-gazetareve-ne-shqiperi-i414591>

²⁷ <https://www.respublica.org.al/lavdosh-ferunaj-fiton-betejen-ligjore-kunder-kompanise-italiane-renco-gjykata-rrezon-pretendimet-e-akuzuesit-se-artikulli-eshte-shpifje-ndersa-thekson-se-aktivisti-ferunaj-synon-mb/>

²⁸ <https://www.reporter.al/2020/12/07/gazetari-artan-rama-hidhet-ne-gjyq-nga-incineratori-i-elbasanit/>

²⁹ <https://www.business-humanrights.org/en/latest-news/artan-rama/>

³⁰ <https://www.business-humanrights.org/en/latest-news/catherine-bohne-toka-the-organization-to-serve-the-albanian-alps/>

³¹ <https://ecoalbania.org/banoret-e-zones-se-mbrojtur-zall-gjocaj-vazhdojne-protestat/>

- **Clarity and Accessibility of Legal Appeals for Individuals and NGOs in Environmental Cases**

In Albania, legal appeal procedures for individuals and NGOs in environmental matters are not differentiated by project type, such as windmills or hydropower dams, but by factors such as investment size, Aarhus Convention classifications, and whether the project stems from solicited or unsolicited offers. While the legal framework supports public participation, its complexity often limits accessibility.

Tailor-made laws can bypass standard procedures, as seen with the Skavica HPP project. Despite legal challenges³², the Constitutional Court upheld Law No. 38/2021, creating procedural ambiguities. Similarly, lawsuits against the Vlora Airport in the Vjosë-Nartë Protected Landscape highlighted inconsistencies in NGO standing, with decisions repeatedly overturned, underscoring the system's unpredictability.

These challenges reflect regional trends where overlapping frameworks, such as national laws and Aarhus Convention obligations, complicate environmental governance. Implementation inconsistencies and judicial interpretation further hinder clear procedural access for individuals and NGOs.³³

- **Judicial Access and Challenges to implement Aarhus Convention: Legal Opportunities and Constraints for Individuals and NGOs**

Institutional shortcomings amplify the challenges to judicial access and proper implementation of the Aarhus Convention. While the legislative framework, aligned with the Aarhus Convention, ostensibly supports access to information and public consultation, its implementation often falls short. Public hearings frequently serve as mere formalities, lacking genuine engagement. Moreover, environmental organizations often struggle to gain legal standing in court, as existing case law remains inconsistent.

Harassment and intimidation further exacerbate the challenges. Environmental activists and local community members have reported verbal and physical threats, and other forms of intimidation. For example, during public hearings on the construction of a tourist resort in the Divjaka-Karavasta National Park, activists faced verbal threats. In Zall Gjocaj, local communities opposing hydroelectric projects experienced detention and private threats from company representatives, sometimes extending to threats against their livelihoods.³⁴ These incidents illustrate the risks faced by those defending environmental rights in Albania.

However, there is a growing awareness of the need for better protection of environmental defenders. While whistleblower mechanisms remain underutilized, Albania's laws on access to environmental information offer an important avenue for transparency.

In Albania, the procedures for legal appeals available to individuals and NGOs in environmental matters are not differentiated based on the type of construction project, such as windmills or hydropower dams. Instead, they are influenced by criteria including the project's investment size, its classification under the Aarhus Convention Annexes, which determines the necessity of a detailed Environmental and Social Impact Assessment (ESIA), whether the project arises from solicited or unsolicited offer, etc. While Albania's environmental legislation provides a framework

³² <https://citizens.al/en/2024/01/30/constitutional-court%2C-the-government-did-not-consult-with-the-public-about-the-Skavica-project/>

³³ <https://iep-al.org/projects/ecosystems-and-people/shqip-zbatimi-i-konventes-se-aarhusit-ne-shqiperi-perpjekjet-dhe-zbatimi-i-politikave/>

³⁴ <https://ecoalbania.org/banoret-e-zones-se-mbrojtur-zall-gjocaj-vazhdojne-protestat/>

for public participation and legal recourse, its complexity often poses challenges to understanding and accessibility, a situation common across the region.

In certain instances, standard procedures are bypassed through exemptions introduced by tailor-made laws. A prominent example is the Skavica HPP, where the legislative process was customized to expedite project approval. The Skavica HPP project sparked significant controversy and was challenged before the Constitutional Court of Albania.³⁵ However, the court's ruling did not annul Law No. 38/2021, which facilitates the construction of the hydropower plant, leaving uncertainties about the legal and procedural standards applicable in such cases.

Similarly, the construction of Vlora Airport within the Vjosë-Nartë Protected Landscape has been contentious. Environmental CSOs, including the Albanian Ornithological Society (AOS) and Protection and Preservation of Natural Environment in Albania (PPNEA), filed a lawsuit challenging the project's legality. Initially, the Administrative Court ruled the lawsuit inadmissible, stating that CSOs lacked standing. This decision was unexpected, especially considering previous cases where CSOs were granted standing in environmental matters. Later, upon appeal, the Administrative Court of Appeals overturned the initial decision. However, the Supreme Court subsequently overturned the Administrative Court of Appeals' decision and returned the case to the initial point of debate, focusing on legal standing and access to environmental justice. This back-and-forth exemplifies the inconsistencies and complexities within Albania's legal system regarding environmental governance and access to justice.

The intricate nature of Albania's environmental laws is consistent with patterns observed across the region. Environmental legislation often involves multiple overlapping frameworks, ranging from national laws to international treaties such as the Aarhus Convention. While these frameworks aim to ensure robust environmental governance, their complexity can obscure the procedural pathways available to individuals and CSOs. This complexity is compounded by inconsistencies in implementation and judicial interpretation, further complicating access to legal recourse.³⁶

In Albania, access to justice for environmental issues, whether for individuals or NGOs, is governed by a legal framework that specifies who has the right to initiate court proceedings in specific scenarios. Individual administrative acts are theoretically open to challenge by anyone, whether an individual or an NGO. On the other hand, normative administrative acts can only be contested by NGOs and interest groups, excluding individuals.

Although, in theory, it is acceptable for NGOs to challenge individual administrative acts, as has occurred in cases like Poçëm, Kalivaç, Shushica, Valbona, etc., representatives of the High Court have expressed uncertainty about the legal standing of NGOs in such cases. At the regional Council of Europe conference "Human Rights and Environment in Southeast Europe" held in Budva, Montenegro, on October 17–18, 2024, it was emphasized that there is an opened debate regarding NGOs' legal standing to challenge individual administrative acts. This situation creates confusion within the judicial system between cases related to pollution, for which individuals have standing, and cases concerning the general protection of the environment, for which NGOs are also granted standing. A citizen whose health is harmed by pollution has the right to file a lawsuit independently, usually under Article 8 of the ECHR. In these instances, NGOs are generally not granted standing, as they are not directly affected by the pollution. Conversely, when the environment and habitats are harmed, they cannot defend themselves, which is why the Aarhus

³⁵ <https://citizens.al/en/2024/01/30/constitutional-court%2C-the-government-did-not-consult-with-the-public-about-the-Skavica-project/>

³⁶ <https://iep-al.org/projects/ecosystems-and-people/shqip-zbatimi-i-konventes-se-aarhusit-ne-shqiperi-perpjekjet-dhe-zbatimi-i-politikave/>

Convention grants the right to anyone to represent the general environmental interest.³⁷ This ambiguity leaves unresolved the role of domestic courts in clearly distinguishing between human rights and environmental rights, which often overlap but are addressed differently in terms of their protection.

- **Specific Procedures for Defending Rights: Actio Popularis, Emergency Proceedings, and Other Legal Remedies**

In Albania, legal mechanisms such as *actio popularis* and emergency proceedings are available to defend environmental rights, though challenges in enforcement persist.

Actio Popularis in Environmental Law

While Albania does not have formal class action provisions, individuals and organizations can bring cases to protect public and environmental interests³⁸. Courts have accepted lawsuits from NGOs and citizens, even when they lack direct personal involvement, focusing on issues like the annulment of permits for environmentally harmful projects or failures by public authorities to enforce standards. However, practical application faces hurdles, including limited public awareness, insufficient judicial expertise, and external political and economic pressures.

Albania also lacks specific legal provisions addressing collective lawsuits. Despite this, there are no legal barriers to filing such cases under existing mechanisms, such as the "joinder of claims" provisions or those specific to environmental and consumer law. The concept of collective lawsuits allows groups to act for shared interests, but Albanian case-law has yet to be enriched in this context.

Emergency Procedures for Environmental Protection

Albania's legal system provides robust mechanisms to address environmental harm, emphasizing the urgency of protecting natural resources, biodiversity, and ecosystems from irreversible damage. These mechanisms, which include securing claims, emergency procedures, and provisional measures in criminal law, are designed to prevent harm before it becomes irreversible and ensure a balance between individual rights and the public interest.

Securing the claim, also known as injunctive relief or interim measures, is a procedural safeguard to protect rights at risk before a case is fully adjudicated. Under the Civil Procedure Code (CPC), Articles 202–212 provide that courts may grant such measures within five days if credible evidence suggests the final judgment might be impossible to enforce. Plaintiffs can support their requests with written evidence or by providing a guarantee to cover potential damages to the defendant. When the defendant is a public authority, the provisions of Law No. 49/2012 "On Administrative Courts and the Adjudication of Administrative Disputes" apply. Courts must evaluate three key conditions: the likelihood of serious, irreversible harm to the plaintiff, the absence of significant harm to the public interest, and the necessity of a guarantee from the plaintiff.

These provisions are particularly critical in environmental litigation, where immediate harm to natural resources or public health may occur. Courts must assess whether alleged environmental harm, such as deforestation or river pollution, constitutes a significant and credible threat. For instance, in Decision No. 1177 of 2021, the Administrative College of the Supreme Court ruled in favor of interim measures and NGOs legal standing for halting hydropower projects on the

³⁷ <https://www.respublica.org.al/konferenca-rajonale-e-keshillit-te-evropes-diskutime-mbi-nderthurjen-e-te-drejtave-te-njeriut-me-ato-mjedisore/>

³⁸ Law No. 8672/2000 on the Aarhus Convention Ratification; Law No. 10431/2011 on Environmental Protection (article 8 and 56); Administrative Procedural Code (Law No. 44/2015); Law on Administrative Judiciary (No 49/2012), article 15 and 18.

Valbona River, citing irreversible damage to biodiversity and the irreplaceability of natural ecosystems. Similarly, in Decision No. 1259 of 2021, the Supreme Court stopped the construction of a slaughterhouse in a forested area of Laknas, recognizing the risk of irreversible environmental harm.

Emergency procedures further enable swift action to address pressing environmental risks. Both administrative and civil courts can intervene rapidly, often within five days of a request, to prevent harm. Applicants must establish the existence of a *prima facie* case, demonstrate that harm is irreparable, and demonstrate that the urgency of the situation warrants immediate intervention. Courts also conduct a proportionality test, balancing the potential harm to the environment against any adverse impacts on other parties or the public interest. Notably, interim measures must not violate public order or other higher legal norms. While legal representation is not mandatory in most cases, it is highly recommended to navigate the complexities of environmental law effectively.

In addition to civil and administrative remedies, criminal law provides tools to prevent environmental harm during ongoing illegal activities. Article 232 of the Criminal Procedure Code authorizes provisional measures such as the seizure of equipment or materials used in environmental crimes. Prosecutors and courts may also implement protective actions for victims and witnesses in cases where environmental harm is part of a broader criminal enterprise.

Together, these legal frameworks ensure that environmental protection in Albania remains both proactive and adaptive. By allowing for the suspension or cessation of harmful activities, the courts can safeguard ecosystems and public health while adhering to principles of procedural justice. Cases like those involving the Valbona River and Laknas forest exemplify the judiciary's role in prioritizing environmental preservation over short-term economic gains. Although these legal mechanisms exist, effective enforcement and greater public engagement are essential to fully protect Albania's environment.

Temporary Enforcement as a Guarantee

Article 317(b) of the Civil Procedure Code allows courts to grant a decision with temporary enforcement, to prevent irreparable harm or ensure timely resolution. The purpose of this tool is to avoid depriving the party of the value and interest of resolving the issue due to delays arising from the long waits of case reviews in the second level of judgment. This is particularly relevant in conditions where the appellate court, due to heavy workloads and a limited number of judges, delays final adjudications for years.

In Albanian judicial practice, this tool has not been used in environmental cases, but has been applied in other cases related to the protection of public interests, such as those concerning access to information for journalists, where courts have applied this procedural tool. In a recent decision³⁹, the Supreme Court mentioned this procedural tool as a possible means for realizing the interest of protecting a right from activity while a case is still under review.

■ **Costs of Judicial Actions in Environmental Cases: Financial Burdens on Individuals and NGOs**

In Albania, pursuing environmental cases in court can impose significant financial burdens on individuals and NGOs, particularly in complex cases requiring expert testimony or laboratory analysis. A breakdown of the typical costs involves:

³⁹ Decision of the Administrative College of the Supreme Court, No. 1259, dated 30.07.2021 (The Residents of Laknas against the construction of a slaughterhouse in the forest created by the residents)

Court Fees: Filing fees vary by case type. For instance, challenging a decision or permit costs 30 Euro, while seeking compensation involves a fee of one per cent of the compensation amount.

Expert Costs: Environmental cases often require expert opinions (e.g., scientists, ecologists) to address technical matters like pollution. These costs, borne by the plaintiff, can range from a few thousand to tens of thousands of leks. For example, expert opinions or lab analyses (e.g., air or water testing) can exceed 10,000 Euro, depending on complexity.

Laboratory Analysis: Proof of environmental damage frequently necessitates lab tests. Basic tests (e.g., water or soil) cost 100–300 Euro; while more advanced analyses may exceed 500 Euro. Air quality tests are similarly priced. Plaintiffs typically cover these costs.

Legal Representation: Lawyer fees range from 1,000–10,000 Euro for first-instance cases, potentially higher for complex matters. This is significant given the average monthly income of 350–450 Euros. NGOs may seek pro bono legal support or negotiate lower fees, though costs often remain prohibitive.

Administrative Costs: Additional expenses include notary services and translation fees for evidence submission (which could be 550 Euro per document), further increasing financial strain.

▪ **Legal Aid: Eligibility, Application, and Effectiveness in Environmental Cases**

Legal aid plays a crucial role in enabling marginalized groups to access justice in cases of environmental harm. In Albania, it is provided to individuals with limited financial resources across criminal, civil, and administrative proceedings.⁴⁰

In criminal cases, legal aid is extended to defendants unable to afford a lawyer, including those involved in environmental crimes such as illegal waste disposal or pollution. Courts assign legal representation as mandated by the Criminal Procedure Code.

In administrative and civil courts, legal aid is available for individuals pursuing environmental cases, such as challenging unlawful permits or addressing threats to the environment. Eligibility hinges on financial need, demonstrated by income and property assessments, and the legitimacy of the case, such as violations of environmental laws. Vulnerable groups, including low-income citizens and marginalized communities, often receive priority.

Applicants must formally request legal aid, providing documentation like proof of income, assets, identification, and, for NGOs, legal status and financial records. Applications can be submitted online⁴¹, by post, or in person. Courts evaluate financial status and case merit before deciding, with decisions subject to appeal. The process usually takes weeks but may be expedited in urgent environmental cases. However, legal aid is less effective for securing interim measures due to the time-sensitive nature of such requests.

Legal aid in environmental cases typically covers court representation and some fees, but its scope is limited. For instance, it offers up to 850 Euro for legal representation and 400 Euro for expert costs. This is often insufficient for complex cases requiring extensive expert testimony or investigations. NGOs and environmental organizations are excluded from legal aid, further complicating access to justice in cases involving large-scale violations or intricate legal issues.

⁴⁰ Law No. 111/2017 on Legal Aid.

⁴¹ <https://ndihmajuridike.gov.al/index.php/online/>

- **High court costs should not hinder access to justice for environmental communities and organizations**

Environmental lawsuits often involve high court costs due to the need for expert analyses, crucial as evidence in such cases. However, these cases are typically initiated by nonprofit organizations or individuals from affected communities, both of whom face significant financial constraints. Many nonprofits rely on donor funding with strict allocations that rarely cover court expenses, and lawsuits often arise unexpectedly, making it difficult to plan for such costs. Even though the rules of procedure provide that the costs of the winning party at end of process are to be reimbursed by the opposing losing party, the insecurity and risks remain high for financially vulnerable plaintiffs to engage in costly legal action.

Communities impacted by environmental harm, especially in rural areas targeted for resource exploitation, are usually financially vulnerable. Courts in Albania should consider these realities when determining prepayment of expenses. By applying exceptions to the standard rule, courts could assign costs to opposing parties, often state entities or private developers capable of funding large-scale projects. Courts also have discretion over expert fees, though this is applied inconsistently.

Article 105 of the Civil Procedure Code allows courts to allocate costs considering the financial situation of the parties. The Constitutional Court affirmed this in Decision No. 7 (27.02.2013), emphasizing that judges must assess claimants' financial hardship to determine exemptions from court service fees, ensuring access to justice.

Practical recommendations:

- Courts should consistently exempt claimants facing financial difficulties from prepaying costs.
- Clearer mechanisms are needed to evaluate the financial situations of nonprofits and affected communities.
- Legal aid systems should prioritize environmental litigation, recognizing its importance to the public interest.

By addressing these challenges, Albania can promote environmental justice and enable vulnerable communities and organizations to effectively advocate for their rights.

- **Evidence and the standard of proof in proceedings**

In environmental cases, courts must diligently evaluate all circumstances and the applicable standard of proof, which varies between criminal and civil cases. These standards range from reasonable suspicion, often used in precautionary measures, to conviction beyond a reasonable doubt in criminal trials. For civil disputes, the balance of probabilities usually suffices; requiring courts to assess which scenario is more likely based on submitted evidence.

Proving environmental damage, whether actual or potential, presents significant challenges for plaintiffs. While damage can theoretically be defined and compensated, Albania lacks a regulatory framework and standardized judicial practices for assessing such harm. Expertise is inadequate, despite a registry of environmental experts licensed by the Ministry of Environment. These experts often provide broad, nonspecific evaluations, raising doubts about the quality of their assessments.

In court, proving environmental damage is further complicated by the principle that actual damage must be real, current, and personal. Proving potential damage is particularly difficult, often preventing plaintiffs from securing standing. While administrative proceedings allow for

expert opinions, the involvement of licensed experts is hindered by conflicts of interest, as many are engaged in preparing EIAs. Courts could benefit from involving researchers or academic staff as experts in specific cases.

Environmental cases require a distinct standard of proof, particularly for potential damage, which should generally be presumed. Moreover, the lack of specialized expertise complicates the process of proving damage in judicial proceedings. Domestic judicial practice often recognizes the principle of effective damage—actual damage that has occurred—but this must be real, current, and personal. The difficulty of proving real and potential environmental damage becomes a barrier for plaintiffs in securing standing in court⁴².

Article 12 of Law No. 10431, dated 09.06.2011, "On Environmental Protection," as amended, establishes that under the **"polluter pays" principle**, individuals or legal entities whose actions or inactions impact environmental protection are financially responsible for the costs related to such damages or risks of environmental damage. These costs include damage assessment, rehabilitation, and compensation for affected individuals or businesses. Furthermore, Chapter VIII of the law addresses environmental damage, focusing on the "polluter pays" principle to prevent and remedy environmental harm, ensure environmental rehabilitation, and adopt risk minimization measures and practices.

Article 50 of the same law specifies that liability for environmental damage is determined based on harm to the environment, protected species, and natural habitats. It assigns the Council of Ministers the responsibility to define activities deemed environmentally hazardous, using criteria based on risk assessments and the determination of environmental damage.

The Law 10431/2011 also emphasizes that **environmental protection measures** must be implemented early in the development of any activity to prevent, or at least minimize, negative environmental impacts. When determining specific environmental protection measures, a precautionary approach must be applied to ensure that scientific uncertainty does not delay or hinder effective and cost-efficient measures to prevent environmental damage. This approach aligns with Albania's legislative stance on damage prevention, rooted in the **"polluter pays" principle** and the precautionary principle.

Another legal instrument implementing the "polluter pays" principle is **Law No. 111/2012 "On Integrated Water Resources Management,"** which integrates the cost recovery principle for water services, including environmental costs, into compliance with this principle.

■ **Compensation and assessment of environmental damage**

Compensation, in kind or monetary, serves to restore the affected environment and foster awareness and justice among affected parties. The overarching goal of compensation is to return parties to their prior state, highlighting the dual function of liability in addressing harm and promoting responsible behavior. Here, NEA plays a vital role. Standards for obtaining permits are established depending on the permit type (A, B, or C), based on Law No. 10448/2011 "On Environmental Permits". The law grants extensive powers regarding preventive measures and compensation.

Operators must notify NEA of environmental damage, rehabilitate all damages per the "polluter pays" principle, and take necessary measures to control storage, disposal, or management of factors causing environmental harm. NEA may act or assign others to act at the operator's expense if obligations are unmet.

⁴² Decision No. 3342, dated 16.04.2015, of the First Instance Administrative Court of Tirana, in the Valbona Case, later overturned by the Supreme Court in 2021.

A private operator causing damage or posing a direct threat to cause environmental harm will be responsible for the damage if (i) necessary preventive measures are not undertaken; (ii) appropriate corrective actions are not implemented; (iii) NEA is not notified about the risk of environmental harm, regardless of whether the harm has occurred.

Article 624 of the Civil Code mandates reimbursement for environmental harm, while Decision of Council of Ministers (DCM) No. 742/2015 defines categories of polluters. If the polluter is unidentified, rehabilitation costs fall to the state; otherwise, operators must reimburse these expenses.

The assessment and proof of environmental damage are critical for determining liability and ensuring compensation. Compensation can be either in **kind** or in **monetary terms**:

- **Restitution in kind** involves restoring the environment to its previous condition prior to the damage occurred.
- **Monetary compensation** is applied when restoration is not possible.

Liability for compensation has a dual impact:

1. Raising **awareness among individuals and entities** about their behavior towards the environment.
2. Instilling a sense of justice among affected parties.

However, proving environmental damage, especially future damages, remains a significant challenge in Albania. This difficulty undermines the ability to legitimize environmental lawsuits, affects the likelihood of success and highlights the need for stronger mechanisms and methodologies to assess and document environmental harm effectively if accountability and compliance with legal obligations is to be achieved.

- **Time efficiency in courts**⁴³

In Albania, the vetting procedure that began in 2016, affected not only the number of professionals, but also the number of resolved cases (because of the lower number of judges) and, consequently, the Clearance Rate (CR) and the Disposition Time (DT) (especially in the second and third instances where many judges were dismissed or voluntarily retired). Thus, judges were not able to cope with the influx of cases, and the CR was always below 100% every year, particularly in second instance.

In 2020, the DT was extremely high, especially for civil and commercial litigious cases (1 742 days in the second instance) and for administrative cases (4 485 days in the second instance). In 2021, the situation improved and the DT decreased for all categories of cases in the first and second instances, except for administrative cases in the second instance.

DT for civil and commercial litigious cases changed from 366 days to 279 days, while for criminal law cases, it decreased from 294 days to 67 days (lower than in 2018). However, in 2022 and 2023, the efficiency deteriorated once more, with an increase in the DT for all categories of cases in the two instances. An exception can be seen in administrative cases. In 2023, the DT for these cases decreased significantly (from 8 680 days in 2022 to 5 326 days). This improvement was driven by the increased number of resolved cases, this resulting from a 49% rise in the number of judges.

⁴³ EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ) HFIII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans "DASHBOARD Western Balkans" Data collection: 2023; <https://rm.coe.int/albania-deliverable-2/1680b2722b>

Statistical Data

Judicial efficiency in environmental cases can be quantified through the following available data:

- **Administrative Courts:** Regarding administrative cases adjudicated with final decisions by the Administrative Court of Appeals, 23 cases can be referenced over the period 2019–2022⁴⁴. Most have been businesses challenging fines for environmental violations, with only two or three cases being public interest litigations, mainly against hydropower projects.
- **Criminal Courts:** From 2019 to 2022, convictions dominated judicial outcomes, comprising 96.7% of cases. Acquittals and dismissals were rare (2.3% and 1% respectively). Only 0.25% of cases were returned for further investigation. Sentencing was split between 60.97% imprisonment (more than 90% involving probation or suspension of the execution of the sentence) and 38.33% fines, reflecting a balanced approach between punitive measures and rehabilitation. The data highlights a consistent focus on accountability, with a preference for alternative sentencing in imprisonment cases.⁴⁵
- **Civil Courts:** The public's limited access to this avenue of justice is underscored by an absence of civil litigations. High costs and legal complexities deter potential plaintiffs from pursuing claims.

Gaps and Weaknesses

▪ **Judicial Expertise**

- Judges across criminal, civil, and administrative courts often lack specialized knowledge in environmental law and related scientific concepts.
- This knowledge gap leads to inconsistent legal interpretations and weak enforcement of sanctions.
- Courts frequently rely on external experts, especially in cases involving advanced pollution control technologies or hazardous waste management. This causes delays and variability in judgments.

▪ **Case Backlogs**

- The overburdened court system causes significant delays in environmental cases, particularly in criminal and civil courts.
- Complex cases requiring extensive evidence and expert testimony can remain unresolved for years.
- Administrative courts, though slightly more efficient, still face delays due to the high volume of appeals related to fines and permit decisions.

▪ **Enforcement of Judgments**

- Even when favorable judgments are issued, enforcement is often weak.
- Powerful industrial actors evade compliance with sanctions or exploit legal loopholes to delay penalties.
- Institutional coordination between courts, enforcement agencies, and local government units is inadequate, undermining the execution of court orders.

▪ **Public Participation**

Public involvement in environmental litigation is minimal due to:

- **Awareness Gaps:** Communities lack knowledge about their legal rights and procedural mechanisms for addressing environmental harm.

⁴⁴ Rapport National du HIJ : Coopération pour la Protection de l'Environnement par les Autorités Nationales d'Inspection de la Justice" (COPEIJ) – Albania 2023.

⁴⁵ Annual Reports of the General Prosecution Office at:
https://www.pp.gov.al/Dokumente/RAPORTE_T_PROKURORIT_T_P_RGJITHSH_M/

- Cost Barriers: High legal fees deter individuals and small organizations from pursuing lawsuits.
- Transparency Issues: Limited access to case information and court proceedings reduces public confidence in the judicial process.

5.1.5 Enforcement of Public Participation Practices with Focus on EIAs

Line ministries have structures and procedures for public consultation and collaboration with civil society in place. MoTE, as all other line ministries, operates within a minimal standard requirement deriving from laws on the right to information and public consultation. These are not fully embedded in the working culture of these institutions. The mechanisms used more often for consultation with the civil society are online publication of draft environmental policies, strategies and acts; open call for recommendations from interest groups; and organization of consultation meetings. MoTE has established a distribution list of interested CSOs based on different topics, until Call for Expression of Interest is issued.

However, the observed line ministries did not use any specific internal manual for public consultation and do not publish annual reports regarding the collaboration with environmental and other CSOs. The Transparency Programmed (TP) section in the official websites of the observed ministries includes very formal and basic information, but no actual data to showcase progress or challenges. Studies report that MoTE and the line ministries do not have a consultation plan. Indeed, these ministries use occasional and *ad hoc* consultation processes.⁴⁶ Public participation on EIA processes is frequently organized by the applicant investor as a requirement of the environmental permitting procedure issued by NEA. NEA's website⁴⁷ provides information on EIA processes in the format of irregularly published bulletins. CSOs claim limited to no access to EIA documents, especially for large infrastructure works with negative impacts on the environment.

At **local level**, based on the observed LGUs, there has been some positive change in terms of interaction with civil society, particularly regarding organization of regular public consultations at municipality level and participatory budgeting, both supported primarily through donor-funded projects. The observed LGUs have some structures and procedures in place for public consultation, *albeit* they are not fully institutionalized and embedded in their working procedures. The environmental consultation processes are limited to public services which are function of LGUs, as well as the development of local strategies such as Waste Management Plans, Energy and Climate Local Plans, Biodiversity Local Plans, etc.

Generally, the observed municipalities do not have dedicated staff for collaboration with CSOs. Also, the coordination for the right to information is a secondary function, which is vested to a municipal employee in addition to other duties. Municipalities use their institutional website to announce public consultation processes.

Municipal councils face more challenges in this regard, as they lack administrative and supporting staff and have, therefore, very limited capacities to conduct public consultation and particularly to follow up on them. In addition, municipalities do not have a dedicated budget to develop collaborations with CSOs and, in some cases, funds are made available as co-sharing with donors; hence, collaboration between local government and civil society usually occurs when projects are funded by third parties.

⁴⁶ <https://idmalbania.org/wp-content/uploads/2021/11/CSO-Participation-in-Decision-Making-in-Albania.pdf>

⁴⁷ www.akm.gov.al

Despite notable constraints, progress in participation at local government level has been made. Various projects support local government to develop its capacities for further transparency, while grassroots organizations and the public at large at local level hold government accountable. The challenge to ensure sustainability of these interventions remains. How to establish solid and consolidated public information and consultation procedures which have positive impacts on local environment, while guaranteeing community engagement and ownership also continue to be a challenge.

Municipality is required to issue Environmental Opinion on EIA/ESIA processes. If not a Local Investment/Project, the Public Consultation with local communities on EIA processes, decision making is made at central level, is not organized and is not considered by the municipality as a responsibility. The structures and procedures of public consultation are embedded within the competencies of the municipality and its council only for local scale interventions.

Challenges to Public Participation

The main cultural aspect observed in public institutions is the lack of political will for conducting genuine environmental consultation processes. Any shift of power to citizens may imply a loss of power for the institution, and civil society participation in decision making is viewed as risky, unpredictable, and disruptive process by decision makers and politicians. Recent legal development 2021-2024 on amendments on the Law on Protected Areas clearly positions the government and CSOs in the different and antagonistic sides. Similar cases have occurred since 2010 till today on permits for small Hydro Power Plants HPP, resulting in local communities protesting, conflicting with enforcement authorities and court cases.

A common view among CSOs is that those who govern do not want such perspectives. Rather, perspectives that confirm their decision-making are preferred. Critical perspectives that shed light into real concerns are not welcome. The lack of political will is explained by the alleged vested interests of politicians and public officials in particular policy and legal acts. These, it is claimed, favor certain investments, even if there is a negative impact on the environment and natural resources.

It is alleged that local communities and CSOs, at national and local level, are not genuinely enabled to be part of the decision-making processes and their recommendations are not considered, because the final aim of a given policy or law has been predetermined by powerful political agents, despite the feigning consultation procedures. Coupled with the lack of follow-up and feedback mechanisms, this belief in the lack of political will for genuine public consultation demotivates CSOs from participating and has resulted in a consultation fatigue. CSOs are discouraged from participating in consultation processes, since the credibility of the process is questioned. Building upon continuous patterns of a formal procedure of consultation, CSOs tend to distrust the notification for consultation and refuse to participate.

CSOs allege the consultation process is a formality and not a genuine process that can feed environmental policy and legislative process. It is believed the public institutions responsible for environmental permitting and monitoring perceive public consultation as a burden, and even a threat, to their operations, fearing the exposure of the environmental consequences and impacts. Fear of damage to the public image of those institutions, as well as personal liability for inactivity, also contribute to public concerns remaining unaddressed.

Lack of budget and human resources are more often used as reasons for not engaging with civil society and interested public on environmental matters, both at national and local level. In addition, public institutions claim that civil society is a mere consumer of partnership based on the needs of their projects and that they are not genuinely interested in the sustainable and meaningful cooperation of impact in policy and legislative process. In other cases, public

institutions consider international partners as civil society and in this way the space of real CSOs has shrunk. International organizations partnering with Government and other public institutions have become more dominant. Consequently, there is mutual distrust between public institutions and CSOs regarding their cooperation and its impact.

5.1.6 Alternative Dispute Resolution Mechanisms

Mediation and Arbitration

In Albania, the civil and criminal procedure codes oversee non-mandatory court-related mediation procedures, for which legal aid cannot be granted. In 2011, a law on mediation was adopted and amended in 2017 as part of the justice reform. Parties could seek the resolution of all the disputes via mediation in the following areas: civil law, commercial, labor and family law, intellectual property, consumer rights, as well as disputes between public administration organs and private subjects. There is no mandatory mediation that requires a mandatory first mediation meeting, or mandatory informative session with a mediator. However, according to the law, mediation is encouraged by the judge at each stage of the trial.

In Albania, Mediation and Arbitration are underutilized in environmental disputes, despite their potential to provide efficient, less adversarial alternatives to court proceedings. **Mediation**, governed by the Law “On Mediation in Dispute Resolution” (Law No. 10385/2011), is formally recognized but rarely applied to environmental issues due to low awareness among stakeholders. **Arbitration**, primarily used for commercial disputes, has limited application in environmental cases, but could be an effective option for resolving complex or cross-border disputes if integrated into environmental governance frameworks. Expanding their use would require greater awareness, capacity building, and institutional support, including training mediators and arbitrators in environmental law.

Ombudsman Office

The Ombudsman of Albania plays a significant role in addressing environmental grievances. Between 2020 and 2022, it addressed 91 complaints, many initiated ex officio, relating to public administration bodies’ environmental responsibilities. Key issues included medical waste mismanagement and pollution from waste or industrial discharges. Recommendations from the Ombudsman have highlighted systemic gaps, such as insufficient funding and weak inter-agency coordination. While its recommendations are non-binding, they often lead to corrective actions, demonstrating its importance as a non-judicial mechanism in environmental governance.

Community-Based Approaches

In rural areas, informal dispute resolution mechanisms are often used to address local environmental conflicts, relying on traditional norms and social structures. Examples include village elders and customary practices, which mediate issues such as land use, waste disposal, and resource access. While effective in maintaining social harmony, these mechanisms lack legal enforceability and formal integration into national governance systems. Strengthening connections between community approaches and state institutions could enhance their role in addressing environmental disputes.

5.2 Case Analysis

5.2.1 Access to Justice Key Case Studies

Administrative Cases

Case 1: Lake Park Playground Dispute (2016-2020)

- **Facts:** A proposal to construct a playground in Tirana's Lake Park was met with resistance by citizens and environmental activists. They argued that the project threatened to degrade the park's ecological and recreational value. The case gained public attention as it tested the application of the Aarhus Convention in urban settings.
- **Proceedings & Decision:** Initially, the Administrative Court dismissed the lawsuit, claiming the plaintiffs lacked direct harm. However, the decision was reversed by the Court of Appeal, which recognized that environmental protection extends to public spaces and citizens have the right to challenge such projects under the Aarhus Convention. The appellate court emphasized that urban projects impacting green spaces require thorough public consultation and consideration of ecological impacts.
- **Comments:** This case expanded the concept of public interest litigation in Albania and highlighted the importance of preserving urban green spaces as vital components of environmental justice. It also showcased how international conventions could influence domestic legal practices.

Case 2: Pocem Hydropower Plant on Vjosa River (2016-2024)

- **Facts:** The construction of the Pocem Hydropower Plant on the Vjosa River faced strong opposition from 37 citizens and environmental NGOs, including Eco Albania. The objections centered on the river's ecological significance, as it supports endemic species and a diverse habitat, as well as the absence of proper public consultation. The Vjosa River is one of Europe's last free-flowing rivers, representing a unique natural heritage. The project, initiated under a concession agreement, attracted international attention due to its potential to disrupt an ecological corridor of global importance.
- **Proceedings & Decision:** In 2017, the Administrative Court of Tirana legitimized the plaintiffs, including the organization Eco Albania, acknowledging that the public was not involved in decision-making, as required by public consultation rules. The court annulled the concession contract and related acts, recognizing the citizens' right to protect the environment and participate in the decision-making process that directly affects their environmental interests. The ruling was appealed, but in 2024, the Appeal Court confirmed the annulment, emphasizing the administrative authorities' obligations to conduct effective EIAs and the necessity for transparent decision-making.
- **Comments:** This landmark case not only preserved the ecological integrity of the Vjosa River but also highlighted the role of citizen activism and NGOs in enforcing environmental governance. It underscored the necessity of aligning national practices with EU environmental standards, particularly in observing public participation obligations during the EIA procedures.

Case 3: Valbona Hydropower Plant Dispute (2017-2021)

- **Facts:** Residents and the NGO TOKA opposed the construction of two hydropower plants on the Valbona River in northern Albania. The region, known for its pristine natural beauty, is a UNESCO-designated biosphere reserve and supports the livelihoods of numerous communities through eco-tourism. The plaintiffs argued that the approval process violated

environmental laws, lacked proper consultation with affected communities, and posed irreversible threats to biodiversity.

- **Proceedings & Decision:** The case faced initial hurdles, with the Administrative Court dismissing the claims for lack of standing. However, in 2021 the Supreme Court overturned this decision, legitimizing the claimants to secure the lawsuit. The Supreme Court in this case and another similar case at the same time (the Laknas Forest case), recognized that the alleged damage was unavoidable and severe, constituting a risk that could not wait for the judicial process to conclude. In both cases, the Supreme Court argued the third pillar of the Aarhus Convention, which includes access to the court, provides expanded rights for citizens and organizations not only to participate in environmental decision-making and to raise lawsuits challenging administrative acts that endangered the environment and their right to participate in environmental decision-making.
- **Comments:** The case was instrumental in redefining legal standing for environmental litigation in Albania, granting communities and NGOs the right to challenge projects affecting public interest. It reinforced the importance of procedural fairness and robust environmental assessments, setting a significant precedent for sustainable development.

Case 4: Reduction of Protected Areas by Council of Ministers' Decisions (2022-Present)

- **Facts:** In January 2022, the Council of Ministers issued Decisions No. 59 and No. 60, which altered the status and boundaries of several protected areas, including national parks and natural reserves. Environmental organizations contended that these decisions reduced the territorial, geographical, and socio-ecological integrity of the protected areas, opening them up to potential exploitation and development. They argued that the decisions were made without adequate public consultation and violated national and international environmental protection standards.
- **Proceedings & Decision:** In January 2023, a coalition of 11 environmental NGOs filed a lawsuit in the Administrative Court of Appeal, seeking the annulment of the Council of Ministers' decisions. The plaintiffs argued that the decisions contravened the Aarhus Convention by failing to ensure public participation in environmental decision-making. The court recognized the legitimacy of the NGOs to challenge the decisions, marking a significant step in the proceedings. As of November 2024, the case is ongoing, with the court examining the legality of the government's actions and their compliance with environmental laws.
- **Comments:** This case underscores the critical role of civil society in safeguarding environmental protections and holding governmental bodies accountable. It highlights the importance of public participation in environmental governance and the judiciary's role in upholding environmental laws and international conventions.

Case 5: Shushica Hydropower Plant on Vjosa River (2019-2024)

- **Facts:** The construction of the Shushica Hydropower Plant on the Vjosa River was challenged by 28 citizens and environmental NGOs Eco Albania and "Impetus." The objections focused on the river's ecological significance, supporting endemic species and a diverse habitat. Other key issues included the lack of proper public consultation and significant breaches of the law, such as the absence of a water use permit and a contract with an archaeologist before the agreement with the Ministry of Energy was signed. During the trial, the Vjosa River was declared a National Park, given that it is one of Europe's last free-flowing rivers and represents a unique natural heritage.
- **Proceedings & Decision:** In November 2024, after a prolonged trial lasting almost three years, the Administrative Court of Tirana upheld the legitimacy of the plaintiffs' claims. The court

acknowledged that the public had not been properly involved in the decision-making process, as required by public consultation regulations. All arguments brought to the court were deemed to be based on fact and law. The court annulled the concession contract and related acts, affirming the citizens' right to protect the environment and participate in decision-making processes that directly affect their environmental interests.

- Comments: This case, continuing from previous legal actions (Pocemi Case), preserved the ecological integrity of the Vjosa River. It also serves as an important precedent, highlighting the role of citizen activism and NGOs in challenging not only relevant permits, but also the concession contract itself. This marks a significant development in Albanian jurisprudence, underscoring the growing recognition of public involvement in environmental decisions.

Criminal Cases

Case 1: Air Pollution from Industrial Activities in Krujë (2020)

- Facts: A lime production furnace in Krujë was found to be burning a mix of pine wood waste and urban refuse without the required permits or filtration systems. This process released harmful pollutants such as carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), and particulate matter into the atmosphere. The resulting air pollution exceeded the legal thresholds outlined in national regulations, leading to significant public health concerns.
- Proceedings & Decision: Prosecuted under Article 201 of the Penal Code, the case relied heavily on technical reports from environmental experts, which confirmed that air quality near the facility was severely degraded. Despite efforts by the defense to argue that the activity was essential for local economic purposes, the Krujë District Court ruled in July 2020 that the operators were in violation of environmental standards. The defendants were fined, and the facility was ordered to cease operations until modern filtration systems were installed.
- Comments: The ruling served as a critical deterrent against industrial non-compliance with air quality standards. It emphasized the role of environmental expertise in proving causality and the need for real-time monitoring of emissions. The case also highlighted broader challenges in balancing economic activity with environmental preservation in developing regions like Krujë.

Case 2: Hazardous Waste Mismanagement by Kurum International, Elbasan (2013-2019)

- Facts: Kurum International, a steel production company operating in Elbasan, faced allegations by the local communities and the Ombudsman of improper handling and disposal of hazardous industrial waste. Investigations revealed that liquid industrial effluents, classified as leachate or acidic waters, were being released into local water systems without adequate treatment. This resulted in severe contamination of both surface and groundwater near the former Metallurgical Complex in Elbasan. The effluents exceeded the allowable limits set by national legislation, which regulate water quality and effluent discharge standards.
- Proceedings & Decision: The case was initially registered in 2013 under Article 203 of the Penal Code, which penalizes water pollution. A comprehensive technical assessment conducted by the Environmental Inspectorate and other agencies confirmed that the discharged waters had significantly disrupted the ecological balance of the area. In its decision dated April 26, 2019, the Elbasan District Court ruled to dismiss the criminal charges against Kurum International. The court reasoned that while elevated pollution levels were detected, the causative link between Kurum's activities and the pollution could not be definitively established. Expert testimony highlighted that the contamination was potentially due to decades of accumulated industrial activities by multiple entities within the industrial zone, thus diluting the direct accountability of Kurum International. An appeal was subsequently filed, but the Durrës Court of Appeals upheld the initial decision on October 23,

2019, emphasizing the need for concrete evidence to attribute sole responsibility for ecological harm to a specific actor.

- Comments: This case underscores the difficulties and complexities of prosecuting environmental crimes, particularly in legacy industrial zones with a history of pollution from multiple sources. The dismissal highlighted gaps in regulatory monitoring and the limitations of forensic environmental investigations. Moving forward, the case underscores the necessity for more robust and precise monitoring mechanisms and clearer accountability frameworks to address industrial pollution effectively.

Civil case

Environmental Damage to Olive Grove in Gorishovë, Fier

- Facts: A farmer from Gorishovë, Fier filed a lawsuit against ALBPETROL SHA for damages caused by hydrocarbon pollution to his 10-hectare olive grove. The contamination, primarily from oil extraction activities near his land, led to the degradation of olive trees and reduced agricultural productivity. Expert analysis confirmed 182 trees had been destroyed, 250 required extensive rehabilitation, and 1,698 exhibited impaired growth due to soil contamination. The plaintiff sought compensation for losses incurred between 2016 and 2019 and demanded remediation of the polluted land.
- Proceedings & Decision: The plaintiff initiated legal proceedings in the Fier District Court on December 2, 2019. The court relied on expert evidence, including environmental and agronomic assessments, which quantified the damages. The court confirmed that ALBPETROL's activities contributed to hydrocarbon leakage into the agricultural soil, violating Albanian environmental standards. On March 3, 2021, the court ruled in favor of the plaintiff, awarding him approximately 13,000 Euro from approximately 63,000 Euro claimed. The compensation covered production losses, restoration of the olive trees, and land rehabilitation. Additionally, ALBPETROL was ordered to implement measures to prevent further contamination, ensuring compliance with environmental protection regulations. The court dismissed ALBPETROL's defense that the pollution was caused by a previous operator, Stream Oil & Gas, deeming the company responsible under the "polluter pays" principle.
- Comments: This case highlights the critical role of civil courts in enforcing environmental accountability in Albania. It demonstrates the importance of using expert assessments to establish causation in environmental damage cases. The judgment reinforced the principle of corporate responsibility for environmental harm, especially for ongoing industrial activities near agricultural zones. The case also underscores the judiciary's role in balancing economic development with environmental sustainability.

