

Albania

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Capital: Tirana
Population: 3.1 million
GNI/capita: US\$7,520

Source: The data above was provided by The World Bank, *World Bank Indicators 2010*.

Nations in Transit Ratings and Averaged Scores

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Electoral Process	4.00	3.75	3.75	3.75	3.75	3.50	4.00	4.00	3.75	3.75
Civil Society	4.00	3.75	3.75	3.50	3.25	3.00	3.00	3.00	3.00	3.00
Independent Media	4.25	4.00	4.00	3.75	4.00	3.75	3.75	3.75	3.75	4.00
Governance*	4.25	4.25	4.25	4.25	n/a	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	4.25	4.00	4.25	4.25	4.25	4.50
Local Democratic Governance	n/a	n/a	n/a	n/a	3.25	2.75	2.75	2.75	2.75	3.00
Judicial Framework and Independence	4.50	4.50	4.25	4.25	4.50	4.25	4.00	4.00	4.25	4.25
Corruption	5.50	5.25	5.00	5.25	5.25	5.25	5.00	5.00	5.00	5.00
Democracy Score	4.42	4.25	4.17	4.13	4.04	3.79	3.82	3.82	3.82	3.93

* Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Two decades after the collapse of the Communist regime in late 1990, Albania has achieved some positive results in terms of Euro-Atlantic integration. Albania became a member of NATO on April 4, 2009. The Stabilization and Association Agreement signed by Albania with the European Union (EU) in 2006 entered into force in April 2009, and the procedure for considering the country's application for EU membership officially started. The parliamentary general elections held in Albania on June 28, 2009, were considered a positive achievement, meeting almost all of the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODHIR) election standards. However, irregularities were noticed in the vote counting procedure, as well as misuse of public administration and public goods. These problems were enough of a setback for the opposition parties to disagree with the overall assessment of the general elections. As a result, the Socialist Party (SP) chose to boycott the Parliament, and later, the local elections held in November. Albanian society remains heavily affected by the country's political polarization; politics influence the judicial system, media, and civil society, thus hindering the country's progress toward the consolidation of democracy.

National Democratic Government. Parliamentary elections on June 28, 2009, brought a coalition of parties from the Right and Left to power. The new government has asserted its commitment to European integration, which will include sweeping reforms in a number of areas. However, the Socialist Party boycott of parliamentary proceedings has greatly hindered the functioning of Parliament, and by the end of the year the parties had not reached any political consensus to solve the impasse created in state institutions. *Owing to the Socialist Party boycott of parliamentary proceedings, Albania's national democratic governance rating worsens from 4.25 to 4.50.*

Electoral Process. Parliamentary elections were held in Albania on June 28, 2009. The elections were conducted under a new electoral code adopted in a consensual manner by the Democratic Party and the Socialist Party six months prior to election day. For the first time, voter lists were generated electronically from the computerized National Civil Status Register. The elections took place in a highly polarized political environment. No major incidents were noticed, but the vote count process was disputed and legal complaints followed. *While meeting most OSCE commitments, the June 2009 elections did not fully realize Albania's potential to adhere to the highest democratic standards, although they were considered the best elections Albania has held so far and were recognized by international organizations and governments. Albania's electoral process rating remains at 3.75.*

Civil Society. Albanian civil society is at a crossroads and lags behind its peers in the region. Scarce financial resources, high donor dependence, and a substantial decrease in advocacy activities are some explanations for this stagnation, as well as decreased membership in associations and networks, and the lack of capacity of nongovernmental organizations (NGOs) in both urban and rural areas. Various segments of the civic sector were involved in the June elections, and several NGO leaders ran for parliamentary seats, primarily under the Socialist Party and G99 tickets; a significant number were elected, while the rest returned to civil society activities. This “revolving door” phenomenon between the NGO community and government should be seen as a healthy relationship, beneficial and refreshing to the political scene, yet it has cast serious doubts on the impartiality of Albanian civil society. *Albania’s civil society rating remains at 3.00.*

Independent Media. Albanian media have advanced in terms of technology, but the legislative framework covering free media is not yet complete. This lack of legal framework combined with little transparency in the funding of print and electronic media favors the interests of media owners and politicians rather than the public interest, and similarly hampers editorial quality. Media coverage of the June 2009 electoral campaign was divided in favor of the ruling party and the main opposition party, and smaller parties did not receive the coverage entitled to them under the electoral code. Reform of the public service broadcaster has stalled. Cases of violence against journalists have been sporadic, yet investigative journalism remains under threat, as demonstrated by the physical assault on *Tema* editor/journalist Mero Baze. *Owing to increasing intimidation of investigative journalism and the influence of politics over media regulatory bodies, Albania’s independent media rating worsens from 3.75 to 4.00.*

