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# ***Harmonization of state legislation with EU legislation - the case of the so-called anti-defamation media law in Albania***

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## **Abstract**

Albania is a European country that has been involved in the long process of EU accession since the fall of the communist regime at the beginning of the 90s', but is yet to meet a number of requirements to join the European Union. One of the policies that is being scrutinized and going through the EU adaptation framework is the media policy. This article adopts a single case study approach, specifically the most debated media law package in Albania in the last three decades, the so-called anti-defamation media law. The focus of my research analyses concerns the role of the stakeholders involved in the process for the alignment of the media legislation in Albania with the EU regulations. To that end, I have used the expert interviews method, with experts who have been engaged and set out recommendations in this long process which has not finished yet. The research gives a general overview of the interactions of the stakeholders involved in this process, such as national and international journalists and human rights NGOs; international institutions which operate in Albania and have been quite active in this debate, and independent journalists. Another crucial part of my research is investigating through policy analysis methods how the stakeholder's input has been incorporated into this complicated policymaking process or most of the time totally ignored by the decision-making institutions such as the Albanian government and parliament.

**Keywords:** Albania, EU, anti-defamation law, journalists, NGOs, deliberative democracy

## **Introduction**

This contribution aims to shed light on the process of one of the most ever debated media policy initiatives in Albania, the so called the anti-defamation draft-law, an initiative that has been carrying on since 2018. On one hand we have the government who is seeking, as it pretends, to pass a set of amendments whose aim is to regulate a messy ecosystem such as the online media space operating in Albania where false, fake and derogatory information is very easy to disseminate. On the other hand we have the government's critics (civil society organizations, journalists, journalist associations – local and international ones, academics, etc.), who accuse the government for creating a window dressing initiative in order to impose and legitimize censorship (Jata, Gaxha & Meta, 2021). Also, they sharply criticize the authorities for being not receptive to their recommendations that mainly consist in creating a self-regulatory model for the online media outlets; the most common practice in the media policy framework of many member countries of the European Union, a union where the western Balkan country aims to be part of for three decades (Car et al., 2019).

Through the principles of deliberative democracy we will try to scrutinize normatively the activity of the authorities (Albanian parliament and government), the civil society organization (CSOs) and the other independent actors which are involved in this complexed process (Fishkin & Luskin, 2005). By using the methods of the document analyses and expert interviews, we will seek to investigate practically the

interaction and contribution of the involved stakeholders in this complicated policy-making process. The main research question is to what extent the policy-making process involves its participating stakeholders and their contribution in its course. Three are the sub-research questions that we will guide us to uncover some closed parts of this process. Has the consultation process feedback of CSOs been taken into consideration by the parliament and the government? Does the government take into account the reports and the suggestions of the international actors involved in this delicate process? Does this policy-making process contemplate with the good practices of EU media policies?

Our hypothesis was that the CSOs input would have been limited in this long process of policy-making, but surprisingly this was not the case. Even though the challenges of the CSOs are quite different and numerous in order to participate actively and substantially in policy processes (Bino, Qirjazi & Dafa, 2020), still the ones involved in this policy process have not been only proactive in the process, but also have shared relevant suggestions and recommendations; also quite similar to the ones received by the international stakeholders (Venice Commission, 2020). Our main finding is that the consultation processes organized by the authorities was just a ticking box procedure in order to give legitimacy to a preplanned process whose purpose was to have a fixed outcome that fits the Albanian government's agenda and not the public interest. Nevertheless, the Albanian journalists' CSOs turned this policy making action into a social campaign promoting the values of free media, freedom of a speech and fight against censorship, a campaign that had a wide support not just from the Albanian CSOs, but also from international watchdogs such as Reporters Beyond Barriers, Article 19, European Federation of Journalists, etc.; and, international institutions like OSCE, Venice

Commission, Council of Europe (CoE) and European Union. In fact, EU certified the victory of this campaign because the Union put the dismissal of this package law on the EU accession conditional list to the Albanian government.

