



THE WORLD BANK

Implementing Right to Information A Case Study of Albania



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Abbreviations and Acronyms

ACCAPP	Administrative Center for Coordination of Assistance and Public Participation
ACHR	Albanian Centre for Human Rights
AHRG	Albanian Human Rights Group
ASCS	Agency for the Support of Civil Society
ATI	access to information
BCC	Business Continuity Center
CAO	Citizens Advocacy Office
CDDI	Centre for Development and Democratization of Institutions
CEC	Central Electoral Commission
CPII	Center for Public Information Issues
CRCs	citizens' report cards
CTFI	Center for Transparency and Free Information
DCMs	Council of Ministers' decisions
EBRD	European Bank for Reconstruction and Development
EU	European Union
GDP	gross domestic product
HIDAA	High Inspectorate of Declaration and Audit of Assets
ICCPR	International Covenant on Civil and Political Rights
IPLS	Institute for Political and Legal Studies
IT	information technology
ITPA	Training Institute for Public Administration
LAN	local area network
MOES	Ministry of Education and Science
MOH	Ministry of Health
MOTPW	Ministry of Transport and Public Works
NAIS	National Agency for the Information Society,
NATO	North Atlantic Treaty Organization
NGOs	nongovernmental organizations
OECD	Organization for Economic Co-operation and Development
OSCE	Organization for Security and Cooperation in Europe
PIC	public information center
PIO	public information officer
PPA	Public Procurement Agency
RTI	right to information
SLA	service level agreement
USAID	United States Agency for International Development

Preface

The number of countries that have passed Right to Information (RTI) legislation— laws guaranteeing citizens the right to access information about government—has risen dramatically in the last two decades, from approximately 13 to over 90, including many countries in Eastern Europe, Asia, Latin America, and most recently, Africa and the Middle East. Several of these countries face persistent governance problems.

Right-to-information (RTI) laws establish the right of citizens to access information about the functioning of their governments; they can also serve to operationalize rights that have been constitutionally guaranteed. Effective RTI legislation is an essential tool, empowering citizens to access information on public policy choices and decision-making processes, to understand entitlements regarding basic services, and to monitor government expenditures and performance, providing opportunities for more direct social accountability. Because a well-crafted RTI law provides citizens with the right to access government records without demonstrating any legal interest or standing, it can require a significant shift in the way state-society relationships are organized from need-to-know to right-to-know.

Most countries have only recently adopted RTI legislation, often after a difficult and contested process. As a result, a great deal of the research and analytical work that has been conducted in this area has focused on an analysis of the conditions and processes that lead to successful passage of legislation.

Studies about how laws are being implemented— if the necessary capacity and institutional measures for enabling people to exercise the right are in place and if access translates into higher-order goals like participation, accountability, and corruption control—are quite limited.

Case studies were prepared examining the experience of a number of countries that have passed RTI legislation within the last decade or so: Albania, India, Mexico, Moldova, Peru, Romania, Uganda, and the United Kingdom. Each country case study assesses four dimensions critical to the effective implementation of RTI legislation as follows:

- (1) The scope of the information that the law covers, which determines whether an RTI law can serve as the instrument of more transparent and accountable governance as envisaged by its advocates. Clearly, a law that leaves too many categories of information out of its purview, that does not adequately apply to all agencies impacting public welfare or using public resources, or that potentially contradicts with other regulations—like secrecy laws—will not be very effective.
- (2) Issues related to public sector capacity and incentives, additional key functions and demands within the public sector created by RTI, entities responsible for these functions, and various organizational models for fulfilling these functions.
- (3) Mechanisms for appeals and effective enforcement against the denial of information (whether it be an independent commission or the judiciary); the relative independence, capacity, and scope of powers of the appeals agency, and the ease of the appeals process; and the application of sanctions in the face of unwarranted or mute refusals, providing a credible environment.

(4) The capacity of civil society and media groups to apply the law to promote transparency and to monitor the application of the law, and a regulatory and political environment that enables these groups to operate effectively.

The in-depth research presented in these case studies was conducted to examine factors that promote the relative effectiveness of these four

key dimensions when implementating RTI reforms, including institutional norms, political realities, and economic concerns. An analysis was conducted to determine which models have the potential to work in different contexts and what lessons can be drawn from these experiences to help countries currently in the process of setting up RTI regimes.

Acknowledgments

This case study is part of a larger project on implementation of right-to-information reforms. It was prepared by Jolanda Trebicka and Gerti Shella (Consultants, Albania), under the supervision of Anupama Dokeniya (TTL, World Bank). The team is grateful to Evis Sulko and Ana Gjokuta for their support and guidance.

1. Introduction

There has been notable legislative and institutional progress toward securing the right to information (RTI) in Albania since it first emerged as a political issue 20 years ago, but significant weaknesses in the functioning of the system remain.¹ Requests for official information are now widely sought by various elements of society—journalists, the business community, civil society groups, and individual citizens, but access is still a challenge, and an administrative culture of secrecy and confidentiality persists.

In the past two decades, Albania has made impressive progress in developing new legislation according to international and European Union (EU) standards; it demonstrates a degree of regulation (through formal rules, as expressed by its percentile ranking in the World Bank’s Doing Business database) consistent with other countries with similar gross domestic product (GDP) per capita.

However, implementation practices are below what is expected of a country at Albania’s stage of development.² According to the last European Community (EC) progress report on Albania (November 2010), “proper implementation of the legal framework remains a concern ... administrative capacity needs to be significantly reinforced, including filling the existing gaps, streamlining management of currently fragmented responsibilities, and ensuring proper horizontal and vertical coordination.” These gaps in the implementation and enforcement of existing laws and regulations, as observed by international partners like the EU, World Bank, Organization for Economic Co-operation and Development (OECD), and European Bank for Reconstruction and Development (EBRD), provide a partial explanation for why the country’s socioeconomic development lags behind that of its neighbors.

The political instability of the past few years has not helped the situation. The government has changed several times since Law 8503 (Right to Information about Official Documents) was adopted in 1999, and each change has led to the

reorganization or abolition of ministries and the redeployment or removal of senior public officials. Such instability affects the entire legal and administrative reform process and curtails the development of administrative capacity (including the setting up of systems and procedures and the training of officials) that would enable the effective application of the law as well as other reforms. This problem is accompanied by a lack of public awareness about the law at all levels of Albanian society—from the government to ordinary citizens.

Methodological Note. This case study combines a review of the legislation and secondary literature on the law (such as reports produced by national and international agencies) and interviews with public officials—including staff from the Ministry of Education and Science (MOES), Ministry of Health (MOH), and Ministry of Transport and Public Works (MOTPW); the institutions in charge with overseeing the implementation of the law; the People’s Advocate; stakeholders—civil society organizations who played a role in designing and monitoring the implementation of the law; donor representatives; members of Parliament; and experts who contributed to the development of the law.

The interviews were conducted in an effort to understand the implementation efforts and challenges since the passage of Law 8503. Detailed sector-based analyses show that implementation procedures and practices, including providing ATI through public relations, public awareness, legal rights of access, and other means, vary widely across the three central government ministries. A lack of coordination on this scale has a direct effect on citizens.

The case study assesses efforts in the three sectors in which the majority of government programs are being implemented: health, education, and transport and public works, and in the specific departments and implementing agencies that have dealings with the public, civil society, and media (especially those dealing with public information).³

2. Passage of the Law

Albania provides both constitutional and legal guarantees of the right to information. The current constitution, which became effective in November 1998,⁴ enshrined this right in Article 23. Seven months later, the People's Assembly of Albania approved *Law 8503, the Right to Information about Official Documents*, becoming the first country in the region to adopt legislation securing RTI for citizens. Article 23/2 of the law states that “everyone has the right, in compliance with law, to get information about the activity of state organs, as well as of persons who exercise state functions.”

Efforts to establish a constitutional and legal framework for citizens to access information date back to the early 1990s⁵ during Albania's transition from a Communist single-party system to a multi-party democratic system. In these years, citizens became free to demand freedom of expression and other rights previously suppressed. As with other political and democratic reforms undertaken during the initial stages of democratization, establishing the legal and institutional instruments to ensure citizen access to official information was an initiative of the political class who voiced a desire to support an open environment in the country.⁶ But pressures from the international community were also very important. The bureaucracy did not resist or try to block this initiative; in fact, the administration readily accepted all the legal changes proposed. RTI was something of a novelty at the time, often confused with freedom of expression.⁷

In the early period of constitutional development (1991–95), numerous drafts of the Constitution were produced, each seeking to incorporate universally accepted principles. In many cases, provisions of important international conventions were included verbatim; for example, Article 17 raises the European Convention on human rights to the level of a constitutional norm. The incorporation of RTI in the Constitution occurred in several stages throughout the 1990s. Article 8/1 of the Interim Constitution of 1991 recognized “the universally accepted norms and

principles of the international law.” RTI was sanctioned for the first time by Law 7692 (1993), which amended the Interim Constitution and abolished the old communist constitution of 1976. The name for Law No. 7692, amending Law No. 7491, is The Major Constitutional Provisions of the Republic of Albania (Fundamental Freedoms and Human Right).⁸

In response to the concerns of international community stakeholders working to support the new democratic state of Albania, the administration ratified the International Covenant on Civil and Political Rights (ICCPR) on October 4, 1991, which places an obligation on signatories to take positive steps to ensure that rights, including freedom of expression and information, are respected.⁹

Civil society was still at a nascent stage of development in the post-communist Albania of the early 1990s. Even as reforms to democratize institutions and establish instruments for protecting human rights were ongoing, civil society did not play an influential role in enshrining RTI when drafting the 1994 Constitution.¹⁰ The few established NGOs did not have the capacity to play an influential role. However, by the time of the drafting of the 1998 Constitution, a few NGO representatives were advocating for the inclusion of RTI.

The involvement of other stakeholders and interests groups was not a direct initiative of the political class, but occurred because the Organization for Security and Cooperation in Europe (OSCE) advised the Parliament to pay attention to civil society recommendations. However, only one legal expert from the Institute for Political and Legal Studies (IPLS) represented civil society on the drafting committee.¹¹ Only one consultation meeting with civil society stakeholders was organized by the Administrative Center for Coordination of Assistance and Public Participation (ACCAPP), an independent entity formed at the request of the government and sponsored by the OSCE. According to records (maintained in the archives of the People's

Assembly) of the discussions held at the meeting of the Parliamentary Commission on the Preparation of the Draft Constitution, a group of NGOs presented the commission with proposals for amendments to the Constitution to strengthen the legal provisions that ensure RTI for citizens. These proposals were eventually incorporated into Article 9.¹²

These changes occurred after the civil unrest of 1997 when the ruling Socialist Party expressed its commitment to reform the entire legal system. During the first years of transition under the Democratic Party,¹³ there were several instances of the withholding of information and attacks on the media. Law 8503 was drafted quickly, in part because of international pressure on the political class to break with its communist past and to respond to the unrest of 1997. One clear indicator of the emergency nature of the process was that the draft law was prepared and introduced by one person—a co-chair of the Committee on Constitution Drafting. Because the constitutional provisions for the law already existed, the governing coalition had a good reason to put the law in place as soon as possible.¹⁴ The Albanian Parliament approved a set of information laws in July 1999, including Law 8503 itself and several others that restricted access under certain circumstances.

Even as the current constitution was enacted by referendum in 1998, many European countries, including the United Kingdom and Germany, were in the process of introducing laws on the right of access to official documents.¹⁵ Albania's

Constitutional Commission (composed mainly of politicians) maintained an inclusive, open approach to international advice, and extensive consultations took place with other constitutional experts from a number of EU countries and the United States. The drafting process was also observed by the Venice Commission—an important Advisory Board of the Council of Europe. Albania, a member state of the Council of Europe, decided to elevate RTI as well as a number of human rights to constitutional rights. Article 48 (being especially relevant to the implementation of the Law on Access to Official Documents) provides that everyone, individually or collectively, may direct requests, complaints, or comments to public bodies that are then obliged to answer within a specified time period and under conditions set by law. Thus, public bodies have a constitutional duty to reply to requests, including those seeking ATI.