Local Democratic Governance. The polarization of political life at the central level of governance has had a negative impact on the work of municipal councils. The decentralization process is ongoing yet hampered by cuts to local budgets. Parliament passed a law lowering the tax rate for small businesses, which reduces the income of local governments in charge of collecting small business taxes. The central government has not taken any measures to compensate for these losses to local budgets. *Owing to cuts in the income of local governments, as well as the opposition’s boycott of local by-elections, Albania’s local democratic governance rating worsens from 2.75 to 3.00.*

Judicial Framework and Independence. The judicial system in Albania is not entirely independent, and Albania lacks an overall strategy for judicial reform. The government continues to take actions to intimidate judges and prosecutors while bringing politically sensitive cases to court. Two ministers were accused of abuse of office, but their cases were dismissed by the High Court on procedural grounds. The National Judicial Conference could not convene a meeting to replace members of the High Council of Justice (HCJ) whose mandates had expired because the two

major political forces could not reach consensus on adopting the National Judicial Conference Law. Delays and poor functioning of the justice system were observed throughout the year. The HCJ is in the process of increasing the number of judges in larger district courts to solve the backlog of cases. Court reorganization, although considered a positive step in increasing the efficiency of the judicial process, is not always accompanied by thorough preliminary studies by the HCJ or the Ministry of Justice. State institutions set a bad example with regard to the execution of court decisions, and the lack of trust in enforcement agencies has forced many Albanians to bring their cases before the European Court of Human Rights. *Albania's judicial framework and independence rating remains unchanged at 4.25.*

Corruption. Corruption continues to be a widespread phenomenon in Albania, and the perception of corruption in various public services remains high. Government efforts to tackle corruption have stalled at the strategy stage or are only selectively applied. Furthermore, the government's anticorruption strategy lacks a concrete timetable and mechanisms. Immunity of high officials continues to be an obstacle in the fight against corruption. Immunity served as grounds for dismissing the criminal case against Minister of the Environment Fatmir Mediu, accused in relation to the Gërdec ammunition plant explosion that killed 26 in 2008. *Albania's corruption rating remains at 5.00.*

Outlook for 2010. Albania's application for EU membership will be considered in 2010 and a response from the EU is expected by the end of the year. In the meantime, as it takes steps closer to EU membership, it is likely that the country will benefit from a visa free regime in the Schengen Area within 2010. More than half of the members of the Constitutional Court will finish their terms, and their replacement is of significant leverage as the Constitutional Court plays an increasingly crucial role in the functioning of key institutions and preservation of constitutional rights.

MAIN REPORT

National Democratic Governance

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
n/a	n/a	n/a	n/a	4.25	4.00	4.25	4.25	4.25	4.50

On April 4, 2009, Albania joined NATO, culminating the country's decade-long effort to fulfill criteria laid down in the Membership Action Plan (MAP) introduced by NATO in 1999. The positive response to the country's request for NATO membership encouraged the government to submit its application for European Union (EU) membership on April 28, two months before the general elections. After some delays, the Council of the European Union authorized the EU Commission on November 16, 2009, to prepare the *avis* on Albania's application for EU membership. Meanwhile, the Council did not include Albania in the visa liberalization regime of the Schengen Area, due to the country's lack of substantial progress in meeting the benchmarks of the agreement road map.

Albania's parliamentary life was relatively productive and positive in the first half of 2009, although Parliament showed administrative deficiencies in harmonizing national legislation with the EU acquis. The cooperative political climate between the government and the opposition came to an end with the June 28 parliamentary elections in which the coalition led by the Democratic Party (DP) won 70 seats, followed by the coalition led by the Socialist Party (SP) with 66 seats, and the coalition led by the Socialist Movement for Integration (SMI) taking 4 seats. None received a sufficient number of seats to form a government.

