

# **Legal Review Report** on Tobacco Control Legislation in Albania

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# EXECUTIVE SUMMARY

## **Smoking prevalence, smoking effects and smoking predictors in Albania**

Smoking prevalence in Albania remains high, (42 % M/ 7 % F) and, for males, above both global (36.7 % M/ 7.8 F) and Organization for Economic Cooperation and Development (OECD) rates (20.6 % M/ 12.8 % F), and is more widespread among younger males with more than 50% of 25-34 years of age men smoking.

In terms of smoking health and economic impacts, earlier research has found that every year in Albania 4000 people lose their life due to tobacco (or 16% of total deaths), while smoking is one of three main risk factors responsible for the disease burden. The impoverishing effect of smoking in the country pushed 13,000 households with 60,000 members, including more than 10,000 children, below the poverty line, and continues to make the already poor, poorer.

Smoking predictors, especially among youngsters, include cigarette price affordability, surrounding smoking behavior of peers/ family members, and effective implementation of tobacco control legislation. These were found to be strongly linked to the likelihood of smoking initiation or quitting, with males being at greater risk to the addiction.

Research globally has found an increase of price, particular from increased tobacco taxation, results in decreases in smoking prevalence. Research on Albania shows that an increase of tobacco/cigarette prices by 10 % reduces the likelihood of smoking initiation by 5 %. Moreover, increased tobacco taxation is also beneficial to the state budget and society, cutting down public health care related costs, reducing poverty of poorer households, and resulting in more excise related budget revenues that can be allocated to other pro-development needs.

Non-price tobacco control measures have also proven effective in Albania - research shows that the introduction of penalties against both businesses and individual smokers smoking in public spaces (e.g. bars) resulted in 20-30% percent lower smoking initiation among youth.

## **International and EU tobacco control framework**

Albania has ratified most key international conventions related to tobacco control and health protection, including that of children, from harmful effects of smoking, such as, the WHO Framework Convention on Tobacco Control (FCTC), the International Covenant on Economic, Social, and Cultural Rights, the UN Sustainable Development Goals (SDGs), and the UN Convention on the Rights of the Child (UN CRC). Albania still needs to ratify the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products as an important additional instrument to remove access to cheaper illicit tobacco.

Considering Albania's aspiration to accede to the European Union (EU), Albania needs to increase its excise taxes to meet the EU's minimum rates in the Tobacco Tax Directive thereby Albania should develop its strategic framework towards a tobacco –free generation by 2040, and align its tobacco -control legislation with that of the EU.

## **Tobacco taxation situation in Albania**

In the past, excise tax/price increases of cigarettes have been instrumental for reducing tobacco consumption in Albania. However, current excise rate on tobacco and consequently cigarette price has not made them less affordable, being outpaced by inflation and economic growth levels, and

thus remaining the lowest among the region's countries and considerably less compared to the EU minimum requirement (almost half the value).

Currently, Albania's tax rates are far below the EU minimum threshold. More specifically, the **current law on excise** provides for an excise tax for tobacco and its by-products, at the current (2023) rate of ALL 7000 (67.8 EUR<sup>1</sup>)/ 1000 cigarettes and an increase calendar of tobacco excise by ALL 250 per year, for the period 2022- 2026. Albania should increase the excise tax on tobacco / price of cigarettes, to reduce smoking prevalence, also in line with inflation effects and EU minimum requirements (by amending law 61/2012 on the excise tax).

In addition, the revenues from tobacco excise tax should be partly allocated to support anti-tobacco measures such as specialized services for smoking prevention for young smokers, cessation for existing smoking, and anti-smoking promotion and education campaigns, etc. Other funds can be allocated to treat tobacco-related illnesses and other health care costs.

### **Non-fiscal tobacco control legislation in Albania**

Legislation which covers aspects of non-fiscal tobacco control/protection of health from harmful effects of smoking include, the anti-tobacco law of 2006, which has been amended, the law on production and trade of tobacco and cigarettes of 2000, the public health law of 2009, the health care law of 2009, the pre-university education law of 2012, the child protection law of 2018 and the audiovisual media law of 2013 and their implementing secondary legislation.

**The anti-tobacco law** no. 9636 dated 06.11.2006, is the main piece of non-fiscal tobacco control legislation in Albania, which provides among others: labelling and marketing requirements; tobacco sale restrictions; smoke-free areas to protect people from passive smoking; advertisement, promotion and sponsorship restrictions; and related penalties and law enforcement mechanisms.

Changes to the law in 2006 and 2019 aimed at better regulating smoke-free areas, relevant institutions role and enforcement and introduction of fines on smokers, harsher fines on businesses and including e-cigarettes under its scope of application. However, the 2014 amendments narrowed protection from passive smoking qualifying public spaces as only fully "enclosed ones", which implies that in partly covered bars/restaurant patios smoking is allowed.

Implementation of anti-tobacco law should be strengthened through more inspections, especially with regard to respecting smoke-free areas, cigarette sale restrictions, adequate labelling and tobacco promotion restriction compliance, etc. The anti-tobacco law should be further improved to include in smoke -free areas also in non-enclosed public spaces as the original version before the 2014 amendments.