Naturally, this is not the first time a government tries to impose its agenda, even in more consolidated democracies, governments made up policies that are not beneficiary to the citizens they govern. Albania, relatively, represents still a new democracy, but as the country aims to be part of EU club, the attention for these delicate policy-making processes is monitored by not only local actors, but by international and EU actors and stakeholders also because of the legal obligations Albania has towards EU institutions (Vurmo, Sulstarova & Dafa 2021). The Western Balkan former communist country seems to have been stuck in the long road to the EU integration processes. Despite its obvious limitations, the interpretation of our chosen case helps to lead us to some relevant conceptual and practical explanations why this impasse is going on and on.

### **The Albanian media landscape context**

As the whole Albanian society, the media landscape in the former communist country passed through dramatic changes with the end of the totalitarian regime in 1990. This landscape was transformed from a state-owned media model, censored and controlled with an iron fist by the Stalinist-styled regime of the communist dictator Enver Hoxha, to a new chapter of the freedom of expression guaranteed by the constitution, and a plurality of views expressed in a new multicentric media ecosystem (Car et al., 2019; Voko et al., 2015)

Even though being relatively a small size country and media market, Albania, which is composed of 2.8 million inhabitants (Worldometer, 2021), possesses nowadays a rich

media ecosystem, based on the large number of media companies and institutions (Car et al., 2019). Beside the national public broadcaster, Albanian Radio Television (RTSH), there are five more private media operators with national broadcasting licenses and 54 TV stations run their activity in the country, while 48 other broadcasters are registered as local media outlets. The total amount of magazines and newspapers which are printed all over the territory is more than 200 (Filipova, Nedeva, Calistru, Novaković & Preçi 2021). In Albania, 59 radio stations run their programs, plus two national radio broadcasters, three affiliate relay stations, 49 local radio stations, and four radio stations operated by religious communities. Moreover, 20 audio-visual media service providers carry out their services online, mostly using IPTV technology (Çela, 2019). The media landscape in the western Balkan country also includes 70 cable service providers, and two satellite platforms. In Albania, the Audiovisual Media Authority (hereinafter, AMA) is the regulatory authority of the audiovisual media outlets and of their supporting services (Londo, 2013).

In the last few years, the Albanian media landscape has registered an explosion in terms of the number of online media outlets, from which many of them do not produce professional or transparent content (Balkan Investigative Reporting Network [BIRN] & Reporters Without Borders, 2021; Jata et al., 2021). When it comes to estimating the numbers of the Albanian electronic publications service providers, the situation turns out to be a bit complex. The statistics reported recently by research studies are based mainly on the information which is available by their primary source, the Authority of Electronic and Postal Communication (AKEP in Albanian), and also numbers declared by the Union of Journalists, which is the biggest journalist organization in the Western Balkan country.

According to this organization there are some 800 online portals which operate in Albania, and over 400 portals are not registered because it is impossible to find out their administrators (Çela, 2019). Another crucial reason why it is so difficult to have a proper map of the Albanian online media ecosystem, is related to the ethnic composition of the Albanian-speaking population in the Balkan Region. The Albanian-speaking population is living in four other Balkan countries, in Kosovo, Macedonia, Montenegro, and Serbia.

Even though the freedom of expression in Albania is guaranteed by law, in reality the journalists' capacities to report the news with accuracy, fairness, balance and objectivity is endangered by the economic and political power of big corporate companies and other factors that often oblige reporters to avoid sensitive topics and practice self-censorship (Vurmo et al., 2021).

The country's media sector suffers from a series of chronic issues, including high polarization and politicization, self-censorship, undue influence on editorial output of political and business elites, as well as verbal and physical attacks on journalists. (Jata et al., 2021, p.5)

According to the international watchdog organization, Reporters without Borders (Reporters Without Borders, 2020), the world press freedom index Albania is ranked in the 84th position in the list of 179 countries. The main issue that has the spotlight in the short report of the international press freedom organization is our study case, the case of the proposed anti-defamation package law.

