



Criminal Offenses in Public Procurement in Albania: A Legal and Institutional Analysis

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Abstract: The research paper examines the pervasive issue of corruption in public procurement in Albania, highlighting its detrimental impact on the economy and the integrity of state institutions. Through a comprehensive analysis, the study identifies various forms of corruption prevalent in public procurement, including manipulated offers, bribery, and favoritism, and quantifies the economic losses attributed to these illegal practices. The paper delves into the legal framework governing public procurement, particularly focusing on the criminal offenses outlined in the Albanian Criminal Code, including Art. 258, which addresses the violation of equality among participants in tenders and public auctions. The study elucidates the role of the Special Structure against Corruption (SPAK) in combating corruption and the challenges faced in effectively prosecuting these offenses. The findings underscore the need for robust strategies to enhance transparency, accountability, and enforcement mechanisms within the procurement sector. Furthermore, the research proposes several recommendations aimed at improving the legal framework, increasing auditing capabilities, and fostering collaboration between enforcement authorities and civil society to curb corruption in public procurement. Ultimately, the study emphasizes the necessity for ongoing reforms to ensure the integrity and effectiveness of Albania's public procurement system in alignment with European Union standards.

Keywords: public procurement; principle of equality; corruption; criminal offense; legal and social prospect; Albania

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I. Introduction

The study explores the management of public financial resources, placing particular emphasis on public procurement, transparency, and the supervision of these assets, while concurrently contrasting the national legal structure with European and regional benchmarks. The authors' aim is to assess the level of transparency and fairness that must be assured for all stakeholders involved in the procurement process and the conformity of Albanian law with the *EU Acquis*. The primary focus of this inquiry is the criminal offense delineated in Art. 258 of the Criminal Code of the Republic of Albania, along with various unlawful activities — including corruption and emerging criminal patterns in public procurement — that are particularly significant in the context of the accession process...¹ Given the importance and the societal danger associated with this offense, it is crucial to conduct an in-depth analysis of each of its elements. A key component of this examination is the criminal repercussions of acts or omissions by public officials, especially those that violate legal regulations established to maintain the freedom and equality of economic operators in tenders and public auctions. The study also highlights persistent challenges and unlawful practices within this sector, including corruption and the rise of complex forms of criminal conduct. In conclusion, the research offers essential recommendations for the improvement of criminal laws and the enhancement of proactive strategies to guarantee the effective prosecution and resolution of offenses in the public procurement arena.

¹ Law No. 7895 dated 27 January 1995 “Criminal Code of the Republic of Albania”, as amended; Criminal Code of Albania. “Detaje”. Art. 258 Violation of Equality of Participants in Public Tenders or Auctions [Neni 258 Shkelja e Barazisë së Pjesëmarrësve në Tendera apo Ankande Publike], <http://komentariелеlektronik.magjistratura.edu.al/sq/eli/fz/1995/7895/258> [Accessed 10.09.2024]. (In Albanian).

II. Method

The present study seeks to examine, from a diachronic and comparative lens, the interplay between social-legislative frameworks and desk design, specifically focusing on the impacts that the implementation of the *Acquis Communautaire* and the European Union have had in the sensitive domain of Public Procurement, as well as Albania's alignment with EU standards as a neighboring nation. The investigation will trace the development of Public Procurement legislation within the Western Balkans, in conjunction with the *Acquis Communautaire*. This qualitative methodology fundamentally fulfills three criteria by comparing the Codes in a diachronic context and striving to categorize laws according to their evolution over time. First, it facilitates the distinct development and delineation of key concepts within criminal procedural legislation. Second, it is feasible to deduce the underlying intentions and objectives that Albania has sought to achieve through the constitutional endorsement of the *ius puniendi*, based on the foundational principles governing the criminal trial process and the core characteristics of the criminal justice systems. Lastly, as a third requirement, this approach permits an examination of how the processes of internationalization, and Europeanization of the *ius puniendi* intersect with the domestic legal framework.

III. Literature Background

III.1. The Evolution of Public Procurement after the 90s in Albania

The advent of the communist regime in Albania in the mid-1940s significantly transformed the property regime by instituting an economic system that prohibited private entrepreneurship. This shift effectively stunted the evolution of public procurement across the nation, leading to its eventual disappearance. However, in 1990, the political landscape experienced notable changes that reinstated the principles of “private” and “free market”, thereby facilitating the revival of public procurement practices. Considering these changes, it became essential to establish a legal framework to regulate the public procurement

system within the country. The term “procurement” was first defined in domestic legislation through DCM No. 467, issued on 17 August 1993 (Pelinku, 2021, p. 162) that addressed the term in the “*On procedures for procurements with public funds*” law. This definition characterized procurement as the process of acquiring goods, services, and works. The decision established a foundational framework for regulating public procurement systems and procedures at that time. Nevertheless, until 1995, the legal structure governing public procurement in Albania remained inadequate, as there was no primary legislation in effect. Acknowledging the significance of public procurement, the Albanian Parliament enacted Law No. 7971 on 26 July 1995 titled “*On Public Procurement*”. This legislation was modeled after the UNCITRAL model law concerning the procurement of goods, civil works, and services. In response to challenges encountered during its implementation and the evolving economic and social landscape in Albania, the law experienced numerous amendments from 1995 to 2007.² Despite these revisions, the public procurement legal framework continued to fall short of aligning with EU Directives.

III.2. The Impact of the Stabilization and Association Agreement (SAA) in Public Procurement in Albania

The ratification of the Stabilization and Association Agreement (SAA) by the Albanian Parliament with Law No. 9590 dated 27 July 2006³ marks the beginning of a new phase that Albania was committed to, as a step forward towards the EU integration and the approximation process of our domestic legislation with the *Acuies Communautaire*.⁴

² The Assembly of the Republic of Albania. Law No. 9643 dated 20 November 2006, as amended by Law No. 9800 dated 10 September 2007; Law No. 9855 dated 26 December 2007; Law No. 10170 dated 22 October 2009; Law No. 10309 dated 22 July 2010; Law No. 22/2012; Law No. 131/2012; and Law No. 182/2014 dated 1 January 2007. Available at: www.app.gov.al/GetData/DownloadDoc?documentId=82a5c8f9-99cb-4604-b280-3858834847aa [Accessed 11.08.2025].

³ Stabilisation and Association Agreement with Albania. Available at: <https://eur-lex.europa.eu/EN/legal-content/summary/stabilisation-and-association-agreement-with-albania.html?fromSummary=28> [Accessed 11.08.2025].

⁴ SSA document. Available at: <https://eur-lex.europa.eu/EN/legal-content/summary/stabilisation-and-association-agreement-with-albania.html>.