Although SMI used harsh rhetoric against the DP, together they formed a governmental coalition. Consequently, Prime Minister Sali Berisha succeeded in forming a new government in coalition with SMI and the Republican Party (RP). The SMI, as the main coalition partner, secured the posts of deputy prime minister, minister of foreign affairs, minister of economy, and the ministry of health. The RP secured the post of minister of environment and water management for its party leader, Fatmir Mediu. Mediu served as minister of defense in the previous government, but resigned following the explosion of an ammunition dismantling plant in Gërdec in March 2008. The High Court dismissed charges against him in connection with the Gërdec explosion in September 2009 following his re-election to Parliament. His inclusion in the government caused heated political and public debates.

The new coalition hoped to accelerate the European integration process in order to catch up with advanced countries in the Western Balkans. However, the opposition's boycott of parliamentary procedures following the general elections created a crisis of unresolved issues around its claim that the electoral process was fraudulent and subsequent calls for a parliamentary investigation. Strengthening Albania's public administration is a precondition for successful EU accession,

but no improvements were noted during 2009. Particularly worrisome is the phenomenon of appointing individuals on a contractual basis as high turnover rates and politicization of civil servants at the central and local levels obstruct the effectiveness and professionalism of the public administration.

One of the most debated issues in 2009 was the adoption of the lustration law, which has often been misused by the political forces in Albania. Members of the opposition, the Albanian Helsinki Committee, and National Association of Prosecutors brought separate complaints before the Constitutional Court, which suspended implementation of the law in February. The Venice Commission was asked by the Court to deliver an *amicus curiae* opinion on the conformity of the lustration law with the constitution; issued on October 13, the Commission's opinion confirmed several constitutional violations, but by the end of 2009, the Court had yet to issue a final decision.

Albania's economy remained stable during 2009 and was not heavily affected by the global economic crisis. This stability was due to fiscal and regulatory reforms as well as the privatization of large-scale companies within strategic sectors, such as energy. Although these reforms had a positive impact on the macroeconomic stability of the country, they did not go through a fully transparent consultative process.

After the disputed privatization of the state oil company the Albanian Refining and Marketing Organization (ARMO), the government issued several decisions that favored the new private oil company. These were challenged in January 2009 by the *Shoqata e Hidrokarbureve* (Association of Hydrocarbons) before the Constitutional Court, which declared the decisions unconstitutional and also inconsistent with the EU—Albania Stabilization and Association Agreement and World Trade Organization obligations. Trouble persisted with ARMO when the Tax Office suspended its activities in the fall, claiming that ARMO had not paid taxes for over a year. Within hours, the state police confronted the tax inspectors and assisted the refinery in breaking the suspension order. This case showed a lack of cooperation between enforcement agencies and raised concerns about respect for the rule of law in Albania.

Electoral Process

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4.00	3.75	3.75	3.75	3.75	3.50	4.00	4.00	3.75	3.75

Parliamentary elections in Albania were held on June 28, 2009 and were considered a litmus test for the country to advance in the European integration process. The final report by the Organization for Security and Cooperation in Europe (OSCE)—Office for Democratic Institutions and Human Rights (ODIHR) Election Observation Mission noted that: “while meeting most OSCE commitments, these elections did not fully realize Albania’s potential to adhere to the highest democratic standards.”⁷¹ Still, the June 2009 elections were considered the best Albania has held so far and were recognized by international organizations and governments.

The polls were conducted under a new electoral code adopted in a consensual manner by the DP and SP six months prior to election day. The new code addressed several OSCE-ODIHR recommendations based on Albania's previous elections, in particular changing the electoral system and voter registration, but also related to the vote count and the complaints and appeals process.

The new electoral code introduced a system of regional proportional representation to replace the previous controversial system and eliminate the so-called *dushku* phenomenon, which had plagued earlier elections and allowed the transfer of votes and the distortion of the electorate's will. As the previous system favored the representation of smaller parties in Parliament, the DP and SP instructed their supporters to vote for ally parties in the ballot of the proportional list, and also represented their candidates under smaller parties' lists. The new, regional, proportional representation system favors two main political parties and makes it difficult for the smaller parties to reach the parliamentary threshold. The new code also established an obligatory 30 percent quota for women in Parliament, but it was not appropriately implemented by most parties. Nevertheless, the number of women in Parliament increased notably from 6.4 in 2005 to 16.4 percent in 2009.