### **The so-called anti-defamation draft-law steps**

In this research we adopted the case study method which is in our case both descriptive and interpretative (Donders, 2019). In

2018, the Albanian government announced unexpectedly a set of amendments to Law no. 97/2013 and Law no. 9918/2008, known in the local public as the “anti-defamation package” (Jata et al., 2021). As it was stated by the government, the principal purposes of this policy initiative were to correct the activity of the online media outlets operating in Albania. The governmental advocates of this set of amendments in the parliament claimed that the online media actors have an unlimited power to distribute false and defamatory information anonymously and quickly (OSCE, 2019). Moreover, other reasons for adopting the amendments included the fight against child pornography; the national security, fight against terrorism and the public order (OSCE & Barata Mir, 2019). As an example of risks associated with the lack of regulations concerning online publications, the authorities claimed the cases of false reports that have caused panic among the citizens after the devastating earthquake in Albania. They emphasized that the existing instruments are not enough to track rapidly the authors of such false information and stop the dissemination (Cobus, 2019).

The Albanian Parliament organized 3 sessions of public consultations of the draft media laws in Tirana. The first of these meetings was organized on 25 November amid strong opposition from national and international press and media freedom community. The next round of public consultation hearings took place on 11 and 12 of December 2019 (European Federation of Journalists, 2019). According to the authorities, the original draft amendments went through a very transparent public consultation process during which all the interested parties were consulted. On the contrary, the CSOs criticized the lack of effective consultations and lack of access to the latest versions of the draft amendments (Council of Europe, 2020). Additionally, the CSOs criticized the government for having



notified and organized the consultation processes in a very short time (Cukali, 2021).

The original draft amendments have been evaluated by the international organizations (OSCE, the Council of Europe) and national experts (Jata et al., 2021). Meanwhile, 7 leading international journalist organizations (Reporters without Borders, Article 19, European Federation of Journalists, International Press Institute, Committee to Protect Journalists, South East Europe Media Organisation, European Centre for Press and Media Freedom), through a public letter, called on the Albanian parliament not to approve the set of amendments as they considered this package a clear threat to freedom of speech and free media.

We call on the Albanian parliament to drop their dogged pursuance of these draft-laws and restart the process. The parliament should also make use of the assistance mechanisms available through the Council of Europe office in Tirana and the European Union, in order to come up with laws that are in line with best practice of press freedom standards. (European Federation of Journalists, 2019)

The Albanian parliament adopted draft amendments on 18 December 2019 (Erebara, 2019). The most important changes contained in the last version of the draft amendments can be summarized as follows.

- extend the scope of application of the law to cover publications in online media and regulate the activities of the EPSPs (Articles 1-2 as amended);
- impose new media content requirements for the EPSPs (Article 33/1 as amended);
- expand the powers of the AMA and the Complaints Committee by giving them the power to oversee the implementation of the new obligations by the EPSPs (Articles 20 and 51/1 as amended);

- introduce new procedures for the examination of the complaints related to the content of online publications (Article 51/1 as amended);
- introduce a right to correction or reply in relation to publications by the EPSPs (Article 53/1 as amended);
- introduce administrative measures and fines for those who will contravene the law (Articles 132-133 as amended). (Venice Commission, 2020, p.5-6)

On 19<sup>th</sup> December 2019, the draft-law package was approved by the parliament. The Albanian government and parliament faced sharp criticism by many different local and international stakeholders. Many of the local and international journalist organizations, journalists, and opposition actors accused the Albanian government of passing bills that infringe the basic rights of free expression. A group of journalists, opposition supporters and civil society groups protested outside of the Parliament building, on the day the lawmakers approved the so-called anti-defamation package (Koleka, 2019). On 11 January 2020, the Albanian President, Ilir Meta, vetoed the draft amendments and returned the draft-law package back to Parliament. The Albanian President claimed that the draft-laws “through punishing mechanisms aim to put media outlets under political control, especially the electronic media, which constitutes a gross violation of the freedom of expression” (Erebara, 2020a). Additionally, President Meta emphasized that some of the provisions of these draft amendments were in deep contradiction with the principles of democracy, freedom of expression and proportionality, as well as with the case-law of the Constitutional Court of Albania and of the European Court of Human Rights. Following the procedures, the revote procedure on these draft amendments by Parliament was foreseen to be held on 30 January 2020. However, it was postponed pending the Venice Commission opinion which

came out on 19 June 2020. The suggestions and recommendations that were given by the Albanian CSOs matched with the ones given by the local and international CSOs. Here there is a general summary of the Venice Commission recommendations (Cukali, 2021; Erebara, 2020b; Venice Commission, 2020; Likmeta, 2021; Luku, 2020):