Part of the obligations for the approximation process was associated with the public procurement sphere, inseparably linked with free competition. The SAA contained two special dispositions regarding public contracts and the standardization of procurement framework, concretely Art. 74 and 75 of SAA,⁵ from which the following obligations that Albania must fulfill are derived:

Albania's national legislation must be thoroughly harmonized with the *Acquis Communautaire*, and its implementation should be carried out effectively. Furthermore, the principles of reciprocity and non-discrimination should be paramount in the process of awarding public contracts. In the framework of the fulfillment of these obligations deriving from SAA, the Albanian Parliament approved on 20 November 2006 the law No. 9643/2006 "On public procurement", abrogating Law No. 7971/1995 and all its secondary legislation that were previously in force.⁶ This new law improved the whole framework and brought essential changes to the public procurement system by setting clear principles that guarantee a fair and transparent procurement process.⁷ To ensure its effective implementation secondary legislation such as DCM No. 1 dated 10 January 2007 "The Rules of Public Procurement" regulation was approved, and guidelines and Tender Standard Documents were issued later on based on this legislation.

⁵ Law No. 9590 "On the Ratification of the Stabilization Association Agreement Between the Republic of Albania and the European Communities of Their Member States", The Official Bulletin, 27 July 2006, Art. 70 and 74. Available at: www.drejtesia.gov.al/wp-content/uploads/2022/04/Ligji-nr.-9590-dat%C3%AB-27.7.2006-%E2%80%9CP%C3%AB-ratifikimin-e-Marr%C3%ABveshjes-s%C3%AB-Stabilizim-Asociimit-nd%C3%ABrmjet-Republik%C3%ABs-s%C3%AB-Shqip%C3%ABris%C3%AB-dhe-Komuniteteve-Europiane-e-shteteve-t%C3%AB-tyre-an%C3%ABtare%E2%80%9D.pdf [Accessed 11.08.2025]. (In Albanian).

⁶ The Assembly of the Republic of Albania. Law No. 9643 dated 20 November 2006, as amended by Law No. 9800 dated 10 September 2007; Law No. 9855 dated 26 December 2007; Law No. 10170 dated 22 October 2009; Law No. 10309 dated 22 July 2010; Law No. 22/2012; Law No. 131/2012; and Law No. 182/2014 dated 1 January 2007. Available at: www.app.gov.al/GetData/DownloadDoc?documentId=82a5c8f9-99cb-4604-b280-3858834847aa [Accessed 11.08.2025].

⁷ Public Procurement. European Progress Report. Albania. Point 4.1.6. EUR-Lex: 52007SC1429. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A52007SC1429> [Accessed 11.08.2025].

III.3. The Major Challenges in Public Procurement in Albania as a Neighboring Country

Public procurement is one of the most sensitive areas of corruption in Albania. In most cases, corruption in this sphere appears in different forms including manipulated offers, bribery, and political or family favoritism. In general, corruption is defined as the misuse of public power for personal benefits, such as bribery of public officials, collusion in public prosecutions, or embezzlement of public funds.⁸ In this sense, it could be said that anyone who serves himself, immorally or unethically is corrupt. The term corruption has its origin in the Latin word *corrumpere* defined as to “break” or “destroy” something, so when a corruptive act is committed it means that the law, norm, or, in the worse situations, the legal system itself have been broken or interfered by corruption (Danilet, 2010, pp. 71–72).

The issue of corruption can be traced back to the earliest periods of human history, and it has progressively transformed into more intricate and sophisticated manifestations over time. This phenomenon has infiltrated the highest levels of various structures, institutions, and systems within both the public and private sectors. Notably, public procurement is identified as one of the most corrupt sectors in our country, posing significant challenges to our economy and undermining the integrity of state institutions.

A study conducted by the State Supreme Audit in conjunction with the Ministry of Finance revealed that an analysis of data from 129 audit units indicated that corruption in public procurement has resulted in losses exceeding USD 120 million to the state budget over the past decade, averaging nearly USD 13 million in annual damages.⁹ According to the statistics published by “Open Data Albania” the Albanian government approved expenditures for public investments in 2023 for 964 projects with a total expenditure of 116.25 billion ALL, which

⁸ Compliance with Anti-corruption International Standards. Assessment Report. Council of Europe. PECK II, 2018.

⁹ State Supreme Audit. Annual Performance Report [Raporti Vjetor i Performancës]. Google Docs, 2021. Available at: https://drive.google.com/file/d/1-C6o_4P7rDn2QE2WcOLYs1PF8TqrtJ1d/view [Accessed 11.08.2025].

constitutes 5.34 % of the Gross Domestic Product (GDP), or 16.9 % of the total projected Budget Expenditures.¹⁰ In a year, the Supreme State Audit (KLSH) reported that the mismanagement of public funds and violations of legal regulations by both central and local administrations in 2023 resulted in an economic loss amounting to 72.3 billion LEK, highlighting significant concerns regarding the effective administration of these public resources.¹¹

The findings presented by the State Supreme Audit indicate that primarily the issues identified stem from the ineffective, uneconomical, and inefficient utilization of public funds, particularly within the realm of public procurement. This situation arises from shortcomings in the execution of procedures, which frequently do not adhere fully to the regulatory framework governing the sector.¹² These figures underscore the prominent role that public procurement occupies in Albania's annual budget and highlight a key factor underlying the following question: why is there such a close relationship between procurement and corruption?

The answer to such a question is the key component involved in the process, the so-called "public funds". It is exactly the nature of "public funds" that makes public procurement one of the most predisposed spheres where corruption occurs (Reida, 2014, p. 212). The persistence of corruption in this sector can be attributed primarily to two factors. First, the financial incentives inherent in corrupt practices create opportunities for individuals to gain illicit profits. Second, the public nature of the funds involved diminishes personal accountability, thereby increasing the likelihood that individuals would exploit these resources through unethical and corrupt methods.¹³

¹⁰ Open Data Albania. Public Investments 2023, based on Projects and Institutions, Law on State Budget. Available at: <https://ndiqparate.al/?p=18666> [Accessed 11.08.2025].

¹¹ Budget Monitoring Report for the 2023 [Raport i Monitorimit të Buxhetit për Vitin 2023]. 29 February 2024. Available at: <https://panel.klsh.org.al/storage/php-F2Lodu.PDF> [Accessed 11.08.2025].

¹² Nations in Transit 2024, Albania. Report (2024). Freedom House. Available at: <https://freedomhouse.org/country/albania/nations-transit/2024> [Accessed 11.08.2025].