**Other tobacco control –related legislation** such as the laws on tobacco production and trade, on public health, on health care, on pre-university education, on child protection and on audio-visual media, should be improved and better implemented, especially with regard to labeling requirements, sale restrictions, education and awareness campaigns on harmful effects of smoking, targeting children and parents, specialized services to support quitting and prevention, regulating smoking promotion in reality shows, etc. Moreover, these laws should be harmonized to provide a comprehensive and coherent legislative regime for the protection against harmful effects of smoking, with a child centered approach.

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<sup>1</sup> Exchange rate 1 EUR=103.24 ALL, as of 03.01.2023

# 1. INTRODUCTION

Given the importance and the impact of tobacco control policies, it is crucial to review and improve them so that they may contribute to continuous reduction of tobacco consumption. In this context, a mapping and analysis of the current overall tobacco control framework in Albania was conducted, in view of the current smoking levels, especially among young people, in order to provide concrete recommendations for improvements of tobacco control policies towards significant decline of smoking prevalence.

This report is prepared by the Development Solutions Associates (DSA) Albania in the context of the project, “Accelerating Tobacco Taxation in Low-and Middle-Income Countries”, and Tobacconomics program, funded by Bloomberg Philanthropies, now at Johns Hopkins University (JHU) (previously housed at the University of Illinois Chicago, or UIC). The scope of this report does not extend to e-cigarettes, recently included in the scope of the Law no. 9636 dated 06.11.2006, “On the Protection of Health from Tobacco Products” as amended. Since 2018, DSA has been generating a deep and broad research base of support for tobacco taxation in Albania, but there has never been a comprehensive survey of the overall context of laws that affect tobacco control broadly. This report seeks to fill that gap.

This legal review has a companion policy brief and is combined with health promotion efforts with members of parliament (MPs), other policy makers and other relevant actors, including a roundtable organized jointly with MPs “Youth Club” in October 2023, to address key findings and recommendations for better regulatory framework and action, to effectively tackle tobacco consumption in Albania.

## 2. SMOKING PREVALENCE AND PREDICTORS IN ALBANIA

### 2.1 Smoking context – key data

#### Smoking impact on health

Smoking is one of three main risk factors for the disease burden in Albania (together with arterial hypertension and nutrition related risks), causing thousands of deaths each year (Merkaj et al, 2023a).

#### Smoking impact on poverty

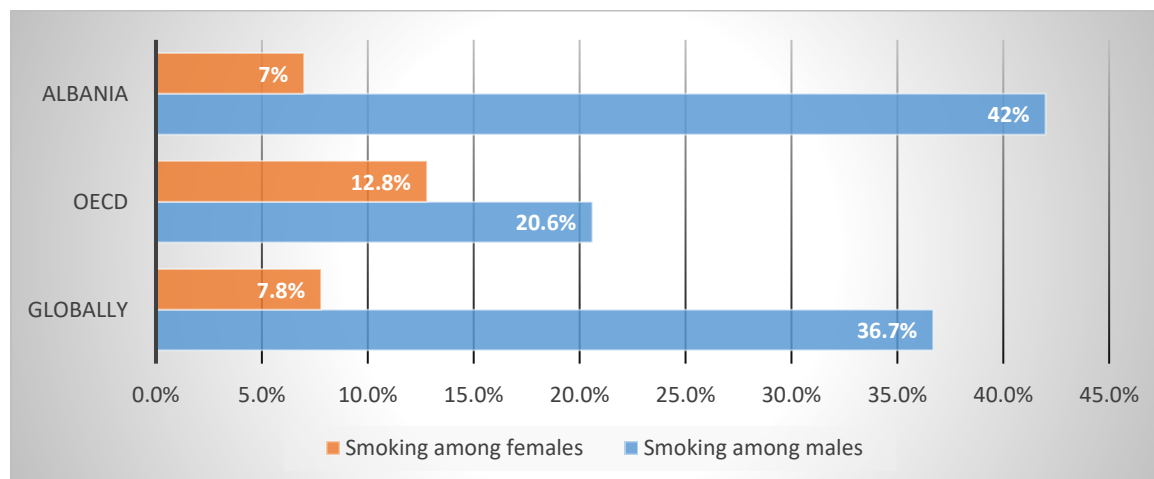
Earlier research (Merkaj et al, 2023b) has shown that tobacco use raises health care costs and greatly lowers economic productivity and, together with the cost of tobacco purchases, reduces the share of income available to meet households’ essential needs such as health care and education, especially for those with lower incomes.

The impact of tobacco consumption in Albanian has made 13,000 households with 60,000 members, including > 10,000 children, to be pushed below the poverty line, and tends to make the already poor (those who are below the poverty line) poorer (Merkaj et al. , 2023b).

## Smoking prevalence

Over the past decades, tobacco consumption has been decreasing in Albania, likely stemming from enhanced health awareness efforts and tobacco control policies. However, the country has still a high smoking prevalence with almost half of males (42%) and 7% of females using tobacco, higher than the global average rates<sup>2</sup> and even more so the OECD average for males (OECD, 2021). The prevalence is even higher among young males of 25 to 34 years old (DSA, 2019a), where more than half of them smoke.