- giving tribunal tributes to a governmental institution (AMA) endangers the freedom of expression and free media;
- with its members selected and voted by the parliament, AMA is not a sufficiently independent and well-structured structure to have this crucial role in the Albanian media landscape;
- the fines have to be rechecked as they might be exaggerated in the Albanian context;
- including all the online voices (even bloggers, individual users, etc.) in this law might also raise the censorship level not only among journalists, but also the general public;
- self-regulation practice is the best practice that works out in many EU countries and some Balkan countries; the government and journalism CSOs can cooperate to make this practice operational;
- there are questions about the fact why legacy media are not involved in this draft-law.

After the harshly critical opinion of the Venice Commission was made public, the Prime Minister Rama declared on Twitter that he was thankful to the Commission for its opinion. However, no significant official action have been taken by the government hitherto.

## **Multistakeholderism and deliberative democracy's contribution to policy-making processes**

Multistakeholderism is a slippery term, and as most of such concepts it is quite unclear and general, also, because it is being implemented in many different forms of governance and it is still being tested as a new form of governance (Buxton, 2019). This notion itself relates to 'stakeholding', a concept which originates from the 1960s when this new approach was mentioned in management and economics literature discussing the widening of companies' from the shareholder perspective to a stakeholder planning (Donders, van de Bulck & Raats, 2019). This kind of chic double concept has been attracting more and more attention in the policy-making processes. In addition, it has been promoted as a tool to bring the citizens closer to the decision-making processes, portraying these processes as more transparent, accountable and democratic (Buxton, 2019).

The stake holding concept is considered one of the pillars of the deliberative democracy theory (Donders et al., 2019), the paradigm that we will mostly analyze in this article. There is no clear evidence when the interest for deliberative democracy started in the 20th century. According to Stephen Tierney (Tierney, 2009) probably the earliest significant act of academic interest in the deliberative aspects of democracy is traced in John Rawls 1971 work "A Theory of Justice". Officially, the first use of the expression "deliberative democracy" is recognized to be introduced in an essay of the American author Joseph Bessete (Deliberative Democracy: The Majority Principle in Republican Government, 1980) (Bohman et al., 1997). Bessete introduces deliberation as a reflective decision-making process, that consists in the exchange of ideas and rational dialogue that could start from the importance of self-interests and passions (Bohman, 1998; Hendriks, 2006).

Moreover, this form of democracy approach is popular and is further being promoted by scholars and policy makers as a form of good governance. But what does this political theory represent? According to a simple definition, deliberative democracy is portrayed as a model of democracy where deliberation is central to the decision-making processes (Chambers, 2003). Additionally, deliberative democracy is referred to a model of governing which secures a place where all the interested society actors have the chance to participate and be part of (Mendonça, Ercan & Asenbaum 2020; Mouffe, 1999). The American political theorists Ammy Gutman and Dennis F. Thompson's interpretation includes the elements that are found in most conceptions of deliberative democracy. Guttmann and Thompson (Gutmann & Thompson, 2004) pointed out the following about deliberative democracy:

Most fundamentally, deliberative democracy affirms the need to justify decisions made by citizens and their representatives. Both are expected to justify the laws they would impose on one another. In a democracy, leaders should therefore give reasons for their decisions, and respond to the reasons that citizens give in return. But not all issues, all the time, require deliberation. Its first and most important characteristic, then, is its reason-giving requirement. (p.3)

In order to deliberate about a case or a problem, traditionally means to confront the pros and the cons of a possible solution which is connected to a societal topic (Mendonça et al., 2020). So, it is a process through which political views and decisions are formed and transformed. Many theorists of deliberative democracy stressed the variability of democracy and how critical they are of the existing representative institutions (J. Dryzek & List, 2003). This paradigm is rather considered an expansion of representative democracy. Thus, deliberation pays attention to the openness to exchange and consent, listening to

each other's views and adjusting not only notions, but mentalities as well (Tierney, 2009).