¹³ United Nations Office on Drugs and Crime (UNODC). Knowledge Tools for Academics and Professionals UNODC Module Series on Anti-Corruption. Module 4:

Criminal offenses associated with corruption within the public sector are delineated in Art. 244 and 259 of the Criminal Code of the Republic of Albania. These provisions explicitly forbid both active and passive forms of corruption perpetrated by public officials in the course of performing their official duties. Notably, the procurement sector represents a significant portion of public activities and contributes substantially to the national gross domestic product (GDP). Consequently, instances of corruption in public procurement arise from evident abuses of public authority. For an action to be categorized as corruption under the Albanian Criminal Code, several cumulative criteria must be established (Elezi, 2021, pp. 259–262):

- First, the act of corruption must be intentional.
- Second, the individual must obtain a tangible benefit as a result of the corrupt act.
- Third, the benefit received must be realized immediately after the act of corruption.
- Fourth, passive corruption requires a special subject who holds public office.

Regarding the form in which corruption occurs in public procurement procedures, the research has shown that the following four types of corrupt practices appear to be dominant in the field:¹⁴

- Through the tender manipulation method, the contract is “promised” either by the consent of the official or not (in various forms such as bid concealment, supplementary bids, bid rotation, and subcontracting);
- Bribery practice when the public official in charge of conducting the procurement procedure requires or accepts a bribe for the one who will participate in the tendering process;

Public Sector Corruption. 2019. Available at: https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_4_Public_Sector_Corruption.pdf [Accessed 11.08.2025].

¹⁴ Organization for Economic Co-operation and Development (OECD). Preventing Corruption in Public Procurement, 2016. Available at: www.anticorruzione.it/documents/91439/171935/Preventing+Corruption+in+Public+Procurement.pdf/79db4fed-bd69-b510865bcdba6793c64b?t=1583494569660#:~:text=The%20OECD%20Recommendation%20on%20Public,stages%20of%20the%20procurement%20cycle [Accessed 11.08.2025].

- Conflict of interest;¹⁵
- Other illegal actions or irregularities, such as mismanagement or negligence willfully and consciously committed in cases when appropriate checks are not correctly undertaken, or when the conducted procedure does not comply with the provisions of the special law and tolerates or ignores open and deliberate maladministration by contracts.¹⁶

Furthermore, other corruptive practices are evidenced during a procurement procedure that have been summarized by the European Parliament as follows:¹⁷

- Deceptive practice involves misrepresenting facts to influence contract selection or execution. This involves using habitual fraud to manipulate decision-making for personal gain in public contracts.
- Collusive practice involves small businesses conspiring to set artificially low prices, often through bid-rigging.
- Coercive practices involve threats or damage to deter individuals or companies from submitting bids in public tenders.

Despite the ongoing advancements in Albania's strategy to combat corruption, particularly through investigating and prosecuting high-level corruption cases, the country still ranks among those with the highest corruption rates globally. According to the 2023 Corruption Perception Index, Albania is positioned 98th out of 180 countries regarding perceived corruption within the public sector.¹⁸ Corruption in the public

¹⁵ Art. 19, Law No. 162/2020 for Public Procurement [LIGJ Nr. 162/2020 PËR Prokurimin Publik]. Available at: <https://www.app.gov.al/legjislacioni/prokurimi-publik/ligji> [Accessed 11.08.2025]. (In Albanian).

¹⁶ Organization for Security and Co-operation in Europe (OSCE). From Commitment to Action: OSCE's Anti-Corruption and Good Governance Report 2023–2024. 2024, p. 3. Available at: <https://www.osce.org/files/f/documents/c/9/584242.pdf> [Accessed 11.08.2025].

¹⁷ European Parliament Directorate General for Internal Policy Department D: Budgetary Affairs Special Committee on Organized Crime, Corruption and Money Laundering. *Political and Other Forms of Corruption in the Attribution of Public Procurement Contracts and Allocation of EU Funds: Extent of the Phenomenon and Overview of Practices*. PE 490.676, 2013. Available at: https://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490676/IPOL-JOIN_ET%282013%29490676_EN.pdf [Accessed 11.08.2025].

¹⁸ Transparency International. Albania. Transparency.org, 25 November 2023. Available at: www.transparency.org/en/countries/albania [Accessed 11.08.2025].

sector remains a serious concern that challenges Albania's governance, economy, and social development.¹⁹ The intricate characteristics and manifestations of corrupt practices necessitate the establishment of robust strategies to combat corruption within the procurement sector, which is particularly susceptible to such activities. It is essential to identify the specific factors that foster corruption and to understand the typical behaviors exhibited by individuals engaged in corrupt actions. This understanding is crucial for developing effective measures aimed at investigating, penalizing, and ultimately eradicating corruption.²⁰

Primary challenges that must be addressed to effectively combat corruption within the public sector and to strengthen the integrity of public institutions include deficiencies in the law's implementation, irregularities in investigative procedures, inadequate sentencing for corruption-related offenses, the lack of transparency in procurement processes, and the influence of political factors and organized crime on judicial officials within the SPAK structure responsible for investigating and adjudicating these crimes.²¹

IV. EU Legislation on Public Procurement and its Alignment with the Domestic Legislation

In the European Union, the field of public procurement is regulated by directives that aim to form a common market and increase opportunities for cooperation with all member states and the implementation of the non-discrimination principle (Weiss, 1993). However, to establish a comprehensive framework of regulatory norms for public procurement,

¹⁹ Albanian Institute of Science. Albania through the Lens of European Integration [Prokurimi Publik Shqipëria Në Lupën E Integritetit Evropian]. C1-EU-NPA, February 2022, p. 10. Available at: <https://ais.al/new/wp-content/uploads/Policy-Paper-Prokurim-Publik-AIS.pdf>. [Accessed 11.08.2025]. (In Albanian).

²⁰ Open Society Foundation for Albania (SOROS). Impunity in the Field of Public Procurement [Pandeshkueshmeria në fushën e Prokurimeve Publike]. RES Republica, June 2015. Available at: https://issuu.com/respublicalb/docs/libri_kpp_per_web_ok [Accessed 11.08.2025]. (In Albanian).

²¹ Together for Life. Analysis of the Concession Agreements in Health. 2022. Available at: www.togetherforlife.org.al/wp-content/uploads/2022/12/Analysis-of-the-concession-agreements-in-health.pdf [Accessed 11.08.2025].

it is essential to analyze not only the public procurement directives themselves, but also to assess and understand the broader context in which they are enacted (Halonen, 2017; Sanchez-Graells, 2015, p. 112). Thus, alongside the adoption of these Directives, a number of general provisions from the Treaty of Rome, as well as the overarching legal principles that guide their interpretation, are also applied (Biondi and Farley, 2018, p. 1041). In this regard, it is important to start with a general overview of the Treaty of Rome due to the importance that this law has on upcoming EU Directives in the sphere of public procurement.