Constitutional Case

Constitutional Court Decision on Skavica Hydropower Project Law (Law No. 38/2021)

- Facts: The Constitutional Court reviewed Law No. 38/2021 (Bechtel Law), which enabled a special procedure for negotiating and executing a contract with Bechtel International Inc. for the Skavica Hydropower Project (HPP). The applicants—the Association for the Protection of Property and Environment of the Black Drin Basin, the Albanian Helsinki Committee, and the Association Opposition to Skavica Dam—challenged the law. They claimed violations of constitutional rights, including property rights, cultural heritage, environmental rights, and transparency. They argued that the law lacked public consultation, a financial impact report, and adherence to competitive procurement standards, favoring Bechtel without sufficient justification.
- Proceedings and Decision: The Court assessed the admissibility of the applicants' claims:

- **Admissible Claim:** The Court accepted the claim regarding the **right to environmental information** under Article 56 of the Constitution. It ruled that the legislative process violated transparency obligations under the Aarhus Convention, as it lacked adequate public consultation and EIAs.
- **Dismissed Claims: Property Rights, Cultural Heritage, and Proportionality:** Dismissed due to insufficient evidence of immediate rights infringements, since the project was in its initial stages; and **Free Competition and Financial Reporting:** Dismissed due to the absence of a direct link to the applicants' activities or the required Court majority.
- **Final Decision:** The Court acknowledged violations of the right to environmental information and ordered public authorities to address transparency deficiencies. It mandated public participation in subsequent project stages but refrained from annulling the law.
- **Comments:** The decision underscores the importance of public participation and transparency in large-scale projects with considerable environmental, social and economic impacts. The Court reinforced Albania's obligations under the Aarhus Convention to ensure meaningful public involvement, but left the law unscathed and allowed the project to proceed, contingent on corrective actions. This raises concerns about the effectiveness of such remedies in safeguarding constitutional rights.

5.2.2 Access to Justice Challenges

- **Narrow Legal Standing**
 - Albanian courts sometimes require plaintiffs to demonstrate direct harm to file a case, significantly restricting the ability of NGOs and communities to represent broader public interests. This limitation is particularly problematic in cases of diffuse environmental damage, where harm is collective rather than individual.
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 - **Expanding the interpretation of legal standing to include public interest litigation, as a recognized court practice, as practiced in many EU countries, could empower communities and advocacy groups.**
- **Transparency Issues**
 - Despite legal mandates, environmental information is often withheld or incomplete. Administrative bodies frequently fail to proactively disclose data, forcing stakeholders to navigate lengthy and bureaucratic processes to access critical documents.
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 - **Digitalization of environmental records and the establishment of public databases could significantly improve transparency.**
- **Judicial Delays**
 - Environmental cases are often delayed due to a combination of procedural inefficiencies, overloaded courts, and inadequate prioritization. These delays undermine the effectiveness of legal remedies and dissuade individuals from pursuing justice.
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 - **Specialized environmental courts or dedicated judicial training programs could expedite case resolution and improve outcomes.**
- **Expertise Gaps**
 - Many judges and lawyers lack specialized training in environmental law, leading to inconsistent rulings. Technical aspects, such as interpreting EIAs or assessing environmental damage, are often misunderstood, affecting case outcomes.
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 - **Collaboration with international organizations to provide capacity-building programs could address this gap and ensure consistent application of environmental laws.**

- **Cost Barriers**
 - High litigation costs, including attorney fees and expert assessments, are prohibitive for many individuals and small organizations. This disparity creates an uneven playing field, favoring corporations and government bodies with greater financial resources.
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 - **Introducing legal aid mechanisms for environmental cases could improve access to justice for marginalized communities.**

- **Weak Enforcement**
 - Even when courts rule in favor of environmental protection, enforcement of decisions is often delayed or incomplete. Factors include lack of coordination between institutions, limited funding for monitoring, and resistance from powerful stakeholders.
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 - **Strengthening institutional accountability and increasing funding for enforcement agencies are critical to addressing this challenge.**

5.2.3 Public Participation Key Case Studies

Public Participation

Case 1: Protecting Vjosa River as the last wild river in Europe

- **Facts:** Eco Albania's advocacy for declaring the Vjosa River a protected site is a landmark example of public participation and environmental activism. The initiative was part of the broader "Save the Blue Heart of Europe" campaign, launched in collaboration with organizations like Riverwatch and EuroNatur. The campaign sought to safeguard the Vjosa, Europe's last large wild river, from hydropower development and promote its designation as a National Park.
- **Key Actions and Public Participation**
 1. **Community Engagement:** Eco Albania actively engaged local communities along the Vjosa River, emphasizing the ecological, cultural, and economic importance of preserving the river. Community meetings, workshops, and educational campaigns empowered residents to voice their concerns against hydropower projects.
 2. **Legal Challenges:** The campaign included significant legal battles, such as opposing the Poçëm Hydropower Plant. A coalition of Eco Albania, residents, and environmental lawyers successfully challenged the plant in court, highlighting inadequate environmental assessments and the lack of public consultation.
 3. **Awareness Campaigns:** A combination of grassroots efforts and international advocacy brought global attention to the Vjosa. Public demonstrations, media outreach, and collaborations with global brands like Patagonia amplified the campaign's message.
 4. **Scientific Research and Advocacy:** Eco Albania and its partners conducted studies on the river's biodiversity and ecosystem services, providing evidence-based arguments for its protection. This research supported the vision of declaring the Vjosa a Wild River National Park.
- **Outcome:** In March 2023, after a decade of sustained advocacy, the Albanian government proclaimed the Vjosa River as Europe's first Wild River National Park. This achievement set a precedent for environmental governance and demonstrated the power of public participation in shaping environmental policies.

Case 2: AKIP movement against import of waste

- **Facts:** A notable case study on public participation in Albania involves the Alliance Against the Import of Waste (AKIP), a coalition of CSOs and citizens that mobilized to prevent laws permitting waste imports into the country. This movement highlights significant grassroots opposition to government policies perceived to endanger environmental safety.

The controversy dates to 2011, when Albania approved a law allowing waste imports for recycling. Civil society and opposition groups strongly opposed the law; citing fears Albania could become a dumping ground for European waste. The Alliance against Waste Import (AKIP) was formed and mobilized tens of thousands of citizens. By 2013, government of Albania repealed the law, making it one of his administration's first acts after coming to power.

- **Key Actions and Public Participation:**
 - **Revival of Waste Import Legislation:** Despite its earlier repeal, a revised version of the waste import law resurfaced in 2016, framed to support Albania's recycling industry. The proposal promised stringent controls to prevent hazardous waste imports, but it reignited public fears. AKIP organized protests in front of Parliament, highlighting the lack of trust in governmental transparency and accountability regarding waste management.
 - **Advocacy and Mobilization:** AKIP not only organized street protests, but also engaged in strategic advocacy. They gathered over 64,000 signatures to demand a referendum on the matter in 2012. Their persistent campaigning led to widespread public debate and opposition. The movement highlighted issues of environmental justice and government accountability, reinforcing the importance of public consultation on sensitive environmental policies.
- **Outcome:** Following public pressure and consistent protests, including large demonstrations in September and October 2016, the legislation was sent back for further review, delaying its implementation. This case underscores the power of organized civic action in shaping policy and resisting environmentally harmful practices.

The AKIP-led movement remains a significant example of effective public participation in environmental decision-making in Albania, reflecting the public's determination to safeguard national environmental interests

5.2.4 Analysis of Participation Mechanisms

In Albania, public participation mechanisms in environmental governance are established in law, but remain in a nascent stage of development. Although the country's alignment with the Aarhus Convention creates a legal basis for engaging the public in decision-making, these mechanisms are not efficiently utilized by key central institutions such as MoTE and NEA. These bodies, along with other line ministries that play significant roles in environmental decision-making; have yet to fully embrace public participation as an integral part of their responsibilities. The current state of these mechanisms reflects a gap between legal frameworks and their practical implementation.

A key challenge lies in the perception of public consultations as procedural obligations rather than opportunities for meaningful dialogue. MoTE, for instance, oversees EIAs, which are legally mandated for large-scale development projects in energy, tourism, and mining sectors. However, public consultations within these processes are often conducted superficially. For example, consultations are frequently scheduled at inconvenient times and locations, limiting the participation of affected communities. Additionally, stakeholders often face significant barriers

to understanding the technical content of EIAs, as project documents are seldom presented in accessible formats.

NEA, tasked with ensuring environmental compliance and processing public feedback during EIAs, faces similar challenges. Limited human and financial resources constrain the agency's ability to engage effectively with communities. This shortfall is particularly evident in rural and marginalized areas, where public awareness of environmental issues is low, and outreach efforts are minimal. The agency's reliance on centralized, digital tools such as the e-Albania platform Public Consultation Portal further exacerbates this issue, as many residents in these areas lack access to reliable internet or the technical skills to navigate the platform.

Compounding these issues is the lack of coordination across line ministries, such as those responsible for energy, mining, and infrastructure. Each ministry operates within its select field, often neglecting broader environmental implications or the need for public involvement. Without effective inter-ministerial collaboration, environmental concerns and community input are frequently sidelined, undermining the objectives of public participation.

Despite these systemic shortcomings, CSOs in Albania have played a critical role in bridging the gap between communities and decision-makers. Organizations like Eco Albania and coalitions such as Green 27+ have not only mobilized public opposition to controversial projects, but have also provided technical expertise and advocacy to challenge inadequate public participation practices. A prominent example is the campaign against the Poçëm hydropower project on the Vjosa River. In this case, CSOs successfully demonstrated the procedural and substantive flaws in the EIA, bringing the issue to court and ultimately halting the project.

The efforts of Aarhus Centers in cities such as Shkodra and Tirana also illustrate the potential for localized, community-focused approaches to public participation. These centers serve as intermediaries, offering legal guidance, hosting educational workshops, and disseminating information about environmental rights and obligations. However, their impact is often limited by funding constraints and a lack of institutional support.

To address these challenges, Albania must undertake significant reforms to enhance the effectiveness of public participation mechanisms. Key ministries, particularly MoTE, need to adopt a more proactive approach by standardizing and improving consultation processes. This includes providing timely notice for public consultations, ensuring they are held in accessible locations, and presenting information in formats that are comprehensible to non-experts. Strengthening the capacity of the NEA is equally crucial, as it must be equipped with the resources and expertise to facilitate meaningful engagement.

Expanding the reach and functionality of digital tools like the e-Albania platform can also play a transformative role. By improving its user interface and ensuring accessibility for rural populations, the platform can become a central hub for all public participation activities. This must be accompanied by broader efforts to raise public awareness and build technical capacity among communities, particularly in underserved regions.

Lastly, fostering partnerships between government institutions and CSOs can create a more collaborative and inclusive framework for environmental governance. By leveraging the expertise and advocacy skills of civil society, central institutions can ensure that public participation evolves from a procedural obligation into a substantive pillar of decision-making. Only through such comprehensive reforms can Albania fully realize the potential of public participation mechanisms and ensure that environmental governance is both inclusive and effective.

5.2.5 Effectiveness of Current Tools for Public Consultation

Strengths: Albania's legal provisions mandate that public participation is a required element in decision-making processes for major projects. CSOs play an active role in mobilizing communities, as seen in several successful campaigns. Such cases demonstrate the potential of organized advocacy to hold decision-makers accountable and ensure environmental protection.

Challenges: Despite these strengths, gaps in implementation dilute the impact of these tools. Public consultations often become procedural formalities rather than meaningful dialogues, with consultations (allegedly intentionally) held at inconvenient times or locations, thereby limiting input. Additionally, the technical complexity of project documentation creates barriers for community stakeholders, limiting their ability to engage effectively. Moreover, delays in providing complete and transparent information further restrict public participation.

Public participation in environmental governance in Albania has a solid foundation, but requires substantial improvements to meet its potential by developing specific and tailored tools and mechanisms. By addressing gaps in implementation, expanding accessibility to tools, and ensuring meaningful integration of community feedback, Albania can strengthen its environmental governance and uphold its commitment to inclusive decision-making processes. It is critical that tools and mechanisms apply both at national and local level, by integrating the feedback of local communities in both processes and fill in the existing gap of community (dis)connection.

5.3 Existing Assessments

The EU 2024 Albania Assessment Report⁴⁸ covering the period from 15 June 2023 to 1 September 2024, with regard to *Chapter 27 "Environment and Climate Change"*, has highlighted that Albania has made limited progress in environmental and civil protection, with advancements in the circular economy, water quality, and disaster risk reduction but setbacks such as amendments to the law on protected areas. There is no progress on climate change. Implementation and enforcement of environmental regulations remain weak, and the country is urged to align with EU directives on environmental impact, combat environmental crime, and strengthen biodiversity protection. Key recommendations include updating climate and energy plans, introducing carbon pricing, and improving compliance with EU environmental and climate standards.

The same EU 2024 Assessment Report, regarding Albania's progress about the cluster of "The Green Agenda and sustainable connectivity", has urged Albania to improve environmental alignment, particularly in areas like Environmental Impact Assessment (EIA), public participation, and enforcement of environmental laws. Key challenges identified by this 2024 Albania Assessment Report include insufficient capacity, corruption, and gaps in waste management, air quality, and water resource policies. While it is assessed that progress has been made in adopting some water and marine protection laws, Albania must enhance funding, monitoring, and implementation to meet EU standards.

In the EU 2024 Albania Assessment Report, concerns persist over biodiversity threats from legislative changes and projects such as Vlora Airport and Skavica hydropower. Illegal logging, hunting, and weak nature conservation efforts further jeopardize ecological values. On climate

⁴⁸https://neighbourhood-enlargement.ec.europa.eu/document/download/a8eec3f9-b2ec-4cb1-8748-9058854dbc68_en?filename=Albania%20Report%202024.pdf

change, the same report highlights that Albania's preparedness is limited, requiring updated strategies, better emissions reductions, and alignment with EU climate policies such as the Emission Trading System. Enhanced investment and institutional capacity are essential for sustainable development.

6. NEEDS ASSESSMENT

6.1 Legislative Needs

6.1.1 Gap Analysis: Identifying Fault Lines

Albania's environmental legislation has made strides in aligning with EU directives, yet critical weaknesses hinder its effectiveness. These gaps not only undermine the potential of existing laws but also limit the country's capacity to address emerging environmental challenges such as climate change, biodiversity loss, and industrial pollution.

Inadequate Provisions for Environmental Crime⁴⁹: Despite criminalizing numerous environmental offenses, Albania's enforcement remains insufficient. Criminal acts such as illegal deforestation and hazardous waste dumping are often treated as administrative infractions rather than serious crimes. Participants in the focus group and others interviewed, noted that public prosecutors rarely pursue environmental cases due to lack of expertise and institutional support.

Ineffective Enforcement and Weak Penalties⁵⁰: Although the Criminal Code includes provisions for environmental crimes, penalties often lack proportionality, reducing their deterrent effect. For instance, fines for illegal logging, a pervasive issue in protected areas, are often too low to discourage repeat offenses. Stakeholders from the focus group, and in interviews, noted that environmental inspectors lack the legal authority to impose immediate penalties, allowing violators to exploit loopholes.

Weak Environmental Liability Framework⁵¹: The Environmental Liability Directive (ELD) has not been fully transposed, leaving gaps in accountability for environmental harm. Current Albanian laws, such as Law No. 10431/2011 on Environmental Protection, provide only fragmented guidance, and are not complemented with the necessary implementing by-laws for the "polluter pays" principle, making it difficult to impose liability for environmental damage.

Vagueness in Public Participation Provisions⁵²: The legal framework for public participation, particularly in EIAs and SEAs, suffers from unclear definitions of key terms such as "public concerned" or "affected parties." This ambiguity leads to inconsistent application across both administrative authorities and judicial ones, often excluding marginalized groups, as well as NGOs and rural populations.

Limited Legal Protections for Vulnerable Communities⁵³: The absence of distributive justice provisions exacerbates the unequal distribution of environmental harms. Poor communities often bear the brunt of industrial pollution, illegal waste dumping, and deforestation, without adequate legal recourse and hindered by the burden of excessive costs. The Focus Group emphasized the need for standardized protocols to assess environmental harm and enforce remediation, particularly for high-profile cases like industrial pollution and development projects in river basins and protected areas.

⁴⁹ See above Section 5.1.1 "Legal Framework", Section 5.1.4 "Enforcement and Judicial Practices" and Annex III below for more detailed information.

⁵⁰ See above Section 5.1.1 "Legal Framework", Section 5.1.4 "Enforcement and Judicial Practices" and Annex III below for more detailed information.

⁵¹ See above Section 5.1.1 "Legal Framework" and Section 5.3 "Existing Assessments" for more detailed information.

⁵² See above Section 5.1.1 "Legal Framework" for more detailed information.

⁵³ See above Section 5.1.4 "Enforcement and Judicial Practices" and Annex III below for more detailed information.

Deficient EIA Procedures⁵⁴: EIAs are plagued by outdated methodologies and baseline data and limited transparency. The lack of clear public participation standards undermines procedural justice, a core principle of environmental justice. Public concerns over projects like the construction of hydropower plants or touristic developments near or within sensitive ecosystems illustrate systemic gaps in accountability.

6.1.2 Legislative Priorities: Charting a Path Forward

Strengthen Environmental Liability Framework: Fully transpose and operationalize the Environmental Liability Directive (2004/35/EC) to ensure "polluter pays" principles are consistently applied. Recommendations include (i) Establishing a national registry for environmental damage incidents. (ii) Defining standardized methodologies for remediation measures in collaboration with CSOs.

Enhance Criminal Law for Environmental Offenses: Reform the Criminal Code to elevate penalties for serious environmental crimes introducing specific provisions for repeated offenses and reinforcing penal policy for severe environmental crimes. Additionally: (i) Create specialized training for prosecutors and judges on environmental crime to ensure consistent legal interpretations. (ii) Introduce mandatory environmental education for law enforcement agencies involved in investigations.

Overhaul EIA/SEA Legislation: Develop robust EIA standards that prioritize early public involvement and enhanced digital accessibility. This includes: (i) Requiring proponents to disclose detailed cumulative impact analyses for large-scale projects. (ii) Using hybrid consultation models (in-person and online) to ensure inclusivity.

Improve Access to Justice Mechanisms: Strengthen mechanisms for judicial review in environmental cases. This includes: (i) Introduction of the collective lawsuit as a tool for increased access to justice. (ii) Ease the financial and procedural burdens associated with technical and scientific expertise. (iii) Specialized environmental court sections could also be established to handle complex cases efficiently.

Incorporating Climate Resilience in Legal Frameworks: Legislation must address climate adaptation by mandating: (i) Climate vulnerability assessments for infrastructure projects. (ii) Mandatory inclusion of adaptation measures in local development plans. (iii) Clear accountability frameworks for achieving GHG reduction targets.

Formalizing NGO Roles in Enforcement: Recognize and empower NGOs as legal actors in environmental litigation. This can include granting the right to file lawsuits and full access government data on environmental violations.

6.2 Public Participation Needs

In Albania, it is widely recognized and enshrined in that community engagement in environmental decision-making is an essential component of achieving sustainable development and protecting natural resources. Although Albania has established legal frameworks to promote public participation, particularly through EIAs, the practical implementation of these frameworks often falls short. Community involvement is underdeveloped and reduced to a superficial "box-ticking" exercise, undermining its intended purpose. Public participation, as mandated by the

⁵⁴ See above Section 5.1.1 "Legal Framework", Section 5.1.4 "Enforcement and Judicial Practices" and Annex III below for more detailed information.

Aarhus Convention, grants citizens the right to have a say in projects affecting their environment, including major developments in sectors such as energy, tourism, and mining. However, the challenge lies in ensuring that this participation is meaningful and effectively integrated into the decision-making process.

Over the past decade, the exploitation of natural resources has intensified, accompanied by a growing tendency to consider the environment as a source for rapid economic development. This coincides with a noticeable decline of public engagement in decision-making, as such involvement is often considered as a barrier to swift development.

Examples of infrastructure works such highways, airports, and tourist facilities along the coastal zone, as well as investment in the energy sector, are frequently referred to as cases with deficient or non-meaningful public engagement into decision-making processes.

6.2.1 Challenges to Effective Community Engagement

Despite the clear benefits, community participation in EIAs in Albania remains hampered. One of the main barriers is the lack of proper outreach and communication: many public consultations are conducted with insufficient notice, poorly organized logistics, and in locations that are inaccessible to the communities most affected by the proposed projects. Moreover, technical jargon in EIA documents can be difficult for the public to understand, making it challenging for communities to engage meaningfully in the process.

The EIA process itself is also frequently criticized for being more of a formal procedure of technical discussion. In some cases, public consultations are held as a legal requirement but without intention of considering the public's input in the final decision. For example, the government and developers might go through the motions of public consultation without genuinely integrating the feedback into the project planning or decision-making process. This has been noted in several hydropower and infrastructure projects, where local communities have raised concerns about the impacts on biodiversity, water resources, or local livelihoods, but these concerns have not been adequately addressed by the authorities.

The NEA and other government bodies responsible for overseeing EIAs often do not have the human and financial resources to manage public consultations effectively. This leads to poorly executed consultations that fail to generate meaningful participation. Additionally, many rural and marginalized communities in Albania still face challenges in accessing information, particularly in the context of digital platforms, which are supposed to provide online access to environmental information and public consultation processes. These barriers to access the information contribute to low levels of participation by communities that stand to be most affected by the decisions on the specific development projects.

In 2024, an initiative to develop an integrated Environmental Information System by NEA emerged. This system aims to centralize all environmental monitoring data at national level, integrating contributions by all actors responsible for environmental monitoring, including companies, local governmental units, and institutes. Yet, the initiative is still in its early stages, with no clear timeline or detailed information on how this information will be made accessible and open to the public.

Environmental CSOs play a critical role in bridging the gap between technical EIA documents and the general public by simplifying the information into accessible language, conducting public awareness campaigns, and organizing stakeholder meetings to ensure that all groups, including marginalized communities, are informed and able to participate. PPNEA's recent efforts to

expose flaws and quality concerns on the EIA of Narta Airport exemplify efforts to impact the quality of the consultation process.

Between 2015 and 2020, NEA established a consultation and advisory body within the agency to review and provide scientific and technical inputs on EIA documents. This body, composed of representatives from universities and research institutes, represented an effort to open the EIA discussion to a broader range of stakeholders. While there is no evidence of its direct impact on improving EIA quality, this initiative was a step toward making the process more inclusive and transparent, thus ensuring that public participation is a real opportunity for influence, rather than a procedural formality. Unfortunately, it ceased to exist after 2020.

6.2.2 Moving Forward on Tools and Mechanisms

To enhance the effectiveness of community participation in EIAs in Albania, several steps are necessary.

First, public consultation processes must be conducted with a genuine intent to incorporate feedback into decision-making, especially from underrepresented groups such as Roma and Egyptian communities and women. This can be achieved by ensuring that consultations are organized at convenient times and accessible locations, particularly for rural communities, and by offering more opportunities for direct engagement, such as workshops and public forums.

Second, government institutions like the NEA must strengthen their capacity to manage public consultations effectively. This includes providing adequate training for staff on participatory processes and ensuring that consultation procedures are transparent and inclusive. Developing and supporting the role of specific CSOs such as Aarhus Centers and providing them with more resources could also help improve the outreach and engagement efforts.

Thirdly, fostering collaboration between government institutions, CSOs, and local communities is essential for creating a more effective and transparent environmental governance system. CSOs can continue to play a vital role in facilitating these partnerships and ensuring that public participation is not just a legal obligation but a meaningful part of the decision-making process.

6.3 Institutional Needs

6.3.1 Capacity Building: Building Strong Foundations

Albania's institutional framework for environmental governance faces critical capacity constraints. From poorly equipped environmental agencies, to overburdened municipal authorities, the lack of resources, expertise and coordination as well as overlapping of competences and functions, undermines effective implementation of environmental laws.

Strengthening Judicial and Legal Expertise⁵⁵: Judges and prosecutors lack specialized training in environmental law, limiting their ability to adjudicate complex cases effectively and often leading to inconsistent rulings and lenient sentences. Immediate steps should include:

- (i) A series of training activities on environmental liability, environmental crime and the public participation and access to justice, focusing on procedural justice and access to environmental information;

⁵⁵ See above Section 5.1.3 "Stakeholders 'Framework", Section 5.1.4 "Enforcement and Judicial Practices" and Annex III below for more detailed information.

- (ii) Organization of an annual symposium to share best practices and case law precedents from EU member states;
- (iii) Publication and dissemination of guidelines on interpretation of environmental laws.

Inspection Empowerment⁵⁶: The Inspection authorities face severe resource shortages, affecting their ability to conduct real-time monitoring and enforce regulations, thus requiring significant investment in human resources and technology: (i) Equip agencies with advanced monitoring technologies, such as drones for deforestation tracking; (ii) Provide training for staff; (iii) Create inter-agency task forces to address environmental crimes, drawing on the expertise of environmental inspectors, police, and prosecutors.

Public Sector-NGOs Partnerships: CSOs and community groups are instrumental in bridging the gap between government and citizens. However, they often lack the technical and financial resources to act effectively. Recommendations include: (i) Allocate public funds to CSOs for independent environmental monitoring; (ii) Institutionalize CSO participation in the design and review of EIAs, SEAs, and environmental permits; (iii) Establish a grant mechanism to support public awareness campaigns on environmental rights and community-based participatory research on environmental issues.

Coordination Gaps: Identify areas where inter-agency cooperation, in particular between justice, environment, and civil society sectors, can be improved. Result of SWOT or any other alternative analysis to identify strengths and weaknesses of the public participation current mechanisms in terms of accessibility and readability for citizens.

6.3.2 Coordination Gaps: Bridging Silos

Institutional fragmentation and weak inter-agency collaboration are significant barriers to effective environmental governance in Albania. Focus group participants emphasized the need for streamlined coordination mechanisms to eliminate redundancies and enhance accountability.

Institutionalizing Cross-Sectoral Collaboration: Either regular coordination meetings between justice, environmental, and civil society sectors or a dedicated National Environmental Coordination Body could harmonize efforts across the justice, environment authorities, and civil society sectors. Responsibilities could include: (i) Regularly publish data on environmental compliance and judicial outcomes; (ii) Develop joint action plans for tackling high-priority issues; (iii) Share technical expertise and resources.

Streamline Responsibilities Among Agencies: Current overlaps in roles between agencies such as NEA, inspectorates, and municipalities create inefficiencies, especially in enforcing environmental permits and responding to violations. Immediate actions include: (i) Drafting clear mandates for each agency. (ii) Enhancing communication through a shared digital platform.

Leverage Digital Tools for Transparency: A centralized online portal could host all environmental permits, EIA/SEA reports, and public consultation documents. This would: (i) Increase transparency and accountability; (ii) Provide a platform for the public to track the status of environmental complaints, EIA/SEA reports and feedback mechanisms; (iii) Provide real-time data from environmental monitoring stations; (iv) Provide inter-agency communication tools for better coordination during inspections and enforcement.

⁵⁶ See above Section 5.1.1 "Stakeholders' Framework", Section 5.1.4 "Enforcement and Judicial Practices" and Annex III below for more detailed information.

Building Municipal Capacity for Environmental Governance: Local governments are key implementers of environmental laws but often lack the personnel and expertise to carry out their duties effectively. Capacity-building initiatives for municipal staff should include: (i) Training on EIA/SEA requirements; (ii) Workshops on engaging with local communities and SCOs; (iii) Technical support for developing local environmental action plans.

7. COMPARATIVE ANALYSIS

7.1 Environmental Justice and Participatory Mechanisms on the EU Accession Path

7.1.1 Environmental Justice

Firstly, access to justice depends on access to information and certain procedural guarantees that protect the claimant. Secondly, access to justice depends on the admissibility of claimants and the technical nature of the case before the courts, especially regarding climate litigation where the “preventive” dimension is increasing.

Before the case goes to court: access to information and procedural framework

Access to justice is the result of numerous interconnected factors, including procedural components, information and awareness of the populations, existing supporting mechanisms such as human rights institutions, etc. To fully comprehend the access to justice in environmental and climate matters, it is essential to observe the context and respect for different rights. They are of the utmost importance to create an **effective climate of trust and build a pathway to the court regarding environmental and climate disputes**.

- (a) To have access to justice, both individuals and legal entities must be able to show the judicial authorities their request has sufficient grounds. This implies being able to **access the necessary pieces of information**. This means, on the one hand, that the information can be requested and then provided by the competent authorities and/or stakeholders (e.g. project owner). On the other hand, the information is accessible to individuals and CSOs (complete information, in a known and understandable language, available for people with disability, etc.). In addition to the elements of the Aarhus Convention which develop on access to information, European Court of Human Rights (ECtHR) case law clearly identifies access to information regarding environmental matters as a component of the right to protection of private and family life.⁵⁷ The definition of what constitutes environmental information is particularly important as a restrictive definition can deprive the general and concerned public of essential knowledge. In France, access to information is a broad concept.⁵⁸ It covers all information (whatever the medium - written, visual, audio, electronic) on the state of the environment and its various elements (atmosphere, water, soil, landscapes, natural sites, etc.), decisions, activities and factors likely to affect the status of the environment, human health, safety and living conditions, buildings and cultural heritage (insofar as they are or may be altered by environmental factors) or reports drawn up by or on behalf of public authorities on the application of legislative and regulatory provisions relating to the environment, including on financial aspects of a project. The effectiveness of such provisions is important and must be ensured in a timely manner.

In France, any person who has been refused access to an administrative document or information, or who has not received a reply within one month or has received a negative answer to its demands regarding re-use of public information, may refer the matter to the *Commission d'Accès aux Documents Administratifs*, the French Commission for Access to Administrative Documents (CADA).⁵⁹ CADA's opinions are interpreting the law to ensure a good equilibrium. For instance, CADA has constantly highlighted that the administration is

⁵⁷ Article 8 of the Convention requires the establishment of an effective and accessible procedure enabling such persons to request all relevant and appropriate information relevant and appropriate information – See for instance ECtHR, *Roche v. United Kingdom*, 19 October 2005; ECtHR, *Vilnes and others v. Norway*, 5 December 2013.

⁵⁸ Article L. 124-2 du Code de l'Environnement ; Article 7 of the Charte de l'Environnement.

⁵⁹ To help the public to access information, the Commission d'Accès aux Documents Administratifs - an independent administrative authority - was created in 1978. It issues opinions but can also sanction an infringement.

required to provide documents and pieces of information for projects that are still in the preparatory phase, even if elements of the project itself cannot be disclosed yet.⁶⁰

- (b) Meeting individuals' and CSOs' needs regarding information, not only on the environment itself and on decisions/projects impacting the environment, but also on legal procedures, remedies, etc. remains integral. **Clarity of legislation and of available remedies** is important for access to justice in environmental matters: development of procedures that derogate from ordinary law, referrals to other multiple pieces of legislation, and so on, may obscure relevant remedies and proceedings. In Albania, academics maintain that several laws can cover the same issues,⁶¹ while other laws introduce exemptions (see above - section 5).
- (c) Facing the technicality of environmental law and proceedings, individuals can lack expertise to access justice by themselves. Nevertheless, the Aarhus Convention and the European directives on public participation and access to environmental justice emphasize that the "public concerned" in this context are "the public affected or likely to be affected by environmental decision-making procedures [...] or having an interest in such procedures", which includes NGOs.⁶² The **possibility to act collectively** is essential to environmental justice, since it is a field of strong mutual interests and NGOs can concentrate on expertise. At the roots of this, is **freedom of association** as protected by the European Convention on Human Rights (ECHR)⁶³ and the Charter for Fundamental Rights of the European Union⁶⁴. For this reason, the legal procedures and formalities for registering associations must be reasonable and not hinder this freedom.⁶⁵ In its 2024 report on Albania, the European Commission underlines that the electronic registration of NGOs is not yet fully functional.⁶⁶ If the NGOs are not registered, they have no legal status and cannot go to court.
- (d) Another element creating a context favorable to access to environmental justice is the possibility of disseminating information and thus **freedom of expression**⁶⁷ which is imperative in the case of climate and environmental issues for individuals⁶⁸ as well as for NGOs which are seen as acting watchdogs⁶⁹, and journalists whose profession is closely linked to the dissemination of objective and sourced information. The European Agency for Fundamental Rights underlines various difficulties in this regard, with Strategic Lawsuits Against Public Participation (SLAPPs) which is an increasing matter in Albania⁷⁰. If France has not yet transposed the 2024 EU directive regarding SLAPPs⁷¹, other legislation⁷² participates to protect activists and whistleblowers enabling the emergence of legal environmental and climate cases and goes beyond the scope of the Directive (EU) No 2019/1937⁷³.

⁶⁰ See for instance CADA, Avis (favorable) n° 20072918-PN du 26 Juillet 2007; CADA, Avis (favorable) n°20103735-AR du 23/09/2010 Alsace Nature.

⁶¹ MISHO Erinda, "The Development of Environmental Law in Albania: Historical Overview of Efforts toward Full Approximation with the Acquis Communautaire", in Balkan and Near Eastern Journal of Social Sciences, 2019:5 (3)

⁶² See art. 11 Directive 2011/92/EU on Environmental Impact Assessment.

⁶³ Article 11 of the ECHR.

⁶⁴ Article 12 of the CFREU.

⁶⁵ See for instance ECtHR, Costel Popa v. Romania, 26 April 2016.

⁶⁶ Commission Staff Working Document Albania 2024 Report, 30 October 2024, p.24: https://neighbourhood-enlargement.ec.europa.eu/document/download/9f9ac397-ca8a-4bde-8204-998e27ab4f51_en?filename=SWD_2024_242_2_EN_autre_document_travail_service_part1_v3.pdf

⁶⁷ Art. 10 ECHR and Art. 11 of the CFREU.

⁶⁸ See for instance ECtHR, Steele and Morris v. United Kingdom, 15 February 2005; ECtHR, Bumbes v. Romania, 3 May 2022.

⁶⁹ See ECtHR, Vides Aizsardzības Klubs v. Latvia, 27 May 2004.

⁷⁰ COMMISSION STAFF WORKING DOCUMENT Albania 2024 Report, 30 October 2024, p.36,37.

⁷¹ Directive (EU) No 2024/1069 11 avril 2024.

⁷² Loi organique n° 2022-400 du 21 mars 2022 visant à renforcer le rôle du Défenseur des droits en matière de signalement d'alerte ; Loi n° 2022-401 du même jour visant à améliorer la protection des lanceurs d'alerte

⁷³ The protection of whistleblowers in France, Biennial report 2022-2023, Défenseur des Droits, https://www.defenseurdesdroits.fr/sites/default/files/2024-09/ddd-rapport-LA_2022-23_EN_20240716.pdf

- (e) Access to court can be limited by financial issues. **Judicial fees and legal costs** contribute to the proper administration of justice. They can also be a genuine obstacle to **accessing justice** when excessive (i.e. leading to 'prohibitive expenses' objectively and subjectively for the plaintiffs)⁷⁴ or not compensated by free legal aid mechanisms offered by the State - an essential tool for equality of arms⁷⁵. **Free Legal Aid** is particularly important for environmental justice, since on the one hand environmental law is a technical subject with complex proceedings generally requiring the assistance of a lawyer,⁷⁶ and on the other hand, costs regarding expertise, lab analysis, and so on, can be very high and unaffordable for the majority of citizens on low incomes. Since 2008, Albania has developed a strong Legal Aid, with the law no 111/2017 stating Legal Aid is guaranteed by the State. However, adoption of important bylaws has been delayed⁷⁷ and the amount of aid seems insufficient compared to the costs supported by plaintiffs in environmental cases (see above - section 5).
- (f) All the elements presented above are particularly important for minorities, marginalized communities and vulnerable individuals who may be disproportionately affected by environmental and climate issues.⁷⁸ Among the individuals and communities particularly concerned with environmental matters within the EU are the Albanian Roma⁷⁹, who additionally experience extreme poverty, discriminations and/or deprivation which can prove a barrier to accessing justice.⁸⁰ For instance, the European Commission against Racism and Intolerance (ECRI), mentions that *"the absence of a functioning legal aid system disproportionately often affects members of the Roma and Egyptian communities [...] due to their social marginalization and extremely low incomes"*.⁸¹ EU Member States are obliged to fight **discrimination**, and are particularly encouraged to take appropriate measures to ensure that these populations have access to environmental justice on an equal footing with others.⁸²

Once before the courts: adapting procedural guarantees to meet environmental challenges

- (a) The Court of Justice of the European Union (CJEU), pursuant to Article 47 of the Charter of Fundamental Rights and the indirect effect of Article 9(3) of the Aarhus Convention, recognizes the rights of individuals to bring an action in environmental disputes in light of their "sufficient interest" in the environmental damage at the center of the complaint.⁸³ This framework is more protective than the one of the Strasbourg Court, where the concept of

⁷⁴ Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment - See also CJEU, C-530/11, European Commission v. United Kingdom of Great Britain and North Ireland, 13 February 2014 ; CJEU, C-260/11, The Queen, on demand of David Edwards and Lilian Pallikaropoulos c. Environment Agency and others, 11 April 2013.

⁷⁵ See for instance ECtHR Steele and Morris v. United Kingdom, 15 February 2005.

⁷⁶ See ECtHR, P., C. and S. v. United Kingdom, n° 56547/00, 16 October 2002, paras. 88-91

⁷⁷ ECRI, 6th report on Albania, June 2020, p.25.

⁷⁸ See for instance IPCC, sixth assessment report, Working group II contribution Climate Change 2022: Impacts, Adaptation and Vulnerability 28 February 2022: Sixth Assessment Report — IPCC.

⁷⁹ European Environmental Bureau, Push to the wastelands: Environmental racism against Roma communities in Central and Eastern Europe, April 2020: Pushed to the wastelands: Environmental racism against Roma communities in Central and Eastern Europe - EEB - The European Environmental Bureau; European Environmental Bureau, Bearing the brunt : Roma and Travelers experiences of environmental racism in Western Europe, January 2024.

⁸⁰ See for instance ECRI, 6th report on Albania, June 2020.

⁸¹ ECRI, 6th report on Albania, June 2020, p.25.

⁸² The guidelines of the EU Strategic Framework for Roma Equality, Inclusion, and Participation published in 2020 include indicators and measures linked with environmental issues, such as prioritizing access to social housing for Roma living in environmentally hazardous areas, ensuring active participation of Roma communities, etc. See: European Commission, A Union of Equality: EU Roma strategic framework for equality, inclusion and participation, 7 October 2020 - see in particular: Portfolio of indicators, Objective 7-a: Fighting environmental deprivation, promoting environmental justice

⁸³ C-243/15, §44: considering that « It would be incompatible with the binding effect attributed to a directive by Article 288 TFEU to exclude, in principle, the possibility that the obligations which it imposes may be relied on by those concerned.". See also: C-664/15 Protect, para. 45. This interest in bringing proceedings also depends on the applicable directives concerning acts or omissions that have an impact on the environment. For example, in relation to the following directives: ELD (Article 12(1)(a) -(c)), air quality plans (C-404/13 Client Earth and C-237/07 Janecek), nitrate (C-197/18/ Burgenland), habitats (C-240/09 Slovak Bears), water framework (C-664/15 Protect) and see also article 15a of directive 2003/35/C.

victim is only granted where the victim is directly affected⁸⁴ by the alleged breach of the Convention.⁸⁵ However, in the Klima judgment, under Article 6(1) of the Convention, collective entities such as associations were granted standing to defend the rights and interests of their members or individuals affected or concerned, in cases of climate inaction attributable to the Defendant State. This interpretation appears to be in line with the case-law of the CJEU and the Aarhus Convention.⁸⁶ In Albania, Montenegro and Northern Macedonia, the admissibility of associations, groups and individuals, as in many Member States, may constitute the first barrier in which this European framework should nevertheless encourage an extensive approach to the interest to act.

In France, approved environmental protection associations by the authorities are presumed to have the right to take legal action. This facilitates their admissibility but also restricts this access by requiring them to obtain administrative approval, the granting and withdrawal rests in the hands of the authorities, under the control of the administrative judge. Some Member States, such as Germany (sanctioned by the CJEU)⁸⁷ restrict the right of associations to act, by limiting it to certain categories of action against certain decisions or acts. In addition, although class actions are recognized in French law, particularly in environmental matters, they were not as successful as expected due to their procedural complexity, with citizens and associations preferring collective and/or individual legal actions, which are quicker and simpler. This tendency to seek to provide a legal framework for access to the courts⁸⁸ should be weighed against the effectiveness of a flexible case-by-case approach (as appears to be the case in the studied countries), as long as major national decisions provide sufficient legal certainty and foreseeability for claimants in such disputes.

Furthermore, the difficulty of proving the environmental and/or material damage alleged by the environmental association is significant in all three countries. In France, there is a legal peculiarity due to the existence of case law, in certain disputes,⁸⁹ relating to the moral prejudice suffered by associations. In other words, a judge may consider that an association has been harmed if the facts, even if they do not involve any environmental damage - for example, failure to comply with environmental regulations - undermine an association's statutory purpose of protecting the environment. This indirect damage, assessed in abstracto, is either complementary to the material and ecological damage suffered, or the only damage claimed by the association, which facilitates access to the courts. European case law, without explicitly mentioning non-material damage, encourages such an approach, where the mere mobilization of environmental provisions in a dispute should be sufficient to justify this interest.⁹⁰ Associations' moral prejudice, understood as non-material damage, does not seem to be recognized by the legal systems in Albania, Northern Macedonia and Montenegro.

- (b) In addition, given the technical dimension of environmental law, **adversarial debate on the evidence** is essential. In the three countries studied, the difficulties of demonstrating the risks or damage to the environment were noted. The administrative or judicial judge (civil or criminal) should forge conviction based on the evidence brought by the parties. The quality of environmental inspections and any EIAs depends on the independence, ergo the resources

⁸⁴ Article 34 of the ECHR. In the Klima and Carême cases, the applicant individuals' exposure to the effects of climate change and the urgent need to guarantee their protection were not demonstrated.

⁸⁵ Articles 6 and 8 of the ECHR

⁸⁶ C-664/15 Protect, §67: "if national law establishes such a link between the status of party to administrative proceedings and the right to judicial review, that status cannot be denied unless the right to review is deprived of any useful effect, or even of its very substance".

⁸⁷ See for example, in the Dieselgate case: Judgment of 8 November 2022, Deutsche Umwelthilfe (Type-approval of motor vehicles) (C-873/19, EU: C: 2022: 857).

⁸⁸ In Albania, for example, a law is currently being drafted to allow collective proceedings to be initiated.

⁸⁹ Certain disputes are subject to specific rules of admissibility, such as town planning disputes.

⁹⁰ Ibid §67 Protect. Although Directive 2003/35/EC on public access to justice in environmental matters, amended by Directives 2008/99/EC and 2011/92/EU, recognizes the right to take legal action, it does not mention non-material damage.

of the authorities, which carry them out. The absence of an independent environmental authority⁹¹ in Albania and Northern Macedonia necessarily taints the risk of bias in the technical findings and therefore in the evidential debate before the courts. The independence of the judicial function - in the sense required by the ECtHR under article 6 of the ECHR, i.e. the "appearance" of independence required, or the "objective" impartiality sought - is the only "bulwark" against this risk.

In France, the principle of freedom of evidence remains before the criminal court. This may order any useful measure to lead to truth. Civil and administrative judges, for their part, have the possibility of ordering expert environmental reports, including as part of the investigative measures prior to any debate on the merits of the case. These additional expert reports are sometimes essential to quantify the damage. The issue of compensation appears to be little or non-existent in local case law, apart from one case of compensation before the Albanian civil court (Gorishovë).

- (c) Finally, the **"preventive" dimension of environmental litigation** is essential and influences the progressive tendency of jurisdictions to protect the environment, where the principles of precaution⁹² and prevention⁹³ call for a global approach. Environmental offences, which are sometimes concealed and have a gradual impact, are difficult to apprehend and are comparable to corruption offences, where anticipatory punishment plays an important role. Legal protection of the environment can only be achieved if States also incorporate obligations on private companies, particularly in terms of environmental risk management. Like the 'Case of Corruption'⁹⁴, the courts will penalize the absence of preventive measures from damaging environment. In this respect, the European Green Deal includes, for example, the deforestation regulation,⁹⁵ the CS3D directive⁹⁶ and the environmental crime directive⁹⁷. None of the countries studied - even though they are exposed to the problem of deforestation - appear to have introduced obligations to monitor the management of illegal timber risks within forestry companies.⁹⁸ Furthermore, the application of the so-called deforestation regulation requires the existence of a company control authority with "functional" independence, which the countries studied do not have, with the exception, a priori, of Montenegro (EPA authority).

Public Participation

The legal guarantees of public participation are **essentially procedural**. The States Parties must implement the provisions of international law and define the way in which the public participates in the preparation of decisions.⁹⁹ Derived from two major sources of international law, the principle of participation was translated into normative obligations by the Aarhus Convention. In EU law, however, these requirements are asymmetrical. This is the requirement relating to **the**

⁹¹ Jurisprudence of the European Court of Justice says: "the public authorities responsible for environmental assessment must be independent and objective in their analysis, so as to guarantee environmental protection. The Court stressed that Member States must guarantee an independent assessment of projects, without pressure from project promoters." (CJUE, 2004, C-41/00), the Court also explains that "national environmental assessment authorities must be independent of any influence, including political or economic, in order to ensure the quality and reliability of assessments. The Court specified that the competent authorities must exercise their function without interference from those with an interest in the approval of a project." (CJUE, 2011, C-263/08).

⁹² Article 191 of the TFEU.

⁹³ See in particular: the Lugano Convention of 193 on civil liability for damage resulting from activities dangerous to the environment and the Directive of 21 April 2004 on environmental liability regarding the prevention and remedying of environmental damage.