According to its theorists, deliberative democracy is not limited to the concept of numbers, especially when it comes to the decision making process (Manin, 2005). In a democracy where deliberation functions, decisions need to be taken and fair decision rules need to be institutionalised (Bohman et al., 1997). But the deliberative approach focuses more on the qualitative aspects of the conversation that precedes decisions rather than on a mathematical decision rule (Perna, 2017). In short terms, talk-centric democratic approach replaces voting-centric democratic approach. Voting-centric prototype portrays democracy as a place in which fixed and well-shaped choices and interests are selected or not, so a kind of a yes or no selective reality (Fishkin & Luskin, 2005). In contrast, deliberative democracy gives a wide variety of choices and it is strongly concentrated on the interaction of arguments and opinion making, and then, in the last stage, proceeds to voting (Chambers, 2003). Taking into consideration that the talk-centric aspect is a strong dimension of deliberative democracy, discussion is thus portrayed widely by its theorists, advocates and supporters as the main pillar of this theory (Dryzek & Niemeyer, 2008).

In this theory model, the quantitative aspect is more valued than the qualitative one in the hierarchy of its values (Donders et al., 2019). In other terms, democracy is not seen as a question of numbers, but mostly as a question of qualitative inclusion of all the society actors in a decision-making process. The researchers Dryzek and List (2003) claim that democracy has its full legitimacy when a decision is a product of collective action and deliberation, which has passed through an agreement accepted by all parties involved in this process. The theories of deliberative democracy do not put their focus on the

voting system; on the contrary, they consider deliberation as the main tool designed to have a functioning democracy and political decision-making processes (Gutmann & Thompson, 2004).

The American researcher James Fishkin has analysed and evaluated practical case studies of deliberative democracy for over 15 years in many countries. He has identified five main characteristics which can form out a process of deliberation:

Informed (and thus informative). Arguments should be supported by appropriate and reasonably accurate factual claims.

Balanced. Arguments should be met by contrary arguments.

Conscientious. The participants should be willing to talk and listen, with civility and respect.

Substantive. Arguments should be considered sincerely on their merits, not how they are made or who is making them.

Comprehensive. All points of view held by significant portions of the population should receive attention. (Fishkin & Luskin, 2005, p. 285)

In conclusion, deliberation through the democracy model can produce outcomes that ensure the common good through ethical debates and discussions where a set of inclusionary values of discussions is implemented (Tierney, 2009). Mainly, deliberative democracy refers to institutionalizing a level of openness to exchange ideas and a willingness to listen to others' arguments. Deliberative democracy is not designed on a rivalry between conflicting interests or groups, but on a constant interchange of information and explanations supporting diverse perspectives grounded on the best interest of the general public (Pernaa, 2017). Furthermore, deliberative democracy encourages civic skills and ethical values, and it leads to rational decisions which increase the legitimacy of the

ongoing processes where this paradigm is implemented (Mendonça et al., 2020).

As all the paradigms, deliberative democracy has also faced criticism and has a considerable number of conceptual and practical pitfalls according to many scholars (Donders et al., 2019). There is a general judgement that deliberative democracy has a positive effect on public's opinions. But of course can we verify this positive effect for all the cases where deliberative principles are implemented in a public process? Some scholars find deliberative democracy problematic regarding the effects it gives to the society, and consider it as an overrated form of democracy that benefits the society. It is considered that deliberation puts more focus on disagreements, stimulates social competition, and divides opinion (Hendriks, 2006). Despite all the pros, deliberative democratic theorists are criticized for being naive (Dryzek & Niemeyer, 2008; Dryzek, 2005). As John Dryzek claims, they have little to say about external factors. Other critics also point to the strength of big corporations, the effects of economic inequality and cultural authorities. According to Hagendijk and Irwin (Hagendijk & Irwin, 2006), democracy will always be analysed in a context of opposing relations and in case you might misconside this significant element then you miss an essential part of the democratic society. For Mouffe (2000), democracy is better seen as inherently antagonistic, rather than as oriented towards consensus building and deliberation. Even though Manin (2005) is a strong supporter of deliberative democracy, he admits that this paradigm possesses sharp elements of contradictions that might come out in the debate and influence in the delicate processes of policy-making.