Treaty of Rome²²

Even though the Treaty of Rome of 1957 does not contain a special provision regarding public procurement, it establishes a set of fundamental principles upon which the EU legislation is based.²³ These fundamental principles also apply to and take precedence in the sphere of public procurement, with the following being particularly important in governing procurement-related processes:

Discrimination based on nationality grounds is prohibited

Article 12 of TFEU, interpreted in the procurement context, sets the grounds for equal treatment and non-discrimination of economic operators in the process, particularly with respect to the nationality criteria. In this regard, an economic operator from one member state must be treated equally and in the same way as an economic operator from the contracting authority's member state.²⁴ The nationality component undermines the core of this principle and differentiates it from the equal treatment principle that provides a general background of protection without relying only upon the nationality basis.

The prohibition of constraints related to quantitative imports or exports, free movement of goods, and equivalent measures in outcome.

²² Treaty Establishing the European Economic Community (EEC Treaty). 25 March 1957. Available at: <https://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:11957E/TXT> [Accessed 11.08.2025].

²³ Consolidated Version of The Treaty on The Functioning of the European Union (TFEU). C 326/47. *Official Journal of the European Union*. 26 October 2012, Art. 26–29; 49–50. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>. Accessed [11.08.2025].

²⁴ *Ibid.* Art. 64.

The main purpose of this principle is to ensure that the member states within the Union guarantee the adoption and application of common customs charges in their relations with third countries for the purchases of goods either originating in Member States or products coming from non-EU countries.²⁵ Thus, it sets an obligatory framework that prevents Member States, through their contracting authorities, from undertaking discriminatory actions against foreign goods, from the exclusive purchase of national products (“buy national” requirements) (Cantore and Sübidey, 2017, pp. 143–161):

Freedom of establishment

Through the interpretation of Art. 54 of TFEU, it is indicated that a Member State shall not restrict the free establishment on its territory of nationals of a distinct Member State from its own. In this regard, all nationals of EU countries are offered the protection to exercise the right to effectively establish in the territory of another Member States, themselves, branches, or agencies. Furthermore, under this principle, self-employed persons or economic operators are protected to exercise their business activities in other Member States, usually by establishing a local entity.²⁶

Freedom to provide services

This principle guarantees and offers protection to the nationals of EU countries, to have the right to freely exercise services for commercial or professional purposes in the territories of another Member State, different from the one of the people for whom the service will be provided. Interpreted in the frame of procurement practices, an economic operator that has its effective place of business in one Member State has the right to submit a tender in another Member State by not being limited to the need for establishing a local entity or representative in that State.²⁷ It is important to mention that this right is not exclusive only to EU-Member State nationals, but it also gives the possibility to benefit from this as well as to the nationals coming from a third country, only when the two following conditions are met: a) nationals from third

²⁵ *Ibid.* Art. 28, Para. 2.

²⁶ The Treaty on the Functioning of the European Union (TFEU), Art. 50.

²⁷ *Ibid.* Art. 57, Para. 1.

countries who intend to offer services, and b) entities established within the Union.²⁸ Albanian domestic legislation on public procurement is drafted in compliance with the EU Directives, due to the obligation for the approximation of legislation deriving from the SAA as was analyzed previously in this paper.

The key novelties that 2004 directives brought into the procurement field can be summarized as follows:

*The key novelties introduced by the Directive 2004/18/EC:*²⁹

- Recognition of certain procurement entities' authority to use framework agreements to carry out concentrated purchasing
- Adjustments of articles regarding the technical specifications by removing the requirement to provide references to European standards
- Electronic procurement provisions, covering electronic auctions, and dynamic purchase systems, along with the lowering of deadlines for electronic communications

The key novelties introduced by the directive 2004/17/EC on the following sectors:³⁰

- The entities that conduct their activity in the telecommunication sector were excluded from the scope of application of the directive.
- Entities operating in postal services were included under the scope of the directive.
- Adjustment of exclusive right definition to comply with European Court jurisprudence.

Furthermore, the 2014 amendments that replaced the Public Sector 2004/18 and the Utilities Directive 2004/17 brought significant changes and impacts into the system following the line of the previous directives (Bovis, 2024):³¹

²⁸ *Ibid.* Art. 57, Para. 2.

²⁹ Directive 2014/24/EU of the European Parliament and of the Council on Public Procurement and Repealing Directive 2004/18/EC.

³⁰ Directive 2014/25/EU of the European Parliament And Of The Council on Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and Repealing Directive 2004/17/EC (Text With EEA Relevance). *Official Journal of the European Union*, 26 Feb. 2014. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0025> [Accessed 11.08.2025].

³¹ Supreme State Audit of Albania. EU Directives on Public Procurement and Concessionary Contracts [Direktiva e BE-së mbi Prokurimin Publik dhe Kontratat

— Simplified the evaluation process for candidates' and bidders' criteria, in this regard only the winning candidates were entitled to submit documents verifying their status and increased the self-declarations submitted by suppliers.

— It was introduced as a ground for exclusion from the procurement process of an economic operator the poor performance under the previous contracts.

— It was offered to the social enterprises the possibility to reserve for a limited time the award of service contracts under a certain category.

— The "*Innovation Partnership*" procedure was a novelty introduced by new Directives. This procedure allows for the application of new models such as the opportunity for bidders and authority to enter a partnership together for developing new services or products.

— The scope of utility contracts directive has been partly amended by excluding its scope from the exploration of oil and gas.

V. The Western Balkan Public Procurement Laws and EU Directive Alignment

A comparative analysis of public procurement laws and anti-corruption measures in Western Balkan countries, such as Serbia and Montenegro, reveals both similarities and differences that provide valuable context for evaluating Albania's progress. For instance, Serbia's Law on Public Procurement emphasizes principles of transparency and competition, mirroring EU Directive 2014/24/EU, with particular attention to the inclusion of small and medium enterprises (SMEs) in the procurement process.³²

Koncesionare]. ILAR, 206AD. Available at: <https://panel.klsh.org.al/storage/phpOiXh9A.pdf> [Accessed 11.08.2025]. (In Albanian).

³² European Commission Staff Working Document. Serbia 2023 Report Accompanying the Document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU Enlargement Policy. SWD (2023) 695 Final, 8 Nov. 2023. Available at: https://neighbourhood-enlargement.ec.europa.eu/document/download/9198cd1a-c8c9-4973-90ac-b6ba6bd72b53_en?filename=SWD_2023_695_Serbia.pdf [Accessed 11.08.2025].