In September 2004, the London advocacy group for Article 19 released a Memorandum on the Albanian Law, making several recommendations to amend Law 8503. In 2007, based on these recommendations, the Centre for Development and Democratization of Institutions (CDDI), in cooperation with the Justice Initiative of New York, started revising some aspects of the law (definitions, scope, limitations, and modalities) to present final amendments to Parliament. These proposals were made public in March 2007 during a Civil Society Forum meeting in Tirana. In July 2010, the Parliamentary Committee on Education and Public Information Devices discussed and approved two draft proposals for amending the law but left the final decision to the People's Assembly, which, for unknown reasons, never discussed or voted on them.

3. Clarity and Comprehensiveness of the Legal Environment

3.1. Scope of Coverage

Law 8503 operationalizes Article 23/1 of the Albanian constitution, which states: *“The right to Information is guaranteed.”* Further, Article 23/2 declares that, *“Everyone has the right, in compliance with law to get information about the activity of state organs, as well as of persons who exercise state functions.”* Law 8503 applies to “public authorities” only;¹⁶ it does not apply to private companies that carry out public services. It covers all public authorities at the central and local levels. This is significant, because more and more privately owned companies are carrying out services formerly provided by the public sector. The term *public authorities* itself is also vague compared with terms in the legislation of other countries that either define or list *public authorities*; this is widely considered to be open to abuse. The vague and contested boundary between public and private commercial interests arguably constitutes a major shortcoming of Law 8503.

The ombudsman’s¹⁷ proposal to address this shortcoming¹⁸ was not endorsed by the Council of Ministers. In 2007 the CDDI and the Justice Initiative proposed that not only public officials but also physical or legal persons who benefit from public funds and who carry out public or administrative functions (such as private companies that have concessions or monopolies in water supply, energy supply, and the like) should grant access to documents that relate to the use of public funds.

3.2. Scope of Exemptions

Like all legislation addressing RTI, Law 8503 contains explicit exemptions. Information that is granted to one person may not be refused to any other person except when it consists of personal data about the person who was initially granted access. This exemption does not apply to the

personal data of those exercising state functions or public services or that are preserved in an official document—as long as these data are related to the qualities requested by law or legal acts associated with the duties performed.

3.3. Procedures for Access

One shortcoming of the law is the time limits set out for public authorities to respond to a request. Public authorities must decide whether to respond to a request for information within 15 days, and if they decide to respond, information should be provided within 40 days from the admission of the request. This timeframe has posed a problem, especially for the media; journalists claim that such a delay in receiving information hinders their work; international organizations have also been critical of this timeframe. For example, an analysis of the law by the London advocacy group Article 19 states that the 15-day decision-making period is in line with international standards but “the 40-day deadline for supplying information represents an unacceptable lengthy delay to responding to applications for information and is hard to reconcile with the shorter decision-making period.”¹⁹ This timeline is also clearly inconsistent with EC Regulation 1049/2001, which specifies that 15 working days is the maximum time limit for either refusing or granting access to official information.

3.4. Implementing Rules and Regulations

There are no common standards, regulations, or administrative guidelines followed across institutions to align their internal rules and procedures with the requirements of Law 8503; this is left to the discretion and willingness of the administration of each institution. Therefore, agencies have a degree of flexibility as to how they implement the law, such as in the appointing

of information officers and assistant information officers. Some institutions have been trying to develop their own internal regulations. For instance, the MOH has developed and published guidelines on a time limit for answering or refusing requests;²⁰ the Ministry of Justice has done the same for accessing information on its Web site through the Public Information Office. The Department of Public Administration (DPA) and MOH²¹ have published some instructions on their Web sites on how to obtain information from public agencies. Overall, the effect of this lack of centralized coordination is not positive. Attempts made by the People's Advocate²² in 2005 to draft implementing regulations defining the internal rules for information access (including procedures on how citizens can obtain information) failed because the Council of Ministers never approved it.

The United States Agency for International Development (USAID) has supported the oversight capacities of the law through direct assistance to the People's Advocate in drafting new regulations; it has also recently supported NGOs²³ in monitoring ATI in courts. In 2010, as a result of this support, the Ministry of Justice approved the Regulation on the Relationship between the Judicial Authorities and the Public, which is based on Law 8503. All district and appeals courts must implement the regulation, which aims to regulate internal processes that guarantee public ATI on court procedures and disclosure of judicial information. The regulation distinguishes between documents subject to limited access and those subject to unlimited access—which include all court documents for which there is no legal limitation on public access.

3.5. Broader Legal Environment

Law 8485 (December 5, 1999, the Code of Administrative Procedures)²⁴ also ensures the right to access information contained in official documents, even if the petitioner has no legitimate personal interest in the issue. In addition, the code outlines RTI²⁵ that applies only to participants in “administrative dispute resolution proceedings” and only for documents used in the procedure in question.

This law and Law 8503 were preceded by a number of laws with specific purposes. Freedom of thought and expression is protected by the 1997 Law on the Press and the 1998 Law on Electronic Media, both passed before the current constitution was even approved. The availability of official information is ensured by Law 8502 (Establishing the State Publication Centre); the aim of this center is to make state bodies, other public administration institutions, and physical and juridical persons aware of the laws and international agreements ratified or adhered to; normative acts of the Council of Ministers and of ministers and directors of other central institutions; other important acts issued by state bodies and institutions; and relevant legal literature in order to protect their rights and interests and consolidate legal and constitutional order (article 1/3).

This is complemented by Article 29 of Law 9000 (Organization and Functioning of the Council of Ministers), which provides for the publication of all decisions taken by the institution in the *Official Gazette of the Republic of Albania*, regardless of whether their nature is normative or individual and regardless of the time and way they enter into force. The law also provides for explicit obligations on the publication of government ministers' instructions in the *Official Gazette*.

A number of other important disclosure laws have also been adopted. Law 9049 on the Declaration and Control of Assets, Financial Obligations of Elected People and Some Public Officials stipulates that “data to be benefited from the declarations according to this law are made accessible to the public, in accordance with Law No. 8503.” Point 3 of Article 35 of Law No. 8652 on the Organization and Functioning of Local Government states that “public information in every commune and municipality is carried out in accordance with Law 8503 and rules set by the respective committee for this aim.”

There are also a number of laws that restrict public ATI. Law No. 8517 on the Protection of Personal Data (1999) allows individuals to access and correct their personal information held by public and private bodies, and is overseen by the ombudsman.

Law No. 8457 on Information Classified as State Secret regulates the creation and control of classified information. It was adopted to ensure compatibility with the standards of the North Atlantic Treaty Organization (NATO) and sets three levels of classification: top secret, secret, and confidential. Classified information can be left undisclosed for 10 years, but that period can be extended if it is believed that certain information should remain undisclosed. The law creates a Directorate for the Security of Classified Information to enforce security and safeguard rules. In May 2006, Parliament approved amendments to the law, creating a new category—*restricted*— that refers to information that if disclosed would “damage the normal state activity and the interests or effectiveness of state institutions.” Articles 294–296 of the Criminal Code penalize the release of state secrets by both officials and citizens with a penalty of up to 10 years for unauthorized release. Civil society groups and international organizations have strongly criticized these amendments.

Law No. 8839 on the Gathering, Administration, and Protection of Police Classified Information is relevant to all acts, official documents, audio-video recordings, computer-generated or stored data or documents, and/or any other material linked to police activity, specifically: public order and security, crime prevention, police organic structure and personnel, investigation techniques, and so on; and border surveillance service, public personalities, escorting, and other security protocols.

Unlike state secrets, these are considered to be professional secrets; the right to access such information is limited by law. Nevertheless, the limitations must be justified and, in the event of an appeal, the burden of proof falls upon the government.

4. Capacity

4.1. Organizational Arrangements

Law 8503 applies to all public agencies but does not provide for a single, centralized agency to coordinate the implementation of the law across agencies. A national conference organized by the People's Advocate (ombudsman) in December 2002 emphasized that, at the local and central level, functional information offices are not in place in most key institutions, nor have the institutions merged with other units.²⁶ Due to the continuing efforts of the People's Advocate to implement the law,²⁷ progress has been made across administrations, at the central and local level, to open Public Information Offices (PIOs) or public information centers (PICs) with the primary responsibility of offering information to the public.

The People's Advocate is tasked under Article 18 with overseeing Law No. 8503; the responsibilities of this office are also regulated by Law 8454 on the People's Advocate. The People's Advocate does not have the authority to order bodies to revise their decisions or to force them to answer citizen requests for information or services, but it has often reported deficiencies and violations of Law 8503 by public institutions to the People's Assembly. In cases in which citizens have addressed the ombudsman, it has asked the responsible public institution to respond directly to the citizen's request. But despite its interventions, the ombudsman seems to have had little positive impact on the implementation of the law. In 2007, the ombudsman, in cooperation with the IPLS and USAID, drafted a recommendation for approval by the Council of Ministers (Recommendation No. 177 of June 2006) to address citizen complaints. But despite pressure from the ombudsman and the USAID office, the council never passed the regulation.

4.2. Budget

The actual level of funds allocated to the implementation of Law 8503 has been arguably insufficient, especially in the ministries of education and health, where the need for active, ongoing communication with citizens is critical. It is difficult to accurately quantify how much has been allocated to ATI-related activities in total, whether at the central or ministry level; it is even harder to estimate at the regional (city) level. This is because of the way ministries and agencies prepare their budgets; that is, funds for ATI-relevant infrastructure and activities are allocated across programs rather than in their own category.

Because financial support comes in the form of grants from donors (for example, for training in information technology, or IT), many financial transactions related to donor contribution do not go through the treasury; it is, therefore, impossible for the treasury system to track this information. However, it seems reasonable to conclude that allocations for implementing the ATI law have increased somewhat over time: before 2004–05 there were no PIOs in place. Today they exist in all line ministries as staff positions and in organizational structures.

Law 8503 does not specifically oblige the state administration, Ministry of Finance, and/or public entities to allocate specific funds for its implementation. Still, there has been a trend over recent years for ministries to seek and allocate funds for activities such as Web sites, conferences, workshops, public awareness campaigns, and other initiatives, to create an environment in which citizens have quicker access to more information. In 2011, for example, the MOES allocated around \$160,000 for public awareness activities; last year it spent around the same amount on the implementation of Law 8503. But an interview with the director of budgets at the Ministry of Finance revealed that the government does not prioritize these requests and the amount of funds that are allocated is relatively minor.

International donors are the major alternative sources of funding for ATI-related activities. To fulfill the development objectives of increased transparency, accountability, and ATI, donors are encouraging the implementation efforts of all the ministries and sectors involved.

The government has initiated a competitive grant of around \$500,000 for NGOs to develop projects that improve transparency, cooperation between the government and citizens, and government accountability. In the first call-for-proposals round, however, the Agency for the Support of Civil Society (ASCS)²⁸ did not support any project proposal that specifically promoted RTI in Albania (among 52 winning proposals, only one or two suggested an increase of transparency through civil society action and/or contribution).

4.3. Staffing and Training

The number and quality of staff, their level of training, and the overall institutional capacity constitute significant challenges to the implementation of Law 8503 in Albania. In general, knowledge about the ATI law among civil servants is poor, although some supportive structures exist and some officials are trying to make more information available to the public.