## **The consultation hearings through the lens of Fishkin's principles**

In this part of my research, I try to filter and analyze the insight of my interviews that were conducted in the consultation process through Fishkin's core principles of deliberative democracy,

### ***Information***

The 5 interviewed journalism CSOs members who were part of the consultation process confess that they did not have access beforehand to the general data and information of the consultation process; no basic information linked to the dates and the place of the first meetings that were organized by AMA; then continuing with the content of the draft itself. According to the CSOs members, they were intentionally not informed about this process and the existence of the draft-law (Erebara, 2021; Luku, 2020; Quku, 2020). During a random conversation, an official of the OSCE delegation in Tirana informed the journalist Besar Likmeta on the exact day when it was planned to be organized. "Actually, we were not invited in the first consultation process, we showed up there without an invitation." (Likmeta, 2021).

We were informed only a few days before it started. I was not notified personally. I had an email forwarded to me from a friend of mine. Many of our colleagues in the media community were not informed. We were not informed in time because I believe they wanted to pass the consultation process quickly and formally, just so that they could say later that "we did it, and nobody said anything." (Cukali, 2021)

### ***Substantive balanced***

As we have figured out going by the interviews and data collected, the argument stances of the CSOs members and governmental actors have been quite opposite from each other. They insist on the fact that their arguments were totally disregarded and not reflected in the minor changes that followed both consultation processes. For example, the main argument that was given as an alternative by the CSOs consisted in finding ways to apply the self-regulation practice in order to adjust the online media ecosystem. In both draft-law proposals, this solution was not included in the final package (Luku, 2020). The same approach was followed also in the case of the extra judicial power that AMA receives by the governmental proposals. The CSOs actors are totally against this approach as they would see Albania going in the directions of autocratic countries like Turkey and Russia in terms of media policies. Also, this argument was rejected and not reflected in the two final drafts, and it passed the parliament (Erebara 2021;Likmeta, 2021).

Legally speaking, AMA should not have a bipartisan position. Instead, it has to stay independent and far from politics. However, the formula of electing the board members reflects the political relations between the governing majority and the opposition. In this aspect, the law is regressive. So, I think the critics are fair; the board is political in its core and position on different topics. (Bregu, 2021)

### ***Conscientious***

All the interviewed CSOs members, who were involved in the consultation hearings, tell that they felt in a kind of embarrassing position as their arguments were the whole time ignored by the draft-law rapporteurs. Moreover, they say en

block that the arguments shown by the CSOs participants were totally misconsidered by the MPs in the consultation hearings (Erebara, 2021; Luku, 2020; Quku, 2020). "All I see is the government wanting to pass that law at any cost." (Cukali, 2021)

In most of the EU countries, in terms of online media, self-regulation is the way to go. The Prime Minister does not accept this as an option, because his interest is to influence the way how online media report, particularly in corruption cases (Likmeta, 2021).

### *Diversity*

By analyzing the participant's background, we realize that there has been a decent variety of the stakeholders involved in the consultation meetings. As emphasized earlier, apart from the journalism CSOs actors, part of this common initiative were also institutions and NGOs profiled in law, accountability and human rights. This wide participation has enriched the discussions and perspectives. Gjergji Vurmo, the Albanian Freedom House country rapporteur, highlights the diversity and qualitative feedback of the participators in this process, and also finds them very professional compared even to CSOs from EU countries. "Many EU countries would envy the variety of feedback that media and CSOs have provided there, due to the different backgrounds of the participants." (Vurmo, 2021). But, despite the presence of this array of different actors involved in the process, the diversity dimension is not a merit of the governmental actors who were not very enthusiastic that the draft-law got so much attention (Likmeta, 2021). The CSOs involved were very active during the steps of this whole process, when this policy action was going on. The journalism CSOs who were part of the consultation process are the following: Albanian Media Council, MediaLook, Balkan

Investigative Reporting Network (BIRN Albania), Albanian Union of Journalists, Citizens Channel, Faktoje, Albanian Center for Qualitative Journalism, Association of Professional Journalists of Albania, Albanian Media Institute, Albanian League of Journalists. Part of this common initiative were also institutions and NGOs profiled in law, accountability and human rights: The Albania Helsinki Comity, Civil Rights Defenders, Res Publica, and Albanian Institute of Science.