Similarly, Montenegro's Public Procurement Law integrates provisions aimed at ensuring transparency and equality, aligning with key *EU Acquis principles*.³³ Comparatively, Albania's Law No. 162/2020 demonstrates significant progress in harmonizing with EU directives, particularly regarding transparency and non-discrimination, as seen in the adoption of electronic procurement systems and stricter monitoring mechanisms. However, discrepancies persist in areas such as the enforcement of these principles and the effectiveness of oversight bodies. For example, while Albanian legislation formally adopts the principle of equal treatment, the lack of rigorous sanctions for violations and the pervasive influence of political favoritism weaken its practical implementation. Highlighting these gaps underscores the need for Albania to not only adopt EU standards in form but also ensure their substantive application through robust institutional reforms and capacity building.

VI. In-depth Analysis of the Principles of Public Procurement in Albanian Legislation

Although classified as a member of the Western Balkans, the country has experienced a distinct trajectory in its development concerning the challenges associated with public procurement legislation, thereby encountering significant difficulties in its attempts to conform to the standards of the single market. Referring to the public procurement legislation in Albania, the entire procurement process must be carried out based on and respecting a series of principles that underpin this process. As explained in Section II of this paper, these fundamental principles provided by Law on Public Procurement for running an open-up, transparent, and fair competitive procurement process, derive from both the Treaty and EU Directives in the frame of the approximation

³³ Key Findings of the 2023 Report on Montenegro. 8 Nov. 2023. Available at: https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_5615 [Accessed 11.08.2025].

of legislation process that Albania is committed as an EU candidate country.³⁴

In addition, it must be mentioned that the case law of the European Court of Justice (ECJ) had a significant impact on the emergence of some general principles of the law (Dobra, 2016, p. 81). As general principles, they find application in the context of public procurement, and some of them have been applied by the ECJ in cases regarding public procurement disputes. For example, a key principle set by the ECJ case law was the application of Treaty principles under the threshold of public procurements.³⁵ In this regard, the principles provided by Albanian PLL are identical to the ones provided by the Public Sector Directives, both 2014/18 and 2014/24, but they differentiate due to the application context since in our case there is a need to adapt to the domestic procurement system to better address the obstacles, challenges, and issues that Albania is facing in procurement sphere.³⁶

The responsible entities should guarantee the proper application and respect the prevalence of those principles during a procurement procedure. Thus, a “domino effect” may occur: if one of these principles is not upheld, it can result in the violation of others, creating a cascading impact throughout the process. Furthermore, those irregularities include not only the breaches of the Albanian PPL provisions but sometimes go far beyond the criminalization of offenses in the procurement fields. Based on Art. 3 of Law No. 9643/2006 “On Public Procurement” as amended, the public procurement process in Albania is based on 4 fundamental principles: the non-discrimination principle, the equal treatment principle, the principle of transparency, and the proportionality principle.

³⁴ Albanian Agency of Public Procurement and Sigma – Support for Improvement in Governance and Management. Public procurement training for IPA beneficiary countries [Trajnim Në Prokurimin Publik Për Vendet *Përfutuese* nga IPA]. 2010, p. A-24. Available at: www.app.gov.al/getdata/downloaddoc?documentid=bc58d22e-6652-458b-af32-024b92c03ado [Accessed 11.08.2025]. (In Albanian).

³⁵ Case C-234/89. Commission of the European Communities v. Denmark (“Danish Bridge”), 1993, ECR I-3353.

³⁶ Albanian Agency of Public Procurement and SIGMA – Support for Improvement in Governance and Management. Public Procurement Training for IPA Beneficiary Countries. 2010, Section 2, p. A-4. (In Albanian).

*1. The non-discrimination principle.*³⁷

The concept of non-discrimination, even though commonly referred to as the same in concept with equal treatment principle, is distinct and different from it. According to this principle, all participants in a procurement procedure, regardless of their nationality, should be treated in the same way, thus:

- Both direct and indirect discrimination are prohibited;
- National preferences are not allowed.

Article 21 of the Law, Chapter “General Rules of Procurement”, expressly states that the contracting authorities must avoid any criteria, requirements, or procedures related to the qualification of economic operators which constitute discrimination against or between potential suppliers or contracts. Even though the provisions of Albanian PLL do not directly mention the nationality component regarding the non-discrimination principle, it addresses the nationality matter when referring to the concept of economic operators (Jance and Reci, 2024, pp. 265–271). In the interpretation of this, it can be concluded that the PPL provisions do not prohibit non-national or foreign economic operators from being the part of an Albanian procurement process by submitting their offers or tenders under the same conditions as a domestic economic operator. Thus, the only distinction regarding this principle in relation to the EU Directives is that the Albanian Public Procurement Law (PPL) applies to foreign economic operators from all countries, not just those within the EU. In contrast, the EU Directives address the principle of non-discrimination with reference exclusively to economic operators from EU member states.

*2. The equal treatment principle.*³⁸

The equal treatment principle is the foundation for a fair procurement process. The effective application of this principle in practice requires that identical situations be treated alike, while different situations should not be treated in the same manner. In this context, the principle encompasses both formal and substantive elements. In

³⁷ Law No. 162/2020 for Public Procurement [LIGJ Nr. 162/2020 Për Prokurimin Publik]. 2020, Art. 3, Para. 1. Available at: www.app.gov.al/legjislacioni/prokurimi-publik/ligji [Accessed 11.08.2025]. (In Albanian).

³⁸ Art. 2, point (d), Law 162/2020 “On Public Procurement”.

a formal sense, equality ensures equality before the law, whereas in a substantive sense, it requires equal treatment in the application of the law. Due to the great importance that this principle has, its fair and effective application is required to be persistent over all phases of a procurement process.³⁹ That is why the Albanian PLL provisions explicitly mention equal treatment in several articles of the Law by reinforcing its importance for guaranteeing an efficient and regular procurement process.⁴⁰ Furthermore, what is of utmost importance for our topic, the violation and ineffective application of this principle consist of criminal offenses under the Albanian Criminal Code. The unequal evaluation of participants in a procurement process, resulting in the awarding of a contract based on such an assessment, constitutes a criminal offense.

*3. The transparency principle.*⁴¹

Based on this principle, the contracting authorities are obliged to proceed transparently while initiating and running a procurement process and awarding a public contract. As for other principles, the guarantee of transparency while conducting a procurement procedure is expressly provided by both the domestic legislation and the respective EU Directives.⁴² In this regard, the legislation in force foresees the obligation of the Contracting Authorities to publish electronically on the website of the Public Procurement Agency all the tender documents and all the subsequent notices related to the progress of a procurement procedure from the initiation up to its conclusion.⁴³ These public notices provide detailed information for all the interested subjects in the process and the general public, regarding the method of the selection of the winner, the participating candidates, reasons and

³⁹ Albanian Agency of Public Procurement and SIGMA – Support for Improvement in Governance and Management. Public Procurement Training for IPA Beneficiary Countries. 2010, Section 2, p. A-4.