⁹⁴ Article 17 of the Sapin II Act.

⁹⁵ Regulation 2023/1115 against deforestation and forest degradation (RDUE), which will replace the regulation on illegal timber.

⁹⁶ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on companies' duty of care regarding sustainability

⁹⁷ Directive n°2008/99/CE

⁹⁸ Regulation EUTR n°995/2010 which will be replaced by the Regulation n°2023/1115.

⁹⁹ World Charter for Nature, October 28, 1982, point 23: "Everyone shall have the opportunity () to participate () in the making of decisions which directly affect his environment".

Rio Declaration on Environment and Development, August 12, 1992, principle 10: "Environmental issues are best addressed through the participation of all concerned citizens, at the appropriate level".

duty to know and make known environmental impacts. The most formalized in EU legislation, it is embodied in two mechanisms - SEA for certain plans and programs, and EIA for certain public and private activities with a significant impact on the environment.¹⁰⁰ Moreover, the legal requirement for public participation **does not imply that public authorities share decision-making power with the public.** The mechanisms must simply enable the public to influence the direction of the forthcoming decision¹⁰¹ and the private petitioner or public authority **must take the results of the participation into account.**

In Albania, the EU as already identified discrepancies in the implementation of SEA and EIA under domestic law. The national assessment similarly highlights the difficulties inherent in ensuring effective participatory processes, particularly regarding the public's influence on decision-making and the inclusion of concerned groups, including vulnerable groups.

To address these challenges, institutional arrangements were introduced in French Law:

Early and Structured Public Involvement

Under French legislation, public participation in decision-making – whether for plans and programs or for specific decisions relating to projects with environmental implications – is allowed or required, depending on the case, at a **very early stage in the process.**

When a plan or program relating to environmental or regional development, or for certain projects that may have a significant impact on the environment is envisaged, two forms of participation may be organized successively:

- The first is the **dialogue process**: this concerns the preliminary project and enables the public to question the appropriateness of the project. There are three alternative procedures: public debate, spontaneous consultation (concertation) with a guarantor.
- The second is the **consultation process**: this precedes the decision that enables the public authority to set conditions and limit governing the activity. Implemented through two procedures: public inquiry and public participation online (“participation du public par voie électronique”).¹⁰²

Participation at a very early stage encourages the public to influence the definition of the project's content. Although no power is formally attributed to the public, the participatory arena of consultation regularly exerts an influence on the content of the decision taken by the public authority or the developer.¹⁰³

Adaptation of Participation Procedure to the Seriousness of the Impact

Under French legislation, the type of procedure organized for consultation or debate processes depends on the seriousness of the environmental impact of the project, plan, or program. This is measured objectively, in light of natural, technical characteristics, or cost of the project and/or whether it is subject to an EIA, systematically or after a case-by-case examination. In short, **the greater the impact on the environment, the stronger the guarantees for participation procedure will be for the public.** Among these strong guarantees, the presence of a **neutral, independent and impartial moderator** appears to be of prime importance in organizing public participation. This guarantee is not required by international or European law.¹⁰⁴ However, it does appear in the academic literature a guarantee of the effectiveness of the procedure.¹⁰⁵ At the debate process

¹⁰⁰ In France, for the SEA, see L. 122-4 to L. 122-11 and R. 122-17 to R. 122-24 of the Code of the Environment and Articles L. 104-1 to L. 104-8 of the Code of Urban Planning.

¹⁰¹ Public participation takes place before the authorization decision has been adopted, and when the project may still be modified.

¹⁰² - vie-publique.fr -

¹⁰³ Revel, M., Blatrix, C., Blondiaux, L., Fourniau, J.-M., Dubreuil, B. H., & Lefebvre, R., (2007), *Le débat public: Une expérience française de démocratie participative*, 2007, Paris, La Découverte.

¹⁰⁴ The requirement for independence under EU law only applies to the environmental authority.

¹⁰⁵ Bobbio, L. (2003). Building social capital through democratic deliberation: The rise of deliberative arenas. *Social Epistemology*, 17(4), 343-357.

stage, two procedures - public debate and consultation with a guarantor - and one procedure during the consultation - the public inquiry - involve a moderator. The moderator is independent of both the developer and the public authorities and is responsible for facilitating public discussion and reporting their opinions and recommendations. These moderators are the *Commission Nationale du Débat Public* (CNDP) – the French National Public Debate Commission - for the public debate and the *Commissaire enquêteur* – the French investigating commissioner- for the public inquiry.

Simplification and Innovation in Participatory Procedures

Finally, in France, **the question of the design of participatory procedures** is also being examined, in terms of the ability to promote public inclusion or influence, to delay decision-making, or to weaken its legitimacy due to procedural defects. A process of **simplifying participatory procedures** has been underway for several years. This has taken two forms:

- **Forms of public participation are developing that are less regulated by law and more open.** For example, the oldest and most codified form of public participation - the public inquiry - is increasingly being replaced or complemented by online participation. Similarly, consultation procedures involving collegiate bodies have shifted toward open consultations, offering fewer legal guarantees but allowing greater accessibility. In the same vein, public debate, the most sophisticated dialogue process, is loosely regulated by law. The independent administrative authority responsible for organizing public debates - the CNDP - has developed a doctrine based on six guiding principles: independence, neutrality, transparency, equal treatment, argumentation and inclusion. The CNDP implements these principles in different ways depending on the debate, and develops different forms of participation during the same debate to reach out to all audiences: online participation stands in supermarkets, events in cultural venues, partnerships with associations for vulnerable people, mini publics, etc.
- **The administrative authorities are developing *ad hoc* forms of citizen participation alongside the procedures codified in law.** For example, at national level, the government opted for "five-party governance" to undertake a major reform of environmental law known as the Grenelle Environment Forum. In this process, the government engaged representatives of local authorities, trade unions, professional leaders and environmental protection organizations to build consensus that would be validated and shared by all, with a view of drafting new laws to protect the environment. More recently, the *Convention citoyenne pour le climat* – the Citizens's Convention for Climate – assembled randomly selected residents to propose desirable measures to achieve the French government's GHG emission reduction targets.

7.2 Comparative Analyses Among Targeted Countries

Below are the main similarities and differences of environmental justice systems and public participation mechanisms in the Western Balkans (Albania, North Macedonia and Montenegro).

7.2.1 Environmental Justice

Prior to referral to the courts, the three countries do not appear to be complying with their obligations regarding the dissemination of environmental information. This ultimately also contributes to **limiting access to the courts and tainting the quality of justice** due to the lack of public information available in sufficient quantity and quality. In addition, although all three countries have laws on access to information, they do not appear to have any special regime that

is more favorable to **the right of access to environmental information**¹⁰⁶. The paucity of litigation on the subject does not seem to make it possible to assess the position of local courts on this point.

All three countries are also facing similar challenges regarding removing obstacles to access to a judge. There are three aspects:

- financial obstacles (persistent limitations regarding accessing free legal aid by the State - for marginalized communities -, lack of funding for NGOs, etc.),
- psychological obstacles (lack of trust in the institutions, perceived lack of equality of arms linked with marginalization of some victim-communities, SLAPPs, low protection of whistleblowers and criminalization of activists, threats against environment defenders and journalists),
- procedural obstacles (NGOs registration - for North Macedonia and Albania -, poor readability of legislation and regulations on environment and available remedies, overlapping of legislation, difficulties in having sufficient elements to begin a case, locus standi, etc.).

Before the courts, the question of the admissibility of individuals and associations has been the subject of significant developments in case law in Albania, even though this issue is still being debated, which raises questions about the "binding nature" of case law in this country. In Montenegro, citizens' complaints in environmental matters which do not lead to prosecution constitute a major obstacle to access to the courts.¹⁰⁷ Regarding adversarial debates, particularly on evidence and causality, apart from the need for the judicial sector to be trained on environmental matters, the use of external expertise does not appear to be developed before the criminal, civil and administrative courts in these countries. On the contrary, particularly in Albania and Northern Macedonia, the mobilization of a ministry's in-house expertise and its environmental assessment taint the quality of the evidentiary debate with bias. Finally, in all three countries, at the project environmental assessment stage, the failure to analyze the cumulative impact of several industrial projects, as well as the failure to consider the climatic impact and vulnerability of these facilities, do not appear to be sanctioned by the authorities or the courts.

7.2.2 Public Participation

Public participation is required in the decision-making process for two categories of public decisions: decisions on certain public and private projects, mainly industrial activities,¹⁰⁸ and plans or programs relating to the environment.¹⁰⁹ For each of these categories of decisions, there are similarities and differences in the requirements for participation. As far as the differences are concerned, participation in the preparation of authorizations for certain activities must be aimed at the "public concerned",¹¹⁰ whereas participation in the preparation of plans, programs relating to the environment concerns the "general public". This difference seems to derive directly from the scope of the documents: plans and programs may concern all residents, whereas authorization for industrial activities affects not just residents and neighbors, but land users and even neighboring countries. On the other hand, as far as similarities are concerned, the two procedures follow common guiding principles: the **need for transparency**, the **obligation to know and to make known the environmental impact of public decisions**, the **need for effective public participation** to have a real influence on the decision-making process.

¹⁰⁶ For example, Directive 2003/4/EC prohibits the State or the company from invoking business secrecy when the request for information concerns emissions into the environment.

¹⁰⁷ Depending on the circumstances of the case, these dismissals could be sanctioned on the grounds of lack of effective remedy to a court. In France, if a complaint to the public prosecutor is dismissed, the plaintiff has the option, in both misdemeanor and criminal cases, of lodging a complaint before an investigating judge and then appealing to the investigating court of appeal if the judge refuses to open investigations.

¹⁰⁸ See Annex 1 of the Aarhus Convention.

¹⁰⁹ For an overview of the diversity of these arrangements, see Annex II.

¹¹⁰ The term is used to designate those who will be affected by the decisions to be taken or who will have an interest to assert, NGOs

In all three countries, public participation faces the same challenges. Firstly, effective participation does not always seem to be guaranteed. This difficulty may be linked to the conditions under which the procedures are organized (dates, places and times of public meetings not adapted), but also to the lack of public awareness of environmental issues. Secondly, the independence of the environmental authority from the public authority making the decision and from the developer does not seem to be clear. However, this point is essential to ensure that the environmental and health impacts of projects, plans or programs are fully and objectively assessed and that the public is informed.

Finally, the public's influence on decisions often appears to be weak. This observation points to the difficulty of developing projects, plans or programs within the framework of consultative procedures. This observation undoubtedly calls for a reflection on the timing of participation procedures (do they come too late in the decision-making process?), methodology, or on the way in which the authorities perceive these mechanisms: i.e. instruments of legitimization, Information tools? Instruments for improving decision-making process?

7.3 French Best Practices

7.3.1 Access to Environmental Justice Good Practice

In Albania, French legal cases focus on issues such as climate inaction, the independence of environmental assessment authorities, and soil and water contamination caused by agrochemical products. In North Macedonia, legal cases primarily address air pollution and the impacts of a mega basin. In Montenegro, the cases pertain to illegal logging, biomass/biofuel plants, and water contamination. Additionally, all three countries provide examples of emergency proceedings.

Climate inaction: injunction to respect the EU trajectory, State liability and ecological prejudice
Conseil d'Etat, 2020, Commune de Grande-Synthe and Administrative Tribunal of Paris, 2021, Association Oxfam et al.: In this case, the highest administrative court ordered the French State to respect its trajectory of climate objectives of reduction of emissions until 2030. In the second decision, the administrative tribunal recognized the liability of the French State for failing to comply with the European objective of emissions' reduction concerning a past period and recognized the ecological prejudice from this State inaction. These decisions show that the judge verifies that the State's action is sufficient to achieve the objectives of reduction of emissions according to European and / or Domestic Law. This form of "anticipatory monitoring" led by the judge, is a step forward. The trajectory review with regular deadlines could follow and, if required, demand the State's environmental policies achieve its climate goals.

Independence of the environmental assessment authority

The *Conseil d'Etat*, the highest administrative court in France, specifies that although a public authority may authorize a project and simultaneously be responsible for environmental consultation, it is essential that a functional separation be organized within this authority to guarantee real autonomy with its own administrative and human resources. This enables the administrative entity concerned to provide an objective opinion on the industrial project. In this context, the *Conseil d'Etat* decided to annul provisions of a Decree, insofar as it maintains the designation of the regional prefect as the State's competent authority for environmental matters.¹¹¹

¹¹¹ CE, 6 December 2017, no. 400559

Ecological prejudice for soil and water contamination (agrochemical products)

The Paris Administrative Court recognized the existence of ecological damage resulting from the widespread, diffuse, chronic and lasting contamination of water and soil by the active substances of phytosanitary products, the decline in biodiversity and biomass and the impairment of the benefits derived by man from the environment. The State, by 30 June 2024, was enjoined to take all appropriate measures to repair the ecological damage, prevent further damage by restoring consistency between the rate of reduction in the use of agrochemicals products and the trajectory set out in the Ecophyto plans, and to restore and protect groundwater from the impact of plant protection products.¹¹²

Emergency procedure for the right to a safe and healthy environment: the “référé liberté”

The French legislator has created a specific form of appeal when there is an urgent need to obtain the suspension of an action to avoid the aggravation/continuation of the situation: the “référé”. Several “référés” are available, including one specific when a fundamental right is at stake, “référé liberté”¹¹³. This legal remedy has been used for a couple of years to protect the right to a healthy environment, in particular biodiversity, when irreversible actions are imminent¹¹⁴. The administrative judge checks the existence of the necessary conditions¹¹⁵ and has 48 hours to provide an answer. The case can be dismissed, or all measures necessary to safeguard the fundamental freedom instructed pending a decision on the merits of the case by a full jurisdiction. In one successful case, an NGO (Comité écologique ariégeois) asked the judge to suspend the execution of an order by which the Prefect of Ariège introduced a maximum authorized harvest and set quotas (10) for protected birds (*Lagopedus muta*) for the hunting season 2024-2025. The Conseil d’Etat suspended this order on the grounds that, even if the quota is low, it cannot “prevent a significant reduction in numbers, since such a reduction is likely to lead, in the long term, to the disappearance of the species concerned” so that the order “constitutes a serious and manifestly illegal infringement of the right to live in a balanced environment that respects health, in view of the interests that the Comité Ariège écologie association justifies defending”¹¹⁶.

7.3.2 Public Participation Good Practices

Public participation in environmental law in France can be binding according to the size and risks presented by the project or the public policy. It is regulated by “Environmental Code” and relies on **Article 7 of the Charter for the Environment** which has a constitutional value: *“Everyone has the right, in the conditions and to the extent provided for by law, to have access to information pertaining to the environment in the possession of public bodies and to participate in the public decision-taking process likely to affect the environment”*.

The main authorities granting public participation in France are the Commissaire enquêteur – the French investigating Commissioner¹¹⁷ - since 1810, the *Conseil Economique, Social et Environnemental (CESE)* – the French Economy, Social and Environmental Council, a collegiate body set up under the French Constitution to represent civil society – since 2008 and the *Commission Nationale du débat Public (CNDP)* granting access to public information and participation in terms of environment since 1995, this collegial body implements the rights stated in Aarhus Convention. The latter became an **independent administrative authority** in 2002¹¹⁸ and it’s the guarantor of the so-called environmental democracy. It’s constituted by 25 permanent

¹¹² TA Paris, no. 2200534/4-1 of 29 June 2023

¹¹³ Art. L521-2 Code de la Justice Administrative

¹¹⁴ For instance, launch of work: TA Pau, 10 November 2022, n° 2202449; TA de Montpellier, 7 March 2024, n° 2401295.

¹¹⁵ Conditions are emergency and a manifestly illegal infringement on a fundamental right.

¹¹⁶ Conseil d’Etat, 18 October 2024, n°498333

¹¹⁷ ie 7.1.1

¹¹⁸ Loi n° 2002-276 du 27 février 2002 relative à la démocratie de proximité

members representing public authorities and CSOs in the broader sense, and by a pool of 300 “guarantors” that can be activated to conduct or to monitor *specific and ad hoc* public participation processes on projects or plans impacting the environment. The most binding of those processes is the public debate, led by a specific commission, an ad hoc, *Commission Particulière du débat Public* (CPDP), whose members are nominated by the CNDP. The CNDP and the CPDPs must respect the request, the timing, which is before the decision is made and the public inquiry starts but is quite free regarding the tools implemented for information and participation purposes. Any person involved in the CNDP and CPDP processes must sign a **non-interest conflict statement and respect six values of the institution**: independence, neutrality, transparency, argumentation, equality of treatment and inclusion.

The public participation legal process implemented by CNDP or the project owner has three main temporalities and roles:

- public participation as **prevention to challenge opportunity**, meaning implemented before the decision making. Done through *concertation*, equivalent of public consultation with or without a third independent party¹¹⁹ or *public debate*, strengthened public consultation in which processes are decided by the independent authority (CNDP and CPDP, ie. supra).
- public participation as **follow-up** of the decision through concertation (equivalent of public consultation) ensuring the access to information and public hearings lead by the ‘Project Owner’ (**PO**), ie. the moral person proposing a project or a public policy planning, it can be a company or a public authority, under the scrutiny of a third independent party¹²⁰.
- public participation as a **permanent** component of the project or public policy planning.

Noncompliance of public participation mechanisms can lead to legal complaints and trials, as described below. However, before this eventuality, the public participation mechanisms strengthen access to information and to discussion of a project/plan, especially in public debate procedures that question viability. Thus, 60% of projects are modified after public debate and some are abandoned completely (such as Rhornergia (hydro plant) or *Montagne d’Or* minerie in Guyana).

Focus on 2 cases of public participation procedures

“La Mer en débat” 2024 - Updating of Façade Strategic Documents (DSF) and mapping of offshore wind farms (45GW)

A new strategic maritime planning and the high-level development of offshore wind farms proposed by the political authorities comes under the field of public participation. The CNDP (*Commission Nationale du débat Public*) was then necessarily seized and decided to implement a “**public debate**”. The CNDP has entrusted its organization to a special committee made up of some of its members: la *Commission particulière du débat public – La mer en débat* (CPDP). This CPDP, created ad hoc, was composed of 22 guarantors, due to the extensive geographical realm of coastal areas and the impacts for all the country’s energy and environment, helped by 12 employees for technical support. The members of the CPDP were divided in 4 maritime areas, administratively defined, and had to grant:

:

- the project opportunity, objectives and characteristics.
- the socio-economic stakes involved, as well as their significant impact on the environment and regional planning.
- alternative solutions, including those that cannot be implemented.

¹¹⁹ If the cases apply, and it’s voluntary or mandatory to have an independent scrutiny, the watchdog would be guarantors of the CNDP.

¹²⁰ This process is mandatory for the biggest projects/ state plans such as nuclear power plants, spatial planning etc. The ‘watchdog’ would be guarantors of the CNDP, specifically nominated.

- the procedures for public information and participation after prior consultation. This procedure was initially planned for little more than a month.

The procedure took place over a period of five months. Difficulties arose at the beginning of the debate: the commission had to repeatedly ask for two missing DSFs, which then arrived almost one month after the start of events. In addition, tensions between stakeholders emerged, especially with fishing and maritime communities. The cumulative effects were difficult to identify, and a very large commission, with different visions of public participation, to coordinate. However, this debate is one of the largest ever held, with **21 043 participants to the 375 organized events, 20 088** written contributions and **195 506** visits of the specific tool developed for the debate. An experimental “inclusion group” was also created in partnership with the European project, Phoenix. This allowed vulnerable communities to participate fully and organize **their own debates, in their own local communities** comprising approximately **350 people**. All completed the online platform which supports stakeholders in producing a short dossier, and allows the wider public at large access to information and question/answers systems.

At a national level, the main topics raised and discussed by the public were:

- The challenge of providing information and useful knowledge (on the state of ecosystems, impact of activities, cumulative effects, etc.);
- Adapting to climate change and combating land-based pollution;
- Offshore wind power: conditions for its development (energy planning, fishing and maritime communities, ecology);
- Concerning high-protection zones: what are their specific features? (Why is the European taxonomy not used? What is the difference between protection zones and high-protection zones?);
- The key issue of governance: towards shared governance? (articulation with spatial planning, common governance for zone protection factor and participation of stakeholders and public a posteriori regarding offshore wind farms).

CPDP issued **49 common recommendations and between 12 and 30 specific** recommendations linked to the geographical area. **The requests for responses** from the project owner, i.e. the ministers making the referral and RTE, concern:

- the land-sea link.
- the coastline.
- the location of offshore wind power and other marine renewable energies in the energy transition.
- location and connection of wind farms.
- strong protection zones and marine protected areas.
- fishing.

On the improvement of information and public participation. In particular, the commission recommended in particular:

- support institutions working to improve scientific understanding of the marine environment.
- continue to involve the public in the decision-making process through ongoing consultation.

The **consultation continues** to ensure information and public participation a posteriori will take place from 2025 to the end of the wind farm projects, with a specific attention to mapping and inclusion of stakeholders.

On the redevelopment of the energy recovery and waste sorting site at VAUX-LE-PENIL (Smitom Lombric) – 2023

The project, led by the syndicate Smiton Lombric, involved:

- Extension of the existing Energy Recovery Unit (UE), raising total energy recovery capacity from 137,900 to 190,900 t/year;
- New packaging sorting center, capable of handling the new sorting resins as a result of the extension of sorting instructions to plastics. This replaces the existing drop-off center and bulky waste sorting platform;
- Creation of a workshop for the repair and resale of electrical and electronic waste;
- Creation of a third-party food sorting facility;
- Development of a plot of land for sorting and recycling bulky items.

By law, regarding the financial cost and the nature of the project, **the syndicate was not forced to request the CNDP**. Despite this, possibly in a show good faith, the opinions of local communities and stakeholders were collected. Three guarantors were then nominated by the CNDP to ensure that public participation would be addressed and ensure:

- the project opportunity, objectives and characteristics.
- the socio-economic stakes involved, as well as their significant impact on the environment and regional planning.
- the alternative solutions, including those that cannot be implemented.
- the procedures for public information and participation after prior consultation.

The *concertation* lasted for one month and one week through different tools: a website with a question-and-answer section, an information kit, four public hearings and workshops with stakeholders. From March 13 to April 24, 2023, website traffic statistics recorded 969 visitors, with a total of 4,604 views and an average visit time of 3 minutes 47 seconds. 204 opinions and contributions were submitted via the participative section during the consultation period. Face-to-face participation involved 310 persons. The guarantors made **10 recommendations**, noting the positive perception of the project, which has continued.

7.3.3 Lessons Learned from the EU

Environmental justice

Regarding inaction on climate change and air pollution, the existence of European standards with quantified targets has led to court rulings in France in these areas.¹²¹ Given that general and sectoral directives on reducing CO2 emissions and air pollution are sufficiently precise and with thresholds, failure to comply has led to the French State being held liable and / or convicted¹²² with an injunction to act for the future¹²³ and heavy fines¹²⁴. These obligations - to achieve results at European level, with the risk of infringement proceedings initiated by the European Commission - provide an incentive framework for public policies and a sufficient legal basis to enable the courts to impose sentences and injunctions for the future, via a form of anticipatory monitoring of public policies.

As far as EIAs are concerned, French law has been affected by several important developments thanks to EU directives. Firstly, there is the need to separate the authority assessing environmental impacts from the authority issuing operating permits for industrial facilities.

¹²¹ Concerning climate inaction : Conseil d'Etat, 2020, Commune de Grande-Synthe, Case 427301 ; Administrative Tribunal of Paris, 2021 (3 February), Association Oxfam et al, Cases 1904967, 1904972, 1904976/4-1. Concerning air pollution : Conseil d'Etat, 2017, Les Amis de la Terre, Case 394254 and Conseil d'Etat, 2021, Les Amis de la Terre, Case 428409.

¹²² Administrative Tribunal of Paris, 2021 (3 February), Association Oxfam et al, Cases 1904967, 1904972, 1904976/4-1 ; 2021 (14 October), Association Oxfam et a., Cases 1904967, 1904968, 1904972, 1904976/4-1.

¹²³ Conseil d'Etat, 2020, Commune de Grande-Synthe, Case 427301, ECLI :FR : CECHR :2020 :427301.20201119 ; 2021, Commune de Grande-Synthe, Case 427301, ECLI :FR : CECHR:2021:427301.20210701

¹²⁴ Conseil d'Etat, 2017, Les Amis de la Terre, Case 394254 and Conseil d'Etat, 2021, Les Amis de la Terre, Case 428409.

Secondly, the content of environmental assessments had to be adapted to take account of climate issues. Finally, the geographical scope of the impact study, which must include direct and indirect effects without distinction, has made it possible to include environmental impacts that are geographically distant, but essential and necessary to the operation of the facility.

Public participation

In France, four elements contribute to effective public participation:

- a) The CNDP mandatory referral¹²⁵: Independence of the third party ensuring the access to information and public participation, that is to say to swear a non-conflict of interest, to withdraw if any conflict of interest emerged, and respect the following values: independence, neutrality, transparency, argumentation, equality of treatment and inclusion. These obligations are listed in a Charter¹²⁶ and it is not uncommon to see people step out from their third independent party mandate because of conflict-interest or neutrality issues.
- b) Accountability of Project Owner and decisions makers within the Public Debate procedure (most binding consultation): the project owners have to answer to the questions and recommendations made by the different authorities that can be involved in a public participation process on projects or planning affecting the environment: IAE, CNDP, CPDP and the Commissaire enquêteur – the French investigating Commissioner.
- c) Financing the process through the project owner for the biggest projects and plans affecting environment: the project owner -in the case of a private project- or the State/local authority - in the case of policy planning- must finance the public participation process in the case of a public debate
- d) Public participation mechanism outside of the legal scope (freedom of enforcement): the project owner -in the case of a private project- can call for an independent guarantor (coming from CNDP) or implementing its own process, generally with the support of a company specialized in assistance in participatory processes.

Two more strengthen an effective information and participation only under the French case of a Public Debate:

- 1. Access to (balanced) information and its vulgarization of a project or a public policy planning affecting the environment.
- 2. Implication of independent and contradictory expertise

In France, several innovative experiments in citizen participation highlight the challenges face in increasing the influence of the public in participation. The most recent, the Citizens' Climate Convention, was an assembly of 150 randomly selected citizens who met over eight weekends to discuss the legislative measures that the French state should adopt to enable France to achieve its European GHG reduction targets. This form of deliberative participation was a success. At the end of these discussions, citizens trained in climate issues adopted by consensus 150 measures or recommendations on subjects as diverse as motorway speed limits or the reform of environmental criminal law to introduce the concept of ecocide. At the end of this process, the Government presented the citizens' work to Parliament. Parliament finally adopted a law, the Act of 22 August 2021, to combat climate change and strengthen resilience to its effects¹²⁷, known as the "Climate and Resilience" Act, which incorporated many of their proposals. The success of this participatory process has also led to an institutional reform of the CESE. From now on, this assembly, which only has consultative powers, will also be the

¹²⁵ https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006074220/

¹²⁶ https://www.debatpublic.fr/sites/default/files/2024-02/DECISION_2024_28_CHARTE_MEMBRES_CNDP_1%20Sign%C3%A9%20MP.pdf

¹²⁷ Act no. 2021-1104 of 22 August 2021 to combat climate change and strengthen resilience to its effects

chamber of citizens' participation, since it can convene, spontaneously or at the request of the government, conventions of citizens chosen by lot.¹²⁸ In addition, since the adoption of these two laws, many other citizens' or residents' conventions have been mobilized at local level to support environmental policies.

These so-called "mini 'publics'" reflect a renewed interest in mobilizing and organizing the public to resolve what are often highly charged controversies in environmental policy. The 'mini 'public' formula has some advantages over traditional participatory processes. Firstly, in most cases the composition of the public drawn is weighted to be representative of the general population. In this way, the sample can have the same proportion of women, minorities and socio-professional categories as the general population. Next, the 'mini public' is tasked with collectively constructing 'a common opinion' i.e. each person express their preferences and has heard those of others in a discussion. In other words, expressing an opinion, listening to others, and considering a preference as part of a discussion process.¹²⁹

However, these systems have also raised several questions:

- The first question concerns their relationship with other representatives of civil society: what place should be given to NGOs, associations and trade unions in the context of these systems?
- The second question concerns the link between these mini-publics and the public: how can we ensure that these mechanisms genuinely involve all members of the public, not just those who volunteer to participate in the discussion? Initiatives in Iceland and the United States, for example, involve linking these systems to Referendum. However, this requires:
 - Access to (balanced and impartial) information
 - Independent and contradictory expertise (only in Public Debate)
 - Integration: but also conflicts between climate deregulation and biodiversity.

¹²⁸ Organic Law 2021-27 of 15 January 2021 on the Economic, Social and Environmental Council

¹²⁹ like by the creation for example, of safe spaces for dialogue, where women and vulnerable groups can discuss concerns and propose solutions

8. GENDER AND VULNERABLE GROUP INCLUSION

8.1 Barriers to Access

In Albania, the main marginalized groups are identified as:

- Roma and Egyptian communities: these groups often experience social exclusion, limited access to education, healthcare and employment opportunities and inadequate living conditions.
- Women and girls: gender-based violence and traditional patriarchal norms contribute to their marginalization, affecting their participation in social, economic and political spheres.
- Rural populations: individuals in remote areas may lack access to essential services, infrastructure and economic opportunities, exacerbating poverty and social exclusion.

Systemic cultural, economic, and institutional barriers hinder these groups' participation in environmental decision-making and access to justice in Albania.

8.2 Barriers to Justice for Women and Marginalized Groups in Albania

8.2.1 Gender-Based Violence and Inequality

High rates of violence

More than 52.9% of women in Albania have experienced violence, with 36.6% currently affected, particularly within intimate relationships.¹³⁰ The most frequent types of violence have been experienced during dating, or within the family and exerted by the intimate partner.

The Ombudsperson's **Femicide Watch** monitors cases, highlighting the need for stronger interventions to address gender-based violence (GBV).¹³¹

Weak enforcement of protection measures

The enforcement by police of protection orders remains inefficient, resulting in impunity of violence, leaving victims vulnerable.

Support services for victims of violence continue to be donor-driven and insufficient, particularly in healthcare, the funding of shelters, free legal aid and the reintegration and rehabilitation of victims of violence.

8.2.2 Legal and Institutional Gaps

Inconsistent protection

Many women lack awareness of their **legal rights** and remedies, making them more vulnerable to GBV and discrimination. Amongst the 2 500 children identified as 'street children', 75% come from Roma and Egyptian communities. Almost 90% of these families live in absolute poverty **outside the economic aid assistance system** or crucially lack access to basic services such as health, education, civic registration.¹³² As noted by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹³³, gender-based discrimination is based on gender

¹³⁰ INSTAT (2019). Violence against Women and Girls in Albania. National Population Survey, 2018. INSTAT: Tirana

¹³¹ https://neighbourhood-enlargement.ec.europa.eu/document/download/a8eec3f9-b2ec-4cb1-8748-9058854dbc68_en?filename=Albania%20Report%202024.pdf

¹³² https://neighbourhood-enlargement.ec.europa.eu/document/download/7de9713e-6c01-47fb-aeef-f8dc0ad2c4df_en?filename=20160126-economic-and-social-empowerment-of-roma-and-egyptian-communities.pdf

¹³³ <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, all of which adversely impact on the ability of women to gain access to justice on an equal basis with men.¹³⁴ Insufficient training for professionals in law enforcement and judicial systems leads to poor handling of gender-sensitive cases, contributing to secondary victimization.

The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)¹³⁵ urges the Albanian authorities to ensure the provision of systematic and mandatory initial and continued in-service training. This would support endeavors to identify and respond to all forms of violence against women, including its digital dimension, while focusing on the victims' human rights, safety, individual needs and empowerment. An aim is also the prevention of secondary victimization by all those in the justice system (such as judges, prosecutors, lawyers and law-enforcement officers), as well as by healthcare and education professionals.

8.2.3 Economic and Employment Barriers

Economic Dependence and Unemployment

The employment rate for the population aged 15 to 64 grew to 67.2% in 2023, up from 65% in 2022. Despite recent improvements, **women's employment rates** remain **13.2% lower**¹³⁶ than men's, with **youth unemployment at 22%**¹³⁷, limiting women's economic autonomy and ability to advocate for rights.

42% of the Roma are **unemployed** and **only 6%** have a profession, more than **80% of the Roma and Egyptian families** live in material deprivation. The main incomes of Roma families usually involve employment in low-skilled jobs, most often in the non-formal sector, such as the trade of used clothes and the collection of recyclable waste.¹³⁸

8.2.4 Geographical Barriers and Limited Access to Resources

Limited access to resources and energy poverty

Poor transportation infrastructure in remote areas prevents rural communities, especially women, from participating in urban-based consultations and workshops. **Poor infrastructure**, such as **lack of street lighting**, heightens risks for women working late hours. In many cases, it is women and children who are involved in late-night land irrigation processes, often in areas devoid of street lighting and with poorly developed infrastructure, increasing their vulnerability and safety risks in public spaces.

More than 21% of Roma and 11% of Egyptian families live in structures identified as 'shacks'. Often, they lack access to potable water, toilet and sewage.¹³⁹

Exclusion from natural resources management

Cultural norms and gender stereotypes limit women's involvement in **land management and decision-making**, despite their central role in agriculture.

Disaster risk vulnerabilities

Women and girls are disproportionately affected by disasters due to poverty, **informal housing**, and **lack of access to information and essential services**. Women and girls in Albania may encounter significant barriers in accessing resources and information concerning natural

¹³⁴ CEDAW Committee, General Recommendation 33, para. 8

¹³⁵ <https://rm.coe.int/grevio-s-first-thematic-evaluation-report-on-albania/1680b1a0ca>

¹³⁶ https://neighbourhood-enlargement.ec.europa.eu/document/download/a8eec3f9-b2ec-4cb1-8748-9058854dbc68_en?filename=Albania%20Report%202024.pdf

¹³⁷ *ibid.*

¹³⁸ *ibid.*

¹³⁹ *ibid.*

resource management due to social and cultural norms, as well as the gender stereotypes related to property rights, employment opportunities and involvement in community-level decision-making.

8.2.5 Limited Political Representation and Participation

Groups such as women, youth, Roma and Egyptian communities, LGBTQI persons, and persons with disabilities are generally not represented in politics and/or identified as being in these categories. In the local elections held in May 2023, a very small percentage of Mayoral candidates were women (15 out of 144) and few municipalities respected the quota system.¹⁴⁰

Strengthening Gender and Vulnerable Group Inclusion

To address these challenges, it is critical Albania adopt more targeted approaches to public participation that priorities the inclusion of women, marginalized groups, and rural communities in environmental decision-making. The environmental legal framework is mostly gender blind and non-sensitive to specific needs of those groups. During 2022-2023, a good practice was the contribution of civil society groups such as REC Albania in incorporating a specific sub chapter on Vulnerable Groups in the National Strategy of Disaster Risk Reduction. Other organizations, such as Milieukontakt Albania and EDEN Center, have made some assessments on the gender dimension of energy poverty. UNWOMEN has supported women's rights organizations to address gender mainstreaming in the country's legal framework and strategies, (including environmental).

8.3 Inclusion Strategies

This strategy outlines actions to ensure gender equality and the inclusion of vulnerable populations in environmental justice and decision-making mechanisms within Albania. The focus is to promote fair access to justice, increase public participation and enhance civic engagement while addressing systemic barriers faced by marginalized groups.

8.3.1 Gender-responsive approaches and inclusion in environmental justice (C1)

Outcome: Enhanced access to environmental justice through inclusive governance, capacity building and improved legal frameworks.

Key Strategies

1. Assessments

- Identify vulnerabilities among women, youth, Roma communities and rural populations (assessments, workshops, reports).

2. Capacity building with gender-sensitivity trainings

- Provide mandatory gender-sensitive training for legal professionals, judges, and law enforcement officers to handle environmental cases involving vulnerable groups.
- Focus on addressing bias, gender-based violence and discrimination.

3. Improve access to legal remedies for vulnerable groups

- Strengthen legal aid and advocacy services tailored to the needs of women, Roma and marginalized communities.

¹⁴⁰ <https://kvinnatillkvinna.org/wp-content/uploads/2024/04/The-Kvinna-till-Kvinna-Foundation-Gender-analysis-of-the-2023-European-Commission-Country-reports-for-the-Western-Balkans.pdf>

- Develop simplified procedures for vulnerable groups to report environmental violations and access justice.

4. Promote inclusive reporting channels

- Ensure reporting systems are accessible to restricted literacy and/or digitally excluded populations.
- Provide multilingual and culturally appropriate materials for women, Roma and rural communities.

5. Strengthen institutional coordination on gender equality

- Collaborate with national gender equality bodies to monitor cases involving vulnerable populations.
- Ensure a real and concrete enforcement of gender-responsive laws and international frameworks (e.g., CEDAW,¹⁴¹ Istanbul Convention¹⁴²).

8.3.2 Gender and inclusion in public participation for environmental decision-making (C2)

Outcome: Strengthened public participation practices through inclusive decision-making processes.

Key strategies

1. Empower marginalized voices in decision-making

- Establish quotas and ensure compliance for women and representatives of vulnerable groups (e.g., Roma, youth, and rural residents) in local decision-making processes.
- Support community-led environmental initiatives through participatory methods such as focus groups and forums.

2. Tailor outreach campaigns to vulnerable groups

- Use targeted communication tools such as radio, social media and community meetings to reach rural and marginalized populations.
- Create gender-sensitive and accessible information about environmental policies and rights.

3. Enhance education and awareness programs

- Develop informal and non-formal educational programs to increase legal literacy and environmental awareness, especially for women and youth.
- Collaborate with schools and NGOs to mainstream gender and inclusion in environmental education.

4. Improve consultation tools and feedback mechanisms

- Design culturally appropriate consultation tools and surveys to gather input from vulnerable communities.
- Ensure follow-up mechanisms to address their feedback and concerns transparently.

5. Promote partnerships with women's organizations

- Engage women-led CSOs to advocate for gender-inclusive policies and amplify the voices of underrepresented groups.

¹⁴¹ <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

¹⁴² <https://rm.coe.int/1680084840>

8.3.3 Inclusive civic engagement and grassroots advocacy in environmental justice (C3)

Outcome: Strengthened civic engagement through grants and participatory approaches targeting vulnerable groups.

Key Strategies

1. Establish gender-inclusive grant schemes

- Prioritize funding to grassroots organizations working with vulnerable populations, including women, Roma, and rural communities, to address environmental justice issues.
- Include criteria to assess the gender impact of grant proposals and require gender-responsive action plans.

2. Support women's and youth leadership in environmental justice

- Provide training and mentoring programs to empower women and youth as environmental advocates.
- Promote success stories of women-led environmental initiatives to inspire broader participation.

3. Facilitate community forums and networks

- Create platforms for women and vulnerable groups to share knowledge, voice concerns and influence policies.
- Support coalitions that connect marginalized communities to policymakers and legal professionals.

4. Develop monitoring tools to track inclusion progress

- Implement gender-disaggregated data collection and reporting systems to measure participation and representation in project activities.
- Regularly assess the impact of interventions on vulnerable groups and adjust strategies based on findings.

9. RECOMMENDATIONS

9.1 Environmental Justice Findings and Recommendations

9.1.1 Strengthening the Environmental Liability Framework

CEJ's Assessment Report reveals critical weaknesses in Albania's implementation of the ELD. Despite legal provisions, weak enforcement mechanisms, the absence of secondary legislation, and the lack of a national registry for documenting environmental damage hinder the country's ability to identify, prevent, and remediate harm. Current gaps, including the failure to implement the "polluter pays" principle, leave both public and private entities without clear accountability. These shortcomings undermine public trust and slow Albania's progress toward EU environmental standards.

To address these gaps, Albania should establish a comprehensive environmental liability framework. This framework must include standardized methodologies for assessing damage, robust systems for documenting incidents, and clear mechanisms for enforcing remediation. In this way, Albania will ensure that environmental harm is consistently addressed, improving governance and aligning the country with EU directives under Chapter 27 of the Accession Process.

CEJ Convergence Project could contribute through:

- **Capacity Building:** Organize training workshops for government agencies on the directive's requirements and enforcement mechanisms.
- **Technical Support:** Provide expertise for designing a national registry to track environmental damage and developing standardized remediation guidelines.
- **Pilot Projects:** Fund demonstration projects in areas with significant environmental challenges to showcase the framework's effectiveness.
- **Regional Collaboration:** Facilitate the exchange of best practices with EU countries (France) to support Albania's alignment with European standards.

Primary Recipients: MoTE, MoJ, NEA. **Stakeholders:** Local government, business, environmental advocacy groups, and EU advisory bodies.

9.1.2 Reforming Criminal Law for Environmental Offences

The report highlights several deficiencies in Albania's approach to criminalizing environmental offences, including unclear definitions, inadequate sanctions, and insufficient capacity within enforcement bodies. Statistics show that only 1.4% of criminal proceedings nationwide involve environmental crimes, and many are dismissed due to insufficient evidence or lack of judicial expertise. Additionally, issues such as illegal deforestation and biodiversity destruction remain inadequately addressed in the current legal framework.

Albania must reform its Criminal Code to provide clear definitions of environmental crimes, elevate penalties for severe cases, and introduce provisions for emerging threats such as climate-related violations. Training programs for prosecutors and judges are essential to improve the consistency and quality of rulings. Strengthened enforcement will not only deter violations but also demonstrate Albania's commitment to environmental justice and EU alignment.

CEJ Convergence Project could contribute through:

- **Specialized Training:** Partner with the School of Magistrates to develop curricula on environmental crime prosecution.
- **Technical Assistance:** Support the drafting of legislative amendments to the Criminal Code to align with EU standards.
- **Forensic Support:** Provide funding and expertise for training in advanced forensic methods to support investigations.
- **Public Engagement:** Launch campaigns to raise awareness of environmental crimes and encourage public reporting.

Primary Recipients: Ministry of Justice, Parliament, School of Magistrates. **Stakeholders:** Law enforcement agencies, judiciary, environmental organizations, and EU legal advisors.

9.1.3 Creating a Pool of Highly Skilled Magistrates in Environmental Law

The report reveals that Albania's judiciary struggles to manage complex environmental cases due to a lack of expertise in environmental law and insufficient understanding of technical evidence. Judges often rely on external experts, leading to delays and inconsistent rulings. This weakens enforcement and public trust in the judicial system. Instead of creating separate environmental courts, Albania could train and certify a pool of magistrates specializing in environmental law. These magistrates can be sourced from across the judiciary to ensure consistent, informed decisions in administrative, civil, and criminal cases. By addressing these knowledge gaps, Albania will enhance the judiciary's ability to deliver fair and effective outcomes, fostering alignment with EU standards.

CEJ Convergence Project could contribute through:

- **Curriculum Development:** Collaborate with the School of Magistrates to design comprehensive training on environmental law, including EU directives and scientific evidence analysis.
- **Knowledge Exchange:** Fund study tours and exchange programs with EU countries to expose magistrates to best practices.
- **Networking Support:** Establish a judicial network for sharing case law and best practices among trained magistrates.
- **Ongoing Development:** Organize annual seminars and workshops to ensure magistrates remain updated on emerging challenges in environmental law.

Primary Recipients: High Judicial Council, School of Magistrates, Ministry of Justice. **Stakeholders:** Judges, legal experts, environmental NGOs, and EU legal advisors.

9.1.4 Enhancing Public Participation in Environmental Decision-Making

The report identifies barriers to public participation, particularly in EIAs. Many consultations are procedural rather than substantive, and rural communities often face logistical challenges or lack awareness of their rights. Despite Albania's legal obligations under the Aarhus Convention, public input frequently goes unconsidered in decision-making processes. Strengthening public participation by ensuring early, transparent, and inclusive engagement in EIAs is essential. Hybrid consultation models that combine in-person meetings with digital platforms can address accessibility issues and ensure diverse stakeholder involvement.

CEJ Convergence Project could contribute through:

- **Platform Development:** Fund the creation of a user-friendly digital portal for public consultations, allowing easy access to EIA documents and feedback mechanisms.

- **Capacity Building:** Train local governments to organize inclusive consultations, particularly in rural areas.
- **Awareness Campaigns:** Launch educational initiatives to inform communities of their right to participate in environmental governance.
- **Technical Assistance:** Support improvements to consultation processes, ensuring compliance with international standards.

Primary Recipients: MoTE, NEA, Local Government Units. **Stakeholders:** Communities, environmental advocacy groups, local business, and international donors.

9.1.5 Reducing Barriers to Accessing Justice

The report highlights significant barriers to accessing justice in environmental matters, including high litigation costs, procedural complexities, and limited legal aid options. These obstacles prevent individuals, particularly those in marginalized communities, and NGOs from pursuing environmental cases. Statistics indicate that only two or three public-interest environmental cases reached Albanian courts between 2019 and 2022, reflecting the scale of the challenge. Addressing these issues requires introducing mechanisms for collective lawsuits/action popularis, simplifying procedural requirements, and expanding legal aid for environmental litigation. By empowering communities and civil society to seek justice, Albania will strengthen accountability and compliance with environmental regulations.

