



Support to Parliament and  
Civic Education in Albania




# RESEARCH

## LEGAL INSTRUMENTS AND CHALLENGES FOR ENGAGING CITIZENS AND CIVIL SOCIETY IN THE ASSEMBLY'S DECISION-MAKING AND LEGISLATIVE PROCESSES



### PROJECT OF

 Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Swiss Agency for Development  
and Cooperation SDC

*"Support to Parliament and Civic Education in Albania" (PACEP)  
is a project of the Swiss Agency for Development and  
Cooperation (SDC) implemented by the OSCE Presence in  
Albania and the National Democratic Institute (NDI)."*

### IMPLEMENTED BY:

 **NDI**  
NATIONAL  
DEMOCRATIC  
INSTITUTE

### IMPLEMENTING PARTNERS:



Institute for Democracy and Mediation  
Instituti për Demokraci dhe Ndërmjetësim



ALBANIAN HELSINKI COMMITTEE  
KOMITETI SHQIPTAR I HELSINKIT

This report was prepared by the Albanian Helsinki Committee (AHC), in the context of implementing the grant awarded in partnership with the Institute for Democracy and Mediation (IDM), pursuant to the project “Support to Parliament and Civic Education (PACEP),” a project of the Swiss Development Agency (SDC), implemented by the OSCE Presence in Albania and the National Democratic Institute (NDI).

The contents of this material are a responsibility of the Albanian Helsinki Committee and do not necessarily convey the views of the Institute for Democracy and Mediation (IDM), the Swiss Agency for Development and Cooperation (SDC), the OSCE Presence in Albania or the National Democratic Institute (NDI).

Prepared by:

1. Ms. Erida Skëndaj – Legal Expert/ Executive Director, Albanian Helsinki Committee.
2. Ms. Elona Dhembo – Civil Society Expert.

With the assistance and contribution of:

- Ms. Ardita Kolmarku, lawyer and project manager, AHC.
- Ms. Jola Frashëri, paralegal, AHC.
- Ms. Enegrida Bënja, intern, AHC.

Reviewed by:

3. Mr. Niazi Jaho, legal advisor, AHC.

AHC wishes to thank the non-profit organizations involved in the process of interviewing and filling out the electronic questionnaire shared with them, the groups of interest and civil society activists engaged in the consultation processes, as well as the institutions involved in providing data for their continued and mutual collaboration, such as: the Assembly of the Republic of Albania, the General Prosecution Office, the Central Election Commission (CEC), the National Agency for the Information Society, and the Administrative Court of First Instance, Tirana.

**Author: © Albanian Helsinki Committee**

All rights are reserved to the author. No part of this publication may be reproduced without its permission and attribution.

***Address:***

Rr. “Brigada VIII”, building “Tekno Projekt”, Shk. 2, Ap. 10,  
Tirana-Albania  
Post Office Box No.1752, Tel: 04 2233671, Mob: 0694075732  
E-mail: [office@ahc.org.al](mailto:office@ahc.org.al) ; Website: [www.ahc.org.al](http://www.ahc.org.al)

## Table of Contents

<i>Abbreviations</i>	5
<i>Introduction</i>	6
<i>Executive Summary</i>	8
<i>External opinion, “General assessment on the AHC research”</i>	13
<i>Part one</i>	20
<i>Analysis of the effectiveness of the legal framework that guarantees citizens’ participation in the Assembly’s legislative and decision-making process</i>	20
<i>1. Methodological approach</i>	21
<i>2. Public consultation</i>	21
<i>3. Petition</i>	22
3.1 Constitutional standards of some EU member countries	22
3.2 Constitutional standards of Western Balkan countries	26
3.3 Best legal practices on petitions in EU and CoE countries	27
3.4 European Union (EU) legislation and Jurisprudence of the European Court of Justice (ECJ)	36
3.5 Constitutional and legal analysis of the right to petition in our country (Albania)	38
3.6 Petitions in the Assembly’s 5-year practice (2016-2020)	43
<i>4. Voters’ lawmaking initiative</i>	51
4.1 International standards and best practices	51
4.2 Comparative overview of the legislative initiative of EU citizens and the civic legislative initiative in our country	52
4.2.1 Comparative overview of the public’s effective access during the administration and review of civic lawmaking initiatives	57
4.2.2 Judicial practice of the European Court of Justice (ECJ)	59
4.3 A comparative constitutional overview of the civil legislative initiative	60
4.4 Compliance with international standards and challenges of new law No.54/2019	63
4.4.1 Joint opinion of the Venice Commission and ODIHR	63
4.4.2 Legal and practical challenges of collecting electronic signatures	64
4.4.3 Other disputable issues in the contents of law no. 54/2016 and the Assembly’s Rules of Procedure	66
4.5 Lawmaking initiatives by 20,000 voters in the country’s practice	70
4.5.1 Initiating organizations and the parliamentary practice of reviewing initiatives	70

4.5.2	<i>Difficulties encountered from a procedural and institutional aspect</i>	75
4.5.3.	<i>The need for clarifying parliamentary procedures, dictated by practice to date of reviewing civic legislative initiatives or proposed by CSOs</i>	75
5.	<i>Recommendations</i>	77
	<b>Appendix 1</b>	<b>80</b>
	<b>Literature</b>	<b>80</b>
	<i>Part two</i>	<i>84</i>
	<i>Engagement of the Civil Society in decision-making and legislative processes of the Assembly of the Republic of Albania</i>	<i>84</i>
	<i>List of figures</i>	<i>85</i>
I.	<b>METHODOLOGICAL APPROACH</b>	<b>86</b>
	<b>Quantitative component</b>	<b>86</b>
	<b>Qualitative component</b>	<b>88</b>
	<b>Limitations and ethical issues</b>	<b>89</b>
II.	<b>FINDINGS</b>	<i>Error! Bookmark not defined.</i>
5.1	<b>Introduction</b>	<b>90</b>
5.2.	<b>CS participation in the Assembly – regulatory framework, enabling mechanisms, and their functioning</b>	<b>90</b>
5.3.	<b>CS-Assembly rapport – practice, perceptions, and positions</b>	<b>99</b>
5.4.	<b>Engagement of CSOs with the Assembly, prevailing forms and challenges</b>	<b>105</b>
5.4.1.	Information and communication, mutual (non)recognition	105
5.4.2.	Forms and challenges of engagement	108
5.4.3	Capacities and limitations	113
5.4.4.	(Mis)Trust	116
III.	<b>BEST PRACTICES</b>	<b>118</b>
IV.	<b>CONCLUSIONS AND RECOMMENDATIONS</b>	<b>122</b>
V.	<b>APPENDIX</b>	<b>124</b>
6.1	<b>Questionnaire</b>	<b>124</b>
6.2	<b>Instruments for collecting quality data</b>	<b>128</b>
6.2.1.	Enhanced interview with representatives of the Assembly of Albania	128
6.2.2.	Sample – interview with Civil Society representatives	129
6.2.3.	Sample – Focus Group with Civil Society representatives	130

## Abbreviations

NAIS	National Agency of the Information Society
EU	European Union
E-Petition	Electronic Petition
E-Democracy	Electronic Democracy
FG	Focus Group
GADC	Gender Alliance for Development Center
IDM	Institute for Democracy and Mediation
IKI	Individual Interview with Key Informants
CEC	Central Election Commission
AHC	Albanian Helsinki Committee
ECJ	European Court of Justice
NDI	National Democratic Institute, Albania
NIPT	Identifying Number of Taxable Person
ODIHR	OSCE Office for Democratic Institutions and Human Rights
NPO	Non-Profit Organizations
CSO	Civil Society Organization
PACEP	Program for Support to Civic Education
EP	European Parliament
SDC	Swiss Agency for Development and Cooperation
CS	Civil Society
CMD	Council of Ministers' Decision

## Introduction

After the collapse of the totalitarian regime in December 1990, the democratic regime was established in the country based on governance based on free and fair elections that guarantee the plurality of representation of political parties. In March 1991, the first pluralistic elections in the country were held, which created the first pluralistic Assembly, after a 67-year period,<sup>1</sup> and in April of the same year, the law no. 7491 “On the main constitutional provisions” was approved.

During the first years of democracy, amendments in legislation were numerous. Among the main developments, following the approval of the constitutional provisions, were: ratification of the European Convention on Human Rights by the Assembly of Albania, by law no. 8137, dated 31.7.1996, and about two years later, the approval by a nationwide referendum of the Constitution of the Republic of Albania, which represents the fundamental law with the highest juridical power in the country.

Since the approval of the constitutional provisions in 1991, the system of governance in our country is that of a Parliamentary Republic. This form of governance is based on the division and balancing between the legislative, executive, and judicial powers. The principle of the division and balancing of powers is sanctioned also in the Constitution of 1998. According to it, among others, the Assembly as the lawmaking body exercises important competences in checking the Executive.<sup>2</sup> The important principle of the division and balancing of powers aims mainly at the danger of concentration of power in the hands of a certain body or persons, which practically bears with it the risk of its misuse. In essence, based on this principle, the three central powers of the state should be exercised not only independently but also in a balanced manner.<sup>3</sup>

The Constitution of the Republic of Albania<sup>4</sup> sanctions the principles of the rule of law and respect for fundamental human rights and freedoms, among which that of collective organization for any legitimate purpose, guaranteeing individuals participation in the society. Guaranteeing this right ensures for individuals’ participation in decision-making processes at all levels.<sup>5</sup> In the context of the principle of the rule of law, participation of the public in the Assembly’s decision-making processes assumes special significance in the sense of its important elements regarding juridical certainty, clarity, and understandability of legal norm. Juridical certainty for citizens means that they are not constantly concerned about amendments to legislation and the negative effects that legislation might have upon juridical relations that have created juridical consequences. Furthermore, the Constitution sanctions the principle of sovereignty, which belongs to the people.

---

<sup>1</sup> <https://www.parlament.al/Kuvendi/Historiku>

<sup>2</sup> “Rule of Law in the Constitution of the Republic of Albania,” by Prof. Dr. Xhezair Zaganjori, Prof. Dr. Aurela Anastasi, Dr. Eralda (Methasani) Çani, (p.33) accessible at: [https://www.kas.de/c/document\\_library/get\\_file?uuid=726ef2ee-7a25-2477-3d07-a97bfeb4a8a7&groupId=252038](https://www.kas.de/c/document_library/get_file?uuid=726ef2ee-7a25-2477-3d07-a97bfeb4a8a7&groupId=252038)

<sup>3</sup> Paragraph taken from Decision of the Constitutional Court No. 19/2007.

<sup>4</sup> Constitution of the Republic of Albania <http://www.parlament.al/Kuvendi/Kushtetuta>

<sup>5</sup> See for instance “Manual of Public Participation in the Assembly’s Decision-Making Process <https://www.parlament.al>

People exercise sovereignty in a direct manner. Which is otherwise known as participatory democracy, or through its representatives (representative democracy).

Upon election, members of parliament become representatives and caretakers of the voters' will. However, the citizens' role in governance should not end with casting a vote. They need to continue to work together throughout the parliamentary mandate, as noted in the United Nations Committee on Human Rights, General Comments 25<sup>6</sup> on Participation in Public Matters and the Right to Vote. The citizens' engagement often represents one of the most challenging aspects of the parliamentarian's work, but it is important and may secure benefits for voters, parliamentarians, political parties, and society as a whole. Engaging with citizens in policymaking also reflects the best international standards on civil and political rights described in international treaties on human rights (such as ICCPR), to ensure that citizens have the opportunity to participate in carrying out public work.

During the past 31 years of establishing the democratic system in our country, there have been important developments that have aimed at improving domestic legislation toward guaranteeing public participation in decision-making processes, and to make effective the legal initiative proposed by 20,000 voters.<sup>7</sup> However, the engagement and participation of citizens and civil society organizations in decision-making processes of the Assembly still needs to be enhanced. Practice shows deficiencies, which extend in both directions, both in terms of the need to improve the quality of the Assembly's legal and institutional framework, and in terms of the need to strengthen civil society capacities.

In order to understand more and at greater depth on what the progress to date is, what are the barriers and opportunities for maximizing this potential, the Albanian Helsinki Committee (AHC), in collaboration with the Institute for Democracy and Mediation (IDM), in the context of the implementation of the grant awarded pursuant to the project "Support to Parliament and Civic Education (PACEP)," a project of the Swiss Agency for Development and Cooperation (SDC), implemented by the OSCE Presence in Albania and the National Democratic Institute (NDI), undertook a research that seeks to give answers to these questions, by soliciting data, opinions and positions of stakeholders, and by reviewing the possibilities for strengthening and expanding best practices.

The drafting of this research report was made possible through interaction of different methods, intertwined by the two experts, namely the legal expert and the expert of civil society and parliamentary matters. At the end of the work of each expert, some recommendations are provided for the future, based on best national and international practices, deemed to contribute to effective participation of citizens and civil society in the Assembly's decision-making and legislative processes.

---

<sup>6</sup> General Comment 25, ICCPR. Available at <http://ccprcentre.org/ccpr-general-comments>

<sup>7</sup> Namely, approval of a special law on public announcement and consultation in 2014 and approval of a special law that regulates procedures for legal initiatives proposed by 20,000 voters (No. 54/2019)

## Executive Summary

### *I. Public consultation*

The approval in 2014 of the Law no. 146/2014, “On public announcement and consultation” represents a very important development in Albanian legislation, providing an opportunity for a governance open to citizens, stakeholders, and civil society. However, the provisions of this law are not implemented in the activity the Assembly’s parliamentary bodies, which in the public consultation process apply Article 36 of the Rules of Procedure that do not envisage deadlines for public consultation, the forms and manner of consultation, or the obligation of these bodies to inform these groups with regard to the recommendations that have been taken into consideration or inform them about the collection of arguments on recommendations that have not been taken into consideration.

### *II. Petitions*

The exercise of the right to petition is extensively envisaged in the constitutions of European countries as one of the fundamental human rights. Also, it is noticed that part of the EU countries regulate this also with specific laws. The research report analyzes the constitutions of 17 EU member countries. Among the main features noticed in constitutional formulations on petitions is the constitutional delegation to the law (to further regulate the right to petition) in the Constitution of Germany, Estonia, Greece, Lithuania, Poland, Portugal, Austria. A positive practice from a constitutional aspect is the provision in some of these texts of the guarantee that parliament provide responses to the petitioner. The report analyzes from a comparative standpoint the constitutions of the Western Balkan countries as well. A distinguishing feature of some of these constitutions, namely Montenegro, North Macedonia, and Serbia, is the similarity regarding the constitutional provision on the right of petition to receive a response on them, as well as to not be victimized or have harmful repercussions for filing a petition or the opinions presented therein.

German legislation represents a positive model with regard to the right of petition to the German Bundestag (parliament) as it contains complete provisions and procedural guarantees that enable the review of the petition according to the principles of transparency, accountability, and responsibility. The German Bundestag has a dedicated parliamentary body, the Special Committee on Petitions, which is led in its work by important procedural elements that enable administrative investigation and the review of petitions within set deadlines, the announcement with arguments to the petitioner on the decision-making regarding the petition, etc.

The United Kingdom has an early tradition of recognizing the right to petition, dating from century XVII. In this country too, there is a Special Parliamentary Committee, created in July 2015, as well as an official portal for the electronic submission of petitions, which was created immediately after the establishment of this committee.

Online petitions, otherwise known as e-petition, is a system developed in Scotland. It enables citizens to sign petitions electronically and to comment about it. The Scottish Parliament has established a Special Committee on Civic Participation and Public Petitions. Compared to the

petition system in Germany, Scotland's normative framework has some more advanced elements with regard to the fact that it does not condition the filing of the petition with the place of residence of the individual and does not necessarily require that the petition be filed in the official language.

The right to petition is also envisaged in Article 227 of the Treaty on the Functioning of the EU and Article 44 of the Charter of Fundamental Rights of the EU. Petitions submitted to the European Parliament are logged in a public registry. The European Court of Justice has placed an emphasis on the need to reason decision-making in cases when the petition is refused by the parliament. The ECJ has reasoned that the right to petition is a fundamental right and it is one of the most important instruments of democratic life in the EU, guaranteeing direct dialogue between citizens and the elected.

Our country's constitution has a general and not specific provision on petitions to the Assembly. However, this provision is enabling and inclusive, thus representing an important resource of the right to petition to public bodies in our legislation, embodied in the country's fundamental law. It is from this provision that the right of petition that citizens choose to submit to the Assembly derives from.

In our legislation, a petition to the Assembly is regulated in Article 104 of the Parliament's Rules of Procedure. Seen from a comparative standpoint vis-à-vis constitutional legislation and ordinary legislation of EU countries, the EU community legislation, as well as positive parliamentary practices of Anglo-Saxon countries, this provision does not expressly envisage, aside from the written form, the submission of petitions electronically by citizens or groups of individuals. In practice, the current website of the Assembly does not enable transparency on petitions and the way in which they are reviewed.

The Albanian legal model does not envisage limitations regarding the subject of petitions. Although this appears to be a "liberal" model, in essence, the lack of provisions expands the room for parliamentary committees to refuse a petition or, otherwise, may lead to a surpassing of the check and balances between the legislative and the executive in favor of the legislative power.

Our parliamentary rules and practice do not guarantee some important elements of the due process for the petitioner, which guarantees the right to effective investigation and review, the right to be heard, and the right to be notified regarding relevant parliamentary decision-making. Our model does not envisage any maximal deadline within which a petition is reviewed and a decision is made on it, while Article 104, paragraph 4, only envisages a 45-day deadline from the day of receipt of the petition, available to the chairperson of the commission to present the petition and the proposal for resolving it. This deadline, besides being too long, only covers one stage of the petition review process, not envisaging other deadlines, such as the time for submission to the plenary session, the notification of petitioners, etc.

The current provision in Article 104 of the Parliament's Rules of Procedure does not clearly envisage the obligation that the decision-making of the Commission Responsible for the Petition to be subjected to discussion and/or a vote in a plenary session. According to official information provided by the Parliament for almost five years, January 2016 – October 2020, it appears that it received 42 petitions that it reviewed. It is noted with regret that for the overwhelming majority of

these petitions, there was no decision-making by parliamentary commissions. Based on information from official correspondence with parliament, as well as searches on the parliament's official website, it results that only 14 petitions, of 42 such, were addressed by parliamentary committee. An equal number of petitions, 6 such, were addressed by the Committee on Health and the Committee on Productive Activities; the Committee of Laws reportedly addressed two petitions. In total, only for 4 of these petitions, transcribed minutes of the committee meetings were provided. Parliament was not able to determine to which state institutions and for what reasons the treatment and resolution of the cases raised in part of the petitions were delegated.

Deficiencies in the practice of parliamentary documentation raise question marks on the lack of efficacy in the instrument of petitions to parliament by citizens or certain groups of interest. About 24 petitions, which show lack of parliamentary documentation deficiencies, were submitted by groups of individuals or representatives of organizations, such as: petition of the Kuqar-Patos village inhabitants about land pollution, a petition from Burrough 1 in Tirana on the demolition of houses for public interest, the petition of a group of oil refinery workers on their status, the petition of a group of citizens from Elbasan on the vetting process in the justice system, the petition of a group of citizens on justice reform, a petition of a group of former political prisoners, etc.

For those petitions that parliamentary documentation was presented, it is noticed that in the majority of cases, their handling stops at discussions among committee members. In some cases, discussions about petitions in the committees are politicized, thus minimizing the importance of the issue raised by the petition or by addressing the issue politically. It is disturbing that there is a lack of documentation proving that Parliament notified the petitioners about steps taken to resolve the issue raised in the petition, which raises serious questions about the violation of the obligation stipulated in Paragraph 4 of Article 104 of the Parliament's Rules of Procedure.

It is interesting that, mainly, the petitioners during this period were informal groups of citizens (united by joint causes because of their profession, place of residence, or affiliation with a group). In rare cases, petitions were submitted by CSO-s, which highlights the need for organization, capacity building, and better representation by them of citizens interests before the Assembly of the Republic of Albania.

The subject of petitions during this period is diverse. In general, citizens' concerns submitted to Parliament have to do with rights of a social-economic nature, health, insurance, employment, profession, education, housing, well-being, access to local government bodies, etc.

During 2018 – 2019, the number of petitions dropped significantly compared to the previous year, being halved progressively. The identification of the causes for this indicator requires a complete and comprehensive analysis, but two of the factors that may have had an impact include: boycott of the parliamentary opposition and lack of positive reaction toward the overwhelming majority of petitions submitted during 2017.

### III. *Civic legislative initiatives*

The right for a lawmaking initiative, exercised by a certain number of voters or citizens, comes as a norm of the people's exercising democracy. This right is otherwise known as one of the tools to

guarantee the effectiveness of the lawmaking process and the growth of democracy in general. However, this instrument may not be considered a pure tool of direct democracy as decision-making related to it belongs to the body exercising legislative power, such as the Parliament. This element represents one of the main distinguishing features of the legislative initiative of voters from referenda.

The Albanian legal framework is complete with regard to regulating the legislative initiative coming as an initiative of citizens. Its foundations have been laid initially in the 1998 Constitution, articles 81 and 82. For almost two decades, the country did not have a detailed legal regulation that would enable citizens to organize and set in motion a legislative initiative that stems from their own will. The constitutional regulation was concretized by a special law, approved by the Assembly, only in July 2019. It was drafted by CSOs and subjected to preliminary consultations with the Venice Commission and ODIHR.

The EU legal framework recognizes for any of its citizens, at least at the age of voting in elections for the European Parliament, the right to support an initiative. Member countries are given the opportunity to determine the minimal age threshold of 16 years old for citizens supporting an initiative, in accordance with their domestic legislation. In our country, based on Article 45 of the Constitution, paragraphs 1 and 81, sets the minimal age threshold for citizens to sign lawmaking initiatives at 18 years of age.

The EJC has established an important standard in its jurisprudence, stressing that although the European Commission is not obliged to follow requests for a successful European civic lawmaking initiative, the body not only has the obligation to publicize the initiative, but it should also give the opportunity to the organizers to make their case without it being necessary to wait for the logging of the lawmaking initiative.

Comparatively speaking, our Constitution is not listed among the constitutions of those countries that require a high threshold for civic support for legislative initiatives, but at the same time, the threshold is not low. Compared to the population, Albania's average threshold for civic legal initiatives at 0.7% of the population. For initiating groups of successful or unsuccessful initiatives, one of the main difficulties referred to for starting procedures for logging a civic legislative initiative is the high threshold of signatures, difficult to achieve in the country's circumstances (especially due to economic and social factors). Countries with lower thresholds could be considered Poland or Slovenia, while Italy has the lowest threshold of all countries analyzed above, namely 0.08% of the population.

The joint opinion of the Venice Commission and ODIHR highlights a problem at the constitutional level with regard to criteria that citizens with the right to vote, and therefore the right to support the legislative initiative, have to meet. While it is underscored that every citizen with the right to vote has the right for a civic legislative initiative, the concern is raised that according to article 45 of the Constitution, citizens who have been declared incapable mentally, by final court decision, do not enjoy the right to vote. This restriction runs counter to United Nations and OSCE international standards and that is why the opinion suggests a revision of this provision in order to guarantee compliance with these standards.

Our Constitution stipulates an indirect restriction, which gives priority to legal initiatives proposed by the government or the executive vis-à-vis initiatives proposed by voters or MPs. Concretely, according to Article 82, paragraph 2 and 3 of the Constitution, *“No non-governmental draft law that makes it necessary to increase state budget spending or reduces incomes, may be approved without prior consent of the Council of Ministers, which should express itself within 30 days from the day of receipt of the draft law.”*

In our country, during the span of this research study, we notice that legislative initiatives submitted by 20,000 voters to parliament represent a very small, almost negligible, number compared to the legal initiatives of the executive that are the overwhelming majority. After those, ranking second in number are legal initiatives of MPs

The organizations that conceived of and pursued procedures for civic legislative initiatives are known organizations, which have undertaken a series of initiatives at the national level. meanwhile, local organizations appear more passive for initiating such initiatives. An influencing factor is the lack of information and the necessary legal capacities, conditioned also by limited financial support.

CSO-s included in the representative committees of civic legislative initiatives have presented as difficulties the situation created as a result of the pandemic as well as the short time set for collecting 20,000 signatures, although in fact, the CEC has taken favorable decisions on the requests that have been submitted by them for extending the deadline. One of the difficulties encountered in the field is the support documentation requested of voters who hesitate to offer their personal data or identification documents in public places.

Our law on civic legislative initiatives (or from voters), in spite of very good standards, does not envisage the necessary guarantees for realizing electronic signatures in practice. In fact, the law refers to legislation in force on electronic signatures, which is considered complex and unclear for enabling electronic signatures without bureaucratic obstacles for legislative initiatives from voters.

The lack of implementation in practice of general legal provisions of Law no. 54/2019, regarding electronic signatures, has made it really difficult to collect signatures in this more simplified format that reduces human and financial costs for the representatives of the initiative.

In some of the legislative initiatives proposed by CSOs (although initiated with the support of 20,000 voters or lobbying by MPs), we notice a tendency of overlaps of such initiatives either by the CSO sector itself, which may have not found agreement to propose a single draft law with an integrated and accepted text of amendments, or by certain fractions inside the parliament. The parliament's website does not provide the necessary transparency for identifying the level of reflected articles proposed for each variant and the reason for refusing the rest of the provisions.

## External opinion, “Some general evaluations on the AHC Research Report”

**By Dr. Sokol Berberi<sup>8</sup>**

The research report prepared by AHC analyzes and appraises in a systematic and critical manner the legal framework and institutional mechanisms for the legislative initiatives of voters, the right to petition, participation of Civil Society in the legislative process, and their effectiveness. The empirical analysis on the assessment of the effectiveness in practice of the said instruments extends over the period of January 2016 – October 2020. It should be said that such a research study, so important and serious, with this scope and target, is undertaken for the first time. The research concludes with constructive recommendations, which address the lawmaking body, the Parliament, and civil society organizations (CSO-s). the recommendations, by the specific aspects they address, will be highlighted below.

The report is based on constitutional premises, the principles of good governance, the context and international and domestic developments for civil society participation in parliament’s legislative decision-making.

Representative democracy, according to our Constitution, beside establishing the mechanisms for the exercise of legislative power by the representative body, guarantees the political rights of citizens and necessary instruments to take an active part in the legislative process and to hold elected bodies accountable. Two of the main instruments for this purpose, which also represent the subject of research of this report, are the legislative initiatives of voters and the right to petition, envisaged respectively by Articles 81, paragraph 1 and 48 of the Constitution. On the other hand, the Constitution imposes upon the Assembly, in its function as a representative body, to guarantee and encourage the participation of civil society in the course of exercising the Parliament’s legislative and oversight functions.

Good governance in a democracy presupposes active participation of citizens and civil society in public life. For that purpose, guaranteeing by law the instruments for transparency, informing and consulting the public on legislative decision-making is not enough, but most importantly, should be respected and exploited in an effective manner in practice as tools for democratic exercise and education. These instruments have a direct impact on the health of democracy, the legitimacy, and the public’s trust in the Assembly’s decision-making.

On the other hand, the public’s participation in the lawmaking process leads to benefits in terms of drafting better quality laws for the development of the economy, addressing social issues, equality, the rule of law, investments, open market, etc. Also, through the public consultation process, it is possible to assess the need for legislative interventions, identify at an earlier phase the obstacles that may be created during implementation, avoid/minimize potential conflicts, and guarantee smoother implementation of the law.

---

<sup>8</sup> Former judge of the Constitutional Court (2007-2016).

The research report conveys the idea that the relations and rapport of the Parliament with Civil Society in the legislative process should go through and develop from the level of guaranteeing the standards of transparency and information to the level of consultation/dialogue, by ensuring in a proactive and inclusive manner the exchange of views, mutual trust, and sustainable partnership throughout all phases of the lawmaking process.

Contemporary challenges and tremors in the functioning and stability of democracy in Europe and beyond, as well as the increasing complexity of policymaking processes, have highlighted as a primary need the development and exploration of innovative ways that enable bringing citizens and Civil Society closer to decision-making processes of public interest. For Albania, this need is even more essential, taking into consideration the totalitarian past and the 30-year democratic experience, still fragile and unconsolidated.

The research that is the subject of this report was achieved by combining in a systematic and balanced manner the *methods of research and analysis* of qualitative and quantitative legal expertise with the social/political one on civil society and parliamentarism.

By means of the *legal expertise*, the research has made a critical and objective evaluation of the legal framework and the institutional mechanisms for voters' legislative initiatives and the right to petition, by referring to best international standards and practices in this field. The latter, from a comparative standpoint, have been highlighted by introducing the legislation of different EU member states, EU community law, the jurisprudence of the European Court of Justice, opinions of the Venice Commission, as well as reports of international organizations. Furthermore, the analysis extends over legislation of the Western Balkan countries.

The value of this research report in particular has been achieved thanks to empirical analysis in evaluating the effectiveness in practice of voters' legislative initiatives and the exercise of the right to petition for January 2016 – October 2020. For this component of the report, official information was obtained from responsible public bodies, including the Assembly of the Republic of Albania, the Central Election Commission, the Administrative Court of First Instance, and the General Prosecution Office.

The analysis of *expertise on civil society and parliamentary activity* in a professional and systematic manner has been led by some research questions. To explore these research questions, the authors have pursued a series of combined methods. First, they analyzed the regulatory framework, reports on its applicability in order to highlight a complete and clear overview of both formal mechanisms and (documented) practice to date on the engagement of Civil Society in the Assembly's legislative and decision-making processes. By means of this analysis, the report has identified the main issues and problems, as well as achievements and challenges in this regard. The findings have served in the process of drafting instruments for collecting primary data. Further on, they have designed and applied instruments for collecting and analyzing primary data, which are of a quantitative and qualitative nature.

The research report, in both of its parts, highlights in a clear and impartial manner the main findings and presents some constructive recommendations, based on best domestic and

international practices, for the purpose of improving and developing effective participation of citizens and Civil Society in decision-making and legislative processes of the Assembly.

**The findings in this Report highlight in a balanced and objective manner both positive developments and problems and challenges that need to be addressed. Positive developments have to do with the legal framework, institutional mechanisms, transparency and best practices regarding informing and consulting Civil Society in the course of the legislative process in the Assembly.**

The legal framework in this regard has seen a very important moment with the approval of Law no. 146/2014 “On public announcement and consultation” and Law no. 54/2019 “On the lawmaking initiative of voters in the Republic of Albania.” Law no. 146/2014 aims at governance that is more open to citizens, stakeholders, civil society, and any subject that wishes to contribute to providing opinions or suggestions on legal acts, strategies, and policies of public interest. This law stipulates the procedural rules that public bodies are obliged to apply vis-à-vis the public, in order to give the public an effective opportunity to engage in decision-making processes. Law no. 54/2019 is a success model of Civil Society proactivity as the initiative to the Assembly was undertaken by the Center for Legal and Civic Initiatives (CLCI) and other partner organizations. The initiative found the support of two MPs to set into motion legislative procedures and, afterwards, be approved by the Assembly. This law, based on best international models and practices, filled a vacuum with regard to procedures for the exercise of voters’ legislative initiative, in the sense of Article 81, paragraph 1, of the Constitution.

With regard to institutional mechanisms and transparency, the Report highlights continued efforts and steps taken by the Assembly to increase transparency, to be more open for the public, and to encourage, institutionalize, and facilitate CS participation in its processes. Some things of note in this context include the creation of the *online* platform for consultations on draft laws, through which CSOs, groups of interest, and, more recently, lobbyists, are invited to register; the creation of a dedicated structure for relations with Civil Society – Coordinator for CS; a special manual specifies the modalities for the participation of the public in decision-making; standardization of forms for requests to follow hearing sessions in commissions; a good part of these are broadcast live on public broadcaster RTSH Assembly, and through online platforms.

Regarding consultation, some new practices have been tested in terms of establishing permanent commissions of the CS, such as in the case of a CSO nucleus, which **is part of** the National Council on European Integration. All of these and the relevant achievements are monitored and reported through the Report on Participation of the Public in the Decision-Making Process, which is published regularly, since 2015. Of interest to congratulate and encourage is the latest initiative, not yet institutionalized, to involve CSs in *ex post* legislative review, whereby CSOs engage in evaluating applicability and effectiveness in achieving the objectives of certain laws, such as the law on Gender Equality in Society.

Based on a general perception of participants in interviews, shared by CS and Assembly (part of the administration or MPs) representatives, the report highlights that relations and exchanges between CS and the Assembly have increasingly intensified and improved.

Besides positive developments, the Report highlights also *problems*, which have to do with the legal nature, enforceability of the legal framework and institutional mechanisms, and the culture and relations of trust.

**For Law 146/2014, it is noted that provisions that regulate public consultation are not in harmony with those of the Assembly's Rules of Procedure. In the public consultation process, parliamentary commissions apply Article 36 of the Rules of Procedure. This provision, unlike Law no. 146/2014, does not envisage deadlines for public consultation, the forms and manner of consultation (from which depends the way Civil Society organizations or groups of interest contributing to the public consultation process), nor the obligation of parliamentary bodies to inform these groups on what the recommendations taken into consideration are and make them aware of the summary of arguments on those recommendations that were not taken into consideration.** For Law no. 54/2019, based also on the encountered problems, one identified problem is the lack of the manner and system for electronic signatures in the process of collecting signatures for the voters' legislative initiatives.

According to the Report, of four legislative initiatives of voters, only one of them is considered successful. The difficulties and obstacles that Civil Society encounters in promoting and encouraging the broad public to address a social cause in the form of a civic lawmaking initiative appear to be: lack of a considerable time of special regulatory legislation on the procedure and criteria to be met for submitting a successful lawmaking initiative; electoral processes; limitations imposed by the Covid-19 pandemic; absence of an electronic system/platform, which enables electronic signing of the lawmaking initiative; support documents as criteria for verifying deposited signatures referred as bureaucratic procedures, accompanied by citizens' lack of trust in referring personal data; lack of efficient information on procedures to be followed, which impact the success of the lawmaking initiative, and failure to meet the 20,000 signatures threshold within the established deadline.

With regard to the *right to petition*, referring to best international standards and practices on this right, it is noted that the regulation in Article 104 of the Assembly's Rules of Procedure is incomplete. The report has highlighted these problems with regard to the implementation of this right in practice: documentation of the review of petitions by the Assembly is not reflected on its official website; aside from the petition submitted in one instance, the proposal of which was made part of the legal framework, there is no decision-making by the relevant Commission on any other petition after their review (for 42 petitions during the research period); in no instance is the public informed on whether the Assembly respected its Rules of Procedure by informing the petitioner on the way pursued for its review and, also, on the Assembly's decision-making for the review of this petition. On the other hand, the instrument of the petition, as a means to influence the legislative process and relevant procedures related to this tool, are little known by CS (according to the survey that was conducted).

The only successful case of a petition submitted in the Assembly by the association “Golloborda Prosperity” represents a good practice to be institutionalized and pursued in other instances.<sup>9</sup>

With regard to the consultation and participation of CS in the Assembly’s decision-making processes, beside knowledge of and admission of positive steps undertaken in this regard, the Report notes that *there are still barriers that impede the maximalization of the potential for cooperation and real engagement of CS in the Assembly*. According to the evaluation, barriers are mainly created as a result of the lack of proper level of trust and recognition of mutual benefits among the sides and inadequate capacities. The level of knowledge between the Assembly and CS is *at very inadequate levels to serve as a foundation for a healthy and sustainable rapport*. On the one hand, the Assembly *has not seen its role in a proactive manner, seeking to overcome challenges and obstacles encountered by CS actors*. On the other hand, *although there is an improved environment of the Assembly’s evaluation of CS, this is mostly focused in the Assembly administration and a small number of MPs with a prior record of engagement with CS*. For a greater and real participation of CS in Assembly processes, there is a need not only for information, communication, and familiarization, but also capacities and expertise.

The report highlights that one of the main factors that obstructs greater and real engagement of CS with the Assembly is the lack of trust. In this regard, among others, *failed CS initiatives, lack of information about every step of the process, and not feeling considered/appreciated* have had an impact.

In order to address the problems highlighted above, the research Report proposes *constructive recommendations*, addressed to the Assembly and CSOs. These recommendations were drafted after a careful and objective analysis, referring to best international and local standards and practices. The recommendations may be grouped by the main directions of the research: a) on the right to petition; b) on voters’ legislative initiatives; c) **on informing and consulting Civil Society along the legislative process in the Assembly. Those are linked with legal and structural aspects, institutional mechanisms, and transparency, capacities, familiarization with, and trust between the sides.**

On the *right to petition*, especially to increase transparency and trust, in a summarized manner, the following are the proposed recommendations: review of the Assembly Rules of Procedure in order to envisage in a clearer and more detailed manner the procedure for obtaining and reviewing petitions submitted to the Assembly;<sup>10</sup> submission and signing of the petition by the

---

<sup>9</sup> The petition of the association “Golloborda Prosperity” was reviewed by the Commission on Legal Affairs, Public Administration, and Human Rights, including concrete proposals in the draft law at the review phase. The issues addressed in this petition found support among members of the Commission while the constitutional institution of the People’s Advocate, the Commissioner for Protection from Discrimination, OSCE Presence in Albania, and some civil society organizations, submitted legal opinions, influencing the decision-making on recognition of this group as a national minority.

<sup>10</sup> A positive and guiding model for this purpose may be the provisions in the Rules of Procedure of the Assembly of 1998 (entered into force on May 4, 1998), when for the first time, the *Petition* was regulated in a special Chapter, in Articles 167-170. The author of these lines was part of the working group for drafting these Rules of Procedure. At the time, he held the position of legal advisor at the Assembly Chairperson’s Office.

petitioner in an electronic manner; making public the practice pursued by the Assembly and initiators of petitions, making the latter aware of the way in which their petition has been reviewed; making public the decision-making of the relevant parliamentary commission in delegating or reviewing the submitted petition; review of petitions in special sessions; dedicating a special electronic registry of petitions through the years on the Assembly's official website.

For *voters' legislative initiatives*, it is recommended to apply the electronic signature system for voters who support a legislative initiative. This would require the review of the relevant legal framework in order to create mechanisms to establish electronic platforms, establish electronic locations as a place for the collection of signatures. According to the recommendation, *realization of electronic signatures without payment, at least for citizens benefiting from economic welfare aid, and reduction of costs of electronic signatures for all other voters, would guarantee an enabling and facilitating environment for the initiators of a legislative initiative that requires voters' support at the signature collection phase.* To that end, it is suggested that the Central Election Commission and the National Agency for the Information Society take measures to enable electronic signatures for lawmaking initiatives by voters. It is suggested that the Assembly that its official website reflects in a special section the lawmaking initiatives proposed by 20,000 voters, together with the meeting minutes of meetings in parliamentary commissions, as well as the minutes of plenary sessions, during which the lawmaking initiative in the form of a draft law was reviewed. For Civil Society organizations and groups of interest, *it is suggested that they engage in informing sessions or awareness training on undertaking proactive initiatives to draft and submit civic lawmaking initiatives, as a real product of Civil Society.*

**On informing, the participation of, and consulting Civil Society in the legislative process, these are the summarized recommendations: revise Article 36 of the Assembly's rules of Procedure** in order to set reasonable deadlines for mandatory consultation, in order to give interested parties the opportunity to make contributions before the review in principle of a draft law begins, in order to make the parties aware of the recommendations that have been addressed as well as the main reasons for those that have not been supported, thus contributing to building greater confidence of the CS that these processes are not formal, but real; improve and refresh relevant manuals, taking into consideration and addressing barriers that CS may have encountered in practice in order to be as inclusive as possible; annual report of monitoring of Parliament on CS engagement may be enriched with analyses, recommendations, and concrete and measurable objectives for the following year; increasing familiarization events (visits to the Assembly, open days, etc.) and improve mechanisms that facilitate CS engagement in the Assembly (starting from making the Assembly website more friendly for use to training and increasing capacities for participation in the online public consultation platform, participation in hearing sessions, etc.); establishing standing thematic groups of CS at relevant parliamentary commission, as in the case of European Integration, which would be an additional mechanism welcomed by the sides and very effective.