At the local level, PIOs and PICs were originally established in the country's big municipalities. Different models were introduced to provide new practices of communication that would enable decentralization.²⁹ The slow rates of decen-

tralization were reflected in a lack of transparency and poor quality of services. In general, PIOs and PICs provide information on services and departmental tasks (for example, decisions made by the municipal council) to the local media, business community, and general population. They also help citizens solve individual and collective problems, including assisting them in making requests for information and collect feedback from citizens on issues concerning community life and the quality of local government services.

At the central level, ministers prefer to use spokespersons to deliver information to the media rather than building the infrastructure and staff needed for the implementation of Law 8503. This attitude indicates a management culture that negates the equality principle of the law (that is, that the law should treat all users equally). Even in existing offices, most requests for information and complaints are handled informally through personal contacts within the public administration.³⁰

As table 1 shows, according to the interviews conducted for this study in 2010, the three ministries had different structures for enabling public ATI.

Although there are many similarities between the MOH and MOES in terms of their mission and objectives—and even the number of staff at the central and local level—table 1 shows that the

Table 4.1. Operational Units and Personnel Allocated to ATI Activities

Ministry	Directory	Sectors	Specialists	Total
Ministry of Education and Science	Public communication	Media and public affairs	2	6
		Publication and marketing	3	
Ministry of Health	Integration, foreign affairs, and public affairs	Integration		1
		External affairs	1	
		Public communication		
Ministry of Public Works, Transport, and Telecommunication		Public Information Office	2	2

Source: Interviews with PIOs in all three ministries.

MOES considers public communication important enough for the ministry to have established a separate office dedicated to handling it. By contrast, at the MOH, there is only one public communications specialist and in the Ministry of Transport and Public Works, there are two. The way these ministries are organized reflects the importance that political appointees give to public ATI. This is hardly surprising, given that the origins of the law lie in the political elite rather than pressure from the public or civil society organizations.

All ministries have a spokesperson appointed by the minister—a political appointee who handles most communications with the media and who is responsible for informing the public about a number of activities and issues. It is not clear whether or not these spokespeople were appointed as a direct result of Law 8503, but they are best understood as the voice of the minister rather than as facilitators of ATI. On the other hand, specialists, chiefs of sectors, and directors of public communication are civil service appointees approved by the DPA. Thus, there is a clear division between the functions of a spokesperson and a public communications specialist.³¹

The Albanian government has been allocating more budgetary and human resources to ICT; this is increasing ATI. Data provided by the DPA indicate that the Council of Ministers and ministries employ a total staff of 35 in public communication units and around 80 in IT departments at the director, chief of sector, and specialist levels, with each ministry employing an average of 6–7 IT staff members. The MOES is an outlier, with six staff persons dedicated to public communications.

Past surveys³² indicate that most civil servants do not consider Law 8503 relevant to their contact with citizens; only a few consider it as one of the top five laws they refer to when providing services. One reason may be that civil servants, particularly at the local level, do not have enough knowledge about the legal framework for citizen access and RTI or how it applies to their institution. For example, many public officials are unaware of the legal deadlines for answering citizen requests.

In 2002, the government decided to address this by making training on Law No. 8503 delivered by the Training Institute for Public Administration (ITPA) compulsory for every civil servant entering public administration before the end of his or her probation period. With contributions from international donors and support from the World Bank, EU, USAID, and other civil society groups, the ITPA has been organizing training courses on ATI since 2003. But even though this training is mandatory, our interviews and research suggest that most civil servants have not taken this course (only approximately 330 of 4,000 civil servants have).

Table 2 shows that a reasonable number of civil servants have attended ITPA courses, taking into account the relatively small number of relevant positions at the central and municipal levels. Unfortunately, these capacity-building efforts have been difficult to sustain because of high staff turnover and continuous changes in both government administrations and specific ministries. But there are no available data to analyze the negative effect of these changes on training budgets and efforts.

Table 4.2. ATI Courses Offered by the TIPA

2004	3 courses	72 participants
2005	3 courses	68 participants
2006	8 courses	109 participants
2008	1 course	16 participants
2009	4 courses	67 participants
Total	19 courses	332 participants

Source: Institute of Training of Public Administration.

Interestingly, one source of data that does exist—the TIPA’s own database—suggests that staff at the ministries examined earlier in this case study have received relatively little training. For the period 2004–09 (data for 2010 is not available), only eight members of the staff from the Ministry of Education and Science received ATI training: four from the MOH and five from the Ministry of Transport and Public Works, mainly because, while the cost of training is only US\$20 per person per day, the ITAP’s budget has been reduced over the last few years because of overall budgetary constraints, and ministries have been forced to

pay for their own staff training. According to the approved ITAP strategy (2011–13), “financing of the new Training Program will be a challenge that needs to be addressed for ensuring successful delivery of the training courses. The budget funds are limited compared to the needs identified for delivery of several training courses across public administration.”

Understaffing and political appointments are hampering the implementation of the ATI law in Albania and merit is not always the basis on which civil service staff is recruited. The difficulties in civil service recruitment and staffing also affect the implementation of Law 8503. The organic law called *The Status of Civil Servants* was adopted in November 1999, but even as reforms are continue, much still remains to do before the goals of the original law are achieved. Frequent restructurings, especially in the MOES and MOH, have had a negative effect on public communication specialists. The politically motivated turnover of public employees has continued, intensifying since the formation of the new government in 2009; this has undermined the competitive recruitment procedures required

under the Civil Service Law and perpetuated the politicization of the public administration.

4.4. Records Management

Records management systems have not yet been fully developed in the line ministries. In general, the record management system is still paper-based; digitalization of records management system is in a very earlier stage of development.

The Law on Archives sets rules on how to record, retain, and conserve information in each institution. All public institutions must maintain regular registers and archives for storing documents up to a specific time period and should have an office and staff dedicated to this task. The National Archives has its own staff and facilities as well as legislation, but until now, the process of compiling and providing information has been solely paper-based. Because of the great amount of information requested, the Swiss government is now supporting the process of digitalization of the National Archives of Albania, making it necessary for standard rules regarding digital archives to be defined.

Box 4.1. Public Information Center, Municipality of Tirana

In 2003, the Public Information Center (PIC) was opened in the Municipality of Tirana. At the same time, the municipality issued citizen report cards (CRCs) to obtain citizen feedback on municipal services. Both the PIC and CRCs have improved the capacity of local stakeholders (Tirana citizens and NGOs) to monitor and evaluate the delivery of public services. Tirana citizens can register complaints about municipality services at the PIC, helping direct the municipal management’s attention and intervention to areas of citizen concern. By helping the municipal management establish priorities for the annual municipal budget, the CRCs allow Tirana’s citizens to participate in the city council’s decision-making process.

The PIC has increased and improved the capacity of the municipality of Tirana to communicate with its citizens. Before its establishment, only about 300 citizens were able to contact the municipal staff; within one year that number had increased tenfold to approximately 4,000 people. The timeframe for providing information to citizens was shortened by 10–15 days (from 45 days to 30–35 days). Prior to the PIC’s establishment, businesses and citizens would directly approach department staff in charge of providing licenses, certificates, and other documents, but with the new PIC structure, this contact has diminished, reducing the level of petty cash corruption.

Source: World Bank 2003.

Recently, the Council of Ministers approved a decree on the design, implementation, and operation of information systems (pursuant to paragraph 3 of article 21 of Law 10273 on Electronic Documents), which orders all institutions to provide a separate system for continuity of work (Business Continuity Center, BCC) and for information storage (backup) to provide 24-hour uninterrupted service. In addition, institutions developing new systems in the IT field must provide a system maintenance agreement (service-level agreement or SLA), as part of the investment for these systems.

4.5. Information Technology

Beginning in 2007, the government has taken serious steps to digitize many public services and develop an information society services system. Legislation is being prepared in line with the *acquis communautaire*.³³ The National Agency for the Information Society (NAIS), established in 2008, has been integrated into the Ministry for Innovation and Information and Communication Technology; it is responsible for information society reforms and their implementation. Other institutions in this field are the Agency for Electronic and Postal Communications, the Commissioner for Personal Data Protection, and the National Authority for Electronic Certification.

A “Cross-cutting Strategy on the Information Society 2008–13” is being developed based on European best practices that will take into account features of the Albanian economy and society. The growing use of IT is the cornerstone of a strategy to create an information society that places a special focus on the promotion of good governance through online services—government-to-business, government-to-citizens, and government-to-government. The government portal³⁴ is highly instrumental in ensuring the implementation of this concept; it offers an access point for the three groups.

Under a Council of Ministers order, all ministries and central agencies must have branded Web sites; therefore, important public information is now available online, including strategies and sector-wide related documents. There is also now a unified standard applied across ministries about the provision of documents not published on the Internet. In some cases, specific regulations, decisions, ministerial instructions, or orders of public interest are only listed rather than made available online directly, but they must still be accessible to those wanting to obtain them. In 2006, in an effort to increase transparency and citizen scrutiny of the decision-making process, the Council of Ministers added a section to its Web site featuring council decrees published immediately after each meeting.

Box 4.2. The National Albanian Archives Modernization Project

The project will be implemented over a four-year period, creating infrastructure to install the Scope-Archives program with legal standards and to have international agreements in the archival realm (ISAD-G). The project will ensure that the hardware and software moves the process of digitalization forward, and that staff and users of the system will be trained. The following processes were completed in 2010:

- Installation of the local area network (LAN) for the General Directorate of Archives in two buildings;
- A database (Oracle) that includes 1.5 million records;
- Version 4.0 of Scope-Archives, a program for inputting archival data; and
- The process of correcting inventories and the correcting and completing the cards is underway.

Source: National Archive Web site. www.albarchive.gov.al.

In addition, the needs of citizens and other information users need to be addressed. It seems that the information selected for publication on most ministry or agency Web sites is not based on any consultation with clients, public surveys, or on any assessment of information requests received by various users (citizens, media, civil society, or the business community). In other words, these agencies still need to publish more information about the activities that are of the most interest to the public.

Much has been achieved in the past three years, especially the improvement of services such as e-registration, e-licensing, e-tax, and e-procurement

for the private sector and businesses. Reports prepared by the USAID, the main supporter of these IT initiatives, quote interviews in which respondents express an increased satisfaction level with the e-services.³⁵ Nevertheless, as the EU Progress Report of 2010 points out, there are shortcomings with regard to data retention, unsolicited communications, itemized billing, and conditional access. The 2009 Law on Electronic Commerce needs to be amended to address the restrictions on providing information about social services that are focused on improving services through information technology. A broadband policy has not yet been developed, and investment in communication infrastructure is still poor.³⁶

Box 4.3. E-government Assessment

The National Agency for the Information Society (NAIS) has carried out an evaluation of the existing IT infrastructure within the central administration and identified areas in need of improvement.

- Increased awareness and knowledge across the public administration about the importance of IT in information systems and for good governance.
- Improvement of IT infrastructure in the public administration.
- The creation of standard definitions aimed at increasing effectiveness and productivity and lowering operational costs.
- Increased IT capacities, human resources, and the continuous upgrading of skills.
- Appointment of dedicated staff to provide information, and making a clear distinction between the job description of PIOs and spokespeople.

4.6. Monitoring

By law, oversight of the implementation of the ATI law is tasked to the People's Advocate (the ombudsman), which reports its concerns annually to the Parliament. It does not, however, conduct systematic monitoring and evaluation of the law's implementation or the performance of institutions in making information available. Instead, it bases its facts on reports and complaints logged by citizens and organizations to which information is denied.

There is no system in place to monitor requests for information submitted to ministries and agencies (such as the number of requests received and replied to within a certain period of time). According to a public relations specialist at the MOH, there is no capacity for recording or

categorizing public requests. Some officials keep records manually; while efforts are underway to introduce an electronic records and management system, it is not yet in place. Manual records are incomplete because they only cover requests handled by an individual rather than all those received by the ministry.