**Figure 1:** Smoking prevalence in Albania compared to global and OECD rates



Source: OECD, 2021. Note: The OECD average refers to people over 15 years' old

## 2.2 Main smoking predictors

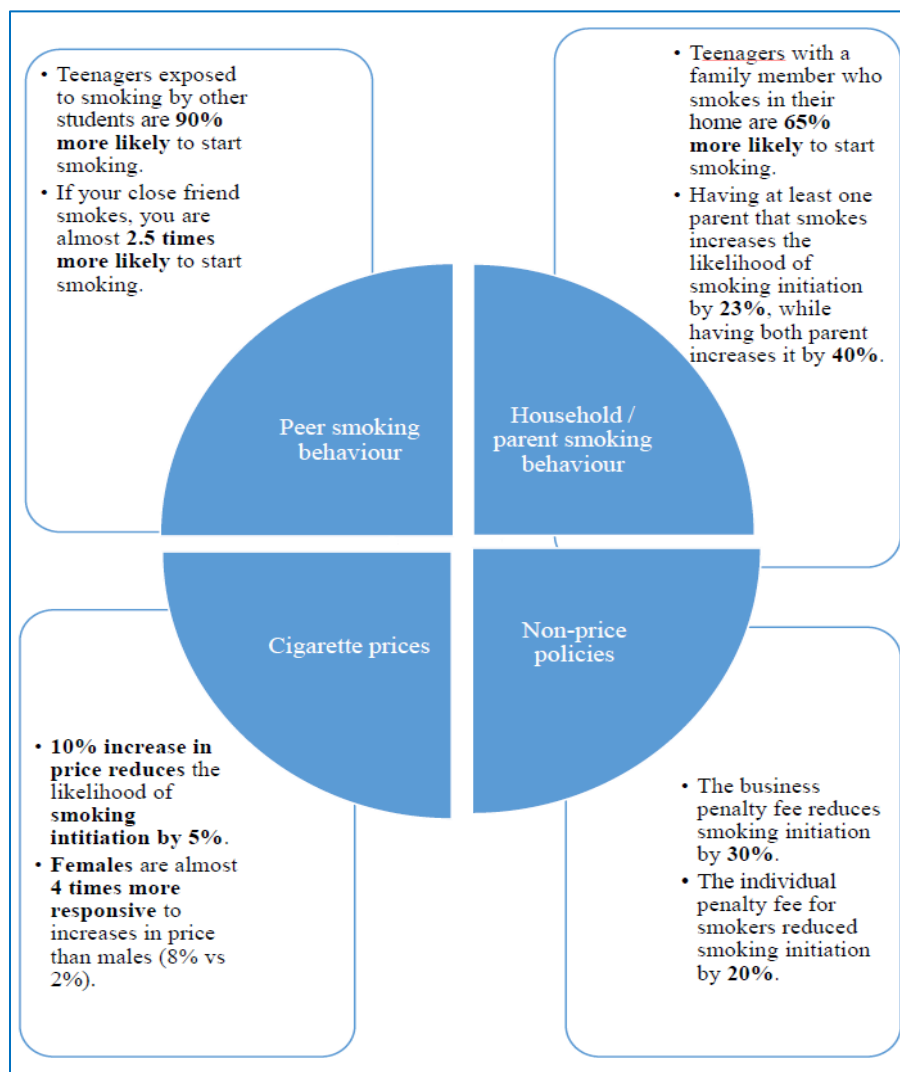
Previous research ((Imami et al, 2019; DSA, 2019b; Zubovic et al, 2019) has identified that the main smoking predictors among youth are related to the cigarette price affordability, surrounding smoking behavior of peers and family members, and the extent to which young people are exposed to tobacco control rules, education & awareness and media advertisement.

Preventing and tackling early age smoking is one the key measures of tobacco control as the habit is more likely to continue later in life as regular or daily, the earlier children or youth first smoke.

In Albania, smoking is typically initiated at an early age (half of smokers start smoking before the age of 13 and 90% before the age of 15), while boys are much more likely to initiate smoking than girls are. There is a significant gender difference: males are more at risk to initiate smoking and to smoke later in life, and are 4 times less sensitive to cigarette price increases than females (Merkaj et al., 2022b).

<sup>2</sup>The global average rates are 36,7 % of males and 7.8 % of females. [WHO]

**Figure 2:** Main smoking predictors among youth in Albania



Source: Merkaj et al. (2022a)

### 2.2.1 Cigarette price policies

Earlier research in Albania (Merkaj et al, 2022a), Europe and globally, indicates that price (mainly driven by tobacco taxation policy) has a strong impact on smoking consumption and prevalence.

Past tobacco tax increases in Albania have been instrumental in reducing tobacco consumption. However, the current excise rate on tobacco is not adequate to decrease tobacco consumption, especially among young people and poorer people, as it has been outpaced by inflation and

economic growth, making cigarettes more affordable to these target groups. Tobacco excise tax is only about half the level of the minimum EU tobacco taxation requirement.<sup>3</sup>

Most notably, making cigarettes more expensive can effectively target especially young people, due to their socio-economic conditions, shorter smoking histories and typically lower levels of addictions, and for poorer households, due to a higher share of smoking related costs in the overall expenditures. This also bearing in mind that Albania has the second youngest population in the region, and is one of the poorest countries in Europe.

Increased taxation is also beneficial to the state budget and society, as it will not only lead to reduced public health -care costs and less poverty among poorer households, but also increased budget revenue, due to relatively overall low price elasticity and net value resulting from a difference between higher excise and reduced consumption. Those revenues can be put toward pro-development programs and sectors such as health and education.

### 2.2.2 Non- price control policies

Globally, many non-fiscal tobacco control policies are proven to be very effective in decreasing smoking initiation and consumption among young people. These rules include, among others, smoking restrictions in public spaces, age and other sales restrictions of cigarette packs, marketing and labeling obligations, and bans on tobacco advertising and sponsorship.