For *CS organizations*, it is recommended: take concrete measures for better and broader knowledge of the right to engage and the opportunities for involving CS in the Assembly's legislative processes; increase capacities and expertise to be ready to be engaged in these processes, with advocacy and lobbying and networking being priorities; knowledge of the role of

the Assembly (role, mechanisms, etc.), management (vision, human resources management, fund raising, etc.), civic engagement, communication, communication strategies, public relations, use of technology to facilitate/enable engagement; CSOs with more developed experience and expertise in certain areas serve as resource centers for other CSOs interested in growing in this regard; they may serve also as catalysts and facilitators of more broad-based engagement of CS; organization of CSOs in networking to create better coordination and synergy between Civil Society organizations, to minimize confusion/lack of trust in the Assembly.

Lastly, I wish to applaud AHC and the engaged expert for conducting the study and drafting this very professional and quality Report. I express my conviction that this research Report provides a very valuable contribution that assists the Assembly and CS to improve and develop effective participation of citizens and civil society in decision-making and legislative processes of Parliament, and to strengthen the spirit of partnership and trust between the sides.

## Part one

Analysis of the legal framework that guarantees citizens' participation in the Assembly's legislative and decision-making process

## 1. Methodological approach

This part reflects an enhanced harmonious and systematic analysis of the legal framework in force, as well as the challenges of its implementation in practice, with regard to the space and opportunities that citizens and CSOs have to influence the Assembly's decision-making, specifically through the lawmaking initiative of voters and petitions. Due to its importance, this part also includes an analysis of the public consultation instrument.

This analysis is done for the first time in our country. The review of domestic legislation, especially on petitions, has been realized by comparing it to positive models of legislation from European countries, as well as to community law of the European Union, given that Albania aspires to be part of the European family. Furthermore, the legal expert took into consideration the analysis of the legal and constitutional framework of countries of the Western Balkans, opinions of the Venice Commission, decisions of the European Court of Justice, as well as reports of international organizations.

A novelty of this part is the evaluation for the first time of the application of legislation in practice for civic legal initiatives and petitions. In order to obtain this information, the legal expert relied on the instrument of requests for official information for the period January 2016 – October 2020, directed to responsible public bodies, such as: Assembly of the Republic of Albania, the Central Election Commission, the Administrative Court of First Instance, the General Prosecution Office.<sup>11</sup>

The main findings and recommendations of this report were consulted with Civil Society partners through four local workshops and with institutions that are the direct object of the evaluation (Assembly), the Central Election Commission, and the National Agency for the Information Society (NAIS). The Assembly of the Republic of Albania responded positively to the invitation of AHC to address recommendations and suggestions while the NAIS responded recently electronically. Civil Society partners, participating in the workshops realized during January - February 2021, welcomed addressed findings and recommendations and specifically asked that the threshold of signatures of voters supporting a legal initiative initiated by them be reduced.

## 2. Public Consultation

Approval of the Law no. 146/2014 “On public announcement and consultation” represents a very important development in Albanian legislation, providing opportunities for open governance vis-à-vis citizens, groups of interest, Civil Society, and any subject wishing to contribute to providing views or suggestions for legal acts, strategies, and policies of public interest.

---

<sup>11</sup> Requests focusing on obtaining information about complaints submitted against decision-making by the Central Election Commission regarding lawmaking initiatives or petitions undertaken by Civil Society, as well as the General Prosecution Office, regarding cases of falsification of signatures in the process of obtaining signatures for lawmaking initiatives, etc.

Law no. 146/2014 establishes the procedural rules that public bodies are obliged to apply vis-à-vis the public, to provide effective opportunities to the public to engage in decision-making processes.

It is worth noting that, aside from the issues that the law has displaying during its application in practice by public bodies of the executive power at the central or local levels, its provisions have not been implemented by the parliamentary bodies of the Assembly. In the public consultation process, parliamentary commissions abide by Article 36 of the Rules of Procedure that envisage: *“The commission may organize public hearing sessions with members of the Council of Ministers, senior representatives of state or public institutions, experts, Civil Society representatives, representatives of groups of interest, as well as other interested groups...”*. This provision, unlike Law no. 146/2014, does not envisage timelines for public consultation, the forms and manner of consultation (which also determine how the selection of Civil Society organizations or groups of interest that contribute to the public consultation process is done), nor the obligation of parliamentary bodies to inform these groups about recommendations that have been taken into consideration and make them aware of the summary of arguments for those recommendations that have not been taken into consideration.

The Assembly has given priority to the application of its own Rules of Procedure. This act was approved by an absolute majority of votes in Parliament, and in the pyramid of normative acts, it stands higher than Law no. 146/2014, which has been approved by simple majority. On this issue, the Assembly has noted that it is the institution where the last phase of the approval of a law takes place and it has been taken for granted that the draft law is proposed by the Council of Ministers and consulted with CSOs. Therefore, it is not deemed necessary to have a special procedure for public consultation of the Assembly, aside from those envisaged by the Rules of Procedure. On this position, AHC deems that in respect of the principle of the checks and balance of powers, the Assembly, first may not take for granted the fact of public consultation of draft laws proposed by the executive. Furthermore, the consultation process of the Assembly should not be conditioned by the one conducted by the bodies of the executive power.

Therefore, the quality of public consultation and its efficacy would be increased and improved by the Assembly if its Rules of Procedure envisaged more clearly and more fully the aspects mentioned above.

### 3. Petition

#### 3.1 Constitutional standards of some EU member states

The exercise of the right to petition is extensively envisaged in the constitutions of European countries as one of the fundamental human rights. It is noticed that part of the European Union countries have regulated this right also with specific laws. However, constitutional provisions of these countries on petitions display both similar elements and distinguishing ones. For the purposes of this research study, the constitutions of 17 member countries of the European Union have been analyzed. The key features noticed in the constitutional formulations of these countries on petitions, from a comparative standpoint, are as follows:

- A petition addressed specifically to the Assembly is only envisaged in some constitutions (Germany, Italy, Denmark, Austria), while the rest of the countries under analyses generalizes the right to petition to all state or public bodies, of which the Assembly is part.
- The direct delegation that the constitution makes to the law to further regulate the right to petition is envisaged in the Constitution of Germany, Estonia, Greece, Lithuania, Poland, Portugal, and Austria.
- Some constitutions specifically envisage the right of the petitioner to receive a response from the Assembly or the public authority. Thus, the Constitution of Greece envisages the obligation of authorities to provide a response in writing and reasoned. The Constitution of Portugal envisages informing petitioners about the results of the review of the petition within a reasonable time. Croatia also envisages the right to a response on the submitted petition. A distinguishing feature of the Constitution of Cyprus is that it envisages that the petitioner should be notified immediately about the reasoned decision-making and, in any event, within the 30-day deadline.
- Imposing restrictions on the subject of petitions is a distinguishing feature of some constitutions, which have their peculiarities. A distinguishing feature of the Slovak Constitution on petitions is the imposition of an expressed restriction that the subject of the petition should not be the violation of fundamental rights and freedoms and that it should not interfere with the independence of the court. A distinguishing feature of the Constitution of Luxembourg is the imposition of more detailed restrictions on petitions to the Chamber of Deputies, which does not review petitions reflecting individual interests, except for those cases when they seek the reinstatement of violated rights deriving from unlawful acts of the government or authorities or in cases when the decision-making on resolving the case falls within the competencies of the Chamber.
- In a few cases, the analyzed constitutions do not expressly envisage the right of a petition addressed to any public body, but restrict this right depending on its subject and by establishing the institution it is addressed to (e.g. France). The Constitution of Denmark restricts the individual or groups of individuals to submit petitions directly to Parliament, but this may only be realized by deputies. In the case of the Constitution of Austria, this right is realized through the People's Advocate.

Concretely, the constitutional provisions of the member states analyzed in this section reflect the following provisions regarding petitions:

**The German Constitution**, approved in 1949 and amended last in 2019,<sup>12</sup> envisages the right of anyone, individually or in a group with others, to address requests or complaints to competent bodies and the parliament (Article 17 of the German Constitution, the right to petition). The Chamber of Representatives assigns a commission on petitions that addresses the requests and complaints to this Chamber according to Article 17 of the German Constitution. The competences of the commission for the review of petitions are regulated in the federal law (Article 45/c of the German Constitution).

---

<sup>12</sup> Fundamental law for the Federal Republic of Germany, May 23, 1949, Last amendment, March 29, 2019

**The Constitution of Estonia**, approved by referendum in 1992 and amended until 2015, envisages in Article 46 that anyone has the right to address state bodies, local government bodies, and their officials, with requests and petitions. The procedure for their review is regulated by law.<sup>13</sup>

**The Constitution of Greece**, approved in 1974, last amended in 2008, envisages in Article 10, first paragraph: “Any person, acting alone or together with others, shall have the right, in keeping with the laws of the state, to address petitions in writing to public authorities, which have the obligation to undertake immediate actions in keeping with provisions in force and respond in writing and in a reasoned manner to the petitioner, as prescribed by law.”<sup>14</sup>

**The Constitution of the Republic of Lithuania**, approved by referendum in 1992 and last amended in 2019, envisages in Article 33: “Citizens are guaranteed the right to criticize the activity of state institutions or their officials and to appeal their decisions. Persecution because of criticism is forbidden. Citizens are guaranteed the right to petition; the procedure for the application of this right is prescribed by law.”

**The Constitution of the Republic of Poland**,<sup>15</sup> approved in 1997, envisages in Article 63: “Anyone shall have the right to submit petitions, requests and complaints of public interest, personal interest, or the interests of another person with their consent, to public bodies, and organizations and social institutions, with regard to the activity pursuant to their duties, within the field of public administration. The procedure for reviewing petitions, requests, and complaints is regulated by law (statute).”

**The Constitution of the Republic of Italy**, approved in 1947 and last amended in 2007, envisages in Article 50: “Every citizen may address the Parliament by a petition to seek measures of a legislative nature or to express needs collectively.”<sup>16</sup>

**The Constitution of Hungary**, approved in 2011, last amended in 2013, envisaged in Article 25: “Any person, individually or collectively, shall enjoy the right to submit request, complaints or proposals in writing, addressed to any body exercising public power.”<sup>17</sup>

**The Constitution of the Republic of Portugal**, approved in 1976, with the amendments of 2005, envisages in Article 52, paragraphs 1 and 2: “Any citizen shall have the right to individually or collectively submit petitions, complaints, or claims for the protection of his/her rights, the Constitution, laws, or general interests, to entities exercising sovereignty, the bodies of local governments of regional autonomous authorities, and to be informed about the results of their review within a reasonable time. The law should envisage the conditions according to which collective petitions are reviewed in a plenary session in the Parliament of the Republic or the Legislative Assemblies of autonomous regions.”<sup>18</sup>

<sup>13</sup> <https://www.riigiteataja.ee/en/eli/530122020003/consolide>

<sup>14</sup> <https://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf>

<sup>15</sup> <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

<sup>16</sup> [https://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf)

<sup>17</sup> [https://www.constituteproject.org/constitution/Hungary\\_2013.pdf?lang=en](https://www.constituteproject.org/constitution/Hungary_2013.pdf?lang=en)

<sup>18</sup> <https://www.wipo.int/edocs/lexdocs/laws/en/pt/pt045en.pdf>

**The Constitution of Croatia**,<sup>19</sup> approved in 1991 and with amendments until 2013, envisages in Article 46: “Every person shall have the right to submit petitions and complaints, to make proposals directed at the government or other public bodies, and to receive responses about them.”

**The Constitution of the Republic of Slovenia**, approved in 1991 and with amendments until 2013 envisages in Article 45: “Every citizen shall have the right to submit petitions and pursue other initiatives of general interest.”<sup>20</sup>

**The Constitution of the Slovak Republic**, approved in 1992, and with amendments until 2002, envisages: “The right to petition shall be guaranteed. Anyone, alone or together with others, shall have the right to submit, to state bodies and self-administration local bodies, issues of interest to the public or other common interest petitions, proposals, or complaints. No petition shall call for violations of fundamental rights or freedoms. No petition may interfere with the independence of the court.”<sup>21</sup>

**The Constitution of the Netherlands**, approved in 1815, updated until 2018, envisages in Article 5: “Whoever shall have the right to submit petitions in writing to competent authorities.”<sup>22</sup>

**The Constitution of the Republic of France**, approved in 1958, with amendments until 2008,<sup>23</sup> envisages in Article 68/2 the right of the person to submit a complaint to a Petition Committee, in cases when the person claims to be a victim of a serious crime or other serious violations committed by a member of the government. The Petition Committee may decide to drop the case or to pass it to the Public Chief Prosecutor at the Cassation Court for referral to the Court of Justice of the Republic. Article 69 envisages the right of petition to the Economic, Social, and Environmental Council,<sup>24</sup> which among others, upon request of the government, renders its opinion on the draft laws proposed by it or by private subjects. Upon review of the petition, the Council informs the Government and the Parliament about proposed further action.

**The Constitution of Luxembourg**, approved in 1868, with amendments until 2009,<sup>25</sup> envisages in Article 27: “Everyone shall have the right to submit, to public authorities, petitions signed by one or more persons. Only the constituted authorities shall have the right to review petitions collectively.” Thus, Article 67 prohibits the personal submission or presentation of petitions to the Chamber of Deputies (Parliament). The Chamber of Deputies has the right to pass petitions submitted to the members of the government who provide explanations about their contents when requested by the Chamber.

<sup>19</sup> [https://www.constituteproject.org/constitution/Croatia\\_2013.pdf?lang=en](https://www.constituteproject.org/constitution/Croatia_2013.pdf?lang=en)

<sup>20</sup> [file:///C:/Users/user/Desktop/Erida/Projekti%20IDM\\_NDI\\_Civic%20participation/Resarch%20KShH/Kushtetutat/constitution%20of%20Slovenia.pdf](file:///C:/Users/user/Desktop/Erida/Projekti%20IDM_NDI_Civic%20participation/Resarch%20KShH/Kushtetutat/constitution%20of%20Slovenia.pdf)

<sup>21</sup> <https://www.prezident.sk/upload-files/46422.pdf>

<sup>22</sup> [file:///C:/Users/user/Downloads/WEB\\_119406\\_Grondwet\\_Koninkrijk\\_ENG.pdf](file:///C:/Users/user/Downloads/WEB_119406_Grondwet_Koninkrijk_ENG.pdf)

<sup>23</sup> [https://www.constituteproject.org/constitution/France\\_2008.pdf?lang=en](https://www.constituteproject.org/constitution/France_2008.pdf?lang=en)

<sup>24</sup> Economic, Social, and Environmental Council (ESEC) is a constitutional consultative assembly. It represents the main economic, social, and environmental fields, by promoting cooperation between different groups of social-professional interest and by ensuring that they are part of the creation and review of public policies. See <https://www.lecese.fr/en/esec-overview>

<sup>25</sup> [https://www.legislationline.org/download/id/5795/file/Luxembourg\\_Constitution\\_am200en.pdf](https://www.legislationline.org/download/id/5795/file/Luxembourg_Constitution_am200en.pdf)

**The Constitution of Cyprus**, approved in 1960, with amendments until 2013,<sup>26</sup> envisages in Article 29 that every person has the right, alone or together with others, to submit written requests or complaints to any public authority, participate in procedures and have decision-making within as quick a deadline as possible. Any interested person, damaged by such decision-making or when such decision is not communicated to him/her within the 30-day deadline, shall have the right to address the court that has the competence to review his/her request.

**The Constitution of Denmark**, approved in 1953<sup>27</sup>, sanctions in Article 54 that petitions may be submitted to the Parliament (Folketing) only through its members.

**The Constitution of Austria**<sup>28</sup> does not envisage expressly the submission of petitions directly by citizens to public authorities, but it conditions the exercise of this right with the contribution that the Ombudsman makes. Thus, Article 148a, Paragraph 4, envisages that the Board of the Ombudsman helps submit petitions directed to the National Council (which exercises the Legislative Power of the Federation together with the Federal Council). The Constitution delegates the detailed regulation of this provision to the federal law on Permanent Orders of the National Council.

### 3.2 Constitutional standards of Western Balkans' countries

The Constitutions of the Western Balkans countries, except for the Constitution of Albania that will be analyzed in a special section, display both similar and different features vis-à-vis the right to petition. In a summarized manner, the main features of these constitutions analyzed in a comparative manner are as follows:

- The following do not expressly envisage the right to submit petitions or complaints to public authorities and specifically to the Parliament: namely the Constitution of Bosnia-Herzegovina, approved in 1995 and with amendments until 2009,<sup>29</sup> and the Constitution of Kosovo,<sup>30</sup> approved in 2008 and with amendments until 2016.
- The Constitution of Montenegro, North Macedonia, and Serbia display similarities among them as they do envisage the right to petition to institutions or public bodies in the general sense (without mentioning the Parliament specifically). Also, similar elements in these formulations are noticed with regard to the provision of the right to receive responses on them, as well as the right to not be victimized or have harmful consequences as a result of the submission of the petition or opinions presented in it, except for cases when this represents a crime or criminal offense.

Concretely, the constitutional provisions in three countries of the Western Balkans that envisage the right of petition, analyzed in this section, feature the following:

<sup>26</sup> [https://www.constituteproject.org/constitution/Cyprus\\_2013.pdf?lang=en](https://www.constituteproject.org/constitution/Cyprus_2013.pdf?lang=en)

<sup>27</sup> [https://www.constituteproject.org/constitution/Denmark\\_1953.pdf?lang=en](https://www.constituteproject.org/constitution/Denmark_1953.pdf?lang=en)

<sup>28</sup> [https://www.constituteproject.org/constitution/Austria\\_2009.pdf](https://www.constituteproject.org/constitution/Austria_2009.pdf)

<sup>29</sup> [https://www.constituteproject.org/constitution/Bosnia\\_Herzegovina\\_2009.pdf?lang=en](https://www.constituteproject.org/constitution/Bosnia_Herzegovina_2009.pdf?lang=en)

<sup>30</sup> [https://www.constituteproject.org/constitution/Kosovo\\_2016.pdf?lang=en](https://www.constituteproject.org/constitution/Kosovo_2016.pdf?lang=en)

**The Constitution of Montenegro**,<sup>31</sup> approved in 2007 and with amendments until 2013, incorporates the right to petition in Article 57, which envisages the right to complain (recourse). According to this article: “Everyone shall have the right to recourse, individually or collectively with others, directed to state authorities or organizations exercising public functions, as well as the right to receive a response. The right to recourse shall not lead to liabilities or other harmful consequences for the complainant/s due to views expressed therein, except for those cases when it represents a crime.”

**The Constitution of the Republic of North Macedonia**,<sup>32</sup> approved in 1991 with amendments until 2011, envisages in Article 24 the right of every citizen to address petitions to the state and other public bodies and to receive responses from them. The citizen may not be declared responsible and there may be no harmful consequences for him/her for positions expressed in the petition, except for cases when they involve the commission of a criminal offense.

**The Constitution of Serbia**,<sup>33</sup> approved in 2006, envisages in Article 56 the right to petition. According to this provision: “Anyone shall enjoy the right to submit petitions or other proposals, individually or together with others, to state institutions, entities exercising public functions, bodies of autonomous provinces, and local government bodies, as well as the right to receive responses from them when they seek it. No person may have harmful consequences due to the submission of the petition or due to opinions expressed therein, except for cases when the latter represents a criminal offense.

### 3.3 Good legal practices in EU and CoE countries

As mentioned, some countries have special laws that envisage special and detailed provisions in exercising the right to petition. This happens in those countries where the constitution itself delegates to the special law for the further regulation of the right to petition, as envisaged in the Constitution of Germany, Estonia, Greece, Lithuania, Poland, Portugal, and Austria. In countries that do not have a codified constitution, as the United Kingdom, the regulation of the petition is done through good parliamentary practices or special regulations of pertinent parliamentary commissions.

#### a) Germany

German legislation represents a positive model with regard to the right to petition the German Bundestag (Parliament) as it contains full provisions and procedural guarantees, which enable the review of the petition according to the principles of transparency, accountability, and responsibility. Referring to this legal framework in the review of petitions, the Bundestag, through the special Petition Committee, is led by important procedural elements that we encounter in the principle of due legal process, such as:

- The possibility for administrative investigation (to obtain information and documentation from authorities),

<sup>31</sup> [https://www.constituteproject.org/constitution/Montenegro\\_2013.pdf?lang=en](https://www.constituteproject.org/constitution/Montenegro_2013.pdf?lang=en)

<sup>32</sup> [https://www.constituteproject.org/constitution/Macedonia\\_2011.pdf?lang=en](https://www.constituteproject.org/constitution/Macedonia_2011.pdf?lang=en)

<sup>33</sup> [https://www.constituteproject.org/constitution/Serbia\\_2006.pdf?lang=en](https://www.constituteproject.org/constitution/Serbia_2006.pdf?lang=en)

- deadlines for reviewing the petition,
- an encounter, concretized with the opportunity to hold a hearing with the signatories of the petition and representatives of the authorities, with experts or witnesses,
- reasoned notification of the petition signatory about the decision-making.

In respect to the principle of parliamentary efficiency and oversight, the committee requests information from authorities about the resolution approved in cases when it carries proposals for measures that should be addressed by them.

The German Legislation on Petitions consists of primary legislation, such as the law on the competences of the Petitions' Committee at the German Bundestag and the Bundestag Rules of Procedure; as well as secondary legislation, which consists of the leading Principles that guide the Petitions' Committee for the review of requests and complaints, and the Guidelines for Treating Public Petitions in keeping with Rule 7.1, Paragraph 4 of the Rules of Procedure (applicable since September 1, 2005).

Articles 1 and 2 of the law "On Competences of the Petitions' Committee," of July 19, 1975,<sup>34</sup> envisage that in order to prepare decisions for petitions, the government, federal authorities, or other public entities make available to this Committee the relevant files and information and access is ensured to their premises. In reviewing petitions, this Committee is granted the right to hear the petitioner, witnesses, and experts (see Article 4). In keeping with the German Bundestag Rules of Procedure, the Committee on Petitions may delegate competences envisaged in this law, for individual petitions, to one or more deputies (Article 5). The courts and administrative authorities are obliged to provide administrative assistance to the Petitions' Committee and the deputies delegated by it (Article 7).

Some provisions on the procedure and decision-making regarding petitions are also envisaged in the **German Bundestag Rules of Procedure**, Section X.<sup>35</sup> These rules are applicable as long as they do not run counter to the law mentioned above. The Assembly Speaker, or as referred to in the terminology of the rules, the Bundestag President, passes the petitions to the Petitions' Committee, which may seek an opinion by one of the specialized parliamentary commissions, if the petition has to do with the area of their competence (Rule 109/1). The Petitions' Committee drafts the principles for the review of requests and complaints and relies on them, in every case (Rule 110/1). For the purposes of transparency and inclusivity, the rules also envisage that the relevant members of the Federal Government are informed within a reasonable time about any parliamentary hearing with the petitioner, witnesses, or experts. Rule 112 envisages some guarantees in terms of the division and balance of competences in the rapport between the Petitions' Committee and the Bundestag (Assembly). Concretely, it envisages the obligation of the Petitions' Committee to submit to the Bundestag monthly reports in the form of a list of petitions reviewed, together with the recommendation issued for each of them. Furthermore, this Committee reports on an annual basis to the Bundestag about its activity. The reports are disseminated to all members and their review is put on the agenda within three weeks from dissemination. The reports

<sup>34</sup> P. 2 and 3, accessible at

<https://www.bundestag.de/resource/blob/189916/fd98dd44d95a4aba39a5eeba03076417/provisions-data.pdf>

<sup>35</sup> Ibid, p. 4 and 5

are subjected to debate in the plenary session only if this is requested by a parliamentary group of 5% of the Bundestag members. Also positive is the fact that the petitioner should be informed about decision-making regarding their petition and the reasons for it.

A more complete and detailed regulation for petitions submitted to the German Bundestag is envisaged in the “Leading principles of the Petitions’ Committee for the review of requests and complaints” (rules of procedure), which are drafted by the Petitions’ Committee (March 8, 1989, with amendments until November 30, 2005).<sup>36</sup> Further on, some of the principles of interest from the standpoint of the legal analysis of the petition instrument are presented. They present an advanced treatment of this instrument in secondary German legislation.

Principle 2.1 defines the petition and explains the ways in which it may be submitted. Concretely, petitions are presentations submitted in the form of a request or complaint, in the name of someone, for third parties or in the general interest. Requests may address needs or proposals for taking action or inaction by state bodies, authorities, or other institutions that exercise public functions. In particular, they include proposals with regard to legislation. Complaints consist in opposing actions and inaction of state bodies, authorities, or other institutions that carry out public functions.

Principle 2.3 sets restrictions in terms of the contents of the petitions, which should not include requests for information, general statements, criticism, remarks, insults, approval statements or other forms of expression of opinions that do not address a specific request or need.

Principle 3 envisages the circle of subjects that may submit a petition and the criteria they need to fulfil. Every physical person and legal entity, created according to the private law legislation, who resides in Germany, may submit petitions. Legal capability is not mandatory for submitting a petition as long as the requester is capable of expressing their concern in an understandable manner. The right to petition should not be conditioned by personal circumstances, such as place of residence or citizenship.

Principle 4 envisages that the petition should be submitted only in writing, should be signed, but prohibits petitions submitted verbally.

Principle 5 envisages the competences of the Petitions’ Committee, which reviews petitions within the field of competence of the Bundestag, especially for federal legislation. also, the Petitions’ Committee reviews petitions that fall within the area of competence of the Federal Government, federal authorities, and other institutions that exercise public functions. This principle is applied independently from the degree to which federal authorities or other institutions are subjected to oversight by the Federal Government. Within the limits envisaged in the Fundamental Law, the Petitions’ Committee also reviews petitions related to other constitutional bodies at the federal level. Principles envisage the review of petitions that have to do with the implementation of federal legislation or of the European Commission by the Lands, on issues related to their jurisdiction, or representatives (agents) of the Federation, only in cases when the implementation of such legislation is subjected to federal oversight or when the petition is linked with an issue connected

---

<sup>36</sup> Ibid, p. 6 – 16.

to federal legislation or legislation of the European Commission. the Committee may review petitions with regard to legal or judicial procedures at the federal level only if:

- Competent bodies, as parties in the legal or judicial process, are asked to carry out a concrete action through a lawsuit,
- Provisions or legal regulation is necessary, otherwise the court would find it impossible in the future to issue decisions that are subject to opposition in a petition,
- Competent bodies are called upon to not implement a decision in their favor. Petitions that seek violation of the principle of independence of the courts shall not be reviewed.

Principle 6.3 envisages the opportunity for the Petitions' Committee to recommend the approval in a plenary session of the Bundestag on the delegation of the petition to the Federal Government or another constitutional body of the Federation.

Principle 7 envisages detailed rules for the way in which support services of the Petitions' Committee provide assistance, starting from the logging of petitions, selection of petitions that have deficiencies or presented again (with the same subject), which have been reviewed and a decision has been made on, preparation of recommendations for delegation of petitions to responsible institutions, identification of petitions addressing issues that are being reviewed by a specialized committee of the Bundestag, drafting the list of petitions resolved in the interest of the petitioner (the right to informing him/her), identification of petitions that may not be successful, recommendation to assign at least two rapporteurs from two different parliamentary groups (in the composition of the Petitions' Committee) for the review of the petition, recommendations for further procedural steps that make it possible to obtain additional explanations, realization of a hearing with the representative of the Federal Government, delegation to the Committee of Laws of the competence to seek the presentation of files, to hold a hearing with the petitioner, witnesses or experts, to inspect offices, the proposal to resolve the subject of the petition by reconciliation, immediate delegation to the Federal Government for reparation (or compensation) actions, ordinary delegation to the Federal Government, passing the petition to parliamentary groups for information, passing to the European Parliament if the petition has to do with its jurisdiction, the proposal of decision-making to end the petition procedure by explaining in writing the reasons for the decision.<sup>37</sup>

Principle 8 envisages the procedures for the review of the petition in the Petitions' Committee. First, the rapporteurs of the petition take under review the proposal of support services of the Petitions' Committee and recommend to the latter to undertake further steps for reviewing petitions. The proposal to resolve the case by reconciliation is reviewed without delay; for other proposals to resolve the petition, the Petitions' Committee has at its disposal up to three weeks. As a rule, the Committee approves a motion for further explanation of the case presented by a rapporteur. In case of different motions for the same petition, reasons should be presented briefly.

---

<sup>37</sup> In cases when the case has been resolved by the current legislature, when the case has been resolved according to the subject of the petition, when there is no perspective for amending legislation, when the case may not be resolved according to the subject of the petition, when the activity of the public authorities does not leave room for criticism, when the issue addressed in the petition may not be resolved.

Principles 8.2.1 and 8.3 make the distinction between petitions that are reviewed/voted individually and collectively by the Petitions' Committee. The latter have to do with cases when the motions of the rapporteurs coincide with the proposal or recommendation of the committee's support services.

Principle 8.4 envisages special rules for the review of multiple petitions when their subject is the same as the one of the first (initial) petition, for which the committee has issued a decision. In such cases, they are registered in a list and subjected to collective voting in the committee, together with the motion of the initial petition. In cases of other presentations for the same issue, after the committee has proposed a resolution for a collective petition, they are only listed and registered. The Committee reports on them every three months. Both of these procedures for multiple petitions and collective ones are implemented in the legislature during which the resolution for the initial petition has been approved. Of interest is paragraph four of this principle, which envisages that in cases of collective or massive petitions, supported by at least 50,000 persons, one or more of the signatories of the petition should be heard in a public meeting of the Committee. The Committee may not apply this principle if 2/3<sup>rd</sup>s of the present members vote against. For reasons of privacy, the meeting shall be open to the public only if the petition signatories give their consent.

Principle 8.6 envisages that the Petitions Committee reports to the Bundestag the petitions it has taken under review in the form of a list together with the relevant proposal. Parliamentary groups have the right to seek the conduct of a debate on the proposed resolution or submit separately in writing (printed) a motion to amend the resolution.

Principle 9.1 envisages rules for notifying the petitioner, the deadline and contents of the notification, after the Bundestag has made a decision on the proposed resolution. The announcement of the decision is made by the chairperson of the Petitions' Committee and contains the relevant reference in the list of petitions, provides information on whether a debate was held on the resolution, and reference to the debate and registrations of the plenary session. The reasons for the proposed resolution should be attached to the announcement.

Principle 9.1.2 envisages the notification of the petitioner during the Bundestag's recess. If the latter does not meet in session for more than two weeks and if the motions of rapporteurs and the proposal of the Committee Service for the review of the petition coincide, the petitioner shall be notified by the Bundestag before the approval of the solution proposed in the resolution, by communicating the relevant reasons (so-called notification during parliamentary recess). This procedure is not applied in the case of petitions that are reviewed individually in meetings of the Committee (8.2.1.), or in the period from convening the Bundestag to the first meeting of the new Petitions' Committee. Principle 9.1.4 envisages the possibility for public announcement of the decision-making for petitions if the Petitions' Committee decides on this form of notification.

These principles envisage also the communication that the Bundestag conducts with the Federal Government or other authorities with regard to decision-making on petitions and reporting by the latter. Thus, the President of the Bundestag notifies the Federal Chancellor about the decisions of the Bundestag in order to delegate the petition to the Federal Government so that it takes reparation (corrective) measures. The Chair of the Petitions' Committee informs the federal minister responsible for decisions of the Bundestag about the delegation of the petition to the Federal

Government in order to review the case again and evaluate measures to correct the situation. As a rule, the Federal Government is given a period of six weeks to respond. The same procedure is pursued by the Bundestag toward other authorities. The President of the Bundestag notifies the President of the European Parliament on the decision of the Bundestag to pass on or delegate a petition to the European Parliament. Principle 9.2.2 envisages that Services of the Petitions' Committee inform in writing the member deputies about the response of the Federal Government and other bodies.

Principle 10 envisages the obligation of the Petitions' Committee to present to the Bundestag a written annual report on its activity.

Instructions on the Treatment of Public Petitions in keeping with Regulation 7.1, Paragraph (4) of the Rules of Procedure, envisage that initially, they are applicable from September 1, 2005, for a 2-year test period. Public petitions may be submitted to the Petitions' Committee by anyone, individually or together with others, by filling out the relevant form. Public petitions are published on the internet website of the Petitions' Committee. In order to qualify as a public petition, the subject of the request or complaint should address issues of general interest and its treatment should be within the scope of competences of the Petitions' Committee. The concern and justification of the public petition should be presented in the clearest and shortest way possible (the form has been conceived in such a way as to limit the space for filling this out).

Public petitions are not allowed if they:

- contain individual requests or complaints;
- are not written in German;
- violate the principle human dignity;
- contain opinions that are evidently fake, confusing or insulting;
- evidently are not based on facts;
- call for criminal offences or violations of an administrative regulation or seek measures in contravention of the constitutional order or moral rules;
- contain confidential information or interfere with the individuals' right to privacy (e.g. by telling names);
- use a language that is not worthy of the Parliament's dignity.

Public petitions may be refused if the Petitions' Committee has made a decision on a case that is mostly similar during the current legislature and no new cases of importance have been submitted that might lead to changing the decision-making.

The initiator of the petitioner is considered the main sender of the petition that sets the period during which the persons may sign the public petition or post comments. The period for signing the petition for the public in principle lasts from four to six weeks and, in any case, no more than two months. Co-signatories of a public petition or persons participating by posting comments, should provide their name and address. This data is made public.

Upon expiration of the period for the public signing of the petition that coincides with obtaining comments, support services present the petition to the Petitions' Committee. The Committee

decides on whether to conduct a hearing with one or several of the petition signatories, before its review in a plenary session by the Bundestag. Final discussions on the public petition in principle should be conducted in public meetings of the Petitions' Committee. The public is informed about the progress of petition procedures through the internet.

## **b) United Kingdom**

The United Kingdom has an early tradition in recognizing the right to petition, dating back to XVII century.<sup>38</sup> The rights of petitioners, as well as the competences of the Lower Chamber (House of Commons) of the Parliament of the United Kingdom<sup>39</sup> to review petitions have been recognized in two resolutions of this Chamber since 1669.

*“It is an inherent right of every commoner in England to prepare and present Petitions to the House of Commons in case of grievances, and the House of Commons to receive the same. It is an undoubted right and privilege of the Commons to judge and determine concerning the nature and matter of such petitions, how far they are fit or unfit to be received.”*

Initially, in House of Commons procedures, a small restriction was set regarding public petitions, issues presented to it from outside. Collective petitions to the House of Commons played an important role in some campaigns and major reform movements in the United Kingdom, including the known “Chartism”<sup>40</sup> movement and that for women's suffrage.

Century XIX saw a considerable increase in the number of petitions presented to the House of Commons. During 1837–1841, the average number of petitions presented was approximately 17600. A few years later, that number doubled within one year. In 1843, a total of 34000 petitions were submitted. At the same time, government complaints about the time of engagement of the House of Commons were growing. This situation led in 1842 to the approval of a series of permanent orders that, together with amendments they experienced later, made the presentation of petitions a formal ineffective procedure, except for very rare cases. As a result, in XX century, the number of petitions dropped considerably.

In the first years of the XXI century, both the government and the House of Commons began to explore ways on how the public might send and sign petitions electronically. On November 14, 2006, the Government introduced System no. 10 of Electronic Petitions, which enabled the public for the first time to petition the British Government electronically. In May 2007, the Procedure Committee shared this position: “Parliament should be the main recipient of petitions submitted

---

<sup>38</sup> Information presented onwards is taken from author Erskine May “A brief history of petitioning Parliament” and is accessible at

<https://erskinemay.parliament.uk/section/5072/a-brief-history-of-petitioning-parliament/#footnote-item-3>

<sup>39</sup> Parliament is the highest legislative body in the United Kingdom. Parliament is bicameral, but has three parts, consisting of: the sovereign (Crown-in-Parliament), House of Lords and the House of Commons (primary chamber). By conventional constitution (uncodified rules), most of the ministers of the British government, including the Prime Minister, are members of the House of Commons or, in fewer cases, of the House of Lords, and are responsible for the relevant fields of the legislature. For more see:

[https://en.wikipedia.org/wiki/Parliament\\_of\\_the\\_United\\_Kingdom](https://en.wikipedia.org/wiki/Parliament_of_the_United_Kingdom)

<sup>40</sup> The purpose of this movement was to guarantee political rights and influence for workers.

by the public.” By recognizing the potential of electronic petitions to connect the public more effectively with the Parliament, this Committee expressed its support in principle for a system of electronic petitions submitted to the House of Commons and recommended work to elaborate it.

In 2008, the Procedure Committee made public detailed proposals for the system of electronic petitions to the House of Commons; these were approved by the government but were not applied due to concerns about its expected costs. The website of petitions to the British Government was closed when Parliament was dissolved for the elections of 2010. After the elections, the new coalition government pledged: “Any petition securing 100,000 signatures, shall be subjected to formal debate in the Parliament.” This led to the opening of an online portal in July 2011 on electronic petitions to the government.

In 2014, the House of Commons agreed in principle to the creation of a collaborative system of electronic petitions, with the shared ownership of the Government and the House of Commons. In December 2014, the Procedure Committee presented detailed proposals for a shared-ownership internet website for petitions and the creation of a selected committee (the Petitions Committee) to oversee the petition process.

The Procedure Committee sought that the creation of a parliamentary committee on petitions, assisted by support staff or services, would lead to considerable improvements for providing information to the signatories of the petition on the activity of the House of Commons and the numerous ways in which deputies respond to public concerns, based on the opportunities that the House of Commons provides for them. The first Petitions Committee of this kind was created on July 20, 2015, and the official portal was opened the following day ([www.petition.parliament.uk](http://www.petition.parliament.uk)).

### **c) Scotland**

Electronic petitions (online), otherwise known as e-petition, is system developed in Scotland.<sup>41</sup> It enables citizens to electronically sign petitions and to comment on it in an open forum. This system facilitates citizens’ engagement in decision-making and legislative processes, giving the opportunity to a large number of people to submit petitions from their homes, but also to comment publicly about every petition under review.

The normative framework that regulates the right to petition in Scotland consists of regulations in force of the Scottish Parliament and rules approved by the Parliamentary Committee on Civic Participation and Public Petitions.<sup>42</sup> Compared to the petitions’ system in Germany, Scotland has in its normative framework some more advanced elements: it does not condition the submission of the petition with the residence of the individual, doesn’t necessarily request the petition to be in the official language, as it may be translated by the parliament staff.

---

<sup>41</sup> Scotland is a member country of the United Kingdom, which is a member of the Council of Europe.