Interviews with officials from the MOH and MOES reveal that almost 90 percent of the requests are not of an investigative nature (such as how the budget of the ministry is being spent or if a particular type of service that was promised was delivered. Instead, people ask for basic information that is sometimes available online, such as where specific medications can be found, procedures for receiving diplomas, and deadlines for university applications.

5. Enforcement and Sanctions

5.1. Appeals

When a request for information is refused, complaints are resolved according to the Code of Administrative Procedures, and when these are exhausted, through the courts under the Code of Civil Procedures. The right of a citizen to receive judicial review of a refusal to provide information has never been exercised. There could be several reasons for this, including (1) a lack of knowledge among citizens on RTI and on the obligations of government officials and institutions to provide the information requested; (2) the excessive time needed for administrative review; and (3) a lack of confidence in the judiciary because of its reputation for corruption and inefficiency.³⁷ The only known case of this kind is that of the Centre for Development and Democratization of the Institutions (CDDI) suing the central executive institutions for refusing to release information in violation of Law 8503. However, the CDDI lost both cases in court, one in 2005 and the other in 2009.

Long delays in responding to requests poses a problem, as previously noted, as does the lack of safeguard provisions like those for so-called whistle-blowers. Because of the length of the average judicial process and the lack of citizen confidence in the judiciary, only a few recorded court appeals for denials of ATI. In addition, systems that ensure an efficient record's maintenance and management are not well developed. Due to the lack of information and data on appeals heard by the courts for violations of RTI, and no studies or special reports on the subject, it is not possible to be more precise about the effectiveness of the appeals procedures.

The legislation governing the People's Advocate limits its powers to expressing opinions and making recommendations; it can start an investigation into a complaint presented by an entity or citizen and can recommend a criminal investigation, court action, or dismissal of officials

for serious offenses, *but its decisions are not binding*.³⁸ Therefore the implementation of its recommendations depends on the agency manager's decision. Of the 325 complaints or requests that have been received by the People's Advocate, 118 cases have been addressed in favor of the citizens logging complaints.

5.2. Sanctions

One of the weaknesses of Law 8503 is the sanctions and compensation framework. Article 14 of Law 8503 indicates that the "sanctions applied in the case of failure to implement the law are defined according to the legislation in power for administrative offences." Provisions related to the execution of sanctions are generic. Article 17 states that "procedures ... for compensation of the damage (caused by the violation of provisions of law) are regulated by law."

Sanctions applied in the case of an administrative infringement are defined by Law 7697 on Administrative Offences. The Administrative Procedures Code³⁹ defines RTI as a fundamental principle of the functioning of the Albanian public administration. If an entity denies or refuses to issue the required information, citizens have the right to sue in court and the court has the right to apply sanctions according to the legislation in effect.

There is no practice or administrative culture across Albania's institutions for applying sanctions against employees for not following general policies on public ATI. In fact, there has not been a single case in which an employee has been penalized for refusal to release information. The law is also weak with its vague provisions stating that the Penal Code or Law 7697 on Administrative Infringements may apply in the case of violations, but it does not define the violations. Clarifying the definition of sanctions and the remuneration procedures would significantly improve the law's implementation process.

6. Compliance

Without written records, it is difficult to conduct a systematic analysis of Law 8503's implementation to determine what types of information people request or to identify issues and problems. The lack of official data is worsened by the fact that, even though some NGOs have taken steps to monitor the implementation of Law 8503, most civil society organizations have not addressed the broader issue of refusals, preferring to take their own requests up with higher authorities, the media or, in rare cases, the courts.

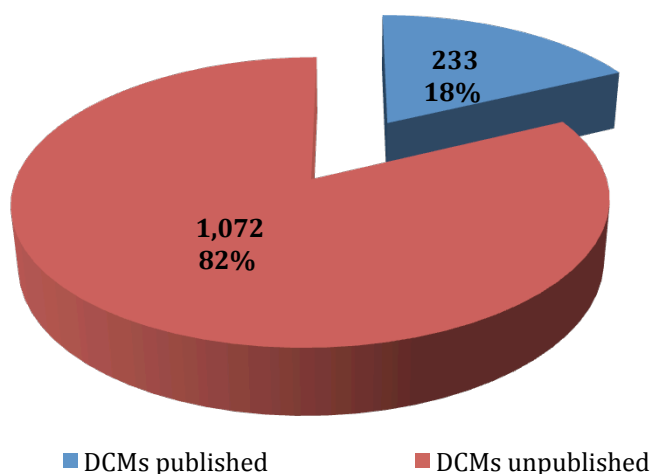
6.1. Proactive Disclosure

Although the publication of information is uneven across government ministries, several legal and sublegal acts are now published online. Until 2005, legal information—laws, decrees, or instructions—were published primarily in paper form, and there was no single source where information could be downloaded. With the support of the World Bank and EU, an electronic system for legal information was established at the State Publication Center.⁴⁰ The *Official Gazette* is now published on paper and electronically and in 2005, the government began publishing government decrees online after every meeting of the Council of Ministers, increasing transparency.

However, the information published often lacks consistency, especially with regard to secondary legislation. In 2009, the Center for Public Information Issues (CPII), supported by the Open Society Foundation in Albania, conducted a study to identify legal and administrative acts not published in the 2006, 2007, and 2008 *Official Gazettes*. The study was intended to assess the level of compliance by the two most important institutions—the Parliament and the Council of Ministers—with the legal requirements for the proactive publication of acts; it identified at least 465 decisions (both title and content) of the Council of Ministers not published in the *Official Gazette*.

In December 2010, the CPII released its second monitoring report on the three constitutional branches of power: the legislative, executive, and judiciary. The conclusions were disturbing: in 2009, 18 percent of the Council of Ministers (DCMs) issued decisions were not published in the *Official Gazette* (figure 6.1); only 5 out of 11 (45.4 percent) of the instructions issued by the Ministry of Public Works, Transport, and Telecommunications were published; and, according to the CPII's 2009 monitoring report, none of the administrative instructions issued by the MOH during 2006–09 were published.

Figure 6.1. Publication of DCMs in the *Official Gazette*, 2009



Even more troubling, only 3 out of 41 instructions issued by the minister of education during 2009 were published in the *Official Gazette*; in other words, 73 percent were unpublished, according to the CPII report in 2010. Comparative data from this study (figure 6.2) show that this ministry rarely releases the minister’s public instructions—only 7 percent were published in 2006 (93 percent unpublished), with only a little improvement in 2007. Though there was progress in 2008, when approximately half of the instructions appeared, the situation further deteriorated in 2009, illustrating how difficult it is for the public to access information—even on vital subjects like education. Businesses have faced similar problems with activities in the private education market.

The Ministry of Finance displays a similar approach; all the instructions were published in the *Official Gazette* in 2006, but the situation has since deteriorated, year by year (figure 6.3). In 2009, 41 percent of instructions were unpublished. According to the 2009 CPII Monitoring Report, the majority of the instructions of ministers in all 15 ministries were not published in the *Official Gazette* every year.

The publication of local government acts is even more rare. According to another study conducted by the CPII in June 2010, no municipality, except Tirana, published city council decisions on their official Web sites or in any local gazette.

Figure 6.2. Disclosure of the Minister of Education’s Instructions to the Public

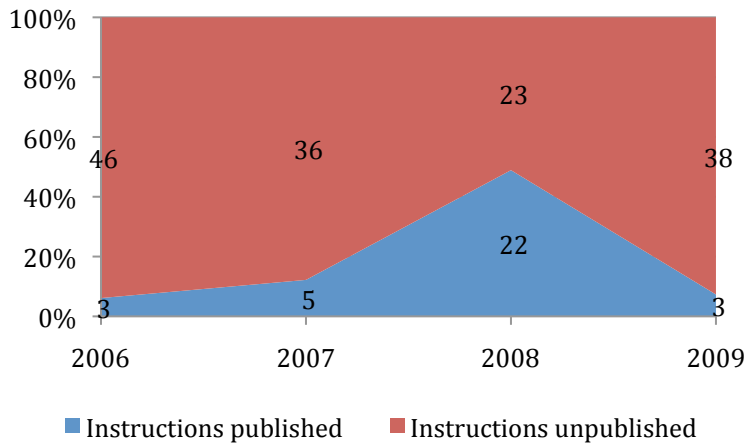
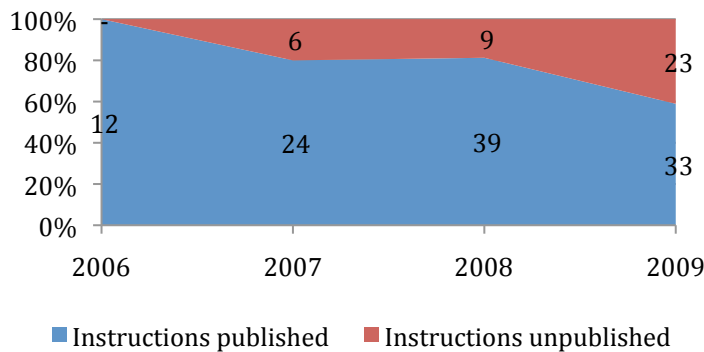


Figure 6.3. Publication of Minister of Finance’s instructions, by Year



Yet, there is one positive development to note. The State Publication Centre published an “extra” edition of 138 DCMs that were not published on time; this shows that pressure from civil society has a positive effect. In its 2007, 2008, and 2009 human rights reports, the U.S. State Department notes, “Most government ministries and agencies posted public information directly on their Web sites. However, businesses and citizens complained of a lack of transparency and the failure to publish regulations or legislation that should be basic public information.”

To increase the rate of publishing acts in the *Official Gazette*, the CPII recommended that the Ministry of Justice start a consultation process to consider adopting changes to Law 8502, including the introduction of online publications as a means to increase access to legislation and improve consistency across state publications as well as to avoid the delays and costs of *Official Gazette* publications. According to the CPII, the drafting process for new amendments to Law 8502 (ongoing since December 2009) is progressing satisfactorily.

Box 6.1. Access to Information and Accountability

Despite the concerns about accountability cited in various pieces of Albanian legislation, public officials who behave unprofessionally or who do not uphold their duty of serving citizens are rarely held accountable. Although there are disciplinary procedures for officials who act unethically or illegally in refusing to provide information to the public, the lack of a precedent for enforcing such measures, in addition to the absence of a clear system of appeals and a general lack of confidence in the judiciary, means that public confidence in the system of disciplining public officials is low.

There is no evidence that any public official has been disciplined for failing to comply with Law 8503, which led the People’s Advocate to propose stronger disciplinary measures in 2005. In the absence of effective formal sanctions, individuals who are refused the right to obtain information by a specific agency address their concerns to the People’s Advocate or report it to the media (the TV show “Fix Fare” is dedicated to investigating and reporting such cases).

Information disclosure has often been a sensitive issue which, given its negative impact on the Albanian process of European integration, has also impacted the overall political development of the country. The lack of electoral programs has become a major public concern in Albania as political parties fail to commit to transparency or to the better implementation of Law 8503. Despite pressure from the media, civil society, and international organizations, political parties fail to disclose information on campaign or party financing. Even the two main parties do not attempt to ensure open disclosure of this information. For example, G 99, a newly-emerging, left-wing political party, submitted an official request based on the provision of Law 8503 to the Central Electoral Commission (CEC) on January 28, 2010, for access to election materials (including ballots), referring to a similar case in the State of Florida in the United States during the 2005 U.S. presidential elections, but the request was rejected by the CEC.