Under the new electoral process, voter lists were generated from the computerized National Civil Status Register rather than from the frequently changing paper records kept at local offices. Furthermore, the DP and SP consensually approved keeping an online record of the vote. However, these improvements were overshadowed by the politicization of different technical aspects of the electoral process, such as the issuance of identity cards. The new code sanctioned voting only with a passport and/or identity card. As the production of new identification documents began only 5 months before election day, the main priority was to issue identity cards to around 730,000 eligible voters without a valid passport. Considering the deadline to provide all citizens with reliable identification documents before June 2009, the late start of this process raised concerns that a significant number of voters might not be able to vote on election day. That proved to be the case; 257,000 citizens without a passport could not vote.²

The elections took place in a highly polarized political environment. Members of the opposition expressed deep mistrust in state institutions and the elections' administration. On the other hand, public administration officials were involved in the electoral campaign supporting the activities of the ruling party. During the campaign, the media reported that public sector workers were pressured to attend ruling party campaign events or to desist from opposition activities, as well as the use of public assets by ruling party candidates who were running on the DP ticket.

Nonetheless, the elections took place without major incidents, though a few familiar shortcomings were noted, such as family voting (one member voting for an entire family or his/her relatives) in rural areas and a lack of proper training for election administrators. Major political parties recognized the calm atmosphere and absence of violent acts. This was not the case during the vote count, where the process was blocked in 3 out of 12 districts for several days, leading to delays in announcing the election outcome. The Central Elections Commission's official

results were made public one month after election day, with the DP-led coalition receiving 70 seats, the opposition SP-led coalition taking 66 seats, and the coalition led by the SMI winning 4 seats. As SMI joined the government coalition, the coalition reached the required number of seats to form the government. Under the new system, only three other small parties reached the parliamentary threshold with one member of parliament (MP) each.

According to the final election results, the DP-led coalition gained 23,000 more votes than the SP-led coalition while in the contested districts—Tirana, Berat, and Shkodra—the seats were won with less than a 1,000 vote difference. The SP claimed severe irregularities in these three districts and requested a recount. Based on the new electoral code, a recount and re-evaluation can be carried out when two members of the Central Elections Commission (CEC) request to do so. Two opposition-nominated CEC members asked for a full recount of the disputed ballots, but the request was rejected by the CEC and the Electoral College of the Court of Appeal of Tirana. The SP-led opposition then demanded the formation of a parliamentary committee headed by the opposition to investigate the electoral process, including an investigation of the ballot boxes. The SP claimed that it neither wanted to overthrow the final result nor invalidate the elections, since the legal battle for election results was over and there were no other legal means at their disposal. The DP-led majority agreed to fulfill some of these conditions, such as setting up a parliamentary investigative committee on elections and granting the SP the right to form a majority within the commission, but did not agree to recount the ballots due to legal constraints. Consequently, SP boycotted the new Parliament, and later, along with other opposition parties, boycotted five local government by-elections held on November 15, 2009.

The electoral code provides some provisions for the financing of political parties, but their scope and implementation are limited. The CEC is responsible for the implementation of these measures, but resources and administrative capacities are insufficient to guarantee full transparency.

Civil Society

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4.00	3.75	3.75	3.50	3.25	3.00	3.00	3.00	3.00	3.00

Civil society in Albania is generally free from state interference, but it continues to face many challenges. The public is skeptical of the role of civil society, which is mostly represented by small nongovernmental organizations (NGOs) that are fragmented and lack cooperation. Citizens are largely apathetic, with modest to low rates of participation in civic activities, volunteering, or membership in associations and networks. Consequently, Albania's NGO sector is considered to be in a period of "slippage," resulting in part from a lack of sufficient financial support and administrative sustainability. The central and local levels of government in Albania do not yet provide financial support for NGOs, which are concentrated in the

capital city, Tirana. Civil society is strongly dependent on foreign donors, whose agendas set the priorities of local NGOs.

In 2009, a significant number of high-profile civil society actors became active in the country's political life. Many joined political parties or transformed their roles to fit political organizations, in some cases as new members of Parliament. While the quality of policy- and lawmaking in Albania may benefit from the involvement of civil society figures turned politicians, NGOs may find it challenging to fill the human capacity gap created by this transition.

NGOs in Albania have played a limited role in the EU integration process by stimulating public debate on sensitive issues such as visa liberalization, human rights, and antidiscrimination. A new law on antidiscrimination drafted by NGOs has the full support of the government. Likewise, the government has started to consult a number of these organizations on draft laws, although their comments are not always taken into consideration. Human rights and watchdog NGOs have encountered difficulties in gaining cooperation from governmental structures as they monitor and report their activities. In 2009, the Albanian government included US\$1.2 million for civil society in the state budget, and in March, after intensive consultation with civil society organizations, the Law on the Establishment of the Agency for Support to Civil Society was adopted.