<sup>42</sup> <https://petitions.parliament.scot/rules>

Parliamentary rule no. 15.4.2 envisages that the petition should clearly state the name of the petitioner, the address of the petitioner to which all communications on the petition are done, and the name and address of any person supporting the petition.

However, in terms of restrictions established regarding the subject of petitions, German legislation appears to be more enabling compared to the Scottish one. Parliamentary Rule 15.5.1 envisages the cases when a petition is inadmissible:

- does not comply with Rule 15.4.2 or is otherwise not in proper form;
- is frivolous;
- breaches any enactment or rule of law;
- refers to any matter in relation to which legal proceedings are active;
- contains language which is offensive;
- fails to raise issues of national policy or practice;
- requests the Parliament to do anything which the Parliament clearly has no power to do;
- is the same as, or in substantially similar terms to, a petition brought during the same session of the Parliament and which was closed less than a year earlier.
- is the same as, or in substantially similar terms to, any other petition which is currently being considered by the Parliament;
- has been brought by or on behalf of a petitioner who, at the same time, has two current petitions under consideration by the Parliament; or
- relates to a Bill which is currently being considered by the Parliament, or to primary legislation passed by the Parliament within the period of twelve months preceding the lodging of the petition.

The Parliamentary Committee on Civic Participation and Public Petitions has established the form of petitions<sup>43</sup> in accordance with the Parliament Rules for Public Petitions no. 15.4.3, as follows:

- Petitions should be submitted using the Scottish Parliament's official website, whereby all sections of the petitions form should be completed. If an individual has difficulty in using the platform, they may submit in a written form.
- A petition may be brought in any language. Parliament will enable its translation if it is not written in the English language.
- Petitions must be brief and clearly state what is being sought. No supplementary information (such as correspondence, legal information, photographs, or copies of Freedom of Information requests) will be accepted as part of a petition.
- Petitions must relate to national policy or practice as opposed to a local or individual matter.
- Petition titles should be a short factual description that explains what is sought, but should not be a slogan or campaign name.
- Issues raised in a petition should be linked with the activity of decision-making bodies, such as the Scottish Government (or another relevant public body), or elected representatives (for instance a member of the Scottish Parliament).

---

<sup>43</sup> These rules shall be read in accordance with the Parliament Rules on Public Petitions.

The interesting element of the platform, which enables the public to submit petitions electronically is the fact that anyone can follow the journey of the petition's review process by the responsible institution.<sup>44</sup> The personal data of petition signatories remain hidden, except for the names of the citizens that are published for transparency.<sup>45</sup> Likewise, the system makes it possible to delete signatures that appear twice or are irregular.<sup>46</sup> Before the petition is submitted to the responsible institution electronically, during the consultation process, it is public from the first phase of its signatures and anyone has the possibility to comment on it or even suggest further changes.<sup>47</sup>

### 3.4 Legislation of the European Union (EU) and jurisprudence of the European Court of Justice (ECJ)

The right to petition is envisaged in Article 227 of the Treaty on the Functioning of the European Union<sup>48</sup> and Article 44 of the Charter of Fundamental Rights of the European Union.<sup>49</sup> This right, according to EU Community Legislation, may be exercised individually or together with others, by any physical or juridical entity that is a resident or has a business registered in one of the member countries. For a petition to be valid, it should present issues that are linked with the EU fields of activity and that affect the petitioner directly.

The Parliament Rules of Procedure<sup>50</sup> also envisage the formal aspects for the submission and the review procedures on petitions. The petition submitted to the European Parliament should contain the name, profession, nationality, permanent address of the petitioner, his/her signature, and should be written in one of the official languages of the European Union. In cases when the formal aspects of the petition's contents are respected, the petition shall be admitted, logged and conveyed to the president of the European Parliament (EP), who has the competence to send it to the Petitions' Committee. This Commission verifies the contents of the petition, whether it is in accordance with the European Union fields of activity.

The EP Internal Regulations envisage that petitioners should be notified in case their petition is not admitted or is delegated for review to another institution.

Petitions submitted to the EP are registered in a public registry. Discussions for their review should be reflected in the meeting minutes of the Commission meetings. Exclusively, publication is not

<sup>44</sup> Janet Seaton, "The Scottish Parliament and e-democracy)", Scottish Parliament, Edinburgh, UK, 17.02.2005, p. 336. Link:

<https://www.agora-parl.org/sites/default/files/agora-documents/The%20Scottish%20Parliament%20and%20e-democracy.pdf>

<sup>45</sup> <https://petitions.parliament.scot/help>

<sup>46</sup> <https://petitions.parliament.scot/help>

<sup>47</sup> Ross D. Cotton, Political participation and e-petitioning an analysis of the policymaking impact of the Scottish Parliament's e-petition system), University of Central Florida, 2011, STARS. Link: <https://stars.library.ucf.edu/cgi/viewcontent.cgi?article=2214&context=honorstheses1990-2015>

<sup>48</sup> Link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>

<sup>49</sup> Link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>

<sup>50</sup> Link: [https://www.europarl.europa.eu/doceo/document/lastrules/TOC\\_EN.html](https://www.europarl.europa.eu/doceo/document/lastrules/TOC_EN.html)

permitted when the petitioner requests that it is treated confidentially. In this case, the petition is archived in the Parliament.

The Petitions' Committee, at the EP, reviews the petition in different ways, depending on its subject. This body may ask the European Commission to provide information or even an opinion on the raised issues; it may organize sessions or hearings where data on the case will be discussed addressed in the petition; it may submit the petition to the European Ombudsman or may seek the opinion of other parliamentary commissions (especially when the subject of the petition is the amendment of a law). In cases when the petition is submitted by a single individual, the Petitions' Committee may collaborate with competent authorities or representatives of the EU member state the citizen comes from and may invite the EP President. When the submitted petition infringes upon the general interests of the European Union, as in the case when an issue is raised that may be in violation of the European legal framework, the Parliament may delegate it to the European Commission, which may convey opinions or submit it for review at the ECJ.

Issues related to petitions to the European Parliament have become the subject of review by the ECJ. Among the main competences of this court is the interpretation of the EU law to guarantee that it is applied in the same manner in all EU countries, and the resolution of legal disputes among governments of the member countries and EU institutions. In certain circumstances, the ECJ is set into motion by individuals, companies or organizations to undertake action against an EU institution if they deem that the latter has violated their rights.<sup>51</sup>

The ECJ has placed the emphasis on the need to reason decision-making when the petition is refused, and has also accorded to the judicial power the competence to evaluate the juridical validity of petitions.

One of the first cases that ECJ addressed in its jurisprudence, regarding petitions, was the case *Tegebauer vs the European Parliament*.<sup>52</sup> In this case, the Petitions' Commission at the EP did not accept the petition raised by an individual on the freedom of movement of citizens, claiming that the raised problem was not envisaged by European legislation. Therefore, it was deemed that the demands of the petition were not in keeping with Article 227 of the Treaty on the Functioning of the EU (Lisbon Treaty). The General Chamber of the ECJ said in this case that the decision to not review a petition received from citizens should be reasoned and not violate the right to petition, as one of the most important rights of EU citizens.

In another case reviewed by the ECJ, *Mr. Schonberger vs the European Parliament*,<sup>53</sup> the petitioner claimed that the Petitions' Commission has viewed the petition he'd submitted as valid from a formal standpoint, but had not pursued all phases for the review of this petition, on the grounds that the raised problems were not deemed sufficient for review. According to the ECJ, this EP approach is not transparent. In this case, the ECJ confirmed the position that the right to

<sup>51</sup> [https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/institutions-and-bodies-profiles/court-justice-european-union-cjeu\\_en](https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/institutions-and-bodies-profiles/court-justice-european-union-cjeu_en)

<sup>52</sup> <http://curia.europa.eu/juris/document/document.jsf?text=&docid=109482&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=231565>

<sup>53</sup> <http://curia.europa.eu/juris/document/document.jsf?text=&docid=134568&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=231355>

petition is a fundamental right and it is one of the most important instruments of democratic life in the European Union. According to the ECJ, the petition guarantees direct dialogue between citizens and the elected. Therefore, the ECJ placed the emphasis on the fact that assessment on the juridical validity of acts should be carried out by the judicial power and not the legislative one. The Parliament, having a marked political nature finds it difficult to preserve impartiality, which is essential in treating the juridical validity of acts. This case represented a guiding precedent in the way in which the Parliament continued to address and review petitions submitted by citizens.

### **3.5 Constitutional and legal analysis of the right to petition in our country (Albania)**

Article 48 of the Constitution of the Republic of Albania envisages: “Everyone, by himself or together with others, may direct requests, complaints or comments to the public bodies, which are obliged to reply within the time limits and conditions set by law.” This is a general and non-specific provision on petitions submitted to the Assembly. However, this provision is enabling, and therefore the source of the right of citizens to petition the Assembly derives from this provision. Our constitutional provision is inclusive, citing the fact that everyone may address public bodies, individually or in a group. part of public bodies is also the Assembly of Albania, which exercises important legislative competences, of parliamentary oversight, but also for the election of some of the heads or senior functionaries of institutions. As has been analyzed earlier in this report, Albania is not the only country that has a general provision on petitions. Of 17 member countries analyzed, it appears that a petition specifically addressed to the Assembly is only envisaged in the Constitution of Germany, Italy, Denmark, and Austria.

In our legislation, the terminology petition (directed to the Assembly) is envisaged in the provisions of the Assembly Rules of Procedure,<sup>54</sup> which is approved by an absolute majority, which requires the votes of at least 71 members of parliament. This act establishes the rules for the organization and functioning of the Assembly of the Republic of Albania, its leading bodies, meetings of committees and plenary sessions, lawmaking procedures, parliamentary oversight, etc.

The petition to the Assembly is regulated in Article 104 of the Assembly’s Rules of Procedure. This article is found in one of the chapters on the parliamentary oversight exercised by the Assembly. Thus, beside a right of citizens, the petition is an instrument by means of which parliament exercises parliamentary oversight on the executive, constitutional bodies, and those created by law. Due to continued amendments to this act, from the standpoint of legislative technique, the current position of the petition under the chapter “Parliamentary oversight for the EU integration process” is worth revising in the future in order to be treated as part of a specific chapter on petitions, under the section of parliamentary oversight.

---

<sup>54</sup> The Assembly’s Rules of Procedure, by Decision no. 166, dated 16.12.2004, amended by Decision No. 15, dated 27.12.2005; by Decision no. 193, dated 7.7.2008; by Decision no. 21, dated 04.03.2010; Decision No. 41, dated 24.6.2010; Decision No. 88, dated 24.2.2011; Decision No. 41, dated 30.05.2013; Decision No. 95, dated 27.11.2014; Decision No. 88, dated 14.9.2017; Decision No. 85, dated 18.7.2019, and Decision No. 12/2020, may be accessed at this link: <https://www.parlament.al/Files/sKuvendi/rregullorja.pdf>

Referring to Article 104 of the Assembly's Rules of Procedure, the following indicate the way in which petitions are presented and reviewed:

- I) The petitions addressed to the Assembly shall be examined by the appropriate standing committees.
- II) The petitions must be in writing, must have the name of the author and the appropriate signatures must be clearly expressed and show clearly their objective so as to be accepted for consideration.
- III) The Speaker sends the petitions through the appropriate services of the Assembly to the committees connected with the object of the petition. The chairperson of the standing committee can turn back the petition to its authors to re-formulate it or to ask for more explanations.
- IV) No later than 45 days from the date of receiving the petition, the Chairperson of the committee presents the petition to the committee proposing meantime its legal solution or its refusal. If the committee considers appropriate for the solution of the case, it can authorize the chairperson to present the declaration in the plenary sitting. The solution of the issue in the petition and the undertaken steps are announced to the authors of the petition.
- V) The responsible committee may decide to send the petition to another parliamentary committee, the Council of Ministers, public institutions, and the Ombudsman for further action, for the purpose of obtaining information. In the end, the committee provides explanations in writing, proposes a legislative initiative, or makes a decision.

The formulation of Article 104 of the Rules of Procedure of the Assembly of Albania dictates the need to revise the legal framework regarding petitions, so that it is more complete and detailed, so the ways for its submission have alternatives, to adjust to trends in information technology (e-petition), guarantee a better level of unification of parliamentary practice for its dissemination and review, etc. The publication of petitions and informing the public on the progress of their review represents a very positive practice toward transparency, efficacy of this instrument, and strengthening citizens' trust in the right to petition.

In comparison to constitutional legislation and the ordinary legislation of member countries of the European Union and the EU community legislation, as well as the positive practices of Anglo-Saxon countries, it is noticed that Article 104 of the Rules of Procedure:

- It does not expressly envisage, aside from in writing, the submission of petitions electronically by citizens or groups of individuals. The online petition appears to be a developed system in Scotland, and it enables citizens to sign petitions electronically and to comment about them in an open forum. The interesting element of the electronic petition platform in Scotland is that anyone may follow the progress of the petition's review by the responsible institution. If this system were to be adopted in Albania, the publication of the names of petitioners and supporters of the electronic petition, as well as their contents, might be conditioned with giving prior consent by the individuals (petitioner/s).

- It is recommended that parliamentary rules of procedure envisage the language in which the petition may be submitted. English could be an alternative to the country's official language (Albanian), which could help foreign citizens or those without citizenship who reside in our country.

- The Rules of Procedure of the Assembly of the RA, in Article 106, envisage the publication in the electronic register of parliamentary documentation, which includes documents regarding the preparation and conduct of meetings of the Assembly Committee. However, in practice, the current website of the Assembly does not enable transparency on petitions and the manner of their review.<sup>55</sup> Given that standing committees are responsible for reviewing petitions, this provision enables publication in the context of transparency of petitions and documentation highlighting the manner of their review and decision-making on them. The same might be done with a dedicated register for petitions, where the public could have the opportunity to access the necessary information and relevant documentation, such as the petition, the decision of the Assembly Speaker, the meeting minutes of the meeting of the Standing Committee, draft decisions, final decisions, etc.

- The Albanian legal model does not envisage restrictions with regard to the subject of the petitions. Although this does appear to be a “liberal” model, in essence, the lack of provisions expands the scope of parliamentary committees to refuse a petition or, otherwise, may lead to surpassing the checks and balances between the legislative and the executive, in favor of legislative power. A distinguishing element of the Slovak Constitution on petitions is the establishment of restrictions that the subject of the petition may not be the violation of fundamental human rights and freedoms, or interference with the independence of the court. A distinguishing feature of the Constitution of Luxembourg is the establishment of more detailed restrictions for petitions addressed to the Chamber of Deputies, which does not review petitions that reflect individual interests with regard to the subject, except for those cases when they seek the reinstatement of violated rights deriving from illegal acts of public bodies. German legislation also has imposed restrictions, which are more enabling vis-à-vis restrictions imposed in the parliamentary rules of Scotland (cases of restrictions were mentioned in relevant sections analyzed above).

- The procedure envisaged for addressing petitions in Article 104 of the Rules of Procedure, Paragraph 4, appears to give a prevailing role to the chair of the parliamentary committee responsible for the petition. It is so because it is his/her attribute to present the petition in committee, proposing at the same time the manner of legal resolution or rejection of the petition. Referring to the practice of Anglo-Saxon countries, but especially the German model, it envisages the appointment of rapporteurs from among members to review and present the petition in the committee. Thus, Germany envisages the appointment of two rapporteurs on the review of a petition by two different parliamentary groups. In this sense, Article 104, Paragraph 4, appears to create a clash with Article 29, Paragraph 2, of the

---

<sup>55</sup> Published on the Assembly website is only the register of requests and responses, which reflects entirely requests for information by third parties to the Assembly.

Rules of Procedure, which envisages that: “*The Chairperson of the Committee, in the consultations with the vice-chairperson and the secretary of the committee, according to the importance of the issue that will be considered, assign one or more rapporteurs for the issue and makes them known to the committee. In cases of objection, the committee determines on the appointment of the rapporteur/rapporteurs with the majority of votes of all of its members*”. The practice of assigning one or more rapporteurs is followed in our country mainly for the review of draft laws or the review of draft resolutions on the annual activity of independent institutions. This may dictate the need to amend Paragraph 4, Article 104 of the Rules of Procedure to envisage expressly passing the attributes of the committee chairperson to at least two rapporteurs who represent different parliamentary groups (without conditioning this with the size of the parliamentary group).

- Our parliamentary rules and practice, analyzed in this report, do not guarantee some important elements of due process for the petitioner. In this regard, the German model may be taken as reference as it envisages important elements of this right, such as: opportunity for administrative investigation (to obtain information and documentation from authorities), setting deadlines for the review of the petition, confronting authorities, the possibility to hold hearings with representatives of the authorities, to hold a hearing with the petitioners, experts or witnesses, reasoned notification to the petitioner about the decision-making, etc. In order for the Petitions’ Committee to prepare decisions for the petitions, the government, federal authorities, or other public entities make available to the Committee the relevant files as well as information and access to their premises.

- Article 104 does not envisage delegation of petitions from the Assembly to other public institutions when the subject of the petition’s requests is not in the scope of competences of the Assembly. Delegation is an institution of administrative law that is envisaged in the Administrative Procedure Code, although in the concrete case, the special regulation on the delegation of petitions would be more favorable toward efficacy and consistence of parliamentary practice. It is worth noting that delegation may not be mistaken for the current provision of Article 104, Paragraph 5 of the Rules of Procedure, which envisage that the responsible committee may decide to send the petition to another parliamentary committee, the Council of Ministers, public institutions, and the Ombudsman, for further actions, in order to obtain information. The way in which this provision has been formulated conditions the passing of the petition with obtaining information. In further elaborating the parliamentary rules and practices of the country, on legislative-executive relations, of interest would be borrowing and adapting the German model, which envisages the attributes of the petitions’ committee to obtain information from authorities on the approved resolution, in cases when it carries proposals on measures that should be addressed by them. This element transforms the petition into an instrument that is not simple control of the legislative on the executive, but it grants parliament the opportunity to oversee measures to be taken by the executive to resolve the case raised in the petition.

- Our model does not envisage a maximal deadline within which there is a review of and a decision on the petition, while Article 104, Paragraph 4, envisages that taken steps and the issue

raised in the petition are conveyed to the petitioners. However, this provision is worth addressing and clarifying properly in parliamentary practice, in order to enable, in any event, informing the petitioner, including on cases when a petition is rejected or is not within the competences of the Assembly (and is therefore delegated). Thus, the petitioner should be notified also about such decisions, together with the pertinent arguments. It is worth stressing that Paragraph 4 of Article 104 envisages only the 45-day timeline, from the day when the petition is received, available to the committee chairperson to present the petition and the proposal for its resolution. This deadline, besides being too long, also covers only one phase of the process to review the petition, not envisaging other deadlines, such as the time the Assembly Speaker needs to disseminate the petitions, the time for review in the committees, to carry out administrative actions, the time for presenting it to plenary session, notifying the petitioner, etc. As mentioned earlier, some constitutions envisage specifically the right of petitioners to receive a response from the Assembly or public authority. Thus, the Constitution of Greece envisages the obligation of authorities to provide a written and reasoned response. The Constitution of Portugal envisages informing the petitioner/-s about the results of their review within a reasonable time. Croatia also envisages the right to a response on the submitted petition. A distinguishing feature of the Constitution of Cyprus is the provision that the petitioner should be notified immediately about the reasoned decision-making and, in any case, within the 30-day timeline. The Rules of Procedure of the European Parliament envisage notifying the petitioners while, referring to jurisprudence of the ECJ, this decision should be reasoned. In the parliamentary rules and principles of the Bundestag, the proposal to resolve the case by reconciliation is reviewed without delay, while on other proposals to resolve the petition, the Petitions' Committee has up to three weeks available.

- Of interest in the German model is the provision on the obligation of the Petitions' Committee to present to the Bundestag monthly reports in the form of a list of petitions reviewed together with the recommendation proposed for each of them.<sup>56</sup> These reports are disseminated to all members and their review put on the agenda within three weeks from dissemination. The reports are subjected to debate in a session only if a parliamentary group or 5% of members of the Bundestag request so. The current provision in Article 104 of the Assembly's Rules of Procedure does not clearly envisage the obligation that the decision-making of the relevant committee on the petition is subjected to debate and/or a vote in plenary session. Paragraph 4 of this article envisages that if the committee deems it reasonable for the resolution of the case, it may authorize the committee chair to present a statement in the plenary session of the Assembly. This formulation is evasive, leaves room for subjective and non-unified interpretations, and bears the potential for decision-making of the committee to not be subjected to control and decision-making in the plenary session.

- Analyzing the Rules of Procedure of the Assembly of the Republic of Albania, from a legislative technique standpoint, it is noticed that provisions in general are not very detailed. This is noticed also in countries like Germany, which have the same legal system as our country, where such rules are detailed in the Principles and Instructions on the Treatment of Public Petitions. The attribute to draft these principles may be granted to the Council on Regulations, Mandates, and

---

<sup>56</sup> Furthermore, this Committee reports on an annual basis to the Bundestag about its activity.

Immunity, after an addition is envisaged on the competences of this advisory body in Article 13, Paragraph 1, of the Rules of Procedure of the Parliament. Then, each parliamentary committee approves the implementation of these rules proposed by the Council on Regulations, Mandates, and Immunity or they are proposed to the plenary session, attaching the text of the regulations in the form of a complaint. This latter manner would guarantee sustainability and better unification of parliamentary rules and practices.

- Also, it is important that the Assembly's civil service includes a directory dedicated to receiving, administering, and treating petitions; or maybe look at the possibility of increasing personnel for the complaints receiving office (which may be labeled the office of complaints and petitions). In Germany, it is precisely support services of the assembly that provide considerable assistance, from registering petitions, selecting petitions with deficiencies or presented again (with the same subject), that have been reviewed and a decision has been made on them, drafting the list of petitions resolved in the interest of the petitioner (his/her right to information), recommendation to assign at least two rapporteurs (in the petitions' committee), the recommendation for further procedural steps that enable obtaining additional explanations, holding a hearing with the representative of the Federal Government, delegation to the committee of laws of the competence to seek the presentation of files, holding a hearing with the petitioner, witnesses or experts, inspect offices, propose the resolution of the subject of the petition by reconciliation, pass the petition to parliamentary groups for information, etc.

### **3.6 Petitions in the Assembly's 5-year practice (2016 – 2020)**

According to official information made available by the Assembly, for the period January 2016 – October 2020, it appears that 42 petitions were submitted to and were handled by this institution. We find with regret that for the overwhelming majority of these petitions, there was no decision-making by parliamentary committees, while according to Article 104, Paragraph 5, of the Rules of Procedure of the Assembly, there is an obligation that at the end of the discussion on the petition at the committee meeting, the latter provides explanations in writing, proposes a legislative initiative, or makes a decision.

The documents of this practice, made available by the Assembly, with deficiencies in terms of materials requested by AHC, raises questions on the lack of efficacy of the petition instrument addressed to the Assembly by citizens or certain groups of interest.

To AHC's request for information, the Assembly responded by sending partially copies of petitions, namely 32 petitions, 3 requests, 1 letter and 1 memorandum, out of the 42 petitions it received in total during this period. In spite of positive bridges of cooperation and efforts to make available the requested information, the Assembly was not able to establish what state institutions and for what reasons the treatment and resolution of issues raised in part of the petitions were delegated. Lack of such documentation calls into serious question the fact of whether there were delegations of petitions to the executive or other responsible public bodies. also, the Assembly does not appear to have exchanged information with responsible institutions for pursuing the progress of the treatment and resolution of the issues addressed as concerns by citizens in the petitions. The lack of parliamentary documentation, namely of the transcribed meeting minutes of meetings that proves how petitions were reviewed in the parliamentary committees, raises serious

questions on the review of a considerable number of petitions by the parliamentary committees. This fact encountered by AHC in this analysis represents a violation of Article 104 of the Rules of Procedure of the Assembly.

The lack of complete parliamentary documentation was noticed for 24 petitions, which is more than half the petitions submitted to the Assembly during the 5-year period under review. It results that this category of petitions was submitted by groups of individuals or representatives of organizations, such as the petition of the Kuqar-Patos village inhabitants on land pollution, the petition from inhabitants of Municipal Unit no. 1 in Tirana on the demolition of homes for public interest, the petition of a group of oil refinery workers on their status, the petition of a group of citizens from Elbasan on the process of vetting in the justice system, the petition of a group of citizens on justice reform, the petition of a group of former political prisoners, etc.

With regard to petitions on which parliamentary documentation was provided, an analytical reading of the meeting minutes in committees indicates that in most cases, their review is limited to a discussion among committee members. In some cases, discussions on petitions that have been reviewed by parliamentary committees are politicized, minimizing the importance of the issue addressed by the petition or by addressing it politically. Failure to provide explanations in writing to the petitioners, the lack of a proposal for a legislative initiative or decision-making, besides being a violation of Article 104, Paragraph 5, of the Rules of Procedure, in our opinion, has had an impact in infringing upon the trust of citizens or groups of interest in the right to petition and, therefore, has weakened this parliamentary instrument during this period.

The practice of parliamentary documentation also displays deficiencies as there appears to have been no correspondence in cases when the responsible committee decided to send the petition to another parliamentary committee or the Council of Ministers, public institutions and the Ombudsman, for further action, in order to obtain information. (Article 104/5 of the Rules of Procedure). Likewise, questions arise on failure to respect the 45-day deadline of the Assembly Speaker to present the petition to the relevant parliamentary committee. Even more disturbing is the lack of documentation proving that the Assembly notified petitioners on the steps taken to resolve the issue raised in the petition, which raises serious questions on the violation of the obligation envisaged in Paragraph 4, Article 104 of the Rules of Procedure of the Assembly.

It is our opinion that all of these deficiencies in parliamentary documentation should seriously reflect the need to improve parliamentary rules and practices for administering, treating, and reviewing petitions. In this regard, it is important that the administration or civil service of the country have dedicated human resources to receive, administer, and provide legal services to MPs and parliamentary committees and on the publication of documentation related to petitions (referring to the German and English models analyzed above).

Of 42 petitions submitted to the Assembly during this period, documentation made available makes it possible to identify only one successful practice of resolving the petition submitted by the organization “Prosperity Golloborda,” was reviewed by the Committee on Legal Affairs, the Public Administration, and Human Rights. As a result, this committee included concrete proposals

on the draft law in the reviewing phase to recognize the minority in the draft provisions (by approving the relevant amendment).

### *3.6.1 Petitioners (subjects that set the Assembly in motion) and the subject of petitions*

It is an interesting fact that petitioners during this period have been informal groups of citizens (united for common causes due to their profession, place of residence, or belonging to a certain group). In few cases, petitions were submitted by CSOs, which highlights the need for better organization, capacity building, and representation by them of citizens' interests before the Assembly of the RA.

The subject of petitions is diverse. Concerns that are raised are specific and differ from one another. However, in general, these concerns involve issues or rights of a social-economic nature linked with health, insurance, employment, profession, education, housing and well-being, access to local government bodies, etc.

During 2016, the Assembly received 2 requests and 8 petitions. Requests were submitted by a group of students of Burrel who requested the accreditation of the higher education institution "Mother Geraldine" in Burrel and the other request by a group of inmates at the Institution for the Execution of Penal Decisions (IEPD) Fier, who requested a revision of legislation envisaging amnesty (this request was sent to the Ministry of Justice and the Assembly of Albania was cc-ed). The 8 petitions submitted during 2016 were by:

- a group of lawyers from Kurbin who asked for a change of the scheme regarding social insurance contributions for free professions;
- a group of inhabitants from Paskuqan who complained about the lack of water in their homes;
- association of the hunters of Peza who asked for the invalidation of the law on the hunting moratorium;
- personnel of the Tirana Medical Emergency Service objecting to the decision to shut down the Medical Emergency Service and its merging with other structures;
- some oil refinery workers of the region of Saranda, Delvina, and Finiq seeking to obtain the oilman's status;
- some inhabitants of Himarë demanding that their homes not be demolished due to the city's urban plan;
- inhabitants of Qeparo village who also asked that their homes not be demolished due to the urban plan for that area;
- Association of Children and Youth with Diabetes in March 2016; a copy not made available by the Assembly and is not reflected on its official website either. According to correspondence, the Assembly notes that this petition was reviewed by the Committee on Labor, Social Affairs, and Health.

During 2017, the Assembly received 13 petitions, 1 letter, 1 request, and 1 memorandum. It is worth noting that in spite of the title that letter had in three cases of letters to the Assembly, they were classified as petitions by the Assembly, in response to the official request for information by

AHC. According to data made available and parliamentary documentation (in those cases when addressed by the Assembly), it results that:

- a group of citizens from Elbasan requested the establishment of an *ad hoc* committee on justice reform;
- a group of oilmen from Patos asked that the oilman status be given to all employees of the refinery;
- a group of inhabitants from Shkozë, Tirana, requested that their homes not be demolished due to the project to develop the Lana River from Shkoza Bridge to the Auto-tractor Plant;
- some inhabitants of Kuqar village in Patos raised issues of property rights regarding Law no. 7501 “On land.”
- an informal group called “Group of citizens in favor of justice reform” displayed their support for justice reform, signed by 31777 citizens;
- a group of former political prisoners asked that delayed files on ex-political convicts be reviewed and also that the law include the remuneration for citizens convicted for terrorism and sabotage;
- a group of teachers requested that the diplomas of teachers who graduated before 1998 in the “Lower-Level School” branch not be converted to Bachelor level diplomas but to Master level diplomas;
- a group of inhabitants of Qershizë village in Pogradec asked that they be attached as a neighborhood to the city of Pogradec so that they could benefit from the municipality’s social welfare support;
- one citizen, a patient of hemodialysis at the TUHC, asked for facilitation by health-care institutions for these patients;
- three trade unions together (trade union of miners “January 1991” of Pogradec, Korça, and Përrenjas) asked for the approval of the oilman status;
- Albania’s Trade Union for Oil Processing asked for reimbursement of unpaid salaries by the company Bankers Petroleum;
- Albania’s Oil Trade Union Federation asked that Albpetrol company in Patos enter into a collective contract with its employees to guarantee a more effective implementation of their rights in labor relations;
- the association “Golloborda Prosperity” asked through a petition the official recognition of Bulgarian minorities by the Albanian state, during the time that the Assembly was discussing about the draft law “On the protection of national minorities in the Republic of Albania” (a success case mentioned above);
- a group of doctors from Shkodra submitted a memorandum, seeking the invalidation of Article 96 of the Criminal Code on “Wrongful Medication;”
- a group of miners requested the approval of the oilman status;
- a request was sent again by a group of students from Burrel who requested the accreditation of the “Mother Queen” higher education institution.

During 2018, the number of petitions dropped considerably compared to the previous year, into almost half. Identifying the causes for this indicator would require a complete and comprehensive analysis, but two of the factors that might have had an impact are: the boycott of the parliamentary

opposition and the lack of positive reaction for the overwhelming majority of petitions submitted during 2017. According to data made available by the Assembly and parliamentary documentation (in those cases when the Assembly reviewed them), it results that:

- one petition was submitted by a group of actors, film directors, and representatives of stage art and another by the alliance for the protection of the theater, an informal group – both of which sought to object to the demolition of the National Theater;
- two other petitions targeted the annulment of the hydropower plant in Novoselë village (one petition was sent by a group of inhabitants of the area and another by the Novoselë Administrative Unit);
- a petition was submitted again by the Miners' Association of Korça, Pogradec, Përrenjas, and Erseka, seeking the approval of the miner's status;
- a petition has been submitted by an inmate in IEPD Rrogozhina. He seeks the approval of an amnesty with a broad basis, because many judges and prosecutors are leaving the justice system for failing to give just decisions.

During 2019, the number of petitions saw again a considerable decrease; there were only two petitions or less than half the petitions of the previous year. Declining indicators reconfirm the potential causes mentioned above in this report. According to data made available and parliamentary documentation, in those cases when the Assembly reviewed them, it results that:

- a group of inhabitants from Memaliaj village, Gjirokastër County, complained about several concerns, such as: lack of drinkable water, lack of road infrastructure in the area, and problems with electricity;
- the National Association of Parents Caring for Disabled Children of Albania demanded the invalidation of a CMD that, in fact, is not a competence of the Assembly. In any event, the subject of their request is not clear in the petition that was submitted.

During 2020, the number of petitions saw a slight increasing trend compared to the previous year, but less than half the petitions submitted during 2017. According to data made available and parliamentary documentation, in those cases when reviewed by the Assembly, it results that 5 petitions were submitted to the Assembly, as follows:

- 3 petitions by the Miners' Trade Unions of Pogradec, Korça, and Përrenjas, branches of the "January 1991" miners' trade union, about calculation of pensions;
- the other 2 petitions were submitted by a group of inmates in IEPD Tropoja and another group of inmates at IEPD Reç who asked that the amnesty include as many offenses as possible because, in their opinion, most of the inmates were convicted unjustly.

### *3.6.2 Procedure followed for the dissemination and review of petitions in standing parliamentary committees*

Based on information obtained from official correspondence with the Assembly, and the search on the Assembly's official website, it results that only 14 petitions, of 42 such, were reviewed by parliamentary committees during the period January 2016 – October 2020. The following

committees had reviewed the same number of petitions, precisely 6: Committee on Health and Committee on Productive Activities; the Committee of Laws reviewed 2 petitions. However, such data is disputable and raise serious questions over the respect for the Assembly's Rules of Procedure, as long as only for 4 of these petitions, the transcribed meeting minutes of the committee meetings, where the petitions were disseminated by the Assembly Speaker, were made available. Of the submitted meeting minutes, three of these petitions appear to have been reviewed by the Committee on Health and one petition that is the only case of success was reviewed by the Committee of Laws. For the 13 petitions that were disseminated to these standing parliamentary committees, there are no documents that prove their being delegated (when this was done) to institutions of the Executive and notifications of the petitioners on the steps undertaken and the resolution of the issue. More concretely, data reflected below were processed according to the committees that reportedly addressed the 14 petitions in question.

a. **Committee on Labor, Social Affairs, and Health (Committee on Health)**

- *Petition from the personnel of the Tirana Medical Emergency Service (2016)*

On 03.02.2016, the Committee on Labor, Social Affairs, and Health reviewed the petition submitted by 27 representatives (personnel) of the Tirana Medical Emergency Service. The petition was submitted in the Assembly on 01.02.2016. The chair of this committee respected the 45-day deadline envisaged by the rules for submitting the petition to the committee. During this meeting, the petitioners were summoned to a hearing session and they complained about the dissolution of the Medical Emergency Service as a structure, which was to become part of the hospitals. The doctors, present in the hearing session, said the Emergency Service played a very important role in treating patients and that the health care service needed such a mechanism. The emphasis was on the services that the Medical Emergency has provided through the years, like a discharge valve for hospitals. The chair of the committee expressed regret for the lack of the responsible minister in this hearing session, while there were debates with harsh tones during discussions between her and a representative of the parliamentary majority in the committee. In the end, the committee decided that representatives should meet with the responsible minister and discuss this concern. It is worth stressing that no legal resolution of the case was proposed in the meeting, nor was the petition delegated officially to the Ministry of Health. Official information provided by the Assembly lacks documentation or data on the progress of the petition's review by the responsible ministry, as well as data on whether the petitioners were notified about steps undertaken and the resolution of the issue raised in the petition. The lack of documentation represents a cause to question the fulfillment of obligations envisaged in the Assembly's Rules of Procedure.

- *Petition from the Association of Children and Youth with Diabetes (2016)*

On 02.12.2016, the Committee on Health took under review the petition submitted to the Assembly by the Association of Children and Youth with Diabetes. This petition reached the Assembly on 23.03.2016, but was submitted there 9 months later, in an obvious violation of the 45-day deadline that the Assembly's Rules of Procedure envisage. It is worth emphasizing that its review was done during the meeting of the committee, where the draft law "On the budget of 2017" was discussed.

During this meeting, there was a hearing session with representatives of the association that submitted the petition and other representatives from civil society organizations working in the field of Disability Rights. The association requested an increase of the budget item of state care for these children and the increase of the scope of medicaments to be obtained without payment. Present in the meeting was the head of the “Mother Teresa” hospital center (TUHC) who justified the lack of medicaments in the hospital as a result of the lack of adequate funds and the delay in the procurement procedure to select the company that would supply the hospital with medicaments. The discussion contained harsh tones by the committee chair toward the TUHC representative who was criticized for incapability and irresponsibility in heading the institution. At the end of the meeting, the chair of the committee decided that all requests received from civil society would be taken into consideration during the review article by article of the draft law on the budget. The official information provided by the Assembly lacks documentation or data regarding steps undertaken and the resolution of the case raised through this petition, and there is no data on whether the petitioners were notified about them.

- *Petition from a hemodialysis patient (2017)*

The Committee on Health reviewed during 2017 the petition submitted by a hemodialysis patient at the TUHC who complained about the lack of certain medicaments, necessary for her treatment in hospital. Also, it was requested that certain facilitating conditions for these patients be secured: securing transport, complete consultation packages, etc. This petition was submitted to the Assembly on 13.10.2017 and was taken under review by the committee on 14.11.2017, within the 45-day deadline envisaged by the Assembly Rules of Procedure. During the meeting, it appears that the draft law on the budget for 2018 was reviewed on issues that have to do with health care. The petitioner was invited to the hearing, during this meeting, as a representative of the group of interest. During the hearing sessions, also invited were other civil society representatives on disability rights. On this petition as well, an emphasis was placed on increasing the budget item for this category of persons in order to improve health care quality. After the words of the petitioners, the chair of the committee suggested that all claims of the groups of interest be sent in writing to the Ministry of Health and Social Protection. In this case too, there is no documentation or data regarding steps undertaken and the resolution of the case raised by this petition, and there is no data on whether the petitioner was notified about them.

- *Petition by the Miners' Trade Union, branches of Korça, Pogradec, and Përrenjas (2017) and the Miners' Association petition (2018)*

During 2017, the Committee on Health received the petition of the Miners' Association (branches of Korçë, Pogradec, and Përrenjas) of 20.12.2017. The time that this petition was submitted coincides with the period when the Assembly was discussing the draft law on the miners' status. Based on the review of transcribed minutes of meetings and official information provided by the Assembly, it does not appear that the petition was reviewed during the meetings of this committee. The other petition by the “Miners' Association” of 09.02.2018 appears to have had the same fate. According to official information from the Assembly, it is highlighted that the chair of the Committee on Health disseminated it to the members of the committee. However, from the review of transcribed minutes of meetings, it does not appear that this petition was discussed or debated

in committee meetings. Also, for these two petitions, there is no clear date of their submission to the committee and the notification of the petitioners on steps undertaken and the resolution of the issues raised in the petitions is lacking.

- *Petition of the Children's Rights Center Albania*

Lastly, official data from the Assembly indicate that the Committee on Health received the petition from the Children's Rights Center Albania on reducing the voting age from 18 to 16 years. Based on reading the transcribed meeting minutes of meetings of this committee, it does not appear that there were discussions about it and there is no documentation that proves the petitioner was notified of steps undertaken and the resolution of the case.

b. *Committee on Productive Activity, Trade, and the Environment*

Referring to official data from the Assembly, this committee reviewed 6 petitions during the period January 2016 – October 2020. It is with regret that we find that none of them is proven by official documentation (referring to transcribed meeting minutes and the cross-referencing of information on the Assembly's official website). The petitioners appear to be: Saranda Oilmen's Association, Miner's Trade Union, 2 pensioners, and the Order of Employees of Albania.

c. *Committee on Legal Affairs, Public Administration, and Human Rights (Committee on Laws)*

According to official information from the Assembly, it results that the Committee of laws addressed only 2 petitions during the period January 2016 – October 2020.