Civil society organizations reacted to government decisions on the changes to the law on taxes immediately after they were published on the Council of Ministers’ Web site. Another good example of civil society pressure on government to be more accountable to its own citizens was the reaction of the Albanian Helsinki Committee that, on February 9, 2006, sent a letter to the Speaker of the Parliament requesting her to stop approval of the government-proposed amendment on the law for access to official documents, which was to add more categories of “restricted information” to ensure “the effectiveness of government institutions,” succeeding the stop approval of such amendments.

Progress is also being made in areas like procurement, as observed in the 2010 EC Progress Report. Legislation was approved in January 2009 requiring contracting authorities to use electronic procurement and to publish all procurement notices and tender dossiers on the Public Procurement Agency's (PPA's) Web site,⁴¹ a step that has improved ATI and reduced procedural costs.

In addition, information about legislation is open and published online through the State Publication Center's Web site,⁴² the use of e-governance systems is progressing, and more information is being made available to various target groups. For example:

The *business community* can access (1) the e-procurement system;⁴³ (2) the tax and customs systems;⁴⁴ and (3) the business registration system.⁴⁵

Farmers have an information system that provides prices for agricultural products—mainly fruits and vegetables—in some of the country's biggest markets, such as Tirana, Korce, and Fier. The data is processed and then uploaded onto the ministry's Web site.⁴⁶

Citizens can find information about (1) the education system;⁴⁷ (2) health services;⁴⁸ (3) labor and employment services;⁴⁹ and (4) the civil registry system.⁵⁰ Establishment of the government portal will ensure one access point for the three main categories.⁵¹

6.2. Requests and Responsiveness

Civil society groups monitor implementation, and several surveys have been conducted both at the central and local levels. The Soros foundation, EU, USAID, and other donors have financed NGOs in this area.⁵²

According to the CDDI and Citizens Advocacy Office (CAO)⁵³ surveys, many public requests for information, whether from individuals or civil society organizations, are treated carelessly and often ignored. There are numerous cases of administrative silence (that is, when the administration does not provide any response even when the time limit for providing information has been exceeded); this is more

often than not motivated by political and personal interests rather than by structural weaknesses.⁵⁴

The CPII, supported by the Open Society Foundation in Albania, conducted a study to identify legislative acts not published in the *Official Gazette* since 2009.⁵⁵ Additionally, the Europartners Development Center measured the public perception of the level of ATI provided by municipalities and immovable property offices in five cities in 2009–10.⁵⁶

Although there is a lack of hard data measuring the implementation of the law, most surveys conclude that many citizens are unaware of the existence of the legal framework and most public officials (both at the central and local levels) are unwilling to implement the law. Interviews with specialists in all three ministries as well as civil society representatives support this; they suggest that usage is lower than might be expected. A CDDI survey found that 87 percent of public employees were unaware of the law's existence, and very few institutions had appointed PIOs.⁵⁷ Still, investment in IT in several areas—such as public procurement, tax services, and legislation—did improve the situation. The last human rights reports issued by the U.S. government (2009, 2010) stated that: "During the year public access to information improved greatly, in large part due to greater use of the Internet."

Law 8503 provides that all requests to be treated equally, regardless of who is requesting the information. But it is well recognized—although there is no widespread evidence—that information is provided to journalists more freely than to ordinary citizens. But even journalists indicated during interviews that they often face difficulties in obtaining verbal or written information from government officials on specific topics during investigations of specific officials and institutions, behaviors and decisions against citizens, or the implementation of various policies or orders. This problem is also presented in a special edition of a private national television ToP Channel called "Fix Fare."⁵⁸

Recognized as a cultural or social phenomena rather than an administrative one, personal connections are important in obtaining

information from an institution quickly. Also, it is difficult for handicapped people to access information because of the lack of facilities at public institutions to ensure physical access.

Albanian legislation outlines no practice for publishing draft decisions or strategies online in order for the public to offer feedback. In the 2010 report issued by the European Commission, the EU raised concerns about this in sectors such as the environment, where information is limited and data unreliable: “Public awareness and participation in environmental decision-making and public access to environmental information remain weak.”⁵⁹

Requests were filed by the author to interview several public officials in the line ministries about fulfilling their obligations under the Stabilization and Association Process, and written requests were submitted to various departments within the line ministries as well as some subordinate agencies in order to determine the status of the implementation of specific actions. In some instances, the request was refused instantly and no information was provided (with the explanation that the officials were not allowed to provide information unless the permit was given by a minister or head of the institution), despite the fact that the request was accompanied by a “special authorization” issued by the head of the EU Delegation in Tirana, requiring all institutions to supply any information requested for this assignment.

Box 6.2. Income and Asset Declarations

The High Inspectorate of Declaration and Audit of Assets (HIDAA) was created in 2003 to help reduce corruption in Albania’s public sector. It audits all public officials and conducts investigations into conflicts of interest. Meanwhile, the Center for Transparency and Free Information (CTFI)—an NGO—monitors the activity and functioning of the HIDAA, particularly the level of transparency and the quality of information provided by the institution to the public, media, and other stakeholders. According to CTFI reports, the HIDAA has answered all submitted information requests in a “very satisfactory” manner. Until recently, the information was released based on some tariffs paid by those receiving the information. This practice has since been definitively abolished and the release of information is now free of charge. While the HIDAA’s goal is to promote transparency, Law No. 9887 on the Protection of Personal Data, exercised by the new Commissioner for Personal Data Protection (created in 2008), defines the rules and procedures for the protection and treatment of personal data.

On February, 5, 2010, the Inspector General of the HIDA, and the Commissioner for Personal Data Protection signed a memorandum of understanding to formally establish ways the two institutions would collaborate. According to the CTFI, the legal restriction to release all information processed by the HIDAA has not decreased either the quality or the quantity of transparency regarding the declaration of assets administered by this institution. Progress has also been made in establishing PIOs/PICs at the central and local levels.

Source: Center for Transparency and Free Information.

7. Conclusion

The transition process to democracy, and subsequently, the processes of NATO and EU integration, created incentives for the political class and the bureaucracy in Albania to demonstrate a commitment to openness. But the implementation of the ATI framework has faced a number of challenges including a culture of secrecy and disincentives created by vested interests to hampering proper implementation of the ATI.

7.1. Stakeholder Analysis

Freedom of information and transparency were championed by the ruling coalition in both its programs following the 2005⁶⁰ and 2009⁶¹ elections. The establishment of the public information centers and the application of information technology for active communication by the public with the central institution of the government has been highlighted since the 2005 program. However, months after taking the government, the Prime Minister issued an order placing the obligation to release information to the public on the administration only if the permission was issued by the head of the institution, a minister, or an agency director. This order was opposed by civil society and the international community. In October 2006, Parliament, through a press statement of the Director of Public Affairs, announced that live transmissions of the development of the plenary sessions of the People's Assembly of Albania were not permitted for private media. The Albanian Helsinki Committee (AHC) reacted against this decision as a violation of the right to ATI and called on Parliament to urgently restore the violated right to obtain information and to keep it transparent, not obscuring it with the drafting or adoption of formal procedures or administrative orders.

Despite problems in ensuring easy and open public ATI, adoption of the access laws have provided an opportunity to other stakeholders, particularly civil society and the business community, to participate and—to a certain extent—influence the policymaking process in

Albania. It has also provided more opportunities to media to play its important investigative role in fostering further public debates on different issues of public interest.

The influence of civil society on the policymaking process is occurring in different forms, such as establishment of sectoral working groups that also regularly support the preparation and implementation of a given strategy⁶² or in the development and implementation of national strategies⁶³ or laws.⁶⁴ Recent experience shows that the legislative process is more effective when remarks and suggestions from public-private-civic consultations are adequately reflected in laws or other strategic documents. There were a series of public consultations for reviewing the draft National Strategy for Development and Integration (NSDI) from 2007 to 2013; during October–November 2007, serious remarks were addressed on several parts of the draft strategy. The government, in response to stakeholder demands to improve the document, withdrew the draft from the Council of Minister's meeting agenda.⁶⁵

The use of access laws and the right to access information from the government, the judiciary, and Parliament has frequently been used by civil society organizations to put pressure on government agencies, justice institutions, and Parliament to be more transparent.⁶⁶

Importance of public ATI related to EU integration process in Albania. Programming and implementation of the National Plan for Integration, Stabilization and Association Agreement (or NPISAA) is primarily a responsibility of Albanian stakeholders—the executive, legislative, and judicial branches of power. However, close cooperation with civil society and various interest groups is crucial for framing the approximation efforts into a sound process. This cooperation, followed by an intensive consultation and brainstorming process with relevant actors, is particularly important in the framework of approximating domestic

legislation with the *acqui communautaire*. Increased access to strategic information related to policy development and participation of civil society, private actors, and other stakeholders into the policy development process contributes to the increasing quality of government strategies.

This level of advancement in the role of civil society and the influence of other nonpolitical actors (such as the business sector, media, and interest groups) on political processes as well as on the EU integration process continue to be factors for success. In fact, since the signature of the SAA and the entry into force of the Interim Agreement, not only are Albanian civic and private actors attempting to actively influence policy and decision-making processes, but they have often appeared very determined to criticize and influence EU-originating processes as well.⁶⁷

The role of civil society in lobbying for adopting or rejecting legal changes to the ATI framework has been also important; an example of this is the recommendations made to the government in 2008 to amend the Law No. 8503, For the Right to Information on Official Documents⁶⁸ in order to address deficiencies identified with its implementation; another example is when civil society took a critical position with regard to proposed amendments to Law No. 8457 of February 11, 1999 on Information Classified as a “State Secret.”⁶⁹

Another important stakeholder is the business community. It has both benefited from the implementation of RTI and the access legal framework and at the same time used the right to pressure the government or Parliament when their interests are put at risk due to decisions that have been taken or are to be taken by the government. ATI related to conditions to be fulfilled by Albania in the framework of the Interim Agreement⁷⁰ have been important in making the business community aware of the competition they must face while the Albanian market is integrated into EU market. Although representatives of some economic sectors were actively consulted by the Albanian negotiating team, the general reaction of the business community has been one of concern and apprehension. Representatives of the business

community are becoming increasingly involved in this process and they exert increased pressure on the government or show support according to their particular interests.⁷¹ There are two main institutionalized forums for consultation with business and other social groups: the Business Advisory Council, set up by the Ministry of Economy, which discusses all draft legislation affecting business (including regulatory reforms), and the National Labor Committee, which brings together representatives of the government, employers, and employees to discuss a wide range of social and economic issues. The former appears to be far more effective than the latter.

Recently, progress has been made regarding the introduction of ATI norms on private business activities. The World Bank *Doing Business 2010* report ranks Albania among 37 countries that stand out for having the strictest rules on disclosure of related party transactions as part of investor protection reforms in 2009.⁷²

Interviews with Albanian Construction Association representatives highlight that use of the ICT for enhancing public ATI has been important for establishing formal norms and practices that contribute toward increasing transparency on government information of interest to the business community while decreasing the power of official discretion for provision of information to the public. They confirm that information published in the Web site of the Ministry of Transport and Public Works, which is regularly updated, provides an opportunity for this businesses in this category to access on-time information related to investments projects that will be subject to upcoming bids. Additionally, the information published by the PPA through an e-procurement system is another avenue for the business community to get easy access to details on procedures, timing documents, and the like. Despite such progress, the use of ATI to increase the transparency of the government procurement process still must be improved in order to contribute to a further reduction in corruption.⁷³

Media is one of the most important information consumers; therefore, an ATI regime impacts the activity and quality of media of a country. The Albanian media currently, faces many challenges in fulfilling its mission of informing the public.⁷⁴

There are a number of structural barriers (Fuga 2010) that put limits on the quality and volume of information published, particularly those that are broadcast. A society that is highly dominated by politics is reflected in a media that is structured according to its political influences. Editorial pages have become more selective with facts based on political influences rather than by its relevance to the news and information of public interest.