The legal framework on civil society organizations remains ambiguous regarding taxation. In order to be tax exempt, NGOs must receive a confirmation from the Ministry of Finance. Although the measure is not enforced and NGOs have not had to pay taxes, this requirement maintains a certain level of pressure and legal uncertainty on Albanian civil society groups.

There are still notable barriers to the normalization of relations between the government and trade unions. Both organizations for workers and those for employers are dissatisfied with the existing level of the tripartite dialogue. The National Labor Council is the major forum for this dialogue, which aims to reconcile the interests of the various economic players, ease conflicts, and maintain social harmony. The Council has been criticized for a lack of continuity in its work and because its views are not being sought on crucial political issues, such as privatization and financial legislation.

Trade unions are weak due to Albania's fragmented labor market and the large "gray economy" that still exists in the country. Newly proposed legislation under revision in the Parliament that seeks to reclaim properties previously transferred to the unions could further threaten their existence.

Independent Media

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4.25	4.00	4.00	3.75	4.00	3.75	3.75	3.75	3.75	4.00

Freedom of expression in Albania is guaranteed by the constitution. The country's media have advanced in terms of technology, but the legislative framework

covering free media is not yet complete. The Albanian media market has witnessed an expansion in the number of broadcast and print outlets, which compete for limited advertisement revenues and depend mainly on businesses to subsidize their operations. Combined with the lack of legal framework on the transparency of financial resources, this favors the interests of media owners and politicians rather than the public, and editorial quality is often hampered. Likewise, there is no self-regulation concerning the employment of most journalists, which jeopardizes the quality and ethics of Albanian journalism.

Reporters Without Borders noted the worsening situation in Albania in its Press Freedom Index for 2009, ranking the country 88 out of 175 countries surveyed compared with a ranking of 79 the previous year.³

The Electoral Code closely regulated how the June 2009 parliamentary campaign would be covered by media outlets. For the first time in the history of Albanian elections, campaign coverage was largely reduced to broadcast footage and commentary produced by political parties. Media coverage was divided in favor of the ruling party or the opposition party, while smaller parties did not receive the coverage they were entitled to under the electoral code. The Media Monitoring Board, an institution established by the Central Election Commission (CEC), failed to carry out its duties on assessing whether broadcasters fulfilled their legal obligations regarding the “pluralism of information” during the elections.⁴

Reform of the public service broadcaster, Radio Televizioni Shqiptar (RTSH) did not progress during the year. RTSH continued to be extremely biased, mostly covering the activities of the government. It has the broadest territorial coverage of the country, and with less than 10 percent of its budget coming from subscription fees, the state broadcaster remains financially dependent on government funding.

The National Council of Radio and Television (NCRT) has licensed 3 commercial television stations with national coverage, 69 local television stations, and 50 cable television stations. The international community has advised Albania to undertake legal and institutional reforms to ensure the credibility of the NCRT, but reform to strengthen its role and independence has stalled. For example, in November 2009 Parliament elected Endire Bushati as the NCRT chair, replacing Mesila Doda who was elected to the Parliament from the ruling party in the June elections. Chairwoman Bushati previously served as legal advisor to Prime Minister Sali Berisha, but has no previous experience working with the media.

The case of the daily newspaper *Tema* remained unresolved at year’s end. In 2008, the publisher’s 20-year lease on a state-owned building was interrupted without prior notice by the Ministry of the Economy and *Tema* was forced to move out. The Tirana district court suspended the decision, but *Tema* journalists were prohibited from entering the building and state police prevented the transfer of equipment to another location. *Tema* brought another complaint against the Ministry, and is seeking damages as the entire infrastructure of both the newspaper and its printing house are now at a standstill. Yet even these difficult circumstances have not stopped the newspaper from reporting on the unlawful actions of state authorities.

Cases of violence against journalists are sporadic in Albania. In November 2009, the owner and chief editor of *Tema*, Mero Baze, was assaulted by Rezart Taci and his bodyguards. The court issued an arrest order for Taci, a businessman who runs the former state oil company ARMO, and the case is set to go before the district court of Tirana. Prior to the incident, Mero Baze had run an investigative program on *Vizion Plus* in which he alleged that Taci had unlawfully privatized the state-owned oil refinery and smuggled oil using ties with family members of Prime Minister Berisha. Taci is also known for providing financial support to the ruling party during the electoral campaign, where he appeared in media spots next to the Prime Minister and his family. The Union of Albanian Journalists reacted to the violence against Baze by urging all media to interrupt their news broadcasts for five minutes, and representatives of the international community expressed their deepest concern, considering the incident a serious threat to media freedom in the country.