- *Petition by a group of lawyers (2016)*

During 2016, a group of lawyers from Kurbin submitted a petition to the Assembly about the calculation of taxes for the free profession of lawyers. According to official information, the Committee on Laws delegated this petition to the Ministry of Justice and the Ministry of Finance and Economy. However, based on the reading of the transcribed minutes of the meetings of this committee, it does not appear that this petition was presented to the Committee of Laws or was discussed or voted to resolve the case (through delegation). Furthermore, there is no official documentation that proves that the petitioners were notified about the undertaken steps and the resolution of the case. This creates in the same way as for many other petitions serious question marks on the fulfillment of this obligation envisaged in the Assembly's Rules of Procedure.

- *Petition of the Association "Golloborda Prosperity" (2017)*

It appears that the Committee on Laws took under review the petition submitted on 28.09.2017 by the association "Golloborda Prosperity," which focuses on protecting the rights of the Bulgarian minority in the Republic of Albania. The subject of this petition was recognition by law as a national minority of the Bulgarian community in Albania. The meeting where this petition was reviewed was held on 03.10.2017, in respect of the 45-day deadline envisaged in the Assembly Regulations. The petition was reviewed in the Committee on Laws at the time when it was reviewing the draft law "On the protection of national minorities in the Republic of Albania." During this meeting, a hearing session was held with the petitioners. Attending to support them

were representatives of civil society, the Minister for Europe and Foreign Affairs, representatives from the Ministry of Education, Sports, and Youth, representatives of the OSCE Presence in Albania, of the Ombudsman, of the Commissioner for Protection against Discrimination, etc. As mentioned earlier, this petition represents the only case of success during the period analyzed in this report because the request of the association was taken into consideration and the Bulgarian community was recognized as a national minority in the law approved by the Assembly “On the protection of national minorities in the Republic of Albania.”

## 4. Lawmaking initiatives by voters

### 4.1 International standards and good practices

The right to a lawmaking initiative, exercised by a certain number of voters or citizens, comes as a form of people’s exercise of democracy. This right consists mainly in taking an initiative to propose a draft law that may be new or may consist in changing an existing law. In order to realize this right, petitioners should collect a certain number of signatures from voters or citizens.

This right is otherwise known as one of the tools to guarantee the effectiveness of the lawmaking process and to boost democracy in general. The Universal Declaration of Human Rights (UDHR) is one of the main international instruments that recognizes the value of public’s participation in general. Article 21 thereof underscores: “Anyone shall have the right to participate in their country’s governance, directly or through freely elected representatives.” Furthermore, the International Covenant on Civil and Political Rights (ICCPR) underscores in Article 25 the right of every citizen “to participate in the conduct of public affairs, directly or through freely elected representatives.” General Comment 25 of the United Nations Committee on Human Rights envisages that the ways for citizens’ participation, which include public debate and dialogue, should be established by the constitution and other laws of the state in question.<sup>57</sup>

Numerous engagements of the OSCE envisage the role of transparency in public affairs. Paragraph 10 of the OSCE Copenhagen Document of 1990 notes that participating countries reaffirmed “their engagement to guarantee effectively human rights, to acknowledge and act in accordance with their fundamental rights and freedoms, and to contribute actively, individually or together with others, to their promotion and protection.” In this context, the concept of “legislative” transparency assumes special value. OSCE participating countries are engaged particularly in ensuring that, “Legislation will be drafted and approved as the result of an open process that reflects the will of the people, either directly or through their elected representatives (Moscow Document, OSCE, 1991),” and to “ensure the environment and institutions for peaceful debate and expression of interests from all individuals and society groups (Maastricht Document, OSCE, 2003).” Also, the OSCE has recognized the vital role that Civil Society should play in this regard.<sup>58</sup>

<sup>57</sup> Joint Opinion of the Venice Commission and the OSCE Office of Democratic Institutions and Human Rights (ODIHR), No. 935 / 2018, on the Albanian draft law on the citizens’ legislative initiative, approved in meeting 63 of the Council on Democratic Elections (Venice, October 18, 2018) and in the 116<sup>th</sup> plenary meeting of the Venice Commission, October 19-20, 2018, paragraph no. 13, p.4.

<sup>58</sup> Ibid., p. 4, paragraph 14.

It is worth stressing that the legislative initiative by citizens may not be considered a pure tool of direct democracy as decision-making on it is with the body exercising legislative power, such as the Assembly. This element represents one of the main distinctions of the legislative initiative of voters from referenda, which are considered an entirely pure tool of direct democracy. In spite of this fact, considering the debates that take place throughout Europe on the shortcomings of institutions and the increase of the interests of democratic society and citizens to engage more in democratic processes, the citizens' lawmaking initiative is being considered increasingly a worthy way of correcting the inevitable imperfectness of representative or indirect democracy.<sup>59</sup>

Legal provisions on the legislative initiative by citizens are very ordinary among member countries of the Venice Commission and the OSCE, although in practice, these initiatives are limited due to high costs, other ways that are easily accessible to propose a draft law, and the fact that this element of democracy is not inclusive as it does not seek to find broad consent in society.

It is customary in European countries for voters to point to the problems of legislation or to propose a draft law in the parliament's agenda, due to the access they have to its members. Given that all MPs have a right to propose draft laws, having at their disposal faster tools to bring to the attention of parliament and to discuss all main issues of importance, small groups of interest in society too, in principle, may get some kind of support in parliament. Therefore, the legislative initiative, which is regulated in the legal framework of several European countries, may seek more to put proposals by groups of interest at the center of the debate or a public forum, where free speech and inclusivity are guaranteed. Meanwhile, the principle of parliamentary democracy, which appreciates communication between all groups of interest and the quest for consensus, may also lead to a low level of the use of the legislative initiative by citizens.<sup>60</sup>

#### 4.2 Comparative view of the civic legislative initiative of the EU compared to the civic legislative initiative in our country

The Albanian legal framework is complete with regard to the regulation of the legislative initiative, which comes as an initiative of citizens themselves. Its foundations were initially laid in the Constitution of 1998, in Articles 81 and 82 of it.<sup>61</sup> About two decades later, constitutional regulation was concretized by a special law, approved by the Assembly in July 2019, which was subjected to prior consultation with the Venice Commission and ODIHR.<sup>62</sup>

The lawmaking initiative by citizens is also envisaged in the EU community law. The Lisbon Treaty, in "Provisions on Democratic Principles," Article 10 (3) envisages: *"Every citizen shall have the right to participate in the life of the Union."* Article 11 of the Treaty envisages four forms of citizens' participation in the EU's political life:

<sup>59</sup> European Commission for Democracy through Law (Venice Commission), Report on the Legal Initiative approved by the Venice Commission in its plenary session 77 (December 12-13), Strasbourg, December 17, 2008, Study no. 446/2007m CDL-AD (2008)035)

<sup>60</sup> Joint Opinion of the Venice Commission and the OSCE Office of Democratic Institutions and Human Rights (ODIHR), no. 935 / 2018, on the Albanian draft law "On citizens' legislative initiative," page 5, paragraph 18.

<sup>61</sup> Article 81/1 of the Constitution envisages: "The Council of Ministers, every MP, and 20,000 voters have the right to propose laws."

<sup>62</sup> Joint Opinion of the Venice Commission and the OSCE Office of Democratic Institutions and Human Rights (ODIHR), No. 935 / 2018.

- a) civil dialogue in horizontal rapport (citizens among them);
- b) civil dialogue in vertical rapport (between citizens and institutions);
- c) consultation (upon their initiative, institutions solicit citizens' views);
- d) European civic initiatives or ECI (citizens ask institutions to address a legislative proposal).

The Lisbon Treaty envisages in Article 8B, Paragraph 4: *“Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.”*<sup>63</sup>

The rules and detailed procedures, which make it possible to implement in practice the right to legislative initiative in the European Union, are envisaged initially in Regulation No. 211/2011 of the European Parliament and Council.<sup>64</sup> This regulation appears to have been invalidated by Regulation no. 788/2019 of the European Parliament and Council,<sup>65</sup> which went into effect in January 2020, except for the transitory temporary provisions.<sup>66</sup> The need to revise the regulations arose after the European Commission listed a series of challenges in its implementation and pledged to analyze further the impact of these issues on the effectiveness of the European civic initiative instrument and the improvement of its functioning. According to two research studies conducted by the European Parliament<sup>67</sup> itself, the three main issues in the implementation of the previous regulation consisted in the fact that:

- about 30% of submitted requests are not registered as they fall beyond the competences of the commission;
- the process for collecting declarations of support was considered complex and bureaucratic by the initiators, resulting in a lower level of access of submitted initiatives;
- the opportunities for realizing debates about the initiatives were limited.

The new regulation seeks to make the European civic initiative more accessible and less bureaucratic and easier to use for organizers and supporters, as well as to strengthen its pursuit in order to fulfill its full potential as a tool for encouraging debate. Furthermore, the regulation aims at the participation of as many citizens as possible in the process of the European Union's democratic decision-making.

The regulation has some elements that are worth analyzing from a comparative standpoint to the provisions in our law no. 54/2019 “On the lawmaking initiative of voters in the Republic of Albania.”

<sup>63</sup> [http://publications.europa.eu/resource/ellar/688a7a98-3110-4ffe-a6b3-8972d8445325.0007.01/DOC\\_19](http://publications.europa.eu/resource/ellar/688a7a98-3110-4ffe-a6b3-8972d8445325.0007.01/DOC_19)

<sup>64</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011R0211>

<sup>65</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0788#ntr6-L\\_2019130EN.01005501-E0006](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0788#ntr6-L_2019130EN.01005501-E0006)

<sup>66</sup> For initiatives presented before January 1, 2020, two articles of the previous Regulation of 2011 will be applied

<sup>67</sup> “European Civic Initiative – First lessons of implementation” and “Implementation of the European Civic Initiative”

a) According to Article 2 of the Regulation on the European civic initiative, every citizen of the European Union who is at least in the age required to vote in elections for the European Parliament, has the right to support an initiative, by signing the statement of support, in accordance with provisions of the regulation. In paragraph 2, member countries are given the opportunity to determine the minimal threshold of the age of 16 for citizens who support an initiative, in keeping with their national legislation. In these cases, the member countries have the obligation to notify the Commission. In our country, based on article 45, paragraph 1 and article 81, paragraph 1 of the Constitution, the minimal age threshold is set for signing lawmaking initiatives by citizens at 18 years old, the same age as the one envisaged for exercising the right to elect or be elected in elections for the Assembly of the Republic of Albania or those for local government bodies.

b) The regulation envisages in paragraph 21 guarantees for persons with disabilities to exercise their right to support initiatives and to have access to all sources of information about the initiative. In order for the European initiative to be more accessible and easier to use for organizers and citizens, the Commission creates and manages a central system for the electronic collection of statements of support, by removing gradually individual collection systems after December 21, 2022. This system is made available for free for groups of organizers and should contain the necessary technical features that enable support in an electronic manner, by guaranteeing accessibility for citizens with disabilities, that could offer support for the initiative. The collection of statements is made possible for citizens independently from their place of residence.

Regarding these two aspects, i.e. access for persons with disabilities and electronic support, our law no. 54/2019 envisages provisions that, though important, are not of the standard of the European Union Regulation. Thus, Article 11, paragraph one of the Albanian law envisages that if a voter, for health reasons, is not able to go to the location where signatures are being collected, the signature collection group, based on the written request submitted by the voter, or the person assisting him/her, obtains the signature where the voter is. This assistance is provided when the initiative is signed with the physical presence of the voter and only upon his/her request or the person assisting him/her. Our law does not envisage the creation and administration of a central system for the electronic collection of signatures to support the initiative. It is a positive fact that according to Article 12 of the law, electronic collection of signatures is guaranteed, in keeping with legislation in force on electronic signatures. However, this legal space is unclear (as will be analyzed further on) and does not appear to have been exploited by the initiating groups of draft laws to date and has a cost on citizens, especially those belonging to vulnerable groups.

c) Article 5 of the European Union Regulation envisages that European civic initiatives are prepared and administered by a group that has at least 7 physical persons, otherwise known as the group of organizers. The members of this group should be citizens of the European Union and should have a place of residence in at least 7 different member countries of the EU at the time when the initiative is registered. Their names are published by the Commission in the relevant register. Member countries guarantee that representatives of the group are subject to effective, proportionate, and convincing responsibilities and sanctions, in accordance with national legislation, if they violate the EU regulation, especially for false statements or fraud in the use of data. referring to Paragraph 16, Item 7, of Article 5 of the Regulation, the group of organizers has

the right to assign, in keeping with domestic legislation of one of the member countries, a legal entity to administer the initiative.

Our law no. 54/2019 too envisages the creation of a structure that represents voters who undertake a legislative initiative. This structure is called a representation when the initiative is initiated by individuals. When the initiative is initiated by one or more civil society organizations, the structure is called representative committee, whereby each of the organizations has the right to appoint a representative. In cases when the lawmaking initiative is initiated by individuals in cooperation with civil society organizations, representation is realized by the representative committee of the initiative, which consists of one to three members selected from the group of individuals, and one representative for each civil society organization. The provisions of our law facilitate because they do not impose a minimal or maximal threshold of membership in these structures, except for the case when the structure is combined, individuals and civil society organizations (as explained, a minimal and maximal margin is required, from 1-3 members from the individuals).

**d)** Referring to paragraphs 14, 18, 19 and onward of the EU Regulation, as well as its corresponding articles, the European Commission makes available to the organizing group an electronic register for European legal initiatives (called “the register”), in order for the group to administer its own initiative throughout the procedure. The request to register the initiative is filed by the organizing group with the commission. The latter registers the initiative if the criteria envisaged in Article 6, paragraph 3 of the Directive, have been met. In order to raise awareness and ensure transparency for all initiatives, the register should have a public internet website that provides complete and general information on the European civic initiative, as well as updated information on individual initiatives, their status and the declared sources of support and funding. After the commission has registered the initiative, the translation of its contents and the accompanying annexes in all official languages of the European Union is realized. Statements of support for the initiative by European citizens are collected after it has been registered by the commission. The statements are collected for a period of no more than 12 months, which begins from a date chosen by the organizers.<sup>68</sup>

The responsible authorities of member states at the national level such as Ministries of Interior, Central Election Commissions, and Civil Registry Offices, have the obligation within three months to verify the statements of support, but this does not mean a verification of signatures. As a result, the organizers are asked to submit relevant certificates from national authorities about the number of statements of support. After an exchange of views with the commission, the organizers are given the opportunity to present the initiative in a public hearing held by the parliament. After this hearing, the parliament may debate in a plenary session and approve a resolution for the purpose of evaluating political support regarding the idea conveyed by the citizens. In order to guarantee full transparency, it is mandatory that organizers report regularly on the sources of funding and if there is any other provided support. For the purpose of transparency, the commission is obliged to

---

<sup>68</sup> As a result of difficulties created by the global pandemic Covid-19, the European Commission, by Decision of 19.02.2021 decided to extend the deadline for the collection of statements until May 1, 2022, for all lawmaking initiatives registered between February 2021 until the date when this decision went into effect.

reflect on the platform a form through which citizens may submit complaints regarding the objectivity and correctness of information provided by the organizers.

Compared to these provisions, appraised against our law no. 54/2019, we notice that the latter, in Article 43, paragraph 8, envisages: “Registration of the voters’ legal initiative” is the process of the formal registration of the initiative by the CEC. The rapport that the representation or representative committee of the legislative initiative has with the CEC is envisaged in two phases. In the first phase, according to Article 10 of our law, the representation/representative committee of the citizen’s lawmaking initiative submits to the CEC a written request to be equipped with pre-filled forms for the collection of signatures of voters. The CEC approves by a decision, within 15 days from the submission of the request, the model of the pre-filled form for the collection of signatures and publicizes it on the CEC official website, in a downloadable format. Also, the CEC decides by a decision, according to the proposal of the representation/representative committee the period of time during which the collection of signatures will take place, in public and private places, and of electronic signatures. Our law does not envisage a maximal deadline for the collection of signatures while the EU Regulation leaves this at the discretion of the initiators. Given that our law has been consulted with the Venice Commission and ODIHR during its drafting, it appears that this was one of the recommendations made in Opinion 935/2018, which envisages that the process for the collection of signatures should be open, free from intimidation, and avoid formalism.<sup>69</sup> During the second phase, according to Article 14 of our law, before the initiative is registered, the CEC verifies signatures, as well as the accuracy of identifying documents of supporters of the initiative, according to procedures envisaged in the Electoral Code for the verification of signatures and in legislation in force on electronic signatures, within 30 days from their submission. Our lawmaker has envisaged a tighter timeframe for the verification process compared to the 3-month timeframe envisaged in the European Parliament Regulation. In this regard, it is worth highlighting that the broader timeframes for verification of the statements of support for European initiatives are conditioned also by the fact of the high required threshold, precisely 1 million EU citizens, who may be from different member countries.

The attribute to the CEC, as an independent institution that administers electoral processes and voter lists (who are legitimized at the same time to sign a legislative initiative) is a guarantee regarding the impartiality of the interim process of verification and registration of the initiative, before it is submitted to the Assembly. however, considering the importance of provisions of the European Parliament Regulation, it would be recommendable to revise our law in the future to create an electronic register for the registration of legislative initiatives signed by at least 20,000 voters, whose central server would be advisable to be managed by the Assembly. this register is advisable to be made available to the initiating group (representation or Committee), to facilitate its work during the phase of the collection of necessary signatures, and to have access to further phases of the process for the review process of the draft law. It would be advisable that the CEC to have access to using this register, for its competences regarding equipping with pre-filled sheets, verification of signatures, and decision-making on the registration or not of the initiative, and the progress of appeals to the decision-making in the administrative court, if there were any. Sections

---

<sup>69</sup> See paragraph 11, p. 3, of the Joint Opinion No. 935/2018 of the Venice Commission and ODIHR.

of this register should provide broad transparency for the public at every phase of the submission of the initiative to the CEC and then the progress of the initiative's review in the Assembly. the publication of the register on the CEC official website and that of the Assembly would guarantee the necessary visibility and transparency to the public and those interested in legislative initiatives proposed by at least 20,000 voters. In particular, this register would facilitate things for the initiating group to collect signatures electronically as practice to date has shown many difficulties in obtaining physical signatures from citizens in the field.

#### *4.2.1 Comparative view on the public's effective access during the administration and review of the civic lawmaking initiative*

During the period that this report covers, we find that the official website of the Assembly of the Republic of Albania does not envisage any section that would reflect detailed information about the entire procedure followed from the time of submission to the review of the lawmaking initiative, no matter who the initiator is (Council of Ministers, MPs, or 20,000 voters). In order to find such data, users in any case should pursue the process of identifying the relevant draft law and carefully read the contents of the accompanying report as well as the meeting minutes of its review in the parliamentary committees.

Beside the need to structure the Assembly website to contain a special rubric for every phase of the parliamentary procedure from the submission of a draft law to its review in a plenary session, our Assembly might also borrow positive practices with regard especially to legislative initiatives supported by at least 20,000 voters. A model to be referenced that might be borrowed is that of the European Commission, which has created a special webpage (domain) for initiatives submitted by European citizens <https://europa.eu/citizens-initiative/en>. On this page, every interested user obtains information on steps followed from the phase of the idea of a proposal for legislative changes that comes as an initiative of one million European Union citizens until the final phase of its review. These phases are egroupped on this page (domain) as follows:

**Step one: “Get started”** – Before launching an initiative, it is worth considering some of the practical aspects, including whether this initiative to approve EU legislation is the best way to achieve the goals of the initiators. First, a group of organizers needs to be established, consisting of at least 7 EU citizens living in 7 different EU countries. One practical aspect is how the campaign and collection of signatures will be organized.

**Step two: “Get your initiative registered”** – Before signatures are collected to support the initiative, the initiating group should ask the European Commission to register it. for this, an organizer account needs to be created to manage the initiative and liaise with the Commission. Also, one needs to provide a description of the initiative in at least one of the official languages of the EU as well as data and documents about the organizing group, funding received, etc. The Commission is not obliged to register an initiative unless it meets certain criteria. An answer on the registration of the initiative or not will be give within two months and sometimes four months.

**Step three: “Get support”** – The organizing group should secure the support of at least 1 million people, respecting the minimal threshold for the number of supporters in at least seven member states of the European Union. Every citizen that gives support should fill out a support form. Support is given on paper (the pre-filled form is downloaded from the organizers’ account and filled out) or electronically. These forms are available in every EU official language of the European Union.

**Timing** – The organizing group must set a kick-off date (no later than 6 months from the date of registration of the initiative). The time for collecting the minimal number of statements of support is 12 months.

**Who can sign (support the initiative)?** – EU nationals (nationals from a European Union country) have the right to give support when they have reached the allowed age for voting in European elections or are at least 16 years of age in some of the member countries. It is better to collect more signatures than are required (minimally), as in some cases, authorities of each country may not be able to verify all statements of support. Throughout the collection procedure, organizers have to comply with data protection rules.

**Step four: “Get statements of support verified”** – After collecting enough signatures, within three months the organizing group organizes the statements of support by nationality and submits them for verification to the competent authorities of each EU country. authorities have another 3 months to verify which statements of support are valid, issuing a certificate for this.

**Tip** – If the central online system of the European Commission is used to collect statements of support, it is possible to use the secure file exchange service of the Commission to transfer the statements (collected on paper and online) to national authorities. The Commission will take care of this transfer.

**Step five: “Submit your initiative”** – After obtaining the last certificate from the national authorities of the relevant EU countries, the organizing group has three months to propose the initiative to the Commission, together with information on the support and funding received for the initiative.

**Step six: “Get an answer”** – After the initiative has been submitted, it will be examined as follows:

- I) *Within one month* – the organizing group has the opportunity to meet representatives of the Commission and explain in detail the issues raised in the initiative).
- II) *Within three months* – the organizing group has the opportunity to present the initiative at a public hearing at the European Parliament. Parliament may also hold

a debate in a full (plenary) session, which could lead to adopting a resolution on the issue in question.

- III) Within six months** – the Commission decides on proposals in response to the initiative (if any) and reasons for taking (or not taking) action. This response will be in the form of a communication formally adopted by the Commission and published in all official EU languages.

**Step six: “What next?”** – If the Commission considers legislation an appropriate response to your initiative, it will start preparing a formal proposal. This can require preparatory steps like public consultations, impact assessments, etc. Once adopted by the Commission, the proposal is submitted to the European Parliament and the EU Council (or in some cases, only to the Council), which will need to adopt it for it to become law.

**Other action** – The Commission is not obliged to propose legislation. Even where it responds positively, the most appropriate follow-up to an initiative may be non-legislative in nature. There are a range of other measures that may be more suitable.

**Follow-up** – The European Parliament may also assess the measures taken by the Commission on the initiative proposed by citizens of the European Union.

The webpage that the European Commission has made available to users for legislative initiatives by EU citizens is user friendly and contains the necessary information on any initiative that is in the process of collecting signatures or under review. For instance, the initiative “One of us” is proposed by the Civil Society for the purpose of offering legal protection for dignity, the right to live and enjoy integrity for every human being, from the moment of conception (embryo), throughout the territory and areas of EU competence.<sup>70</sup> This initiative, based on the judicial practice of the ECJ, namely the *Brüstle* case (C-34/10), received a response from the European Commission after a hearing session was organized with the organizers’ group.

#### 4.2.2 Judicial practice of the European Court of Justice (ECJ)

With regard to the right of EU citizens to submit a lawmaking initiative at the European level, the ECJ, in the case *Puppinck and others vs. the Commission*,<sup>71</sup> responded to two important questions.

First, is the European Commission obliged to approve a successful lawmaking initiative by passing it for a vote to parliament? Second, which legal standards should be pursued by the European Commission when reviewing a civic lawmaking initiative? Regarding these two questions, the ECJ held the position that the lawmaking initiative drafted by citizens is only an encouragement for the Commission and should be seen as a mechanism for citizens to engage in the activity of European institutions. The ECJ argues that the EC should provide its professional expertise in compiling the final draft of the initiative. In this regard, the ECJ cannot assess and cannot establish fixed standards about the interference of the EC in the text of the initiative, given that this is an

<sup>70</sup> [https://europa.eu/citizens-initiative/initiatives/details/2012/000005\\_en](https://europa.eu/citizens-initiative/initiatives/details/2012/000005_en)

<sup>71</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62018CJ0418>

exclusive competence of that power. Also, it is in the Commission's exclusive competence whether it will approve the initiative or not for review in the European Parliament.

Is the European citizens' initiative more efficient than petitions submitted to Parliament?! The terminology and the procedure followed in drafting a "petition" compared to the "lawmaking initiative," while they have many meeting points, it remains utopia for researchers of law to identify the most successful impact on community life. In the case *One of Us*, the well-known petition in the European arena, which "won over" the hearts of thousands of citizens because of the social cause it represented,<sup>72</sup> sought to create a new standard in the ECJ's judicial practice. Although the Commission is not obliged to follow the requests of a successful European lawmaking initiative, this body has not only the obligation to publicize the initiative, but it should also give organizers the opportunity to make their case. The priority of the European lawmaking initiative creates the possibility for European Union citizens to promote and initiate public debate without the need to wait for the registration of the lawmaking initiative.<sup>73</sup>

### 4.3 A comparative constitutional view of the civic legislative initiative

Modern constitutions envisage the right not only of public bodies, but also of voters or citizens to directly propose legislative initiatives. This attribute granted to citizens makes it possible to distinguish between cases when the lawmaking initiative is a manifestation of a public power from cases when it is the result of the exercise of a right as a result of citizens' direct participation in democracy.<sup>74</sup> Such is also the Constitution of our country, which was approved in 1998 thanks to a direct democracy tool, a constitutional referendum. Article 81, Paragraph 1 of the Constitution envisages: "The Council of Ministers, every MP, and 20,000 voters have the right to laws."

If we compare the threshold required for the minimal number of supporters from among citizens or voters, legitimized to support a legislative initiative, this number varies from country to country as follows (referring to the constitutions of several countries):

- 1,000 citizens for Lichtenstein (or 2.6% of the population)
- 50,000 citizens for Lithuania (or 1.7% of the population), Italy (or 0.08% of the population) and Hungary (or 0.5% of the population)
- 100,000 voters for Austria (or 1.1% of the population) or 1/6 of the voters in three of its Lands
- 500,000 verified signatures are required for the popular legal initiative in Spain (or 1.05% of the population)
- 30,000 voters for Georgia (or 0.75% of the population),
- 20,000 voters for Albania (or 0.7% of the population)
- 10,000 voters for the Republic of Kosovo and North Macedonia (or 0.54% of the population of these states)
- 5000 voters for Slovenia (or 0.24% of the population)

<sup>72</sup> Application of a prohibiting sanction for the funding of activities presupposing the destruction of human embryos.

<sup>73</sup> <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-04/cp180052en.pdf>

<sup>74</sup> European Commission for Democracy through Law (Venice Commission), Comments on the legislative initiative in Europe by Mr. Sergio Bartole (member, Italy), Strasbourg, September 30, 2008, **study no. 446 / 2007**

- 100,000 citizens with the right to vote for Poland (or 0.25% of the population) and Romania (or 0.5% of the population)
- 1/3 of the electorate for Andorra and Latvia.

The assessment of whether the required threshold is low, average, or high in these countries, also seen in comparison to our country, has been done by calculating it against the total number of the registered population in each of these countries. At first sight, our country does not rank among those countries that require a high threshold for civic support for legislative initiatives, but at the same time, our threshold is not low. Compared to the number of the population, Albania has an average threshold for civic legal initiatives, at 0.7% of the population. Countries with lower thresholds may be considered Poland, Slovenia, while Italy has the lowest threshold among all countries analyzed above, namely with 0.08% of the population. However, it is worth emphasizing that a distinguishing feature of the constitutions used as reference is the fact that in some cases, the term “voter” is used and in other times the term “elector” is used, which is narrower as it is attributed to citizens who have the right to vote.

The joint opinion of the Venice Commission and ODIHR on the draft law on the voters’ legislative initiative, there is an issue at the constitutional level with regard to the criteria that electors with the right to vote should fulfill and, therefore, the right to support the legislative initiative.<sup>75</sup> While it is underscored that every elector with the right to vote has the right to a civic legislative initiative, there is a concern that, according to Article 45 of the Constitution, citizens who have been declared mentally disabled by final court decision do not enjoy the right to vote. While it is a good practice to tie the right to elect to the right to a civic legislative initiative, this provision in the Albanian Constitution restricts “mentally disabled” citizens. Paragraph 7.3 of the OSCE Copenhagen Document of 1990 engages countries participating in the OSCE to guarantee the right to vote, in a universal and equal manner for adult citizens. Article 12 of the UN Convention “On the Rights of Persons with Disabilities (UNCRPD)” envisages: “State Parties recognize the legal capability of persons with disabilities equally with others in all aspects of life.” Meanwhile, in accordance with Article 29 thereof, a call is made on state parties to “guarantee the political rights of persons with disabilities and the possibility to enjoy those rights on an equal basis with others.” The opinion underscores that this restriction in the Albanian Constitution runs counter also to the interpreting revised declaration of the Code of Good Practice in Electoral Matters, on the participation of persons with disabilities in elections (CDL-AD(2011)045). As a conclusion, the Venice Commission and ODIHR recommend the compatibility of the criteria for the legitimacy of electors who might support the civic legislative initiative with international obligations.

Some constitutions have set restrictions regarding the subject or field on which a legal initiative may be undertaken by citizens or electors. In the doctrine, these are otherwise known as constitutional reservations. Thus, the Constitution of Spain says that popular legal initiatives may not affect matters that are the subject of regulation in organic laws, taxes, international relations or law, or the prerogative of “pardons.” Similar restrictions to civic legislative initiatives are also

---

<sup>75</sup> See Paragraph 19, p. 5, Joint Opinion 935/2018 of the Venice Commission and ODIHR.

envisaged in Article 74 of the Romanian Constitution, with regard to matters related to taxes, international relations, amnesty, or pardons.

Our country's Constitution contains an indirect restriction, which gives supremacy to legal initiatives proposed by the Government or the Executive compared to initiatives proposed by electors or MPs. Concretely, according to Article 82, Paragraphs 2 and 3 of the Constitution, *“No non-governmental draft law, which makes it necessary to increase state budget expenses or reduces incomes, may be approved without prior consent of the Council of Ministers, which should express its opinion within 30 days from the reception of the draft law. If the Council of Ministers does not express itself within this deadline, the draft law passes for review according to ordinary procedure.”* Unlike the Constitutions of Romania or Spain, which impose direct restrictions on certain legal issues or regulations, in our country, the constitutional reservation has a relative nature. It is the Assembly that would assess, on a case by case basis, the opinion of the Council of Ministers whether budget expenses are increased or incomes are reduced and, therefore, to what extent this opinion will influence the acceptance or rejection of the proposed civic legislative initiative.

With regard to the reservation, if we compare in the country's Constitution the right to referendum seen as the purest tool for direct democracy and the right to legislative initiative, it is noticed that constitutional restrictions on the referendum are similar to restrictions imposed on the civic legislative initiative envisage in the Romanian and Spanish Constitutions. According to Article 151, Paragraph 2 of the Constitution, *“Issues related to the territorial integrity of the Republic of Albania, the limitation of fundamental human rights and freedoms, the budget, taxes and financial obligations of the state, the imposition or lifting of a state of emergency, a declaration of war or peace, and amnesty cannot be submitted to a referendum.”* With regard to the referendum, our lawmaker was more careful in envisaging a clearly expressed absolute reservation for certain issues or areas, as the request of 50,000 citizens with a right to vote for referendum, if supported by electors, makes it possible to invalidate a law, to approve a draft law, the right to determine a matter of special significance, or the approval of constitutional amendments. Meanwhile, for the civic legislative initiative, electors are the proposers and, in any case, it is the Assembly as the representative of the lawmaking power that has the exclusive attributes to approve the proposed draft law or not.

**Moldova** has envisaged room for civic lawmaking initiatives up to the proposal of the initiative for constitutional amendments. In this case, there should be 200,000 Moldova citizens with the right to vote to propose such amendments, on the condition that they belong to half the administrative and territorial districts at the national level and in each of these districts, at least 20,000 signatures have been registered in support of the initiative. The draft law of a constitutional nature should be proposed to the Parliament on the condition that the Constitutional Court issues an approving recommendation on it.

Although the right to propose the civic lawmaking initiative, envisaged at the constitutional level in most of the European countries appears as a space recognized for citizens for greater involvement in the legislative process, in the opinion of the Venice Commission, this right in some

countries is conditioned by corporate interests. As a result, pressure may be used on parliament to approve initiatives that not in all cases might be in the interest of the broader public.<sup>76</sup>

#### 4.4 Compliance with international standards and challenges of the new Law no. 54/2019

Law no. 54/2019 “On the lawmaking initiative of voters in the Republic of Albania” was approved by the Assembly of the Republic of Albania in July 2019. Until the moment this law was approved, the legal vacuum was evident, while constitutional provisions were the only legal framework used by organizations or initiating groups of civic legislative initiatives before the law in question was approved.

The initiative to compile the draft law on the voters’ lawmaking initiative was undertaken by the non-profit organization “Center for Legal Civic Initiatives” (CLCI), which conducted extensive consultations with civil society representatives and experts of the field throughout the process of the drafting of the law. After the finalization of the draft law, in order to concretize its forwarding to the parliamentary agenda, the support of two MPs of the Assembly of the Republic of Albania was secured. As a result, the draft law was submitted in the Assembly as an MP’s initiative.

##### 4.4.1 Joint opinion of the Venice Commission and ODIHR

Upon request of the Assembly Speaker, this draft law was sent to the Venice Commission for an opinion, which is reflected also in the earlier sections of this report. The Venice Commission, together with ODIHR, welcomed the efforts of Albania to approve legislation on the civic legislative initiative, so that it would be possible to implement the Constitution’s provisions in accordance with international obligations and standards.

In order to further improve compliance of the draft law with international standards on human rights and OSCE engagements, the Venice Commission and ODIHR presented some key recommendations, which were elaborated in a more elaborated manner in the following part of their joint opinion:<sup>77</sup>

i) To simplify the entire procedure, from the submission of a civic lawmaking initiative, the Venice Commission and ODIHR recommended:

- Not requiring the registration of all initiating organizations from the beginning of the process, but only the registration or the representation/representative committee after the collection of signatures;
- Ensuring that the signature collection outside of designated public space be included in the draft law. More generally, the signature collection process should be open, free from intimidation and devoid of formalism.

<sup>76</sup> Parag. 74, Opinion Nr. 446/2007 i Komisionit të Venecias. *Cit supra*

<sup>77</sup> Opinioni i përbashkët Nr. 935/2018, i Komisionit të Venecias dhe ODIHR-it, fq.3, pg.11 - 12

- Making clear that no discretion is given to the Central Election Commission (CEC) when registering the organizing committee and involving it in the process only after the collection of signatures.
  - Reconsidering the duration of the whole process by simplifying it and reducing the time-limits applying to the action of public bodies;
  - Ensuring that the legislation provides the initiative groups with the right to organise the locations for signature collection in consultation with local authorities and imposes no limits for signature collection outside of designated public space.
- ii) Në mënyrë të veçantë, Komisioni i Venecias dhe ODIHR-i rekomanduan:
- Revising the eligibility of legal initiatives in line with international obligations;
  - Clarifying that the draft does not apply to petitions, which should be possible without any formalism, but only to citizen's initiatives; in addition, for the sake of legal clarity, it is recommended that the wording of Article 5.1 be brought in conformity with Article 81.1 of the Constitution;
  - Clarifying which are the exact requirements for digital signatures, with a view to ensuring equal treatment between the collection of classical and digital signatures, and easy access to the process in both cases;
  - Leaving the motivation of the initiative's rejection, at least on material grounds, to the factions or members of the parliament rather than decided by a vote of the parliament;
  - Introducing provisions implementing Article 82 of the Constitution (on financial expenses) into the draft;
  - Envisaging that financial reporting be required to be submitted by those who succeed in collecting 20 000 signatures;
  - Reviewing Article 8.1 so that it is expanded to cover income and other related expenses, not limiting itself to the collection of signatures;
  - Foreseeing alternative ways of publication of financial reports in cases when an initiator does not have a website, such as a publication on the CEC website;
  - Clarifying the competent appeal body against decisions taken on the basis of the draft. To increase transparency, the draft law should be amended to require timely and accessible publication of all decisions over an extended period of time.

#### *4.4.2 Legal and practical challenges to collecting electronic signatures*

Law No. 54/2019 envisages three special provisions, namely in Articles 12, 13, and 14 that regulate the collection of electronic signatures for the voters' legislative initiative, the timeline for conducting this process, and the verification of electronic signatures. More concretely, Article 12, Paragraph 1, of the law envisages: "The collection of signatures electronically is conducted in accordance with legislation in force on electronic signatures, electronic documents, electronic identification, and trusted services." As may be noted, this provision refers to legislation in force in this area, which in fact is regulated by Law No. 9880, dated 25.02.2008 "On electronic

signatures,” updated; Law No. 107/2015 “On electronic identification and trusted services,” updated; and Law No. 10273, dated 29.04.2010 “On electronic document,” updated.

Legislation in force on electronic signatures is assessed as complex and unclear for making possible without bureaucratic obstacles the citizens’ legislative initiatives. As will be analyzed further on, this legislation is not applied in any of the practices initiated on the voters’ legislative initiative. According to Article 3, Paragraph 1 of Law No. 9880, dated 25.02.2008, amended, the phrase “Electronic signature” refers to all data in electronic form, which are attached or accompany logically other electronic data that serve as a way of verifying the identity of the signatory and the truthfulness of the signed document. Article 4 of this law envisages that legal acts and acts drafted by physical and legal persons, public and private, may be done also through an electronic document, to which a qualified electronic signature is attached. The electronic document, which bears the name of the signatory and his/her qualified signature, has the same legal validity and proving power as the letter form. In the sense of Article 4 of this law, it is unclear whether the electronic signature of a legislative initiative would be appraised according to its provisions, as the act that will be signed (a certain legislative initiative) has the same form and content for all voters and the law should have facilitated its realization in practice. In this regard, it is worth stressing that the Joint Opinion of the Venice Commission and OSCE/ODIHR on the Albanian draft law for the civic legislative initiative underscores that the referring provision in legislation on electronic signatures, electronic documents, and electronic identification, may not be sufficient.<sup>78</sup> In the case of digital signatures, the person is identified without a need to provide additional information about his/her name, place and date of birth, ID number on the identification card or passport, etc. It is recommended specifically to clarify and specify the criteria for digital (electronic) signature, so as to guarantee equal treatment between the classic and the digital manner of collecting signatures, by guaranteeing an easier process to be accessed in both cases.<sup>79</sup>

Article 10 of the Law no. 9880, dated 25.02.2008, amended, envisages the Responsible Authority for Electronic Certification and Cybersecurity, which is a national authority that is tasked with regulating and overseeing electronic security.<sup>80</sup> On the other hand, our legislation has envisaged another public body that offers the service of electronic signatures, the electronic certificate, for bodies and institutions of the public administration and private subjects, according to tariffs established in the Council of Ministers Decision. This body is the National Agency for the Information Society (NAIS), which is organized and functions by a CMD.<sup>81</sup>

By means of CMD No. 35, dated 22.1.2020<sup>82</sup>, by proposal of the Minister of Finance and Economy, the Council of Ministers has decided, according to Paragraph 2 of this decision: “For the public administration bodies and institutions, the electronic service of electronic signatures,

<sup>78</sup> Paragraph 33, p. 8, of the Joint Opinion No. 935/2018, of the Venice Commission and ODIHR.