⁴⁰ Art. 2, 3, 19, and 21, Law No. 162/2020 “On Public Procurement”.

⁴¹ Art. 2, point (dh). Law No. 162/2020 “On Public Procurement”.

⁴² Art. 21(1), Law No. 162/2020; Art. 18, Directive 2014/24/EU. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024> [Accessed 11.08.2025].

⁴³ SIGMA Module, p. F-29. Available at: www.app.gov.al/GetData/DownloadDoc?documentId=bc58d22e-6652-458b-af32-024b92c03ado [Accessed 11.08.2025].

criteria for candidates' evaluation, the winning candidate and criteria for his selection, as well as the deadline and the method of the contract execution. This ensures higher access to public procurement procedures, which in turn increases the fair, transparent, and non-discriminatory competition in the process.⁴⁴

*4. The proportionality principle.*⁴⁵

The principle of proportionality is the fourth and final fundamental principle explicitly established by the Albanian Public Procurement Law (PPL) that must prevail in and guide the procurement process. This principle requires that any measure taken should be necessary and appropriate, and comply with the aim of the required objectives. The proportionality component must be taken into account during the whole procurement process and all the phases, starting from the initiation of the procedure and continuing with other elements such as technical specifications, awarding, qualification criteria, and time limits.⁴⁶ Furthermore, it should be noted that when contracting authorities select candidates or bidders, they must take care not to impose technical, professional, or financial requirements that are excessive or disproportionate to the scope of the contract.⁴⁷

In conclusion, it could be said that the principles outlined in the Albanian Public Procurement Law (PPL) establish the foundation for a fair and efficient procurement process. The competent authorities overseeing the procurement process must ensure that these principles are respected, effectively applied, and not violated in order to achieve a fair, transparent, non-discriminatory process, as well as to fulfill the objectives and goals established by Albania in the procurement sphere.

⁴⁴ Albanian Agency of Public Procurement. Annual Report [Analiza Vjetore]. 2023, Available at: www.app.gov.al/GetData/DownloadDoc?documentId=80bdfeg3-198c-4119-bfd3-a6f971cd6a3a [Accessed 11.08.2025].

⁴⁵ Art. 3(1), Law No. 162/2020; Art. 2, Directive 2004/18/EC of the European Parliament and of the Council on the Coordination of Procedures for the Award of Public Works Contracts, Public Supply Contracts and Public Service Contracts. 31 Mar. 2004. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0018> [Accessed 11.08.2025].

⁴⁶ SIGMA Module, Section 2, p. A-9–12.

⁴⁷ SIGMA Module, Section 2, p. A-7.

VII. Albanian Public Procurement Legal Provisions and EU Standards

The alignment of Albanian legislation with European standards is significantly influenced by Directive 2014/24/EU, particularly Art. 18, that establishes fundamental principles such as transparency, equal treatment, and the prevention of conflicts of interest in public procurement.⁴⁸ This provision mandates that procurement procedures must be designed to ensure open competition, prohibit favoritism, and guarantee impartiality, serving as a benchmark for evaluating Albanian legislation. While Albania's Law No. 162/2020 incorporates these principles through measures like mandatory electronic procurement and stricter oversight mechanisms, gaps remain in the enforcement of conflict-of-interest regulations and ensuring genuine equality among economic operators. For instance, the lack of comprehensive whistleblower protection and limited transparency in bid evaluation processes undermine the practical application of these principles. Furthermore, quantitative data from the State Supreme Audit reveals that despite reforms, irregularities in public procurement procedures led to economic damages of approximately 72.3 billion ALL in 2023.⁴⁹ This underscores the need for Albania to enhance the implementation of its legal framework and integrate robust monitoring mechanisms to achieve greater alignment with EU norms.⁵⁰

⁴⁸ Art. 18, Directive 2014/24/EU. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024>. [Accessed 11.08.2025].

⁴⁹ Albanian Supreme State Audit. Monitoring Report for 2023 of the Strategic Plan 2023–2027 [Raport i Monitorimit per Vitin 2023, i Planit Strategjik 2023–2027]. 7 May 2024, p. 45. Available at: <https://panel.klsh.org.al/storage/phpf2XJNv.pdf> [Accessed 11.08.2025].

⁵⁰ European Commission. Albania 2023 Report Accompanying the Document Communication From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU Enlargement Policy. Report: Cluster 1 – Fundamentals, p. 37.

VIII. A Juridical Insight of the Illegal Activities into Public Procurement in Albania

VIII.1. The Criminal Offense of “Breaching the Equality of Participants in Tenders or Public Auctions” under Article 258 of the Criminal Code in Albania

A core principle of the rule of law is the uniform and precise enforcement of legal standards that are binding on all state entities, political parties, organizations, and individuals, whether natural or legal persons. To guarantee equitable protection for all parties engaged in this framework, as well as to foster integrity and public confidence in governmental operations, all entities and officials responsible for the procurement process must execute their responsibilities in strict adherence to the law, with diligence and accountability. Consequently, any actions or omissions by individuals entrusted with public duties that disrupt the proper functioning of state operations or public services are considered criminal offenses against state activities and public institutions. The Criminal Code of the Republic of Albania, adopted by Law No. 7895 dated 27 January 1995, as amended,⁵¹ assigns special legal significance to the protection of state activity. Chapter VIII, Section II — “Criminal Acts Against State Activity Committed by State or Public Officials” — includes Art. 258, that defines the criminal offense of “Breaching the Activity of Participants in Public Bids or Auctions”, as follows:

⁵¹ Amended by Laws No. 8175 dated 23.12.1996; No. 8204 dated 10.04.1997; No. 8279 dated 15.01.1998; No. 8733 dated 24.01.2001; No. 9017 dated 06.03.2003; No. 9030 dated 13.03.2003; No. 9086 dated 19.06.2003; No. 9188 dated 12.02.2004; No. 9275 dated 16.09.2004; No. 9686 dated 26.02.2007; No. 9859 dated 21.01.2008; No. 10 023 dated 27.11.2008; No. 23/2012 dated 01.03.2012; No. 144 dated 02.05.2013; No. 98 dated 31.07.2014; No. 176/2014 dated 18.12.2014; No. 135/2015 dated 05.12.2015; No. 82/2016 dated 25.07.2016; No. 36/2017 dated 30.03.2017; No. 89/2017 dated 22.05.2017; No. 44/2019 dated 18.07.2019, No. 35/2020 dated 16.04.2020, No. 146/2020 dated 17.12.2020; No. 43/2021 dated 23.03.2021; Constitutional Court Decisions: No. 13 dated 29.05.1997; No. 46 dated 28.08.1997; No. 58 dated 05.12.1997; No. 65 dated 10.12.1999; No. 11 dated 02.04.2008; No. 19 dated 01.06.2011; No. 47 dated 26.07.2012 ; No. 9 dated 26.02.2016; No. 24 dated 04.05.2021; No. 20 dated 03.04.2024.