Local Democratic Governance

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
n/a	n/a	n/a	n/a	3.25	2.75	2.75	2.75	2.75	3.00

The structure of local government in Albania and its relationship with the central government is determined by the constitution. Decentralization began in 1998, and according to the law on local government adopted in 2001, local authorities exercise exclusive competences, delegated competences, and shared competences with the central government. Albania has also signed the European Charter on Local Government of the Council of Europe. However, in past years there has been a trend toward arbitrary interventions by the central government in local government affairs at the expense of the decentralization process.

The country's decentralization process is developing in two main directions: improving the legal framework for local government competences in compliance with the constitutional principle of decentralization, and implementing the subsidiary principles by working more closely with citizens. Reform is jeopardized by the lack of local financial autonomy, intervention of the central government, and unclear division of competences.

The 2009 parliamentary election had an impact on the performance and reform of local government in Albania with a number of diminished local competences and budget cuts. The polarization of the country's political life affected the decentralization process and some municipal councils faced difficulties in approving their budgets for several months.

In April 2009, the Parliament established an investigative commission to look into building permissions issued by the Municipality of Tirana, which had brought a complaint before the Constitutional Court over a clash of competences between the local government and the Parliament. The issue is pending before the Constitutional Court. Meanwhile, the commission continued its work, but only

with members of the ruling party as the opposition party's members refused to take part.

Albania still lacks a law regulating, or at least determining, standard financial procedures between the local and central government. In spring, Parliament approved a proposal to diminish the fiscal discretion of the local government in collecting small business taxes from 30 percent to 10 percent. Their proposal will also limit the authority of local governments to impose tariffs, thereby reducing local income from tariffs by 90 percent.⁵ A measure to compensate local government budgets for their losses has not been put in place.

On November 15, local representatives initiated a round of protests on the subject of financial autonomy, accusing the government of cutting local budgets as a way to balance the impact of the global economic crisis on the state budget. They asked the government to address their concerns with concrete actions, warning that they would otherwise use all democratic forms of protest to force the government to find an appropriate solution.

The process of transferring powers from the central to the local level in certain fields, such as water supply, has been quite slow. Two municipalities, Tirana and Himara, have started judicial proceedings against the central government for issues related to the transfer of power in this sector. In February, the Constitutional Court declared unconstitutional an attempt by the central government to take over competences from local authorities on issues involving the administration of the territory.

In 2009, a case concerning amendments to the Law on Legalization, Urbanization and Integration of Unlicensed Buildings that would transfer competences of local government to the state run Agency for Legalization, Urbanization, and Integration of Informal Buildings (ALUIZNI) was brought before the Constitutional Court by Socialist Party MPs. The Court declared the amendments unconstitutional. Regardless, in May the government adopted a Council of Ministers' decision foreseeing that local government responsibilities not executed in time by the local government would be transferred to the ALUIZNI. This move challenged the earlier Court ruling as well as constitutional principles, which clearly emphasized that the distribution of power may not be altered by a simple majority law or by a subordinate legal act, thus the government was overstepping its competence regarding local government.

At the beginning of November 2009, a dispute took place in downtown Tirana between the Construction Inspectorate of the Municipality and the state police, ending in clashes. The conflict arose over a decision by the government to halt construction on the City Center Plan approved by the Territorial Control Council of Albania in 2004. In October 2008, the Territorial Control Council of Tirana approved the plan based on an international competition, and ownership certificates issued by the relevant state offices. The government tore down the construction, stating that it would build a public park on the area that had been designated for private investment, calling into question the state's respect for the principles of decentralization and local autonomy. One of the investors affected by

the government's action is an owner of *Vizion Plus*, a TV media outlet known for its criticism of the government.

Judicial Framework and Independence

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4.50	4.50	4.25	4.25	4.50	4.25	4.00	4.00	4.25	4.25

The constitution provides a sound legal basis for judicial independence. However, the country's justice system is far from independent, and its reform process is at an early stage. The government continues to take actions to intimidate judges and prosecutors. For example, in 2009 the government again raised the issue of addressing communist crimes through a lustration law. Adopted in December 2008, the law targets judges and prosecutors and, among other things, foresees the removal of judges and prosecutors who served during the communist regime.