<sup>79</sup> Ibid., paragraph 12, p. 3.

<sup>80</sup> The authority is a public legal institution, reporting to the minister responsible for the field and is organized and functions by decision of the Council of Ministers.

<sup>81</sup> CMD No. 673, dated 22.11.2017, “On the organization of the National Agency for the Information Society,” amended by Decision No. 36, dated 24.1.2018; by Decision No. 448, dated 26.7.2018; by Decision No. 872, dated 24.12.2019 of the Council of Ministers.

<sup>82</sup> “On the approval of tariffs for electronic services of the National Agency for the Information Society.”

electronic stamps, electronic certificate, transaction on the government interaction platform (GG), is offered by NAIS for a fee of zero lek.” Paragraph 3, Letter “a” of this CMD envisages differentiated treatment for private subjects, which for the same service (electronic signature) will pay 4,800 (four thousand and eight hundred) lek, including VAT, with a validity for one year. Due to the country’s social-economic conditions, this fee makes it difficult to implement electronic signatures for members of families with low incomes, who are in need or unemployed, but wish to support a legislative initiative. Concretely, this fee is equal to 16% of the minimum wage established in 2021; meanwhile, for families and individuals in need that get economic welfare aid, the fee surpasses in some cases the amount of the economic welfare benefited depending on the structure of the family.

The right to electronic signature for the voters’ legislative initiative does not appear to have been applied in practice, to date. It is necessary for our legal framework to facilitate and envisage the necessary technological infrastructure that guarantees every voter the possibility to sign electronically an initiative without costs. This could be realized through the unique multi-functional government portal e-Albania.al, where citizens have their accounts and that makes possible their identification and obtaining services electronically. This portal is managed and developed by NAIS and services as a portal through which any interested person, via the internet, may obtain electronic services provided by public institutions in Albania. Of not in this portal is that the CEC and the Assembly of Albania are institutions that do not provide any electronic service.

The need to regulate the legal framework more clearly, including interventions in CMD No. 35, dated 22.1.2020, envisage facilitation and a zero lek fee for any voter applying to be equipped with an electronic signature for a legislative initiative. This special service of electronic signature should be provided to any individual who is a user of e-Albania and is a voter in the Republic of Albania. Therefore, it is necessary to create the proper digital space in the unique e-Albania portal to realize electronic signatures for legislative initiatives, which would ease the process to collect signatures within reasonable deadlines. The application of the electronic signature in practice, without obstacles and in keeping with standards guaranteeing its validity by competent bodies would expand the space for obtaining signatures for a civic legislative initiative by enabling the inclusion en masse of the population from all regions of the country. This would also alleviate financial costs and avoid the extension of deadlines for the collection of signatures by the representation/ representing committee of the initiative.

#### *4.4.3 Other debatable issues in the contents of Law No. 54/2016 and the Assembly’s Rules of Procedure*

In spite of the high degree of reflection toward improvements made to provisions of the draft law after the recommendations of the Venice Commission and OSCE/ODIHR, before being approved in its final form as Law No. 54/2019, some of the controversial issues that are worth subjecting to a debate about other legislative amendments or adjustments, which include other normative acts related to it, such as the Assembly Rules of Procedure, are as follows:

##### **I) Clarifying legal provisions on sanctions**

Article 17, Paragraph 1 of Law No. 54/2019 envisages that the violation of procedures and deadlines related to collecting signatures and registering the initiative by responsible individuals represents an administrative offense and is punishable by a fine from 50,000 up to 100,000 leks. This provision is evasive and unclear and creates harmful premises for administrative sanctions, especially those that may be applied on the representations or representing committee of the initiative, including Civil Society organizations. Such restrictions, which are general and do not clarify the level of responsibility vis-à-vis the committed violation and the subjective part (if committed), create disproportionate barriers to the initiators of a legislative initiative that seeks civic support, and violate freedom of expression and of organization. In this regard, it is worth stressing that the Venice Commission and ODIHR have underscored in their joint report that it is up to the NPO-s to determine how active they are in collecting signatures, based on their financial and human resources. In this aspect, the opinion mentions Articles 19.2 and 19.3 of the draft law, which sanction the NPO-s' fraudulent activity while it is recommended that the provisions expressly envisage that for violations of Article 19.1, they are applied only on civil workers (public officials).<sup>83</sup>

## II) Reviewing the provision on determining the locations for collecting signatures

According to Article 8/1 of the Law no. 54/2019, the collection of signatures for a lawmaking initiative is done in public or private premises, which are assigned by decision of the chairperson of the respective local government unit. This provision does not fully reflect the recommendation of the Venice Commission and ODIHR, which placed an emphasis on consultation and agreement between the initiators and local government bodies, in cases when the collection of signatures is supported to be done in public places. For the collection of signatures outside the public place, the Opinion does not provide such a recommendation, but underscores that the law should not impose restrictions on the collection of signatures outside the dedicated space for public places. Also, the Opinion emphasizes the need for the process to collect signatures to be open, be conducted in a free manner and without intimidation, and free from excessive formalism.<sup>84</sup>

Also, it is our opinion that the assignment of premises for the collection of signatures, according to Article 8 of Law No. 54/2016, should not be restricted only to physical public and private premises. The novelties offered by good international standards and practices make it necessary to embrace e-democracy in the provisions of this law for obtaining electronic signatures. For the law to be more complete and to reflect these standards, it is recommendable that the scope of Article 8 be expanded in the future to promote alternative ways for obtaining support for a civic legislative initiative through various online spaces.

<sup>83</sup> Paragraph 29, p.7, of the Joint Opinion No. 935/2018, of the Venice Commission and ODIHR.

According to Article 19, Paragraph 1, of the draft law "Violation of provisions of this law by persons tasked with duties" represents an administrative offense and is punishable by a fine from 50,000 to 100,000 leks, except for cases when it represents a criminal offense."

<sup>84</sup> Paragraph 11, p. 3 and Paragraph 31, p.8, of the Joint Opinion No. 935/2018, of the Venice Commission and ODIHR.

### III) Legal vacuum and necessary specifications in the Assembly's Rules of Procedure

In their joint Opinion on Law No. 54/2019, the Venice Commission and ODIHR note that the parliamentary legislative procedure for civic (voters') initiatives is not regulated in the draft law. In their opinion, it is customary in European countries to have special laws that regulate similar parliamentary procedures for all draft laws (no matter whose initiative it is for them). Meanwhile, the Venice Commission and ODIHR emphasize that legislation should have some special regulations on draft laws coming at the initiative of voters, for instance, the right to participate in committee meetings and plenary sessions and the right to be heard. The Opinion appraises Article 16/1<sup>85</sup> of the draft law as fair and in keeping with European standards. It envisages:

“The representation/ representing committee of the initiative, as well as expects summoned by it, have the right to represent initiators in all procedures that will be pursued by the Assembly to discuss, draft, and approve the initiative, according to provisions of the Constitution of the RA and the Rules of Procedure of the Assembly of the RA.”<sup>86</sup>

This provision appears to have been reformulated in the final text of the Law No. 54/2019, and the contents of Article 15 envisage: “The full draft law, together with the report describing and analyzing the purpose that it seeks to achieve and legitimizes the financial expenses for its implementation, as well as the CEC decision on the registration of the voters' lawmaking initiative, are deposited with the Assembly of Albania by the representation/ representing committee of the initiative, according to procedures established in the Assembly's Rules of Procedure.” As may be seen, the law avoided the regulation of parliamentary procedures, for which our legal framework has a law approved by a higher majority than Law No. 54/2019<sup>87</sup>, such as the Assembly's Rules of Procedure.

If we look at the Assembly's Rules of Procedure,<sup>88</sup> we notice that there is no special regulation for the review of legislative initiatives by 20,000 voters. Part two of the rules envisage provisions of the lawmaking initiative, which apply the same to proposed initiatives, no matter who proposed them, starting from the right to propose the initiative, elements that the draft law's accompanying report should contain, the way to realize distribution of draft laws, their review by the responsible committee, the proposal of amendments, the opportunity to withdraw the initiative before it is approved in principle, the review of the initiative in a plenary session, voting article by article, review of amendments and of the draft law in its entirety.

<sup>85</sup> Paragraph No. 42, p.10, of the Joint Opinion No. 935/2018.

<sup>86</sup> The draft law is accessible at:

<https://www.parlament.al/Files/ProjektLigje/20190724173831ligj%20nr.%2054,%20dt.%2018.7.2019.pdf>

<sup>87</sup> Law No. 54/2019 is approved by a simple majority while the Assembly's Rules of Procedure is approved by the Assembly with an absolute majority, which requires approval of at least 50%+1 of all members of the Assembly, or 71 MPs.

<sup>88</sup> Approved by Decision no. 166, dated 16.12.2004, amended by Decision No. 15, dated 27.12.2005; Decision No. 193, dated 7.7.2008; Decision No. 21, dated 04.03.2009, Decision No. 41, dated 24.6.2010; Decision No. 88, dated 24.2.2011; Decision No. 41, dated 30.05.2013; Decision No. 95, dated 27.11.2014; Decision No. 88, dated 14.9.2017; Decision No. 85, dated 18.7.2019; Decision No. 12/2020 and Decision No. 86/2021.

## Step 1

- The lawmaking initiative is reviewed by the assigned Parliamentary Committee (standing or ad hoc).
- Initially, the discussion in PRINCIPLE of the proposed draft law is done. The Chair of the Committee, after listening to the rapporteur, invites members of the committee to address questions to the initiators of the draft law and the rapporteur and, after that, declares discussion in principle on the draft law open. Discussion in principle is always done in the presence of the representative of the Council of Ministers. At the conclusion of the discussion in principle, the committee decides to approve in principle or disapprove the draft law.
- Article 38, Paragraphs 1 - 4, Assembly Rules of Procedure.

## Step 2

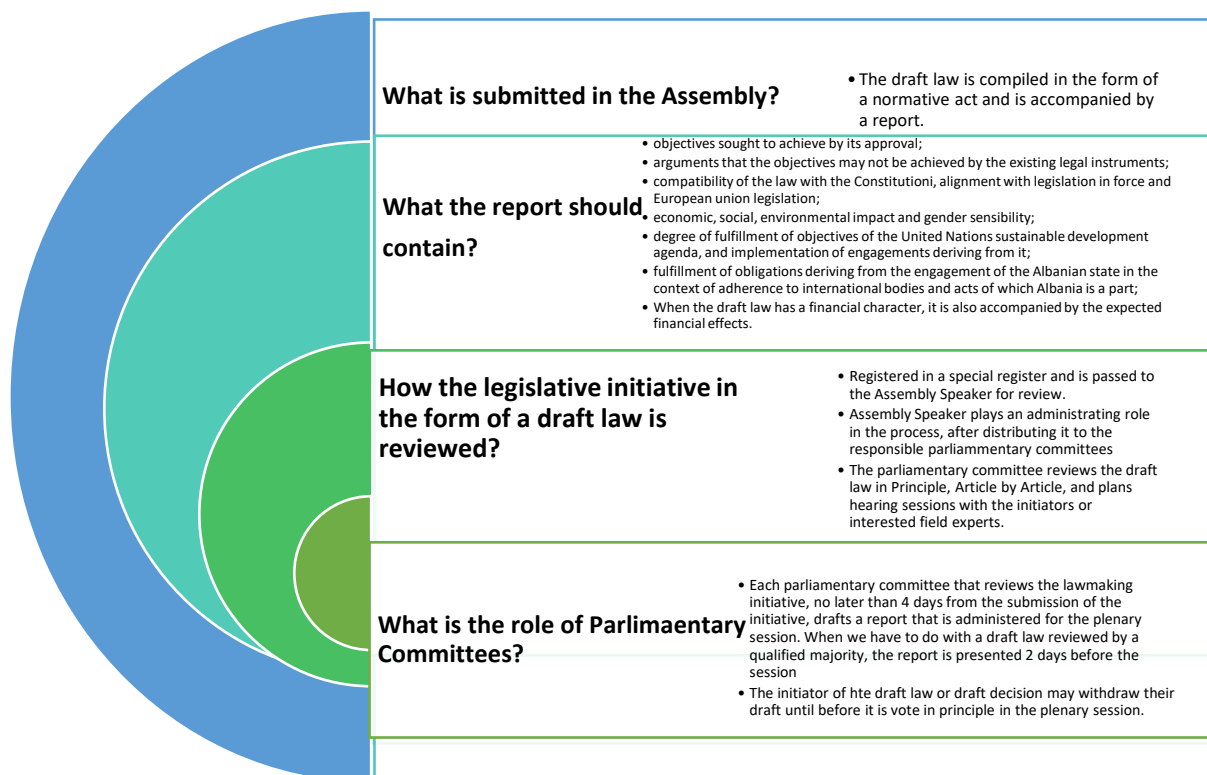
- If the responsible committee approves the draft law in principle, it begins review and voting ARTICLE BY ARTICLE thereof.
- Upon approval of the draft law as a whole, the rapporteur/s draft the report that they submit to the responsible committee and the plenary session. The report contains the amendments approved in the committee as well as recommendations for the responsible committee.
- When the responsible committee decides to disapprove the draft law in principle, or when the opinion of the Council on Legislation is to not approve it in principle, the case is set for discussion in the plenary session. When the Assembly, in a plenary session, decides to approve the draft law in principle, the responsible committee begins its review article by article in the first following meeting.
- Article 38, Paragraphs 5-6, Assembly Rules of Procedure

Regarding the space that initiators of a draft law coming from 20,000 voters have to be heard in parliamentary procedures, the Rules do not envisage it clearly and mandatorily, but it leaves discretion to the chairperson of the parliamentary committee who, after listening to the rapporteur, invites members of the Committee for questions to the initiators of the draft law and the rapporteur and, after that, declares the discussion in principle of the draft law open. This provision is the same for all draft laws, no matter who the initiator is. Article 73/2 of the Rules of Procedure envisage that during the plenary session, before the discussion in principle, MPs are invited by the presiding MP to address questions to the initiators or members of the Council of Ministers in relation to the draft law. As may be noticed, the space to the initiators to speak at the plenary session depends on the interest shown by MPs and the questions they will ask. In particular, for legislative initiatives from 20,000 voters, it is worth granting representations or representing committees the opportunity to present these initiatives before they are subjected to the parliamentary procedure of review and vote in a plenary session.

Article 68, Paragraph 2 of the Rules of Procedure envisage a series of elements that need to be reflected in the contents of the accompanying report for the legislative initiative, including the reports on initiatives proposed by 20,000 voters.<sup>89</sup> Paragraph 4 of the same article envisages that the Parliament Speaker, in a reasoned manner, may send the deposited draft laws to the initiator if they do not meet these requirements. The majority of these requirements have a technical character and mostly apply to initiatives submitted by the Council of Ministers, which through the proposing minister, possesses the necessary human resources to respond to such a structure of a report. For initiatives of 20,000 voters, as well as those proposed by MPs, such requests have a high level of

<sup>89</sup> a) Objectives sought to be achieved by its approval; b) arguments that objectives may not be achieved with the existing legal instruments; c) compatibility of the draft law with the Constitution, alignment with legislation in force and European Union legislation; ç) economic, social, environmental impact and gender sensitivity; d) degree of fulfillment of objectives of the sustainable development agenda of the United Nations, as well as implementation of engagements deriving from it; dh) fulfillment of obligations deriving from the engagements of the Albanian state in the context of adherence to international bodies and acts that Albania is a part of.

bureaucracy and engagement, which makes it difficult to fulfill and fill out in practice as a result of limited human and financial resources. Therefore, the implementation of this provision of the rules in practice would diminish the space for the proposal of legislative initiatives by voters.



#### 4.5 Lawmaking initiatives by 20,000 voters in the practice of our country

During the period covered by this research, the number of legislative initiatives submitted by 20,000 voters at the Assembly make up a very small number, almost negligible, compared to legal initiatives of the Executive, which are the prevailing ones. Second in the list are legal initiatives by MPs.

One year after the approval of the Law No. 54/2019, namely during 2020, it appears that three CSO-s, according to legal procedures, addressed the CEC with requests to be equipped with pre-filled forms for the collection of signatures to propose three legal initiatives, namely the draft law “On the creation of the National Register of Perpetrators of Sexual Crimes,” the draft law “On some additions and amendments to Law No. 7895, dated 27.01.1995, “Criminal Code of the RA,” with a special focus on the protection of victims of sexual abuse, and the draft law “On referenda in the Republic of Albania.” The requests submitted by the Civil Society were approved by the CEC while even requests to extend the deadline for the collection of signatures were also approved, affected by the situation of the Covid-19 global pandemic.

##### 4.5.1 Initiating organizations and parliamentary practice for reviewing initiatives

The organizations that initiated and set into motion the procedures for civic legislative initiatives are known organizations, which have undertaken a series of initiatives at the national level. The involvement of other international organizations to support these initiatives, with a positive impact on involving the broader public in the process to sign the initiative, gave a positive push to the process. Meanwhile, local organizations appear more passive for initiating such initiatives. An influencing factor is their lack of information and the proper legal capacities, conditioned by limited financial support.

*I) The draft law “On some amendments to Law No. 7895, dated 27.01.1995, ‘Criminal Code of the Republic of Albania’ amended”*

The draft law was submitted to the Assembly on 06.11.2017 as a legislative initiative signed by 20,000 voters.<sup>90</sup> During the period covered by this research study, this is the only successful initiative submitted and reviewed by the Assembly and that secured broad support, namely by 37,000 voters who signed it. The legislative initiative consisted in the proposal of some new provisions in the Criminal Code, for the purpose of criminal legal protection of animals against illegal acts taken to harm or eliminate them. The organization that represented the legal initiative is “Animal Rescue Albania”.

In September 2018, after the initiative was passed to the Parliamentary Committee on National Security, it was decided that this initiative would be reworked by incorporating in its contents the contribution of the Ministry of Justice and the Ministry of the Environment. About one year later, in May 2019, the initiative was reviewed by the Committee on Productive Activities, Trade, and the Environment. In procedures before this Committee, it was noted that the right of the initiators to participate proactively and to be heard was respected. At the conclusion of discussion held in this Committee, the position was held again that the product not remain a ‘pure’ civil society product, but be merged with the initiative proposed by a group of MPs of the Socialist Party. Also, during the review of the initiative article by article, amendments were made regarding the margin of punishment or the review for other additions in criminal provisions, elements that made its reworking needed.<sup>91</sup>

About one month later, in June 2019, the Committee of Laws<sup>92</sup> reviewed the two legislative initiatives jointly: that submitted by the MPs of the mentioned electoral subject and that submitted by voters. Opinions were provided during the review in the parliamentary committee by experts from the EURALIUS and OSCE missions, as well as representatives from interested institutions, such as the General Prosecution Office, the Ministry of Interior, the Ministry of Tourism and the Environment, the Ministry of Agriculture and Rural Development, and the Ministry of Health and Social Protection.

From a comparative analysis, it results that the draft law submitted as an initiative of MPs, unlike that of the voters, contains 23 amendments to the Criminal Code. In terms of animal protection,

<sup>90</sup> [Assembly of Albania \(parlament.al\)](http://parlament.al)

<sup>91</sup> [20190612100749Raporti i Komisionit për Veprimtaritë Prodhuese, Tregtinë dhe Mjedisin.pdf \(parlament.al\)](#)

<sup>92</sup> Committee on Legal Affairs, Public Administration, and Human Rights

the submitted draft law did not only envisage one aspect of the criminal offense for protection from accompanying animals in public. Only the integrated text of the draft law was passed from the Parliamentary Committee to review in the plenary session, highlighting in a reduced manner the provisions suggested by voters. More concretely, the integrated text, which was later approved in the Assembly and became Law No. 44/2019 “On some additions and amendments to Law No. 7895, dated 27.01.1995 ‘Criminal Code of the Republic of Albania’ amended,” appears to have envisaged “Intentional killing of accompanying animals,” “Maltreatment of animals,” “Animal fights.” Meanwhile, “conducting experiments with animals,” “Using accompanying animal skin and wild fauna species, at risk of extinction” and “Murder, enslavement of wild fauna species, at risk of extinction,” which were suggested in the contents of the citizens’ lawmaking initiative, do not appear to have been taken into consideration. An analysis of the integrated text indicates that interventions in the initial provisions proposed by voters are not only of a technical-legislative nature, but also substantial.

*II) Draft law “On some additions and amendments to Law no. 9669, dated 18.12.2006, ‘On measures against violence in domestic relations’ amended”*

In spite of the fact that this draft law was submitted as an initiative of the Council of Ministers, in fact, it is a product initiated by Civil Society partners.<sup>93</sup> The initiating organization of the draft law is the Center for Civic Legal Initiatives, which worked in collaboration with 10 national non-profit organizations, supported also by international ones.<sup>94</sup> This draft law exhausted the review phase in several parliamentary committees, such as: the Committee on Labor, Social Affairs, and Health,<sup>95</sup> Committee on Laws,<sup>96</sup> and the Committee on National Security.<sup>97</sup>

*III) Draft law “On the creation of the National Register of Sex Crimes Offenders”*

In June 2020, some CSO-s addressed the CEC to be equipped with pre-filled forms for collecting signatures for the draft law **“On the creation of the National Register of Sex Crimes Offenders.”** The representative committee of the lawmaking initiative was represented by CSO-s active in the field of women’s and girls’ rights and gender equality in the country, namely the “Counseling Line for Women and Girls,” the association “Women’s empowerment network in Albania,” and the center “Gender Alliance for Development.”<sup>98</sup> Initially, the initiating committee was given the 4-month timeline for the collection of signatures, but the representing committee filed a request to extend the deadline until December 31, 2020.<sup>99</sup> After the deadline was met, the organizations that were part of the representing committee submitted 22,428 signatures by voters

<sup>93</sup> <http://www.qag-al.org/publikime/komentari.pdf>

<sup>94</sup> <http://www.qag-al.org/publikime/komentari.pdf>

<sup>95</sup> [20180710140928Raport për projektligjin për masat ndaj dhunës në familje.pdf](http://20180710140928Raport%20p%C3%ABr%20projektligjin%20p%C3%ABr%20masat%20ndaj%20dhun%C3%ABs%20n%C3%AB%20familje.pdf) (parlament.al)

<sup>96</sup> [20180720132512Raporti i Komisionit për Çështjet Ligjore, Administratën Publike dhe të Drejtat e Njeriut.pdf](http://20180720132512Raporti%20i%20Komisionit%20p%C3%ABr%20%C3%87%C3%ABshtjet%20Ligjore,%20Administrat%C3%ABn%20Publike%20dhe%20t%C3%AB%20Drejtat%20e%20Njeriut.pdf) (parlament.al)

<sup>97</sup> [20201109131150K.Sigurisë.pdf](http://20201109131150K.Siguris%C3%AB.pdf) (parlament.al)

<sup>98</sup> [http://kqz.gov.al/wp-content/uploads/2021/02/Vendim-nr.-21-date-02.02.2021-Për-regjistrimin-e-nismës-ligjvënës-të-zgjedhësve-Për-krijimin-e-regjistrimit-Kombëtar-të-Autorëve-të-Krimeve-seksuale.pdf](http://kqz.gov.al/wp-content/uploads/2021/02/Vendim-nr.-21-date-02.02.2021-P%C3%ABr-regjistrimin-e-nism%C3%ABs-ligjv%C3%ABn%C3%ABs-t%C3%AB-zgjedh%C3%ABsve-P%C3%ABr-krijimin-e-regjistrimit-Komb%C3%ABtar-t%C3%AB-Autor%C3%ABv%C3%AB-t%C3%AB-Krimeve-seksuale.pdf)

<sup>99</sup> [http://cec.org.al/wp-content/uploads/2020/11/CEC\\_Vendimi-019\\_201103\\_Për-shqyrtimin-e-kërkesës-së-zj.Iris-Luarasi.pdf](http://cec.org.al/wp-content/uploads/2020/11/CEC_Vendimi-019_201103_P%C3%ABr-shqyrtimin-e-k%C3%ABrkes%C3%ABs-s%C3%AB-zj.Iris-Luarasi.pdf)

who supported the initiative. Upon verification, the signatures were considered in order. This made the initiative to be registered by the CEC on February 2, 2021.<sup>100</sup>

Based on verifications on the official website of the Assembly, it results that the draft law “On the creation of the national register of perpetrators of criminal offenses of a sexual nature,” which comes as a legislative initiative of 20,000 voters, was submitted on November 10, 2021, 8 months after the registration of the initiative by the CEC. Five days earlier, on November 5, 2021, another draft law, with a similar subject and called “On the national register of convicted sex offenders,” was submitted as an initiative of an MP of the Assembly of the RA.<sup>101</sup> According to the accompanying report for the draft law, it results that the draft law was prepared by the Children’s Rights Center Albania (CRCA/EPCAT), with assistance from experts of the field and in consultation with civil society and public institutions working on children’s rights in Albania.<sup>102</sup> Regarding these two initiatives, since the two draft laws had the same purpose, the Committee of Laws decided to establish a working group with representatives from the Ministry of Interior, Ministry of Justice, NAIS, the Commissioner on the Right to Information and Personal Data Protection (Commissioner’s Office) under the leadership of the rapporteur of the Committee of Laws in order to merge the two drafts into a single one and bring them to the required format. It is notable that the contents of the report do not indicate the degree of acceptance of articles from each draft and the reasons for rejecting the rest of the provisions that maybe were not taken into consideration. This would help boost parliamentary transparency and citizens’ trust in the institution of the Parliament, especially vis-à-vis citizens’ legislative initiatives, which are rare in parliamentary practice.

On July 21, 2022, about 9 months after the submission of both initiatives, the Assembly of Albania approved the variant agreed and approved in the Committee of Laws (after soliciting feedback from other parliamentary committees), by voting in the plenary session for Law No. 62/2022 “On the national register of convicted sex offenders.”<sup>103</sup>

#### IV) *Draft law “On referenda in the Republic of Albania”*

The Foundation “Albanian Institute for Election System Development” appears to have filed with the CEC the request to be equipped with pre-filled forms for the proposal of the draft law “**On referenda in the Republic of Albania.**” In June 2020, initially the CEC set the three-month deadline for the collection of signatures. Due to the impossibility of respecting the set timeline, affected by the situation the country was going through due to the Covid-19 global pandemic, the representatives of the initiative requested an extension of the deadline to collect signatures until

<sup>100</sup> <http://kqz.gov.al/wp-content/uploads/2021/02/Vendim-nr.-21-date-02.02.2021-Per-regjistrimin-e-nismes-ligjvenses-te-zgjedhesve-Per-krijimin-e-regjistrimit-Kombetar-te-Autoreve-te-Krimeve-seksuale.pdf>

<sup>101</sup> See report of the responsible Committee published at this link:

<https://www.parlament.al/Files/ProjektLigje/20220720182831raporti%20final%20Ligjet%20regjistrimi%20i%20te%20denuarve%20per%20krime%20seksuale.pdf>

<sup>102</sup> <https://www.parlament.al/Files/ProjektLigje/20211110102950Relacion%20Per%20Regjistrimin%20Kombetar%20e%20te%20Denuarve%20per%20krime%20seksuale.pdf>

<sup>103</sup> [20220727140710ligj nr. 62, dt. 21.7.2021.pdf \(parlament.al\)](https://www.parlament.al/Files/ProjektLigje/20220727140710ligj_nr_62_dt_21.7.2021.pdf)

February 2021. The CEC decided to extend the deadline until March 2021.<sup>104</sup> Before the end of this deadline, the representatives of the initiative submitted another request to extend the deadline again for the collection of signatures. In this case, the CEC does not appear to have conducted the procedure of a hearing session but accepted the request to extend the deadline until May 31, 2021, with arguments based on Articles 53 and 182 of the Administrative Procedure Code.<sup>105</sup>

As in the case of the draft law on the national register of convicted sex offenders, there are other initiatives with the same field of regulation, but that secured the support of an MP for submission to the Assembly. The first initiative bears the signature of an MP and was submitted on 29.07.2020 in the Assembly. In the relevant section for its publication, it appears to have been sent back to the initiator but without publishing the reason or motive for sending back the draft law.<sup>106</sup> The draft law appears to be a product of the initiative “Yes for Albania,” a group of free citizens who, with the support of Mr. Dashamir Shehi, has as its goal the organization of citizens in a real movement in the face of injustices committed in the country by leading political elites.<sup>107</sup>

The second draft law “On referenda in the Republic of Albania” was filed again upon the initiative of an MP on June 2, 2020, and it comes as the initiative of CSO-s, the Center for Public Information Issues (INFOÇIP), undertaken in 2016. INFOÇIP supported the entire process of compiling the draft law, engaging experts of the field and the consultative process conducted with civil society actors, the CEC, Assembly representatives, and international organizations.<sup>108</sup> The draft law in under parliamentary procedure and it does not appear to have been reviewed until July 2022 by any parliamentary committee

#### V) *Draft law “On class action”*

On October 8, 2021, the draft law “On class action”<sup>109</sup> appears to have been filed with the Assembly upon initiative of an MP. In spite of the way in which the submission of this law is formalized, the initiative comes as a product of the work of several Civil Society organizations, such as the Center for Legal Civic Initiatives and the Environment Development and Networking Center, and it found broad support from 73 CSO-s. Based on information made public on their official websites, in February 2021, the organizations appear to have addressed the Assembly Speaker and a group of MPs to exercise the lawmaking initiative “On class action.”<sup>110</sup> However, although about 10 months have gone by since it was submitted, the initiative does not appear to

<sup>104</sup> [http://cec.org.al/wp-content/uploads/2020/11/CEC\\_Vendimi-018\\_201102\\_Per-shqyrtimin-e-kerkeses-se-z.Kristaq-Kume.pdf](http://cec.org.al/wp-content/uploads/2020/11/CEC_Vendimi-018_201102_Per-shqyrtimin-e-kerkeses-se-z.Kristaq-Kume.pdf)

<sup>105</sup> Article 53 of Law No. 44/2015, “Administrative Procedure Code of the Republic of Albania,” envisages the principle of legitimate exercise of discretion if the law or by-laws do not envisage a certain deadline for the conduct of a procedural action. Article 182 of Law No. 44/2015, “Administrative Procedure Code of the Republic of Albania” envisages that the mandatory execution of an administrative act is postponed in cases when the public body decided on its postponement for an indefinite period of time.

<sup>106</sup> <https://www.parlament.al/ProjektLigje/ProjektLigjeDetails/52448>

<sup>107</sup> <https://www.platformaorganizative.org/zbulo-po>

<sup>108</sup> <https://www.parlament.al/Files/ProjektLigje/20200907125203Relacion%20R.%20Hajdari%20PER%20REFERE NDUMET.pdf>

<sup>109</sup> <https://www.parlament.al/ProjektLigje/ProjektLigjeDetails/55643>

<sup>110</sup> [http://www.qag-al.org/publikime/padia\\_kolektive.pdf](http://www.qag-al.org/publikime/padia_kolektive.pdf)

have been subjected to discussion in parliamentary committees until the end of July 2022. It is worth emphasizing that the CSO contribution in drafting and consulting this law was not reflected in the accompanying report.<sup>111</sup>

#### *4.5.2 Difficulties encountered in the procedural and institutional aspect*

Before Law No. 54/2019 on the voters' legal initiative was approved, the legal vacuum in our legal framework on the lack of more specific regulation of constitutional provisions, reflected a lack of practice of such initiatives. In this situation, as mentioned earlier, CSO-s have lobbied with classic initiators of a legislative initiative, namely with the Executive or Legislative branches, to find support in the proposal of initiatives drafted mainly with their expertise and regulating areas such as anti-discrimination, protection against domestic violence, access to information, etc. The same tendency is noticed also after the approval of the Law No. 54/2019, after the organizers or 'initiators' encountered various difficulties to generate the support of 20,000 voters.

CSO-s engaged in the representative committees of civic legislative initiatives have indicated as a difficulty the situation created due to the pandemic as well as the short time allocated for the collection of 20,000 signatures, although in fact, the CEC's positions have been in favor of their requests for extensions. One of the difficulties encountered in the field is the supporting documentation requested from voters given that most of the citizens, during the collection of signatures in public places, hesitate to provide their personal data or identification documents.

The absence of implementation in practice of the general legal provisions of Law No. 54/2019, with regard to electronic signatures, has made it difficult to collect signatures in this simplified format that reduces human and financial costs for the representative committees of initiatives.

#### *4.5.3. The need to clarify parliamentary procedures, dictated by the practice to date, of the review of civic legislative initiatives or those proposed by CSO-s*

Although legislative initiatives proposed by voters or civil society organizations that have chosen to lobby with MPs are relatively scarce, the parliamentary practice to date dictates the need to improve and clarify provisions in the Assembly's Rules of Procedure.

The parliamentary procedure for the review of legislative initiatives has been analyzed earlier in the above sections of this research report, but special emphasis should be devoted to the challenges encountered by draft laws proposed by voters or that have been the initiatives of CSO-s through lobbying with MPs.

##### **I) Deadlines**

On the draft law submitted as the initiative of 37,000 voters, for amendments to the Criminal Code, the Assembly needed about two years to take it under review and to make a decision about it. This timeline is too long and it weakens citizens' trust in the instrument of the popular legislative

<sup>111</sup> <https://www.parlament.al/Files/ProjektLigje/20211013204230relacioni%20padite%20kolektive.pdf>

initiative and the immediacy of the initiative. Furthermore, relatively long deadlines, more than six months, were noticed for legislative initiatives supported by MPs but proposed by CSO-s.

In these circumstances, it is worth revising Articles 26 and 27 of the Assembly's Rules of Procedure regarding procedures for drafting the work program of the Assembly and the calendar of its work. Article 26, Paragraph 2 of the Assembly's Rules of Procedure envisage: "The Assembly's work program is determined by the Conference of Chairpersons for a period of 3 up to 9 weeks, upon proposal of the Assembly Speaker, after first obtaining the opinion of the representative of the Council of Ministers, tasked with liaising with the Assembly, the chairs of the standing committees, and the services of the Assembly." In order to make the process of consultations on the work program more inclusive and avoid selective tendencies in granting priority to certain draft laws, this clause may be revised to also give the opportunity to the initiating MPs and representatives of the civic legislative initiatives to give their opinion on the draft laws they have submitted.

For these initiatives, the rules of procedure should envisage reasonable and clearly expressed deadlines, such as: they may become part of the Assembly's work program at least one month after they have been official submitted to the Assembly. Given that the work program of the Assembly is prepared for a 3-9-week period, in principle, this should be the period during which the review of the initiative should conclude. Exclusively, for complex initiatives, requests may be made to extend their review as part of the continuing work program of the Assembly. In any case, as a maximal deadline, the review of these initiatives within the two parliamentary sessions of the annual program of the Assembly may be referred.

## II) Reflection of the level in which proposed articles have been taken into consideration

In some of the legislative initiatives proposed by the CSO-s (independently from whether they are initiated with the support of 20,000 voters or lobbying with MPs), there is a tendency to double on them by the CSO sector itself, which may have not found agreement to propose a single draft law, with an integrated and accepted text of the amendments, but also by certain factions inside the parliament. In such cases, it is our opinion that the Assembly has the obligation to make transparent and document, during the parliamentary procedure article by article, the level in which proposed articles in these draft laws have been accepted, which have been merged in parliamentary procedures, the amendments made, who proposed them, as well as the arguments for refusing those articles that have not been accepted. In order to make this possible, it is worth revising Paragraph 5/1 of Article 38 of the Assembly's Rules of Procedure as well as the integrated table of amendments that the law underwent or attack the refusal of articles from the initial variant to the report of the responsible committee.

## III) Transparence on the website (sending the draft law back to the initiator)

For the purpose of transparency to the public, the motive of sending the draft law back to the initiator should be documented on the relevant Assembly website, under the section of draft laws, where the text of the draft law and the accompanying report are publicized, indicating whether the initiative has been withdrawn by the initiator as well as the date when it was withdrawn.

#### IV) Communication with the representation/representative committee of the initiative

Based on official correspondence exchanged with Assembly representatives,<sup>112</sup> given that the only initiative registered appears to have been integrated into the draft law, together with the initiative addressed by a group of MPs, it appears that the representing committee was not informed about the success of this initiative, as this representing group has been part of the parliamentary committee meetings. Furthermore, the plenary session appears to have been documented by means of meeting minutes of 18.07.2019.<sup>113</sup> Nevertheless, the Rules of Procedure need to be clarified because the formal notification of the representative committee of the initiative is a procedural guarantee that better serves respect for the principle of transparency and responsibility by the Assembly.

## 5. Recommendations

In coherence with the legal analysis conducted by the expert engaged for the first part of this research study, as well as the analysis of challenges dictated by the practice of the implementation of our country's legislation on public consultation, petitions, and civic legislative initiatives during the past five years, AHC deems it necessary to address the recommendations below. The implementation of these recommendations would give a positive push to empowering and the efficacy of these parliamentary instruments for the good of citizens and CSO-s as well as public interest in general.

### Public consultation

- 5.1 It is recommended to complete Article 36 of the Assembly Rules of Procedure in order to envisage more clearly and more fully the deadlines for public consultation, the forms and manners of consultation, as well as the obligation for parliamentary committees to inform consulted subjects as to which recommendations were considered and make them familiar with the summary of arguments for those recommendations that were not taken into consideration.

### Petitions

- 5.2 Due to the continued amendments that the Assembly's Rules of Procedure have undergone, in terms of legislative technique, the current positioning of the petition under the chapter of "Parliamentary oversight for the EU integration process" is wrong and it should be revised in the future to be addressed as part of a specific chapter on petitions, under the part of parliamentary oversight.
- 5.3 The formulation of Article 104 of the Assembly's Rules of Procedure dictates the need for a more complete and more detailed regulation in its provisions so that the right to petition is easily realizable and that parliamentary bodies have maximal responsibility for the rigorous review of every petition. The forms for the presentation of petitions are recommended to have alternatives, adjusting to trends in information technology (e-

<sup>112</sup> Letter No. 2880/1 Prot., dated 25.11.2020 "Response" and Letter No. 2880/3, Prot., dated 08.01.2021, "Response," drafted by the Assembly of the Republic of Albania.