### *Equal consideration*

The whole CSO actors who were part of this consultation hearing had been equally treated, mostly because of the simple fact that they were all of them against the draft-law itself. But there is a general accordance between the questioned CSO members that the governmental and specifically Prime Minister Rama's will to pass this law was the elephant in the room.

...during the whole process, there was an atmosphere where the MPs did not want CSOs to be involved in this process (Likmeta, 2021).

Moreover, he claims that sometimes during the consultation meetings there were some confrontations when some of the MPs were aggressive and reminding the journalists community members that they had political power and they were voted to pass laws and not only discuss. "The government is the only privileged actor in this draft-law." (Cukali, 2021).

## **Conclusions**

The whole process of this policy-making initiative has been sharply criticized by all the non-governmental actors involved in the process. Local CSOs, journalists, online media actors, international watchdog organizations, international institutions

such as OSCE, Venice Commission, CoE and EU have been in one big front against this governmental policy action.

After a careful analysis, we come to the conclusion that this policy initiative does not fit in with any of the multistakeholderism and deliberative democracy principles. Specifically, it does not align to any of the Fishkin deliberative democracy principles. In fact, the whole process, particularly the consultation meetings, were just a ticking box procedure. No public report was registered for the consultation meetings; the interest groups were not informed, or informed belatedly about the date and place of the meetings, which led to a very late involvement of the CSOs in the draft-law, contrary to the Albanian law provisions on the consultation processes modalities (Bino Qirjazi & Dafa 2020); the meetings were organized in a very short time between each other, giving very little time to the CSOs to participate and get prepared; harsh atmosphere in the meetings created by the governmental proponents who were reminding the participants of their political power as an uncontrollable tool to push initiatives; discrepancies between what the participants stated in meetings and the Prime Minister's statements in public about the draft-law's purpose. Moreover, none of the CSOs' recommendations was taken into consideration during the two stages that the draft-law went through. Getting to know the results of this normative evaluation we can say that the principles of deliberative democracy represent a very idealistic and utopian approach connecting it to our study case. The fact that this draft-law dismissal has been put in the list of the EU conditionalities speaks volumes regarding the quality and integrity of this government initiative as no other country in Balkan region has this specific EU conditionality. As EFJ has quoted in its statement, it is very difficult to categorize the meetings held by the authorities as "consultation meetings"

(European Federation of Journalists, 2019) because they miss lots of basic elements to be qualified as such. Finally, the extra judicial power that would be given by this draft-law to a governmental body as AMA, i.e. to punish online voices by huge fines (until 10 grants E) was an act that would legitimize censorship and mute independent journalism. Moreover, legally speaking that provision could represent censorship measures among the general public critics.

The good news is that the dismissal of this draft-law has been incorporated in the EU conditionalities list for the accession process of Albania in the EU membership stage, which is a victory for the critics of this initiative, and also for the media freedom in the western Balkan country. As it has been highly recommended, the government should try to find a common ground with the Albanian CSOs who have proposed the self-regulation model regarding the regulation of the online media ecosystem. Firstly, this represents a practice very familiar in the EU media landscape and, secondly, now it is a required condition by the EU stakeholders involved in this process. Meanwhile, the Socialist Party, which is run by Prime Minister Rama, was re-confirmed for a third mandate in the last parliamentary elections held on 24 April of this year. Therefore, the risk for the media freedom and freedom of expression still exists as the governmental approach against independent journalism has not changed.

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## **Notes**

The 7 media policy experts who were interviewed for this study are the following:

Besar Likmeta, journalist of Balkan Investigative Network Albania (BIRN) and media expert

Koloreto Cukali, Head of the Albanian Media Council, independent journalist

Gjergj Erebara, journalist of Balkan Investigative Network Albania (BIRN)

Gjergji Vurmo, Freedom House country rapporteur for Albania, IDM program director and senior researcher on governance

Zylyftar Bregu, former AMA board member, lecturer of journalism in the University of Tirana

Bardhi Quku, independent journalist

Elvin Luku, Head of MediaLook Center, lecturer of journalism in the University of Tirana

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