CEJ Convergence Project could contribute through:

- **Legal Aid Support:** Establish a dedicated legal aid fund for environmental cases in collaboration with local NGOs.
- **Legislative Assistance:** Provide technical support for drafting laws to enable collective lawsuits/action popularis.
- **Capacity Building:** Organize training for NGOs and civil society groups on navigating legal systems and advocating for environmental justice.
- **Public Awareness:** Launch campaigns to educate communities about available legal mechanisms and encourage the use of judicial remedies.

Primary Recipients: Ministry of Justice, Parliament, Albanian Bar Association. **Stakeholders:** CSOs, local communities, judiciary, and international donors.

9.1.6 Empowering Civil Society and NGOs

Civil Society and NGOs are crucial in promoting environmental governance and holding violators accountable. However, the report reveals that these organizations face significant challenges, including limited access to government data, procedural restrictions, and inadequate financial support. Addressing these gaps by formally recognizing NGOs as legal actors in environmental litigation, and providing public funds for monitoring activities, will empower them to play a more active role. Strengthened civil society involvement will enhance transparency, accountability, and public participation in environmental governance.

CEJ Convergence Project could contribute through:

- **Grant Support:** Offer funding to NGOs for environmental monitoring, advocacy, and litigation activities.
- **Data Accessibility:** Facilitate dialogue between NGOs and government agencies to establish protocols for transparent data sharing.
- **Capacity Building:** Sponsor training programs to enhance NGOs' legal and technical expertise in environmental enforcement.

- **Partnerships:** Organize forums to strengthen collaboration between CSOs and government institutions.

Primary Recipients: NGOs, MoTE, MoJ, Parliament. **Stakeholders:** Environmental advocates, local communities, and EU advisory bodies.

9.1.7 Strengthening the Capacity of Enforcement Agencies

The report highlights significant challenges in Albania's enforcement of environmental regulations, including limited coordination among agencies, inconsistent enforcement practices, and insufficient expertise to address complex environmental violations. These gaps lead to delays in detecting and resolving violations, undermining public confidence in environmental governance. Strengthening the capacity of enforcement agencies by improving inter-agency collaboration, establishing clear mandates, and providing advanced training on enforcement methodologies will enable more effective oversight and response to environmental issues. A focus on procedural efficiency and coordination will ensure better compliance with national and EU standards.

CEJ Convergence Project could contribute through:

- **Inter-Agency Coordination:** Facilitate workshops to define clear roles and responsibilities for enforcement agencies, minimizing overlap and inefficiencies. Support the creation of inter-agency task forces to enhance collaboration on high-priority environmental issues.
- **Training Programs:** Develop and deliver specialized training for enforcement personnel on legal frameworks, inspection methodologies, and procedural best practices.
- **Knowledge Sharing:** Promote the exchange of best practice through regional and international collaboration, enabling Albanian agencies to adopt effective enforcement models.
- **Evaluation Systems:** Assist in designing mechanisms to monitor and evaluate enforcement performance, ensuring accountability and continuous improvement.

Primary Recipients: MoTE, National Inspectorate for Territory Protection, law enforcement agencies. **Stakeholders:** Local government, judiciary, environmental NGOs, and EU advisory bodies.

9.1.8 Building Local Government Capacity

Local governments are central to environmental governance, but face significant challenges, including limited technical expertise and a lack of resources. The report underscores the need for better training on EIAs and SEAs, as well as stronger engagement with local communities. Providing technical and financial support for local environmental action plans will empower municipalities to lead effective and participatory environmental governance initiatives.

CEJ Convergence Project could contribute through:

- **Training Modules:** Develop and deliver tailored training programs for local officials on EIA and SEA processes.
- **Pilot Action Plans:** Fund and support the development of local environmental action plans in selected municipalities.
- **Community Engagement:** Provide logistical and financial support for initiatives that engage communities in environmental decision-making.
- **Best Practices:** Share successful models from other regions to inspire and guide local governments in their efforts.
- **Primary Recipients:** Local government units, MoTE.

- **Stakeholders:** Community leaders, environmental experts, local businesses, and international donors.

9.1.9 Integrating Climate Resilience into Legal Frameworks

Albania's alignment with EU climate directives remains weak, particularly in integrating climate resilience into infrastructure planning and local development. The report identifies gaps in climate vulnerability assessments and adaptation measures, which hinder the country's ability to address climate risks effectively. Mandating these assessments and embedding adaptation strategies in legal frameworks will ensure sustainable development and compliance with EU standards.

CEJ Convergence Project could contribute through:

- **Tool Development:** Support the creation of climate vulnerability assessment tools for use in infrastructure projects.
- **Policy Assistance:** Provide technical expertise for drafting regulations that mandate climate adaptation measures.
- **Pilot Projects:** Fund climate resilience projects in high-risk areas to showcase the importance of adaptation strategies.
- **Knowledge Sharing:** Facilitate regional collaboration to exchange best practices in climate resilience planning.

Primary Recipients: MoTE, Ministry of Infrastructure, Local Governments. **Stakeholders:** Developers, environmental experts, international climate organizations, and local communities.

9.1.10 Bridging Institutional Gaps

The report highlights overlapping responsibilities and poor coordination among government agencies as key barriers to effective environmental governance. These inefficiencies delay responses to environmental challenges and dilute accountability. To address these issues, Albania should establish clear mandates for each agency and develop a shared digital platform for communication and data sharing. Improved coordination will enhance efficiency and transparency in environmental governance.

CEJ Convergence Project could contribute through:

- **Digital Platform:** Fund the development of a shared digital platform to facilitate inter-agency communication and data sharing.
- **Workshops:** Organize workshops to clarify agency roles and establish joint action plans.
- **Collaboration Models:** Provide examples of successful coordination models from other countries to guide implementation.

Primary Recipients: MoTE, NEA, inter-ministerial coordination bodies. **Stakeholders:** Local governments, enforcement agencies, CSOs, and international donors.

9.1.11 Increasing Transparency

The report underscores the lack of access to environmental data, including permits, EIA/SEA reports, and compliance records, which undermines public confidence and accountability. Creating an online portal for centralized access to this information will improve transparency and foster meaningful public engagement in environmental governance.

CEJ Convergence Project could contribute through:

- **Portal Development:** Fund the creation of a centralized, user-friendly online portal for environmental data.
- **Awareness Campaigns:** Promote the portal through public awareness initiatives to encourage its use.
- **Training Support:** Train stakeholders on using the portal effectively to maximize impact.

Primary Recipients: MoTE, NEA. **Stakeholders:** CSOs, researchers, media, and the general public.

9.2 Public Participation Findings and Recommendations

To enhance the effectiveness of community participation in EIAs in Albania, several key steps must be taken to ensure that the process not only meets legal requirements, but also contributes to sustainable environmental governance. These steps should aim to strengthen the engagement of communities, particularly in rural and marginalized areas, and to empower stakeholders to actively contribute to decision-making in a meaningful way. Below are some actions the project can implement to achieve these goals.

9.2.1 Conducting Public Consultations with Genuine Intent to Incorporate Feedback

In Albania, public consultation processes related to EIAs often fall short in terms of inclusivity and responsiveness. For community participation to be truly effective, public consultations should be designed and implemented with a clear intent to integrate feedback into final decisions. This means consultations are not just seen as a procedural requirement, but as an essential part of the decision-making process.

We recommend the CEJ Convergence Project assist in making public consultations more inclusive, while ensuring local governments hold consultations at times and locations convenient for local populations, especially in rural and remote areas where most of the environmental impacts of development projects are felt. This includes scheduling consultations during times that do not conflict with key local activities, such as harvest seasons or important community and cultural/religious events. Additionally, consultations should be organized in venues that are easily accessible, with transportation provided for communities in more isolated areas.

Furthermore, consultations should move beyond one-time meetings or presentations. In-depth engagement tools such as workshops, focus groups, and public forums can provide more opportunities for citizens to engage, ask questions, and provide feedback on proposed projects. This is particularly important for areas with high restricted literacy rates or where technical language in EIAs might hinder understanding. In these cases, using visual aids, translating documents into local languages and dialects, and employing plain-speech summaries can ensure better comprehension and greater participation.

9.2.2 Building Institutional Capacity for Public Consultations

Government institutions responsible for overseeing EIAs, such as NEA, must build internal capacity to effectively manage and facilitate public consultations. This includes training staff in participatory processes, conflict resolution, and public engagement. Capacity-building should also focus on empowering staff to handle difficult consultations, i.e. where there may be high levels of public dissatisfaction or opposition to a proposed project.

Training should go beyond procedural knowledge and include skills for fostering trust, creating open channels of communication, and ensuring transparency. Staff should be educated in the importance of considering community feedback and responding to public concerns in a way that shows genuine interest in local perspectives.

Developing and supporting local entities like specific environmental information dissemination and public engagement CSO such as Aarhus Centers is another critical step in strengthening the consultation process. Aarhus Centers in Albania are designated as public access points where individuals can seek information and guidance on environmental issues.

However, these CSOs are quite underfunded and lack sufficient staff to effectively manage the volume of inquiries and consultations required. Increasing financial support and providing staff training for these centers can help improve their effectiveness as mediators between the public and governmental bodies. These centers can also serve as platforms for educating local communities about the EIA process and their rights to participate, further empowering citizens to engage with the decision-making process.

9.2.3 Fostering Stronger Collaboration Between Government Institutions, CSOs, and Local Communities

Effective community participation is not only about increasing public consultation opportunities, but also about fostering a collaborative environment where government institutions, CSOs, and local communities work together to ensure sustainable environmental governance. In Albania, CSOs have played a critical role in mobilizing local communities, raising awareness, and challenging the inadequacies of government-led consultations. Many environmental CSOs have demonstrated how civil society can step in to fill gaps left by government institutions, providing legal assistance, organizing alternative consultations, and advocating for the protection of local communities and ecosystems.

Strengthening these partnerships between CSOs and government agencies is essential. CSOs can serve as a vital link to communities that may feel marginalized or unheard in traditional consultation settings. By collaborating, government agencies can benefit from the expertise of CSOs in community mobilization, communication, and advocacy. This collaboration can take the form of joint workshops, information-sharing platforms, and co-hosted public forums, where communities are given direct access to government officials and decision-makers. It also ensures that local concerns are taken seriously and adequately addressed.

The role of local governments is also critical in this process. Local authorities should be engaged early in the planning and consultation stages of EIA procedures. Their understanding of local concerns, combined with their proximity to the affected communities, can make them valuable partners in ensuring that the consultation process is both meaningful and effective. Local government can help bridge the gap between central institutions and local communities, ensuring feedback is conveyed accurately and the outcomes of consultations are reflected in decision-making.

Additionally, integrating environmental education into public participation processes is crucial for raising awareness and building informed communities. Providing accessible materials that explain both the EIA process and the potential environmental impacts of a project can help citizens better understand the decisions that will affect them. Educational programs, whether through schools, community centers, or media campaigns, can also raise awareness about the significance of public participation and environmental protection, leading to more active and informed citizen engagement in future consultations.

9.2.4 Creating Transparent and Accountable Decision-Making

Transparency in decision-making is vital to foster trust in the public consultation processes. It is not enough for government institutions to simply gather feedback from communities; they must also demonstrate how public input has influenced project outcomes. This includes providing clear, accessible explanations of how public comments were integrated into final decisions and what actions have been taken to address concerns. NEA and other responsible agencies should make public reports on the consultation process available and easily accessible through both physical and online platforms, ensuring that citizens can track the progress and final decisions related to the projects they engaged with.

Furthermore, public consultations should be viewed as part of an ongoing dialogue rather than isolated events. After consultation, there should be clear channels for follow-up communication, where citizens can continue to raise concerns, ask questions, or seek clarification. These feedback loops help sustain trust and reinforce the idea that public participation is an ongoing process.

By enhancing community participation in EIAs, Albania can move toward a more inclusive, transparent, and sustainable environmental governance framework. This requires a concerted effort to improve public consultation procedures, build institutional capacity, and foster greater collaboration between government institutions, civil society, and local communities. Only through meaningful, well-supported public participation can Albania ensure that its environmental decisions reflect the needs and priorities of the communities most impacted by them. Through such inclusive processes, Albania can not only meet its international obligations but also build a more resilient and environmentally sustainable future for its citizens.

9.3 CEJ Convergence Project Roadmap

9.3.1 Strategic Vision and Goals

The Climate and Environmental Justice Project seeks to enhance access to courts in a spirit of 'prevent, punish and repair'. The development of effective public participation in environmental matters across the Western Balkans, with a focus on Albania, North Macedonia, and Montenegro is requested. By aligning legislative, institutional, and participatory frameworks with EU legal framework and international conventions such as the AC, the CEJ Convergence Project aims to support these countries in not only providing a high level of environmental protection, but in achieving transparent, inclusive, and effective environmental governance while facilitating their EU accession processes and aligning with EU standards under Chapter 27 of the Acquis Communautaire.

9.3.2 Priority Actions and Timeline

2.1 Strengthening capacities of legal professionals (2024-2026)

During the project's 30-month duration, significant efforts focus on creating a common understanding and coordination in environmental justice, supported by strengthened capacities of legal professionals and improved reporting channels. Additionally, accessible legal remedies will be established to address systemic gaps.

2.2 Public Participation Enhancement (2024-2026)

Public participation practices in environmental decision-making will be strengthened by analyzing existing mechanisms and refining local engagement tools in two municipalities, one in

Albania and one in North Macedonia. Local-level consultation tools will be updated based on community need, ensuring more effective and inclusive participatory processes that align with EU standards.

2.3 Civic Engagement and Community Empowerment (2025-2026)

Civic engagement will be enhanced by empowering civil society coalitions through grants. These grants will enable organizations to support local communities in accessing environmental justice and participating in decision-making processes. The grant schemes, implemented in Albania and North Macedonia, will also ensure that gender considerations are integrated into all activities. As a Cross-Cutting theme, CEJ Convergence Project will assist the project's stakeholders integrating inclusive practices and promoting gender balance in environmental governance frameworks.

9.3.3 Main Project Components

Component 1: Access to Environmental Justice

The CEJ Convergence Project will enhance access to environmental justice by fostering a coordinated governance system across the three targeted countries. Legal professionals (judges, prosecutors, investigators, lawyers) will receive specialized training to navigate environmental cases, while improved reporting channels and accessible legal remedies will empower communities to seek justice effectively.

Component 2: Public Participation in Environmental Decision-Making

In Albania and North Macedonia, local authorities' capacities to facilitate public participation will be strengthened. An analysis of local public participation mechanisms will guide the refinement of engagement tools, ensuring they address the needs of communities and encourage meaningful consultation in policy-making processes.

Component 3: Civic Engagement in Environmental Justice

To promote active civic engagement, the CEJ Convergence Project will provide grants to civil society organizations in Albania and North Macedonia. These grants will enable CSOs to advocate for environmental justice, support local communities in addressing environmental challenges, and foster inclusive and gender-sensitive approaches to participation.

9.3.4 Implementation Framework

Budget and Funding: The CEJ Convergence Project is financed by the Agence Française de Développement with a total budget of 2 million EUR.

Duration: Running from June 2024 to December 2026, the project includes an inception phase (June – December 2024), during which an assessment of environmental justice in the three targeted countries will be conducted.

Project Office: Based in Tirana, Albania, the project office will coordinate implementation efforts and serve as a hub for collaboration among stakeholders in the region.

9.3.5 Key Outcomes and Success Metrics

Short-Term Outcomes (2024-2025):

- Comprehensive assessment of environmental justice systems in Albania, North Macedonia, and Montenegro.
- Enhanced understanding of governance structures and legal frameworks for environmental justice.

Mid-Term Outcomes (2025-2026):

- Improved access to justice on environmental and climate matters and better application of the law. Completion of training programs for legal professionals and use of the legal tools.
- Strengthened capacities of local authorities to not only encourage public participation, but take into consideration citizen views on environmental issues in decision-making and investments in two targeted countries (Albania, North Macedonia). Implementation of refined public participation tools in targeted municipalities.
- Enhanced environmental participatory approach to be achieved by encouraging individuals to exercise their rights and actively participate in two of the targeted countries: Albania and North Macedonia. Establishment of functioning grant schemes to empower CSOs and communities.

Long-Term Outcomes (Post-2026):

- Improved alignment of environmental governance systems with EU directives.
- Strengthened cross-border cooperation and convergence with European standards in environmental matters.

10. ANNEXES

Annex I: Environmental Justice Stakeholder Mapping and Roles

Governmental Agencies and Institutions

1. Ministry of Tourism and Environment (MoTE): Central authority for environmental policies, EU alignment, and public engagement. Focuses on environmental law, sustainable tourism, and fighting environmental crimes.
2. Ministry of Justice (MoJ): Develops environmental justice legislation and ensures legal frameworks support public participation and access to justice. National Environmental Agency (NEA): Oversees environmental monitoring, permits, and compliance. Manages environmental data and inspections while promoting transparency and public participation.
3. National Agency for Protected Areas (NAPA): Manages protected areas, promotes biodiversity conservation, and fosters community involvement in sustainable practices.
4. National Forestry Agency (NFA): Ensures sustainable forest management, combats illegal logging, and promotes environmental stewardship.
5. Ministry of Agriculture and Rural Development (MARD): Oversees controlled fishing, biodiversity protection, and rural development. Includes the Fisheries Inspectorate to combat illegal fishing.
6. Water Resources Management Agency (AMBU): Manages water resources, focusing on sustainability and efficiency.
7. National Inspectorate of Territorial Protection (NITP): Enforces environmental laws, combats illegal activities, and collaborates with local and national stakeholders.
8. Ombudsman: Independent body addressing environmental rights violations, promoting transparency, and advocating public involvement.
9. Local Government Units (LGUs): Implement local environmental policies, manage waste and urban planning, and facilitate community participation in decision-making.

Judiciary and Enforcement

1. Courts: Handle administrative, criminal, and civil environmental cases, including violations and compensation for damages.
2. Prosecution Office: Investigates and prosecutes environmental crimes, ensuring proper legal action and collaboration with law enforcement.
3. The High Judicial Council (HJC): An independent institution responsible for the appointment, evaluation, promotion, and transfer of judges, as well as proposing Supreme Court candidates, ensuring judicial independence from political interference.
4. The High Prosecution Council (HPC): An independent institution tasked with safeguarding the independence and accountability of prosecutors, managing their careers including evaluation, promotion, and transfer, and proposing candidates for General Prosecutor to the Assembly.
5. High Justice Inspector (HJI): An institution responsible for investigating complaints and initiating disciplinary proceedings against judges, prosecutors, and members of judicial governance bodies, independent from the Ministry of Justice
6. School of Magistrates: Trains judges and prosecutors on environmental law, enhancing judicial capacity for handling complex cases.
7. Albanian State Police: Supports environmental crime investigations and enforcement, focusing on prevention and public awareness.
8. Academy of Security: Educates law enforcement officers on environmental crime prevention and enforcement.

Non-Governmental Organizations

NGOs advocate for environmental justice, conduct research, and promote community engagement. They support transparency, monitor government actions, and collaborate with stakeholders to address challenges.

Universities and Academia

Academic institutions contribute through research, education, and partnerships, providing expertise on environmental governance, law, and policy reform.

Media

The media raises awareness, exposes environmental violations, and fosters public discourse, ensuring accountability and transparency in environmental governance.

International Organizations

Organizations like the EU, UNDP, OSCE, and World Bank support Albania with funding, capacity-building, and alignment with international environmental standards.

Business Community

Businesses comply with environmental regulations and contribute to sustainable development through innovation and corporate responsibility. Collaboration with government agencies fosters progress in managing environmental challenges.

Annex II: List of Analyzed Legal Acts, Court Rulings, and Policy Documents

I. Albanian National Legal Acts

- Constitution of Albania
- Civil Procedure Code (No. 8116/1996)
- Criminal Code (No. 7895/1995)
- Civil Code (No. 7850/1994)
- Law No. 10431/2011: "On Environmental Protection": Framework law embedding principles like the "polluter-pays" principle, sustainable development, and precautionary measures.
- Law No. 10440/2011: "On Environmental Impact Assessment": Governs environmental assessments for projects.
- Law No. 91/2013: "On Strategic Environmental Assessment": Applies environmental considerations in planning policies, plans, and programs.
- Law No. 10448/2011: "On Environmental Permits": Regulates environmental permits for high-impact activities, transposing EU directives.
- Law No. 119/2014: "On Access to Information": Ensures public access to environmental information.
- Law No. 146/2014: "On Public Notification and Consultation": Provides procedures for public involvement in policymaking and decision-making.
- Law No. 49/2012: "On Administrative Courts and Administrative Disputes": Governs procedures for resolving administrative disputes, including environmental cases.
- Law No. 38/2021: Special procedure for negotiating the Skavica Hydropower Project contract.
- Law No. 10385/2011: "On Mediation in Dispute Resolution": Promotes mediation in legal disputes, including environmental issues.
- Law No. 8788/2001: "On Non-Profit Organizations": Regulates the operation of NGOs, enabling their participation in environmental governance.
- Law No. 111/2012: "On Integrated Water Resources Management"
- Law No. 111/2017: "On State-Guaranteed Legal Aid"
- Decision of the Council of Ministers (DCM) No. 742/2015: Defines polluters' liability for rehabilitation costs.
- DCMs No. 59 and No. 60 (2022): Changes to the status and boundaries of protected areas, contested for undermining conservation efforts.

II. International Conventions and Agreements

- EU Directives on EIA, SEA, and environmental liability.
- Espoo Convention (EIA in a Trans boundary Context).
- Aarhus Convention (Access to Information, Public Participation, and Access to Justice in Environmental Matters).

III. Court Decisions

- Decision No. 3342, dated 16.04.2015, Administrative Court of First Instance, Tirana
- Decision No. 1177, dated 21.07.2021, Administrative Chamber of the Supreme Court.
- Decision No. 1259, dated 30.07.2021, Administrative Chamber of the Supreme Court.
- Decision No. 22, dated 19.01.2011, Civil Chamber of the Supreme Court.
- Decision No. 818, dated 21.12.2020, Administrative Chamber of the Supreme Court.
- Decision No. 953, dated 14.12.2020, Administrative Chamber of the Supreme Court.
- Decision No. 2, dated 18.02.2013, Constitutional Court.
- Decision No. 7, dated 27.02.2013, Constitutional Court.
- Decision No. 513, dated 11.03.2003, Supreme Court.
- Decision of the United Chambers of the Supreme Court No. 13, dated 09.03.2006.
- Decision No. 4208, dated 03.11.2017, Administrative Court of First Instance, Tirana.
- Decision No. 1813, dated 02.05.2017, Administrative Court of First Instance, Tirana.

- Decision No. 14, dated 21.03.2014, Constitutional Court.
- Decision No. 60, dated 16.09.2016, Constitutional Court.
- Decision No. 111, dated 06.05.2019, Administrative Court of Appeal.
- Decision No. 99, dated 08.07.2020, First Instance Court of Krujë
- Decision No. 33-2023-247, dated 07.03.2023, First Instance Court of Dibrë
- Decision No. 232, dated 22.12.2022, First Instance Court of Dibrë
- Decision No. 60, dated 30.06.2020, First Instance Court of Dibrë
- Decision No. 13-2019-2696 (2713), dated 26.04.2019, First Instance Court of Elbasan
- Decision No. 1135, dated 12.04.2016, First Instance Court of Tirana
- Decision No. 721, dated 20.06.2023, First Instance Court of Gjirokastrë
- Decision No. 358/10-2019-1924, dated 23.10.2019, Court of Appeals, Durrës
- Decision No. 70007-00131-2020, dated 01.03.2022, Criminal College of the Supreme Court

IV. Reports and Publications

- SANE 27, Chapter 27 Environment and Climate Change, Screening preparatory assessment report, 2019.
- SANE27, The Alternative View of Environmental Progress: Albania's Negotiations with EU and Chapter 27; April 2021 – prepared by the GREEN 27+ consortium consisting of REC Albania, INCA, EDEN Center and Urban Research Institute, supported by 20 other environmental organizations with the assistance of the Swedish Government, through the Swedish Environmental Protection Agency; https://www.uri.org.al/web/wp-content/uploads/2021/04/GREEN27_ShadowReport_Englisht_web_Final.pdf
- "Are Balkan Countries Safeguarding Their Rivers? A Legal Analysis of Environmental Standards in Six Western Balkan Countries" - Produced by Client Earth, EuroNatur, and Riverwatch.
- "DASHBOARD Western Balkans: Towards a Better Evaluation of Judicial Reform Efforts" - European Commission for the Efficiency of Justice (CEPEJ), Data Collection: 2023.
- "Rapport National du HIJ: Coopération pour la Protection de l'Environnement par les Autorités Nationales d'Inspection de la Justice (COPEIJ)" - Albania, 2023
- General Prosecutor's Report on the state of criminality in Albania, 2020 - 2023, https://www.pp.gov.al/Dokumente/RAPORTE_T_PROKURORIT_T_P_RGJITHSH_M/
- OSCE Handbook on local authorities' competences in addressing environmental crime and on standard operational procedures for local officials engaged in the protection of forests, air, water, and soil, 2019. <https://www.osce.org/files/f/documents/4/a/451606.pdf>
- OSCE Baseline assessment on the inspection, investigation and punishment of environmental contraventions and crimes in Albania, 2023. <https://www.osce.org/files/f/documents/d/9/546515.pdf>
- Directorate-General for Neighborhood and Enlargement Negotiations, Albania Report
- UNECE (2018). Environmental Performance Reviews, Albania, Third review.
- 2023 Implementation Report Albania, Energy Community Treaty, available at: <https://www.energy-community.org/implementation/report/Albania.html>

II.1 Review of Relevant Provisions of EU law and Council of Europe Texts, Recommendations and Conventions

with a focus on companies and the environment (CSRD and duty of care)

Timeline - European Green Deal and Fit for 55

European Council /Council of the European Union

At 5th of November 2024

2024

5 November

Council adopts law for clean and smart construction products

The Council adopted the revision of the **construction products regulation**.
The new rules will align construction products with the principles of a **circular economy**.
Manufacturers will have to:

- provide environmental information about the life cycle of products
- design and manufacture products in a way that facilitates re-use, remanufacturing and recycling
- give preference to recyclable materials
- make available instructions on how to use and repair products

This is the last step in the decision-making procedure.

Circular economy (background information)

Building materials: Council adopts law for clean and smart construction products (press release, 5 November 2024)

22 July

Chemicals: Council adopts legislation on fertilizers labeling

The Council adopted a regulation for **digital labeling of fertilizing products**.

The new rules will:

- promotes the **use of digital labels** on EU fertilizing products while keeping physical labels where they are necessary
- improves the **readability** of labels
- **simplifies** the labeling obligations of suppliers

This is the last step in the decision-making procedure.

Chemicals: Council adopts legislation on fertilizers labeling (press release, 22 July 2024)

Chemicals (background information)

17 June

Council gives final green light to nature restoration law

The Council formally adopted the – **first of its kind** – regulation on nature restoration. This law aims to put measures in place to restore at least 20% of the EU's land and sea areas by 2030, and all ecosystems in need of restoration by 2050.

The regulation aims to **mitigate climate change** and the effects of natural disasters. It will help the EU to fulfill its international environmental commitments, and to restore European nature.

Nature restoration law: Council gives final green light (press release, 17 June 2024)

What is the state of nature in the EU?

30 May

Circular economy: Council gives final approval to right-to-repair directive

The Council adopted a directive promoting the repair of broken or defective goods, also known as the **right to repair (R2R) directive**.

The adopted directive creates a set of tools and incentives **to make repair more attractive for consumers**.

These include:

- requiring manufacturers to repair products that are technically repairable under EU law
- the availability of a voluntary repair form with clear information regarding the repair process (deadlines, prices, etc.)
- an online EU platform where consumers can easily find repair services
- the extension of the legal warranty by 12 months if consumers choose repair over replacement

Circular economy: Council gives final approval to right-to-repair directive (press release, 30 May 2024)

27 May

Council gives its final approval to the ecodesign regulation

The Council adopted the **ecodesign regulation**, which sets requirements for **sustainable products for almost all kind of goods** placed in the EU market.

Those requirements include:

- product **durability**, reusability, upgradability and reparability
- rules on the presence of substances that inhibit circularity
- remanufacturing and **recycling** possibilities
- carbon and environmental **footprints**
- energy and resource **efficiency**
- a digital product passport

The new regulation also introduces a **ban on the destruction of unsold textiles and footwear** (SMEs will be temporarily excluded).
Green transition: Council gives its final approval to the ecodesign regulation (press release, 27 May 2024)
Circular economy (background information)

27 May

Council gives final approval to the net-zero industry act

The Council adopted a regulation on establishing a framework of measures for **strengthening Europe's net-zero technology manufacturing ecosystem**, better known as the 'net-zero industry act'.

These new rules will facilitate the **conditions for investments in green technologies** by:

- simplifying permit granting procedures
- supporting strategic projects, based on specific criteria contributing to decarbonisation
- facilitating access to markets for net-zero technological products
- defining rules for public incentives
- enhancing the skills of the European workforce

The objective is **to cover 40% of the EU's needs** in strategic technology products, such as solar photovoltaic panels, wind turbines, batteries and heat pumps.

Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products

Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products

Industry policy: Council gives final approval to the net-zero industry act (press release, 27 May 2024)

Industrial policy (background information)

24 May

Corporate sustainability due diligence: Council gives its final approval

The Council adopted the **corporate sustainability due diligence directive**.

The directive adopted today introduces obligations for large companies with regard to the adverse **impacts of their activities on human rights and environmental protection**.

If a violation of these obligations is identified, companies will have to take the appropriate measures to prevent, mitigate, bring to an end to or minimize the adverse impacts arising from:

- their own operations
- those of their subsidiaries
- those of their business partners in their chain of activities

Companies can be held liable for the damage caused and will have to provide full compensation.

Companies affected by the directive will also have to adopt and put into effect a climate transition plan in line with the Paris agreement on climate change.

Corporate sustainability due diligence: Council gives its final approval (press release, 24 May 2024)

Corporate sustainability (background information)

12 April

Euro 7: Council adopts new rules on emission limits for cars, vans and trucks

The Council adopted the **Euro 7 regulation**, which lays down rules on emission limits for road vehicles and battery durability.

The text:

- covers cars, vans and heavy-duty vehicles
- aims to further lower air pollutant emissions from exhaust fumes and brakes
- establishes stricter lifetime requirements

This is the last step in the decision-making procedure.

Euro 7: Council adopts new rules on emission limits for cars, vans and trucks (press release, 12 April 2024)

12 April

Towards zero-emission buildings by 2050: Council adopts rules to improve energy performance

The Council formally adopted the revised directive on the **energy performance of buildings**. The directive will help reduce greenhouse gas emissions and energy poverty in the EU.

The revised directive is key for delivering on the 'energy efficiency first' principle as highlighted in the Renovation Wave Strategy, which was published by the European Commission in October 2020.

Fit for 55: making buildings in the EU greener

Towards zero-emission buildings by 2050: Council adopts rules to improve energy performance (12 April 2024)

12 April

Industrial emissions: Council signs off on updated rules to better protect the environment

The Council adopted the revised directive on industrial emissions (IED) and the regulation on the establishment of an industrial emissions portal (IEP), two complementary pieces of legislation aimed at regulating and monitoring the environmental impact of industrial activities.

The new rules will offer better **protection of human health and the environment** by reducing harmful emissions from industrial installations, while promoting energy efficiency, a circular economy and decarbonisation.

Industrial emissions directive: key figures

Industrial emissions: Council signs off on updated rules to better protect the environment (12 April 2024)

4 March

Packaging: Council and Parliament strike a deal to make packaging more sustainable and reduce packaging waste in the EU

The Council and the European Parliament reached a provisional agreement on a proposal for a **regulation on packaging and packaging waste**.

The proposal aims to:

- reduce the generation of packaging waste
- promote a circular economy for packaging in a cost-efficient way
- harmonize packaging rules across the EU

The deal needs to be formally adopted by both institutions.

Packaging: Council and Parliament strike a deal to make packaging more sustainable and reduce packaging waste in the EU (press release, 4 March 2024)

Packaging (background information)

Circular economy (background information)

20 February

Consumer rights: final approval for the directive to empower consumers for the green transition

The Council adopted a directive to **empower consumers for the green transition**.

Thanks to the new measures, EU consumers will:

- have access to reliable information to make the right green choices, including on early obsolescence
- be better protected against unfair green claims
- be better informed about the reparability of products before purchase

The directive also introduces a harmonized label with information on the commercial guarantee of durability that producers offer.

Consumer rights: final approval for the directive to empower consumers for the green transition (press release, 20 February 2024)

Circular economy (background information)

Consumer protection (background information)

6 February

Net-zero industry act: Council and Parliament strike a deal to boost EU's green industry

The Council and the European Parliament reached a provisional deal on the **net-zero industry act**.

These new rules will **facilitate the conditions for investments in green technologies** by simplifying permit granting procedures and supporting strategic projects.

The objective is to **cover 40% of the EU's needs in net-zero strategic technology products**, such as solar photovoltaic panels, wind turbines, batteries and heat pumps.

The act will accelerate progress towards the EU's 2030 climate and energy targets and the **transition to climate neutrality**, while:

- boosting the competitiveness of EU industry
- creating quality jobs
- supporting the EU's efforts to become energy independent

Net-zero industry act: Council and Parliament strike a deal to boost EU's green industry (press release, 6 February 2024)
EU industrial policy (background information)

Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products

2 February

Circular economy: Council and Parliament strike provisional deal on the right to repair directive

The Council and the European Parliament reached a provisional deal on the **right-to-repair directive**. The main elements are:

- a right for consumers to **request manufacturers to repair** products that are technically repairable under EU law (for instance, washing machines, vacuum cleaners or mobile phones)
- a free-of-charge **European repair information form**
- an **online repair platform** to connect consumers with repairers
- an extension of 12 months of the **liability period** of the seller after the repair of a product

By creating incentives for producers and consumers to prolong lifecycles of products, the new legislation will also reduce waste and promote more sustainable business models.

Circular economy: Council and Parliament strike provisional deal on the right to repair directive (press release, 2 February 2024)

Circular economy (background information)

30 January

Council ready to start talks with Parliament to completely phase out mercury in the EU

The Council adopted its negotiating mandate for talks with the European Parliament on a proposal to phase out the use of dental amalgam and prohibit the manufacturing, import and export of a number of mercury-added products, including certain lamps. The proposal addresses the residual remaining uses of mercury in products in the EU, with a view to establishing a **mercury-free Europe**.

The negotiating mandate, which was agreed at Coreper level, sets out the Council's position for the start of negotiations ('trilogues') with the Parliament to shape the final text of the legislation.

Mercury: Council ready to start talks with Parliament to completely phase out mercury in the EU (press release, 30 January 2024)

29 January

Urban wastewater: Council and Parliament reach a deal on new rules for more efficient treatment and monitoring

The Council and the European Parliament's negotiators reached a provisional political agreement on a proposal to **review the urban wastewater treatment directive**. The revised directive is one of the key deliverables under the EU's zero-pollution action plan.

While the current directive has proven highly effective in reducing water pollution and improving the treatment of wastewater discharges over the last three decades, this revision aims to update the directive by extending its scope and aligning it with the European Green Deal's objectives.

The deal is provisional pending formal adoption by both institutions.

Urban wastewater: Council and Parliament reach a deal on new rules for more efficient treatment and monitoring (press release, 29 January 2024)

29 January

Fluorinated gases and ozone-depleting substances: Council greenlights new rules to reduce harmful emissions

The Council adopted two regulations to phase down fluorinated gases (F-gases) and other substances that **cause global warming and deplete the ozone layer**.

While existing EU legislation has already limited the use of these gases and substances significantly, the new rules will further reduce their emissions into the atmosphere and contribute to limiting global temperature rise, in line with the Paris Agreement.

The two regulations will be published in the EU's Official Journal and enter into force 20 days after.

Fluorinated gases and ozone-depleting substances: Council greenlights new rules to reduce harmful emissions (press release, 29 January 2024)

18 January

Agreement on lower CO2 emissions from trucks, buses and trailers

The Council and the European Parliament's negotiators reached a **provisional political agreement** on CO₂ emission standards for heavy-duty vehicles. The aim is to further **reduce CO₂ emissions** in the road transport sector and to introduce new targets for 2030, 2035 and 2040. The new rules will contribute to fulfilling the EU's 2030 climate ambitions and reaching climate neutrality by 2050.

The proposal also aims to encourage an increasing share of zero-emission vehicles in the EU-wide heavy-duty vehicle fleet, while ensuring that innovation in the sector and its competitiveness are preserved and enhanced.

The deal is provisional pending formal adoption by both institutions.

Heavy-duty vehicles: Council and Parliament reach a deal to lower CO₂ emissions from trucks, buses and trailers (press release, 18 January 2024).

2023

14 December

Corporate sustainability due diligence: Council and Parliament strike deal to protect environment and human rights

The Council and the European Parliament today reached a provisional deal on the **corporate sustainability due diligence** directive.

Large EU companies and non-EU companies active in the EU will have to take measures to prevent, identify and mitigate any adverse **impact on human rights or the environment**, caused by:

- their own operations
- the operations of their subsidiaries
- the operations carried out by their business partners

Large companies will also need to ensure their business model is **compatible with the Paris Agreement objective of limiting global warming to 1.5°C**.

Corporate sustainability due diligence: Council and Parliament strike deal to protect environment and human rights (press release, 14 December 2023)

Corporate sustainability (background information)

8 December

Gas package: Council and Parliament reach deal on future hydrogen and gas market

The Council and the Parliament reached a provisional political agreement on a regulation that establishes **common internal market rules for renewable and natural gases and hydrogen**. The purpose of the legislation is to facilitate the penetration of renewable and low-carbon gases into the energy system, in particular hydrogen and biomethane.

The regulation is part of the hydrogen and gas markets decarbonisation package, which also includes a directive. Both the regulation and the directive are part of the Fit for 55 package. They are aimed at creating a regulatory framework for dedicated hydrogen infrastructure and markets and integrated network planning. They also establish rules for **consumer protection** and strengthen **security of supply**. The Council and the Parliament reached a provisional agreement on the directive on 28 November 2023.

Gas package: Council and Parliament reach deal on future hydrogen and gas market (press release, 8 December 2023)

Internal markets in renewable and natural gases and in hydrogen: Council and Parliament reach deal (press release, 28 November 2023)

Fit for 55: shifting from fossil gas to renewable and low-carbon gases

7 December

'Fit for 55': Council and Parliament reach deal on proposal to revise energy performance of buildings directive

The Council and the Parliament reached provisional political agreement on a proposal to revise the energy performance of buildings directive.

The revised directive sets **new and more ambitious energy performance requirements** for new and renovated buildings in the EU and encourages member states to renovate their building stock.

The main objectives of the revision are that **by 2030 all new buildings should be zero-emission buildings**, and that by 2050 existing building stock should be transformed into zero-emission buildings.

'Fit for 55': Council and Parliament reach deal on proposal to revise energy performance of buildings directive (press release, 7 December 2023)

Fit for 55: making buildings in the EU greener

7 December

Net-zero industry act: Council adopts position to boost technologies for the green transition

EU ministers adopted a common position ('general approach') on the proposal for a **net-zero industry act**. The act will:

- strengthen the resilience and competitiveness of **net-zero technologies manufacturing in the EU**
- make our energy system more secure and sustainable

The objective is to **cover 40% of the EU's needs** in strategic technology products, like solar photovoltaic panels, wind turbines, batteries and heat pumps.

This will accelerate the progress towards the EU's 2030 climate and energy targets and the transition to climate neutrality.

Net-zero industry act: Council adopts position to boost technologies for the green transition (press release, 7 December 2023)

EU industrial policy (background information)

Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products

Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products

5 December

Products fit for the green transition: Council and Parliament conclude a provisional agreement on the ecodesign regulation

On 5 December 2023, the Council and the Parliament reached a provisional deal on new **ecodesign requirements for sustainable products**.

The new regulation sets new minimum requirements for almost all products sold on the EU market. Those requirements include:

- product **durability**, reusability, upgradability and reparability
- remanufacturing and **recycling** possibilities
- energy and resource **efficiency**

Products fit for the green transition: Council and Parliament conclude a provisional agreement on the ecodesign regulation (press release, 5 December 2023)

Circular economy (background information)

29 November

Industrial emissions: agreement on new rules

The Council and the European Parliament's negotiators reached a **provisional political agreement** on the revision of the directive on industrial emissions (IED) and the regulation on the establishment of an industrial emissions portal (IEP).

The new rules aim to offer better **protection of human health and the environment** by reducing harmful emissions from industrial installations including intensive livestock farms into the air, water and soil and through waste discharges. They also aim to improve **environmental data reporting** by upgrading the existing European pollutant release and transfer register (E-PRTR) in order to establish a more comprehensive and integrated industrial emissions portal.

The deal is provisional pending formal adoption by both institutions.

Industrial emissions: Council and Parliament agree on new rules to reduce harmful emissions from industry and improve public access to information (press release, 29 November 2023)

Industrial emissions (background information)

Industrial emissions directive: key figures

22 November

Circular economy: Council adopts position on a directive that enshrines consumers' right to repair

The Council adopted its position on the proposed directive on common rules promoting the repair of goods, also known as the **right to repair directive**.

The proposed text aims to remove obstacles that discourage consumers to repair due to inconvenience, a lack of transparency or difficulty accessing repair services.

The Council mandate:

- clarifies a manufacturer's **obligation to repair**
- limits the requirement to provide a repair form to those who have a legal obligation to fix defective products
- promotes a **European online repair platform**
- protects consumers' freedom of choice between repair and replacement

Circular economy: Council adopts position on a directive that enshrines consumers' right to repair (press release, 22 November 2023)

Circular economy (background information)

Consumer protection (background information)

15 November

Council and Parliament reach deal on new rules to cut methane emissions in the energy sector

The Council and the Parliament reached a **provisional political agreement** on a regulation on tracking and reducing methane emissions in the energy sector.

The regulation introduces new requirements for the oil, gas and coal sectors to **measure, report and verify methane emissions**, as well as put in place mitigation measures to avoid such emissions, including detecting and repairing methane leaks and limiting venting and flaring. It also puts forward global monitoring tools to ensure transparency on methane emissions from imports of oil, gas and coal into the EU.

The provisional agreement needs to be endorsed and formally adopted by both institutions.

Climate action: Council and Parliament reach deal on new rules to cut methane emissions in the energy sector (press release, 15 November 2023)

Fit for 55: cutting methane emissions in fossil fuels

9 October

Renewable energy: Council adopts new rules

The Council adopted the new renewables energy directive to raise the share of renewable energy in the EU's **overall energy consumption to 42.5% by 2030 with an additional 2.5% indicative top up that would allow to reach 45%**. Each member state will contribute to this common target.

All member states will contribute to achieving more ambitious sector-specific targets in transport, industry, buildings and district heating and cooling. The purpose of the sub-targets is to speed-up the integration of renewables in sectors where incorporation has been slower.

Renewable energy: Council adopts new rules (press release, 9 October 2023)

Fit for 55: how the EU plans to boost renewable energy

9 October

Council adopts new law to decarbonise the aviation sector

More renewable and low-carbon fuels will reduce the carbon footprint of the aviation sector and create a level playing field for a sustainable air transport in the EU following the adoption by the Council of the new regulation, so-called '**ReFuelEU aviation**' initiative.

The new legislation aims to put air transport on the trajectory of the EU's climate targets for 2030 and 2050 by increasing both demand for and supply of **sustainable aviation fuels**, while ensuring a level playing field across the EU air transport market.

RefuelEU aviation initiative: Council adopts new law to decarbonise the aviation sector (press release, 9 October 2023)

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors

9 October

Organic pet food: Council adopts updated labeling rules

The Council gave its final green light on a new EU law that will align the rules regarding the **labeling of organic pet food** to those governing the labeling of organic food intended for human consumption. The new regulation will make it easier for pet owners to purchase organic food for their pets. It also provides an opportunity for farmers engaged in organic production.

Organic pet food: Council adopts updated labeling rules (press release, 9 October 2023)

5 October

Fluorinated gases and ozone depleting substances: Council and Parliament reach agreement

The Council and the Parliament negotiators reached a provisional political agreement to phase down substances that **cause global warming** and **deplete the ozone layer**.

This provisional agreement finalized negotiations on fluorinated gases and confirmed an informal agreement found in June 2023 on ozone depleting substances.

While existing EU legislation already limited the use of these gases significantly, the new rules aim to **further reduce their emissions into the atmosphere** and contribute to limiting global temperature rise, in line with the Paris Agreement.

Fluorinated gases and ozone depleting substances: Council and Parliament reach agreement (press release, 5 October 2023)

25 September

Euro 7: Council adopts position on emissions from cars, vans, buses and trucks

The Council adopted its position on the proposed regulation for the type-approval of motor vehicles and engines, and of systems, components and separate technical units intended for such vehicles, with respect to their emissions and battery durability, better known as **Euro 7**.