<sup>113</sup> <https://www.parlament.al/Files/Procesverbale/20190909102746Procesverbal%20dt%2018.07.2019.pdf>

- petition), guaranteeing a better level of unification of the parliamentary practice for its distribution and review, etc.
- 5.4 In parliamentary procedures, we recommend that provisions expressly envisage guarantees for due process toward the petitioners. The German model may be used as a reference as it envisages important elements of this right, such as: the opportunity for administrative investigation, setting deadlines for the review of the petition, encountering authorities, the opportunity to hold hearings with representatives of the authorities, with the petitioners, experts or witnesses, notification in a reasoned manner of the petitioners about the decision-making of parliament.
  - 5.5 In the context of transparency, the efficacy of this instrument, and of strengthening citizens' trust in the right to petition, we recommend to the Assembly the publication of petitions and documentation that highlights the manner of their review and decision-making on them. Referring to the English and the Scottish models, we recommend to the Assembly to create an electronic register dedicated to petitions, whereby the public may be able to submit petitions and access necessary information and relevant documentation, such as the petition, the decision of the Assembly Speaker, meeting minutes of the Standing Committee meetings, draft decisions, final decisions, etc.
  - 5.6 If the Assembly considers the need to make amendments, which provide a solution for some of the key issues analyzed in this research report, on the vacuum, ambiguities, or even the "eventual conflict" between parliamentary rules of procedure, they may be further detailed in the form of some main principles that should guide parliamentary committees in the review of petitions.
  - 5.7 It is recommended that the staffing of the Assembly's civil service envisage a directory dedicated to receiving, administering, and handling petitions, or look at the possibility of adding personnel in the office for receiving complaints (which may be labeled the office of complaints and petitions). The lack of parliamentary documentation on petitions is only one of the arguments why such human resources are necessary; meanwhile, it is worth bringing to attention the models of countries with advanced legal and practical traditions on petitions (analyzed earlier), which have made available dedicated and specialized staff to parliamentary committees responsible for petitions.

#### Voters' (civic) legislative initiatives

- 5.8 We recommend a structuring of the Assembly's website to contain a special rubric for every phase of the parliamentary procedure, from the submission of a draft law to its review in the plenary session. Our Assembly may also borrow positive practices regarding especially legislative initiatives supported by at least 20,000 voters. One reference model that may be borrowed is that of the European Commission, which has created a special space for initiatives submitted by European citizens.
- 5.9 Evaluating the standard of provisions of the European Parliament's Rules of Procedure, it would be recommendable to revise our law in the future, to create an electronic register, accessible by the public, for the registration of legislative initiatives signed by at least

- 20,000 voters. Its central server would be advisable to be administered by the Assembly.<sup>114</sup> It is advisable that this register is made available to the initiating group in order to facilitate its work during the phase for the collection of necessary signatures, and to have access at further phases of the process for the draft law's review.
- 5.10 The right to electronic signatures for a legislative initiative by voters does not appear to have been exercised to date in practice, because our legal framework needs to facilitate and envisage the necessary technological infrastructure, which guarantees every voter to sign an initiative electronically without costs. This special service of electronic signatures should be guaranteed to every individual, user of e-Albania who is a voter in the Republic of Albania, without obstacles and in keeping with standards guaranteeing its validity by competent bodies.
  - 5.11 Article 17, Paragraph 1 of Law No. 54/2019, envisages that the violation of procedures and deadlines related to the collection of signatures and the registration of the initiative by responsible persons represents an administrative offense and is punishable by a fine of 50,000 lek to 100,000 lek. This provision is evasive and unclear, and it creates harmful premises for administrative sanctions, especially those that may be applied toward the representatives or initiating committee. This provision needs to be clarified in the future, taking into consideration the assessment of the Venice Commission and ODIHR.
  - 5.12 According to Article 8/1 of Law No. 54/2019, the collection of signatures for a lawmaking initiative is done in public or private premises, which are set by decision of the head of the relevant local government unit. This provision needs to be reviewed because it does not fully reflect the recommendation of the Venice Commission and ODIHR, which emphasized consultation and agreement between the initiators and the local government bodies, in cases when the collection of signatures is proposed for public places.
  - 5.13 The novelties presented by good international standards and practices make it necessary to embrace e-democracy, by expanding the field of application of Article 8, in order to promote an alternative manner of obtaining support for a civic legislative initiative, through various online/digital spaces. The revision of this provision in the future is valuable also in this regard.
  - 5.14 The Assembly's Rules of Procedure does not envisage special provisions for the review of legislative initiatives by 20,000 voters. Regarding the space of initiators of a draft law coming from 20,000 voters to be heard in parliamentary procedures, the Rules of Procedure do not envisage in a clear and mandatory manner but leaves it up to the parliamentary committee chair and presiding MPs of the plenary session to invite members of the committee or MPs for questions to the initiators of the draft law. In this regard, it is recommendable that the Rules of Procedure have some specific provisions, which ensure the best standards for the review of civic legislative initiatives.
  - 5.15 Article 68, Paragraph 2 of the Rules of Procedure, envisages a series of technical elements that should be reflected in the contents of the accompanying report for the legislative

---

<sup>114</sup> It would be advisable that the CEC have access to the use of this register as a function of the competences that this institution enjoys with regard to providing pre-filled forms, the verification of signatures, and decision-making on whether to register or not the initiative, as well as the progress of a complaint against the decision-making in the administrative court, if there was one such.

initiative, a provision that applies mostly to initiatives submitted by the Council of Ministers, which possesses the proper human resources to respond to the requirements of such a level of a report. For initiatives of 20,000 voters, but also those proposed by MPs, such requirements contain a high level of bureaucracy and engagement and, therefore, are worth revising and softening; otherwise, they make it difficult to be fulfilled in practice as a result of limited human and financial resources.

- 5.16 It is recommendable to revise Articles 26 and 27 of the Assembly Rules of Procedure regarding procedures for drafting the work program of the Assembly and the calendar of its proceedings, by establishing clear and reasonable deadlines for the review of citizens' legislative initiatives. Given that the Assembly's work program is prepared for a period of 3 to 9 weeks, in principle, this should be the period during which the review of an initiative should be completed. However, for more complex initiatives, provisions may envisage the extension of their review; as a maximal timeline, the assembly may refer to the review of such initiatives within the two parliamentary seasons of the annual proceedings of the Assembly.
- 5.17 It is recommended to revise Paragraph 5/1 of Article 38 of the Assembly's Rules of Procedure in order to make transparent the level in which the decision-making of Parliamentary Committees reflects accepted and refused articles, including the reasons for the refusal, attaching in any case to the report of the responsible committee the integrated table of amendments that the law underwent or the refusal of articles from the initial variant.
- 5.18 For the sake of transparency to the public, the motive for sending a law back to the initiator should be documented in the relevant page (rubric) of the Assembly, which should reflect the published text of the draft law and its accompanying report, reflecting also the fact whether the initiative has been withdrawn by the initiators and the date of its withdrawal.
- 5.19 The Rules of Procedure need to be clarified as the formal notification of the representing committee of the initiative is a procedural guarantee that better serves respect for the principle of transparency and responsibility by the Assembly.

## Appendix 1

### Literature

- **Good international acts and practices**

- I. Universal Declaration of Human Rights (UDHR)
- II. Interinational Convention for Civil and Political Rights, United Nations
- III. Treaty for the Functioning of the European Union
- IV. Charter of Fundamental Rights of the European Union
- V. Regulations of the European Parliament
- VI. General Comment 25 of the United Nations Human Rights Committee
- VII. OSCE Copenhagen Document 1990
- VIII. Moscow Document, OSCE, 1991

- IX. Maastricht Document, OSCE, 2003
- X. Joint Opinion of the Venice Commission and ODIHR No. 935 / 2018, on Albania's draft law on the civic legislative initiative, approved in the 116<sup>th</sup> Plenary meeting of the Venice Commission, October 19 – 20, 2018
- XI. Report on legislative initiatives, approved in the 77<sup>th</sup> Plenary Meeting of the Venice Commission (December 12-13). Study No.446/2007mCDL-AD (2008)035)
- XII. Venice Commission, comments on legislative initiatives in Europe by Mr. Sergio Bartole (member of Italy), Strasbourg, September 30, 2008, Study No. 446 / 2007
- XIII. Opinion No. 446/2007 of the Venice Commission

- **Normative acts (Albanian legislation)**

- I. Constitution of the Republic of Albania, approved by Law No. 8417, dated 21.10.1998, approved by referendum on 22.11.1998, amended by Law No. 9675, dated 13.1.2007, Law No. 9904, dated 21.4.2008, Law No. 88/2012, dated 18.09.2012, Law No. 137/2015, dated 17.12.2015, Law No. 76/2016, dated 22.07.2016, Law No. 115/2020, dated 30.07.2020
- II. Law No. 146/2014 “On public announcement and consultation,” dated 30.10.2014
- III. Assembly Rules of Procedure, approved by Decision No. 166, dated 16.12.2004, amended by Decision No. 15, dated 27.12.2005, Decision No. 193, dated 7.7.2008, Decision No. 21, dated 04.03.2010, Decision No. 41, dated 24.6.2010, Decision No. 88, dated 24.2.2011, Decision No. 41, dated 30.05.2013, Decision No. 95, dated 27.11.2014, Decision No. 88, dated 14.9.2017, Decision No. 85, dated 18.7.2019, and Decision No. 12/2020.
- IV. Law No. 54/2019 “On voters’ lawmaking initiative in the Republic of Albania”
- V. Law No. 9880, dt. 25.02.2008, “On electronic signatures,” updated,
- VI. Law No. 107/2015 “On electronic identification and trusted services,” updated,
- VII. Law No. 10273, dt. 29.04.2010, “On electronic documents,” updated
- VIII. CMD No. 673, dated 22.11.2017, “On the reorganization of the National Agency for the Information Society,” amended by Decision No. 36, dated 24.1.2018, by Decision No. 448, dated 26.7.2018, by Decision No. 872, dated 24.12.2019 of the Council of Ministers.
- IX. CMD No. 35, dated 22.1.2020, “On the approval of tariffs for electronic services of the National Agency for the Information Society.”

- **Foreign legislation**

- I. Constitution of Germany, approved in 1949, amended until 2019
- II. Constitution of the Republic of Estonia, approved by referendum in 1992, and amended until 2015
- III. Constitution of Greece, approved in 1974, amended until 2008
- IV. Constitution of the Republic of Lithuania, approved by referendum in 1992 and amended until 2019
- V. Constitution of the Republic of Poland, approved in 1997
- VI. Constitution of the Republic of Italy, approved in 1947 and amended until 2007
- VII. Constitution of Hungary, approved in 2011, amended until 2013
- VIII. Constitution of the Republic of Portugal, approved in 1976, with amendments of 2005

- IX. Constitution of Croatia, approved in 1991, with amendments until 2013
- X. Constitution of the Republic of Slovenia, approved in 1991, with amendments until 2013
- XI. Constitution of the Slovak Republic, approved in 1992, with amendments until 2002
- XII. Constitution of the Kingdom of the Netherlands, approved in 1815, updated until 2018
- XIII. Constitution of the Republic of France, approved in 1958, with amendments until 2008
- XIV. Constitution of Luxembourg, approved in 1868, with amendments until 2009
- XV. Constitution of Cyprus, approved in 1960, with amendments until 2013
- XVI. Constitution of Denmark, approved in 1953
- XVII. Constitution of Austria
- XVIII. Constitution of Bosnia-Herzegovina, approved in 1995 and with amendments until 2009
- XIX. Constitution of Kosovo, approved in 2008 and with amendments until 2016
- XX. Constitution of Montenegro, approved in 2007 and with amendments until 2013
- XXI. Constitution of the Republic of North Macedonia, approved in 1991, with amendments until 2011
- XXII. Constitution of Serbia, approved in 2006
- XXIII. German Law “On the competences of the Committee on Petitions in the German Bundestag”
- XXIV. Rules of Procedure of the German Bundestag
- XXV. Guidelines on the Treatment of Public Petitions in the German Bundestag
- XXVI. Main Principles of the Committee on Petitions for the review of requests and complaints, in the German Bundestag
- XXVII. Normative framework that regulates the right to petition in Scotland (Rules in Force of the Scottish Parliament and regulations approved by the Parlimentaentary Committee.

- **Doctrine**

- I. “Rule of Law in the Republic of Albania,” by Prof. Dr. Xhezair Zaganjori, Prof. Dr. Aurela Anastasi, Dr. Eralda (Methasani) Çani, Publication of 2011
- II. “A brief history of petitioning Parliament”, Erskin May
- III. Janet Seaton, “The Scottish Parliament and e-democracy”, Scottish Parliament, Edinburgh, UK, 17.02.2005
- IV. Ross D. Cotton, Political participation and e-petitioning an analysis of the policymaking impact of the Scottish Parliament's e-petition system, University of Central Florida

- **Jurisprudence**

- I. Decision of the Constitutional Court No. 19/2007
- II. ECJ, *Tegebauer vs. European Parliament*
- III. ECJ, *Schonberger vs. European Parliament*
- IV. ECJ, *Puppinck and others vs. the Commission*
- V. ECJ, *One of Us*

- **Other resources**

- i. “Manual of Public’s Participation in the Assembly’s Decision-Making Process”

- ii. AHC official correspondence with state institutions, such as: Assembly of the Republic of Albania, Central Election Commission, Administrative Court of First Instance, General Prosecution Office

## Part two

### Civil Society engagement in decision-making and legislative processes of the Assembly of the Republic of Albania

## List of figures

<a href="#">Figure 1. Distribution of organizations participating in the questionnaire by field of expertise</a> .....	88
<a href="#">Figure 2. General evaluation of the progress of CS development by CSO-s</a> .....	100
<a href="#">Figure 3. Evaluation of capacities of CS participating in the Assembly's decision-making processes</a> ...	100
<a href="#">Figure 4. Periodic knowledge of invitations from the Assembly</a> .....	106
<a href="#">Figure 5. Communication with the CS Coordinator in the Assembly</a> .....	106
<a href="#">Figure 6. CS engagement with suggestions/opinions for concrete draft laws</a> .....	108
<a href="#">Figure 7. CSO knowledge on presenting petitions</a> .....	109
<a href="#">Figure 8. Evaluation of Assembly's online webpage</a> .....	111
<a href="#">Figure 9. Evaluation of CS-Assembly Rapport based on direct experiences</a> .....	111
<a href="#">Figure 10. Soliciting feedback on participation/contribution</a> .....	117

## I. METHODOLOGICAL APPROACH

The Albanian Helsinki Committee (AHC), in collaboration with the Institute for Democracy and Mediation (IDM), in the context of implementing the grant awarded pursuant to the project “Supporting the Assembly and Civic Education (PACEP),” a project of the Swiss Agency for Development and Cooperation (SDC), implemented by the OSCE Presence in Albania and the U.S. National Democratic Institute (NDI), engaged during October 2020 – February 2021 in carrying out the research study “Evaluation of Civil Society engagement in decision-making and legislative processes of the Assembly of Albania.” The study was led by the following questions:

1. How much and how does Civil Society (civil society organizations, business associations, trade unions, and formal/informal citizens’ groups) engage in the Assembly’s decision-making and legislative processes?
2. How are these engagement levels explained and what are the prevailing forms of engagement to date?
3. What are the capacities, shortcomings, challenges, and opportunities for greater and more real engagement of Civil Society in these processes?
4. What should change and by whom for Civil Society’s engagement to be more substantial (in quantity and quality, form and content)?

To address these research questions, we drafted and applied a mixed approach of research methods and used the triangulation of data sources. The review of literature (desk research), which included the regulatory framework, reports on its applicability, as well as literature in the field (focused on domestic context, but also good practices in other countries), was used to draw up a complete overview of the regulatory framework, formal mechanisms, and (documented) practices to date for the engagement of Civil Society in the Assembly’s legislative and decision-making processes. Through the review of research studies in the field, it was possible to identify the main issues and problems that have been documented in terms of implementation of the legal framework, as well as the achievements and challenges in this regard. They were used also to inform the process for building the instruments for primary data collection.

Further on, instruments were designed and applied for the collection and analysis of primary data. This data, which is analyzed and interpreted further on in this report, are both of a quantitative as well as a qualitative nature. They seek to generate responses for: “how much” is Civil Society engaged in legislative and decision-making processes with the Assembly and what have been its perceptions on this engagement and the CS-Assembly rapport (quantitative rapport); “how” and “why” things have gone/happened a certain way; and on the questions of “what” should change and “who” should undertake concrete steps to bring about the expected changes (qualitative component).

### Quantitative component

Quantitative primary data were collected through the questionnaire. The questionnaire (a structured interview) was drafted and administered online, through the GoogleForms platform (see appendices) and collected the views of CSO-s on CS perceptions on its engagement and capacities to participate in the Assembly's processes, experiences in this regard, the CS-Assembly rapport, achievements, and challenges.

In this component, the researched population are the CSO-s operating in the territory of the Republic of Albania. As a sample framework, we used the list of Civil Society actors identified and registered in the database updated in the context of the "PACEP" project and that have an electronic mailing address for contact (about 1,000 units).<sup>115</sup> Through electronic mail, CSO-s were contacted and invited to participate in the study in three rounds of consecutive calls within a period of 8 weeks (with sensibility regarding the 2020 end-of-year holidays and the effects of the period of time before and after them). In spite of the broad window of time and the three rounds of calls, in the end, the questionnaire was filled out by only 109 CS actors. Although this represents a sample one can work with to show experiences and attitudes of those who have had/want to have experiences of engagement with the Assembly, the low number compared to the sample framework may be an indicator of the low level of registered CSO-s' activity (the number of the active ones may be much lower than that of registrations in the sample framework) and/or of a low level of interest in the theme targeted in this research.

The quantitative data were analyzed through descriptive statistics. Table 1 presents in a summarized manner the main characteristics of participants in the online survey, while Figure 1 presents the distribution of participating CSO-s in the quantitative component by their field of interest/expertise.

*Table 1. Sample characteristics – Questionnaire with CSO-s*

Sample characteristics		
<b>Gender</b>	50.5%F	49.5%M
<b>Age</b>	Average = 44.7	Min = 20 years; Max=74 years
<b>Education</b>	Average = 17 years (higher education)	Min = 7
<b>Experience in the sector</b>	Average = 12.4 years	Min= 0 ; Max=30 years
<b>Territorial experience</b>	66% with experience in urban and rural areas	34% in only one of the two
<b>Spread of activity</b>	56% only at local level	44% Central & Mixed

<sup>115</sup> Note: in spite of the update of the database, part of the electronic mail addresses were inaccurate or out of function, about 100.

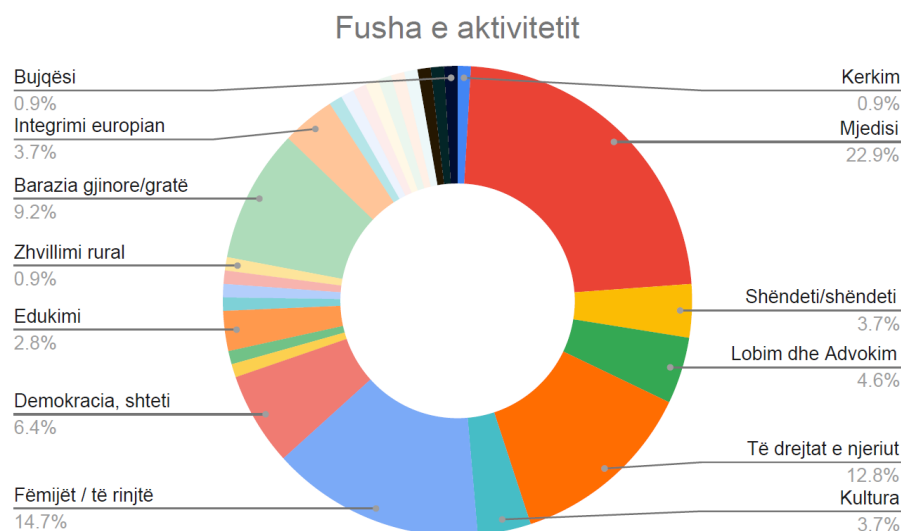


Figure 1. Distribution of participating organizations in the survey by field of expertise

(Field of activity; agriculture; European integration; gender equality/women; rural development; education; democracy/the state; children/youth; research; environment; health; lobbying and advocacy; human rights; culture)

### Qualitative component

Through the instruments of qualitative data collection, such as semi-structured individual interviews, and discussions in focus groups, the goal was to explore deep and create a complete understanding of the factors that have shaped the experiences to date, the capacities of involved actors, their gaps and deficiencies, challenges, and opportunities toward greater and more real involvement of Civil Society in decision-making and legislative processes in the Assembly of Albania. More specifically, the following were drafted and implemented:

1. Individual Interviews with Key Informants (IIKI) from CS and the Assembly. these included interviews with:
  - a. representatives of the administration and MPs of the Assembly of the Republic of Albania (6)
  - b. Civil Society representatives (5).
2. Focus Group Discussions (FGD) with representatives from CSO-s, business associations, trade unions, groups of interest, etc., on the gaps between provisions/legal rights and de facto practices, the obstacles in the way of their full application and real engagement of Civil Society, as well as recommendations on what changes are expected and from whom (4).

Each of the instruments explored and collected data on the following issues:

- Level of knowledge of the rights, legal framework, and mechanisms for the participation of Civil Society in decision-making and legislative processes;
- Trust in institutions – transparency and accountability, perceptions on their capacities for enabling/guaranteeing Civil Society involvement in decision-making and legislative processes;
- Practices to date – successes and failures in efforts for the implementation of the legal framework and real engagement of Civil Society in decision-making and legislative processes;
- The path forward – what, how, and from whom should change come for greater and more real engagement of Civil Society in decision-making and legislative processes.

The criteria for selecting key informants from the target populations were: direct experience in CS-Assembly rapport and thematic/sectorial distribution. In the circumstances of restrictions and challenges created by the Covid-19 global pandemic, the FGDs and part of the IIKI-s were realized online (through the Zoom platform). At the end of the process for the collection of qualitative data 50 participants were included in the research.<sup>116</sup> The qualitative data, upon permission of the participants, were registered, transcribed, and then analyzed on the Maxqda program, coding for concepts and themes/issues of interest.

### Restrictions and ethical issues

More than a restriction, the below is a setting of boundaries for this research study and its results. As in the quantitative component, in the qualitative one too, the study reflects on data collected from those who had the interest to participate. As a result, the findings manifest bias toward those who have an interest on the issue or did not have other reservations that could have kept them from participating. However, this does not affect the final purpose of the research to learn from those who have practice and/or interest in this topics to advance CS participation in the Assembly's decision-making processes.

The process for drafting and implementing this research study was undoubtedly affected by the general situation created by the Covid-19 pandemic. Work “in the field” had consecutive postponements because both the contacting and the conduct online led to delays both in communication and in agreeing on the time and modalities of interviews. In all instances, work was done by having as a priority issues of safety and ethics during the data collection. The most convenient manner for the participants to participate in the study was always chosen, deadlines set

---

<sup>116</sup> Note: the number has been approximated in order to show that although there was a greater number of participants who joined the created events online, the number of those who actively participated in discussions was smaller.

by them were respected, and during the collection of data and the reporting of findings, the principle of confidentiality was respected.

## II. FINDINGS

### 5.1 Introduction

This chapter presents and analyzes the findings of this research study with regard to:

- first, the regulatory framework and the mechanisms that enable the participation of CS in the Assembly's decision-making processes, as well as their challenges and limitations in implementation;
- second, a presentation and analysis of the perceptions, assessments and positions of the participants in the research study vis-à-vis CS-Assembly relations;
- third, this is followed by a dedicated review of the main problems and challenges that have obstructed a maximalization of CS-Assembly exchanges and effective participation of CS in the Assembly's decision-making processes, such as issues of information and mutual familiarization between the sides, limitations in their capacities and problems with (lack of) mutual trust

In the following chapter (IV), reviewing good practices documented from other countries, as well as those that were reported to have functioned well in the Albanian context, the path is laid for the final chapter of conclusions and recommendations.

### 5.2. CS participation in the Assembly – regulatory framework, enabling mechanisms, and their functioning

The Constitution of the Republic of Albania<sup>117</sup> sanctions the principles of the rule of law and respect for fundamental human rights and freedoms, among these that of collective organization for any legitimate purpose, guaranteeing individuals active participation in the society. Guaranteeing this right assures for individuals' participation in decision-making processes at all levels, including in decision-making processes of the Assembly of Albania. The latter brings individuals closer to governance, creating the possibility for them to address problems and to offer solutions for them, assess the results of policy implementation, oversee the activity of those they have elected to make them more responsible.<sup>118</sup>

<sup>117</sup> Constitution of the Republic of Albania, accessible at <http://www.parlament.al/Kuvendi/Kushtetuta>

<sup>118</sup> This is clearly stated also in the Guide for Public's Participation in the Assembly's Decision-Making Process, accessible at <https://www.parlament.al/Informacion/Transparenca/2>

Relations and exchanges between CS and the Assembly have been intensifying and improving. This is a perception that is generally shared by both CS representatives and Assembly representatives (part of the administration or MPs, as analyzed in the following sections of this report). The perceived improvement is attributed not only to the empowerment and consolidation of the role of CS in the country, but also a will that has been growing clearer and more sustainable on the part of the Assembly to be more open and inviting toward the CS, and in terms of the diversification of mechanisms that have concretized this will and have created more sustainable institutional opportunities to encourage and support the CS-Assembly relationship.

In recent years, the Assembly has made important and quality steps to increase transparency, to be more open to the public and to encourage, institutionalize, and facilitate CS participation in its processes. The Assembly invites CS to participate in the legislative process both during the drafting phase of a draft law and during plenary sessions, which are conducted by parliamentary committees to solicit expertise and information on a certain field. Lastly, though unspecified by representatives of the Assembly and the CS, participants in this study point out also the latest initiative for the involvement of CS in post-legislative review, with CSO-s being engaged in the ex-post evaluation of certain laws, such as the case of the Law on Gender Equality in Society for the assessment of its implementation, in which CSO-s, GADC were involved.

*“One perception change [for CS] that I see more and more from the Assembly, in recent years but also months, is the involvement of the CS in post-legislative review, after the approval of laws. This is something fantastic, very good, which we never did before. So it doesn’t leave the CS at that, but also involves it in what results are being produced. This has gotten stronger than ever before”. (IIKI, CS)*

In order to facilitate and enable this engagement, the Assembly has created recently the online platform for the consultation of draft laws,<sup>119</sup> has made often open calls<sup>120</sup> inviting CSO-s and groups of interest for registration, and recently even lobbyists; it has also established a structure dedicated to relations with them – the CS Coordinator. A special guide specifies the modalities for the participation of the public in decision-making; request forms for attending hearing sessions in committees have been standardized. A good part of them is broadcast live on the public broadcaster channel RTSH Assembly, as well as through online platforms. Some new practices have been tested in establishing standing CS committees, as in the case of a cluster of CSO-s in the National Council on European Integration. Also, there has been an encouragement of getting to know the Assembly as well as the participation of children and youth. All of these and the relevant achievements are monitored and reported through the Report on the Public’s Participation in the Decision-Making process, which is published regularly since 2015.<sup>121</sup> Below, we’ll take a more detailed look at these mechanisms and the specifics reported regarding their implementation and functioning.

First, the Assembly of the Republic of Albania has under its management ***an electronic register of CS organizations*** where CS actors expressing an interest to be part of it are registered.<sup>122</sup> This

<sup>119</sup> Online consultation platform, <http://konsultimi.parlament.al/>

<sup>120</sup> For more, see <https://www.parlament.al/Informacion/Transparenca/62>

<sup>121</sup> Interview with Key Informants from the Assembly administration

<sup>122</sup> To access the electronic register <https://www.parlament.al/Informacion/Transparenca/1>

register is seen as very important by both the Assembly and CS, as it makes official the expression of interest by CSO-s in a continued rapport with the Assembly, but also enables a fast and efficacious communication between the Assembly and CS. Although the electronic register has existed for several years, it is known and used scarcely by CSO-s as reported by CS and by Assembly representatives. This turns into an obstacle for establishing continued and broad-based communication between CS and the Assembly.

*“I have seen the overwhelming part of the CS as sleepy... there’s a misunderstanding here; I don’t want to go into an analysis why this misunderstanding happens, but the Assembly cannot send draft-laws to organizations that are not part of the register. Why? Because we have a register and we did make a call for CS organizations to become part of the register. It is a bonus if you’re active, but I have the obligation to inform you, whether you’re active or not, when you’re part of this register. The moment you are not part of this register, it is up to your free will how active you are and how really interested you are to use the force and power you have to follow the Assembly page to be informed, whether you want to bring comments or amendments for that draft law.” (IIKI, Assembly)*

Beyond the value of the CSO register, its proper functioning encounters some issues that go beyond the lack of information about its existence/value, which may need to be reconsidered and/or improved. Thus, registration has not always functioned. It is either not welcomed by CSO-s as the most optimal opportunity for formalizing the rapport with the Assembly, or CSO-s report that it has not been used/has not served maximally to bring them closer with the Assembly.

Part of CS actors, though interested in becoming part of the processes with the Assembly, have not seen registration with the electronic register as appropriate. Some of the reasons have to do not only with the lack of information or orientation on how to conduct this process, but also with reservations about the data required for completing the process. CSO-s that wish to become part of this register should send to the proper address information such as: 1. Identification Number of Taxable Person (NIPT); 2. Full name of the subject; 3. Data on the contact person or administrator; 4. Postal and electronic addresses; 5. Scope of activity; and committees they wish to be registered with.<sup>123</sup> This information is legitimate to be requested by the Assembly, based also on the legal framework that regulates CSO-s in the Republic of Albania,<sup>124</sup> as noted by one of the Assembly representatives interviewed in the context of this research study (see below). However, in practice, they keep part of the CSO-s to register and be active through this mechanism. The request for the NIPT number discourages part of the small and non-consolidated CSO-s, which work on the basis of projects and may fear increased inspections as a result of this registration. Beyond this supposed barrier, another one is the real one about individuals and groups of interest that are not formalized/registered formally and do not possess a NIPT number to complete registration.

In spite of objective and subjective reasons of CSO-s, their failure to register with the CS register of the Assembly is seen by the Assembly not so rarely as a resistance to disrespect rules of the

---

<sup>123</sup> See electronic register at <https://www.parlament.al/Informacion/Transparenca/1>

<sup>124</sup> See law on CSO registration in the Republic of Albania, [https://partnersalbania.org/wp-content/uploads/2016/01/Ligj\\_nr.8789\\_date\\_07.05.2001\\_Per\\_regjistrimin\\_e\\_organizatave\\_jofitimprurese.pdf](https://partnersalbania.org/wp-content/uploads/2016/01/Ligj_nr.8789_date_07.05.2001_Per_regjistrimin_e_organizatave_jofitimprurese.pdf)

game or the “host,” in fact, even as a provocation in certain case, as members of the Assembly administration note further on.

*They say “Ignorantia legis non excusat”! We have an official gazette for laws. If someone commits a crime and says I didn’t know, it is not the fault of the law, but of the person. we have a register, the forms of organization of CS are very diverse, going beyond any combination of colors, but the important thing is that there is a legal basis that we refer to about how a CSO registers with the court. Those are the basic criteria on which we operate. They have the obligation to register with the court, have a NIPT, which is nothing but an indicator of the association’s seriousness... Although they may be very legitimate vis-à-vis their cause, we need their seriousness vis-à-vis the law.” (IIKI, Assembly)*

*“There is one thing, we either call them up or they ask because they are interested, and we respond yes or no – mainly yes. But there’s one thing that we noticed and created a lot of problems last year with the amendments to law [name]. CS addressed us with a signed statement: with concrete names wishing to participate in discussions. Now, rules have been established and when there are new things, there are new rules; so, you, as CS, you’re interested in participating, you need to register on the Assembly’s page. Last year, none of these who made the request, was registered. We addressed them all [name] by e-mail and [name] on the phone to explain that they needed to register because that is what the parliamentary procedure requires and we gave the name and e-mail of the person working on this, so that we are ok with our rules. Because, in the end, even an NPO has its internal rules, even in a family we have rules and we know how to act. Now, if you request from me, you too need to respect me and my rules. We waited for days and nobody would call to register. It is my personal impression that the CS wants to be away from all rules because it seems to them otherwise they would be influenced and bend to the Assembly. And, we couldn’t just avoid it and we decided on the committee that these 14 who have requested, we’ll invite them although they would not register. So, we violated our own rule by consensus and invited them... We did this, but CS needs to respect the rules of the host... It seemed to me as a very non-civil provocation by the CS, not all of it, but in this concrete case. These are not fantasies to revolt about or... these are elementary rules. They need to become conscious that the opportunity is offered on the basis of some rules.” (IIKI, Assembly)*

Further on, part of the CSO-s hesitates to register and approach the Assembly through the CSO register because, in their opinion, they have not found any proactive approach by the Assembly even after registration, which has discouraged them, or the organizations unregistered before, in updating the data to register again.

*“I have been around since 2002, I’m the same [name] that has always been, why does someone from parliament come up now and say that there is no CS in Tropoja, although I have been registered for over 10 years in the parliament’s database. It old an organization that met with us, “Where did you find my contact info?” They said, “I asked parliament and they gave me all your data.” Well, so this functions for a certain interest of theirs, but when it comes to collaborating with parliament continuously, no?!” (FGD, CS)*

A situation of failure to update data on the CS database leads also to an unreal number of CSO-s registered compared to the active ones or those that manage to get notifications as a result through

registration with the Assembly. This might create unfair perceptions about the level of CS activism with the Assembly or about the proactivity of the sides in this relationship.

*“The call is to draw the attention of organizations to register. The re-call is for those organizations that are part of the register and that, for their own reasons, cease to exist formally, but that due to the financial costs of de-registration of the organization, it continues to appear with an active status. Registration and de-registration from the tax office may have financial costs, but registration and deregistration in the Assembly registry has no cost. As an institution, we would like to clean up the registry from those organizations that are no longer functional and have those organizations that are really active and interested. Re-registration is also for those organizations that change their administrator and use the administrator’s e-mail because, at the moment the person leaves, I loose communication with that organization.”*

(IIKI, Assembly)

In fact, the database accessible on the Assembly website shows a latest update of the OSC register in July 2018.<sup>125</sup> Problems with the accuracy and the update of CSO contacts may be confirmed also by the experience during the realization of this research study. During the conduct of the online questionnaire, based on a database updated at the end of 2020, there were again problems with a large number of inaccuracies and a low level of responses from CSO-s.

Regarding what has been discussed so far, it remains to be clarified how individuals and groups of interest not registered formally access the Assembly register, how to ensure updates and de-registration (when the need arises), to avoid overload of inaccurate or invalid data. On the other hand, registered and active CSO-s may feel the effect of this registration more by receiving announcements or even a weekly or monthly bulletin on the activity of the Assembly and things of interest for CS in the following weeks or create the opportunity for “subscriptions.”

*“Out of curiosity, I just entered the Assembly page, and I did not find a newsletter I can subscribe to because that is how you remember, when you get a newsletter or something similar.” (FGD, CS)*

On its part, the Assembly has undertaken initiatives for encouraging the registration of CSO-s in these registers. Thus, time after time, there have been open calls for the registration of groups of interest and lobbyists.<sup>126</sup> For three years now, the Assembly has been using also the **Lobbyists’ Register**, which functions like the electronic register of civil society organizations that want to engage in lobbying activity with the Assembly.<sup>127</sup> CSO-s that are traditionally active with the Assembly report having had opportunities to register also as lobbyists with it.

*“We appreciate the contribution given but also the fact that the Assembly has always been open with continuous invitations to give contributions to improve the legal framework. We received an invitation and we applied also to lobby – we were accepted as one of the organizations that may lobby with the Assembly – we have chosen the committee on laws, that on health and social*

<sup>125</sup> Shiko <https://www.parlament.al/Informacion/Transparenca/1> dokumenti i emërtuar “korrik-2018-i-perditesuar-05.07.2018.xlsx”

<sup>126</sup> Thirrjet e hapura për regjistrim mund të shihen në <https://www.parlament.al/Informacion/Transparenca/62>

<sup>127</sup> Regjistri i Lobistëve mund të aksesohet në <https://www.parlament.al/Informacion/Transparenca/34>

*affairs, because these are closely linked with our work. Cooperation has been improving, since 2004 to date. What may have had an impact is for instance this invite that was done on the Assembly website to apply for lobbying is a novelty. They requested a number of documents, but I sat down and did it because I thought it was very important, because we were very interested.”* (IIKI, CSO)

However, the register for lobbyists was known very little (including members of parliament) and was seen as premature in the circumstances of a lack of a legal framework for the regulation of lobbying in the Republic of Albania.

*“Register for lobbyists?! But what is this register when we don’t even have a law that regulates lobbying yet?!”* (IIKI, Assembly)

Second, the stable structure of the **Civil Society Coordinator** is seen as very helpful both for the Assembly and for CS actors who have been in contact. The SC Coordinator’s duty is to follow and encourage SC-Assembly cooperation. The specified duties in the guide for CS-Assembly cooperation include:

- a. Inform interest groups, Civil Society, and social partners about draft laws to be reviewed and discussed in Standing parliamentary Committees.
- b. Contact groups of interest to solicit written feedback on draft laws being reviewed and discussed in Parliamentary Committees.
- c. Convey on time to the staff of standing parliamentary committees the views and suggestions of groups of interest, Civil Society, and social partners.
- ç. Notify on time groups of interest, Civil Society, and social partners, about their participation in meetings of parliamentary committees, when this is deemed reasonable by chairs of the parliamentary committee.
- d. Inform groups of interest, Civil Society, and social partners about approved laws and whether their suggestions were taken into consideration or not and the reasons for the latter. (Page 14).

On the Assembly webpage, it is possible to find information on how to contact the coordinator. This information is accompanied by a pre-filled form, which is filled out to attend parliamentary committee meetings when they hold hearing sessions.<sup>128</sup>

*“CS has access also through the staff of the Assembly secretary, with the opportunity for contact also with advisors to the committees, and the secretary of the committee, but also with the staff of the committee, through the CS coordinator. The role of the coordinator is fitting because, although it may be hard to imagine Assembly staff not being willing to help, it may happen that there is high workload of the staff and then there’s always the coordinator who communicates with CS by telephone, e-mail, letters.”* (IIKI, Assembly)

*“In fact, we also have another coordinator in the Assembly – the coordinator on access to information and this this element exhausts every need, desire of all groups of society that wish to be informed or to collaborate...”* (IIKI, Assembly)

<sup>128</sup> For more, visit: <https://www.parlament.al/Informacion/Transparenca/3>

In spite of the importance of its role for the CS, the coordinator was known and/or used little. This is confirmed also by CS representatives, but also those of the Assembly. The lack of information and knowledge, as well as dependance on the traditional ways of establishing CS-Assembly contacts have an impact on this relatively low level. Lack of the use of dedicated channels for these functions leads to overload of the other staff, lack of proper functioning of CS involvement and, as a result, dissatisfaction.

*“...I am sorry to say it because I have seen few requests come from CS through the coordinator. Maybe it is also a result of our education through the years as a society, but I have seen that a good part or the majority of the organizations and even individuals address their problems by cutting things shorts, which means submitting their comments, amendments, recommendations directly to the committees, which has also led to unhappiness on the part of the organizations, because the commission staff’s duties are different. Even if there a good will, it is difficult for them to respond, and that is why there is a position of the CS coordinator so that organizations will address the coordinator since it is his/her duty to go after them... ..” (IIKI, Assembly)*

This requires a more proactive role also of the very CS coordinator mechanism, but also more support for his/her work to be extended to the field, beyond the office. This is what the CS ask for but also what representatives of different parliamentary committees ask for.