1. *Commitment of actions in breach of laws which regulate the freedom of participants and the equality of citizens in bids and public auctions, by a person holding state functions or public services, to create unfair advantages or benefits for third parties, when the tender or public auction is up to the value of 800,000 ALL or the equivalent in foreign currency, is punishable by imprisonment for up to one year.*

2. *The same act, when committed in tenders or public auctions with a value of above 800,000 ALL or the equivalent in foreign currency, is punishable by imprisonment from one to five years.*

Article 258 of the Albanian Criminal Code establishes a legal framework that ensures economic operators have the right to participate freely and equitably in the public procurement process. This provision aims to facilitate the provision of public services assigned to them by state authorities and to enable them to benefit from public contracts through a lawful and equitable process. An analysis of this Article reveals that a criminal offense occurs when a public official, during the conduct of public tenders and auctions, engages in actions that violate the legal standards established by specific legislation, which are designed to uphold the principles of freedom and equality for economic operators. Consequently, a criminal offense is committed when it is demonstrated that the intent to commit a crime supersedes lawful intentions, and the actions taken by the public official are in violation of the law, aimed at securing unjust advantages for entities involved in the tenders and public auctions (Hysi, 2004).

VIII.2. Violation of the Equality of Participants in Tenders or Public Auctions

The framework of this criminal offense indicates that the outcome is preordained, largely due to the close connections that the administrator of the legal entity maintains with public officials involved in the procurement decision-making processes, particularly concerning funds associated with local government. Investigations reveal a high-ranking public official actively facilitates appointing relatives to key

offices, ensuring they act in the official's interests.⁵² Thus, a criminal act can occur at any stage and in any part of it, whether at the primary phase or after the process which corresponds to the announcement of the decision and the winner of the tender. Falsification of documents is also another problem preeminent during the whole procurement process that is indicated as part of the organizational scheme of this illegal phenomenon.⁵³

VIII.3. Sophisticated Actions According to the Public-Private Partnership Model

Complex manifestations of this criminal activity are notably prevalent in contracts awarded through the concession or public-private partnership framework. Evidence of illicit conduct can be observed at all stages of the tendering process, beginning with the preparatory phase, which includes inadequate preparation of tender documents, improper execution of the tender procedure, and failure to conduct a legally compliant feasibility study. This issue persists with various interventions that undermine fair competition, effectively rendering it illusory. It becomes apparent that commercial entities orchestrate the entire process, facilitating a deceptive scheme for executing projects within the concessionaire. These entities are often under the indirect influence of high-ranking government officials, who obscure the true nature of the public funds that are misappropriated through this scheme.⁵⁴

VIII.4. Money Laundering

The 2023 report released by SPAK highlights a highly intricate scheme involving money laundering, particularly in instances where there is a breach of equality in public tenders. This scheme has

⁵² Special Structure against Corruption and Organized Crime (SPAK). Annual Report [Raporti Vjetor 2023]. 2023, p. 34. Available at: <https://spak.gov.al/wp-content/uploads/2024/04/Raporti-2023.pdf> [Accessed 11.08.2025]. (In Albanian).

⁵³ *Ibid.*

⁵⁴ *Ibid.*

dual objectives: first, it facilitates the establishment of a fictitious arrangement among senior state officials to obscure corrupt practices; second, it functions as a mechanism for laundering the profits derived from criminal enterprises.⁵⁵ The involvement in such illicit schemes within public procurement often begins with a partnership between senior officials and various legitimate entities, aimed at infiltrating the process in direct violation of legal statutes and unlawfully profiting from public resources. Senior officials derive benefits from public funds through the companies with which they collaborate, as public money is funneled through these companies' accounts. Subsequently, these funds are transferred to other domestic or internationally registered bank accounts that are then invested in movable or immovable assets. The complexity of the criminal activity and money laundering is underscored by the fact that all illicit actions are executed through the involvement of legal entities that benefit from these funds, thereby obscuring the scheme and attempting to legitimize these actions. It is important to note that, in many instances, the companies awarded contracts in tender processes are either established or managed by high-ranking officials orchestrating these corrupt schemes or by their close relatives or associates. As a result, public resources are funneled to corrupt officials through successful companies, with subsequent phases of these corrupt schemes involving the transfer of funds overseas or their investment in various assets under false identities. This process results in the perpetration of two offenses: the infringement of fairness in public procurement and the act of money laundering.⁵⁶

IX. Objective and Subjective Elements of the Criminal Offense under Article 258 of the Criminal Code of the Republic of Albania

With regard to the subject of this criminal offense, the provision specifies that a person charged with a state or public function within public procurement agencies and procurement units who abuses such

⁵⁵ SPAK (2023), Annual Report, p. 35.

⁵⁶ *Ibid.*

powers and responsibilities is considered to have committed the criminal act defined under Art. 258. Thus, Article 258 qualifies the subjects of this criminal act into the “*special subject*” category. Therefore, if the act or omission by the subject of the offense is not related to the duties, rights, or powers conferred by their position, the criminal offense defined in Art. 258 is not fulfilled. In this regard, a clarification between the “*special*” and “*general*” subjects is of utmost importance for the qualification of the criminal offense. The criminal offense defined under Art. 258 falls within the category of offenses that require specific intent, or what is referred to in criminal jurisprudence as *mens rea*, meaning the “guilty mind” necessary for committing the act. This means that the individual responsible for committing the criminal act possesses explicit intention and a conscious desire to carry out the offense, an intention that is manifested through concrete actions or omissions in the realization of the offense. In this regard, the criminal offense provided for in Art. 258 of the Criminal Code is committed with direct intent and with the aim of creating unfair advantages or privileges for specific individuals during the procurement process, motivated by personal relationships, nepotism within public administration, or other personal or moral interests (Elezi, 2021, pp. 259–262). Furthermore, according to consolidated judicial practice over the years, in cases involving violations of Art. 258 of the Criminal Code, it has been interpreted that the presence of direct intent (*mens rea*) in the commission of this offense must be assessed with respect to three specific aspects:

- *defendant’s awareness that the actions or omissions had been committed in violation of Law No. 9643 dated 20 November 2006 “On public procurement” as amended, as well as by the decision No. 914 dated 29 December 2014 “For the approval of public procurement rules”, as amended;*

- *the desire/intention of the defendant to perform these actions or omissions, and*

- *the commitment of actions or omissions by the defendant to create unfair advantages or privileges for third parties.*

The determination of the elements of “intention” and “consciousness” for sentencing and establishing guilt under the legal qualification of Art. 258 of the Criminal Code must be based on the interpretation of

concrete actions, as well as the coherent evaluation of all available evidence and the conclusions drawn from it. Additionally, aligning with European legal principles, the European Court of Human Rights (ECHR) decision in *Ramos Nunes de Carvalho e Sá v. Portugal* underscores the importance of judicial independence and procedural fairness in addressing public procurement disputes.⁵⁷ These cases collectively illustrate the practical enforcement of Art. 258 in Albania and its alignment with broader European standards, while also identifying areas for further strengthening of judicial consistency and procedural transparency.