Although implementation of the lustration law was suspended by the Constitutional Court, the debate around it affected the judicial proceedings against former minister of defense and current minister of environment, Fatmir Mediu, and other high officials accused in the 2008 explosion of the Gërdec ammunition plant in which 26 people died. The main prosecutor of the Gërdec case, Zamir Shtylla, was personally attacked in the media by the prime minister for alleged criminal involvement in political persecution of citizens by the former communist regime. Shtylla resigned soon after the lustration law was adopted. The case against Mediu was later dismissed by the High Court in September 2009 on grounds that his immunity had been reinstated with his election to the Parliament.

In another matter, Minister of Interior, Lulzim Basha, was accused by the Prosecution Office for abuse of office in connection with a highway construction project during his service as minister of public transport and telecommunication. The trial against Basha involved courts at three levels in Albania and was adjudicated in two parallel lines before the District Court of Tirana, both ending up before the High Court, which issued two different decisions by different criminal panels. According to the constitution, criminal proceedings against persons with immunity must be dealt with by the High Court, which finally dismissed the case as a result of the contradictory decisions.

Albania still lacks a comprehensive strategy on judicial reform. As a result, the Parliament could not adopt the draft law "On Establishment of Administrative Courts and Administrative Dispute" submitted by the government at the end of 2008, which would establish specialized administrative courts and shorter judicial procedures for administrative disputes. The business community supported the adoption of the law, considering it an important step toward shortening judicial administration processes.

The debate on the National Judicial Conference (NJC) came up again after the government's failure to submit a new law to Parliament. Political representatives

encouraged judges to convene a meeting of the NJC without a law in order to replace members of the nine-member High Council of Justice (HJC) whose mandates had expired. The NJC law of 2005 was completely repealed by the Constitutional Court, which decided that the law requires a qualified majority to be approved. Yet, judges were divided on whether or not to convene the NJC under such circumstances.

The effectiveness of the judiciary remains a problem. Court reorganization began two years ago with the abolishment of eight courts in outlying areas of the country; the premises were preserved and judges were flown in from central courts as needed. In January 2009, Minister of Justice Bujar Nishani issued a decision closing court branches, with all sessions to be held instead at the central court building. This might have a negative impact on access to justice, as citizens are now obliged to travel long distances to have their cases adjudicated.

Determining the right number of judges for each court of first and second instance has been a long-standing problem in Albania. Larger courts have faced a tremendous backlog of cases. The high workload of judges has a negative impact not only on the delay of court proceedings, but also on the quality of judicial decisions. To ease matters, President Bamir Topi issued Decree No. 6265 on September 16, 2009, which will increase the number of judges in Albania and affect almost all courts of first and second instance. The HCJ is currently working on a methodology to organize the fair and transparent process of transferring judges between courts. Likewise, the HCJ is in the process of simplifying the problematic system of evaluating and promoting judges.

A draft law introduced in April 2009 on judicial administration was strongly opposed by judicial representatives as an attempt by the executive to control judicial power. Moreover, the Constitutional Court repealed the competence of the chancellor to appoint the judicial administration, declaring it unconstitutional following a complaint by the National Association of Judges. There is thus an urgent need to fill this legal gap as there is no authority vested with the power to appoint the judicial administration.

During 2009, Parliament passed laws related to legal aid and witness protection to improve the protection of citizens and witnesses in criminal trials. The law on legal aid is supposed to provide citizens with the right to legal defense, but has not yet been implemented and no budget has been allocated to support this. Albania has adopted a law on probation services, which is considered to be a positive step for the penitentiary system. When implemented, the law is expected to help solve the problem of overcrowding in prisons. Additionally, it will improve the rehabilitation of certain categories of detainees such as juveniles and women.

Although the number of implemented decisions in Albania increased in 2009, the number of unimplemented decisions was much higher (5,806 to 8,057, respectively, according to the Annual Statistics Report of the Ministry of Justice). State institutions continue to fail to enforce court rulings. In many cases, state institutions blame their failure to implement court decisions on budget shortfalls. The Constitutional Court decided in January 2009 that the failure of the Bailiffs

Office to enforce decisions is considered a violation of the constitution. A new law on private bailiffs, adopted in 2009, aimed to liberalize the enforcement services and thereby increase competitiveness while reducing corruption, but it has been implemented slowly with little improvement to the system. Other secondary legislation for the implementation of the law has not yet been adopted and enforcement fees are still under negotiation. In the meantime, an increasing number of complaints (up to 200 in 2009) over the state's failure to implement court decisions have been submitted to the European Court of Human Rights. These unimplemented decisions are often related to property issues and illegal dismissals from the civil service.