*“A more proactive role is needed... if you come to me and ask me what names should we invite for this or that consultation, what good it is then?!” (IIKI, Assembly)*

Third, all mechanisms and modalities are integrated in the instruction document “**Guide for Public Participation in the decision-making process.**”<sup>129</sup> This manual of public’s participation in the Assembly’s decision-making processes is an important document and instrument for guiding and making operational the participation of the public/CS in the Assembly’s decision-making processes. In the definition of its purpose, the manual seeks to give the public, from the ordinary citizen to non-profit organizations, the opportunity to the public to turn into active partners of the development of the community they are part of and into active providers of improved legal policies that are affected.”<sup>130</sup> Drafted since 2014, the Manual needs to be revised in order to fulfill its purpose, and to be harmonized with other instruments. It envisages four main pillars/forms of participation: information, consultation, dialogue, and partnership. The first two pillars were more known and mentioned also during enhanced interviews or discussions in focus groups. Dialogue and partnership appeared less mentioned by the interviewees, but also less developed/elaborated in the reviewed documents.

The final goal of the instruments and mechanisms, but also of the purpose of having a manual for the CS involvement in the Assembly, is to ensure continued and systematic participation of the public in the decision-making process.<sup>131</sup> Nevertheless, functionality over what is praised as continued and systematic participation varies among different actors, with the essential difference being between participation as a process, (mainly in the sense of “doing homework” or “cross things off,” and a real process and *consistent follow-up*.

<sup>129</sup> Assembly of Albania (2015) Guide for Public Participation in the Assembly’s Decision-making process, accessible at <https://www.parlament.al/Informacion/Transparenca/2>

<sup>130</sup> Ibid, p. 5.

<sup>131</sup> Ibid.

*“I am telling you, the Assembly is open, but the CS takes part in processes where decision-making has been predetermined” (IIKI, Assembly)*

The manual looks at situations of exceptions from the rule, where cooperation with the public does not occur during the decision-making process related to issues of national security, to the extent they are a state secret, according to the law on information classified as “state secret;” international relations and bilateral and multilateral agreements, as well as Assembly decisions. Interested parties from the public may include individuals, experts, Civil society representatives, representatives of groups of interest, as well as other interested groups (including children accompanied by adults).<sup>132</sup> Nevertheless, during the collection of primary data, deficiencies were highlighted in specifying modalities for the registration of individuals, children, and there were no practices with a “bottom-up” approach rather than “directed” or “top-down.”

Among the principles of public participation in the Assembly’s decision-making process are transparency and encouragement of public participation. Encouraging public participation, in the process of checking the implementation of legislation in force and the Assembly’s lawmaking process, seeks to promote a sustainable exchange of information and experience, improving legislation, and increasing public trust in the Assembly and its administration. In order to be effective, public participation in the Assembly’s lawmaking process is expected to be enabled at the right time, when decision-making has not been realized; it should be obstructed when it may create or is suspected to create conditions for conflict of interest or corruption. In encouraging public participation in the process of checking the implementation of legislation and the lawmaking process, the Assembly of Albania engages to rely on legislation in force and on best international practices. These are essential preconditions for enabling effective participation, however it is not specified how long is the proper time and how to guarantee that it is made available to those who seek to participate. Likewise, there is no specific information on how to distinguish/qualify situations with conflict of interest and corruption or even procedures, how to address them in situations when it is suspected that there is conflict of interest, exchange of interests, and/or corruption. Also, vis-à-vis best international practices, it is not understood whether there is an organized way for getting to know these and transfer them to the Albanian context.

*“The other thing, draft laws are posted online in pdf form, which means you need to print or take notes all the time. meanwhile, it may be posted in another format when it is distributed for review and they may give the comments straight on the document, without the need to print 60 pages and then collect comments, etc. In general, there is very little time available.” (FGD, CS)*

*“For me, CS participation is a show. I have seen more CS representatives lower the values of CS than activists. I don’t believe in CS coming as paid.” (IIKI, Assembly)*

Another very important principle in the guide for public participation is “Non-discrimination.” The activity of the Assembly and its bodies, in approaching public participation, is based on giving everyone an equal opportunity for participation, without any kind of discrimination. Nevertheless,

---

<sup>132</sup> Ibid, p. 7-8

specifications are lacking how this is guaranteed in practice, especially for groups of interest in a vulnerable position or with limited resources. It is to be appreciated that access to the Assembly website is possible also for those impaired of sight. However, for public participation, much more is required to give opportunities for involvement. Good international practices suggest paid participation or compensation of costs deriving from participation in these processes.<sup>133</sup>

Lastly, a novelty of 2020 was the establishment of the *online consultation platform* for draft laws.<sup>134</sup> In the context of the lawmaking function exercised by the Assembly of Albania, for the purpose of respect for the principle of transparency and for an open Assembly that is as close to citizens as possible, the Assembly's website provides access to the platform "Consultation of Draft Laws," which seeks to offer the possibility for online consultations on all draft laws that parliamentary committees will publish. During the period of writing this research report, the platform featured only two published documents: the Draft Law on the Registration of Non-Profit Organizations and the Guide for Public Participation in the Assembly's Decision-Making Process. both are very important for the engagement of CS, but it is not clear why "all" draft laws of the period December 2020 – February 2021 are not published, as stipulated, thus creating the impression that the platform has in focus only issues that are closely associated with CSO-s.

Monitoring CS-Assembly relations and the participation of CS in the Assembly's decision-making process is realized since 2015 through *reports on public participation* in the decision-making process,<sup>135</sup> an obligation deriving from the mentioned guide. The drafting and publication of these reports aims at as complete and clear reflection as possible of the process of dialogue, exchange of views, suggestions on public decision-making with civil society and groups of interest. The reporting is now annual since 2015 and this is a very good practice, especially accessible online and a product consulted with CS actors.

*"We draft annual reports, in fact, we have a special report that is the Report of Public Participation in Decision-Making Processes. At the end of every year, it is published on the official website. First, we obtain primary data from committees – how many hearings they conducted, data on cooperation with CS, how many participants there were, which organizations participated, the recommendations they gave, which of them were taken into consideration, which were the more sensitive draft laws. All these are included in the draft report, which is consulted inside our institution, and then sent to all CSs that were part of Assembly-CS cooperation during the year, and we await their opinion, their OK about what we have noted on cooperation with them. There is also another opportunity for cooperation, welcoming their comments/recommendations about those things that maybe they were not given adequate space maybe, or what problems they encountered in the context of Assembly-CS cooperation. We make these recommendations public at the end of the report. Then the report, from a draft worked on in collaboration with civil society, is approved by the Assembly Bureau and made public on the Assembly's official website." (IIKI, Assembly)*

<sup>133</sup> OECD (2020) "Innovative Citizen Participation and New Democratic Institutions CATCHING THE DELIBERATIVE WAVE, HIGHLIGHTS)" 2020

<sup>134</sup> Platform for online consultation of draft laws, <http://konsultimi.parlament.al/>

<sup>135</sup> Reports on CS participation in Assembly's decision-making process, at <https://www.parlament.al/Informacion/Transparencia/5>

A review of their contents make it clear that the reports have been getting more enriched with information, but also improved in how they present data. However, the reporting remains mainly descriptive and non-analytical; focused more on quantitative than qualitative indicators. In these circumstances, it is difficult to understand what functioned well and what didn't, what and how things should change, which leaves these reports incomplete regarding specific recommendations and objectives for the future. These changes are necessary also to reflect the observations that representatives of the Assembly administration report to have happened.

*“In essence, the number of organizations requesting registration has not changed, because it's not that many new ones have been created; the number is almost there – 1- organizations a year, give or take. The quality, yes, and in fact, in spite of the pandemic period, I have noticed more engagement of the organizations to conduct communication between them by inviting the Assembly to be a part. I have noticed a rise, a step of quality toward cooperation and toward enabling meetings of the Assembly with the organizations. I repeat it as it is something really positive because the Assembly invites the organizations, but the organizations rarely. Invited the Assembly to the meetings they hold.” (IIKI, Assembly)*

In the context of collaboration and participation of CS in the Assembly's decision-making processes, an annual conference is supposed to be held on this issue. However, there was no information on the conduct of these annual conferences on the Assembly website and it was not mentioned by any of the participants in the research study.

### 5.3. CS-Assembly rapport – practice, perceptions, attitudes

Relations and exchanges between CS and the Assembly have grown intensified and improved. This is a perception that is generally shared by CS representatives and the Assembly (part of the administration or MPs). The perceived improvement is attributed to a will that grew clearer and more sustainable by the Assembly to be more open and more inviting to CS, but also the diversification of mechanisms that have concretized this will and have created more sustainable, institutional opportunities to encourage and support the CS-Assembly relationship, as presented in the previous section of this report. On the other hand, it is also attributed to the empowerment (of certain elements) within CS, their persistence through the years, their organization and networking, as well as the expertise they have been accumulating and perfecting.

However, as will be analyzed further, the perception for progress is linked mainly with quality developments than with broad-based participation and engagement of CS. The self-evaluation of CS through the online survey on the development of CS as a whole in recent years, attitudes are divided in a balanced manner between those who view a good or very good progress of it and those who view it still weak or regressing.

Si do e vlerësonit ecurinë e zhvillimit të SHC në vend, në vitet e fundit?

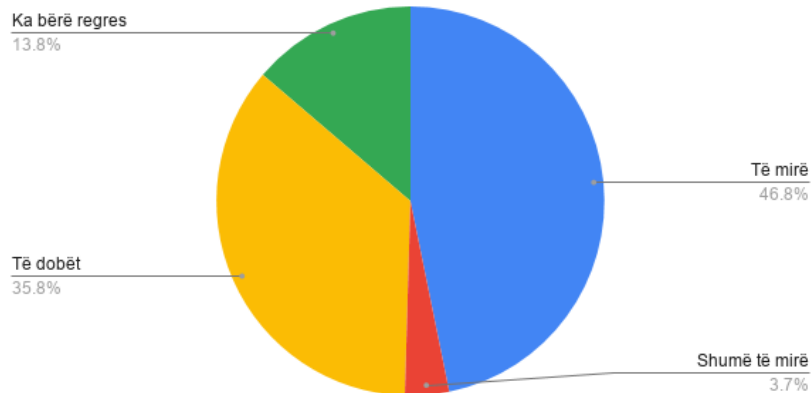


Figure 2. General evaluation of the progress of CS development in the country by CSO-s

(How would you evaluate the progress of CS development in the country, in recent years?)

Has regressed

Weak

Good

Very good

Although generally CS capacities are evaluated as average (40.4%) or very good (9.2%), more than half the respondents (53.2%) evaluate CS capacities vis-à-vis its engagement in decision-making and legislative processes with the Assembly as weak (43.1%) or very weak (10.1%).

Si i vlerësoni kapacitete e SHC në raport me angazhimin dhe kontributit të saj në proceset vendimmarrëse dhe legjislative me Kuvendin e Shqipërisë?

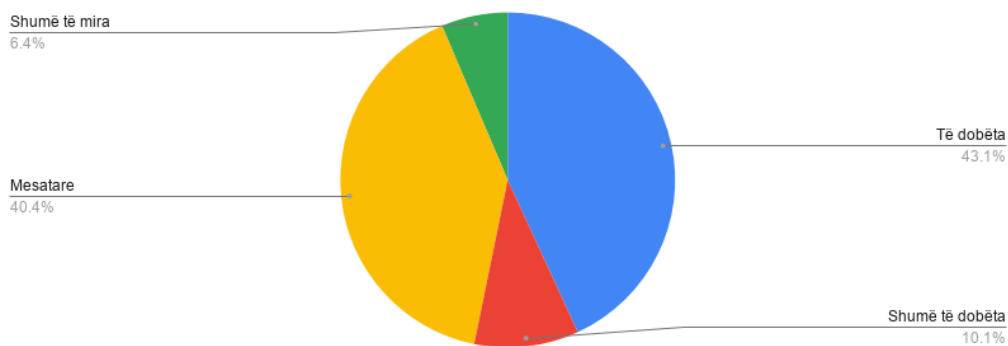


Figure 3. Evaluation of CS capacities for participation in the Assembly's decision-making processes

(How do you evaluate CS capacities vis-à-vis its engagement and contribution in decision-making and legislative processes with the Assembly of Albania?)

Very good

Average

Weak

Very weak

This is in line also with the reporting of experiences with the Assembly, whereby 40.4% of respondents note that they never had any direct rapport/engagement with the Assembly, neither individually nor as an organization, and 41.3% only had some sporadic experience. Those who report to have had continued engagement are not more than 3% of participants in the online survey, a very low percentage, supposing that organizations participating in the survey are also among the most active and/or most engaged.

Aside from the regulatory framework and mechanisms available, MPs with a CS background and the influence of international organizations that have continuously encouraged the Assembly to be more open and enable CS participation are believed to have a special contribution to the qualitative improvement of the continued engagement of a minority of CS actors. These are reported by representatives of the CS but also of the Assembly, as noted in the quotes below from individual interviews with key informants.

*“First, more importance is devoted to mechanisms and cooperation and all this is reflected in the Assembly’s Rules of Procedure and the positions of MPs with a CS background. I have the impression that international bodies, international organizations too may have pushed and may have induced such a spirit in the country, but also in the region. I have noticed that there have been calls for consultations on increasing Assembly capacities in this regard.” (IIKI, CS)*

*“When I recall my time with CS, I realize that I have not been as well-informed and I have not done as I should have in cooperation with the Assembly, for using, in the good sense of the word, advocacy and lobbying in parliament. I recall that we constantly sent our publications; women MPs at the time, though very few, we invited them to events – they rarely came, but there was no sustainable relations. We did our part, but we rarely went to hearing sessions, we were invited rarely, or maybe we didn’t do enough either.” (IIKI, Assembly)*

Including CS in Assembly processes has begun to be seen not only as an obligation deriving from the legal and regulatory framework, but also as a need. It is appreciated among a category of MPs, mainly those with a CS background and/or activism.

*“While these years... I see that things have changed a lot. First, in hearing sessions, when we have discussions on laws, proposals, or legal amendments, groups of interest, CS, universities, businesses, are part of debates. And this is not only because it is a legal requirement, but also engagement, political will, and we consider it very important as we get other viewpoints. Each of us is in several committees. I myself am in committees that involve many areas and it is normal that none of us knows all the areas. It helps us too that, besides a written draft law, we also get another view, another experience, for awareness, for decision-making; it creates debate and brings improvement. CS participation now in discussion laws or monitoring them has become an institutionalized practice.” (IIKI, Assembly)*

In spite of efforts and an improving spirit, the latter is not evident or highlighted the same at all levels and by all actors. Some components have seen more considerable improvement than others, while qualitative improvement has been affected more by the bigger CSO-s, which operate at the central level, than others. Small organizations, which operate in more distant areas from the Assembly, report disengagement or even lack of knowledge of these developments, even when it comes to a draft law that affects them directly, such as the Law on CSO-s. The following quote, from participants in this research, indicate this gap. For part of the CSO-s, CS involvement with the assembly is more a formality than substantial engagement or contribution. These big differences explain more the findings presented in Figure 2.

*“We have seen an improvement in what may be called a connecting bridge, the interaction that parliament has had with CS; it has been an improvement for certain. We have not had problems, of not being accepted to monitor committees, or not be informed. With regard to the agenda, of course we have had cooperation with committee staffs, but there is also the official website that is updated regularly, reflecting committee meetings, except for cases when there were cancellations or unexpected things, or additions at the last moment.” (FGD, CS)*

*“We have not undertaken any legal initiative, but we have heard that in parliament, they are discussing, there’s a draft on the law on civil society organizations, but we don’t know much, we’ve not received any draft to become familiar with. But even the initiative that some other associations have undertaken, it’s not that they have been properly received.” (FGD, CS)*

*“I think that CS is seen by power, including the Assembly, as something that should be on paper, to be ok with the world, with legislation, but its breathing in real life, its cooperation with politics, with the Assembly, is very cold.” (FGD, CS)*

Such a view is shared by some MPs who see the participation of CS as more of a “checking the box” than something real. In fact, most of the experiences shared during enhanced interviews and focus group discussions confirmed that they occurred because of institutions that invited them and/or organized them to become part of the processes by portraying CS engagement as having an approach “top-down” than “down-top.” Although the Assembly’s being more proactive is the main expectation of CS, this should not come in a form that is perceived as control of processes, for which decision-making has been pre-determined (as mentioned in the previous section by one of the key informants from the Assembly). This creates the image of a participation that is limited in spread, but also in productivity, both from the standpoint of CS and from the Assembly, as noted in the words of the participants from both sides in the research study.

*“But there have been experience, for instance with justice reform, 2016-2018. We were not only informed, but we submitted reports, short 3-4 pages, but we also participated in discussions in the Assembly where there were many organizations and representatives from the university – Faculty of Law. I have noticed that, at least on issues that pertained to us, our opinion was solicited. Can’t deny that.” (FGD, CS)*

*“For some time now, I am a member of an association that operates in the district of Lezhë and Kukës. We have no contact of any kind with parliament. As an individual, I recall I started collecting signatures on the issue of waste imports. I collected many signatures in just one day, but I have not had direct contact – professionally, to influence lawmaking, I haven’t. I know it is very difficult, but it is not impossible. I have heard about a lot of initiatives for draft laws and*

*suggestions from CS, which they've taken to parliament, but haven't managed to turn them into laws. Nevertheless, I think they are worthy efforts in every case and should be continued. We need to be persistent to the end, but they should consider us too." (FGD, CS)*

*"I don't know where things stand, but, in my opinion and the analysis that has been done, we have a latest report on CS engagement and we've seen a relatively low participation, concentrated only in some organizations." (IIKI, Assembly)*

It's not only the CS that waits for the Assembly to take the first step, but the Assembly also expects the CS to be proactive. This situation usually leaves the sides in waiting positions, defensive even, toward one another. The lack of proactivity of CS reportedly is encountered in all typologies of CSO-s. Often, it is certain MPs who take measures to involve them in legislative processes, which doesn't guarantee continuity and even harms the code of ethics of Assembly members.

*"Maybe there is more enhanced dialogue on the content of cooperation than on the content of the product. It is important for the sides to speak and look at where things don't go well. Often, I hear complaints by CS that the Assembly doesn't invite us. Now, there is one thing, I think the CS has lost the essence of a word that characterizes it, which is the group of interest. So, if I'm a group of interest, i.e. I have an interest to follow that interest. So, I can't expect someone else to keep it alive. Politics itself has another interest and the reason why it has presented the draft law a certain way, it means that that is its interest, so politics pursues its own interest. It is true that the Assembly is a representative but it cannot be a representative of all interests in a perfect manner; it may find middle ground, but not the inclusion of all desires. That is why. You have groups of interest and interest is pursued from start to finish. I do not see it as reasonable to criticize a posteriori; because I haven't been invited and didn't manage to present my interest. The effect is none a posteriori, many requests come after the procedure has ended. This is a shortcoming. We have the institution of the CS coordinator and they have the good will too, but they need to be contacted constantly by CS." (IIKI, Assembly)*

*"Often times, those of us who feel more proactive, taking the initiative to contact different CSO-s, that look, this draft law is being discussed, do you have research, do you have data, or you should come express your opinion because the law is being done. We have discussed with colleagues informally; how is it possible that CS is not following this thing. We need to tell them while it should be them. These years, we've done this constantly, we have invited and encouraged them and I'm sorry that this is mentioned. Not because we want some medal, but we want it to be acknowledged that we encourage this." (IIKI, Assembly)*

Although during focus group discussions with CS representatives some experiences were shared that pointed to new and proactive practices for CS participation in the Assembly, it was admitted that they were still sporadic and a lot of work was needed to turn them into continued and sustainable practice, and resistant to the influences of political developments, because the latter were seen as weakening factors for the voice of civil society.

*"That is why I mentioned the justice reform period, because it was the Assembly that had the proactive role; we got constantly notifications and invites. But, after justice reform was concluded, we didn't have constant notifications from the Assembly anymore about other proposals/legal initiatives." (FGD, CS)*

*“Sporadic cooperation, but they should be sustainable and more visible, they shouldn’t be affected by political changes.” (FGD, CS)*

To guarantee the continuity and sustainability of these practices, persistence is required from both sides, and also that achievements so far are not taken for granted as they may get lost with the passing of time.

*“I think part of the problem that should be addressed with great seriousness should be looked also within CS. The CS has never been given the deserved seat, but nor has CS known to take that seat, to not move and be sustainable. We need to show the great role we have in the territory, otherwise they’ll never take us seriously.” (FGD, CS)*

*“The other thing is that, how to say it in Albanian... ‘they take you for granted.’ The fact that you are there is taken for granted that there will be some there who will do this. But this is not always like this. First, we don’t know the continuity. The other thing, we often do not find support, we’re left alone and we cannot make it. If civil society comes, the voice becomes stronger. Third, we have no guarantee that tomorrow, we’ll be there again, so this part of the preparation and being proactive should not stop and should be constant.” (IIKI, Assembly)*

The encouragement for continuity and sustainability needs to be nourished not only with persistence, demands and continued criticism, but also by appreciating the respective work of both the Assembly and the CSO-s. often, the image and perception of the Assembly’s work is influenced by that of other institutions in the country, just like the image of CS is influenced by attitudes and practices of certain actors, with/without integrity. The sides wait to see in the future what seems like mutual appreciation, so far weak/missing.

Given that the “face” of the Assembly throughout the territory of the Republic of Albania is the MP, participants consider that the image and the evaluation of the Assembly’s role will be greatly influenced positively if the spirit and will for inclusion, consultation of CS is “read” also among MPs more massively (not only in certain elements coming mainly from CS).

*“In my opinion, CSO-s have all the room and ways to collaborate with our institution. The Assembly is not closed, it’s transparent. In fact, I would want other organizations to see and stress this part not to underestimate the part of the executive, but from all communications I’ve had with all organizations, the institution of the Assembly is the most transparent and most open in the context of collaboration and publication of data; among other things, we put the transcribed minutes of meetings fully on the official website, what was discussed in the committee. There is also an accompanying report, which in my opinion is exhaustive for anyone who is really interested to know how it functions, what was discussed, what was talked about, and get all the information they are looking for.” (IIKI, Assembly)*

*“There was a novelty, the Assembly approved green week. MPs were supposed to go to their constituencies. They would talk about the issues of their areas and their electorate. We found in their discussions that a good part of them did not talk at all about their constituency, but simply rebutted, games, and ethical insults, tried to do politics, but not talk about actual problems of the areas they represent.” (FGD, CS)*

*“They [CSO-s] may not have tried it, but from us too, we should admit, there hasn’t always been an open approach. Now, the elections with the new system, with races within the same kind, and*

*the pandemic in the middle, the elections are nearing and, maybe, MPs will try to use all forms and maybe they will think hard and use the NPO-s.” (IIKI, Assembly).*

#### 5.4. CS engagement with the Assembly, prevailing forms and challenges

Beyond the steps that have been undertaken and the comparatively positive evaluation of CS participation with the Assembly compared to the situation of years ago, when CS representatives admit that not only one couldn't talk about a sustainable CS-Assembly rapport, but often they felt unappreciated by the language used toward them, the needs and room for improvement are large and there are still barriers that obstruct the maximalization of the collaborative potential and a real engagement of CS with the Assembly. They may be categorized as mainly linked with mutual recognition CS-Assembly and the awareness about the opportunities and benefits from this collaboration; building/enhancing trust between them; and capacity building and good practices, which we'll look at further on.

##### 5.4.1. Informing and communication, mutual (non)knowledge

To build and curate relations, it takes mutual knowledge of the different sides and of the ways in which the relationship may bloom. This level of knowledge between the Assembly and CS is at adequate levels to serve as a foundation of a healthy and sustainable rapport. On the one hand, the Assembly, referring to measures reviewed earlier, notes that it has done enough to invite and enable a functional rapport with CS, not seeing its role in a more proactive way, which seeks to overcome challenges and obstacles that CS actors may encounter to achieve the mentioned mechanisms. Thus, the Assembly contends with a partial knowledge of CS in its entirety.

On the other hand, although there is an improved climate of CS appraisal by the Assembly, this is mostly focused at the Assembly administration and a small number of MPs with a prior record of engagement with CS. The overwhelming majority of MPs reportedly do not approach CS and, as a result, they do not exchange or know it and its potential well.

On its part, CS reports of a great will (which does not make a difference between the size of the organization, field of expertise, or area of intervention) to establish rapport and participate in the Assembly's decision-making and legislative processes, but knowledge of this institution and the tools that would enable a functional and productive rapport appears to be focused only in a limited part of CS actors. The lack of knowledge is linked also with the lack of direct and formalized experiences with the Assembly. Of the organizations that participated in the online survey, only 16.7% reported that they become aware periodically of invites from the Assembly on consultations of concrete draft laws, thus indicating deficiencies in the functioning of registration and/or contacting. Although about 53% of them declare that they provided suggestions/opinions about concrete draft laws, again, almost half (47.7%) respond that they have not ever had any communication with the Assembly coordinator for CS, thus leaving room for interpretations about indirect or and or informal ways of involvement. (See Figure 4 and Figure 5)

A njiheni në mënyrë periodike me ftesa nga ana e Kuvendit për të konsultuar projektligje konkrete?

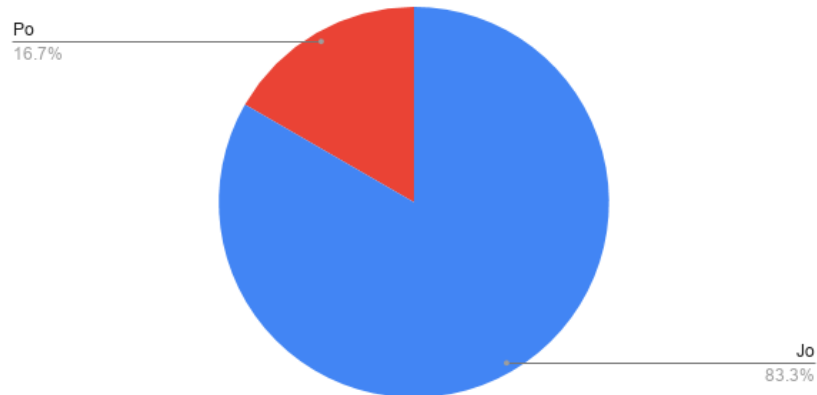


Figure 4. Periodical awareness of invitations from the Assembly

Do you become aware periodically of invitations from the Assembly for consultations on concrete draft laws?

Yes

No

A keni komunikuar ndonjëherë me koordinatorin/en për shoqërinë civile dhe grupet e interesit?

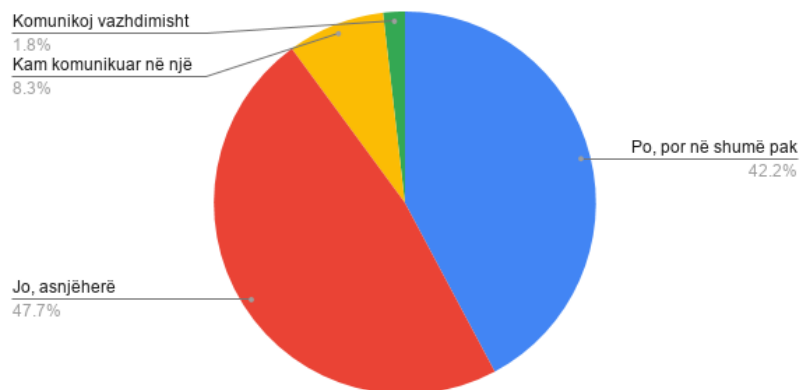


Figure 5. Communication with Assembly's CS coordinator

(Have you ever communicated with the coordinator for civil society and groups of interest?)

I communicate continuously

I have communicated in one case

Yes, but very little

## No, never

This tendency is also highlighted through enhanced interviews whereby CS representatives, with a positive record of engaging with the Assembly confirm that the main ways they use are lobbying and building rapport with individual MPs who support their causes (e.g. women's CSO-s, through MPs coming from CS).

The majority of CSO-s, especially the small ones or those in areas distant from Tirana admit to have very little knowledge of both the Assembly as an institution and of the ways and means to become part of legislative processes. The most informed are still the largest CSO-s that are consolidated for a long time in their fields of interest and expertise. The Assembly communicates with the majority of small CSO-s and/or those outside the capital through larger CSO-s that serve as some kind of mediator and conveyor of information in this communication.

*“In our ten-year experience, we have noticed an improvement, at least in communication with the Assembly of Albania, but also in information, given that we are aware of parliamentary procedures, hearing sessions, parliamentary committees, that the Assembly organizes.” (FGD, CS)*

*“Every time that we have been informed about certain initiatives of the Assembly, it has been through [CSO name], so I do not recall any time when Assembly representatives held meetings with CS and presented the work they do and how they see our access to them. I do not recall this ever being done. So, I do not think the Assembly has done its promoting job to introduce and get to know CSO-s. For instance, [CSO name] does events to promote its work, or even some other organization, but the Assembly could do this, so that I get to know it and I can think about what I can collaborate with them on, but, if I don't know them, I won't think of collaborating with it, I'll keep collaborating with those institutions whose mission and role I know [refers to local level]”.*  
(FGD, CS)

In this context, CS expectations from the Assembly are high both in terms of the obligations of this institution for the involvement of the public in its decision-making, and in terms of being the 'hosts' and aspiring to set higher standards in this regard.

*“It is difficult to make a clearcut division of responsibilities, but I believe it is the duty of the Assembly to extend a hand, to inform, and increase the culture of CS. We come from the background of a close country; we don't have experiences, so the Assembly should create these spaces and seek an active CS; if we talk of an Assembly that really wants to serve as a train engine to pull Albanian society to European parameters we sought in 1990, then it should be happy to see an increased CS level and pull it.” (FGD, CS)*

*“I would like it very much for all associations and the Assembly to have very good coordination with one another. This should go down to the family member. An adult, educated feels and suffers from the lack of information. I see very slow, or limited coordination from both sides. For instance, in my work, I'm talking as an agronomist now, when I want to raise awareness about why we should consume organic foods, as much bio as possible, I'll go to the door of the last villager to do my job. Likewise, if the Assembly wants to consult CSO-s, it should find the way to find the door, coordinate so that information arrives. These are our shortcomings; we don't have*

*the information. I don't do everything with payment, I also engage voluntarily, but we need to know how to engage; and these things being said now, first time I hear of them.” (FGD, CS)*

#### 5.4.2. Forms and challenges of engagement

In spite of the level of information, communication, and engagement of CS with the Assembly, the practice of CS participation in the Assembly's decision-making processes have grown more enriched and diversified. In different ways, direct or indirect, 52.8% of CSO-s participating in the online survey say they provided suggestions/opinions for concrete draft laws.



Figure 6. CS engagement with suggestions/opinions on concrete draft laws

Did you provide suggestions/opinions on concrete draft laws?

Yes

No

Asked through an open question to report on the most used forms for direct or indirect engagement with the Assembly, the list of responses included very diverse forms, dominated by the categories of lobbying and advocacy, presenting petitions or contributions in support thereof, participation in hearing sessions and meetings with committees and MPs of the Assembly (physically or online) to informal events to influence the Assembly's decision-making through those (perceived to) that have a more powerful influence/voice inside it.

The selection of the forms of engagement is conditioned mainly by two factors: first, knowledge and capacities to use certain forms of engagement; second, trust in the potential/impact they may have. For instance, although petitions are a key instrument that CS may use to influence the Assembly's decision-making, only 15.1% of the respondents in the survey reported they have very good knowledge of petitions and procedures for presenting them in the Assembly (Figure 7).

Ç'njohuri keni për procedurën e parashtrimit të peticioneve në Kuvend? (A është kjo procedurë lehtësisht e aksesueshme dhe e qartë?)

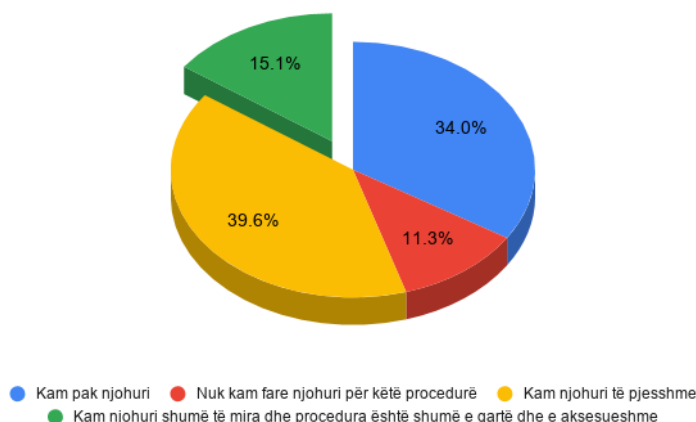


Figure 7. CS Knowledge on presenting petitions

What knowledge do you have about presenting petitions to the Assembly? (Is this procedure easily accessible and clear?)

I have little knowledge

I have no knowledge of this procedure

I have partial knowledge

I have very good knowledge and the procedure is very clear and accessible

Petitions appear to have been used rarely not only as a result of this low level of knowledge of them, but also of a series of challenges encountered in practice. Petitions are costly initiatives in resources and time. Besides, organizations that have undertaken or helped in such processes report about a series of sensibilities that challenge the collection of signatures necessary for support from citizens, such as threats (perceived or real), or doubts about the passage of the process through the CEC.

*“We have encountered very great difficulties in this process, because pressures from companies have been very great... This is regrettable because the company pressures them to not sign for the only thing that may protect them, which is the status. In spite of this, we have managed, we have gone to their homes so they would sign this petition. Also, past experiences of lies have an impact, using the part of the status and workers are tired with this part and disappointed from political parties, or party unions. At present, the campaign is nearing and they hesitate to be identified.” (FGD, CS)*

*“In August, a new rule was passed about petitions for the pre-filled form that should be issued by the CEC. For us, this is OK, but for people, given that it was also a campaign period, elections, it was very confusing, people asked: “Why should this form be issued by the CEC? What does it have to do with what you’re doing?!” In fact, there were many cases when lawyers or jurists who wanted to sign the petition, were very confused why this was requested. Especially in the*

*districts, we had people who had written their name down and regretted it, came back from fear because it is the time of elections and they worried why we needed their credentials, ID cards, etc. This created a kind of obstacle. We surpassed it, but it was very evident, especially this CEC part.” (FGD, CS)*

In this context, there is room not only to improve knowledge and capacities in using petitions, but also to revisit elements that, in the Albanian context, may turn into challenges/disabling. One concrete proposal is to consider technological opportunities and electronic forms of presenting petitions, such as e-petitions, an opportunity that wasn't known to exist in our country.

*“I think that first, is the greater inclusion of technology, with its pluses and minuses, but the Assembly should include it and facilitate things by using technology. For instance, as part of the network, we were collecting signatures for the register of sex offenders. More than 20,000 signatures are needed and one person needs to have the signature and the identity card number. We came across many individuals who were in favor of the initiative. The moment the ID card info was needed, they hesitated, thinking such data might be used for some other reason. Now, in 2020... they can do petitions online. Why should you collect them physically still, when technology makes it possible for you to become part of something from your home.” (FGD, CS)*

Another aspect that CS should take care of in terms of taking advantage of petitions is following the processes to the very end, as well as drawing lessons from earlier practices. By combining with other efforts, or by correcting what may have not gone so well earlier, the chances for success are higher. The value of petitions is not only in being a powerful tool for influencing legislative processes, but it is also valued and chosen to raise awareness about certain causes.

*“Now it is left for us to lobby and convince them that this thing is worth it. You may pass all the steps, take it [petition] to the Assembly and then they tell you: ‘OK, thanks, but I won’t vote it!’, and all you’ve done throughout this time is gone to waste.” (FGD, CS)*

*“We could have chosen to do make this proposal through the MPs, but for us the collection of signatures and the petition were more impactful, although with more costs and logistical difficulties. That is why we chose the second, with more impact also as an action.” (FGD, CS)*

Even other forms of participation no doubt require a higher level of knowledge, information, and capacities, to make participation possible and make it effective. Thus, more than half (55.2%) of CSO-s that participated in the online survey, report that they had no knowledge about the publication of the agenda of the workings of parliamentary committees and 26.7% say this information doesn't go to them on time so as to enable real participation and not “last-minute” one. This, combined also with other factors of image and lack of knowledge, makes the Assembly be seen as easily accessible for citizens only by 21% of participating CSO-s (meanwhile 41% view it as inaccessible and 28.1% are not able to make an assessment, maybe from lack of knowledge).

At this point, besides continued and proactive information and communication by the Assembly, especially of the CS coordinator's office, information and communication technology might be used very well. In an assessment of the use of the Assembly's online webpage, it resulted that more than half of the participants don't know it (27.4%), or do not find the Assembly page as friendly to navigate (26.4%).

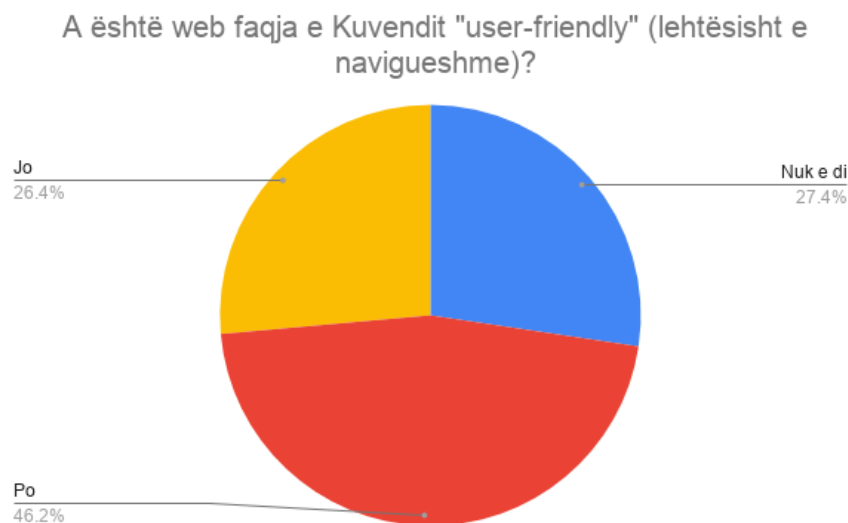


Figure 8. Evaluation of the Assembly's online webpage

Is the Assembly's webpage "user-friendly" (easy to navigate)?

No, Yes, Don't know

However, in spite of challenges and difficulties, it is worth underscoring that based on direct experiences of participation with the Assembly, a considerable part of respondents in the online survey see an improving rapport between CS and the Assembly (38.3%). Another part, comparable in size (30.8%) ask that this turn into sustainable rapport, because to date they are seen as sporadic, and only 7.5% perceive of them as a relationship that has grown worse.

Bazuar në eksperiencat tuaja personale apo të organizatës për të cilën punoni, si do e vlerësonit ecurinë e raporteve shoqëri civile – Kuvend?

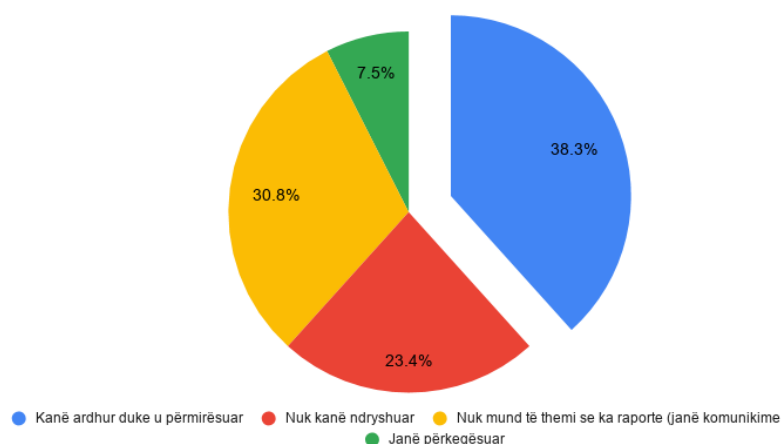


Figure 9. Evaluation of CS-Assembly rapport based on direct experience

Based on your experience or that of the organization you work for, how would you see the progress of the civil society – Assembly relationship?