X. Conclusions

Based on the above analysis and findings, it can be concluded that the field of public procurement is very complex and dynamic, and due to its public nature, it remains one of the areas with the highest predisposition to corruption and illegal activities in terms of mismanagement and improper benefit of public funds. In this regard, there is a continuous need to undertake further preventive and remedial measures to combat illegal activities in the public procurement sector. The primary objective should be to promote integrity and fairness and to enhance the efficiency in the prosecution and punishment of criminal activities within the public procurement system. This requires improving the legal framework and strengthening the mechanisms of supervision and control. In conclusion, the main findings of this work are as follows:

First, Albania's public procurement system has a short history due to restrictions under past political and economic regimes. Following the fall of communism, the country adopted a system based on UNCITRAL and later aligned it with the EU model as part of its integration process after signing the SAA.

⁵⁷ European Court of Human Rights. Case of Ramos Nunes de Carvalho e Sá v. Portugal (Applications Nos. 55391/13, 57728/13 and 74041/13). 6 November 2018. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-187507%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-187507%22]}) [Accessed 10.09.2024].

Second, a thorough examination and comparison of the existing domestic legislation governing public procurement with the pertinent provisions of EU Directives reveals that Albania has made significant strides in aligning its legal framework with the *Acquis* norms. In this regard, the essential principles that underpin public procurement activities in Albania closely mirror the fundamental principles established by the *Acquis* norms in this domain. Additionally, notable advancements have been realized through ongoing amendments to the Public Procurement Law, particularly with the enactment of the new Law No. 162/2020 “On Public Procurement” that has facilitated the incorporation of four EU directives, specifically EU Directives No. 2014/24, 89/665, and 92/13.

Third, the public procurement system in Albania remains highly corrupt despite reforms addressing the issue. The Electronic Procurement System (EPS) helped reduce corruption, but challenges persist. In 2023, Albania was ranked 98th out of 180 countries in terms of perceived corruption in the public sector. The National Audit Office reported a loss of 72.3 billion LEK in 2023 due to irregularities. Corruption in the healthcare procurement sector is particularly concerning, with various factors contributing to corruption at all stages of the process. To effectively combat corruption in the public procurement sector, the enhancement of final convictions at high levels remains a key priority.

The fourth point pertains to the criminal offense delineated in Art. 258 of the Albanian Criminal Code that addresses the “Violation of the Equality of Participants in Tenders or Public Auctions”. It can be inferred that this offense represents a specific manifestation of abuse of duty, aimed at safeguarding the principles of freedom and equality among participants in procurement processes or public auctions.

Fifth, concerning the question of whether there is concurrence between the criminal offense outlined in Art. 258 of the Criminal Code and the offence defined in Art. 248 of the Criminal Code, it is concluded that these offenses do not overlap. This determination arises from the specific characteristics of the offense related to the violation of equality, which distinguishes it from a more general offense described in Art. 248. Nonetheless, there are instances when the concurrence of

criminal offenses may be contentious and necessitates a case-by-case analysis.

Sixth, the SPAK establishment has advanced investigation and prosecution of activities violating Art. 258 of the Criminal Code. Official data show a notable increase in proceedings and investigations, rising from 50 in 2020 to 106 in 2022. SPAK has scrutinized high-ranking political officials for corruption, abuse of office, and violations in tenders. Special Courts have improved judicial practices for Art. 258 cases. However, the high volume of proceedings underscores the necessity for improved investigative techniques to ensure efficient and timely resolution.

Seventh, the study shows increasing complex criminal activities in public procurement, including organized structures, money laundering, and corruption. Enhanced investigative methods and legal procedures are necessary to effectively address these issues. Corruption remains pervasive in Albania, necessitating additional measures to strengthen judicial bodies such as SPAK and to enhance the integrity of the procurement system.

Theoretical and Practical Implications for Future Research

Corruption and financial misconduct pose significant risks to the democratic integrity of any nation. Consequently, certain areas warrant further investigation. As Albania aspires to join the European Union, it faces considerable challenges in effectively implementing existing legislation. In this context, we propose several recommendations to enhance this process.

First, to prioritize EU Commission recommendations for screening and enhance legal framework for procurement to ensure compliance with EU regulations. All financial instruments and initiatives, including inter-governmental agreements, should align with EU standards; to implement measures improving transparency, mitigating corruption risks, and promoting fair competition in public contracts through systematic publication, electronic complaints system utilization, and collaboration with civil society.

Second, to enhance auditing capabilities, particularly in the context of procurement procedures established by public authorities.

There are still numerous issues within this domain that can be effectively identified and addressed through independent auditing processes.

Third, to engage enforcement authorities in regular communication and information sharing, particularly in the context of joint investigations. This approach underscores the necessity of integrating the enforcement of anti-corruption and competition laws, ensuring that these two areas are not dealt within isolation. Furthermore, it is essential to conduct systematic investigations into competitive practices within procurement sectors identified as problematic due to corruption concerns.

Fourth, to enhance Albania's domestic control framework with a specific emphasis on the processes for detecting and reporting irregularities in contracting agencies. Consequently, it is advisable to reassess the administrative investigation protocols currently employed by the Public Procurement Agency (PPA), concentrating on identifying essential enhancements that would bolster its primary function in policy guidance and improve the comprehensive oversight of the public procurement system to reduce corruption risks.

Fifth, it is recommended to amend Art. 258 of the Criminal Code of the Republic of Albania to include a sub-article addressing corruption, aligning with Art. 415. The standardization of judicial practices in assessing the severity of this offense is recommended to ensure consistency in legal proceedings. It is also recommended that Art. 258 be expanded to encompass concession services in addition to public tenders. Additionally, a prohibition on exercising public functions should be imposed on individuals found guilty of this offense.

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