Non-price tobacco control measures have also proven effective in Albania. As shown in Figure 2 above, according to previous research in Albania (Merkaj et al. 2022b), the introduction of penalties against both businesses and individual smokers smoking in public spaces (e.g. bars) resulted in 20-30% percent lower smoking initiation among youth.

### 2.2.3 Peer smoking behavior and family smoking environment

The above mentioned research works in Albania (Merkaj et al. 2022b) have found that young people's risk of smoking is highly influenced by their social environment, such as, having peers or family members who smoke. Young people exposed to peers who smoke are 90% more likely to start smoking, while those with a close friend who smokes are 2.5 times more likely to smoke, and 65 % more likely when a family members smokes at home. If one of the parents smokes, young people are 23 % more likely to start smoking, and if both parents do so, the likelihood increases to 40 %. These findings have substantial implications for tax policy, too, because price is likely to affect the smoking behavior of these parents and peers, thus having a major indirect effect on young people's decisions to smoke.

As a result, previous socio-economic research on tobacco control in Albania (Merkaj et al. 2022a) concludes that **combination of increasing taxes, strengthening enforcement of laws to control tobacco** use in public spaces, and public health mass media campaigns to educate about the problems and the solutions could prove effective in reducing smoking onset.

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<sup>3</sup> COUNCIL DIRECTIVE 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (codification): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0064>



### 3. MAPPING AND ANALYSIS OF THE TOBACCO CONTROL FRAMEWROK IN ALBANIA

The primary goal of tobacco control is to prevent and reduce tobacco consumption and protect other individuals from exposure to second hand smoke. Preventing and tackling early age smoking is one the key measures of tobacco control as the habit is more likely to continue regularly/daily later in life, the earlier a cigarette is smoked.

#### 3.1 International Framework on Tobacco Control

The scope of this Report does not extend to an analysis of the compliance and harmonization of the Albanian domestic legislation with the relevant international tobacco control framework, but rather provides an overview of the international tobacco control framework and main obligations steaming therefrom, as listed below.

##### 3.1.1 International level

**Table 1.** International framework on tobacco control

International Convention / Act	Main obligation on state parties	Ratification status
WHO Framework Convention on Tobacco Control (FCTC)	<p>The convention is a landmark treaty adopted by the WHO in 2003, and coming into force in 2005, which aims to reduce the demand for tobacco products, limit their supply, and promote effective measures for tobacco control.</p> <p>It includes provisions on tobacco taxation, advertising and promotion restrictions, smoke-free policies, health warnings on packaging, and more.</p>	<p>Albania has ratified the FCTC by Law no. 9474 dated 09.02.2006.</p> <p>The FCTC has more than 180 Parties.</p>
FCTC Protocol on the Elimination of Illicit Trade in Tobacco Products (WTO, 2012).	<p>The WHO FCTC protocol was adopted in 2012, and focuses on combating illicit trade in tobacco products by implementing measures to secure its supply chain, including tracking and tracing systems for tobacco products.</p>	<p>Albania <b>has not ratified</b> this protocol yet.</p>
International Covenant on Economic, Social, and Cultural Rights.	<p>While not specific to tobacco control, this covenant, adopted by the United Nations in 1966, recognizes the right to the highest attainable standard of health.</p> <p>It has been used in arguments for tobacco control measures that protect public health.</p>	
The United Nations Sustainable Development Goals (SDGs)	<p>The SDGs, adopted in 2015, include a target (SDG 3.4) aimed at reducing premature mortality from non-communicable diseases, including those related to tobacco use.</p> <p>This has encouraged countries to implement tobacco control measures as part of their efforts to achieve the SDGs.</p>	
UN Convention on the Rights of the Child (UN CRC)	<p>The convention provides global human rights for every person under the age of 18 with duties for state parties as regard to children and parents.</p> <p>Especially in Article 24 the UN CRC provides the right of every child to enjoy the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.</p>	

### 3.1.2 European Union level

Meanwhile, the EU has also put in place a number of legislative and regulatory measures to reduce tobacco consumption, as part of its broader EU policy against cancer, including legislation on tobacco taxation.<sup>4</sup> The Europe's Beating Cancer Plan (European Commission, 2022) has the goal of achieving a tobacco-free generation by 2040.

Moreover, the EU legislation has been evolving to better tackle tobacco smoking especially among the younger population and also the dangerous rise of alternative ways of using nicotine including electronic cigarettes. At the same time, the EU institutions have communicated their policy intention to prioritize taxation as one of the key tools to tackle tobacco consumption.

While this mapping exercise does not go into details about EU tobacco control acquis, which Albania will be fully bound upon its EU accession, it should be underlined that the EU policy and legislation related to tobacco control are highly relevant for the country in view of its accession preparation duties, namely alignment of its internal legislation with that of the EU.

## 3.2 Albanian National Framework on Tobacco Control

### 3.2.1 Fiscal tobacco control legislation

As indicated above, earlier research in Europe, across the globe, and even in Albania (Merkaj, et al 2022b) has found a strong link between increasing cigarette prices (mainly driven by tobacco taxation policy), and significant reduction in smoking (initiation or cessation), especially among young people. An increase of price by 10 % reduces the likelihood of smoking initiation by 5 %.