The regulation aims to:

- set **more adequate limits for vehicle emissions**
- further **lower air pollutant emissions** from road transport

The Council position strikes a balance between stringent requirements for vehicle emissions and additional investments for the industry, at a time when European car manufacturers are undergoing a transformation towards the production of zero-emission cars.

Euro 7: Council adopts position on emissions from cars, vans, buses and trucks (press release, 25 September 2023)

19 September

Council and Parliament reach provisional agreement to empower consumers for the green transition

The directive to empower consumers for the green transition aims to **fight against unfair commercial practices** that prevent consumers from making the right choices for greener or more circular products and services.

The provisional agreement introduces several improvements:

- the inclusion of **unfair claims based on greenhouse emissions offsetting** on the list of banned practices
- better information on **early obsolescence**
- the introduction of a **harmonized format** to increase the visibility of the voluntary commercial guarantee of durability

Council and Parliament reach provisional agreement to empower consumers for the green transition (press release, 19 September 2023)

Circular economy (background information)

25 July

FuelEU maritime initiative: Council adopts new law to decarbonise the maritime sector

The main objective of the FuelEU maritime initiative, as a key part of the EU's Fit for 55 package, is to increase the demand for and consistent use of **renewable and low-carbon fuels** and reduce the greenhouse gas emissions from the shipping sector, while ensuring the smooth operation of maritime traffic and avoiding distortions in the internal market.

The new legislation aims to put maritime transport on the trajectory of the EU's climate targets for 2030 and 2050 and should play a fundamental role in delivering on the European climate law.

FuelEU maritime initiative: Council adopts new law to decarbonise the maritime sector (press release, 25 July 2023)

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors

25 July

Council adopts energy efficiency directive

The Council adopted new rules to **reduce final energy consumption at EU level by 11.7% in 2030**.

Member states will collectively ensure the reduction of final energy consumption and will benefit from flexibilities in reaching the target. They will set indicative national contributions and trajectories towards reaching the target in their integrated national energy and climate plans (NECPs).

Council adopts energy efficiency directive (press release, 25 July 2023)

Fit for 55: how the EU will become more energy-efficient

25 July

Alternative fuels infrastructure: Council adopts new law for more recharging and refueling stations across Europe

More recharging and refueling stations for alternative fuels will be deployed across Europe enabling the transport sector to significantly reduce its carbon footprint, following the adoption by the Council of the **alternative fuel infrastructure regulation (AFIR)**.

The text of the regulation provides for specific deployment targets that will have to be met in 2025 or 2030, including:

- recharging stations for cars and vans need to be installed every 60 km
- hydrogen refueling stations serving both cars and lorries must be deployed from 2030 onwards in all urban nodes
- users of electric or hydrogen-fuelled vehicles must be able to pay easily at recharging or refueling points

Alternative fuels infrastructure: Council adopts new law for more recharging and refueling stations across Europe (press release, 25 July 2023)

Fit for 55: towards more sustainable transport

10 July

Council adopts new regulation on batteries and waste batteries

The new regulation strengthens sustainability rules for batteries and waste batteries and will ensure that they are safe, sustainable and competitive.

The rules aim to promote a circular economy by regulating batteries throughout their **life cycle**. They establish end-of-life requirements, including collection targets and obligations, targets for the recovery of materials and extended producer responsibility.

The rules also aim to improve the **functioning of the internal market** for batteries and ensure fairer competition thanks to the safety, sustainability and labeling requirements.

Council adopts new regulation on batteries and waste batteries (press release, 10 July 2023)

Towards a sustainable, circular, European battery supply chain

30 June

Council adopts position on the regulation for classification, labeling and packaging of chemical substances

The Council adopted its negotiating position on the proposed regulation on the **classification, labeling and packaging of chemicals**, also known as the CLP regulation.

The proposed revised regulation aims to:

- clarify rules on **labeling** chemical substances
- **improve procedures** for providing information on hazards related to chemicals placed on the EU market
- accelerate the procedure for identifying hazardous substances
- develop specific rules for **refillable chemical products**

The Council's position:

- makes labels clearer and easier to understand (including digital labeling)
- ensures a high level of protection against chemical hazards

The revision of the CLP is an important element of the chemicals strategy for sustainability.

Council adopts position on the regulation for classification, labeling and packaging of chemical substances (press release, 30 June 2023)

30 June

Council adopts position on the construction products regulation

The Council adopted its negotiating position on the construction products regulation.

The proposed revised regulation aims to:

- improve the **circularity** and **durability** of construction products
- create common **European standards**

- offer digital solutions to **reduce the administrative burden**, especially on SMEs

Green transition in the building sector: Council adopts position on the construction products regulation (press release, 30 June 2023).

3 May

Council adopts its position on empowering consumers for the green transition

The Council adopted its negotiating mandate on the proposed directive to empower consumers for the green transition, which aims at enhancing consumers' rights by amending the **unfair commercial practices** directive and the **consumer rights** directive.

The Council position:

- reinforces consumers' right to information
- **bans generic environmental claims**
- introduces a **European Union harmonized graphic format**, to help consumers recognize commercial guarantees of durability

The proposal is one of the initiatives set out in the Commission's 2020 circular economy action plan.

Empowering consumers for the green transition: Council adopts its position (press release, 3 May 2023)

25 April

Council and Parliament agree to decarbonise the aviation sector

The Council and the European Parliament reached a provisional political agreement on a proposal aiming to decarbonise the aviation sector and create a level playing field for a sustainable air transport (**ReFuelEU aviation initiative**).

The proposal aims to increase both demand for and supply of sustainable aviation fuels (SAF), while ensuring a level playing field across the EU air transport market.

It is a major proposal which aims to put air transport on the trajectory of the EU's climate targets for 2030 and 2050, as SAF are one of the key short- and medium-term tools for decarbonising aviation.

Council and Parliament agree to decarbonise the aviation sector (press release, 25 April 2023)

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors

25 April

Council adopts key pieces of legislation delivering on 2030 climate targets

The Council formally adopted five laws, part of the Fit for 55 package, which will enable the EU to **cut greenhouse gas emissions** within the main sectors of the economy, while making sure that the **most vulnerable citizens and micro-enterprises**, as well as the sectors exposed to **carbon leakage**, are effectively supported in the climate transition. These include:

- revised EU emissions trading system (EU ETS)
- new carbon border adjustment mechanism
- new social climate fund

The vote in the Council is the last step of the decision-making procedure.

'Fit for 55': Council adopts key pieces of legislation delivering on 2030 climate targets (press release, 25 April 2023)

Fit for 55: reform of the EU emissions trading system

30 March

Provisional deal on the renewable energy directive

The Council and the Parliament negotiators reached a provisional political agreement to raise the share of renewable energy in the EU's overall energy consumption to **42.5% by 2030 with an additional 2.5% indicative top up that would allow to reach 45%**. Each member state will contribute to this common target.

The provisional deal includes more ambitious sector-specific targets in:

- transport
- industry
- buildings
- district heating and cooling

The purpose of the sub-targets is to speed-up the integration of renewables in sectors where incorporation has been slower.

This provisional political agreement will now need to be endorsed by both institutions.

Council and Parliament reach provisional deal on renewable energy directive (press release, 30 March 2023).

28 March

Member States set their position on future gas and hydrogen market

The Council agreed on its negotiating positions ('general approaches') on two proposals that set **common internal market rules for renewable and natural gases and hydrogen**.

The purpose of the legislation is to design the transition of the gas sector towards renewable and low-carbon gases, in particular biomethane and hydrogen, in view of reaching the EU's goal of climate neutrality in 2050.

The hydrogen and gas markets decarbonisation package consists of a proposal for a regulation and for a directive. The proposals aim at creating a regulatory framework for dedicated hydrogen infrastructure and markets and integrated network planning. They also set rules for consumer protection and strengthen security of supply.

Gas package: member states set their position on future gas and hydrogen market (press release, 28 March 2023)

Fit for 55: shifting from fossil gas to renewable and low-carbon gases

28 March

First part of the Fit for 55 package formally adopted

The Council adopted four sets of rules included in the Fit for 55 package which will **enable the EU to reduce its net greenhouse gas emissions by at least 55% by 2030**, compared to 1990 levels.

This included:

- CO₂ emissions standards for cars and vans
- effort sharing regulation
- land use and forestry regulation
- market stability reserve decision

The Council adoption was the last step of the decision-making procedure. The rules enter into force after publication in the Official Journal.

'Fit for 55': Council adopts regulation on CO₂ emissions for new cars and vans (press release, 28 March 2023)

'Fit for 55': Council adopts decision on market stability reserve (press release, 28 March 2023)

Fit for 55 package: Council adopts regulations on effort sharing and land use and forestry sector (press release, 28 March 2023)

Fit for 55: why the EU is toughening CO₂ emission standards for cars and vans

28 March

Provisional deal on alternative fuel infrastructure

The Council and the European Parliament reached a provisional deal on a proposal which will enable the **transport sector to significantly reduce its carbon footprint**.

The provisional agreement retains the fundamental aspects of the Commission's proposal, but introduces some amendments, including:

- a gradual process of infrastructure deployment set to start in 2025
- more efficiency for investments in hydrogen refueling and adaptation of technological developments

The provisional political agreement is now **subject to formal approval** by the two co-legislators.

Alternative fuel infrastructure: Provisional agreement for more recharging and refueling stations across Europe (press release, 28 March 2023)

Fit for 55: towards more sustainable transport

16 March

Council reaches agreement on amendments to industrial emissions directive

The Council adopted its negotiating position ('general approach') on a proposal to **review the industrial emissions directive**. The new rules will offer better protection of human health and the environment by reducing harmful emissions from industrial installations and intensive livestock farms into the air, water and through waste discharges.

The industrial emissions directive is the **main EU instrument regulating pollution from industrial installations and intensive livestock farms**, such as nitrogen oxide, ammonia, mercury, methane and

carbon dioxide. Industrial-scale installations and farms are required to operate in accordance with a permit, granted by national authorities, using Best Available Techniques (BAT) as a standard.
Council reaches agreement on amendments to industrial emissions directive (press release, 16 March 2023)

Trends in EU industrial emissions

10 March

Council and Parliament strike deal on energy efficiency directive

The Council presidency and the European Parliament negotiators reached a provisional political agreement to **reduce final energy consumption at EU level by 11.7% in 2030**.

The agreement concerned:

- headline target
- national contributions and gap-filling
- annual energy savings target
- obligations for public sector

Council and Parliament strike deal on energy efficiency directive (press release, 10 March 2023)

Fit for 55: how the EU will become more energy-efficient

2022

19 December

Member States Agree on new rules to slash methane emissions

The Council reached an agreement on the Commission's proposal to **track and reduce methane emissions in the energy sector**. The text is the first of its kind and a crucial contribution to climate action, as methane is the second most important greenhouse gas following carbon dioxide.

The proposal introduces new requirements for the **oil, gas and coal sectors** to measure, report and verify methane emissions at the highest standard. Operators will need to carefully document all wells and mines, trace their emissions and take appropriate mitigation measures to prevent and minimize methane emissions in their operations.

Member States agree on new rules to slash methane emissions (press release, 19 December 2022)

Fit for 55: cutting methane emissions in fossil fuels

19 December

Council adopts decision on offsetting requirements for air transport emissions (CORSIA)

The Council adopted the decision on the notification of **CORSIA** (Carbon Offsetting and Reduction Scheme for International Aviation) offsetting requirements, which aims to contribute to world wide's ambitious goals towards climate neutrality.

The decision adopted today enables member states to fulfill their first annual obligation to notify operators based in the EU of their CORSIA offsetting requirements, in line with their international commitments in ICAO.

CORSIA is a **global scheme for offsetting CO₂ emissions from international aviation** adopted by the International Civil Aviation Organization (ICAO) in 2018, in which EU member states committed to participate from its pilot phase, which began in January 2021.

Council adopts decision on offsetting requirements for air transport emissions (CORSIA) (press release, 19 December 2022)

18 December

Provisional deal on EU emissions trading system and social climate fund

The Council and the European Parliament reached a provisional political agreement on two legislative proposals of the **'Fit for 55' package** that will further reduce emissions and address social impacts, namely:

- EU emissions trading system
- social climate fund

The co-legislators agreed to increase the overall ambition of emissions reductions by 2030 in the sectors covered by the EU ETS **to 62%**.

The deal is provisional pending formal adoption in both institutions.

'Fit for 55': Council and Parliament reach provisional deal on EU emissions trading system and the Social Climate Fund (press release, 18 December 2022)

7 December

ETS aviation: Council and Parliament strike provisional deal to reduce flight emissions

The Council and the European Parliament reached a provisional political agreement on the revision of the EU emissions trading system (EU ETS) rules applying to the aviation sector. The agreement ensures that **aviation contributes to the EU's emission reduction objectives** under the Paris Agreement.

According to the agreement, the EU ETS will apply for intra-European flights (including departing flights to the United Kingdom and Switzerland), while CORSIA will apply to for extra-European flights to and from third countries participating in CORSIA ('clean cut') from 2022 to 2027. When emissions from flights to and from outside the European Economic Area reach levels above 85% of 2019-levels, they will have to be offset with corresponding carbon credits, invested in emissions reductions in countries participating in CORSIA.

The co-legislators agreed to gradually phase out free emission allowances for the **aviation sector** as follows: 25% in 2024, 50% in 2025 and 100% from 2026. This means allowances will be fully auctioned from 2026. As regards the use of revenues, co-legislators agreed to transfer 5 million of allowances from the aviation sector to the innovation fund.

ETS aviation: Council and Parliament strike provisional deal to reduce flight emissions (press release, 7 December 2022)

6 December

Deal to cut down on deforestation worldwide

The Council and the European Parliament reached a provisional deal on a proposal to minimize the risk of deforestation and forest degradation associated with products that are imported into or exported from the European Union. The agreement is provisional pending formal adoption in both institutions.

The provisional agreement sets **mandatory due diligence rules** for all operators and traders, who place, make available or export the following commodities from the EU market: **palm oil, beef, timber, coffee, cocoa, rubber and soy**. The rules also apply to a number of **derived products** such as chocolate, furniture, printed paper and selected palm oil based derivatives (used for example as components in personal care products). A review will be carried out in two years to see if other products need to be covered.

Council and Parliament strike provisional deal to cut down deforestation worldwide (press release, 6 December 2022)

11 November

Fit for 55: deal on ambitious carbon removal targets for land use and forestry

The Council and the European Parliament reached a provisional political agreement on strengthening the contribution of the land use, land use change and forestry (LULUCF) sector to the EU's increased overall climate ambition for 2030.

Pending formal adoption, the Council and Parliament set an **overall EU-level objective of 310 Mt CO2 equivalent of net removals** in the LULUCF sector in 2030.

The LULUCF sector covers the use of soils, trees, plants, biomass and timber and is responsible for both emitting and absorbing CO2 from the atmosphere. The objective is to progressively increase absorptions and reduce emissions so that the EU-wide objective is reached.

'Fit for 55': provisional agreement sets ambitious carbon removal targets in the land use land use change and forestry sector (press release, 11 November 2022)

Fit for 55: reaching climate goals in the land use and forestry sectors

8 November

'Fit for 55': EU strengthens emission reduction targets for member states

The Council and the European Parliament reached a provisional political agreement on stronger emission reduction targets for member states under the so-called effort sharing regulation.

Pending a formal adoption, the provisional deal endorses an EU-level greenhouse gas **emission reduction target of 40% compared to 2005**, for the sectors not covered by the EU Emissions Trading System (EU-ETS), namely:

- road and domestic maritime transport
- buildings
- agriculture
- waste
- small industries

The agreement keeps the **increased national targets** assigned to each member state as proposed by the Commission and adjusts the way member states can use existing flexibilities to meet their targets. 'Fit for 55': EU strengthens emission reduction targets for member states (press release, 8 November 2022)

Fit for 55: reducing emissions from transport, buildings, agriculture and waste

27 October

First Fit for 55 proposal agreed: the EU strengthens CO2 targets for new cars and vans

The Council and the European Parliament reached a provisional political agreement on stricter CO2 emission performance standards for new cars and vans. The purpose is to move towards a zero-emission mobility.

Pending a formal adoption, the co-legislators agreed to a:

- **55%** CO2 emission reduction target for new cars and **50%** for new vans **by 2030** compared to 2021 levels
- **100%** CO2 emission reduction target for both new cars and vans **by 2035**

The provisional political agreement reached in trialogue negotiations will now have to be formally adopted by the Council and the Parliament.

First 'Fit for 55' proposal agreed: the EU strengthens targets for CO2 emissions for new cars and vans (press release, 27 October 2022)

Fit for 55: why the EU is toughening CO2 emission standards for cars and vans

25 October

Fit for 55: Council agrees on stricter rules for energy performance of buildings

The Council reached an agreement (general approach) on a proposal to revise the **energy performance of buildings directive**. The main objectives of the revision are that:

- all new buildings should be zero-emission buildings by 2030
- existing buildings should be transformed into zero-emission buildings by 2050

Buildings are responsible for over one third of the greenhouse gas emissions in the EU. Reducing these emissions – either through greater energy efficiency or reduced energy consumption – is crucial in order to achieve **climate neutrality by 2050**.

Following the agreement among member states, the next step will be negotiations with the European Parliament (trilogues).

'Fit for 55': Council agrees on stricter rules for energy performance of buildings (press release, 25 October 2022)

Fit for 55: making buildings in the EU greener

29 June

Fit for 55: Council reaches general approaches relating to emissions reductions and their social impacts

The Council adopted its negotiating positions (general approaches) on five legislative proposals in the **Fit for 55 package**. The member states adopted a common position on:

- **EU emissions trading system** (EU ETS)
- **effort-sharing** between member states in non-ETS sectors (ESR)
- emissions and removals from **land use, land-use change and forestry** (LULUCF)
- **social climate fund** (SCF)
- new CO₂ emission performance standards for **cars and vans**

The ecological and energy transition will require the contribution of all sectors and all member states, in a fair and inclusive manner. **Agnes Pannier-Runacher, French Minister for the energy transition**

These agreements pave the way for negotiations with the European Parliament.

Fit for 55 package: Council reaches general approaches relating to emissions reductions and their social impacts (press release, 29 June 2022)

Environment Council, 28 June 2022

Fit for 55: how the EU will turn climate goals into law

28 June

Council agrees on new rules to drive down deforestation and forest degradation globally

The Council adopted its negotiating position (general approach) on new proposed rules to limit the consumption of products contributing to deforestation or forest degradation.

The Council agreed to set **mandatory due diligence rules** for all operators and traders who place, make available or export the following products from the EU market: **palm oil, beef, timber, coffee, cocoa and soy**. The rules also apply to a number of derived products such as leather, chocolate and furniture.

Council agrees on new rules to drive down deforestation and forest degradation globally (press release, 28 June 2022)

27 June

Fit for 55: EU ministers agree on new 2030 targets on energy efficiency and renewables

The Council adopted its negotiating positions (general approaches) on the two legislative proposals that tackle the energy aspects of the EU's climate transition under the 'Fit for 55' package: the **renewable energy directive** and the **energy efficiency directive**.

Decarbonising our energy systems through a massive deployment of renewable energies and significant efforts in energy savings is essential to achieve our climate objectives. It will also help us to reduce our dependence on Russia for energy, in the context of the war in Ukraine. **Agnes Pannier-Runacher, French minister for the energy transition**

Energy production and use account for 75% of the EU's emissions and the more ambitious targets agreed with the new proposed rules will be a significant contribution towards meeting the EU's overall goal of **reducing net greenhouse gas emissions by at least 55% by 2030** compared to 1990 levels.

"Fit for 55": Council agrees on higher targets for renewables and energy efficiency (press release, 27 June 2022)

Fit for 55: how the EU plans to boost renewable energy

17 June

Council takes note of progress report on the revision of the energy taxation directive

Economic and financial affairs ministers **took note of a progress report** on the revision of the energy taxation directive.

Energy taxation can help the EU achieve its climate and environment objectives by encouraging a **transition to cleaner energy and greener industry**.

Member states will continue their discussions within the Council of the EU under the Czech presidency. Economic and Financial Affairs Council, 17 June 2022

16 June

Council adopts recommendations on fair transition towards climate neutrality and to stimulate learning

In order to soften the social and employment challenges of the **European Green Deal**, a set of policy initiatives to make the EU climate neutral in 2050, and recommendations were prepared.

During the Employment, Social Policy, Health and Consumer Affairs Council, the Council adopted the recommendation which aims to ensure that the EU's transition towards a **climate-neutral and environmentally sustainable economy** by 2050 is fair and **leaves nobody behind**.

The Council also adopted a recommendation to **stimulate learning for the green transition and sustainable development**. This is crucial to ensure learners of all ages acquire the knowledge to live more sustainably, obtain the skills needed in a changing labor market and take action for a sustainable future.

Employment, Social Policy, Health and Consumer Affairs Council (Social), 16 June 2022

Council takes action to ensure green transition is fair and inclusive (press release, 16 June 2022)

Council adopts recommendation to stimulate learning for the green transition and sustainable development (press release, 16 June 2022)

2 June

Fit for 55 package: Council adopts its position on three texts relating to the transport sector

Today, European transport ministers adopted a common position (general approach) on each of the three legislative proposals of the **Fit for 55 package** that relate to the transport sector (alternative fuels infrastructure - AFIR, FuelEU Maritime and ReFuelEU Aviation).

This is an important step in the implementation of the Fit for 55 legislative package, which should enable the EU to meet its climate objectives: reducing net greenhouse gas emissions by at least 55% by 2030 compared to 1990 levels and achieving carbon neutrality by 2050.

For the transport sector in particular, the objective is to **reduce greenhouse gas emissions by 90%** (the sector currently accounts for more than a quarter of EU emissions).
Fit for 55 package: Council adopts its position on three texts relating to the transport sector (press release, 2 June 2022)

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors

7 April

Council adopts conclusions on carbon farming

The Agriculture and Fisheries Council adopted conclusions on carbon farming, based on the Commission's **sustainable carbon cycles communication** which was presented in December 2021. The communication aims to encourage agricultural practices that help to capture carbon from the atmosphere and store it in soil or biomass in a sustainable way.

Climate-friendly practices may include:

- planting hedges or trees
- growing legumes
- using catch crops and cover crops
- practicing conservation agriculture and maintaining peat lands
- afforestation and reforestation

In the conclusions, ministers recognized the importance of **providing financial support** that offers sufficient incentive to farmers and foresters to encourage them to adopt these climate-friendly practices. Council adopts conclusions on carbon farming (press release, 7 April 2022)

17 March

Environment ministers discuss Fit for 55 package and global deforestation proposal

The Environment Council of 17 March 2022 held a policy debate on the files in the 'Fit for 55' package that are within its remit. Ministers exchanged views on an **emissions trading system for the road transport and buildings sectors** (ETS RTB) and, in particular, on the effectiveness of the tool in reducing emissions with a view to reaching the -55 % target in 2030.

Ministers also discussed the Commission's proposal to reduce to a minimum the consumption of products coming from supply chains associated with **deforestation or forest degradation**. Ministers exchanged views on how to ensure an efficient and effective due diligence system in order to achieve the traceability needed to ensure that the products included in the regulation have not involved deforestation and forest degradation.

Environment Council, 17 March 2022

17 March

Sustainable batteries: member states ready to start negotiations with Parliament

The Council adopted a general approach on a proposal for a regulation to strengthen **EU legislation on batteries and waste batteries**. The new rules will promote the development of sustainable and safe battery production chains throughout their life cycle and create a level playing field on the internal market.

The Council negotiating position keeps and strengthens the fundamentals of the Commission's original proposal, including:

- the 'battery passport'
- tight restrictions for hazardous substances
- a carbon footprint for batteries
- extended producer responsibility
- the obligation for new batteries to contain recycled materials
- due diligence requirements for supply chains

Sustainable batteries: member states ready to start negotiations with Parliament (press release, 17 March 2022)

Towards a sustainable, circular, European battery supply chain

15 March

Carbon Border Adjustment Mechanism (CBAM): Council agrees its negotiating mandate

Today, the Council reached agreement on the text that will form the basis of its position in the future negotiations with the European Parliament on the Carbon Border Adjustment Mechanism (CBAM). It is one of the key elements of the EU's 'Fit for 55' package.

CBAM targets **imports of carbon-intensive products**. The objective of CBAM is to prevent that the greenhouse gas emissions reduction efforts of the EU are offset by increasing emissions outside its borders through relocation of production to non-EU countries or increased imports of carbon-intensive products.

Council agrees on the Carbon Border Adjustment Mechanism (press release, 15 March 2022)

24 February

Ministers hold a debate on the future of the industrial mobility ecosystem

Ministers addressed the specific challenges that implementing the 'Fit for 55' package would pose for the mobility industries. They discussed **their estimation of the scale** and cost of the green mobility transition, but also its **long-term benefits** and the actions required to support the transition.

The member states welcomed the fact that the Competitiveness Council was to **play an important role** in guiding the various policies for speeding up the EU's green transition.

The Council also unanimously adopted a general approach on the proposed **Corporate Sustainability Reporting Directive (CSRD)**.

Competitiveness Council (internal market and industry), 24 February 2022

21 February

Council discusses how to reduce global deforestation

During their February meeting, farming ministers held a policy debate on the Commission's proposal for a regulation on deforestation-free products. The aim of the regulation is to ensure that **products consumed on the EU market do not contribute to deforestation and forest degradation** worldwide. It will do so by setting due diligence rules for operators so as to reduce the risk that commodities placed on the EU market, such as soy, beef, palm oil, wood, cocoa and coffee, are associated with deforestation.

On the whole, ministers welcomed the proposed regulation. In particular, they highlighted the need to:

establish clear, unambiguous definitions, in line with the EU's forest policy

avoid disproportionate administrative and financial burdens

ensure that the regulation is implemented consistently across the EU

verify compliance with WTO rules

establish good relations with non-EU countries

Agriculture and Fisheries Council, 21 February 2022

2021

20 December

Environment ministers take stock of progress on the Fit for 55 package

The Environment Council took note of a **progress report** prepared by the Slovenian presidency and held a policy debate on five of the files in the 'Fit for 55' package:

revision of the greenhouse gas emission allowance trading scheme (EU ETS)

revision of the regulation on binding annual greenhouse gas emission reductions by member states (effort sharing regulation)

revision of the regulation on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF)

revision of rules for CO₂ emission performance standards for new cars and vans

regulation establishing a social climate fund

Ministers exchanged views on the level of ambition needed for further progress on the five climate-related files in the coming months, taking into account the various **interlinkages between the proposals** of the 'Fit for 55' package. Ministers also expressed their views on what they consider as the most sensitive issues in these files.

Environment Council, 20 December 2021

9 December

Fit for 55: EU ministers discuss transport proposals

During their December Council meeting, EU transport ministers discussed progress on the 'Fit for 55' package and its transport-related proposals.

Ministers took note of the overall progress on the Fit for 55 package in different Council configurations, based on a report presented by the Slovenian presidency. Ministers then had their first formal discussion on each of the three Fit for 55 transport proposals – **ReFuelEU Aviation, FuelEU Maritime and alternative fuels infrastructure** – in order to guide further work on these files.

7 December

Progress on 'Fit for 55' from an economic perspective

Economic and financial affairs ministers discussed progress made on the 'Fit for 55' package from an economic perspective during their Council meeting in December.

Ministers took note of the progress reached with the Fit for 55 proposals, based on two reports prepared by the Slovenian presidency. In this context, they focused in particular on the proposals for a carbon adjustment mechanism and a review of the energy taxation directive.

Presidency progress report on Fit for 55 package (overview)

Presidency progress report on Fit for 55 package (CBAM, ETD, SCF)

2 December

Energy Council takes stock of progress on Fit for 55's energy proposals

Ministers held a policy debate on the Fit for 55 package, in particular on the two files concerning energy: the directives on **renewable energy** and **energy efficiency**.

They welcomed the progress achieved on the files and took stock of main outstanding issues on the package as a whole and on the two energy-related files in particular.

In order to set a direction for further work ministers discussed the balance between the need to support the potential of renewables as a cost-efficient source of energy and to recognize national circumstances and different starting points.

Transport, Telecommunications and Energy Council (Energy), 2 December 2021

25 November

Internal market and industry ministers take stock of Fit for 55 package

During the Competitiveness Council, EU ministers responsible for internal market and industry were informed by the Slovenian presidency on the 'Fit for 55 package' from an industry perspective, including on **challenges and opportunities for businesses** arising from the transition towards climate neutrality.

Progress report on the Fit for 55 package by Slovenian presidency

15 November

Council adopts conclusions on the new EU forest strategy for 2030

The Commission presented the new forest strategy in July 2021, as a key element of the European Green Deal. In its conclusions approved in November 2021, the Council welcomed the forest strategy and stressed:

- the essential role of forests for **human health**, animal health and a healthy natural environment
- that forestry can play a key role in the EU's **transition** to a green, climate-neutral and competitive circular bio-economy
- the need to **strike a balance** between the environmental, social and economic aspects of sustainable forest management

Council adopts conclusions on the new EU forest strategy for 2030 (press release, 15 November 2021)

Agriculture and Fisheries Council, 15 November 2021

12 October

Fit for 55: Council discusses agriculture and forestry contribution

During their Council meeting, EU agriculture and fisheries ministers held an exchange of views on the potential **contribution of the agriculture and forestry sectors** to the Fit for 55 package. Points raised included:

- possible overlap with the new **common agricultural policy**
- importance of guaranteeing **food security**
- need for the different **starting points of member states** to be taken into account when setting climate objectives

Agriculture and Fisheries Council, 11-12 October 2021

6 October

Environment Council discusses Fit for 55 package

EU environment ministers held a first formal debate on the Fit for 55 package, with a particular focus on initiatives that fall under the remit of the Environment Council.

The debate focused on the balance and interlinkages between the various proposals, as well as on their contribution to the **EU's increased climate ambition**. Ministers gave their views on the distribution of efforts between and within both Member States and different economic sectors involved, and on the **impact of the proposals on citizens**. The debate addressed in particular the extension of **emissions trading** to buildings and road transport.

Environment Council, 6 October 2021

Fit for 55: how the EU will turn climate goals into law

29 September

Fit for 55 from an industrial perspective

EU ministers responsible for the areas internal market and industry discussed the impact of the **new climate and energy package on the economy and on industry**, including the challenges and opportunities for small- and medium-sized businesses in the transition towards climate neutrality.

Ministers broadly agreed that affordable decarbonised energy is one of the preconditions for the success of the Fit for 55 package. They stressed the importance of the proposed **carbon border adjustment mechanism (CBAM)**, which should prevent carbon leakage.

Competitiveness Council (Internal market and industry), 29 September 2021

Presidency discussion paper: Fit for 55 from an industrial perspective

22-23 September

EU transport and energy ministers meet in Slovenia to discuss the Fit for 55 package

EU transport and energy ministers met in Brdo pri Kranju, Slovenia, for a series of meetings:

informal meeting of transport ministers

informal meeting of energy ministers

informal meeting of transport and energy ministers

They discussed the **common challenges** of the two sectors arising from the transition to climate neutrality and the related goal of cutting EU greenhouse gas emissions by at least 55% by 2030, which is at the center of the **Fit for 55 legislative package**.

Informal meeting of transport and energy ministers, 22-23 September 2021

Presidency press release

20 July

EU environment ministers discuss Fit for 55 package.

The Commission presented its 'Fit for 55 package' on 14 July 2021. EU environment and climate change ministers held an **informal meeting** organized by the Slovenian presidency on 20-21 July 2021 to exchange views on the package.

They welcomed the package and stressed that **fairness, solidarity, ambition and efficiency** among the EU member states should be the guiding principles.

Fit for 55 (background information)

Informal meeting of EU environment ministers (Slovenian presidency website)

19 July

Council adopts conclusions on the EU's organic plan

In July 2021, the Council adopted **conclusions** on the action plan on organic farming proposed by the Commission. The main points agreed by EU ministers were:

- organic farming is important for the **sustainability of European agriculture**
- developing organic production helps **secure incomes and create jobs**
- **balanced demand and supply** of organic products ensure profitability for the sector
- specificities and **different situations in member states** need be considered when defining targets and interventions
- involving **public and private stakeholders** is crucial to reaching the strategy's goals

Agriculture and Fisheries Council, 19 July 2021

From farm to fork: making Europe's food healthier and more sustainable (background information)

11 June

Council endorses EU renovation wave strategy

Buildings consume 40% of the EU's energy and emit 36% of the EU's energy-related greenhouse gas emissions. The renovation wave strategy aims to **intensify buildings renovation efforts** throughout the EU,

in order to make the necessary contribution by the building sector to the EU's 2050 climate-neutrality goal and to deliver a fair and just green transition.

During their meeting in June 2021, ministers approved Council conclusions on the renovation wave strategy. The conclusions endorse the aim of the strategy to **at least double energy-related renovation rates in the EU by 2030**, while tackling energy poverty, creating new jobs and promoting the circular economy.

Council approves conclusions on an EU renovation wave (press release 11 June 2021)

Transport, Telecommunications and Energy Council (Energy), 11 June 2021

Renovation wave: creating green buildings for the future

10 June

Council endorses climate adaptation strategy and discusses zero pollution and batteries proposal

EU environment ministers met in Luxembourg in their first physical Council meeting under the Portuguese presidency. They adopted conclusions endorsing the new **EU strategy on adaptation to climate change**. The strategy outlines a long-term vision for the EU to become a climate-resilient society that is fully adapted to the unavoidable impacts of climate change by 2050.

Ministers took stock of the progress made on the proposal for a **regulation on batteries and waste batteries**, presented by the Commission on 10 December 2020.

Ministers also exchanged views on the Commission's communication on the **EU action plan on zero pollution** which aims to reduce pollution in the air, water and soil and create a toxic-free environment.

Council endorses new EU strategy on adaptation to climate change (press release, 10 June 2021)

Environment Council, 10 June 2021

EU member states have endorsed a new climate adaptation strategy.

7 June

Climate neutrality: Council adopts the Just Transition Fund

The Council adopted a regulation establishing a **€17.5 billion fund** which will contribute towards making the **green transition fair and inclusive**.

The **Just Transition Fund (JTF)** will finance projects that will alleviate the socio-economic costs for communities across the EU that are heavily dependent on fossil fuels or greenhouse gas-intensive industries and need to diversify the local economy.

The total amount of €17.5 billion (in 2018 prices) is made up of €7.5 billion available for budgetary commitment for the period 2021-2027 and €10 billion from the recovery instrument (Next Generation EU) available over the years 2021, 2022 and 2023.

Member states will also contribute towards JTF programs. In addition, they can transfer resources from the European Regional Development Fund and the European Social Fund Plus. This can potentially mobilize **close to €30 billion in investment**.

Climate neutrality: Council adopts the Just Transition Fund (press release, 7 June 2021)

5 May

EU ambassadors approve compromise text on the EU climate law

EU ambassadors **approved the final compromise text** for the EU climate law, which was agreed between the Council's and the Parliament's negotiators in April 2021.

The final compromise text includes:

- a **55% net emission target for 2030**
- an EU-wide **climate neutrality target for 2050**
- the establishment of a **European Scientific Advisory Board on Climate Change**
- the use of an emission budget for setting a **2040 target**

European climate law: Council and Parliament reach provisional agreement (press release, 5 May 2021)

26 April

Public sector loan facility to support just climate transition – provisional agreement reached

The Council presidency and the European Parliament's negotiators reached a provisional agreement on a new **public sector loan facility** that will support the transition towards a climate-neutral economy in the EU in an **inclusive manner**.

The facility will benefit the regions most affected by the transition towards the EU's 2030 climate targets and the objective of EU climate neutrality by 2050, such as coal- and carbon-intensive regions. It will support a wide range of **sustainable investment projects** that address the development needs of these

regions resulting from the climate transition. This includes projects in areas such as energy and transport infrastructure, district heating networks, energy efficiency measures and social infrastructure. Public sector loan facility to support just climate transition – provisional agreement reached (press release, 26 April 2021)

21 April

European climate law: Council and Parliament reach provisional agreement

The Council's and the European Parliament's negotiators reached a provisional political agreement **setting into law the objective of a climate-neutral EU by 2050**, and a collective, net greenhouse gas emissions reduction target of **at least 55% by 2030** compared to 1990.

The provisional agreement envisages:

- giving **priority to emissions reductions over removals** regarding the 2030 target
- establishing a **European Scientific Advisory Board on Climate Change** to provide scientific advice and reporting on EU measures, targets and budgets
- setting an intermediate climate **target for 2040**, to be proposed by the Commission

The provisional political agreement is **subject to approval** by the Council and Parliament, before going through the formal steps of the adoption procedure.

European climate law: Council and Parliament reach provisional agreement (press release, 21 April 2021)

15 March

Council approves conclusions on the EU chemicals strategy for sustainability

The Council adopted conclusions endorsing the **EU chemicals strategy for sustainability**, presented by the Commission.

The strategy sets out a long-term vision for the EU chemicals policy. With it, the EU and member states want to:

- better protect **human health**
- strengthen the industry's **competitiveness**
- support a **toxic-free environment**

The strategy is an essential part of the European Green Deal and its zero-pollution ambition.

Council approves conclusions on the EU chemicals strategy for sustainability (press release, 15 March 2021)

2020

17 December

Council agrees on full general approach on European climate law proposal

The Council reached agreement on a **general approach** on the proposal for a European climate law, including a new EU greenhouse gas emissions reduction target of at least 55% by 2030 compared to 1990, following the guidance of the European Council given on 10-11 December 2020. The main aim of the European climate law is to set into legislation the objective of a **climate neutral EU by 2050**.

Today we reached an important milestone as regards the proposal for a European climate law. The EU is strongly committed to becoming climate neutral by 2050 and we are sending a strong signal to the world with our reinforced greenhouse gas emissions reduction target of at least 55 % by 2030. **Svenja Schulze, Federal Minister for the Environment, Nature Conservation and Nuclear Safety of Germany**

Council agrees on full general approach on European climate law proposal (press release, 17 December 2020)

16 December

Just transition fund: Council endorses the political deal with the Parliament

On 16 December 2020, EU ambassadors endorsed the **provisional political agreement** reached by the German Presidency of the Council and the European Parliament on the new **€17.5 billion** just transition fund.

The resources will come from the 2021-2027 multiannual financial framework (€7.5 billion) and the Next Generation EU instrument (€10 billion spread over three years).

The just transition fund is an affirmation of our solidarity and political will as a Union to tackle climate change together. It will help to reconcile economy and ecology. We cannot implement the European Green Deal without mitigating the consequences for those most affected by the decarbonisation of our economy.

Peter Altmaier, German Federal Minister for Economic Affairs and Energy

Just Transition Fund: Council endorses the political deal with the Parliament (press release, 16 December 2020)

10-11 December

EU leaders endorse new binding climate target

The European Council endorsed a binding EU target of a net domestic reduction of greenhouse gas emissions by **at least 55% by 2030**, compared to 1990 levels. It called on Council and Parliament to reflect this new target in the **European climate law** proposal and to adopt the latter swiftly.

EU leaders want to increase climate ambition in a manner that will:

- spur **sustainable economic growth**
- create **jobs**
- deliver **health and environmental benefits** for EU citizens
- contribute to the long-term **global competitiveness** of the EU economy by promoting green innovation

European Council, 10-11 December 2020

29 October

Climate finance: EU and member states' contributions continued to increase in 2019

Contributions from the EU and its member states to support developing countries in reducing their greenhouse gas emissions and coping with the impacts of climate change continued to rise in 2019, confirming a steady upward trend since 2013.

The climate finance support provided by the EU and its member states (the UK included) amounted to **€23.2 billion** in 2019, a 6.9% increase compared to 2018. The total without the UK stood at **€21.9 billion**, a 7.4% increase compared to the total for the EU 27 in 2018.

The climate finance contribution is seen as an important step in the implementation of the legally binding climate change agreement reached in Paris in December 2015.

Climate finance: EU and member states' contributions continued to increase in 2019 (press release, 29 October 2020)

Europe's contribution to climate finance (in €bn)

23 October

Environment ministers reach partial agreement on the EU climate law and adopt conclusions on biodiversity

EU environment ministers reached agreement on a partial general approach on the proposed **European climate law**. The Council agreed that the Union-wide 2050 climate-neutrality objective should be pursued by all member states collectively. It stressed the importance of promoting both **fairness and solidarity** among member states and **cost-effectiveness** in achieving the climate neutrality objective.

They also endorsed the objectives of the **EU biodiversity strategy for 2030**, including its nature protection and restoration targets, recognizing the need to step up efforts by addressing the direct and indirect drivers of biodiversity and nature loss. The conclusions give **political guidance** as regards the implementation of the strategy and reaffirm the EU's determination to lead by example in tackling the global biodiversity crisis and in developing an ambitious new global biodiversity framework at the UN Biodiversity Conference in 2021.

European climate law: Council reaches agreement on large parts of the proposal (press release, 23 October 2020)

Council adopts conclusions on the EU biodiversity strategy for 2030 (press release, 23 October 2020)

Environment Council, 23 October 2020

21 October

Just Transition Mechanism: Council agrees its position on public sector loan facility

Member states' EU ambassadors agreed the Council's position on a new public sector loan facility to be created under the Just Transition Mechanism. It will support public sector investment in the regions that are most affected by the transition towards a climate neutral economy.

The new public sector loan facility will provide €1.5 billion in grants from the EU budget to allow finance partners to support projects addressing the challenges of the transition.

Just transition towards climate neutrality - Council agrees its position on new public sector loan facility (press release, 21 October 2020)

19 October

Council prioritizes actions for sustainable food systems: conclusions on the farm to fork strategy

The Council adopted a set of conclusions on the strategy, **endorsing the goal of developing a European sustainable food system**, from production to consumption. The conclusions entail a three-fold political message from the member states who agreed to ensure:

- **sufficient and affordable food** while contributing to EU climate neutrality by 2050
- **a fair income and strong support** for primary producers
- **competitiveness** of the EU agriculture at global level

Council prioritizes actions for sustainable food systems: conclusions on the farm to fork strategy (press release, 19 October 2020)

15 October

EU leaders discuss the EU's climate ambition for 2030

The European Council discussed the Commission's communication on 'Stepping up Europe's 2030 climate ambition', including the **proposed emissions reduction target of at least 55% by 2030**, and the actions required to achieve that ambition.

EU leaders consider that the updated target should be **delivered collectively** by the EU in the most **cost-effective manner** possible. All member states will participate in this effort, taking into account national circumstances and considerations of **fairness and solidarity**.

The European Council invited the Council to take work on this forward. Leaders invited the Commission to conduct **in-depth consultations** with member states to assess the specific situations and to provide more information about the **impact at member state level**.

European Council, 15-16 October 2020

25 June

Aviation emissions: EU chooses more ambitious option to calculate offsetting requirements

The Council adopted a decision to take part in the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) from the start of its voluntary phase on 1 January 2021. This decision lays down the EU position on the method to be used for calculating airplane operators' offsetting requirements during the CORSIA pilot phase 2021-2023. This will likely lead to higher offsetting requirements and therefore be better for the environment.

Today's decision confirms the EU's unwavering support for CORSIA as the worldwide scheme to curb aviation emissions and help address climate change. The environmental ambition of the Green Deal will not be achieved by Europe acting alone, because the drivers of climate change are not limited by national borders. **Oleg Butković, Croatian Minister for the Sea, Transport and Infrastructure, President of the Council**

Aviation emissions: EU confirms its participation in the CORSIA voluntary phase from 2021 and chooses more ambitious option to calculate its offsetting requirements (press release, 25 June 2020)

24 June

Just Transition Fund: Council agrees on its partial negotiating position

The EU is taking steps to achieve its goal of a climate-neutral economy by 2050 in an effective and fair manner. EU ambassadors endorsed the Council's partial position for negotiations with the European Parliament on establishing a Just Transition Fund.

The aim of the fund is to reduce the socio-economic costs for those communities that are less equipped to meet the challenges of the green transition. It will focus, in particular, on regions and territories which need to phase out production and use of coal, lignite, peat and oil shale, or transform carbon-intensive industries.

Just Transition Fund: Council agrees on its partial negotiating position (press release, 24 June 2020)

24 June

European Year of Rail 2021: Council agrees its position in support of the initiative

The Permanent Representatives Committee agreed on a negotiating mandate on the proposal to set 2021 as the European Year of Rail. The initiative will feature a range of events and campaigns to attract more people and goods to railways and it aims to promote rail as a green, safe and innovative mode of transport which is a key element in the shift to sustainable and smart mobility.

Environmentally-friendly and energy-efficient, rail will play a crucial role in helping the EU become climate neutral by 2050. The COVID-19 crisis has also shown how rail transport can facilitate the supply of

essential goods such as medical devices, food and fuel in exceptional circumstances. **Oleg Butković, Croatian Minister for the Sea, Transport and Infrastructure, President of the Council**
European Year of Rail 2021 – Council agrees its position in support of the initiative (press release, 24 June 2020)

23 June

Environment ministers: European Green Deal should guide the recovery towards green growth

EU environment and climate ministers held a policy debate on the contribution of environmental and climate policies to the recovery from the COVID-19 pandemic. They agreed that the European Green Deal should guide the recovery towards green growth and a more resilient EU.