During the election campaigns, the average citizen could easily classify the media according to political orientations. Public elections are a time when ordinary citizens have the opportunity to choose and to be informed about the platforms of various political parties and different candidates. As the fourth power, the role of media in informing the public and reviewing the activities of political parties is crucial for providing the public with balanced opinions and information free from political influence. All of the organs of the print and electronic media should be fair and balanced so that all citizens have the opportunity to decide for themselves for whom they should vote. Having direct access to public activities is important for an independent media. Tapes recorded by the political parties that are broadcasted on television should include the clear statement that the information is prepared by the given political party and should be treated as a political material. This could help viewers differentiate between journalism and political propaganda.

The quality of information offered by the media is also related to the information offered by the government. Press conferences held by spokespersons of state institutions or political parties are held frequently and have become routine, becoming one of the main means of direct communication with the media and public at large. However, the Albanian experience shows that this important communication tool is not adequately considered as an event to direct contact of public institutions with the public at large with the scope to inform, explain, deny, or oppose a particular issue; rather it is more often used as a tool to negatively react or reject published facts, especially in cases where the

head of the institution is affected.⁷⁵ Many press conferences do not fulfill their primary directive: to communicate with the public for the sake of transparency as a constitutional obligation; instead, they are often transformed into simple tools to show the work, to cover gaps, to respond to unfair accusations, and so on.

Despite a difficult and often unsupportive environment, investigative journalism is quickly developing in Albania. Investigative reporting permits members of the public to access a wide range of information; in turn, this allows for the necessary public debate of issues that affect the public. Investigative media—as opposed to media that always publish information approved for publication by the government—does not limit the publication of news and information of government interest, but it fulfills the goal of providing information that is in the public interest. There has been more written and television media coverage about cases of “office abuse,” corruption, and conflict of interest issues. Several cases have been presented to the public through the media, including the 2011 tendering scandal that led to the resignation of the Deputy Prime Minister. The resignation was also the result of pressure by the civil society after the scandal was made public.

7.2. Formal Institutions and Informal Norms

The decision-making process is highly centralized in Albania,⁷⁶ the delegation of power is not at a level that could contribute to further empowerment and accountability, and responsiveness towards the public. Despite the progress made so far, the government rules of procedures for ensuring full access of interested parties or civil society to the policy drafting process are not yet adequately developed.

No guidance has been provided to line ministries about how to create a participatory and consultation process, leaving its development to the discretion of each ministry on *ad hoc* basis. However, good examples exist nonetheless. As mentioned above, NSDI development was based on a consultation process at the sector and

central levels. Town planning is also an open process. A good example of this is the initiative in Tirana Municipality to inform citizens about the master plan for the development of the city by making it accessible to the public through the municipality Web site⁷⁷ and by placing the architectural model in the main square of the city in a closed but transparent area, allowing citizens to see how the new center of the city will look.

At the center of government there are effective arrangements for communicating with the media and the public, including inter-ministry coordination. The Prime Minister's office has the capacity to disseminate the information to the public, organize press conferences with media, and liaison with both international and national media. The government Web site is regularly updated. The Integrated Planning System is a set of operating principles to ensure that government policy planning and monitoring as a whole takes place in the most efficient and harmonized way possible. IPS is the key national decision-making mechanism for determining strategic directions and allocation of resources. In order to better communicate IPS to all stakeholders, the Department for Strategic and Donors Coordination has published the Integrated Planning System Communication Guidelines 2010–2013⁷⁸ to provide guidelines for various stakeholders to work together harmoniously and to exchange information and knowledge on IPS processes, implementation, and accomplishments. Another new mechanism for transparency and ATI related to foreign assistance that was developed at the central government is the Donors Database, a joint effort of the donor community and government institutions. The database provides up-to-date information on all donor assistance provided to Albania, including information on the projects by specific sectors and financial data. The database is intended to increase coordination and reduce overlap among donors and to better orient external assistance to the country's needs, strategic priorities, and sectors⁷⁹. Its publication on the government Web site provides open access to interested groups or citizens who would like to know more about foreign-financed projects in Albania.

While progress has been made to employ different mechanisms at the central level for ATI, the capacities in the line ministries still remain weak. There is no systematic process for developing a communications plan for each sector.

There are no comprehensive data on the total funds or budget allocations for the implementation of ATI at the government level. The strategy for e-government includes some data about the domestic budget and the donors fund committed for implementation of the e-government systems and investments in ICT, but these data are only for 2008–09. The budget planning process is decentralized at the ministry level, with the MEF providing the budget ceilings. Therefore, each line ministry and budgetary institution is responsible for specifying the ATI-related products, activities, and their related costs during the preparation of the Medium Term Budget Program (MTBP). The MTBP provides a mechanism that enables monitoring of commitment levels as well as the achievement of objectives for each ministry in implementing their own programs, including ATI and ITC systems. Although the budget planning is left to the line ministries, scarce budget resources provide a constraint to effective implementation of the ATI. All interviews in the line ministries confirm that ATI is not among the top priorities of the budget organizations; therefore, under competing priorities, budget allocations to such process are always limited. The e-government strategy is a good tool for ensuring that line ministries allocate sufficient resources for its implementation.

Despite the formal norms requiring the implementation of the right to ATI, informal norms contribute to its poor implementation, including the high degree of centralization with which the law is handled in the bureaucracy, a lack of awareness among citizens of their rights, and the pervasiveness of petty corruption in the relationships between bureaucrats and citizens. Although Law 8503 specifies a formal procedure for requesting information and deciding on requests, long-standing bureaucratic mentalities and practices favoring centralization of decision-

making still persist. Requests from citizens are routinely channeled through the Minister or Agency Head who then delegate the drafting of a response to the relevant departments based on the subject matter and nature of the reply. All interviews conducted for this case study confirmed two elements that are negatively impacting the outcomes of ATI laws: (1) decision-making on the release of information is quite centralized in the public service and as such, certain information can barely be accessed by beneficiaries and; (2) citizens tend to approach the heads of institutions directly because they only feel confident in the answer comes from this level.

But even in cases when information is submitted to the head of institution, information is denied or resistance is shown to release it. Civil society monitoring of the fulfillment of obligations in the framework of the SAA process began in 2008 with monitoring reports prepared by various representatives from civil society and supported by OSFA. The reports are also a good source of information for the commission structures to get independent opinions on progress made in various sectors, with emphasis on democracy and good governance.⁸⁰ However, the report emphasizes that the team who collected the information and conducted interviews faced difficulty in obtaining information from some public agencies, including the Ministry of European Integration. Another example provided during the interviews involved government debt toward a considerable number of construction companies that have paved national roads. The companies have not been reimbursed for certain services. In these circumstances, the Construction Association has made several attempts to obtain information on the debts, but they have not been able to obtain an accurate figure on the debt or the time when they can receive the money owed.

The behavior of officials in their direct interactions with citizens is often described as “not according to the ethical norms,”⁸¹ but rather based on “individual education or approach.” Different opinions are expressed regarding the behavior of officials working in private institutions like the banking system. According to interviews, the behavior of officials working at front desks or information points in private companies and

institutions is more led by formal norms for the release of information and by ethical rules than is the public sector.

Even citizens who are aware of the law identify a range of problems with the way in which it is implemented. Interviews and contact surveys conducted by the CAO and municipal governments (for example, in the cities of Korca and Shkodra in 2004) indicated problems that include delays in answering requests, the need to wait in lines for hours, the lack of professionalism and poor ethical standards in communicating with and handling the needs of citizens, a lack of explanatory notices and orientation information, tardiness and absenteeism from work, irresponsibility, and disrespect for the law, among others. A survey conducted by EuroPartners Development⁸² in the same cities in 2010 determined that the same problems persisted, albeit with some slight improvements.

Difficulties in accessing information and the lack of proper structures for doing so, have historically been sources of petty corruption in Albania, and in some agencies that deal directly with the public, bribing officials in order to obtain a service or important information remains a problem. Lack of awareness of their rights to be provided with information on request has arguably contributed to citizens continuing to pay bribes without being explicitly asked for a “hidden payment” because they anticipate that doing so will allow them access to information that would otherwise be unavailable (this is often identified in citizen interactions with the courts, immovable property registration offices, and offices issuing permits).

A general conclusion related to implementation of the ATI and RTI in Albania is that good progress has been made in developing the legislation and institutional framework supporting the implementation but the public information regime in place continues to have significant problems in its functioning. The reasons for this include problems with infrastructure, lack of sufficient political will expressed in the weakness of administrative capacity, and autocratic tendencies inherited from the administration; it is also conditioned by the shortcomings of the legal framework for RTI that has remained unchanged since 1999.

Albania has made progress in recent years in the establishment of an institutional framework and development of tools and mechanisms that ensure public ATI offices. The People's Advocate in the role of the ombudsman oversees the implementation of the law, but its capacities and power must be enhanced.

Political commitment to the implementation of ATI has increased during the years of the transition process, also imposed by requirements resulting from the of EU integration process. However, the centralized decision-making process and a lack of power delegation could undermine the proper implementation of the ATI framework.

Public Information Offices are established in different institutions at the central and local levels, and staff is in place to offer services to the public. Several training and capacity-building programs have been carried out within the administration, but there is still a concern about the weak capacities of the public administration to ensure proper implementation of the ATI regime. Ethical behavior and equal treatment remains a concern in the public sector compared with the most developed entities in the private sector.

Good practices are developed to ensure civil society and business participation into the decision-making process, but this process must be institutionalized to ensure sustainability and implementation across the public administration, and to avoid the use of discretion or consultation only on an *ad hoc* basis.

7.3. Recommendations

Albania is making progress building an information society and using ICT advantages for enhancing public ATI and transparency. However, low rates of using the Internet at the country level will slow the impact produced by use of the ICT in different sectors. Public Private Partnership initiatives could be developed for building proper IT infrastructure across the country.

The following steps must be undertaken to enhance the ATI:

Improvements to the law on the right of information to official documents. This remains the primary need. The law must be in compliance with the *acquis communautaire*. Possible changes to the law include:

- Widening the circle of entities that are obliged to provide information, including: natural or legal persons who serve public or administrative functions (for example, private companies that have monopolies or concessions for the water supply or electricity) and legal entities operating entirely or partially with public funds (for example, companies that are in the ownership or control of the state or profit or nonprofit companies owned by private persons that are subsidized by the state to a considerable extent);
- Adding exclusive criteria that provide an exhaustive list of criteria for withholding information;
- Reviewing deadlines for providing information and changing the term “working days” to “calendar days” for clarification; the use of the term “working days” has caused delays and extensions to deadlines far beyond what is provided by law;
- Developing information disclosure policies and rules for each institution and defining the list of documents that should be made available to the public;
- Developing specific mechanisms for disabled people have access to public information;
- Clarifying provisions that provide applicants with the right to obtain documents in their preferred format, including electronic, unless this presents considerable technical difficulties;
- Defining the costs to obtain for information in order to reduce the power of discretion among some entities that impose very high tariffs.

Harmonization of legal frameworks. All legislation intersecting with the Law on the Right of Information to Official Documents should be inventoried and harmonized to conform to the new law's procedural requirements. Alignment with the *acquis communautaire* should always be taken into consideration.

Develop mechanisms to assist citizens filling complaints when RTI requests are denied. The potential to develop a citizens' support network to provide guidance on administrative appeals and request procedures should be explored.

Include municipalities under the e-governance program. Municipalities are closer to the citizens; as such, citizen access to city council decisions or investment programs will provide opportunities for participation in decision making and easy access to information about municipal services.

Strengthen mechanisms for monitoring of the implementation of the ATI framework: Special research and polling should be done by specialized NGOs to help monitor and systematically test the implementation of the law by the government, both in quantitative and qualitative terms.