Increased tobacco taxation is also beneficial to the state budget and society, cutting down public health care-related costs, reducing the impoverishing effects of smoking on poorer households, and resulting in more excise related budget revenues.

#### Cigarette pricing in Albania

In Albania, excise tax increases on cigarettes have been instrumental for reducing tobacco consumption. An increase of excise taxes began in the early 2000s, with the biggest increase in excise tax implemented in 2006, when the rate increased from ALL 2,500/ 1,000 pieces to ALL 4,000/ 1,000 pieces, which soon reflected in the cigarette price.

It also worth noting that the current price of a cigarette pack in Albania is primarily determined through fiscal measures, namely the excise tax, and unlike most neighboring countries, Albania assesses only a specific excise tax on tobacco and there is no ad valorem tax on cigarettes.

In addition, also the WHO Framework Convention on Tobacco Control (FCTC), ratified by Albania since 2006, recognizes the fact that price and tax measures are an effective and important means of reducing tobacco consumption particularly for young persons. Even though the FCTC does not prejudice the sovereign right of the Parties to determine and establish their taxation policies, it requires them to account for national health objectives concerning tobacco control and adopt or maintain, as appropriate, measures which may also include implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption.

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<sup>4</sup> COUNCIL DIRECTIVE 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (codification): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0064>

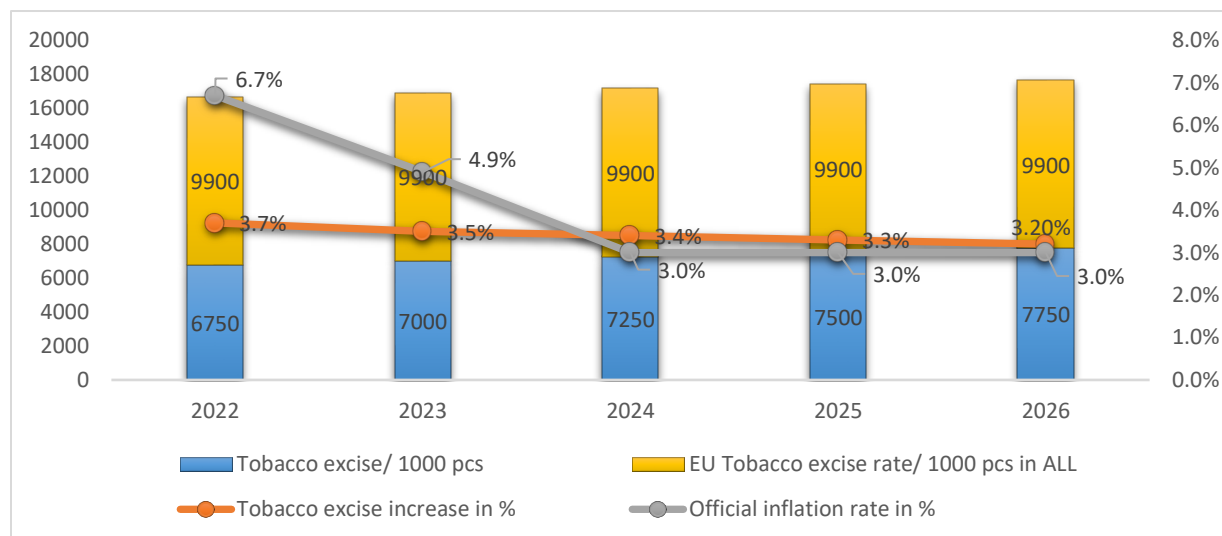
## The Albanian excise tax law

In Albania, the main tobacco taxation legislation is the law on the excise tax, (no. 61/ 2012), as amended, which regulates the excise tax applied on consumption of energy drinks, alcohol and alcoholic beverages, as well as tobacco and tobacco by-products.

Although from 1995 to 2020 the prices of cigarette packs in Albania increased by almost five times, due to the excise tax increases and inflationary effects, the current excise rate on tobacco and corresponding cigarette price does not make them less affordable. This is mainly because the tobacco excise has been outpaced by inflation and economic growth levels.

More specifically, with the 2021 amendments to the law on excise tax (by law no. 114, article 2), tobacco excise was exempt from the inflation-based<sup>5</sup> indexation scheme introduced for the rest of the excise products, subjecting tobacco excise to a separate annual increase calendar for the period 2022- 2026. Those annual increases were not related to the national inflation rates, which have remained higher (reaching 6.7% in 2022), but were a fixed increase value (not a fixed percentage) by ALL 250 every year. (See graph in Figure 3 below)

**Figure 3.** Comparison between Albanian and EU tobacco excise tax levels and changes over time



Source: Based on tobacco fiscal legislation

At the same time, the current level of cigarette excise remains among the lowest in the SEE region and is far from the minimum excise level required by the European Union. More specifically, in order to meet the EU target of 90 euros per 1,000 cigarettes, the country will need to almost double the current excise rate, which is, as of late 2024, 53 Euro per 1,000 cigarettes (European Commission). The tobacco excise regime requirements are of high relevance to the screening process in the negotiations to accession for EU (part of Chapter 16).

In the above graph, it can be observed that the increase rate of excise on cigarettes introduced by the 2021 amendments to the excise law, are still considerably less compared to the EU minimum requirement (almost half the value) and accumulated effect of inflation rates.

<sup>5</sup> As per the official inflation rates published by the Albanian institute of statistics INSTAT.