It has been improving

Hasn't changed

I can't say there's a rapport (it's communication)

It has been worsening

In enabling or obstructing a greater engagement of CSO-s in decision-making, legislative processes with the Assembly, it is considered that the legal environment is among the most enabling, while the institutional and especially financial ones among the most disabling. Perceptions on the Assembly's level of openness to CS has an above-average evaluation, at 5.12. The Assembly's capacities vis-à-vis enabling greater engagement of CS in legislative processes is appraised at 5.04. The evaluation of Assembly's support for CSO-s for monitoring their work is the only one under average, at 4.4, in a 1 to 10 scale.

Direct and more intensive engagement is again with the larger organizations that are more centrally located. The smaller organizations and those in the districts report a much greater engagement at the local level than the national one, including vis-à-vis the Assembly. However, beyond this expected finding, there is a variation that is also theme/area-based. Thus, it is reported that both the CS and the Assembly have greater proactivity with organizations working in the field of human rights, minority rights, women's rights and gender equality, education/culture, as well as those operating in the area of the environment and rural development, which seems to unite them and enables greater activism of these CSO-s, but also greater impact, occurring not only due to their size and capacities separately, but also due to their good coordination and networking.

*"We have had concrete engagement in parliamentary committees, mainly on the law on national minorities. Two years ago, we also engaged in providing our views in hearings that the parliament held in this context and we may say that a large percentage of the suggestions we gave as a group of Roma CSO-s were taken into consideration and are now reflected in the law." (FGD, CS)*

Networks are valued especially for the potential to empower CS's voice but also the opportunities they provide to the smaller and more distanced organizations to have their say in these processes, making inclusivity more tangible.

*"I think it's impossible, because it's the lack of time, resources, access... we can't go, we can't deal, ...you know, it's beyond the daily focus, but if the rural network brings a draft law to me and says, look [name], is there something that doesn't go right, normally I can focus there and it's easier, it avoids all that great mess they've dealt with and meanwhile I also feel more involved. And that is no doubt something good. But for me to go there, take an initiative directly, without the help of the network, it's much more difficult for me." (FGD, CS)*

*“We’re far, we can’t manage to open an office in Tirana or in Shkodra, but believing in the creation of networks, cooperation between them [CSO-s], we give them a chance to engage to smaller, more remote organizations.” (FGD, CS)*

Organization in networks is seen as efficient also in the context of communication with the Assembly (or other institutions) through a single voice, which avoids situations in which there’s a risk for cacophony or more of a “same species fight” than pushing forward the causes of interest.

*“For its part, CS may organize around organizations with more experience and capacities, which would serve as facilitators, in order for communication to move forward because, if every organization were to contact directly with the Assembly, I don’t think it would produce results. Even for us it is not possible to get dedicated staff to do this work.” (FGD, CS)*

Other forms, which have been exploited little or not at all in their potential, include for instance using the Assembly’s archive, for which the Assembly’s website only shows the archive. Organized group visits, though a good practice, have limited spread and may be considered especially for how to enable a continued practice of applying them with CS. Exploiting technology, these visits/tours may be conducted continuously even virtually so as to create as great an access as possible. Likewise, surveys may be organized to solicit the views and attitudes of CS, citizens. However, in spite of forms of involvement, their combination, and the tools used, participants in this research study are aware that an early and sustainable engagement in the process is needed until the conclusion of the process with the solicitation of reactions and feedback. Such a process also creates premises for the necessary trust in engagement and continuity.

*“There needs to be involvement in very early phases. Even a questionnaire, a survey... we say CS is closer to problems, but I don’t know of any survey, a preliminary questionnaire, before a draft is compiled or even on making a change or not.” (FGD, CS)*

#### 5.4.3 Capacities and limitations

For a greater and substantial participation of CS in the Assembly’s decision-making processes there is a need for not only information, communication, and knowledge, but also capacities and expertise. Another very important pillar where the CS-Assembly relationship will have to rely on and develop is that of adequate capacities. Representatives of both sides are aware and consider that capacities and expertise are needed for the participation of CS in the legislative and decision-making processes of the Assembly. On the one hand, the Assembly needs to strengthen capacities in order to enable greater openness and transparency on its processes, as well as a proactive position vis-à-vis CS and public engagement in general. On the other hand, CSO-s, for the most part, suffer from the lack of resource, which they could assign specifically to their engagement in activities with the Assembly. moreover, only a small part of them has the necessary expertise (mainly legal/legislative) to present their requests and contributions in a form that is acceptable and processable for the Assembly. this is a defining precondition for participation, as specified in the relevant guide: *“The request...should be presented clearly and reasoned well so as to achieve the intended goal...Committees seek to select those interested parties that manage to express more*

*clearly the problems of certain issues or that are well-known in the activity they carry out.” This makes it difficult to participate and contribute for new organizations, with less experience, smaller, grassroots ones, or those more distanced from Tirana, etc., as well as for ordinary citizens, interested in activism/participation.*

These limitations are considered such for the sector as a whole, but on an individual level, when it comes to a low level of knowledge and direct experiences with the Assembly, participants in the online survey appear to be more confident in their capacities (knowledge, skills, etc.) and their respective organizations for engaging with the Assembly. About 60% give themselves an evaluation of 8 and above and to their organization, they give this evaluation in 61.5% of the cases (on an evaluation scale of 1-10) with 7.38 for individual capacities and 7.57 for those of the organization they represent.

CSO-s find it easier to identify their limitations in the legal field and in resources, especially financial ones. However, obstacles may be deficiencies in basic technological skills, which may be taken for granted, such as the use of a computer, access to and navigation on the internet, etc.

*“Why we haven’t reached the Assembly or the Assembly us, I don’t know, but both sides are – we as a local organization have lack of capacities, tools – computers, internet... when I say so, I do for the organization, and imagine an organization from Përrenjas that is even more marginalized than I am.” (IIKI, CS)*

*“The best approach is to do things, especially for those more advanced in age or with little knowledge or skills to navigate the internet, such as today, when a mix-up in the link or a technical problem and they can’t participate.<sup>136</sup> The Assembly may have done a very good job for instance, they may post an announcement, make a call, but we don’t know where the location is, what the way to there is if these capacities are not built.” (IIKI, CS)*

*“The other aspect that I think is important is that financial resources are lacking. CSO-s that evolve around the Assembly are those from Tirana, so transport needs to be facilitated for those that are far. I don’t know how it may be solved, although the Assembly today is in the pandemic period, but not every bad thing brings bad things. At present, the Assembly has taken a series of measures for the online broadcast of meetings and access online I believe surpasses this financial deficiency that may be an obstacle for part of the CS.” (IIKI, Assembly)*

The Assembly too understands these limitations and difficulties in capacities and skills and sometimes they engage to assist. However, it is very insufficient and a dedicated structure for legal/legislative assistance during CS’s participation with the Assembly could be much more efficacious and sustainable.

*“It comes more naturally to us and I understand their difficulties. For instance, I’ve invited them, guided them to prepare, telling them time is limited, you get 5 minutes, not to just mention the problem but also what the concrete suggestion is, because nothing’s left. I have advised them to contact legal experts so as to draft in the best possible manner what they wish to contribute.*

---

<sup>136</sup> Explanation: to participate in the FG, it was required to register to have access on the Zoom platform.

*...Often it seems to me that they don't have the right information, or... I can't say will, as I don't think they lack the will but... maybe they don't know the process." (IIKI, Assembly)*

Not only offering support with expertise, but also adding experiences, might help build and strengthen CS capacities for participation with the Assembly. However, limitations go further and have to do also with the farsightedness of CSO-s themselves. In order to continue with building and strengthening capacities, they need to see engagement in decision-making processes as more of a part of their mid-term and long-term agenda. Capacities and a stronger standing of CS is believed to contribute directly to their sustainability and impartiality.

*"I think the main thing is the lack of experience, because all of us here if we read a law, we understand it, not necessarily in maximum, but we understand that if there's something not right in that law, that field we are in and we have the expertise. It is lack of experience, we're not experts in everything and I don't pretend to talk about chemistry, but I can give an opinion on rural development or something else." (FGD, CS)*

*"What I see as a barrier has to do with the organization itself; it has to do with how much you see and how farsighted it is, to see and go beyond service providers. The number of organizations providing comments and suggestions has grown and that's why I say that it is up to them to understand the potential and contribute to amending laws. There are different profiles and organizations have had the opportunity to increase their capacities and they need more time to reach that level." (IIKI, CS)*

*"It's not that NPOs are entirely independent, because politics wants to use them too. One side summons them to use them to attack the opponent; they don't want to be used and, under such pressure, they withdrew." (IIKI, Assembly)*

A good response also in the context of more empowered capacities have been networks. Inside them, it has been easier for CSO-s to find and make up for one another in human, financial, and time resources.

*"I don't know to say how much these are, but there may be those that may, that do have the capacity, to be more active. In our field, it may be a bit more limited, because we are organized in networks, for instance we've shared the draft and have invited all to provide their feedback. But these comments are not passed directly as received, but have been given to an expert who processed them and made them more readable. This has led to many more organizations being involved, even those without legal capacities." (IIKI, CS)*

For its part, the Assembly is also limited in capacities and resources. The Assembly administration is limited and MPs do not have support staff, except for those at committees and parliamentary groups. The changes that have happened through the years in this aspect have highlighted how much the support staff has facilitated and assisted in making processes have with greater participation.

*"Meanwhile, often we've had to get advice; I'm not a lawyer myself, we don't have much staff, e.g. the committee advisor is for all committee members; in other countries, MPs have at least their own advisors, or have a package that enables them to get the necessary expertise when needed for a certain law. We don't have that luxury. So, we use personal, social connections to*

*fill this gap... Advisors share the work and mainly help the rapporteurs to get prepared. For instance, at the [name] committee, I had to be a rapporteur for [name] and I've never dealt with this, I don't know it as a field. Of course, one of the advisers helped me, plus with many years of experience your eye gets exercise, and people that I know I had to talk to and get opinions from, but it's not possible physically to help everyone." (IIKI, Assembly)*

*"Initially, committees had only the committee secretary, a bureau of jurists, who carried one-two committees. Then, it was much more voluminous work, in the sense, you had to. there's volume now too, but they're different, because then we had to build information as the media office was very small and it was left to us as a job. Also, we were forced to do reports on the draft laws. Then, with time, the bureau was expanded and every lawyer adviser had a given committee. Then, it expanded even more, but every committee had an advisor of that field." (IIKI, Assembly)*

Besides support with additional staff, MPs may be supported in their activity also through practices that may have been proven as good, for instance that of files, accompanying draft laws coming from the government and relevant reports, informative files on the involvement of groups of interest that have been consulted. Likewise, it is possible to support and expand special monitoring service at the Assembly, which MPs have considered helpful in their work to be informed and be close to the CS and the public.

#### 5.4.4. (Mis)Trust

Among the main factors that obstruct a greater and substantial engagement of CS with the Assembly is the lack of trust. The lack of trust ranks first in terms of significance (26.4%), with the second being the barrier of great formality in procedures and bureaucracy (19.9%), followed by the lack of knowledge (with one percentage point less). The limitation or lack of knowledge and direct experience with the Assembly does not help establish a relationship of mutual trust. Contributing to enhancing mistrust are failed CS initiatives with the Assembly or the lack of a perception of a genuine interest in cooperating with CS. This is seen mainly in not being informed at every step of the process and not feeling considered and appreciated.

In spite of the lack of knowledge of the forms and mechanisms for direct and formal engagement with the Assembly, in different direct or indirect ways, we saw above that 52.8% of participants in the online survey say they had provided suggestions/opinions on concrete draft laws, but the majority of them are skeptical on whether such engagement is of use or whether it is given the proper importance and value. About 46.2% of those with direct involvement, or mediate through networks they are part of, report that their contributions have never been taken into consideration (against 53.8% of those whose contributions have been taken into consideration in some cases).

The lack of trust is also linked with what is considered lack of transparency on arguments in case of refusal to take a contribution into consideration. The guide on the public's participation in the Assembly's decision-making says in cases when it is determined that presented recommendations are not to be taken into consideration (fully or partially), the relevant committee should argue the reasons why such a position was taken and the decision of the committee should be made known

to the representatives of the interested parties that presented the recommendations. Informing the groups of interest, CS and social partners about the approved laws and on whether their suggestions were taken into consideration or not and, if not, the arguments, is one of the main duties of the CS coordinator. In practice, also as a result of the great workload, this appears to happen very rarely (63.3% report that they were never made aware of the reasons/arguments of refusal) and organizations manage to be informed only by being present in hearing sessions, by being informed through their contacts in the Assembly, or by transcribing “with paper and pen” what was taken into consideration of the things they had proposed.

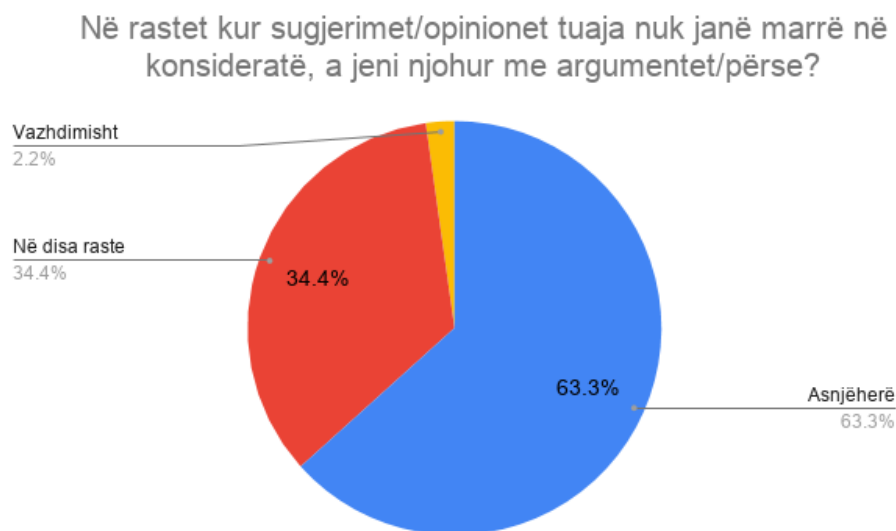


Figure 10. Receiving feedback on participation/contribution

In cases when your suggestions/opinions were not taken into consideration, were you made aware of the arguments?

Continuously

In some cases

Never

Qualitative primary data also confirm that closing the cycle of participation with receiving feedback is deficient in practice and has a substantial impact on trust in the process and on mutual trust between the sides. The only CSO-s to report that they somehow complete this process are the ones with an advocating mission that document the results of their work by following themselves what happens with the process after giving their contribution.

*“Frankly speaking, we follow it ourselves. I don’t know whether that’s good, but the moment a law passes, also in the context of all the programs I listed earlier that we implement, we report also what we’ve achieved. ...With pen and paper in hand, we look at whether they’ve been taken into consideration, to document also our impact. We have an interest; we follow it ourselves. We*

*have not received anything in writing, that this or that was not accepted for this or that reason.”*  
(IIKI, CS)

CSO-s expect the Assembly to fulfill this obligation of providing feedback/informing (even through the minutes of hearing sessions, which are delayed often); the Assembly, often under the pressure of its workload, finds it impossible to follow and inform every interested/contributing party, expecting them to show their interest until the very end, by following developments till the end of the process and demonstrating that they are a “group of interest” and “interested” from the start of the process to conclusion. On this point, Assembly representatives see time after time with mistrust the sustainability of CSO-s in their causes, contradictions in their positions, and their instrumentalization by political parties for their own interests/agendas.

In spite of problems addressed regarding the challenges of involvement and trust in their results, over 70% are optimistic that if legal initiatives are taken, started and pushed forward by CSO-s, they will have good (51.4%) or very good chances (17.8%) for success. Foreign NPO-s, Business Associations, and Foundations are seen as having greater influence. It is less so for trade unions. The latter appear to have a long way toward re-dimensioning their image/influence also within the CS sector.

### III. GOOD PRACTICES

In efforts for a more consolidated, sustainable, but also effective rapport between CS and the Assembly, knowledge of good practices both at the international and the national levels, at all levels and fields, would accelerate the path toward the maximalization of the potential of CS and public participation in the Assembly’s decision-making and legislative processes. It should be admitted that based on the review of literature on best practices at the international level and based on primary data in the Albanian context, most of these practices come the practice with the executive and mainly local government. nevertheless, a lot may be learned from them and a good part may be transferrable to the central level, or specifically to CS’s engagement with the Assembly. In this section of the report, we bring to attention good practices documented in different countries, which practice in our country has confirmed as successful or even practices that are assessed as advisable by participants in our research.

The most inclusive study in this regard is the OECD one from 2020<sup>137</sup> on good practices of citizen participation. Based on the observation of developments of 289 cases from all over the world, 12 special models of citizen participation in deliberation and participation have been identified. These include forms such as the creation of citizen assemblies, juries, panels, or other forms of deliberation processes where citizens are elected randomly to create a ‘microcosmos’ of their communities. Other models include those of establishing dedicated structures such as planning units, observatories, etc., surveys and even the exploitation of technology to exchange

<sup>137</sup> OECD (2020) “Innovative Citizen Participation and New Democratic Institutions CATCHING THE DELIBERATIVE WAVE HIGHLIGHTS 2020,” <https://www.oecd.org/gov/innovative-citizen-participation-and-new-democratic-institutions-339306da-en.htm>

continuously and virtually with citizens and groups of interest.<sup>138</sup> The latter have assumed special significance at a time of restrictions due to the Covid-19 pandemic.

Participatory deliberative processes are difficult to realize as they have costs and take time, while the results of these processes take time to become evident and tangible for all sides. They have been seen to be successful and appropriate especially when the agenda of discussions include issues that have to do with values and attitudes, complex problems that go beyond a governing mandate, and when evidence does not manage to support what would be the “right” choice when broad-based agreement is needed. They do not function so well in cases when decision-making needs to be very fast/urgent or when issues of political involvement or collective decision-making have to be addressed.<sup>139</sup> Nevertheless, these processes are an excellent opportunity to engage a much broader expertise base, including officials, academics, ideologists, advocacy groups, businesses, etc.

The establishment of permanent consultation groups has proven to be a good practice in Georgia, although evidence applies to local government.<sup>140</sup> Some other practices that come from this country have to do with the use of technology. They have not only practiced live streaming of sessions with participation, a good practice already in the Assembly of Albania, but also the publication of full videos and enabling the posting of comments and questions about their contents in real time.

The use of technology for e-petitions has been used in some cases, creating good practices in this regard.<sup>141</sup> This is requested/recommended by participants to use in our country, as presented in the earlier sections of this report. One example of the institutionalization of the permanent deliberative process practices comes from Belgium, with deliberation committees in the parliament of the Brussels’ region.<sup>142</sup> Another example is that of the 2011 French law on bioethics, which institutionalized the obligation to create in parliament the National Committee on Consultations on Ethics, in order to organize public debates about any legal amendment related to bioethics.<sup>143</sup> In general, it is admitted that there are no ready recipes that would serve for every situation or at any level for citizen participation and the combination of several approaches and models is one more guarantee for success.<sup>144</sup>

For citizen participation, paid participation is also recommended<sup>145</sup> as engaged citizens will have to be away from work. This would make up also for limitations in opportunities that different groups might have and it would ensure respect for the principles of inclusivity and “non-

---

<sup>138</sup> Ibid, p. 13

<sup>139</sup> Ibid, p. 7

<sup>140</sup> Council of Europe Manual (2020) GEORGIA Transparency and Civic Participation, Council of Europe, December 2020 (second edition), p. 36

<sup>141</sup> Ibid, p. 34

<sup>142</sup> Ibid. For more, visit: <https://constitutionnet.org/news/belgiums-experiment-permanent-forms-deliberative-democracy>

<sup>143</sup> Ibid, p. 22

<sup>144</sup> OECD (2020) “Innovative Citizen Participation and New Democratic Institutions CATCHING THE DELIBERATIVE WAVE HIGHLIGHTS 2020”, <https://www.oecd.org/gov/innovative-citizen-participation-and-new-democratic-institutions-339306da-en.htm>

<sup>145</sup> Ibid, p. 24

discrimination” based on financial possibilities. For this, as well as for commissioning such processes in general, a budget is required. Different governments have established dedicated centers for participatory democracy, such as in France the “National Committee on Public Debate,” or in the UK, the “What Works” center.<sup>146</sup> These may include employees, CSO-s that enjoy respect and broad reputation as impartial or universities contacted by the government, but always guaranteeing impartiality and credibility.<sup>147</sup> In the field of lobbying, aside from the need for regulation by law, there’s room to benefit from good practices such as the toolkit prepared for this purpose by the Parliament of North Macedonia.<sup>148</sup>

The combination of all methods and models requires sequencing and good coordination to make it as clear as possible how they supply one another and how they manage to bring the citizen’s voice to deliberation processes. For instance, a process may start with an open call for submitting evidence by different actors, followed by public meetings and round tables, before moving on to other forms of participation. This strategy guarantees greater and more substantial participation (p.23). Information on selected methods and models, as well as on the manner of their implementation at every step, should be constant so that the processes are transparent and enjoy legitimacy. Authorities should also ensure that the cycle is closed with *feedback*. Authorities have the obligation to respond and explain the rationale behind accepting or rejecting proposals, by demonstrating that when citizens become part of these processes, their proposals are taken seriously into consideration. This helps create/strengthen public trust in institutions, an issue that, as mentioned at the start of this report, disturbs institutions in many democratic countries.<sup>149</sup>

Returning to the Albanian context, especially the good experiences and practices reported by CS and Assembly representatives, many of those mentioned as good practices or recommendations for application at the international level are confirmed. In our country, the Assembly is expected to strengthen practices that make it open for the public and to have an approach of integrating a series of forms, including the work of MPs in their respective constituencies.

*“Opening up the Assembly, internships, voluntary work for students or NPO staff to get to know the Assembly better, we’d take advantage of those by all means. these are possible to do without too much capacity or funds. A tour or something similar. The American Embassy has a tour for schools, get to know America, values, etc., let alone the Assembly of our own country.” (IIKI, CS)*

*“It’s not that we have to take part directly in parliament, but even through constituency MPs. Every area has its specifics and the MP of the area should be closer to civil society, not only to party members; that way, they’d listen to us more; their party members are close to one another and we are closer to all members of the community.” (FGD, CS)*

<sup>146</sup> Visit the page “What works” at <https://ies.ed.gov/ncee/wwc/>

<sup>147</sup> OECD (2020) “Innovative Citizen Participation and New Democratic Institutions CATCHING THE DELIBERATIVE WAVE HIGHLIGHTS 2020,” <https://www.oecd.org/gov/innovative-citizen-participation-and-new-democratic-institutions-339306da-en.htm> , p. 25

<sup>148</sup> Chapter of toolkit for advocacy and lobbying in North Macedonia ([https://iks.edu.mk/attachments/Priracnik-za-zastapuvanje-vo-Sobranie\\_EN\\_PREVIEW.PDF](https://iks.edu.mk/attachments/Priracnik-za-zastapuvanje-vo-Sobranie_EN_PREVIEW.PDF)) referred to NDI (2020) “Soliciting contribution of citizens and interest groups during the lawmaking process in the Parliament of Albania.” p.18

<sup>149</sup> Report on democracy at the global level even more disturbing than 2020, also due to the pandemic. (for more, see <https://www.eiu.com/n/campaigns/democracy-index-2020/> )

Likewise, it is advisable to exchange experiences and good practices at the national level. Not only the Assembly may share with other institutions, but it may also learn from them, even from practices at the local level. This would help circulate expertise but also the strengthening and sustainability of good practices of involvement throughout the country.

*“An interesting practice of the Commissioner for Protection from Discrimination, a new thing was that he summoned CSO-s to a consultation to do an analysis as a result of a domestic violence case, to discuss what goes well and what doesn’t with the legal framework. Mini research, mini reports, or the People’s Advocate have continuously been active and an open door to CSO-s... The Assembly has sustainability as its strongest point in this regard – Assembly-CS cooperation. It’s not a lightning at broad daylight, but it has been built continually.” (IIKI, CS)*

Besides the need for a more active approach on providing feedback, it is possible to increase capacities that enable that and support existing structures or establish new structures whose mission it is to facilitate these processes.

*“Besides advisers, in parliament there is also a special monitoring service that sends us information proactively on various draft laws that come to parliament. They have helped my colleagues and me a lot with our requests. For instance, I have asked for models from different countries and they have brought very well-prepared materials. MPs should seek it, but they also send us e-mails and invite us. They respond and the research service is very helpful and useful.”*  
*They’re few people, but they work hard and respond, I’m very happy. If it were to be empowered... NDI had an idea about a research institute in the Assembly that could help and I have been and am very much in favor. (IIKI, Assembly)*

Last, but not least, documenting and sharing good practices is a necessity. Good practices are still being explored and consolidated everywhere in developed countries. Even more important is that they are documented and strengthened even in developing countries, including local nuances and local specifics. Here CS, but also the Assembly could be more engaged to documenting and promoting good practices not only for improving them, but also in the context of transparency and building trust in these processes.

*“You have got it right, as I’ve not had much opportunity to reflect for long and think along these lines, but sharing good experiences no doubt is the number one in every field. It is something very good to share good experiences, whether in writing, in the form of a material, or on the website. For instance, we have been very active. Every time we had a result where our suggestions have been taken into consideration, we have shared that on our website. first, for communicating result, but also a kind of sharing of good experiences. Both sides could do more in this regard. However, we have not been focused on sharing good experiences of our center with the Assembly. I cannot say that as we haven’t focused there; with small staff, deep into projects, it takes a lot of toil and work to go beyond these and look at the long-term and not just the project in hand for the moment.” (IIKI, CS)*

Documenting good experiences would point out the achievements of the Assembly as well as of CS actors, thus reflecting positive experiences more. Documenting them would serve not only to improve practices, but also to build SC capacities and those of new MPs. In this regard, the way to document CS engagement with the Assembly needs to be reconceived, not remain hostage to

figures on participation, but also the quality of cooperation and analysis of what has functioned well or the respective failures and why-s.

*“Good practices should be reflected in reports not only with figure – how many times, how many organizations, how many contributed views, how many were considered, etc. I don’t think that is done; I see reports done very dry. Maybe there need to be instructions how to do the report, have more analysis than just descriptions. For instance, with the media girls – they can’t; some committees get together and they write two lines, but it’s not possible to follow everything. This does not provide the opportunity to reflect the event or point out the good practices.” (IIKI, Assembly)*

#### IV. CONCLUSIONS AND RECOMMENDATIONS

- CS should take concrete measures for better and more extensive knowledge of the right to engagement, the value of engagement, and the opportunities for realizing engagement in the Assembly’s decision-making and legislative processes.
- Organization of information and awareness campaigns by the Assembly through RTSH Assembly, the CS Coordinator’s office, different project with donor support – these are a series of mechanisms that would help realize the purpose for better knowledge and engagement of CS.
- On the other hand, CSO-s with more developed experience and expertise in the field could serve as resource centers for other interested CSO-s to grow in this regard. They could be also used as catalysts and facilitators of more broad-based engagement of CS with the Assembly’s legislative and decision-making processes.
- The Assembly could engage in improving and refreshing the relevant guide, taking into consideration and addressing barriers that CS may have encountered in practice (e.g. in using the register, etc.) for the purpose of opening up and enabling participation also for other smaller/weaker organizations, unregistered groups of interest, etc.
- The Assembly may engage in clarifying procedures and mechanisms for involving groups/individuals who are not formally organized/registered.
- The annual report of the Assembly monitoring on CS engagement may be enriched with measurable analyses, recommendations and concrete objectives for the following year.
- Both the Assembly and CS should encourage practices that channel all engagements with the Assembly in a formal way, for instance, through the office of the relevant coordinator, as this would create formalized, consolidated, and trackable reports, and in general, a more open, transparent, consolidated, and ethical culture of cooperation (in keeping with the Assembly Rules of Procedure).
- The Assembly could make a greater effort to increase transparency and information on the reasons for taking or not into consideration CS contributions, fully exercising its role in building greater trust of CS that these processes are not formal, but real.

- Establishing permanent thematic groups of CS at relevant committees, as in the case of European Integration, would be an additional mechanism, welcomed by the sides and very effective.
- CS should increase its capacities and expertise to be more ready to engage in decision-making and legislative processes with the Assembly. Based on this assessment, some of the priority areas for capacity building are: advocacy and lobbying; networking; knowing the Assembly (role, mechanisms, etc.); organizational management (vision, human resources management, fund raising, etc.); civic engagement; communication, communication strategies, public relations; using technology to facilitate/enable engagement.
- CS representatives with good practices with the Assembly should document and share them with the rest in order to minimize discouragement of engagement as a result of the shadow of non-success stories.
- CS also needs better organization, coordination, and synergy within it, to minimize room for confusion/lack of trust in the other partner – the Assembly. From this standpoint, organization in networks has proven to be an effective strategy to be encouraged.
- The Assembly and CS, with support also from donors, should increase familiarization events (visits to the Assembly, open days, etc.) and improve and train those interested in the use of mechanisms that facilitated CS engagement with the Assembly (starting from making the Assembly webpage user-friendly, to training and capacity building about the use of instruments, such as petitions, participation in online public consultation platforms, participation in hearing sessions, etc.).

## V. APPENDIX

### 6.1 Questionnaire

# Questionnaire on Civil Society engagement in decision-making and legislative processes of the Assembly of the Republic of Albania

This questionnaire is conducted in the context of the study on “Assessment of Civil Society Engagement in Decision-making and Legislative Processes in Albania,” implemented by the Albanian Helsinki Committee (AHC) and the Institute for Democracy and Mediation (IDM), in the context of implementing the grant awarded pursuant to the project “Supporting the Assembly and Civic Education (PACEP), a project of the Swiss Agency for Development and Cooperation (SDC), implemented by the OSCE Presence in Albania and the National Democratic Institute (NDI).

The data that will be collected will be preserved in full confidentiality and will only be used for research purposes. No specific individual or address will be possible to identify in any of the research phases.

Filling out the questionnaire takes 15-20 minutes.

#### A. General

1. Age                      \_\_\_\_ (years)
2. Sex                      F              M
3. Education              \_\_\_\_ (years)
4. Years of experience with civil society \_\_\_\_ (years)
5. Area of activity              Rural              Urban              Mixed
6. Field of activity
  - Human rights
  - Gender equality/women
  - Environment
  - Democracy, rule of law
  - Culture
  - Education
  - Health/ mental health
  - Children/ Youth
  - Religion

- Other \_\_\_\_\_

## **B. Perceptions on the engagement of Civil Society and its capacities**

7. What is your opinion, in general, is Albania moving on the right path?

- I am convinced it is
- I believe yes
- I suspect no
- Not at all in the right direction

8. And regarding development and strengthening of Civil Society in the country, how would you assess progress in recent years?

- It has regressed
- Poor
- Good
- Very good

9. In general, how would you assess Civil Society capacities in the country?

- Very weak
- Weak
- Average
- Very good

10. Regarding its engagement and contribution to decision-making and legislative processes, how would you assess Civil Society capacities?

- Very weak
- Weak
- Average
- Very good

## **C. Engagement and experience**

11. Did you personally have experiences of involvement/engagement in decision-making or legislative initiatives/processes?

- Never
- Few times
- Several times
- Continuously

12. What is the main tool you used and why?

---

13. And the organization you work for, how often does it involved in decision-making or legislative processes?

- Never
- Few times
- Several times
- Continuously

14. How would you asses your capacities (knowledge, skills, etc.) to engage in decision-making and legislative processes? (Assess on a scale of 1 – very poor to 10 – very good)

1 \_\_\_\_\_ 10

15. How would you asses your organization's capacities in this regard?

1 \_\_\_\_\_ 10

16. How enabling is the environment you operate in for CSO-s to engage in decision-making or legislative processes?

	Not at all enabling	A little enabling	Somewhat enabling	Very enabling
Legal environment				
Institutional environment				
Cultural environment				
Financial environment				

#### **D. Rapport with the Assembly of the Republic of Albania**

17. Based on your personal experience or those of the organization you work for, how would you assess the progress of Civil Society – Assembly rapport?

- Has improved
- Has worsened
- Has not changed
- Can't say there's a rapport (sporadic/spontaneous)

18. How would you asses the level of openness/will that the Assembly has shown/shows on the involvement of Civil Society in legislative processes?

1 \_\_\_\_\_ 10

19. How would you assess the Assembly's capacities for enabling Civil Society involvement in legislative processes?

1 \_\_\_\_\_ 10

20. If you had a recommendation for this institution, to enable greater involvement of Civil Society in legislative processes, what would it be?

\_\_\_\_\_

### E. Achievements and challenges

21. Taking into consideration the above, how would you assess the chances for success if legal initiatives are initiated/pushed by Civil Society?

- Very poor
- Poor
- Good
- Very good

22. How would you assess chances for influence/success for each of these actors in this regard?

- |                             |            |
|-----------------------------|------------|
| • NPO-s                     | 1 _____ 10 |
| • Business associations     | 1 _____ 10 |
| • Trade Unions              | 1 _____ 10 |
| • Universities, think-tanks | 1 _____ 10 |
| • Religious groups          | 1 _____ 10 |
| • Local foundations         | 1 _____ 10 |
| • Foreign foundations       | 1 _____ 10 |
| • Other _____               | 1 _____ 10 |

23. Which of the following do you think is the greatest barrier to greater involvement of Civil Society in legislative processes?

- Lack of capacities
- Lack of funds
- Lack of knowledge about these processes
- Lack of time
- Great formality in procedures
- Lack of trust
- Other \_\_\_\_\_

Thank you!

## 6.2 Instruments for the collection of qualitative data

### 6.2.1. Enhanced interview with representatives of the Assembly of the Republic of Albania

- Presentation and obtaining informed consent

This questionnaire is conducted in the context of the study on “Assessment of Civil Society Engagement in Decision-making and Legislative Processes in Albania,” implemented by the Albanian Helsinki Committee (AHC) and the Institute for Democracy and Mediation (IDM), in the context of implementing the grant awarded pursuant to the project “Supporting the Assembly and Civic Education (PACEP), a project of the Swiss Agency for Development and Cooperation (SDC), implemented by the OSCE Presence in Albania and the National Democratic Institute (NDI).

The data that will be collected will be preserved in full confidentiality and will only be used for research purposes. No specific individual or address will be possible to identify in any of the research phases.

For purposes of transcribing the interview, we would prefer to tape our interview. Please let us know if you agree?

- General questions

1. Can you tell us a bit about the position you hold, your duties, and how they relate to decision-making and legislative processes and Civil Society engagement in them?
2. How do you assess progress to date against the legal/regulatory framework that enables Civil Society involvement in decision-making and legislative processes?
3. Are there still shortcomings/gaps in the de jure provisions?

- Situation of Civil Society engagement in decision-making and legislative processes

4. How would you describe Civil Society engagement so far in in decision-making and legislative processes?
5. At what level and to what extent has this engagement occurred? Why?
6. What have been the main achievements in this regard? Why do you view them as such?
7. What have been the challenges and barriers that have obstructed a higher and more real engagement of Civil Society in these processes?
8. What gaps have you noticed in their capacities to engage in a qualitative manner in legislative processes?

9. What has been done to overcome them? With what results? Why?

- Future

10. What other opportunities do you see that should be exploited for improving (the degree/quality of) engagement of civil society in decision-making and legislative processes?

11. What should happen so we have a more real engagement of CS?

12. Who should do what? How?

13. If these do not happen, how do you see the future? What else do you expect to happen?

- Do you wish to add anything else?

- Closing of interview

Thanks and following steps.

### 6.2.2. Sample – interview with Civil Society representative

- General questions

1. Can you tell us a bit about the position you hold, your duties, and whether/how they relate to engagements in decision-making and legislative processes?

2. How do you assess progress to date against the legal/regulatory framework, enabling Civil Society involvement in decision-making and legislative processes?

3. Are there still shortcomings/gaps in the de jure provisions?

- Situation of Civil Society engagement in decision-making and legislative processes with the Assembly

4. How would you describe the engagement of Civil Society to date in decision-making and legislative processes?

5. At what levels and to what extent has this engagement occurred? Why?

6. What have been the main achievements in this regard? Why do you view them as such?

7. What have been the challenges and barriers that have obstructed a higher and more real engagement of Civil Society in these processes?

8. What gaps have you noticed in CSO capacities to engage in a qualitative manner in legislative processes?
9. What has been done to overcome them? With what results? Why?
10. What gaps and difficulties have you noticed in the Assembly capacities to enable civil society involvement?
11. What could be done to overcome them?

- Direct experiences

12. Have your and/or your organization had direct experience with engagement in the Assembly's in decision-making/legislative processes?
13. What have these experiences been like? What went well and what was challenging/disabling?
14. What were the most successful tools/approaches? Why?
15. What would you have done differently? Why?

- Future

16. What other opportunities do you see to be exploited for improving (the quality/quantity of) Civil Society engagement in decision-making and legislative processes?
17. What should happen so that there is more real CS engagement?
18. Who should do what? How?
19. If these do not happen, how do you see the future? What else do you expect to happen?

- Do you wish to add anything else?

- Closing of interview

Thanks and following steps.

### 6.2.3. Sample – FG with Civil Society representatives

- General questions

1. Can you tell us a bit about the position you hold, your duties, and whether/how they relate to engagements in decision-making and legislative processes?

2. How do you see progress so far regarding the legal/regulatory framework that enables Civil Society involvement in decision-making and legislative processes?
3. Are there still shortcomings/gaps in de jure provisions?
4. How would you describe the engagement of Civil Society to date in decision-making and legislative processes?
5. At what levels and to what extent has this engagement occurred? Why?
6. What have been the main achievements in this regard? Why do you view them as such?
7. What have been the challenges and barriers that have obstructed a higher and more real level of engagement of Civil Society in these processes?
8. What gaps have you noticed in CSO capacities for engaging in a qualitative manner in legislative processes?
9. What has been done to overcome them? With what results? Why?

- Direct experiences

10. Have you and/or your organization had direct experiences of engaging in the Assembly's decision-making /legislative processes?
11. What have these experiences been like? What has gone well and what has been challenging/disabling?
12. Which have been the most successful tools/approaches? Why?
13. What would you have done differently? Why?

- Situation of Civil Society engagement in in decision-making and legislative processes with the Assembly

14. How would you assess the Assembly's role in this context?
15. What positive developments have you noticed? What are the strengths?
16. What gaps/difficulties have you noticed in Assembly's capacities to enable CS involvement?
17. What can be done to overcome them?

- Future

18. What other opportunities do you see that could be exploited to improve (quality/quantity of) the engagement of Civil Society in decision-making and legislative processes?
19. What should happen to have more real engagement of CS?
20. Who should do what? How?
21. If these do not happen, how do you see the future? What else do you expect to happen?

- Do you wish to add anything else?

- Closing of interview

Thanks and following steps.