We want to build a modern, clean and healthy economy, which will help to secure the livelihoods of the next generations. The recovery plan can help kick-start Europe's economy after the Covid-19 crisis, and it can at the same time boost Europe's sustainability and climate action. **Tomislav Čorić, Minister of Environment and Energy of Croatia**

Video conference of environment ministers, 23 June 2020

15 June

EU energy ministers discuss EU Green Deal and economic recovery

EU energy ministers had an exchange of views on the economic recovery after the COVID-19 crisis and the European Green Deal, with a focus on innovative energy solutions.

Ministers agreed that innovative energy technologies such as smart grids, hydrogen (particularly from renewable sources) and offshore as well as onshore renewable energy will be of great importance for Europe's job creation, competitiveness and decarbonisation. Several ministers mentioned that a large part of the additional investment needs related to energy, climate and transport were already set out in the member states' national energy and climate plans (NECPs).

Video conference of energy ministers, 15 June 2020

Ministers discussed innovation in the energy sector which has the potential to boost Europe's economic recovery

8 June

Agriculture ministers welcome EU Biodiversity and Farm to fork strategies

EU agriculture ministers held an exchange of views on the Farm to fork and the Biodiversity strategies, which were adopted by the European Commission on 20 May 2020.

Ministers welcomed both strategies and the ambition to strengthen the role of farmers in the food supply chain. They stressed that the ambitious goals of the Farm to fork and Biodiversity strategies had to be matched with an ambitious budget.

The Farm to Fork and Biodiversity strategies will play a crucial role in the implementation of the European Green Deal and the Recovery Plan for Europe. We need to assess the potential contribution of the agricultural, fisheries and forestry sectors to achieving the targets set in both strategies. However, we also need to pay particular attention to the impact on those sectors. Our farmers, fishers and aquaculture producers deserve fair transition, predictable conditions and adequate financial resources. **Marija Vučković, Minister for Agriculture of Croatia**

Video conference of agriculture ministers, 8 June 2020

5 March

Environment and climate ministers exchange views on the European Green Deal

Environment and climate ministers had an exchange of views on the Commission communication on the European Green Deal.

Under any other business, the Commission presented its proposal on European Climate Law and on a Just Transition Mechanism under the European Green Deal. The Commission also presented its communication on the European Green Deal Investment Plan.

Environment Council, 5 March 2020

27-28 February

Competitiveness Council discusses transition to climate-neutral EU

The Commission presented its Green Deal communication to ministers in a public session. Ministers held a discussion about the transition to a climate-neutral and circular EU industry based on a note prepared by the presidency.

Competitiveness Council, 27-28 February 2020

27 January

Ministers discuss agricultural aspects of Green Deal

The Commission presented its Green Deal communication to ministers in a public session. Ministers held a discussion about the agricultural aspects of the Green Deal based on a steering note prepared by the presidency.

Agriculture and Fisheries Council, 27 January 2020

21 January

Green Deal: ministers debate financial and economic aspects

Ministers discussed the financial and economic aspects of the European Green Deal. The Commission presented its communication on the Sustainable Europe Investment Plan published on 14 January.

Economic and Financial Affairs Council, 21 January 2020

2019

19 December

Exchange of views on EU environment and climate policy in the next term

The Environment Council had an exchange of views on EU environment and climate policy in the new legislative term, including the European Green Deal.

Environment Council, 19 December 2019

12-13 December

EU leaders endorse 2050 climate neutrality objective

The European Council endorsed the objective of climate neutrality by 2050, though Poland cannot commit to implementing the objective at this stage. EU leaders took note of the communication on the Green Deal by the Commission and asked the Council to work on it.

European Council 12-13 December 2019

20-21 June

Strategic agenda: EU leaders call for a climate-neutral, green, fair and social Europe

The European Council adopted a new strategic agenda for 2019-2024. Building a climate-neutral, green, fair and social Europe is one of its key objectives.

European Council, 20-21 June 2019.

II.2 Public Participation and Environment - EU Rules

The SEA¹⁴³ and EIA¹⁴⁴ Directives are two key EU texts for the development of environmental public policies. By involving the public, the EIA and the SEA procedures, that have common characteristics, ensure more transparency in environmental decision-making and, consequently, hope to inspire social acceptance and better decisions to protect the environment.

1. The Environmental Impact Assessment Directive

The EIA Directive is the European Union's instrument for implementing Article 6 of the Aarhus Convention.

1.1 Keys Provisions of the EIA Directive

1.1.1 Screening stage

The Directive sets out the conditions under which a public or private project must undergo an environmental assessment. On this stage, only projects are concerned. They are defined as

¹⁴³ Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment

¹⁴⁴ Directive 85/337/CEE of the European Parliament and the Council on the assessment of the effects of certain public and private projects on the environment, 27 June 1985 amended by the 2011/92/UE of the European Parliament and of the Council, and by the Directive 2014/52/UE.

operations resulting either from “the execution of construction works or of other installations or schemes” or from “other interventions in the natural surroundings or the landscape, including those involving the extraction of mineral resources”¹⁴⁵. The CJEU concludes that a “**project**” is necessarily accompanied by elements of physical transformation¹⁴⁶.

Then, the **Directive** distinguishes **two categories of projects**: **those** which must always be subject to an impact assessment (Annex I; article 4 (1)) and **those** which may be subject to such an assessment when the Member States “determine whether the project shall be made subject to an assessment” regarding to their characteristics (Annex II). The first one corresponds to the list of projects covered by Annex 1 of the Aarhus Convention. The second one is broader than those in Annex I. For example, in the case of infrastructure, heading “(e) Construction of roads, ports and port facilities”, including fishing ports (which are not covered by Annex I of Aarhus Convention) includes all road projects.

For these secondary projects, Member States have a fairly wide margin of discretion when it comes to subjecting **projects to assessment**. Member states have to assess them to determine whether they are potentially likely to significantly affect the environment based on the criteria laid down in Annex III. Article 4 offers two possibilities: either the Member State determines *a priori* that projects fall within the scope of the Directive on the basis of certain thresholds criteria from the Annex III of the Directive, or the Member State carries a case-by-case **assessment**. These two approaches may be combined by a Member State. The Court of Justice interprets the **Directive** requires that all projects falling within Annex II, which are likely to have significant effects on the environment, must be subject to an environmental assessment¹⁴⁷. Similarly, it’s clear from Articles 2 and 4 of Directive that the introduction of a threshold below which a category of projects of the Annex II is exempted from environmental assessment is not compatible with the objectives of the Directive¹⁴⁸.

1.1.2 Scoping stage

The Articles 3, 5 and 7 describes the scoping stage of the EIA Directive. The developer has to assess the direct and indirect environmental effects of its project on four factors: human beings, fauna and flora (3 (a)), soil, water, air, climate and landscape (3 (b)), material assets and the cultural heritage (3(b)) and the interaction between all those factors. The details of which are set out in this article are in Annex IV.

In fact, the Directive takes up the same element of the Aarhus Convention, specifying and developing them. The assessment includes information on “reasonable alternative solutions examined” by the project owner which means that he’s required to demonstrate that he has chosen the best option, but the study must include the elements that have been analyzed. Article 7 lays down specific obligations for the project which have trans boundary impacts. Article 7 incorporates the Espoo Convention’s stipulations particularly regarding mutual information between Member States and public consultation in a trans boundary context.

1.1.3 Public Consultation

Article 6 lays down the obligation to consult the public before the **project** begins. The consultation period must be at least 30 days. It also imposes an obligation to consult both public authorities responsible for the environmental matter’s and the local or regional authorities affected by the project.

¹⁴⁵ Article 1 (2) (a).

¹⁴⁶ CJEU, 28 February 2008, Paul Abraham e.a., Case C-02/07.

¹⁴⁷ CJEU, 4 May 2006, Commission v United Kingdom, Case C-508/03, ECR I. 3969, §78 and 89

¹⁴⁸ CJEU, 20 November 2008, Commission c/ Ireland, aff. C-66/06 ; CJUE, 5 October 2009, Commission c/ Pays-Bas, aff. C-255/08.

The directive does not specify the conditions for public participation. Reference should therefore be made to Article 6 of the Aarhus Convention, which provides several clarifications. The first stage (art. 6 (2)) consists of informing the public of the decision-making process: the proposed activity, the nature of the decisions taken, the authority responsible for the decision and the timetable for the procedure must be the subject of a public notice at the beginning of the consultation procedure. Article 6(3) specifies that this notification must be given within a reasonable time. This is to ensure that the public affected by the decision is given a genuine opportunity to participate. Article 6(4) states that consultation must take place “when all options are open, and the public can exercise a real influence”. Article 6 (6) sets out in detail the information to be made available to the public, and in particular the items that the **EIA** must cover. Comments from the public may be made in writing or orally (6, (7)), although a hearing procedure is not mandatory. Finally, the parties must ensure that the comments are considered when the authorization decision is taken (art. 6, (8)) and that the reasoned decision on whether or not to authorize the project is published (art. 6, (9)). Those provisions are set up in Article 9 which stipulates that the public must be informed of the decision taken, and the opinions collected must be considered in the final decision.

1.2 Strengths and Weaknesses of the Implementation of the EIA Directive

In the last report on the application and effectiveness of the EIA directive¹⁴⁹, the Commission underlined that Member States have transposed and implement the EIA Directive largely in line with the Directive’s objectives and requirements. Even more, some Member States have introduced obligations which go beyond the Directive’s minimum requirements. This is the case regarding the key stages of the EIA, such as “screening” and “scoping”. Several Member States systematically submit projects that do not fall within the scope of Annex I or II to the EIA. During the scoping stage, many States have made scoping mandatory and provided for public consultation during scoping. The report also identifies many concerns about the screening stage, the quality of the EIA and the practices for public participation.

Firstly, at the screening stage, “Member States often exceed their margin of discretion, either by taking account only of some selection criteria in Annex III or by exempting some projects in advance”¹⁵⁰. Furthermore, there are still several cases in which cumulative effects are not considered, and “salami-slicing” practices continue especially for big investment plans. So, the Commission recommends simplifying and clarifying, the European criteria.

Secondly, the quality of the environmental assessment is undermined by the lack of harmonization between the Member States about the study of alternatives. Some domestic provisions require the developer to examine an alternative, while others do not. For the Commission, “it may be necessary to specify what should be required by introducing the obligatory assessment of alternatives or by specifying a range of alternatives (such as the “do-nothing” alternative) to be studied”¹⁵¹. More generally, the lack of sufficient quality in the information used in the EIA documentation is a regular problem. The Commission notes significant differences between Member States, but also within the same state. She recalls of the resources that Member States can implement to ensure the quality of the assessment namely set up a proper accreditation of consultants that undertake EIA work; use the services of independent consultants to prepare the reports; use of independent external review or expert assistance; use of guidelines on specific issues to be taken into account for certain types of

¹⁴⁹Commission, Report from the commission to the council, the European Parliament, The European Economic and social Committee and the Committee of the Regions On the application and effectiveness of the EIA Directive, (Directive 85/337/EEC, as amended by Directives 97/11/EC and 2003/35/EC), 2013, online <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52009DC0378>

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

projects; keep the data used up to date; make mandatory “scoping”; introduce comitology to update Annex IV.

Finally, despite increasing public participation in the decision-making process, there is still no standard practice across the EU. This is the consequence of the wide margin of discretion left to the Member States to define the arrangements of participation. Firstly, there is no common reference for the beginning of the public consultation. It can be at the screening stage or only at the scoping stage or both). The minimum requirement of the EIA directive corresponds with a public participation on the scoping stage (Article 5). Secondly, timeframes vary considerably between Member States: at the screening stage, the range goes up to 45 days whereas at the stages of scoping and of the consultation on the EIA documentation, the timeframe is between 10 and 60 days. Finally, the arrangements for informing and consulting public vary widely. However, the Commission notes that public participation is not effective when national arrangements are constricted: this may be the case when the information that needs to be made available to the public is not easily accessible or when participation takes place at a time when the public is not available (e.g. holidays). For the Commission these gaps could be addressed by providing for earlier public and stakeholders consultation at the screening or scoping stages and by establishing minimum timeframes. Guidelines could also be developed on best practices for making the EIA documentation available to the public concerned.

2. The Strategic Environmental Assessment Directive¹⁵²

The SEA directive is the European Union’s instrument for implementing Article 7 of the Aarhus Convention.

2.1 Keys Provisions of the SEA Directive

2.1.1 The Scoping Stage

The SEA directive applies to plan or programs which meet four cumulative criteria.

First, the plan or program should be subject to preparation and/or adoption by a national, regional or local authority (Article 2 (a)).

Secondly, the plan or program must be required by legislative, regulatory or administrative provisions (Article 2 (b)). According to the Court of Justice, this provision must be interpreted as applying not only to plans or programs whose adoption is mandatory but also to those whose adoption is governed by national laws or regulations, which determine the authorities competent to adopt them and the procedure for their preparation¹⁵³.

Thirdly, plans or programs are prepared by any of the sectors listed in Article 3(2)(a) of the SEA Directive and that sets the framework for future development consent of projects lists in Annexes I and II of the EIA Directive (3(2)(b) or the article 6 and 7 of Directive 92/43/CEE (article 3 (2) (b)). Finally, for the others plans or a program, the regime applicable is the same regime for projects subject to the EIA directive: a case-by-case examination procedure for submission to environmental assessment is provided (Article 3 (3)(4)). This examination must be carried out based on the criteria defined in Annex II of the Directive.

2.1.2 The Screening Stage

The scoping stage corresponds to the Article 5 of the SEA Directive. The environmental report takes into consideration baseline information and reasonable alternatives. It identifies, describes and assesses the likely significant effects of implementing the plan or program and reasonable

¹⁵² Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment

¹⁵³ CJEU, 12 June 2019, *Compagnie d'entreprises CFE SA contre Région de Bruxelles-Capitale*, C-43/18, ; CJEU, 8 May 2019, *Associazione «Verdi Ambiente e Società - Aps Onlus» e.a.*, C-305/18.

alternatives considering the objectives and geographical scope of the plan or programme (Article 5 (1)).

Annex 1 of the Directive enumerates information required in the report. The precision of the information required is very closely linked to the nature of the text. The report contains only information that can reasonably be required, taking into account existing knowledge and evaluation methods, but also the content and degree of precision of the plan or program, in particular (article 5 (2)).

2.1.3 Public and Environmental Authority Consultation

The public consultation process is like the same as for projects. Article 6 sets out that the draft plan or program and the environmental report must be available to the environmental authorities and to the public. Article 7 of the **Directive** also provides for measures in the event of trans boundary effects¹⁵⁴.

The procedure must give an early and effective opportunity for the public to express their views on the draft (Article 6 (2)) and Member States shall designate the authorities which are to be consulted and which, given their specific responsibility for the environment, are likely to be affected by the environmental effects of the implementation of plan or program (Article 6 (3)), and define the public affected of likely be affected (Article 6 (4)).

Like with the EIA Directive, Member States have a wide margin of discretion to determine the detailed arrangements for informing and consulting both the authorities and the public (article 6 (5)).

2.2. Strengths and weaknesses of the implementation of the EIA Directive

In its most recent assessment of its implementation, the European Commission made three observations regarding its effectiveness, efficiency, relevance, coherence, added value¹⁵⁵.

This evaluation demonstrates the effectiveness of the directive in ensuring a high level of environmental protection, but also in involving the public in the preparation of these documents. However, different stakeholder groups have highlighted that the influence of the SEA Directive is often limited to the final content of plan or program due to prevailing (political, social or economic) interests.

Secondly, the report highlights the concerns raised by the Court of Justice of the European Union's interpretation of the concept of plan or program, which is extensive. In various cases, the Court of Justice of the European Union establish the SEA would be applicable to any act, including normative one like a regulatory provision¹⁵⁶, fulfilling the above four criteria. The cost of this wide-ranging interpretation is not yet known. Furthermore, the evidence notes that thanks to its flexibility, the Directive allows the Member States to accommodate the procedure required under the Directive to the different environmental issues at stake and that the SEA Directive is generally coherent with other EU legislation and policy instruments, such as EIA, appropriate

¹⁵⁴ It should be noted that the Espoo Convention does not cover plans and programmes, but a protocol (the Kiev Protocol) adopted in 2003, and which came into force in 2010, does.

¹⁵⁵ Commission staff working document, Executive Summary of the evaluation of the Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SWD 2019) 413 final.
<https://circabc.europa.eu/ui/group/3b48eff1-b955-423f-9086-0d85ad1c5879/library/19a51b54-ae96-43a4-b1dd-19ae3a285767/details?download=true>

¹⁵⁶ CJEU, 27 Oct 2016, D'Oultremont and Others, Case C-290/15 ; CJEU, 25 June 2020, A and Others, Case C-24/19, § 79. The Article 3(2)(a) must be interpreted as meaning that a decree and a circular, both containing various provisions relating to the siting and operation of wind turbines, including measures relating to shadowing, safety and noise standards, constitute plans and programmes which must be subject to an environmental assessment under that provision.

assessment, cohesion policy, climate change, biodiversity and transport, as well as EU international obligations.

The flexibility of the SEA Directive explains the diversity of its implementation by the Member States. This table is based on the national reports issued by the Member States as part of the European Commission's assessment of the implementation of the directive. It compares the main stages in the implementation of the Directive in Croatia¹⁵⁷, Romania¹⁵⁸ and France¹⁵⁹.

Public participation takes place at different stages of the procedure and in different ways. In all three countries, however, particular attention is paid to informing the public about the various decisions taken at both screening and scoping stages and on the draft of the plan or program. The timeframes vary between Member States. In Croatia and in France the public participation procedure shall last at least 30 days whereas in Romania it depends on the impact of the project (between 45 and 60 days at the scoping stage).

¹⁵⁷ Croatia, Legal and Organisation arrangements, application and effectiveness of the SEA Directive (Directive 2001/42/EC), 2019, online : <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32001L0042&qid=1487172800769>.

¹⁵⁸ Romania, Legal and Organisation arrangements, application and effectiveness of the SEA Directive (Directive 2001/42/EC), 2019, online : <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32001L0042&qid=1487172800769>

¹⁵⁹ France, Legal and Organisation arrangements, application and effectiveness of the SEA Directive (Directive 2001/42/EC), 2019, online : <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32001L0042&qid=1487172800769>

Stage of the SEA	Croatia	Romania	France
Scoping approach	<p>The competent body has the obligation to obtain the opinion of the bodies or persons designate by special regulation and must coordinate and carry out at least one discussion with representatives of bodies and persons.</p> <p>Public can submit written opinions or proposals determining the content of the SEA study.</p> <p>Once the content of the SEA study is decided, the competent body must issue to the public the decision. The information must be published for 30 days and the competent body will seek the opinion of the relevant environmental and health authorities.</p>	<p>A "Working Group" composed of representatives of the plan or programme owner, the competent environmental and health authorities, other authorities concerned by implementing the plan or programme, identified according to their specific attributions and environmental protection responsibilities, one or more natural or legal persons certified according to the legal provisions, as well as employed experts, as appropriate, are responsible of the detailed level of information that must be included in the environmental report.</p>	<p>The competent body may consult the competent environmental authority on the extent and the degree of accuracy of information to be included in the environmental report. The environmental authority is a body without legal personality composed by experts of the Environmental Minister.</p>
Alternatives and baseline reporting (Article 5 – Annex I)	<p>The SEA describes and assesses the significant effects on the environment including alternative options. In various case, there are zero alternative because of the lack cooperation among the competent body, planning team and practitioner.</p> <p>The baseline reporting is based on the Directive criteria: "relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan and programmes.</p>	<p>Alternatives are presented to the "Working Group" and the SEA report must propose the most convincing alternative in terms of environmental protection.</p> <p>A SEA manual defines what reasonable or possible alternatives means to discuss the plan and programme. The number of alternatives is not limited, and the zero alternatives must be analysed.</p> <p>The current environmental situation corresponds to the latest annual report of the state of environment in Romania.</p>	<p>There is no legal definition of reasonable alternatives. But legal provisions specify that alternatives should "enable to meet the purpose of the plan, scheme, programme or other planning document in this territorial scope. Each assumption has to mention its advantages and disadvantages". The zero option is also considered as one of the alternatives. But the French SEA experts highlight that the consideration of the zero alternatives is more difficult in the context of SEA than it is for EIA. Some reports establish a recurring difficulty in defining a "reference scenario".</p>
Preparation of the environmental report and non-technical summary	<p>The SEA study contains the elements required by the Annex I of the SEA Directive</p>	Idem	Idem

<p>Consultation and public participation</p>	<p>Domestic provisions designate bodies and/or persons that must be consulted. The “public” is defined as one or more natural or legal persons, their groups, associations and organizations in accordance with special regulations and practice. In practice so far, public concerned was identified based on the geographical location of the plan or programme and by making the information available to public and letting them identify themselves as public concerned.</p> <p>Public is involved in two stages of the SEA: at the scoping stage and the SEA study draft proposed by the competent authority.</p> <p>The competent body is responsible of public information and must chose the more appropriate way to inform local community or individual citizens.</p> <p>Specially, during the procedure, the public shall be informed of five decisions and reports : the decision on initiating the strategic assessment and developing the SEA study ; the decision on determining the content of the SEA study ; the decision on submitting the SEA study and the draft proposal of the plan or programme for public debate; the procedure relating to potential trans boundary effects of a plan and programme and the procedure of participation in the strategic assessment in another country; the report of the competent body concerning the performed strategic assessment and the adopted plan or programme.</p> <p>The public debate on the SEA report and the draft proposal shall last at least 30 days.</p>	<p>Domestic provision defines public like public with an interest in the decision-making process and for, the relevant NGO’s, the environmental authority considers the nature and content of the plan and programme and the area of activities of NGO’s or other criteria useful to identify them.</p> <p>Domestic provisions designate bodies and/or persons that must be consulted because of their specific environmental responsibilities. A special Committee¹⁶⁰ is competent to give its opinion which performs the screening stage of plans et programmes.</p> <p>Romanian legislation on public participation goes beyond the requirements of the Directive. Public can participate both during the screening and scoping stages. So, the public is consulted throughout the entire environmental assessments process starting from the first version of the plan or programme is available until finalization by issue the administrative act for the plan/programme subject to the SEA procedure.</p> <p>The methods used for public consultation include: public announcements in mass-media, display at local authority headquarters, internet announcements, and public debate.</p> <p>A special attention is paid to publicising information: information are published the owner and the environmental authority, and on official website and mass media, 2 times at a 3 days interval before the beginning of public participation.</p> <p>The timeframe procedure are ambitious: the public has 15 calendar days from the last announcement to send written comments and</p>	<p>In the French legislation there is no specific definition of the “the public” and “relevant non-governmental organizations”, or of the authorities with “specific environmental responsibilities”. In fact, the environmental Code identifies the competent environmental authority which can be a national or local body of experts of the environmental minister.</p> <p>Public participation only starts when the opinion on draft of the plan/programme of the environmental authority is achieved.</p> <p>The methods used for the public consultation is either a public inquiry or an electronic participation procedure. The procedure shall last at least 30 days</p>
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Stage of the SEA	Croatia	Romania	France
		opinions when first version of the plan/programme is available; at the screening stage, the public has 10 calendar days from the announcement to send written proposals. Then, when the draft is ready, a public debate is announced at least 45 calendar days before the date of the debate, or 60 days if trans boundary effects are identified.	

II.3 Public Procurement and the Environment

For the last twenty years or so, **public procurement** has been presented as an effective **public** policy instrument for promoting sustainable development objectives. This trend is driven by international law and European Union law.

At international level, the movement was given a boost by the Rio Conference in 1992 with the 'Agenda 21' program¹⁶¹. At a more local level, the Aalborg Charter¹⁶², signed in 1994, envisages that environmental protection could be supported by public procurement. From the 2000s onwards, the movement gained momentum with the OECD recommendation on improving the environmental performance of public procurement¹⁶³ and the creation of a task force at the Johannesburg World Summit¹⁶⁴.

At European Union level, the European Commission began to address the issue of the relationship between the environment and public procurement in the mid-1990s. Several Commission communications¹⁶⁵ have sought to clarify the way in which environmental considerations can be considered in public procurement law based on existing law¹⁶⁶. The Court of Justice of European Union played a part in this movement with its famous case *Concordia Bus Finland*¹⁶⁷. The Court states that an environmental award criterion may be introduced to determine the most advantageous tender and sets out the conditions for the legality of such a

¹⁶⁰ Depending on the specific the plan or program the structure of the Special Committee may widen with representatives of other central public authorities Prefecture, County Council, Department of Public Health, Water Basin Administration, National Environmental Guard, Inspectorate for Emergency Situations, the Sanitary Veterinary and Food Safety Direction.

¹⁶¹ Anne Rivière-Honegger, "Agenda21", Geoconfluences, 2014, on-line, <https://geoconfluences.ens-lyon.fr/glossaire/agenda-21>.

¹⁶² European Conference on Sustainable Cities & Towns, Charter of European Cities & Towns Towards Sustainability, 27 May 1994, https://sustainablecities.eu/fileadmin/repository/Aalborg_Charter/Aalborg_Charter_English.pdf. Only a handful of towns in the three countries concerned have signed up to this commitment: Kotor and Herceg-Nov in Montenegro, Ohrid in Macedonia, Shkodra and Tirana in Albania.

¹⁶³ OECD, Recommendation of the Council on OECD Legal Instruments Improving the Environmental Performance of Public Procurement, 2002, 6 p. <https://legalinstruments.oecd.org/public/doc/46/46.en.pdf>

¹⁶⁴ Marrakech Task Force sur les achats publics durables piloté par le PNUE, <https://www.unep.fr/scp/marrakech/>

¹⁶⁵ For example, Commission, Communication from the Commission to the European Parliament, the Council, The European economic and social committee and the committee of the regions Public procurement for a better environment, 2008, {SEC(2008) 2124}.

¹⁶⁶ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

¹⁶⁷ CJEU, 17 Sept. 2002, Case C-513/99.

criterion. Its soft law recommendations were subsequently transposed into positive law with the adoption of two directives in 2004, reinforced and extended to concessions contracts in 2014¹⁶⁸.

Henceforth, the environment may permeate the entire public procurement procedure and concessions contracts.

For the public procurement, to define the requirement, the technical specifications may include environmental characteristics in the terms of reference, using eco-labels where appropriate and subject to certain conditions. Furthermore, the conditions under which a contract is performed may also include environmental considerations. With regard to the selection of tenders, the contracting authority may assess the ability of a candidate to submit a tender in terms of the professional morality of the operator and exclude any candidate who has committed an offence by failing to comply with the environmental legislation of the State in question. Secondly, contracting authorities may require the production of certificates attesting that the operator complies with certain environmental management standards. Finally, when examining tenders, the contracting authority may include environmental criteria among the other criteria for awarding contracts.

For the concession's contracts, first, during the performance of concession contracts, economic operators must comply with the obligations applicable in the field of EU, national and international environmental law.

For the selection of tenders, secondly, at the time of submission of applications and selection of candidates, reasons relating to environmental protection may be imperative reasons in the public interest allowing derogation from the exclusion of operators who, for example, have been convicted or have failed to fulfill certain obligations. Conversely, an operator may be excluded if it can be shown that it has failed to comply with the obligations to respect environmental law. Thirdly and lastly, the environmental condition can be found in the three phases of launching the procedure, performance and conclusion of the contract. First of all, when the procedure is launched, the technical and functional specifications may include levels of environmental and climate performance. Secondly, the tender selection criteria may include environmental specifications. Finally, the operating conditions for concessions may include provisions designed to promote environmental protection and animal welfare.

However, since the introduction of legal regulations in this area, the use of sustainable public procurement so far has not become an effective instrument for the implementation of sustainable development¹⁶⁹. Several reasons are regularly put forward to explain this difficulty. On the one hand, the provisions of the directives are based on the will of the Member States, which are not obliged to impose consideration of the environment in public procurements and concessions contracts. On the other hand, contracting authorities are finding it difficult to implement environmental criteria for assessing tenders, in accordance with the European law requirements. Guidelines on sustainable public procurements and concessions are needed to ensure the legal certainty of contractual operations and sustainable public procurement schemes can be drawn up to provide a general framework for the development of sustainable procurement. In France, several recommendations were recently issued by the Economic, Social and Environmental Council to strengthen responsible public procurement¹⁷⁰.

¹⁶⁸ Directive 2014/24/UE of the European Parliament and of the Council, 26 February 2014, On public procurement and repealing Directive 2004/18/EC and Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts.

¹⁶⁹ Małgorzata Burchard -Dziubińska's Lab "Sustainable public procurement as an instrument of implementation of sustainable development. Theoretical and practical approach", Scientific Papers of Silesian University of Technology Organization and Management Series 2017(104):9-19

¹⁷⁰ Patricia Lexcellent, Responsible public procurement : an insufficiently exploited level, June 2018, on-line https://www.lecesefr/sites/default/files/travaux_multilingue/FI06_commande_publique_responsable%20-%20GB.pdf.

II.4 Ombudsperson in Charge of the Environment

The continuing deterioration in the quality of the environment calls for reflection on the effectiveness of its legal protection and invites us to rethink the institutional conditions for this protection.

National policymaking is inherently constricted to short-term thinking by electoral cycles, and waylaid from a sustainable path by the obsession with profit margins. The ‘myopia’¹⁷¹ of representative democracies is compounded by their own difficulty in grasping environmental issues. Environmental damage is often diffuse and only reveals the seriousness of its effects over the long term.

To ensure environmental protection is not blinded by short-term interests, electoral distractions, or tempting profiteering and short-cuts, an institution should be created that is mandated to take the longer view. This institution could be an Environmental Ombudsperson. This point of view was supported in particular by the World Future Council to “bring intergenerational justice into the heart of policymaking”¹⁷². The Ombudsman appears to be a fruitful model for such a defender because of its history and status.

The Ombudsman, a Swedish term meaning “spokesman for grievances”, originated in Sweden in 1809. At the time, they were created to replace monarchical absolutism with a new way of regulating political power. In line with this tradition, the Ombudsmen have since developed to ensure that public authorities comply with their obligations from two angles: limiting the powers of the executive and protecting human rights. Although Ombudsmen were not created to ensure the protection of this right, it now seems that they are being called upon to take part in its protection.

First, since the Rio Conference, the right of everyone to live in a healthy environment has been recognized by many states¹⁷³ and courts¹⁷⁴. Secondly, the prerogatives and status usually entrusted to Ombudsmen seems particularly well suited to protecting the environment. Ombudsmen are often responsible for monitoring the administration and are independents. Public administrations are likely to cause irreversible damage to the environment because they play a major role in implementing environmental law. For example, it is they who implement the principles of prevention and precaution by limiting and monitoring private activities likely to have an influence on the environment. This function struggles to be exercised effectively within government departments. Public authorities often must arbitrate between a number of environmental, economic and social interests. This arbitration presents a risk for environmental protection, where the damage may appear minor because it is not always perceptible here and now¹⁷⁵. The specific nature of environmental issues calls for the creation of an autonomous environmental ombudsman to realize the need to make an institution a genuine body for monitoring the effective application of environmental law and to ensure that all public decisions take sufficient account of environmental protection.

¹⁷¹ Pierre Rosanvallon, “La myopie démocratique”, *Commentaire*, N°131(3), p. 599.

¹⁷² Alice Vincent, *Ombudspersons for Future Generations: Bringing Intergenerational Justice into the Heart of Policymaking, The Future We Want?*, June 2012, No. 1 & 2 Vol. XLIX, <https://www.un.org/en/chronicle/article/ombudspersons-future-generations-bringing-intergenerational-justice-heart-policymaking?>

¹⁷³ David R. Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment*, Vancouver, University of British Columbia Press, 2012.

¹⁷⁴ CEDH, 6 July 2009, *Tatar vs Romania*, n°67021/01; CEDH, 8 July 2003, *Hatton and others vs United Kingdom*, n°36022/97, CEDH 24 June 2019, *Cordella and others vs Italy*, n°54414/13 and 54264/15.

¹⁷⁵ Julien Bétaille, “Arguments en faveur d’une autorité publique indépendante environnementale”, in Marcel Sousse (dir.), *Droit économique et droit de l’environnement*, Mare et Martin, 2019.

Hungary has already taken this step, creating an Ombudsman for Future Generations in 2007¹⁷⁶ even if the position of Commissioner was downgraded to Deputy Ombudsperson by the Hungarian Constitution of 2011. Since 2011, the Hungarian Parliamentary Commissioner for Future Generations is one of four Parliamentary Ombudsmen. The Hungarian Ombudsman system consists of the “general ombudsman” responsible for civil rights in general and three special ombudspersons including the representation of future generations. Its creation was raises in two observations: “those whose constitutional right to a healthy environment is violated cannot be determined unambiguously and the informational unbalance between those who violate the right and whose right is violated cannot be resolved by providing state assistance to representation in court”¹⁷⁷. Its responsibilities are defined by Section 27/B. (1) of the Ombudsman Act : he must “monitoring, assessment and control of the enforcement of legal provisions ensuring sustainability and improvement of the environment and nature as well as investigation of any improprieties he becomes aware of relating to these”¹⁷⁸. The activities of the Commissioner in the above-mentioned fields can be broken down into three categories: investigation, parliamentary advocacy, scientific and strategic research. The Commissioner is mandated to investigate a broad range of environmental complaints, to act as a policy advocate for sustainability issues across all relevant fields of national and local legislation and public policy, and to undertake research projects targeting the long-term sustainability of human societies¹⁷⁹.

In Wales, since the Well-being of Future Generations Act, a public body is required to think about the long-term impact of public decisions¹⁸⁰. Furthermore, it creates The “Future Generations Commissioner for Wales” to guarantees the future generation’s rights. The Commissioner, appointed by Welsh ministers, is tasked with advocating for the needs of future generations in Welsh policy and ensuring that government takes a long-term view of policy impact. The Commissioner has a wide-ranging mandate to advise, review and assess the work of public bodies from a well-being and sustainable development perspective. When the Commissioner makes recommendations to a public body, it must publish its response, and if the public body does not follow a recommendation it must say why, and what alternative action it will take¹⁸¹.

In other countries, Ombudsman are taking an increasing interest in environmental issues. For example, recently, France’s Children’s Rights Ombudsman issued a set of recommendations to ensure that children’s right to live in a healthy environment is better taken into account¹⁸². Recently, a report by the Ministry of the Environment recommended the creation of a new independent authority to guarantee the protection of common goods in the interests of future generations, with the power to act at the request of citizens, and with the power to issue opinions, recommendations and injunctions, including in emergencies, and to guarantee the quality, transparency and impartiality of environmental expertise and the information provided to citizens¹⁸³.

According to the authors, there are three questions that need to be asked in order to consider how such an institution could be designed:

¹⁷⁶ Gyula Bandi, “The Hungarian Ombudsman for the future generations”, *Persona e Amministrazione, Ricerche Giuridiche sull’Amministrazione e l’Economia*, 2021, p 807.

¹⁷⁷ Eva, Tóth Ambrusné, “The Parliamentary Commissioner for Future Generations of Hungary and his Impact”, *Intergenerational Justice Review*, 1, 18-24. <https://doi.org/10.24357/igjr.5.1.470>.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ <https://www.futuregenerations.wales/about-us/future-generations-act/>

¹⁸¹ Ann Sherlock, John Williams, Elin Royle, “A welsh model of commissioners?” *Cambrian Law Review*, 2015, vo. 45.

¹⁸² https://www.defenseurdesdroits.fr/sites/default/files/2024-11/ddd_rapport-annuel-enfants_2024_20241022.pdf

¹⁸³ CGEDD, Une justice pour l’environnement. Mission d’évaluation des relations entre justice et environnement, 2019, en ligne. https://www.justice.gouv.fr/sites/default/files/migrations/portail/art_pix/rapport_justice_pour_environnement.pdf. In Great Britain, similar discussions are underway. Victor Anderson, “Protecting the interests of future generations”, July 2018, Centre for the Understanding and of Sustainable Prosperity, Working paper n°14. <https://cusp.ac.uk/wp-content/uploads/Protecting-the-interests-of-future-generations.pdf>

- “Does a body based on an existing institution have sufficient legitimacy to represent the general environmental interest on behalf of people?
- Does a body have the objective and subjective impartiality that would enable it to express its views without free from suspicion regarding competing interests in environmental disputes?
- Does a body have sufficient technical capacity, combining scientific, economic and legal skills, to defend the interests of people?”¹⁸⁴

In answering these three questions, the report chose not to recommend strengthening the powers of the French Ombudsman on environmental issues but to create a new independent authority. Finally, in other countries, the task of defending the environment is not yet given to an independent institution, but to an emanation of parliament.

In Finland, for example, a permanent parliamentary committee, the Committee for the Future of Finland was set up in 1993. Made up of 17 members of parliament, it has a number of functions but does not have decision making power or to represent the environment in court. The Commission can deal with initiatives submitted to Parliament, such as the report on the Future, inform the work of other parliamentary committees on long-term strategic issues (e.g. climate, energy, information society), debate questions concerning the factors and models of progress for Finnish society, propose forward-looking analyses of research and technology (particularly information technology), assess technological development and its impact on society.

II.5 On the Legal Reasoning Behind Causality in the Environmental Field: Example of Case-Law

- *Justice pour le Vivant*: the causal link between environmental damage and the State's inaction regarding the use of pesticides

In a ruling on 29 June 2023, the Paris Administrative court recognizes the existence of ecological damage resulting from the widespread, diffuse, chronic and long-lasting contamination of water and soil by the active substances of phytosanitary products, the decline in biodiversity and biomass, and the impairment of the benefits derived by man from the environment. It enjoins the State to remedy the situation by June 30, 2024¹⁸⁵. The administrative judges **establish a link between two faults on the part of the French State ((1) failure to comply with targets for reducing the use of plant protection products¹⁸⁶, and (2) failure to comply with the obligation to protect groundwater¹⁸⁷) and ecological damage.**

In its decision, the court reasons in two steps: first the link between pesticides and environmental damage, then the link between this damage and the actions of the French public authorities.

Regarding the link between pesticides and environmental damage, the administrative judges **study the available scientific literature and data¹⁸⁸**. It leads to a slight differentiation in the court's reasoning between the situation of widespread contamination of water and soil and that of declining biodiversity and biomass:

¹⁸⁴ Ibid. https://www.justice.gouv.fr/sites/default/files/migrations/portail/art_pix/rapport_justice_pour_environnement.pdf

¹⁸⁵ TA Paris, 29 June 2023, n° 2200534/4-1.

¹⁸⁶ Art. L. 253-6 du code rural et de la pêche maritime leading the State to adopt a plan to reduce the use of pesticides called « plan Ecophyto »

¹⁸⁷ Art. 4 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, Art. L. 211-1 du code de l'environnement, Art. L. 253-7 du code rural et de la pêche maritime.

¹⁸⁸ See TA Paris, 29 June 2023, n° 2200534/4-1, para. 17-20.

- In the case of water and soil, once again the administrative court's reasoning is twofold: 1. the presence of active substances from crop protection products in water and soil is documented and not seriously contested by the public authorities, 2. there is **scientific consensus on the toxicity of some of these active substances and their danger to health and the environment**. Thus, the judges conclude there is an ecological damage on water and soil because of pesticides.
- In the case of declining biodiversity and biomass, the court's study is more detailed since phytosanitary products are only one factor amongst many others. But here again, the judges directly rely on scientific studies produced by recognized and reliable sources which are directly quoted in the ruling such as International Union for the Conservation of Nature (IUCN), l'Institut national de recherche pour l'agriculture, l'alimentation et l'environnement – the French National Research Institute for Agriculture, Food and Environment (INRAE), the French Institution for research and exploitation of the sea l'Institut français de recherche pour l'exploitation de la mer (IFREMER), l'Office parlementaire d'évaluation des choix scientifiques et technologiques – the French parliamentary office for the evaluation of scientific and technological choice (OPECST). These sources show scientific consensus on pesticides' negative impacts at least on some animal species (impact on the immune system of some species, on the food resources of other, etc.) and demonstrate that *"plant protection products are one of the main causes of the decline in terrestrial invertebrates, including pollinating insects and pest predators (ladybugs, carabid beetles, etc.), as well as birds"*¹⁸⁹. **Because of scientific consensus on this subject, the judges conclude there is a causal link** between pesticides and declining biodiversity and biomass resulting in an environmental damage.

The second step for the administrative court is to see if there is a causal link between the environmental damages and the French State's actions. The judges find that the public authorities have committed two faults by failing to comply with targets for reducing the use of phytosanitary products and failing to comply with its obligation to protect the ground waters. In order to study if there is a cause / effect link between these two faults and the environmental damages, the judges look at:

- **The reasoning behind setting quantified targets for reducing pesticide use.** The court notes that one of the aims of the Ecophyto plan to reduce pesticide use was to protect the environment: *"when the Ecophyto II plan was published on October 26, 2015, the French government recognized that "reducing the use (...) of plant protection products remains necessary, given the evolution of knowledge since 2008 on their effects on human health (...) but also on the environment, biodiversity and the ecosystem services that depend on them".*
- **Whether or not public authorities have possibilities to take actions.** In this regard, the court refers to a 2019 report by the court of auditors (Cour des Comptes) on Ecophyto plan which highlights that the State *"could have a greater influence on production methods and sectors through the exercise of its normative, regulatory and information competencies"*.
- **The current situation of France regarding the use of phytosanitary products,** concluding that *"the State has not achieved the targets it set itself for reducing the use of plant protection products, and it is a fact that France ranks second among European member states in terms of the quantity of active substances sold, and ninth in terms of use per hectare."*

These three elements are for the judges a clear proof that *"despite the fact that the decline in biodiversity is multi-causal, the **ecological damage defined in points 17 to 20 would not have assumed its current magnitude were it not for the State's failure to meet its targets for reducing the use of crop protection products**". And thus, that the direct and certain nature of the link between the ecological damage by active substances of phytosanitary products and the State's wrongful failure to act is established.*

¹⁸⁹ Institut français de recherche pour l'exploitation de la mer (IFREMER), Impacts des produits phytopharmaceutiques sur la biodiversité et les services écosystémiques, Rapport de l'expertise scientifique collective, septembre 2022. Quoted TA Paris, 29 June 2023, n° 2200534/4-1, para. 19.

This is the first recognition of ecological damage resulting from pesticide contamination by a French court. Nevertheless, the five petitioning associations have appealed the decision that they consider insufficient because it does not oblige the French government to correct the flaws in the pesticide risk assessment methodology. The appeal is still pending.

- The causal link between environmental impacts on human health and inaction by public authorities against air pollution

Recently, two appeal decisions dated 9 October 2024 upheld the rulings handed down by the Paris Administrative Court on 16 June 2023, recognizing the State's liability for air pollution and awarding compensation to victims of respiratory pathologies¹⁹⁰.

These decisions follow an initial decision, known as "*avant dire droit*" (preliminary ruling), which had ordered **a judicial expert report to assess the consequences for the applicants' health of exceeding the thresholds for concentrations of polluting gases**. Moreover, these decisions are part of a body of French case-law in which the liability of the French State for its inaction in the face of air pollution has already been recognized on several occasions.

The French State has already been condemned, at national level, for culpable failure to comply with the pollution thresholds¹⁹¹ set by the Air Pollution Directive¹⁹². The Court of Justice imposes an obligation of result on compliance with these thresholds¹⁹³. This failure to act stems from a twofold pre-existing obligation: on the one hand, the State has an obligation of result requiring it to ensure that air pollution is below the thresholds. On the other hand, if the thresholds are not respected, the State has an obligation to take all necessary measures - through planned strategies - to ensure that pollution levels fall below the thresholds.

The Court of Justice of the European Union seemed to have closed the door on the individual rights that could give rise to compensation¹⁹⁴. However, although the principles of liability on the basis of EU law cannot be invoked in this case, this does not prevent the claimants from relying **on the classic administrative liability for fault, which has its origins in the principles of domestic law and presupposes the existence of: a wrongful harmful event, damage and a causal link between the two**.

While it is well-known that air pollution has a negative influence on health, establishing the causal link between a pollution episode and the symptoms suffered by an individual may seem more difficult. The rulings of 16 June 2023 break new ground by recognizing that some of the symptoms - caused by repeated bouts of bronchiolitis and ear infections - were the result of "*the State's fault in exceeding pollution thresholds*". The Paris Administrative Court then clarified the reasoning to be adopted to examine existence of a causal link.

The judge first verifies whether it is possible to rule out any liability of the State in the hypothesis of the complete absence of any probability of such a causal link. In this case, the expert opinion shows that while bronchiolitis is not exclusively the result of pollution peaks, the

¹⁹⁰ CAA de PARIS, 3rd chamber, 09/10/2024, 23PA03743.

¹⁹¹ CE, 12 July 2017, n° 394254, Assoc. Les Amis de la Terre France; JCP A 2017, act. 513.

¹⁹² The obligation to comply with thresholds that must not be exceeded for certain pollutants - nitrogen dioxide and fine particles - stems from European Union law and, more specifically, from articles 13 and 23 of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe. This obligation, transposed into the Environment Code in articles L. 221-1 and R. 221-1, has been regularly mobilised by the Court of Justice of the European Union, which has condemned France for failure to comply with the requirements (See, e.g.: CJEU, 19 Nov. 2014, aff. C-404/13. - CJEU, 5 Apr. 2017, aff. C-488/15. - And CJEU, 22 Feb. 2018, aff. C-336/16).