In view of the above analysis, to reach public health goals, the government's best course of action is to amend Law no. 61/2012 "On Excise in the Republic of Albania" as amended, especially with regard to its Article 18, paragraph 3, by repealing the exception from the indexation scheme of the tobacco excise, this paragraph stipulates. At the same time, the separate tobacco excise fixed annual increase calendar 2022- 2026 should be repealed altogether, as legally redundant, once Art. 18 paragraph 3 will be applicable to tobacco and its byproducts too.

### **Procedure for legal amendments**

Under the Albanian lawmaking rules<sup>6</sup> there are three ways in which a legislative proposal is brought to Parliament, namely, by proposal of the Government, by proposal of a Member of Parliament (MP), or by 20,000 voters.<sup>7</sup>

As to the bills coming from the Government, the latter, based on the Law no. 9000, dated 20.01.2023 On the "Organization and Functioning of the Council of Ministers"<sup>8</sup> should announce its annual legislative plan every end of the previous year, which is then included in the agenda of the Parliament for the upcoming year<sup>9</sup>.

This means that legislation proposed by the government is expected to be included in the parliamentary agenda the next year from its formulation at ministry level.

However, when it comes to laws of a financial nature or State Budget related legislation, they shall be immediately included in the program of works of the Parliament.<sup>10</sup> This is the case also for bills submitted from MPs under the same legislative rules.<sup>11</sup>

If a bill is brought to Parliament by 20,000 voters, there are not specific rules on how or when they are included in the Parliamentary agenda, neither by Law no. 54/2019, dated 18.7.2019 "On voters' legal initiative", nor the RoPs of the Parliament. This means that it remains at the discretion of the parliamentary body which decides on its calendar, namely the Conference of the Chairpersons.<sup>12</sup> In some cases, arguments have been provided for questioning the utility and cost effectiveness of pursuing a legal initiative through voters' right, also due to cumbersome procedures and gaps in describing the entire process, compared to a more straightforward approach via the Government or an MP legal proposal. However, it has been recognized that this instrument may help to educate citizens and raise awareness and public discourse about pressing issues in the society.<sup>13</sup>

In these conditions, it is suggested that the needed amendments to the Law on Excise Tax with regard to tobacco excise are presented via the Ministry of Finance or any MP. In both cases the proposal will be immediately included in the Parliament agenda as elaborated above.

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<sup>6</sup> Article 68, pg. 1 of the Parliament Rules of Procedure: 1. The right to propose legislation belongs to the Council of Ministers, any Member of the Parliament, and 20, 000 voters"

<sup>7</sup> Ibid

<sup>8</sup> Article 27: 2. Based on sent proposals, annual [normative] programs of the Council of Ministers shall be prepared, coordinated with its general program and the legislative program of the Parliament.

<sup>9</sup> Article 26 of the Parliament Rules of Procedure.

<sup>10</sup> Article 26, paragraph 7 of the Parliament Rules of Procedure.

<sup>11</sup> Ibid.

<sup>12</sup> Article 12, of the Parliament Rules of Procedure.

<sup>13</sup> Centre for Civil Legal Initiatives. Commentary of the law no. 54/2019 "On Legal Initiative of Voters" pp. 11: <https://www.qag-al.org/publikime/komentari.pdf>

### 3.2.2 Non -Fiscal tobacco control legislation

As regards the effects of non-price tobacco control legislation in Albania, as mentioned above, previous research (Merkaj et al, 2022b) has shown that penalty fees against both businesses and individual smokers for allowing/ smoking in banned areas, introduced in 2013-2014 caused a reduction in initiation of young people by 30 % (due to business fines) and 20 % (due to individual fines).

In terms of specific legislation which represents the non-price tobacco control legislation in a direct and indirect way they can be summarized as listed below:

- Law no. 9636, dated 06.11.2006 "On Health Protection from Tobacco Products"- "Anti - tobacco law"
- Law no. 8691, dated 16.11.2000 "On Production and Trade of Tobacco and Cigarettes".
- Law no. 10138/ 2009 "On Public Health"
- Law no. 10107/2009 "On Health Care"
- Law no. 69/2012 "On Pre-University Education"
- Law no. 18/2017 "On Child Rights and Protection"
- Law no. 97/2013 "On Audiovisual Media"

#### 3.2.2.1 Anti-tobacco Law

Law 9636 dated 06.11.2006 "On Protection of Health from Tobacco products" (hereinafter the anti-tobacco law) as amended, is the main piece of non-fiscal tobacco control legislation in Albania, which provides among others, smoking restrictions in public places to protect the public from harmful effects of passive smoking, measures to raise awareness among smokers and non-smokers, about detrimental health effects of smoking, measures to prevent smoking onset and support quitting, as well as market placement and trade requirements, labelling, sale and advertisement restrictions, as well as enforcement mechanisms and penalties for violations. Below is a more elaborated description of the mains requirements of this law.

- **Labelling and putting on the market requirements.** The law includes requirements for warning labels on cigarette packs, identification data on the producer, information datasheet, as well as restriction on quantity of tar, nicotine and carbon monoxide per cigarette. It also strictly prohibits lighter labelling giving a misleading perception of less harmful tobacco products.
- **Sale restrictions.** The law prohibits cigarette packs sale to children (people under the age of 18), and sale in specific environments, including schools, health care and sport institutions, automatic vending machines, etc., and also prohibits the sale of unpacked tobacco products or their free of charge distribution.
- **Protection from passive smoking.** Under these rules, smoking is prohibited in working environments, health care institutions, public transport vehicles, trade premises, bars, restaurants, discotheques and night clubs and other public environments.
- **Advertisement, promotion and sponsorship restrictions.** The law prohibits advertisement and promotion of tobacco products through printed and audio-visual media and information society services. The law also prohibits the sponsorship of radio and television programs or any other activity, by tobacco related companies.