Intensify public education and awareness activities. Public education for individual citizens and for businesses is a prerequisite for further enforcement of the public information access regime. This should involve a combination of targeted press coverage, public education campaigns (with leaflets and brochures), and other types of information campaigns.

References

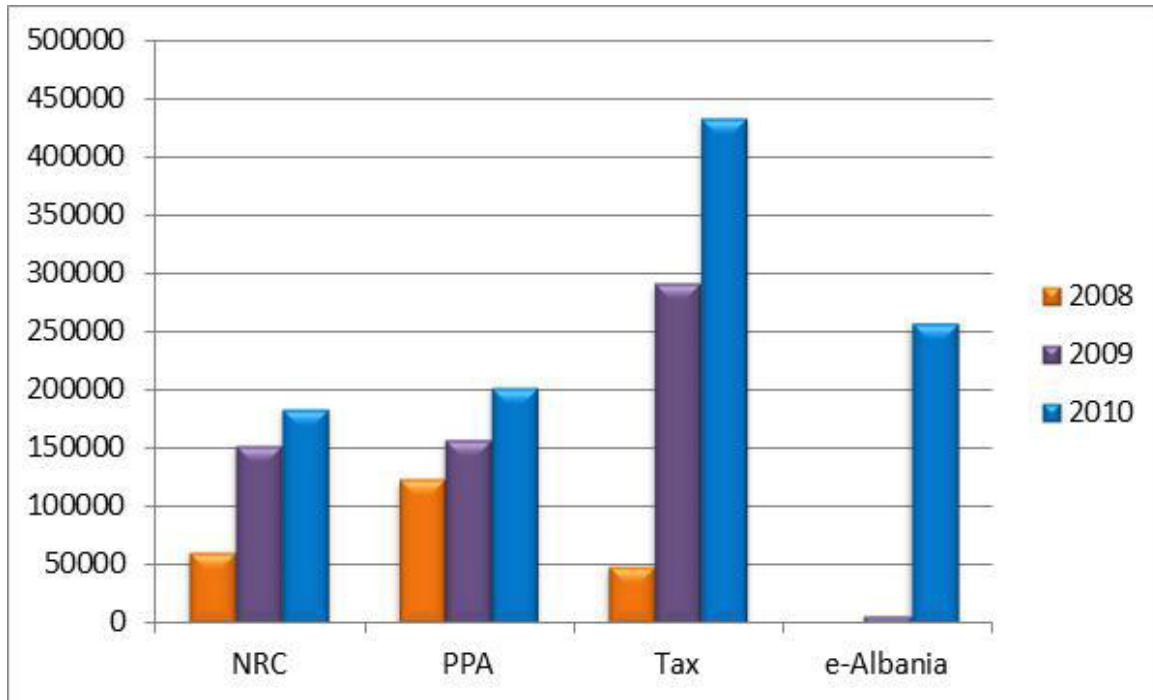
- Albanian Media Institute and Swedish Helsinki Committee. "European regulation and Albanian media legislation," http://www.institutemedia.org/documenta/research_and_monitoring/research/media_legislation/European_regulation_and_Albanian_media_legislation_A_comparative_analysis_of_the_main_standards.pdf
- Albanian People's Advocate. 2002, 2003, 2004, and 2010 Annual Reports.
- Banisar, David. 2006. "Freedom of information around the world, 2006—A Global Survey to Access to Information Laws."
- Center for Public Information Issues. 2008. "Acts' coming into force through publication in the Official Journal." *Official Journal of the Republic of Albania*. www.qpz.gov.al
- EC Progress Report (2009).
- EC Progress Report (2010).
- EuroPartners Development. 2010. Report on "Public Perception on transparency at local level."
- Government of Albania. IPS Communication Platform 2010–2013.
- Human Development Promotion Center and Euclid Network. "Country Strategy Paper for Albania." http://www.euclidnetwork.eu/data/files/country_strategy_albania.pdf
- Ibrahimi, Genti. 2003. "Law Commentary on the Right to Information." Institute for Policy and Legal Studies. Tirane, Albania.
- Ibrahimi, Genti. "Commentary—Law on the right to information in Albania," Institute for Policy and Legal Studies. <http://www.ipls.org/publications/summary/komentar-Idi.html>
- Loloci, Krenar. "Constitutional Debate, discussion at the parliamentary commission on the drafting of the Constitution," volume 1.
- Londo, Ilda. 2007. "Information Series for international documents and media—the Right to Information." Albanian Media Institute (March).
- National Plan for the Implementation of the Stabilization Association from 2009 to 2014.
- OECE Presence Declaration on the Right to Information in Albania <http://www.institutemedia.org/pages/research.html>
- Vurmo, Gjergji. 2008. "Relations of Albania with the EU." June 2008.
- World Bank. 2003. *Tirana Transparency Project Implementation Completion Report*.
- World Bank and the International Finance Corporation. 2011. *Doing Business 2011*.
- The speech of the Head of the OSCE Presence in the meeting with students of the University "Ismail Qamali" in the South. April 18, 2011.

Articles

- Tushi, Gezim. 2007. "Media's instinct and information of the public" *Shqip* (newspaper).
- Fuga, Artan. 2010. "Obstacles in public information." (July 5).
- Eberlei, Walter. 2007. "Social Development Papers—Participation and civic engagement" Paper 104, May 2007, World Bank, Washington, DC.
- Government of Albania. National Strategy for Development and Integration (NSDI) 2007-2013.
- Government of Albania Program 2005–2009.
- Government of Albania Program 2009–2013.
- Neuman, Laura, and Grand Cayman. "Implementing a freedom of information Law."
- CAO. 2003. Report on "The access to information."
- Open Society Justice Initiative and Centre for Development and Democratization of the Institutions. 2007. "Proposals for changes in the Albanian law on the right to information." Presented in the in Civil Society Forum Tirana, March 6, 2007.
- Center for Public Information Issues. 2010. "Transparency and Access to Information."
- World Bank. 2010. "Country Economic Memorandum." November. World Bank, Washington, DC.
- Ministry of Health "Udhhezimi mbi te drejten e informimit" (Albanian language)
- Carlson, Scott N. "The drafting process for the 1998 Albanian Constitution."
- OSCE, "Constitutional Debate, discussion at the parliamentary commission on the drafting of the Constitution," volume 1, 2006.
- NAIS. Cross Cutting Strategy for Information Society 2008–2013.
- Canka, Klodiana. 2010. "eProcurement in a transition country: A big step towards transparency in Albania." *EBRD Law in Transition Online* (October).
- GTZ. Strengthening Civil Society and Democratic Structures in Albania—Lessons Learned.
- Article 19: Promoting Practical Access to Democracy: A Survey of Freedom of Information in Central and Eastern Europe. October 2002.
- Justice Initiative Access to Information Monitoring Tool. 2004. Report from a Five-Country Pilot Study (September).

Annex

Figure A.1. The Use of Information Technology in Accessing Information



Source: Presentation from Irena Maloni, director of National Information Agency, December 2010.

Note: NRC = National Registration Centre; PPA = public procurement agency; Tax = tax department; e-Albania = government portal.

Notes

¹ SIGMA 2010. “Assessment Albania,” p. 19.

² Country Economic Memorandum, November 2010, World Bank.

³ Albanian Centre for Human Rights.

⁴ The current Constitution of Albania was enacted by a referendum in 1998.

⁵ The early period of constitutional development (1991–95) was associated with the production of numerous drafts of constitutions, a process that is regarded by legal experts as having favoured the incorporation of numerous universally accepted principles. In many cases, provisions of important international conventions were included verbatim, such as Article 17, which raises the European Convention on Human Rights to the level of a constitutional norm. The entire process of drafting the Constitution in 1998 was observed by the Venice Commission, an important Advisory Board of the Council of Europe. The first draft of the post-communist Constitution was proposed during the time of the Democratic Party leadership; it was rejected by Albanians in a national referendum in 1994.

⁶ OSCE, “Constitutional Debate, Discussion at the Parliamentary Commission on the Drafting of the Constitution,” volume 1, “Introduction.”

⁷ According to the interview with G. Ibrahim.

⁸ Published in *Official Bulletin No. 4*, 145. Article 2 of this Chapter, which is broadly concerned with the right to freedom of expression, and which states: “*The right to information shall not be denied to anyone.*”

⁹ The ICCPR, a formally binding legal treaty, guarantees the right to freedom of opinion and expression in terms very similar to the Universal Declaration of Human Rights. By ratifying the ICCPR, state parties agree to refrain from interfering with the rights protected therein and to take positive steps to ensure that rights, including the freedom of expression and information, are respected. Pursuant to Article 2 of the ICCPR, states must “adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.” In other words, states must create an environment in which a diverse, vigorous, and independent media can flourish and provide effective guarantees for freedom of information, thereby satisfying the public’s right to know.

¹⁰ Interview with Kozara Kati, executive director of the Albanian Centre for Human Rights (ACHR), the second NGO established in Albania (1991) after the fall of the communist regime, and Elsa Ballauri, the executive director of the Albanian Human Rights Group (AHRG).

¹¹ According to an interview with Genti Ibrahim, executive director of the IPLS (a think tank civil society organization) who was the key legal expert during the drafting of Law 8503.

¹² OSCE 2006, Constitutional Debate-Discussion at the Parliamentary Commission on the Drafting of the Constitution. Tirane.

¹³ The first years of the Democratic Party ruling the country include 1992–97.

¹⁴ The Council of Ministers, consistent with its constitutional obligation (Article 178, paragraph 2), started the process of drafting laws to implement the new constitutional right of access in 1998, the same year in which the Constitution itself was approved by referendum.

¹⁵ See constitutional debate, “Discussion at the Parliamentary Commission on the Drafting of the Constitution,” Krenar Loloci, volume 1 “Introduction.”

¹⁶ The law covers all public authorities at the central and local levels, including regional and local government units (that is, regions, municipalities, and communes).

¹⁷ The People’s Advocate (ombudsman) is tasked under Article 18 with overseeing the law. The ombudsman’s responsibilities in this regard are also regulated by Law 8454 of February 4, 1999, On the People’s Advocate.

¹⁸ In 2007, the ombudsman, in cooperation with the IPLS and with USAID support, made an effort to draft a regulation for the approval by the Council of Ministers (Recommendation No. 177 of June 13, 2006) that sought to address the complaints it was receiving from citizens. Despite the pressure from the ombudsman and USAID office, the regulation was never approved by the Council of Ministers.

¹⁹ In September 2004, “Article 19” released the “Memorandum on the Albanian Law on the Right to Information about Official Documents.” In chapter III of the memorandum, entitled “Analysis of the Law,” several recommendations were made to amend the Law No. 8503.¹⁹

²⁰ “Udhezimi mbi te drejten e informimit” (Albanian language).

²¹ See www.moh.gov.al/publiku%20PDF/udhezues%20per%20te%20drejten%20e%20informimit.pdf.

²² The draft regulation was prepared with the assistance of the Rule of Law project funded by the USAID.

²³ IPLS, the Center for Public Information Issues, and the Center for Institution Development and Democratization are the NGOs being supported by the USAID.

²² The first draft of the post-communist Constitution was drafted at the time of the Democratic Party leadership, but it was rejected by Albanians in a national referendum in 1994.

²⁵ OSCE established and financially supported the Administrative Center for Coordinating and Assisting Public Participation (ACCAPP; acronym in Albanian is QAKAP). On October 15, 1997, the ACCAPP opened in offices provided by the OSCE Presence in Tirana. The team of lawyers assembled by the Ministry of Institutional Reform designed ACCAPP. While it enjoyed the cooperation and support of both the Ministry and the OSCE, ACCAPP was designed as a quasi-nongovernmental organization administered by its directors and financially supported by various NGOs and foreign governments.