¹⁹³ Ibid.

¹⁹⁴ In this respect, in a recent case of 22 December 2022, the Court of Justice held that the provisions of the 2008 directive on air quality "are not intended to confer individual rights on individuals capable of giving them a right to reparation against a Member State under the principle of State liability for damage caused to individuals by breaches of Union law for which it is responsible" CJUE, 22 Dec. 2022, aff. C-61/21, min. Transition écologique et Premier ministre).

latter do have an undeniable impact on the onset of this illness in the days or weeks following exposure to pollution. **Concretely, this first stage involves a scientific assessment of the contribution of pollution peaks to the onset of bronchiolitis.** By considering that the *"share attributable to pollution in the onset of severe bronchiolitis"* is "30 to 50%", the court recognizes the existence of a scientific consensus between pollution and the onset of certain illnesses. The court also considers that the search for external causes such as parental smoking, allergies or exposure to household chemicals should not be neglected.

Second stage: once the general framework has been established, the administrative court must "individualize" the causal link. The difficulty then increases insofar as the fault of the State results from the inadequacy of the measures taken to limit atmospheric pollution¹⁹⁵. **However, this pollution is not directly caused by the State; it results from human activities. To get around this obstacle, the Paris Administrative Court innovated by creating a presumption of a causal link based on several indicators: the concordance of scientific studies¹⁹⁶, the temporal proximity between the pollution event and the illnesses, and the absence of external causes.** In this case, the court relied on a range of red flags to find that the respiratory illnesses of the claimant, born in 2015, were characterized by repeated episodes of bronchiolitis and, *ultimately*, by the onset of infantile asthma in 2016. **The Court consequently identified a temporal link between the applicant's aggravation of respiratory pathologies and the pollution peaks.** Furthermore, no external factor was considered to be the cause of the respiratory symptoms, as the parents were not smokers, their flat did not contain anything that could have contributed to the symptoms, and the applicant had tested negative for allergies. Finally, the judge noted an improvement in the applicant's state of health following her move with her parents. Consequently, these elements were sufficient to establish a causal link between the pollution peaks and some of the claimant's symptoms. **This analysis of the causal link is similar to the case-law on medical liability¹⁹⁷ and mandatory vaccination.¹⁹⁸**

While the court was innovative in its assessment of the causal link, it remained particularly conservative in its assessment of the losses that could be compensated. It considered that such losses justified an award of €3,000 in compensation for moral damage. **This compensation obtained was therefore far from the amounts requested by the claimants (€222,000 and €219,000 respectively). The other claimed losses were not considered to be established by the court (impact on the parents' professional life, anxiety loss etc.).**

¹⁹⁵ S. Brimo, Sur un air nouveau, Note under TA Paris, 16 June 2023, no. 2019924/4-2.

¹⁹⁶ A. Jacquemet-Gauché, Le juge administratif face aux connaissances scientifiques: AJDA 2022, p. 443.

¹⁹⁷ CE, 9 March 2007, no. 267635, Schwartz.

¹⁹⁸ CE, 29 Sept. 2021, no. 435323.

Annex III: Summaries of stakeholder interviews and focus group discussions

Background

The CEJ Convergence Project, aiming at enhancing climate and environmental justice and public participation in Albania and the Western Balkans, organized two key stakeholder meetings in 2024: a focus group on October 23 and a validation workshop on December 16. These sessions, complemented with interviews conducted by the experts with some of the stakeholders/participants, provided platforms for dialogue among diverse stakeholders, including public institutions, judicial bodies, CSOs, academia, and international partners.

Participants Overview

The focus groups were attended by a diverse array of approximately 30 participants:

- **Public Institutions:** Representatives included key decision-makers from the MoTE, the MoJ, the State Police, and the NEA. Local municipalities were also represented, emphasizing the need for decentralized solutions.
- **Judicial and Law Enforcement:** Attendees included prosecutors, representatives from the School of Magistrates, and law enforcement officials specializing in environmental crime.
- **CSOs and Media:** Eight prominent NGOs focused on environmental protection, community engagement, and legal advocacy participated. Investigative journalists specializing in environmental issues also contributed.
- **Academia:** Environmental and legal experts from institutions such as the Faculty of Law provided insights on the intersection of governance and education.
- **International Organizations:** Representatives from the Organization for Security and Co-operation in Europe (OSCE) and the EU Delegation to Albania brought international expertise and highlighted best practices from other countries.

Part 1: Focus Group Meeting – October 23, 2024

On October 23, 2024, the Climate and Environmental Justice (CEJ) Project held its first focus group meeting at the House of Europe in Tirana. This meeting marked a pivotal moment for the CEJ initiative, as it sought to engage stakeholders from various sectors to address the pressing issues of public participation and environmental justice in Albania. The gathering brought together representatives from public institutions, judicial bodies, CSOs, academia, and international organizations. The diversity of participants reflected the multifaceted nature of environmental governance and underscored the need for a collaborative approach.



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The focus group's primary objectives were to introduce stakeholders to the CEJ Convergence Project's overarching goals and strategies, initiate a candid discussion about existing gaps and challenges, and explore potential avenues for collaboration. The meeting served as a platform to align stakeholder perspectives and lay the groundwork for future interventions.

Setting the Scene: Presentations and Context

The meeting opened with a comprehensive presentation by Ms. Entela Pinguli, CEJ Convergence Project Team Leader. She highlighted the project's significance as a 2.5-year initiative aimed at strengthening environmental governance across Albania, North Macedonia, and Montenegro. Funded by the Agence Française de Développement (AFD) and implemented by Expertise France, the CEJ Convergence Project sought to align environmental policies and practices in the Western Balkans with European Union standards. Ms. Pinguli elaborated on the project's three primary

components: enhancing access to environmental justice, strengthening mechanisms for public participation, and empowering CSOs through targeted support and grants.

Ms. Pinguli emphasized that Albania, as a focus country, faced unique challenges that required tailored interventions. The lack of effective public participation in environmental decision-making, limited public access to environmental information, and weak enforcement of environmental laws were identified as critical issues. She outlined the project's expected outcomes, which included producing a detailed assessment report, improving environmental monitoring systems, and building capacities among stakeholders to foster more inclusive and transparent governance.

Discussions on Public Participation

Mr. Mihallaq Qirjo, the National Expert on Public Participation, delivered an in-depth presentation on the evolution and current state of public engagement in environmental matters in Albania. He framed his analysis around three historical "waves" of development: the initial focus on the public's right to information, the gradual inclusion of participatory decision-making processes, and the emerging emphasis on access to environmental justice.

~~Despite these advancements, Mr. Qirjo highlighted persistent barriers to meaningful public participation. Many environmental data sources, such as pollution reports and EIAs, remained inaccessible or outdated. He noted instances of "fake consultations," where public feedback was either ignored or consultations were conducted merely as formalities. Furthermore, Albania's digital infrastructure for facilitating public engagement was underdeveloped, with few mechanisms for submitting feedback or tracking its impact on decision-making.~~

To address these challenges, Mr. Qirjo proposed several solutions, including the development of a centralized environmental information system, the institutionalization of public consultation standards, and the active involvement of NGOs in monitoring participatory processes. He underscored the need for transparency and inclusivity, suggesting that digital tools and platforms could play a transformative role in bridging gaps.

Environmental Justice: Challenges and Opportunities

Ms. Elvana Tivari, the Legal Expert on Environmental Justice, provided a detailed analysis of the legal and institutional challenges hindering environmental justice in Albania. She outlined the four pillars of environmental justice: recognition, procedural justice, restorative justice, and distributive justice. Ms. Tivari illustrated how these principles were often undermined by ambiguities in Albania's legal framework, insufficient enforcement resources, and fragmented institutional responsibilities.

Her presentation highlighted key case studies, such as the Pocem and Dragobia hydropower projects, where public participation played a decisive role in shaping outcomes. These examples underscored the importance of robust legal frameworks and active community engagement in ensuring equitable environmental governance.

Ms. Tivari also addressed recent legislative amendments, such as changes to the Protected Areas Law in 2024, which raised concerns about potential compromises to Albania's natural heritage. She called for reforms to enhance judicial specialization, introduce standardized environmental damage assessment protocols, and provide financial support for communities and NGOs pursuing environmental litigation.

Stakeholder Contributions

The open discussion session provided an opportunity for participants to share their insights and experiences. Public institution representatives highlighted operational challenges, including overlapping agency responsibilities and insufficient resources for environmental monitoring.

Judicial and legal experts pointed to the complexities of environmental litigation, emphasizing the need for specialized training and clearer legal codification. NGOs and CSOs raised concerns about public disengagement, consultation fatigue, and the financial barriers to pursuing environmental justice cases. Academic participants advocated capacity-building initiatives, such as integrating environmental law into judicial training programs and developing standardized assessment methodologies.

The focus group concluded with a call to action, emphasizing the importance of structured collaboration and the need for continued dialogue to address Albania's environmental challenges.

Part 2: Validation Workshop – December 16, 2024

On December 16, 2024, the CEJ Convergence Project convened a validation workshop at Hotel Kotroni in Tirana. This workshop marked the culmination of months of work by national and international experts, who had developed a draft assessment report on public participation and environmental justice in Albania. The workshop aimed to present the findings and recommendations to stakeholders, gather feedback for refining the report, and discuss actionable measures for the project's next phases.



Presentations and Key Insights

Ms. Entela Pinguli opened the workshop by providing an overview of the project's progress and reaffirming its objectives. She stressed the importance of stakeholder participation in the validation process, describing it as a critical step in ensuring that the assessment report accurately reflected the needs and perspectives of all involved.

Mr. Mihallaq Qirjo presented the findings on public participation, reiterating many of the challenges discussed during the October focus group. He elaborated on issues such as the minimal engagement of institutions in facilitating public participation, the lack of proactive outreach to marginalized communities, and the superficial nature of many public consultations. His recommendations included enhancing the capacity of CSOs, improving coordination among agencies, and leveraging international conventions to align practices with global standards.

Ms. Elvana Tivari followed with a presentation on environmental justice. She outlined the legal and institutional hurdles identified in the assessment, including unclear regulations, resource constraints, and limited judicial expertise. Her recommendations focused on strengthening the legal framework, investing in judicial and law enforcement training, and fostering public awareness of environmental rights.

Stakeholder Feedback and Discussions

The workshop's interactive sessions allowed participants to validate the report's findings and contribute additional insights. Public institution representatives emphasized the need for clearer delineation of responsibilities among agencies and better resource allocation. Civil society participants highlighted the importance of financial support for NGOs and the role of investigative media in promoting transparency. International experts shared case studies from the EU, providing examples of effective public participation and environmental justice mechanisms.

Concluding Remarks and Next Steps

Ms. Pinguli concluded the workshop by summarizing the key recommendations and outlining the next steps. She announced plans for follow-up meetings with individual institutions to address specific issues and finalize the assessment report by the end of 2024. She also highlighted the importance of the upcoming national forum in early 2025, which would serve as a platform for presenting the report and aligning stakeholders on actionable strategies.

Part 3: Structured Stakeholder Interviews

As part of the CEJ Convergence Project, structured interviews were conducted with stakeholders before and after the October 23 focus group to gather additional insights and inform the assessment process. These interviews aimed to measure stakeholders' understanding of the CEJ Convergence Project, assess their knowledge of environmental justice, and identify their capacity-building needs.

Purpose and Objectives

The structured interviews were designed to:

- Evaluate stakeholders' familiarity with the CEJ Convergence Project goals and objectives.
- Assess their general understanding of environmental justice concepts and challenges in Albania.
- Identify specific capacity development needs to enable effective engagement in environmental governance.
- Gauge their willingness and readiness to participate in future CEJ Convergence Project activities.

Stakeholder Groups Interviewed

The interviews targeted a broad range of stakeholders, including:

- Government Institutions: MoTE, MoJ, environmental agencies, inspectorates, and municipal authorities.
- Judicial System: Judges, prosecutors, the School of Magistrates, and judicial police.
- CSOs: Environmental advocacy groups, justice-focused CSOs, and gender equality advocacy organizations.
- International Organizations and Donors: EU Delegation, OSCE, UNDP, USAID, and embassies involved in environmental initiatives.
- Private Sector: Representatives from industries impacting the environment, including energy, tourism, and infrastructure.
- Media: Journalists specializing in environmental justice and public participation.

Methodology and Approach

The interviews utilized a hybrid approach, through Telephone and Follow-up Live Interviews: Key stakeholders participated in live interviews conducted via video calls or in-person meetings to explore their responses in greater depth.

Interview Content

The interviews included a mix of closed-ended and open-ended questions, focusing on the following areas:

- Understanding of the CEJ Convergence Project: Stakeholders were asked about their familiarity with the project and its objectives.
- Environmental Justice Knowledge: Questions assessed their awareness of key issues and challenges related to environmental justice in Albania.
- Capacity Development Needs: Respondents identified areas where training, resources, or institutional support were most needed.
- Willingness to Engage: Stakeholders expressed their interest in future participation and highlighted potential barriers.

General Framework of Questions used in the Stakeholder Interviews

Section 1: Understanding of the CEJ Convergence Project

- On a scale of 1 to 5, how familiar are you with the goals and activities of the CEJ Convergence Project?
- Can you describe what you think the CEJ Convergence Project aims to achieve in Albania?
- Have you or your institution previously participated in any activities related to the CEJ Convergence Project? If yes, please specify.
- In your view, what are the most pressing environmental governance challenges in Albania that the CEJ Convergence Project should address?

Section 2: Environmental Justice Knowledge

- How would you define environmental justice in the context of Albania?
- What do you consider to be the key environmental justice issues affecting your sector or community?
- Have you encountered any cases or situations where environmental justice principles were upheld or violated? If so, please elaborate.
- In your opinion, which groups in Albania are most affected by environmental injustices? Why?

Section 3: Capacity Development Needs

- What skills or knowledge gaps do you think hinder effective environmental governance in your institution or organization?
- Which of the following areas would you prioritize for capacity building? (Choose all that apply):
 - Environmental law and regulation
 - Public participation methods
 - Access to environmental information
 - Digital tools for environmental monitoring
 - Advocacy and stakeholder engagement
- Can you provide examples of training or resources that you believe would enhance your institution's ability to address environmental issues?

Section 4: Willingness to Engage with the CEJ Convergence Project

- Are you or your organization interested in further involvement with the CEJ Convergence Project? (Yes/No)
- If yes, in which of the following ways would you like to engage? (Select all that apply):
 - Participating in workshops or training sessions
 - Contributing to focus groups or advisory panels
 - Sharing expertise or case studies
 - Collaborating on project activities or reports
- If no, what are the main barriers or challenges preventing your participation? (e.g., time constraints, lack of resources, lack of relevance)

Section 5: Systemic Challenges

- What institutional or systemic barriers do you believe limit the effectiveness of environmental justice in Albania?
- How could coordination between government agencies, CSOs, and the private sector be improved to address environmental challenges?
- What role do you see for your institution or organization in advancing environmental justice?
- Do you think Albania is adequately aligned with EU standards on environmental governance? Why or why not?

Section 6: Feedback on Environmental Justice Mechanisms

- Have you been involved in or observed public participation processes (e.g., consultations or hearings)? If yes, how effective were they in incorporating public input?
- What do you believe should be done to improve public access to environmental information in Albania?
- Are there any policies or laws you feel need revision or stronger enforcement to better uphold environmental justice?

Section 7: Additional Comments

- Do you have any suggestions for the CEJ Convergence Project to enhance its impact in Albania?
- What additional support or collaboration would you need from the CEJ Convergence Project to achieve your environmental governance goals?

Findings and Insights

- **High Awareness among Key Stakeholders:** Government and judicial representatives demonstrated a good understanding of the CEJ Convergence Project and its relevance to Albania's EU accession goals.
- **Capacity Gaps Identified:** Many stakeholders highlighted the need for specialized training in environmental law, public participation mechanisms, and digital tools for environmental governance.
- **Strong Willingness to Engage:** Most respondents expressed interest in participating in workshops, focus groups, and collaborative activities under the CEJ Convergence Project.
- **Challenges Highlighted:** Stakeholders pointed to institutional fragmentation, limited resources, and insufficient public awareness as significant obstacles to advancing environmental justice.

Next Steps

The insights gathered from the interviews were integrated into the CEJ assessment report. Recommendations focus on targeted capacity-building initiatives, improved stakeholder engagement strategies, and addressing the systemic challenges identified during the interviews.

Lists of Stakeholders engaged and Contributing Participants

Institution	Position
Ministry of Tourism and Environment	Vice Minister (also coordinator of Donors)
	Biodiversity & protected areas Director
	Regulatory & Compliance Director
	International TE to the MoE
	Public communication sector
Ministry of Justice	Director of the Codification Department
National Environmental Agency	General Director
	Director of EIAs and environmental permits
	Director of Inspection and Control
National Agency of Protected Areas	General Director
	Director of Projects Development
	Director of Management & Monitoring
National Territory Inspectorate	Director of Env and Waters Inspection
	Director of Forests Inspection
	Director of Legal Inspection

Institution	Position
National Inspectorate of Forests, Waters and Tourism	
Local Government /Municipalities	
Bashkia Tirane	Director Public relation
AMSHC Agjencia për Mbështetjen e Shoqërisë Civile	Representative of the Council to the AMSHC
Albanian School of Magistrates	International Relations Manager
	Director
	Judge, Administrative Court of Appeal
	Judge, Special Crimes Court GJKKO
	International expert / French Expertise contact at the School of Magistrate
General Prosecution Office	Prosecutor, Director of the Prosecutor General Cabinet
	Director Assistant
	Prosecutor /active in Env Crime research
Albanian State Police	
Security Academy	
National Bar Association	Director
National Chamber of Mediation Albania	President of the Chamber
Law Faculty, Tirana University	Lecturer / Env Law expert
Ombudsman	Ombudsman
Albanian Helsinki Committee	Director
Res Publica	Director
REC Albania	Director
Eco Albania	Director
PPNEA	Director
WWF Adria	Director
Integration Local Action Group (Dibra)	Director
AOS	Director
ILIRIA	Director
Mileukontakt	Director
Eco Movement	Director
SHBO	Director
Co - Plan	Project Manager
BIRN	Journalist
Eden	Director
Four Paws	Director
ECOPartners	Director
CLE	Director
EU Delegation in Albania	Environmental Programmed Manager
OSCE	NPO, Environmental & Local Governance
EU4Justice project	Lawyer
	Judge
Confindustria	General Director

Institution	Position
SCAN TV	Invited
Citizen Channel / Freelance	Invited
BIRN	Journalist
Top Channel	Invited

Annex VI: Data on environmental cases

5. Data collection: Observations, remarks and measures for action in the field of climate and environmental justice

To measure the impact of processes implemented in the field of climate and environmental justice, it is necessary to have some reliable quantitative data. It is clear that basic data is often lacking or incomplete. This is partly due to the weakness of information gathering systems in the countries concerned.

This note attempts a first approach to this question, by examining the different categories of information data required.

Domain or thematic data

Eurostat has produced a series of statistics on several topics, including waste, air pollution and pesticides use. These series concern the CEJ Convergence Project countries.

They enable us to assess trends in compliance or the approximation of averages observed in EU Member States.

Data on regulatory and compliance controls

There do not appear to be any recent, reliable data on checks carried out to verify compliance with regulations or administrative police measures.

Data related to criminal investigations

There is some data on police activity in criminal matters, but in none of the countries is the granularity sufficient to provide information on investigations carried out in cases of environmental damage (macro category) or more specific areas (such as illegal waste).

Data on justice systems

Data on justice systems are available to enable comparisons to be made, notably in the CEPEJ databases. These enable trends to be assessed based on parameters monitored over a long period.

The World Bank has just produced a fact sheet providing information on North Macedonia¹⁹⁹. However, in the two sources available, the degree of precision obtained does not allow us to identify the environmental theme, either in general terms or in more specific terms (air pollution, water pollution, etc.). As a result of these observations, a significant amount of documentary work needs to be undertaken to measure starting points and impacts.

All these factors mean that, in parallel with the roundtables, we need to carry out special expertise that is essential for assessing the project's results and measuring its impact.

¹⁹⁹ see World Bank. Prosperity Data360 Justice Country Snapshots: North Macedonia (English). Data360 Justice Factsheets Washington, D.C.: World Bank Group.
<http://documents.worldbank.org/curated/en/099559512232442593/IDU14a6ba4761402114e0d1841f1a737e7005779>

Annex VII: Additional Resources

VII.1. Some Examples of Local Participation

Local Referendum: A Yet Rare but Promising Process

In environmental matters, the use of local referendums appears to be a fruitful idea. Indeed, it seems appropriate to involve citizens directly in the adoption of decisions that will directly affect their living environment, whether this involves a plan or program or authorizing an infrastructure or equipment project.

International or regional human rights instruments do not contain any explicit standards concerning referendums, whether national or local. However, referendums are indirectly protected by provisions guaranteeing the right to political participation²⁰⁰. Similarly, provisions relating to human rights, and in particular the prohibition of discrimination and the protection of freedom of expression, govern the conditions under which referendums may be organized²⁰¹. The only text which expressly mentions the right of citizens to participate in local referendums is the European Charter of Local Self-Government, which the three countries have ratified²⁰².

In fact, in the article 3 (2) and the article (5), we can read that:

“This right [to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population] shall be exercised by councils or assemblies (...). This provision **shall in no way affect** recourse to assemblies of citizens, **referendums** or any other form of direct citizen participation where it is permitted by statute”.

More specifically, the Article 5 determinates that:

“Change in local authority boundaries **shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum** where this is permitted by statute”.

So, the European Charter of Local Self-Government states that local referendums as forms of direct participation may be used to exercise the right of citizens to participate in the management of local affairs, including environmental matters. This provision has been reinforced by the additional protocol to the European Charter for self-government which comes into force on June 2012²⁰³. The Article 2 (2) (ii) provides for a local referendum as a measure to implement the right for citizens to participate in the affairs of a local authority.

Since then, several legal instruments have encouraged the setting up of local referendums or even suggested that they should be held when decisions of local interest or of interest to a particular community are to be taken²⁰⁴.

To ensure genuine public participation, the rules governing referendums must be clear and like those governing elections (impartial body responsible for organizing the referendum, rules governing the funding of the referendum campaign, regulation of speaking time for supporters

²⁰⁰ For example, International International Covenant on Civil and Political Rights, article 25 (a), December 16, 1966.

²⁰¹ The liberty of expression and association guarantees that citizens must have the opportunity to influence public debate or to organize themselves with a view to influencing it.

²⁰² Albania ratified it in April 4, 2000, and it entry into force on August 1, 2000; Montenegro ratified it on September 12th, 2008 and it came into force on January 1n 2009 ; for North Macedonia, the ratification was on June 6, 1997 and it came into force on October 1, 1997.

²⁰³ Council of Europe, Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, Utrecht, 16.XI.2009. Albania has not ratified this Protocol whereas it entry into force in North Macedonia on January 1 2016 and Montenegro on June 1st , 2012.

²⁰⁴ CCPR, General Comment N° 25: Article 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service, 12 Juillet 1996, CCPR/C/21/Rev.1/Add.7; European Council, Referendums: vers de bonnes pratiques en Europe, 2005, Recommandations de l'APCE ; Venezia Commission, Lignes directrices révisées sur la tenue des référendums, 8 October 2020, CDL-AD (2020)031.

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)031-f](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)031-f)

and opponents of the referendum, control of the question submitted to the referendum, control of electoral lists, informing and educating voters).

Recently, new proposals have emerged to limit the risks associated with referendums, particularly when they are initiated by citizens. The risks of manipulating public opinion, or of demagogic or plebiscitary practices, are well known. The development of digital techniques of influence is undoubtedly renewing and strengthening them. Similarly, the complexity of the issues is often perceived as a limit because complex questions rarely call for binary yes/no answers.

To overcome these risks, combining the referendum with an assembly of citizens drawn by lot appears to be a possible solution. This arrangement already exists in various countries. In those cases, the question submitted to a referendum is first examined by an assembly made up of citizens chosen by lot. The role of the citizens' assembly may be to examine the proposal to provide the electorate with an impartial opinion on this proposal²⁰⁵. But, in other cases, the citizens' assembly does not issue an opinion. It examines the question submitted to the referendum and, after hearing all the points of view, summarizes all the arguments for and against the proposal and submits its work to the electorate²⁰⁶.

A local referendum does not necessarily have a decision-making role. It may be a form of public consultation, more demanding than the average.

In France, for example, local consultation on projects likely to have an impact on the environment has been created in 2016²⁰⁷. It enables the State, when considering issuing the authorization required for a project that are likely to affect the living environment, to seek the opinion of the citizens most directly concerned. All municipalities whose environment is likely to be affected by the project are concerned. People registered on the electoral rolls of the municipalities concerned, who are French citizens or citizens of a member state of the European Union, may take part in the consultation. They make their opinion on the project known by answering "yes" or "no" to a question set out in a decree deciding on the consultation, indicating its purpose, date and scope, and convening the electors.

The National Commission for Public Debate (CNDP) prepares an information file on the project that is the subject of the consultation²⁰⁸. This file includes a summary document that clearly and objectively presents the project, the reasons for it, its characteristics, and the state of progress of the procedures, its impact on the environment and the other effects it is expected to have. It mentions the main documents that may be of interest to voters and includes links to websites

²⁰⁵ For example, in 2012, the Irish parliament set up an independent constitutional convention with 100 members (66 citizens chosen by lot, 33 parliamentarians appointed in proportion to the groups in the lower house and a magistrate appointed by the government, who chaired the convention). It was asked to make recommendations on a series of constitutional reforms (such as the age of citizenship, the length of the presidential term, the voting system, same-sex marriage and the decriminalisation of blasphemy). The government was not bound by these recommendations but was obliged to respond to them within four months and to indicate whether it intended to put them to a referendum. The recommendations adopted by the convention led, from 2015 onwards, to a series of referendums. The most notable was on same-sex marriage, which was eventually approved. Following this experience, a Citizens' Assembly was set up in 2016, also with 100 members (99 representative citizens chosen by lot and, as chair, a magistrate appointed by the government). Its remit is to make proposals on several subjects, including voluntary termination of pregnancy, the challenges and opportunities of ageing, policies to tackle climate change and referendum procedures. V. D. Courant, « Des Mini publics pour sauver le climat ? Analyses empiriques de l'Assemblée citoyenne irlandaise et de la Convention citoyenne française », Archives de Philosophie du droit, 2020, n°1, t.62, p.485.

²⁰⁶ It's the case in Oregon, in USA with the Citizen Initiative Review. This is a deliberative assembly of 25 people chosen by lot, whose purpose is to provide the information citizens need before they vote. It therefore takes place after a popular initiative has been drawn up and drafted, and before it is put to the vote. Such assemblies exist in several places, but in the case of Oregon, they are an integral part of the legislative process, and their recommendations appear in the voting material officially provided to voters. Cody Hoelsy, « Reforming Direct Democracy: Lessons from Oregon », California Law Review, vol. 93, n° 4, juillet 2005, pp. 1191-1248.

²⁰⁷ Ordonnance n° 2016-488 du 21 avril 2016 relative à la consultation locale sur les projets susceptibles d'avoir une incidence sur l'environnement

²⁰⁸ Article L123-26 of the Environment Code.

where these documents can be consulted. The dossier is available online on the CNDP website. Mayors provide voters with an Internet access point where they can consult the documents. A letter of information on the organization of the consultation, together with two ballot papers, is sent by the State to each voter. The consultation is organized by the mayors in accordance with the procedures set out in the Electoral Code. The cost is borne by the State.

This procedure has been used once, in connection with the construction of an airport at Notre Dame des Landes²⁰⁹. The scope of the consultation was discussed insofar as it did not restrict participation to residents directly affected by the project. In the end, the government chose not to follow the results of the consultation, which were in favor of building the airport, because of the strong opposition to the project. A few lessons can be drawn from this experience: public consultation must not be used by the State to build social acceptance for a project that has been rejected by the residents most affected. Holding a referendum is not enough to resolve the crisis arising from the rejection of a project by residents²¹⁰.

Local Consultation on Projects Having an Environmental Impact

Local consultation under the CNDP

The CNDP, the independent authority granting information and public participation in matters of environment, must be “solicited”²¹¹ for projects that fall into one of the ten categories defined in the table article R.121-2 of the French Environment Code, whose technical or cost characteristics fall between the low and high thresholds defined in the code.

The project manager then has two options:

- Either “refer” the project to the CNDP. In this case, the CNDP decides on the terms and conditions of prior participation: *consultation or public debate*. In these processes, the freedom of third-party guarantors in terms of public information and participation regarding the project and environmental issues is important, and is only loosely regulated by law in terms of deadlines, neutrality and deliverables.
- Or “request the appointment of a guarantor”. In this case, the guarantee of the public’s right to information and participation is weaker, since the CNDP does not validate the terms and conditions of participation. However, a right of referral for third parties is then opened up, enabling them to refer the matter to the CNDP instead of the project manager, in order to have a stronger guarantee of their rights. Third-party referrals to the CNDP give rise to a decision by the CNDP, as if the project had been referred to by the project manager.

Third parties that can refer to CNDP are:

- 10,000 adult EU nationals resident in France;
- 10 members of parliament (senators or deputies);
- local authorities (at all levels) with responsibility for spatial planning and with a territorial interest in the project, plan or program;
- an approved environmental protection association.

This leads project owners to be more careful and refer more often to the CNDP. Indeed, some projects try to avoid public engagement by decreasing their budget or scope, leading to local contestation from NGOs but also from local authorities. This can end in a full blockage of the

²⁰⁹ Le Monde, « Référendum pour Notre-Dame-des-Landes: le oui l’emporte à 55,17 % », 26 June 2016, https://www.lemonde.fr/planete/article/2016/06/26/notre-dame-des-landes-premiers-resultats-pour-le-referendum_4958521_3244.html

²¹⁰ Marion Paoletti, « The creation of a new referendum to “solve the crisis” of Notre-Dame-des-Landes », 2017, Revue française de droit constitutionnel, N° 109(1), p. 173.

²¹¹ https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000048247378

project which might be discontinued or, very often, to legal cases and complaints to the administrative courts. Those can also rule against the project, making its implementation longer or forcing the project owner to abandon it.

Local Voluntary Consultation: A Growing Process

Even when projects' size and costs don't fall under the law, more and more industrial or energy project owners decide on their own to organize a local public consultation before the **Public Inquiry**, mainly to anticipate legal complaints, disturbances and even project blockage.

Indeed, the ZAD phenomenon - Notre Dame des Landes, Bure, A69, the massive demonstrations such as Sainte Soline, combined with the rise of direct-action environmental activists; raise greater concern for project managers, who are more cautious when arriving in local municipalities. To do so, they implement a public consultation with their own dedicated team or through specialized consulting firms. Most of these consultations are designed to involve local stakeholders and authorities, but also the local residents. That is to say any person or legal entity that could make a complaint.

The quality of those consultations can be rightfully questioned and undermined, as the information is mainly provided by the project owner and the EI studies often arrive too late within the process. That being said, one of these volunteer consultations can participate in substantive modification of projects or their cancellation when they're in a "hostile environment". In the latter case, the project owner usually publicizes its decision before the end of the public inquiry.

Whatever impacts those consultation have, their positive impact is to broaden a participatory culture concerning the environment.

Local Authorities' Initiatives

Based on Citizens Conventions or permanent citizens' Assembly, such as the Brussels citizens' assembly²¹², a significant number of local authorities implement deliberative processes, on climate change and green transition with randomly drawn and yes demographically and socially diverse, citizens.

The Metropolitan council of Grenoble in France was the first local authority to implement a local citizens' convention on climate²¹³ with 100 hundred citizens working for a year (2022-2023), given expertise insights on two main questions: How to reduce GHG emissions? How to reach carbon neutrality by 2050?

The Citizens' convention outcome consisted in 219 propositions from which all of them under the scope of the Metropolis were submitted to the Metropolitan Council in April 2023. All the proposals presented were approved by a very large majority. Some of them should be included in the future Metropolitan Climate Air Energy Plan.

These types of citizens' deliberative process have a major political component: most of them in France, if not all, are by cities led by green or left-wing political parties. The case of Grenoble is interesting, not only as a pioneer, but because of the bad air quality. Still, in this top 10, air

²¹² <https://en.agora.brussels/post/guide-to-citizens-assemblies> Citizens' proposals were presented and advocated for by our spokesperson, who is elected to the Brussels Parliament, with the aim of influencing the legislative process and ensuring that the voices of the population are heard. This initiative sought to institutionalize the Brussels Citizens' Assembly, envisioning it as a body with legislative authority that can operate in parallel with the elected Parliament, fostering collaboration and complementarity between the two entities. Such an approach aims to deepen democratic engagement, bridge the gap between citizens and policymakers, and ensure that decisions better reflect the collective will and might have been perceived as too radical within representative democracy. Also it should be highlighted that none of the proposals that Agora submitted to the Brussels parliament were adopted. When push came to shove, Brussels politics did not warm to the proposals that the citizens' assemblies produced. cf. Sampol.

²¹³ <https://www.grenoblealpesmetropole.fr/251-la-convention-citoyenne-pour-le-climat.htm#par1148>

pollution is steadily decreasing and awareness dispositives have been implemented. An example is the installation in one of the pylons on the Grenoble-Bastille cable, a light illuminated every evening in function of the air pollution levels. The color represents the quality of the air the inhabitants will be breathing the next day.

In Denmark, the city council of Copenhagen decided on establishing a three-year (semi-permanent) citizens' assembly²¹⁴ tasked with giving recommendations to the next climate plan for the municipality of Copenhagen. As in "mini-public" citizens' convention, randomly drawn participants are at the heart of the process. The citizens assembly started in 2023 and will complete its mandate by 2026 summed up by this question: *"What does a good Copenhagen life look like with far fewer greenhouse gas emissions from the consumption of food, housing and transportation, and how can we best get there together?"*. Similar to France, this initiative of local authorities followed the national citizens' assembly on climate issues²¹⁵.

We thus can make the hypothesis that successful national deliberative processes on climate and environment issues may be declined at a local level if authorities, political ones, are on board. It might be easier to implement citizen's recommendations at a local level too, but literature is not extensive on this matter. The main limit of processes is the difficult link to decision making within representative democracies. The main success is to legitimize citizens capabilities and credit to think the future and to give "user expertise", really important at the local level.

Finally, it should be noted that all the cases provided above have an online and offline participatory methodology. The online tool working best for information and vote, and the offline being applied to co-creation and deliberations. Similarly, most of the processes rely on an assembly or "mini-public" of randomly selected citizens who have access to scientific and technical expertise. These processes and methodology of selection are interesting but start to be contested in the field: each public participation and information process must be tailored to the aims and constraints of the project and planning, especially in matters of climate and environment.

VII.2 Bibliography of Environmental Law in the Western Balkans

Article

1. Climate change in the Western Balkans and EU Green Deal: status, mitigation and challenges Knez, Sandi; Štrbac, Snežana; Podbregar, Iztok

Energy, sustainability and society, 2022-01, Vol.12 (1), p.1-14, Article 1; Background The European Commission (EC), based on the European Green Deal (2019) and the Recovery plan for Europe (2021), envisages investing 30% of the budget in climate-related programs, projects, and initiatives, which clearly shows Europe's commitment to becoming the first climate-neutral region by 2050. Activities are also planned for countries that are not members of the European Union (EU), which require complex changes in the field of legislation, strategic planning, implementation, and monitoring. To successfully plan short-term and long-term activities on these grounds, it is necessary to have a realistic picture of the state of climate change in each country—as they spill over into the entire region of Europe. The main objective of this paper is to answer the following questions: (i) is climate change observed in Western Balkans? (ii) how are certain sectors vulnerable to climate change in Western Balkans? (iii) what are the climate change adaptation strategies in the six countries of the Western Balkans? The answers to these questions can help in planning activities and initial alignment of Western Balkan countries with the EU plan to achieve net zero greenhouse gas (GHG) emissions by 2050. Main body. The main results of the research show that in all countries of the region, the average annual temperature

²¹⁴ <https://partizipation.at/methoden/buergerinnenrat-citizens-assembly/>

²¹⁵ https://www.kefm.dk/Media/637647201779892262/Borgertingets%20anbefalinger_ENG.pdf

increased by 1.2 °C compared to 1970, with stabilization and the beginning of the decline which can be expected around 2040. The main reasons for climate change in the region are: industry, energy, and heating sector based on coal exploitation, low energy efficiency, etc. Conclusions: Croatia as a member of the EU has adopted, and other five Western Balkans countries are in the process of adopting the necessary regulations and strategies towards climate change mitigation, but the implementation of specific activities is at a low level. The reason for this most often lies in the insufficient commitment of decision-makers to make significant changes in the field of climate change transition (lower level of economic development, lack of investment, and preservation of social peace). Finally, this paper provides an overview of climate change by country, scenario analysis, and policy recommendations.

Article De Revue

Article 2. The Impact of ESG Risks on the Economic Growth in the Western Balkan Countries Delova-Jolevska, Evica; Ilievski, Andrej; Jolevski, Ljube; Csiszárík-Kocsir, Ágnes; Varga, János

Sustainability, 2024-10, Vol.16 (19), p.8487; the economy is significantly impacted by environmental, social, and governance (ESG) risks. The growth of the economy can be sped up by the effective management of ESG risks through sustainable business practices. To promote sustainable development and to secure the long-term welfare of employees, customers, and all other stakeholders in the economy, companies must adapt and reposition their business strategies and organizational cultures. The goal of this paper is to determine how a set of common ESG elements, chosen from the viewpoints of sustainability and well-being, influence economic growth in the Western Balkan countries. For each ESG component, we used different variables. The information pertains to the five Western Balkan countries of North Macedonia, Albania, Montenegro, Bosnia and Herzegovina, and Serbia. Because of a lack of data, Kosovo is excluded from the study. Then, we compared results from the analysis of the Western Balkan countries with a set of countries in Southeast Europe, which are members of the European Union and essentially coincide with the Western Europe countries. We performed multiple regression analysis with applied fixed effects to the data model. According to the study's findings, each of the independent variables had no significant impact on the GDP's annual growth of the Western Balkan countries, but two of the variables, life expectancy at birth and labor force participation, have certain impact on the GDP growth of Southeast Europe countries, which are members of the European Union. The green transition has gained significant importance in the Western Balkan countries as a crucial pathway toward sustainable economic growth, though it introduces a range of new social and economic challenges. Economically, these nations are confronted with considerable funding requirements for development. To build sustainable societies, it would be beneficial for these countries to explore more creative financing strategies. It is advised to establish financing frameworks that not only increase the transparency in policymaking but also ensure greater accountability in their execution.

... Strategies and organizational cultures. The goal of this paper is to determine how a set of common ESG elements, chosen from the viewpoints of sustainability and well-being, influence economic growth in the Western Balkan countries...

Livre

3. OECD Development Pathways Multi-dimensional Review of the Western Balkans Assessing Opportunities and Constraints. OECD. 2021

The Western Balkans region has come a long way over the last two decades in achieving economic and social progress. With a population of 17.6 million, the region today boasts a combined gross domestic product (GDP) of close to EUR 100 billion, an average GDP per capita of about EUR 5 400 and a comprehensive process of integration with the European Union.

Livre

4. Evolving practice in EU enlargement with case studies in agri-food and environment law Inglis, Kirstyn. 2010

Following some ten years as a practicing lawyer and consultant, Kirstyn Inglis has been researching the evolving legal practice of EU enlargement for over ten years. This book, succinctly, introduces this evolving practice, covering 'transitional arrangements' in accession treaties, the Treaty of Lisbon, recent European Court case law, the specific governance challenge of incorporating Bulgaria and Romania and the strategy for future enlargements to bring in the Western Balkans and Turkey. In part two, the examples of the environment and the agri-food acquis are explored, including the analysis of the transitional arrangements in practice. Overall, the diversity and complexity of the pre-accession and post-accession challenge of enlargement becomes apparent, as do key challenges for the evolution of the *acquis communautaire* in an enlarging Union at a time when Croatia is waiting to sign its own accession treaty.

Article

5. Governmental investment in the environmental economy in the Western Balkan Šogorov-Vučković, Jelena; Piksiades, Dušan; Trifunović, Ivan

European journal of applied economics, 2022, Vol.19 (1), p.121-136; "A Green economy" has been one of the key agendas that governments all over the world have set as a goal to achieve. The last few decades have been critical for the recognition of this major problem, and they played a critical part in reversing the effects brought on to our planet with the acts of people and other natural factors. Governments have devised multiple plans to enforce regulations that would protect the environment we live in, and most of these plans have been spearheaded by the United Nations (UN) and the European Union (EU). They have developed several plans that have a task to minimize, or escalate, the effects of global warming until 2050. Covered by these plans are almost all of the World's countries, and a majority of these actions are connected with the economy and sustainable development. The Western Balkan region has recently started implementing Eco laws and trying to make the environment more energy efficient. The WB countries have also undergone serious economic improvement in the environmental field. This paper analyses the progress of the Western Balkan countries, its onset and implementation, as well as plans for future economic investment. The countries that will be analyzed are Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia. The analyses in the paper include the presentation of legal regulations and the economic perspectives of the plans that need to be implemented in these countries, as well as their investment potential concerning the green economy. Since all of these countries tend to become members of the EU in the future, these results would be compared with the average measures performed by the EU countries. The paper hypothesizes that Western Balkan countries have lower average rates than EU countries, and would have to focus not only on making a more stable legal perspective concerning Eco laws, but also a more environmentally stable economy.

Article

6. The new kids on the block - Building environmental governance in the Western Balkans Fagan, Adam

Acta politica, 2010-04, Vol.45 (1-2), p.203-228; The influence of the EU over environmental policy frameworks, plus the availability of project funding for environmental NGOs in acceding and candidate states across post-socialist Europe has significantly shaped action repertoires, issue agendas and patterns of mobilization. It has also been claimed that EU intervention has determined the institutionalization of 'green' civil society networks by the introduction of, for example, EIA processes and policy-making norms that emphasize intersectoral partnership and multilevel governance. However, research on the impact of EU assistance for environmental

mobilizations in Bosnia and Herzegovina and Serbia reveals the extent to which EU intervention and influence builds professionalism, but only partially institutionalizes recipient environmental NGOs; if they are accorded political access at all, it is ephemeral and within less contentious policy areas where they are encouraged to deliver expertise and assistance rather than to act as advocates for community interests or to express political opposition to contentious developments. This article concludes that the professionalization and increased managerial capacity of a handful of ENGOs cannot be equated with good governance and with the institutionalization of non-governmental actors. Indeed, increased professionalism is invariably confined to a very narrow spectrum of policy enactment and is insufficient to generate environmental governance in the absence of state or governmental capacity.

The influence of the EU over environmental policy frameworks, plus the availability of project funding for ENGOs in acceding and candidate states across post-socialist Europe has significantly shaped...

Article

7. Open Balkan Initiative: A Contested Issue in the EU Membership Perspective

Tota, Elton; Culaj, Gjon

Journal of Liberty and International Affairs (Bitola), 2023-03, Vol.9 (1), p.312-324; The Open Balkan is the latest regional initiative in the Western Balkans (WB), firstly named as Mini-Schengen and then changed to Open Balkan Initiative (OBI), which aims to increase the regional economic cooperation among the WBs by going beyond the mere objective of creating a Common Regional Market (CRM). This paper using an analytical approach, taking into account data and information, has identified and highlighted the openly declared objectives of the OBI while comparing it with the previous Berlin Process. Also, the paper has shown that the disputes among the WB countries most inherited from the unresolved issues of the past are still present and hinder the progress towards a common future and EU membership perspective. The reactions to the OBI proved that even the creation of mere economic cooperation is hardly achieved in the case of other existing unresolved issues of the past and continues to remain open. This paper has highlighted the existence of mistrust among the WBs, the importance of increasing regional cooperation, and the role that the EU should inevitably play. The paper has concluded that to achieve the targets defined in the OBI, the WBs should enhance regional cooperation and overcome the challenges they have been facing.

The Open Balkan is the latest regional initiative in the Western Balkans (WB), firstly named as Mini-Schengen and then changed to Open Balkan Initiative (OBI...

Article

8. The Ripple Effects of Compliance: Reconfiguring EU Policy Effectiveness in Trans boundary Environmental Governance

Lappe-Osthege, Teresa

Journal of common market studies, 2024-05, Vol.62 (3), p.653-670; Research on EU policy effectiveness focuses on implementation and compliance within the EU; however, there is a need for a greater understanding of how and why trans boundary socio-ecological issues challenge policy effectiveness beyond the EU's borders. This article introduces the innovative concept of 'ripple effects' of compliance, which are harms perpetuated by structural inequalities, and discusses their implications for EU environmental governance. Contributing to transnational compliance research by integrating political ecology and green criminology, the analysis builds on qualitative data on the illegal bird trade from the Western Balkans into the EU. It demonstrates that compliance with conservation policies within Member States undermines EU policy objectives through crime displacement and institutional misfit, which externalize environmental

harm to the Western Balkans. Increased enforcement and monitoring of policy implementation alone cannot function as a panacea for policy ineffectiveness. Addressing these dynamics requires strengthened multilevel and cross-jurisdictional governance that encompasses entire ecosystems.