- **Policy making and law enforcement.** The law establishes a Cross -sectorial Committee for the Protection of Health from Tobacco Products, chaired by the Minister of Health. It is responsible for policy design in the area of tobacco control and legislation improvement, and to implement programs and projects to reduce smoking prevalence.
- **Penalties for violations and non-compliance.** The law foresees penalties for violation of its requirements through confiscation of the tobacco products and/or monetary fines, ranging from 50 000 (five thousand) to 5 000 000 (five million) ALL on the duty bearer of the respective requirement. Among inspection bodies provided were the State Sanitary Inspectorate, the Custom Administration, and Tax Police, according to their area of competence.

### Past developments of the anti-tobacco law and current challenges

Since its adoption in 2006, the anti-tobacco law has been amended twice, namely on 2014 and most recently in 2019, to respond to the developments in smoking trends and tobacco control challenges, and also the new alternative ways of smoking, such as e-cigarettes. Below is a summary of the main changes introduced by both amendments.

#### 2014 amendments<sup>14</sup>:

- Introduced duties for education and awareness on harmful health effects of tobacco products by public broadcaster and public institutions, and
- to extend the types of public environments where smoking is prohibited, including nurseries, taxis, etc. and other enclosed public environments. However, by adding the qualifying phrase “enclosed premises” the tobacco control measure becomes narrower compared to the original law (art 15 paragraph “dh” thereof) which only read “other [any] public environments”;
- add and specify additional inspection services for this law, (such as educational inspectorate, food safety, labor inspectorate, fire, state police, municipal police etc..) where the health inspectorate was assigned with monitoring and central inspection data collection roles, and introduced the duty of businesses to display information of anti-tobacco inspection bodies.
- introduce penalties for the smokers who smoke in smoke-free areas, and people in charge for the respective environments with fines and confiscation measures as separate measures.

#### 2019 amendments<sup>15</sup>:

- included e-cigarettes in its scope;
- prohibited trade of tobacco products with characterizing flavors (e.g., fruit or dessert),
- prohibited indirect promotion of tobacco products.
- Moreover, these amendments also introduce more fines about failure to comply with the requirements of the law, especially harsher fines (up to six time the amount of fine) for repeated failure by businesses or other legal entities to ensure free smoking public environments as foreseen by the law.

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<sup>14</sup> Amended by law no. 76/ 2014 “On some amendments and addenda to the law no 9636, dated 06.11.2006 “On Protection of Health from Tobacco Products” “On some amendments and addenda to the law no 9636, dated 06.11.2006 “On Protection of Health from Tobacco Products”

<sup>15</sup> Amended by law no. 56/ 2019 “On some amendments and addenda to the law no 9636, dated 06.11.2006 “On Protection of Health from Tobacco Products”, as amended.



Another issue with the regulatory framework on tobacco control is smoking in reality shows and other audio-visual media programs (not commercial communications) are currently unregulated and need to be qualified as an indirect form of advertisement.

### Practical implementation

Based on empirical observations the practical implementation of the smoke-free law is poor and smoking is “allowed” in public institutions, restaurants, cafés, night clubs and other smoking-restricted public environments. Moreover, smoking in schools’ yards and outside near schools remains common.

The key areas where implementation/ better regulation need to be immediately improved concern the following:

- The public enclosed spaces requirements as per the percentage specified by law is not complied with in practice in view of the definition of the anti-tobacco law<sup>16</sup>
- Pertinent law enforcement / inspections services need to be intensified especially in educational institutions, workplaces as well as cafes, restaurants and nights clubs, and also with regard to compliance with tobacco products sale age and venue/modality restrictions. For example:
  - Cigarette packs are normally sold to children under 18 and can be purchased from automated vending machines which are both illegal;
  - Promotion in supermarkets are very visible;
  - Pictures on packs are very light / non serious enough regarding health consequences and warning labels are in small letters and not very visible;
  - Hotline service is not functional, etc.

For these measures to work to promote public health, existing penalties for non-compliance with the requirements of this law need to be duly applied more consistently in concert with intensified inspections.

#### **3.2.2.2 Tobacco production and trade law**

Law no. 8691, dated 16.11.2000 “On the Production and Marketing of Tobacco Cigarettes” regulates production and trade of unprocessed tobacco, its industrial processing, and trade of processed tobacco and its byproducts. It tasks the Ministry of Agriculture and Food with the control of production and trade of tobacco and its byproducts, and the Ministry of Finance with the control of the fiscal/ taxation aspects.

Ministry of Finance also has the power, besides the inspectors of National Tobacco-Cigarette Agency at the Ministry of Agriculture and Food, to impose penalties and administrative measures for violations of the duties under this law.

Main provisions of this law include:

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<sup>16</sup> Law no. 9636, dated 06.11.2006 “On Protection of Health from Tobacco Products”, Article 3 pg. 18: An “enclosed space” is: a) an environment that has ceiling or roof, windows or passageways which may be opened or closed and if fully contained with permanent or temporary walls; b) an environment that has a ceiling or roof, doors, windows or passageways that can be open or closed and is limited by permanent or temporary walls, whose walls have permanent openings that cannot to be opened or closed, with an area less than 50 percent of the total area of the walls.”