Corruption

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5.50	5.25	5.00	5.25	5.25	5.25	5.00	5.00	5.00	5.00

Corruption in Albania is a widespread problem not only for the government, but also for justice institutions and civil society organizations. Fighting corruption is a priority for most political and non-political actors alike. According to a U.S. Agency for International Development poll conducted at the beginning of 2009, “almost half of the sample (48.5 percent) believes that corruption has increased in comparison to the previous year, while 38 percent think that it has remained the same.”⁶ Trust in the country's major institutions is low, with the healthcare sector is reportedly the most notorious for corruption. Transparency International's 2009 Corruption Perceptions Index ranked Albania 95, down 10 positions from the previous year.⁷ The ranking shows that Albania remains one of the most problematic countries in the region with regard to the fight against corruption.

Governmental efforts to tackle corruption are sporadic, with a lack of cooperation between different state actors, and penalties are selectively applied. The Inter-Sectoral Strategy on the Prevention and Combating of Corruption adopted in October 2008, followed by the adoption of an action plan in January 2009, lacks a concrete timetable and mechanisms that can be monitored. Some progress has been noticed on the legislative and regulatory framework related to the business environment. The main purpose of these laws is to reduce bureaucracy and reform administrative procedures on taxes and public procurement, but their impact cannot be assessed yet. The implementation of the laws relies on new electronic procedures and systems, but is often jeopardized by poor infrastructure and a lack of experience in using this new technology.

Immunity for high officials is considered an obstacle in the country's fight against corruption, and lifting the immunity of MPs, ministers, and judges has been addressed several times in Parliament. The new parliamentary majority emerging from the June 2009 elections has renewed its promise to establish important legal regulations on immunity. Still, a stable legal approach to this issue has not yet been undertaken. Political actors are reluctant to cooperate with justice institutions on

pursuing corruption cases. Moreover, even when immunity is formally lifted for ministers, the government has demonstrated no will to fully cooperate with the judiciary; on the contrary, a threatening approach is often taken against judges and prosecutors. In one example, the immunity of Fatmir Mediu, former minister of defense and current minister of environment, was lifted in June 2008. Mediu was accused of abuse of office in connection with the March 15, 2008, explosion of an ammunition plant in Gërdec, followed by the initiation of a judicial process against him in May 2009 before the High Court. The process was deferred several times and finally dismissed by the High Court in September on the grounds that Mediu regained immunity when he was elected to Parliament. So far the General Prosecutor, Ina Rama, has not made an official request to remove Mediu's immunity.

Immunity was not an obstacle to the judicial proceedings against Lulzim Basha, former minister of transport and telecommunication and current minister of interior who was accused of abuse of office based on the criminal code. However, government pressure on the judiciary and Minister Basha's lack of cooperation with the General Prosecutor's Office did influence the court's decision. The High Court dismissed Basha's case, arguing that the Prosecutor's Office carried the investigation beyond the deadline foreseen in the Criminal Procedure Code. Both of the aforementioned High Court decisions were limited to the procedural aspects of the cases and did not address the accusations of the Prosecutor's Office against Basha.

The High Inspectorate for Declaration and Auditing of Assets (HIDAA), as the only institution responsible for gathering declarations from high public officials, is very limited in its ability to investigate these declarations. Only one case, involving the head of the Durres Prosecution Office who was forced to resign after failing to justify a questionable amount of money on his bank account, has produced results.

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- 1 OSCE-ODIHR Election Observation Mission Final Report, September 14, 2009.
 - 2 Ibid.
 - 3 Reporters Without Borders—World Press Freedom Index 2009, <http://www.rsf.org/en-classement1003-2009.html>
 - 4 OSCE-ODIHR Election Observation Mission Final Report, September 14, 2009, p.16.
 - 5 Interview with Albana Dhimitri, Deputy Mayor of Tirana Municipality.
 - 6 Corruption in Albania, 2009 Pool, Institute for Development and Research Alternatives (IDRA) Within the Framework of the Rule of Law Project of USAID.
 - 7 http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table.