Contributing to transnational compliance research by integrating political ecology and green criminology, the analysis builds on qualitative data on the illegal bird trade from the Western Balkans into the EU.

Actes de colloque

9. Western Balkans' Environmental Performance Toward EU Integration and Sustainable Development: A Comparative Analysis

Dosti, Bernard; Doci, Silvana; Kule, Ditjona

Economic and Social Development: Book of Proceedings, 2024, p.47-56; this comparative analysis highlights the environmental performance of the Western Balkans region in its path of EU integration and sustainable development. In the framework of European integration, all WB countries have made progress in their policies designed in the direction of environmental protection and climate change. However, due to the complex regional dynamics and the transition process, the environmental performance is far from the average of the countries of the European Union. As a result, Western Balkan countries, which intend to integrate into the European Union, must increase their efforts to approximate their environmental legislation with European standards as soon as possible not only theoretically but also practically. This research paper highlights the achievements and challenges of the countries in improving environmental performance, ensuring their integration into the European Union and promoting sustainable development in the long term.

This comparative analysis highlights the environmental performance of the Western Balkans region in its path of EU integration and sustainable development.

Article

10. A Comparative Analysis of Key Public Service Areas in Western Balkans: Where Do We Stand?

Reianu, Diana-Gabriela

Research and science today, 2021-04, Vol.21 (1), p.15-26; the main aim of this paper is to provide an overview of the state of play and the main recent developments in the field of public administration in the six countries of the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia), highlighting the similarities and the differences between these countries. The study focuses on key indicators on how governments in this region work and perform, underlining the achievements and the shortcomings in the following three areas: policy making, public service, and service delivery. Although it is clear that the countries of the Western Balkans face challenges and shortcomings in implementing public administration reforms, the results emphasize the existence of formal rules and the steps made towards complying with these standards.

The main aim of this paper is to provide an overview of the state of play and the main recent developments in the field of public administration in the six countries of the Western Balkans.

Article

11. The Constraints on European Institutions' Conditionality in the Western Balkans

Pickering, Paula M.

Europe-Asia studies, 2011-12, Vol.63 (10), p.1939-1944; The essays in this collection bring together recent field research in the Western Balkans to increase the understanding of the conditions under which European and Euro-Atlantic institutions' conditionality contributes to or undermines democratic state building. A key strength of these essays is that they call attention to the often underdeveloped and misunderstood complexities of the domestic political situations which influence multinational corporations' conditionality and vice versa. While quite a few of the authors contend that selected EU strategies have had a negative impact on aspects of political development in the Western Balkans, none of the authors argue that the Western Balkans would be better off without the possibility of accession to the EU or involvement with other European institutions. Instead, they suggest that the details of EU conditionality deserve greater attention so that they can better cultivate democratic reform that is meaningful both to Western Balkan citizens and that meets European standards.

The essays in this collection bring together recent field research in the Western Balkans to increase the understanding of the conditions under which European and Euro-Atlantic institutions.

Article

12. Western Balkans Regional Common Market. What Lesson Can Be Taught from EEA? - A Case Study of Public Procurement

Kováčiková, Hana

Strani pravni život, 2020, Vol.64 (4), p.133-145; The European Union pursues on the international scene to safeguards its values, support the rule of law, foster the sustainable economic, social and environmental development and support the integration of all countries into the world economy including through the progressive abolition of barriers on international trade.¹ Trade agreements are used as an effective tool to this end. Within its present external action, European Union tries to cover its trade relations regionally homogenously. Through regionally homogenous trade agreements, Union can export its values, principles, and rules easier, which is also a way of strengthening its position geopolitically. This paper analyses trade agreements concluded between the European Union and candidate countries from Western Balkans. All these agreements recognize the accession to the European Union as their final goal. To achieve it, candidate countries need to fulfill various conditions, including the approximation and harmonization of their legal orders with the EU acquis. Just recently (in November 2020), Western Balkans countries' leaders announced the creation of Regional Common Market which shall serve as a tool for approximation with European Union's Internal Market Rules. To this regard, the author analyzed the European Economic Area, where the export of European Union's Internal Market Rules was successfully realized, and which might therefore serve as an example for pre-accession cooperation between Western Balkans countries and European Union. Author chose the area of public procurement as a model case study.

The European Union pursues on the international scene to safeguards its values, support the rule of law, foster the sustainable economic, social and environmental development and support.

Article

13. The Impact of Sustainable Development on Risk Management in the NPL Portfolio in the Western Balkan Countries

Đalić, Tamara; Barjaktarović, Miljana; Cogoljević, Vladan

Oditor, 2023-12, Vol.9 (3), p.177-214; The concept of sustainable banking is based on the principle of achieving growth and profits for the bank and shareholders, but only by also achieving social goals and caring for environmental preservation. Providing new banking services and creating new (green) banking businesses that not only generate profits but also broader social

and environmental objectives present opportunities for creating a competitive advantage, both in the Western Balkan countries observed in this study and in all countries worldwide. In this study, we will focus on analyzing macroeconomic parameters in the Western Balkan countries to examine the impact of selected indicators on the performance of the banking system, with a particular emphasis on the social and environmental protection components. The results indicate that the unemployment rate is the most significant indicator of potentially risky events for bankers, and banks are not recognized in the current environmental preservation strategies in the Western Balkan countries. Therefore, it is necessary to educate the population first and simultaneously promote green loans as sustainable and more favorable in the long term than traditional loans, while updating the existing regulatory framework in the field of environmental protection. *Koncept održivog bankarstva zasnovan je na principu ostvarivanja rasta i profita za banku i akcionare, ali samo uz postizanje socijalnih ciljeva, kao i brigu o očuvanju životne sredine. Pružanje novih bankarskih usluga i kreiranje novih (zelenih) bankarskih poslova, kojima se osim profitnih, ostvaruju i širi društveni i ekološki ciljevi, šanse su sa stvaranje konkurentne prednosti, kako u zemljama Zapadnog Balkana posmatranim u radu, tako i u svim zemljama sveta. U ovom radu ćemo se fokusirati na analizu makroekonomskih parametara u zemeljama Zapadnog Balkana radi ispitivanja uticaja odabranih pokazatelja na performanse bankarskog sistema, sa posebnim osvrtom na društvenu i komponentu zaštite životne sredine. Rezultati ukazuju na to da je stopa nezaposlenosti najznačajniji pokazatelj potencijalno rizičnih događaja za bankare, kao i banke nisu prepoznate u nacionalnim strategijama o očuvanju životne sredine koje su u zemljama ZB trenutno na snazi. Shodno tome, prvo je neophodno vršiti edukaciju stranovništva, a paralelno promovisati zelene kredite kao odžive i na dug rok povoljnije od tradicionalnih kredita, uz ažuriranje postojećeg regulatornog okvira u domenu zaštite životne sredine.*

Opportunities for creating a competitive advantage, both in the Western Balkan countries observed in this study and in all countries worldwide.

Actes de colloque

14. A Systematic Review for Financial Crimes In Western Balkan Countries

Vardari, Luan; Vardari, Dena Arapi

Economic and Social Development: Book of Proceedings, 2023, p.140-148; Financial crimes are a major concern for law enforcement agencies and policymakers in Western Balkan countries due to their potential to cause significant harm to individuals, businesses, and economies. This systematic review aims to provide a comprehensive analysis of the existing literature on financial crimes in Western Balkan countries, including the nature, scope, and impact of these crimes, as well as the measures taken to address them. The review finds that financial crimes, including money laundering, tax evasion, fraud, corruption, and bribery, are prevalent in the region, with varying degrees of severity across different countries. The weak regulatory environment in some Western Balkan countries is identified as a contributing factor to the prevalence of financial crimes. The impact of these crimes on the region's economies can be significant, leading to reduced foreign investment, decreased economic growth, and increased poverty. The findings have significant implications for policymakers and other stakeholders involved in addressing financial crimes in the region. Measures to address financial crimes, including anti-money laundering laws, financial intelligence units, and the strengthening of law enforcement agencies, have been implemented, but their effectiveness varies. Further research is needed to understand the nature and extent of financial crimes in the region, as well as the effectiveness of measures taken to address them, to inform policy and law enforcement efforts in the fight against financial crimes in Western Balkan countries.

Financial crimes are a major concern for law enforcement agencies and policymakers in Western Balkan countries due to their potential to cause significant harm to individuals, businesses, and economies.

Livre

15. Energy in the Western Balkans: The Path to Reform and Reconstruction

Publishing, OECD; Agency, International Energy 2008

The Western Balkans – composed of Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo – is a complex region facing significant energy challenges. This is the first comprehensive review of energy policies and strategies in the Western Balkan region, and also covers important cross-cutting topics such as co-operation and energy trade, oil and gas transportation, and the links between energy and poverty. It identifies and assesses the reforms that are still needed to deliver efficient, modernized energy systems that can assist economic development, address energy poverty and reduce the environmental impacts of energy use.

The Western Balkans – composed of Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo.

Article

16. Alignment of National Forest Policy Frameworks with the EU Timber Regulation Requirements: Insights from Montenegro and the Republic of Srpska (Bosnia and Herzegovina)

Radosavljevic, Maja; Masiero, Mauro; Rogelja, Todor; Comic, Dragan

Forests, 2023-06, Vol.14 (6), p.1157; The Western Balkans represent a priority area for improving forest legality monitoring systems in line with the European Union Timber Regulation (EUTR). However, research on EUTR implementation in Western Balkan countries is still sporadic with a limited geographical scope; therefore, the preparedness of forestry sector actors for the EUTR in the region is largely unknown. The main objective of this study is to determine to what extent the forest policy frameworks of Montenegro and the Republic of Srpska (Bosnia and Herzegovina) are aligned with the EUTR requirements. To achieve this aim, we applied a qualitative content analysis of policy documents identified via an expert-based approach. Our results show that both countries have well-developed policy frameworks addressing illegal logging and preventing illegal activities in forestry, especially through dedicated action plans. Key actors in both countries are public, including the ministries responsible for forestry, public forest enterprises, and forestry inspectorates. The forestry sector in Montenegro is facing significant changes due to the termination of forest concessions and the reorganization of the management of state forests, including forest certification. The Republic of Srpska has relatively well-established institutional bodies for EUTR implementation but, in some cases, insufficient exchange of information and cooperation among them. Our findings indicate that the forestry sectors in Montenegro and the Republic of Srpska (as well as in Serbia, Croatia, and Slovenia, as per previous research) are dynamic, undergoing various changes, so there is room for improvement in terms of capacities (e.g., human, technological, infrastructural), legal responsibilities, and information access and availability. With an increasing focus on “deforestation-free” commodities within the EU and global policy arena, a new, more demanding, and broader regulation is expected at the EU level, replacing the EUTR. The incoming regulation will expand existing EUTR requirements, likely posing severe challenges to many EU member countries. This could be even more challenging for countries with less developed or advanced systems to enforce legality requirements, including Western Balkan countries.

The Western Balkans represents a priority area for improving forest legality monitoring systems in line with the European Union Timber Regulation (EUTR).

Chapitre de livre

17. Environmental Governance in the Western Balkans

Kujundzic, Olivera; Alberton, Mariachiara; Palermo, Francesco

Article

18. Environmental Protection Through The Prism Of Enlargement: Time For Reflection

Bogojevic, Sanja; Drenovak-Ivanovic, Mirjana

Common market law review, 2019-08, Vol.56 (4), p.949-977; in the wake of crises and "enlargement fatigue", EU politics deprioritized enlargement. Recently, however, the Commission motioned a reinvigorated enlargement prospect for the Western Balkans, identifying Serbia and Montenegro as the front runners. This paper advises that in going forward, the EU should also look back at its five decades of enlargement. The article focuses on environmental protection - a key EU public policy - and the way in which it features in the ever-evolving accession conditions and accession acts. It emerges that environmental protection has been marginalized throughout EU's enlargement history. Taking Serbia as a case study, it is shown that this is highly problematic, since environmental protection is linked to safeguarding the rule of law - an essential criterion for EU membership. The role of environmental protection in the EU's enlargement policies should thus be reprioritized.

Recently, however, the Commission motioned a reinvigorated enlargement prospect for the Western Balkans, identifying Serbia and Montenegro as the front runners.

Livre

19. Environmental Protection in Multi-Layered Systems: Comparative Lessons from the Water Sector

Alberton, Mariachiara; Palermo, Francesco; Alberton, Mariachiara; Palermo, Francesco 2012

The book aims at understanding the current distribution and use of powers over the environment among various layers of government and their consequences on environmental protection, comparing federal, regional and unitary State models and drawing theoretical and practical consequences.

Article

20. Gender Equality as a Goal of the Sustainable Development

Tahiri, Alberta; Kovaçi, Idriz

Calitatea, 2024-09, Vol.25 (202), p.231-241; the purpose of this paper is to shed light on the gender equality in Kosovo. The data shows that there is a very high gender inequality in Kosovo in all aspects of the life. The main reasons for gender inequality in Kosovo are linked to gender stereotypes and patriarchal culture in society and the economy, unequal distribution of family responsibilities, lack of available and affordable childcare responsibilities and also low education levels among women. Although many measures have been taken to reduce gender inequality and empower women in Kosovo, however women empowerment in Kosovo is by far the lowest among the Western Balkan 6 and EU economies with a score of 25.4 out of 100, placing it last in the Women Empowerment Index (ranking in the last 33). The study also contains proposed measures to reduce gender inequality in Kosovo and promote economic empowerment of women.

Although many measures have been taken to reduce gender inequality and empower women in Kosovo, however women empowerment in Kosovo is by far the lowest among the Western Balkan 6 and EU economies with a score.

Article

21. Circular economy and its barriers to implementation in the construction sector

Journal of Applied Engineering Science, 2024, Vol.22 (2), p.279-284; The concept of circular economy has become an important topic during the last decade, because it offers a systems solution framework that creates a closed-loop system to minimize waste and maximize resource efficiency in order to achieve a better balance and harmony between economy, environment and society. The construction industry has significant potential to apply a circular economy model since this industry is responsible for considerable global natural resource extraction and solid waste production. Worldwide, more than 10 billion tons of construction and demolition waste are produced annually, while the demolition alone is responsible for 50% of all waste produced by the building sector. In Serbia, the sectors of agriculture, forestry and fishing, mining, manufacturing, electricity, gas and steam supply, water supply and wastewater management, construction and service activities generated 56.3 million tons of waste just during 2020. Although 80% of construction waste can be recycled according to the Agency for Environmental Protection reports the waste recycling has not yet been established in Serbia. On the other hand, Serbia adopted the Roadmap for Circular Economy in Serbia, the Law of Waste Management, the Regulation on the Manner and Procedure of Waste Management from Construction and Demolition, and accepted the conditions of the European Union for linking the European Green Deal with the strategic development of the region by signing the Green Agenda for the Western Balkans.

This paper provides a brief literature review that introduces the circular economy by presenting its origin, definition and principles as well as the barriers (five categories: technological, economic, socio-cultural, institutional and regulatory) to its wider adoption in the construction sector.

Chapitre de livre

22. Sustainable Waste Management Practices: Challenges in the Republic of Macedonia

Toshevska-Trpchevska, Katerina; Kikerkova, Irena; Makrevska Disoska, Elena; Renko, Sanda; Pestek, Almir; Renko, Sanda; Pestek, Almir

Green Economy in the Western Balkans, 2017, p.109-140; Abstract Over the last 15 years, all the legislation on waste management in the Republic of Macedonia has been brought in compliance with the European legislation. The major challenge in the economy, however, still happens to be the (non) implementation of the enforced laws on green economy. Major constraints in waste management practices remain to be organization of institutions and human resources; financing of services and investments; stakeholder (non) awareness; and lack of technical management in all phases from collection to final disposal of waste. It is not only that the present situation has negative impact on the public health and the environment, but it also has serious negative economic effects which consequently affects issues related to the total economic growth of the country. The paper has a special focus on managing packaging and packaging waste and analyzes the results of the implementation of the Law of Management of Packaging and Packaging Waste which was enforced in 2009. Positive initiatives in waste management practices were undertaken by PAKOMAK, the first Macedonian company that has been holding the license for selecting and processing of packaging waste since January 2011. The company has a proactive role in promoting the importance of packaging waste and its management, with a special emphasis on projects that increase the awareness of the whole society, especially that of the young population. Some of the projects that increase the eco-awareness of young population will be presented in the paper.

The major challenge in the economy, however, still happens to be the (non) implementation of the enforced laws on green economy.

- le dernier ouvrage dirigé par Christel Cournil, "Expertises et argumentaires juridiques : contribution à l'étude des procès climatiques" publié en décembre dernier (et disponible complètement gratuitement en ligne : Expertises et argumentaires juridiques - DICE Éditions). Certains articles vont au-delà de l'Europe, mais il y a pas mal de choses centrées sur l'Europe, et très intéressantes autour de la preuve, du rôle de l'expertise, le rôle des ONG notamment en tant qu'Amicus curiae mais aussi dans la construction d'argumentaires juridiques, etc.

In English:

- Some chapters from Sindico F., Mbengue Makane M. (eds.), Comparative climate change litigation: beyond the usual suspects, Springer International Publishing, 2021:
 - Lieselot Marien and Leonie Reins "Local Liability for Global Consequences? Climate Change Litigation in Belgium" p. 427
 - Vojtěch Vomáčka and Ilona Jančářová "Climate Change Disputes in the Czech Republic" p. 455
 - Barbara Pozzo "The Italian Path to Climate Change: Nothing New Under the Sun" p. 471
 - Erkki J. Hollo "Climate Change and the Individual in the Finnish Legal System" p. 509
 - Rosa M^a. Fernández Egea, Sofia Simou, and Albert Ruda "Climate Change Litigation in Spain" p. 557
 - Vasilka Sancin and Maša Kovič Dine "Emerging Awareness of Climate Change Litigation in Slovenia" p. 575
- Setzer J., Higham C., Global Trends in Climate Change Litigation: 2023 Snapshot, London, Grantham Research Institute on Climate Change and the Environment, LSE, juin 2023 (Global_trends_in_climate_change_litigation_2023_snapshot.pdf)

VII.3 Directive 2024/2013 on the Protection of the Environment Through Criminal Law

The aim of Directive 2008/99 was to ensure environmental protection through criminal law by establishing a common EU framework for certain environmental offences, mainly by reference to sectoral directives. It already noted that compliance with environmental legislation "*must be reinforced by the existence of criminal sanctions, which reflect a disapproval of society that is qualitatively different from that expressed through administrative sanctions or civil compensation*"²¹⁶.

Directive 2024/1203 extends and clarifies this directive, in particular **by defining autonomous offences under European criminal law and setting minimum criminal penalties**, going beyond the usual formula of "*effective, proportionate and dissuasive*" penalties.

Article 3(2) of the directive lists 22 types of behavior that must be made criminal offences (compared with 9 in the 2008 directive). The 2024 directive, which now has the annexes that limited the scope of the 2008 directive removed, paves the way for genuinely general and autonomous offences that criminalize "**unlawful**" conduct. Under the terms of the directive, conduct is unlawful if it violates:

- Union law which contributes to preserving, protecting and improving the quality of the environment, protecting human health, prudent and rational utilization of natural resources and promoting measures at international level to deal with regional or worldwide environmental problems, in particular combating climate change, whatever the legal basis of that Union law; or
- laws, regulations or administrative provisions of a Member State or decisions taken by a competent authority of a Member State which give effect to such Union law.

²¹⁶ Recital (3) of Directive 2008/99.

In addition, such conduct is unlawful **even where it is carried out under an authorization** issued by a competent authority of a Member State *"if such authorization has been obtained fraudulently or by corruption, extortion or coercion"* or *"if such authorization is a manifest breach of relevant substantive legal requirements"* (Article 3 (1), last paragraph). The concept of fraud may be more or less extensive depending on whether it covers administrative and/or criminal practices.

Most of the offences listed in article 3 (2) are defined by reference to failure to comply with sectoral legislation, but there are also autonomous offences.

This is the case with article 3(2)(a) of the directive, which criminalizes any unlawful discharge into air, soil or water of materials, substances, energy or radiation causing or likely to cause substantial damage to an ecosystem, fauna or flora or to the quality of air, soil or water. **This provision thus creates a general offence of pollution.**

Similarly, article 3(2)(b) of the Directive covers **the placing on the market, in breach of a prohibition or other requirement designed to protect the environment, of a product the use of which on a larger scale results in the discharge, emission or introduction of substances into the air, soil or water and causes or "is likely" to cause such damage** (which could be likened to an offence of **endangering the environment**).

Member States have until 21 May 2026 to transpose the directive, and some of them will have to create new offences in order to achieve compliant transposition.

For example, there is **no general offence of soil pollution** in French law, contrary to article 3 (2) (a) of the 2024 directive. Furthermore, **offences relating to greenhouse gas emissions** and more generally to air pollution are probably not adequately criminalized under French law. Finally, the directive classifies at the top of the seriousness threshold the so-called "qualified" offences (referred to in article 3 (2)) when they cause

- *"the destruction of an ecosystem of considerable size or environmental value or of a habitat within a protected site, or extensive or substantial damage that is either irreversible or lasting to such an ecosystem or habitat";*
- *"extensive and substantial damage that is either irreversible or lasting to the quality of the air, soil or water"*

The penalties provided for in the directive range from **3 years**²¹⁷ (offences of illegal water capture; destruction, trade, etc. of protected species; placing on the market of products that do not comply with deforestation regulation; deterioration of habitats on protected sites, etc.) to **5 years**²¹⁸ (emissions; soil pollution; waste trafficking, etc.) of minimum imprisonment for certain offences. Qualified criminal offences must be punishable by a maximum term of imprisonment of at least **8 years**²¹⁹. In fact, environmental damage often results in the kind of damage required by Article 3(3), but this presupposes that **administrative and/or criminal investigations actually establish the damage, in particular through expert reports**. In some cases, nature protection NGOs also have the scientific capacity to document such damage.

In concrete terms, this new directive on the protection of the environment through criminal law aims to provide for criminal law enforcement that is independent of the administrative authorities, entrusted to a judicial judge and whose approach should no longer be purely "regulatory". The Member States have a certain amount of leeway - in particular to go beyond the

²¹⁷ Offences referred to in Article 3.2 points m), n), o), q) and r).

²¹⁸ Offences referred to in Article 3.2 points a) to l) and points p), s) and t) (Article 3.2.d))

²¹⁹ These penalties are increased when the offences result in the death of a person (article 5.2.a) and 5.2.c)).

penalties provided for in the directive - with regard to the general definitions and terminology used in both sectoral offences and autonomous offences.

VII.4 Gender issues and the environment

A girl born today will have to wait until her 97th birthday, beyond her expected lifespan to celebrate an equal society.²²⁰

Women continue to face gender-based violence, **remain underrepresented in decision-making positions**, have lower salaries and limited opportunities for professional, economic and social advancement.

Gender determines what is expected, allowed and valued in a particular context at a given time, recognizing that this is changeable. In most societies, there are differences and inequalities between women and men in the responsibilities that they are expected to take up, the activities that are considered normal or acceptable, access to and control over resources and participation in decision-making. It encompasses the roles, behaviors and activities that are deemed acceptable for people of different genders and influences the relationships between the people who fall within these groups. These attributes and relationships are socially constructed²²¹.

The promotion of equality between women and men is a core value of the European Union (EU), a fundamental right²²² and key principle of the European Pillar of Social Rights²²³. Furthermore, gender mainstreaming is clearly reflected in the EU Gender Action Plan III (2021-2025)²²⁴, and it's integral part of the regulations of the EU Instrument for Pre-Accession Assistance (IPA III)²²⁵: when accessing the EU, candidate countries are required to comply with the “*acquis*” on gender equality and non-discrimination.

Gender disparities are often amplified by environmental challenges, making it crucial to adopt a gender-sensitive approach in environmental policies and governance. The following section explores the intersection of environmental justice and gender equality at the global level (A), then we'll look at specific examples at the local level in Albania (B), in North Macedonia (C) and in Montenegro (D) and we will finish by examining key recommendations to achieve gender equality in environmental justice (E).

A) The Intersection of environmental justice and gender equality at the global level:

We will first explore the main international agreements on environmental justice and gender equality (1), and then we will review measures which can drive both social equity and sustainable development by analyzing the main key issues existing on this specific topic (2)

1) Step by step towards the recognition of environmental justice with a gender perspective:

We can mention as example, the main followed agreements (*non-exhaustive list*):

²²⁰ <https://equalmeasures2030.org/2024-sdg-gender-index/>

²²¹ https://www.who.int/health-topics/gender#tab=tab_1

²²² See Articles 2 and 3(3) TEU, Articles 8, 10, 19 and 157 TFEU and Articles 21 and 23 of the EU Charter of Fundamental Rights.

²²³ https://commission.europa.eu/system/files/2017-11/social-summit-european-pillar-social-rights-booklet_en.pdf

²²⁴ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2184

²²⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0947&from=EN>

- **The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)²²⁶:** This convention obliges states parties to take all appropriate measures to eliminate all discrimination against women including the violence that can emanate from climatic disasters, which we will examine in the following sections. It was adopted and opened for signature, ratification and accession by the General Assembly in its resolution 34/180 of December 18, 1979, and entered into force on September 3, 1981. We will see in the followed sections that all the three countries, Albania, North Macedonia and Montenegro have adopted it.
- **The United Nations International Conference on Population and Development (Cairo, 1994)²²⁷:** This conference marked a milestone in recognizing that achieving women's and girls' rights is central to development. It brought together views on Human rights, population, sexual and reproductive health, gender equality, environment and sustainable development, forming a global consensus that placed individual dignity including the right to family planning, at the heart of development.
- **The Fourth World Conference on Women (Beijing, 1995)²²⁸:** Organized by the United Nations, this conference emphasized the importance of addressing gender issues within the context of sustainable development and environmental management. It highlighted that women are often excluded from policymaking and decision-making processes in areas such as natural resource management, preservation and environmental protection. It also stressed the need for training women in environmental management and decision-making.
- **Marrakech 2001 (COP7)²²⁹:** The first step towards gender equality in climate negotiations was taken when parties adopted two decisions related to gender equality and women's participation.
- **Women and Gender Constituency-2009²³⁰:** This group was established as an observer within the climate convention, advocating for gender-responsive climate action.
- **2011/92/UE Environmental Impact Assessment Directive²³¹:** This EU directive requires EIAs for certain public and private projects to ensure the respect of gender and of all Human rights.
- **7th EU Framework Program for Research, September 2017²³²:** This program focused on promoting research related to gender and the environment. It supported studies on the interaction between gender and environmental dimensions in EU-funded projects.
- **European Parliament Resolution on Climate Justice and Gender (2018)²³³:** This resolution recognized the importance of gender equality in combating climate change. It called for integrating a gender perspective into all environmental policies and actions.
- **EU Biodiversity Strategy for 2030²³⁴:** Adopted in 2020, this strategy includes commitments to incorporate gender considerations into biodiversity and environmental protection policies.

²²⁶ <https://www.ohchr.org/fr/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

²²⁷ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/231/27/PDF/N9523127.pdf?OpenElement>

²²⁸ <https://perspective.usherbrooke.ca/bilan/servlet/BMDictionnaire?idictionnaire=1773>

²²⁹ <https://unfccc.int/event/cop-7>

²³⁰ <https://womensgenderclimate.org/about-us/>

²³¹ <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=celex%3A32011L0092>

²³² [https://www.europarl.europa.eu/RegData/etudes/IDAN/2017/608697/EPRS_IDA\(2017\)608697_FR.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2017/608697/EPRS_IDA(2017)608697_FR.pdf)

²³³ https://www.europarl.europa.eu/doceo/document/TA-8-2018-0005_FR.html

²³⁴ https://environment.ec.europa.eu/strategy/biodiversity-strategy-2030_en

- **European Gender Equality Strategy (2020–2025)**²³⁵: This strategy underscores the need for gender equality across all EU policies, including environmental policies. It ensures that gender equality considerations are integrated into EU actions and promotes women's empowerment through external actions and financial instruments.
- **The Eighth Environment Action (EEA) Program (2022)**²³⁶ recognizes the gender-specific impact of environmental changes. It acknowledges the fact that gender differentiated roles cause differentiated vulnerabilities of women and men.

The effects of climate change exacerbate existing stressors and inequalities with respect to agricultural land and other land management, food security, water security and more.

Governments and institutions have during long time ignored the problem of **women's access to natural resources** and their roles in managing and preserving the environment.

@ <https://www.un.org/en/>

Having access to resources is key to building climate resilience. However, in many countries, significant socio-economic inequalities between men and women still limit or prevent women's access to education, property, financial assets, technology, political decision-making, ownership of land and natural resources and other valuable resources. These **gender discriminations put women and girls at a high risk of suffering loss and damage from climate change.**



Some recent analyses demonstrate that:

- **Extreme weather events (EWs)** cause **higher mortality rates for women and girls**²³⁷;
- **Women's and girls' health** are projected to be **disproportionally affected** by the **impacts of climate change**²³⁸ ;
- **Women and girls face a higher risk of experiencing gender-based violence**, human trafficking and sexual exploitation²³⁹;
- **Women and girls face higher loads of care work**, resulting in various long-term effects on their education and income generation²⁴⁰.

We can see from these explanations that **environmental issues can impact women more severely** than men, for example, pregnant women face greater threats from the pollution of air and water. The impacts of environmental crises are interlinked in terms of Human rights violations and placing people already in vulnerable situations in even greater precariousness, as can be seen below:

²³⁵ <https://ec.europa.eu/newsroom/just/items/682425/en>

²³⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022D0591&from=EN>

²³⁷ <https://www.giz.de/en/downloads/GIZ-GP->

[%282021%29_Diving%20into%20the%20gap_Genderdimensions%20of%20Climate%20RiskManagement.pdf](https://www.giz.de/en/downloads/GIZ-GP-%282021%29_Diving%20into%20the%20gap_Genderdimensions%20of%20Climate%20RiskManagement.pdf)

²³⁸ <https://www.un.org/fr/chronicle/article/le-femmes-dans-le-contexte-des-changements-climatiques>

²³⁹ <https://www.undp.org/sites/g/files/zskgke326/files/migration/latinamerica/Reduction-des-Risques-de-Catastrophe-et-Relevement---Genre.pdf>



Having explored the link between gender and environmental justice, it's now essential to delve deeper into the key issues surrounding this topic.

2) Key issues organized around four priority areas regarding gender and the environmental justice:

a) Right to land, natural resources and biodiversity:

- **Land and resource rights:** It's estimated that, although women play a key role in global food production (50-80%), **less than 20% of the world's landowners are women.**²⁴¹ This is because they continue to work mainly on

farmland, not as owners. On average, women make up 40 percent of the agricultural labor force in developing countries, ranging from 20 percent in Latin America to 50 percent or more in parts of Africa and Asia. **On average, 30% of farms across the EU are managed by a woman**²⁴². Women generally work as subsistence farmers mainly on family farms²⁴³.

- **Access to essential resources:** Despite their vital role in global food production, women often lack ownership of the land they work on, limiting their access to essential resources such as credit, agricultural inputs and trainings. **This structural inequality perpetuates economic dependence and restricts women's ability to improve productivity or achieve financial independence.**

There are also other gender-based discriminations at the level of the access to food and to sustainable production, as we will see in the next paragraph.

b) Access to food and to sustainable production:

- **Gendered roles in resource management:** Women are responsible for 60-80% of food production in low and middle-income countries and half of the world's food production.²⁴⁴ **More than 60%**²⁴⁵ **of the world's hungriest people are women and girls.** This inequality often exists in a context of **discrimination** and **unequal power relationships**. Thus, it's been reported²⁴⁶ that many women will reduce the amount of food they eat or skip meals entirely to make sure that their partners and children don't go hungry.

²⁴¹ <https://www.unwomen.org/fr/news/in-focus/commission-on-the-status-of-women-2012/facts-and-figures#:~:text=Moins%20de%2020%25%20des%20propri%C3%A9taires,comptent%20pour%2015%25%20en%20moyenne.>

²⁴² https://eu-cap-network.ec.europa.eu/news/women-new-cap_en

²⁴³ <https://www.fao.org/rural-employment/work-areas/data-and-knowledge/en/>

²⁴⁴ <https://www.wfpusa.org/articles/women-in-crisis-top-ways-women-are-hungrier/>

²⁴⁵ <https://www.wfpusa.org/articles/10-facts-child-hunger/>

²⁴⁶ <https://www.care.org/media-and-press/care-analysis-150-million-more-women-than-men-were-hungry-in-2021/>

- **Unpaid Labor: Most work done by women** (domestic, care and on the farm...) is **unpaid** or underpaid, causing economic pressures and time poverty.²⁴⁷
- c) **Health and well-being:**
- **Health vulnerabilities:** Beyond immediate crises, **women's health** is affected by rising temperatures: air pollution and heat exposure are associated with preterm birth, low birth weight and poorer maternal health and complications during pregnancy, such as gestational diabetes.²⁴⁸ The use of **some chemicals and pollutants**, such as persistent organic pollutants (POPs), has resulted in **environmental degradation** and water and air pollution, all of which have gendered impacts on health and well-being. Pregnant and lactating women are, once again, particularly vulnerable when it comes to chemical pollution.²⁴⁹
- d) **Women in environmental decision making at all levels:**
- **Gender gaps in decision-making:** Despite international commitments, **women remain underrepresented in environmental leadership**, with **less than one-third of decision-makers being women**.²⁵⁰ Just 26.8 % of government ministers responsible for policies on environment and climate change are women in the EU member states, while 73.2 % are men.²⁵¹
 - **Gender-based violence in disasters:** Following a disaster, women and children face a **higher risk of gender-based violence (GBV), human trafficking and sexual exploitation**.²⁵² Although domestic violence remains the highest risk, increasing assaults by strangers are reported after disasters, particularly when women and girls are separated from their family, friends and other networks.²⁵³



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We will analyze now various legislations to address inequalities some of them due to discriminations regarding environmental justice as we will see in the following developments for Albania, North Macedonia and Montenegro.

B) key international and national legal frameworks on gender equality in Albania: Insights and case study:

1) key international and national legal frameworks on gender equality in Albania:

²⁴⁷ <https://ilostat.ilo.org/topics/unpaid-work/measuring-unpaid-domestic-and-care-work/>

²⁴⁸ <https://www.ifc.org/en/home>

²⁴⁹ <https://wecf-france.org/limpact-des-polluants-chimiques-sur-la-sante-des-femmes/>

²⁵⁰ <https://eige.europa.eu/gender-statistics/dgs/data-talks/decision-making-environment-and-climate-change-women-woefully-under-represented-eu-member-states>

²⁵¹ <https://eige.europa.eu/gender-statistics/dgs/data-talks/decision-making-environment-and-climate-change-women-woefully-under-represented-eu-member-states>

²⁵² https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2021-02/1297700-Gender-based%20Violence%20in%20Disasters-EN-LR.pdf

²⁵³ https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2021-02/1297700-Gender-based%20Violence%20in%20Disasters-EN-LR.pdf

Albania has a global rank of 58 out of 139 countries regarding the gender equality from the equal measures 2030 which takes several factors to evaluate the effective equality between men and women (social, education, labor market, health, environment..).

(<https://equalmeasures2030.org/wp-content/uploads/CountryProfilePDFs/EN/CountryProfileAlbania.pdf>)



Gender equality in Albania has increasingly received attention in the political and legislative arena. The continuous commitment to gender equality has resulted in the ratification of various international conventions focused on gender, equality and the fight against gender-based violence.

The first Gender Equality Index for Albania (2020)²⁵⁴ was developed by the Ministry of Health and Social Protection and the Institute of Statistics of the Republic of Albania and supported by the European Institute for Gender Equality (EIGE).²⁵⁵

The Constitution of the Republic of Albania emphasizes the recognition and respect of equal legal rights between women and men, whereby Article 18/2 promotes the principles of equality and non-discrimination as follows: ***"All are equal before the law, and no one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic, education and social status or parentage"***²⁵⁶.

The Government of Albania has prioritized the strengthening of the legal and institutional framework with regards to gender equality, gender-based violence and domestic violence, while also aiming at harmonizing the national legal framework to the international Human rights standards, including mainly the following:

- The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²⁵⁷,
- Beijing Declaration and Platform for Action²⁵⁸,
- The United Nations Security Council Resolution 1325 "Women Peace and security"²⁵⁹,
- Sustainable Development Goals²⁶⁰,
- Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence²⁶¹,

²⁵⁴ https://www.instat.gov.al/media/6661/gender_equality_index_for_the_republic_of_albania_2020.pdf

²⁵⁵ <https://eige.europa.eu>

²⁵⁶ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)064-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)064-e)

²⁵⁷ <https://www.un.org/womenwatch/daw/cedaw/>

²⁵⁸ <https://www.unwomen.org/en/digital-library/publications/2015/01/beijing-declaration>

²⁵⁹ <https://www.unwomen.org/en/docs/2000/10/un-security-council-resolution-1325>

²⁶⁰ <https://sdgs.un.org/goals>

²⁶¹ <https://www.coe.int/en/web/gender-matters/council-of-europe-convention-on-preventing-and-combating-violence-against-women-and-domestic-violence>

- The European Union Gender Equality Strategy 2020-2025²⁶² and the EU Gender Action Plan (GAP III) 2021-2025²⁶³.
- The International Labor Organization (ILO) Fundamental conventions²⁶⁴, as well as c190 concerning the Elimination of Violence and Harassment in the World of Work²⁶⁵.

The National Strategy for Gender Equality 2021-2030²⁶⁶ was developed on behalf of the Government of Albania by the Ministry of Health and of Social Protection, in coordination and consultation with other ministries, local self-governance units, independent institutions, CSOs, academia, as well as international organizations that work towards gender equality in Albania. One of strategic goals is related with reducing gender-based violence and domestic violence to ensure sustainable development.

In 2016, **gender equality** was included as one of the **basic principles of the Republic of Albania Budget System**, to ensure equal access of women and men in Albania to rights and opportunities.

To incorporate gender considerations into budgeting processes at both central and local levels, thereby addressing gender disparities in resource allocation and service delivery, Albania has taken significant steps toward promoting gender equality through the adoption of Gender Responsive Budgeting.²⁶⁷

In Albania, **women and men aged 15 - 64 are predominantly employed in the agricultural sector**. In 2020, 41% of employees in the agricultural sector were women, suffering a decrease of 0,2 percentage points, compared to the preceding year. The labor force survey found that the participation of women in the labor force, belonging to the 15 - 64 age group, had a slight decrease in 2020 compared to 2019 (from 61,6% to 61,2%), while for men, participation was 77,1%.²⁶⁸

In agriculture, women are more likely to work as contributing family workers rather than owning enterprises themselves, despite rural Albanian women's important roles in agricultural production, **their participation in decision-making at the household, community, and administrative levels tends to be limited**. Farmer organizations usually have small numbers of female members since predominantly male household heads join these associations. Thus, women are rarely present in discussions and their knowledge, perspectives, needs and entitlements are not reflected in group decisions²⁶⁹.

²⁶² https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en

²⁶³ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2184

²⁶⁴ <https://www.ilo.org/international-labour-standards/conventions-protocols-and-recommendations>

²⁶⁵ <https://www.ilo.org/topics-and-sectors/violence-and-harassment-world-work>

²⁶⁶ <https://albania.unwomen.org/en/digital-library/publications/2022/02/national-strategy-for-gender-equality-2021-2030>

²⁶⁷ Kontrolli i Lartë i Shtetit, "Fuqizimi Ekonomik i Gruas Në Shqipëri Raport Përfundimtar Auditim Performance," p. 49, 2023

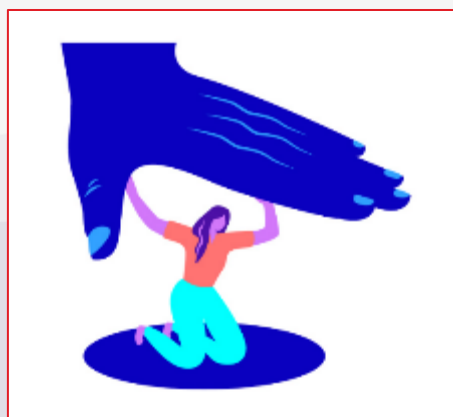
²⁶⁸ https://albania.unwomen.org/sites/default/files/2023-05/KLSH%20Audit%20English%202023_web.pdf

²⁶⁹ <https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/Country/Albania/WomensParticipationInPoliticsAndDecisionMakingInAlbania.pdf>

There is also concern about the **lack of participation of women in processes related to natural resource management**, such as integrated water management and the weak inclusion of rural women in climate change, biodiversity and cultural heritage preservation initiatives²⁷⁰.

In Albania, there is a **prevailing societal belief that women should primarily handle household chores, even if their husbands are not working**.²⁷¹

It is now crucial to analyze a case study to better understand how we can promote equality between women and men and to ensure women's empowerment thanks to equal opportunities and access to natural resources.



2) Case study of gender equality initiatives from Albania:

The Women of the Mountains Empowerment Network (WOMEN) is a project to protect **women's rights and to promote gender equality and women's empowerment** in Albania²⁷². This project is funded by the European Union under the European Instrument for Democracy and Human Rights (EIDHR).

The "WOMEN" project provides **support to local informal women's groups initiatives to organize themselves at grassroots level and to develop new agribusinesses in the mountainous areas** of Vau i Dejës, Pukë and Fushë Arrëz (municipalities in Northern Albania).

This project works closely with local government to promote local policies for economic empowerment of the most vulnerable women. It has reached yet approximately 380 women through 24 grassroots women's groups. It also aims to support improved access to funding schemes for grassroots women's organizations using a tailored community-based approach.

Having set the context, we will now turn our attention to the legal framework and a case study on gender and environmental justice in North Macedonia, to better understand how these issues intersect in this specific context.

3. Recommendations to achieve gender equality in environmental justice:

- **Strengthen legislation to promote gender equality in environmental justice:** It's necessary **to ensure equal access for women and men to natural resources and increase women's representation in environmental decision-making spheres.**
- **GBV prevention in environmental programs:** **Integrate measures to prevent and address GBV specifically in all environmental initiatives and projects** to ensure safe and inclusive participation.

²⁷⁰<https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/Country/Albania/WomensParticipationInPoliticsAndDecisionMakingInAlbania.pdf>

²⁷¹ 45.9 percent of men and 44.5 percent of women agreed with the statement, "A woman should do most of the household chores even if the husband is not working." Source: "Life in Transition Survey (LITS IV)" (2023)

²⁷² <https://eige.europa.eu/about/eu-candidate-countries-and-potential-candidates/good-practices/women-mountains-empowerment-network-women>

- **Mandatory training programs:** Implement **gender equality and its relationship with environmental justice** thanks to **trainings** in this field that will be carried out for legal, politicians, policymakers and all public officials to build awareness and accountability.
- **National and international collaborations:** Support **gender-responsive environmental cooperation programs** that strengthen the role of women in **decision-making and resource management**. It will be also important to foster collaboration with grassroots organizations and local communities to **enhance women's leadership** and their participation in **environmental initiatives**.
- **Equitable access to resources and services:** Ensuring an **equitable distribution of resources** by giving women the same opportunities for use and responsibility as men. **Gender equality in the distribution and equitable access to resources** has positive multiplier effects for a range of key development goals, including **poverty reduction**.
- **Women's empowerment programs:** Develop programs that **enhance women's access to land ownership, education and decision-making** while engaging communities to challenge discriminatory practices. We can find some ideas to develop more such practices like with the **women's leadership Curriculum**²⁷³ which has developed training courses in this field aimed at ensuring the **economic autonomy of women** by enabling them to follow leadership training courses.
- **Gender-disaggregated data:** Establish mechanisms to **collect and analyze data** on gender inequalities in environmental justice to ensure and develop a better comprehension on such specific topic in the Balkans region and worldwide.



Achieving **gender equality** requires **the active involvement of all stakeholders**, governments, civil society, private sector and international and national organizations across all levels and sectors, including politics, legal, economics, health and education, like we can see below:

Gender equality is a **fundamental necessity for sustainable development**. Despite progress, significant gender gaps persist, particularly in labor market participation, entrepreneurship and in the distribution of resources. These disparities, exacerbated by societal norms and structural barriers such as the “motherhood penalty” which continue to **limit women's opportunities for professional and personal advancement**.

It's essential to **establish genuine funding sources** that are ready to integrate a **gender dimension into global policies and environmental actions**, ensuring the effective representation of women.

²⁷³ <https://www.crs.org/our-work-overseas/research-publications/women-leadership-curriculum>

To **fully mitigate the effects of climate change on women** and ensure **equitable environmental justice**, current systems that marginalize women and hinder their leadership in roles of responsibility must be reformed.

Without gender equality, there is little hope of achieving the transformation needed to combat climate change and ensure effective environmental justice, as well as a sustainable and equitable future for all.