²⁶ People’s Advocate, 2002 Annual Report interview with the Director of DPA and the analyses of ministry structure.

²⁷ The Council of Ministers, consistent with its constitutional obligation.

²⁸ The ASCS was established on the basis of Law 10093 (2009); it works to encourage, through financial assistance, sustainable development of civil society and the creation of favorable conditions for civil initiatives to benefit the public, in conformity with Article 4 of the law and the priorities and strategies of the respective government programs.

²⁹ The World Bank and Dutch Government, through a trust fund, supported the opening of the PIC at the Tirana Municipality (Tirana Transparency Project, 2001–03); the USAID-supported establishment of PIOs in several cities; and the OSFA Public Administration Program that has supported the creation of citizen information centers/offices in 14 municipalities—4 percent of the total municipalities in the country. The nature of these facilities is diverse. In the towns of Kuçove, Gramsh, Rreshen, Lezhe, Permet, and Kelcyre the offices are modest. In Elbasan, the OSFA helped create a social services and information office, whereas in Kucova and Berat, the offices are more specialized to handle business-licensing procedures. In Durrës, Shkodër, Pogradec, Korçë, and Sarandë the offices represent integrated facilities offering a wide range of information.

³⁰ SIGMA 2010.

³¹ The duties of the public information officers are to enable access to information for the public with regard to the activities and services of the ministries, demonstrating to and supporting citizens to better understand administrative dispositions. The main task of the spokesperson is to maintain contact with the media and to communicate through the media the information relating to ministry activity.

³² CAO surveys (2004).

³³ The *acquis communautaire* is the accumulated legislation, legal acts, and court decisions that constitute the body of [European Union law](#).

³⁴ [www.e-albania.al/](#).

³⁵ Use of e-governance systems is progressing and more information is made available to different target groups (such as the business community) through: (1) an e-procurement system [www.app.gov.al](#); (2) a tax and customs systems through [www.tatime.gov.al](#) and [www.dogana.gov.al](#); (3) business registration system [www.qkr.gov.al](#); (4) electronic register for business related legislation [www.rlb.gov.al](#); and (5) for farmers, the establishment of an information system that provides prices for agricultural products, mainly fruits and vegetables, in some of the country's biggest markets, such as Tirana, Korce, and Fier, among others. Data is processed and then uploaded in the Web site of the ministry for citizens with information on (1) the education system [www.mash.gov.al](#); (2) health services [www.qsu.gov.al](#); (3) labor and employment services [www.mpcs.gov.al/institucionet-e-varesise/22-sherbimi-kombetar-i-punesimit](#); and (4) the civil registry system [www.dpshttr.gov.al](#). In the end establishment of the government portal will ensure access of all three main categories in at one access point [www.e-albania.gov.al](#).

³⁶ EU (2010).

³⁷ GTZ, USAID, and certain universities provided support for additional German and American constitutional scholars to assist in the process. Scott N. Carlson, "The Drafting Process

for the 1998 Albanian Constitution," Administrative Center for Coordinating and Assisting Public Participation.

³⁸ SIGMA 2010.

³⁹ National Plan for the Implementation of the Stabilization Association from 2009 to 2014, LIGJ Nr.8485, May 12, 1999, p. 36. [http://petani-lawfirm.com/www/foto/uploads/File/legislacion/Kodi_Proc_Administrative_2009.pdf](#).

⁴⁰ [www.qpz.org.al](#).

⁴¹ The PPA was awarded second place in the 2010 United Nations Public Service Award in the category of "Improving Transparency, Accountability, and Responsiveness in the Public Service.

⁴² [www.qzp.gov.al](#).

⁴³ [www.app.gov.al](#)

⁴⁴ [www.tatime.gov.al](#) and [www.dogana.gov.al](#)

⁴⁵ [www.qkr.gov.al](#)

⁴⁶ [www.mbumk.gov.al](#)

⁴⁷ [www.mash.gov.al](#)

⁴⁸ [www.qsu.gov.al](#)

⁴⁹ [www.mpcs.gov.al/institucionet-e-varesise/22-sherbimi-kombetar-i-punesimit](#)

⁵⁰ [www.dpshttr.gov.al](#)

⁵¹ [www.e-albania.gov.al](#)

⁵² Some initiatives include: CAO, with support of USAID (2003), the Centre for Development and Democratization of the Institutions funded by SOROS/OSFA has monitored implementation of the access to information and most importantly in relation with the court system, 'EuroPartners Development with support of EU funds and SOROS/OSFA monitors the implementation of the law and access to information since 2009 for the municipality and Immovable Registration System, in 5 cities; the Center for Public Information Issues monitors citizens' access to legal information.

⁵³ CAO 2003.

⁵⁴ See Open Society Justice Initiative and Centre for Development and Democratization of the Institutions, "Proposals for Changes in the Albanian Law on the Right to Information," pp. 8–9, presented at the Civil Society Forum, Tirana, March 6, 2007.

⁵⁵ [www.infocip.org/en/index.html](#).

⁵⁶ Cities of Shkodra, Korca, Fieri, Lushnja, and Puka; [www.europartners.al/index.php?ep=pb_det&pbid=17&menu=pb](#).

⁵⁷ CDDI 2003.

⁵⁸ [www.top-channel.tv/video.php?id=25014](#). FIKS FARE is a critical program that, through humor and satire, denounces negative aspects of Albanian life, including corruption, theft, violations of laws by officials, and violations of human rights. The show began airing in December 19, 2002, ; its format is entertaining: there is accompanying music and dancing during the entire show.

⁵⁹ EU 2010.

⁶⁰ See the government program (2005–09), page 9: "The Government considers that guaranteeing to individuals the

highest standards of the fundamental freedom of information implies on one hand, a maximum transparency of the government through free and full access to the activity and data of public institutions, up to the personal records of officials, and on the other, a true and fair observance of freedom of media and freedom of opinion. The government declares its highest commitment and dedication, considering freedom of information and transparency as the key tool for good governance and the fight against corruption. The new majority guarantees none of its political officials will bring a penal or civil suit against journalists and the media. In no case, will the Media be treated in a discriminatory way in pursuit of political or other ends.”

⁶¹ See the government program (2009-13): “The right to information, organization and expression will be implemented at higher level. Government is committed to a maximum transparency, respect for freedom of media, to a proactive process information and accountability, to support the activities of civil society while respecting its independence. Albania will continue to be country of unique standards in Europe and the world, where the administration can not file a civil suit or criminal to publish to the media despite what officials.”

<http://km.gov.al/?fq=preprog/programi>

⁶² Walter Eberlei (May 2007), Social Development Papers. Participation and Civic Engagement Paper. Nr. 104.

⁶³ The National Strategy for Development and Integration (NSDI) is a medium- to long-term document with a planning horizon covering the period 2007–13. It is the successor to the National Strategy for Socio-Economic Development (NSSD), which was presented by Albanian Government in 2001 and was the main government strategic document until 2006.

⁶⁴ On May 18, 2010, The Ministry of Environment, Forestry, and Water Administration organized an open consultation with interest groups and civil society on the draft law on environment.

⁶⁵ Approval was supposed to take place by the end of the year in 2007.

⁶⁶ In October 2005, when the privatization of AlbTelecom was intensely investigated by the Parliament, the Centre for Development and Democratization of Institutions (QZHDI)—an NGO specializing in public information law—urged the concerned ministry to make available a copy of the offer of Turkish company “Calik Enerji, which was declared winner of the tender. An application made under the 8503 law for RTI, was rejected by the Ministry of Economy with the claim that the ministry had signed a confidentiality agreement with all firms tendering. However, the ministry refused to submit a copy of such agreement, and even the intervention of the ombudsman didn’t have any persuasive effect.

⁶⁷ Albanian think tanks who opposed in December 2006 draft Law on State Police, prepared under the assistance of PAMECA Mission. In other cases representatives of the private sector have tried to influence various developments caused by the negotiation and implementation of the Interim Agreement, which might affect directly their activity.

⁶⁸ A group of experts, selected by the OSFA and Centre for Development and Democratization of Institutions in 2008, worked together to prepare a number of amendments to

Law No. 8503 (For the Right to Information on Official Documents. The proposed amendments were consistent with the most advanced standards of European legislation and beyond. The final draft was a product of a series of discussions in the six public open meetings with representatives of public administration, members of Parliament, interest groups, media, and civil society. Lobbying in Parliament was another important moment, which was conducted with individual and joint meetings with MPs of all political sides, representatives of the parliamentary committee on information and media, with heads of parliamentary groups and the Minister of Justice. Even though a group MPs from the ruling majority and opposition undertake the initiative to include the discussion on the new the draft agenda of Parliament, yet the change of law has not taken place.

⁶⁹ The law sets three levels of classification: top secret, secret, and confidential. Information can be classified for ten years, but that period can be extended. In May 2006, Parliament approved amendments to the law, creating a new category called “restricted,” referring to information that if disclosed would “damage the normal state activity and the interests or effectiveness of state institutions.” These amendments were strongly criticized by civil society groups and international organizations.

⁷⁰ Once this enters into force, Albania has to deal with EU market competition.

⁷¹ See Center for Enlargement Studies. “Relations of Albania with the EU.” Study prepared by Gjergji Vurmo, Institute for Democracy and Mediation. Paper prepared in the framework of the project, Integration Perspectives, and Synergic Effects of European Transformation in the Countries Targeted by EU Enlargement and Neighborhood Policies,” June 2008. http://idmalbania.org/publications/en/Albania_EU_Relations_VURMO.pdf

⁷² Out of the 183 economies covered by *Doing Business*.

⁷³ Only the government authorities can enrich the content of the law through by-laws and they can establish additional transparent procedures that eventually facilitate the access to information. The Construction’s Association has suggested to the General Directorate of Roads to publish the individual offers to a bid, once the time of the submission is over. In this way all the process is very open and transparent to all construction companies, and the process would be less disputable and avoid any mislead of the bidding process. The GDR has not taken into consideration this request.

⁷⁴ Artan Fuga (2010) “Obstacles in public information.”

⁷⁵ Gezim Tushi (2007). “Media’s Instinct and Information of the Public.”

<http://www.gazeta-shqip.com/opinion/14c390a7cef09aa4d8bca19ed632c08a.html>

⁷⁶ See “SIGMA Report 2010.

⁷⁷ <http://www.tirana.gov.al/?cid=1,37>.

⁷⁸ The aim of the document is to propagate information in a structured manner in order to communicate to all stakeholders on the IPS implementation status and make them understand that it is an integrated process, not a fragmented one, and that it is a two-way process for

gathering as well as receiving information. The document contains general information about IPS processes and its institutional structures and makes an overview on IPS communication since its adoption by the Government of Albania in 2005. It intends to brief the government and stakeholders on past and current IPS-related communication activities. The document foresees and plans the IPS communication for the period 2010–13, which coincides with the new IPS implementing stage in all ministries, with an emphasis on securing technical assistance, organizational development, and improving ministry planning and budgeting capacity aimed at ensuring quality of implementation and further strengthening accountability mechanisms. See

http://www.dsd.gov.al/dsd/Platforma_e_Komunikimit_te_SPI_se_118_1.php

⁷⁹ http://www.dsd.gov.al/dsd/Donor_Database_33_2.php

⁸⁰ See “Country Strategy Paper for Albania” Human Development Promotion Center and Euclid Network http://www.euclidnetwork.eu/data/files/country_strategy_albania.pdf

⁸¹ See EuroPartners Development (2010), “Public Perception on transparency at local level.”

⁸² See the publication in the EuroPartners Development Web site: http://www.europartners.al/index.php?ep=pb_det&pbid=17&menu=pb