- tobacco products either domestically produced or imported are traded only with a fiscal stamp and other warning labelling and tags in places where they are displayed for sale.
- ban on sales of open cigarettes (outside of the packaging), cigarettes of unknown origin or producers, or with damaged packaging.
- ban on tobacco and its byproducts advertising on print and electronic media.

The law establishes the National Agency of Tobacco – Cigarettes and Tobacco Fund to promote develop and guarantee the production and trade of tobacco and its byproducts, under the subordination of the Ministry of Agriculture and Food which is used for provision of tobacco seeds or seedlings and for tobacco producers, for certain state policies for the development of the tobacco sector.

The law also includes fines for violations of its requirements.

### **3.2.2.3 Public health law**

*Law no. 10138/ 2009 “On Public Health” provides (art. 7 thereof) that one of the basic services of the Public Health Institute (PHI) is the prevention and control of abusive use of substances, including tobacco products.*

Moreover, in Article 51 this law enumerates measures for the protection of health from tobacco products, such as protection from passive smoking, awareness raising campaigns, prevention of smoking onset, and support of quitting. Regarding the manner and organization of such protection measures this law refers to the anti-tobacco law.

However, core services of the public health<sup>17</sup>, including health education and health promotion and awareness raising, are not specifically regulated in this law with regard to smoking.

A simple reference to the anti-tabacco law, by article 51 of this law, is not sufficient in this regard, bearing in mind that the anti-tobacco law achieves public education/awareness raising objectives on the damages of smoking mainly through labelling requirements and ban on advertisements and sponsorships, but not through proactive public education and awareness measures.

### **3.2.2.4 Health care law**

Law no. 10107/2009 “On Healthcare” provides only a general right of citizens to be informed on the maintaining and improving health<sup>18</sup>, in view of taking decisions concerning their personal health or that of their families and about health service providers and how to access them.

However, this law is silent with regard to special services, ideally at primary health care (PHC) level, especially for youngsters to prevent smoking/ re-smoking and support quitting. Such services are foreseen to be in place by the public health law, (article 51, pg. 1 “c”), anti-tobacco law (article 2 pg. “c”) and child protection law (article 25) as specialized health care services for smoking prevention and quitting.

This gap is also identified bearing in mind the general provision of the health care law that health care services also include prevention aspects (article 3 pg.6) and that the primary health –care also covers needs for prevention and rehabilitation (article 9 pg.3)

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<sup>17</sup> Article 5 and 7 of the Law no. 10138/ 2009 “On Public Health”

<sup>18</sup> Article 6 pg. 2, letter “b” of the Law no. 10107/2009 “On Healthcare”



### **3.2.2.5 Pre-University Education Law**

Law no. 69/2012 “On Pre-University Education” provides for a general provision on purpose of basic education to cultivate in children values, health care, as well as the preparation of sufficient for the continuation of higher secondary education or for the labor market.” (art.22). However, no specific provisions on tobacco related health risks/ health in general awareness raising or school curricula were found in this law.

### **3.2.2.6 Child Protection Law**

Law no. 18/2017 “On Child Rights and Protection” also provides, (Article 25 thereof) the right of children to be protected from the use of tobacco among other substances. It prohibits sale of tobacco to children and tasks the state police in cooperation with the ministries of education, health and social affairs, to take measures to:

- increase public and child anti- smoking awareness, including the design of the necessary curricula for this purpose;
- support children and their families through counseling as well as designing policies, strategies and services that guarantee the physical, mental and social rehabilitation of the child who uses tobacco or other substances.

It also tasks the Child Protection Units (CPU) at local government level to support the child and the family by referring the case to specialized services for this purpose.

### **3.2.2.7 Audio-visual media law**

Law no. 97/2013 “On Audio-visual Media” (AMV Law) provides (in Article 42, para 4 thereof) prohibits any form of commercial communications for cigarettes and other tobacco products. - In addition, (in Art 44 thereof) prohibits at any time the placement of tobacco products, cigarettes or by companies, persons or enterprises which main activity is the production and trade of cigarettes and tobacco products. Concerning sponsorship of broadcastings, the AMV law (in Article 45 thereof) provides that audiovisual broadcasting services may not be sponsored by companies, persons or enterprises which main activity is the production or trade of cigarettes or other tobacco products. Similarly, the Audio-visual Media Broadcasting Code (BC) provides similar provisions. Concerning parent and children right to health information, no provisions were found neither in the Law on Audio-visual Media nor the Broadcasting Code.

Table 2 below provides an overall map of tobacco control legislation in Albania and identified gaps for a coherent tobacco control framework and effective implementation.

**Table 2.** Map tobacco control legislation in Albania

Law	Specific measures against tobacco use	Identified legal gap/ implementation issue	Implementation year
<b>FISCAL CONTROL LEGISLATION</b>			
Law no. 61/ 2012 “On the Excise Tax in the Republic of Albania” as amended.	<ul style="list-style-type: none"> <li>Provides for an excise tax for tobacco and its by-products, at the current (2023) rate of ALL 7000 (67.8 EUR<sup>19</sup>)/ 1000 cigarettes.</li> <li>Provides for an increase calendar of tobacco excise by ALL 250 per year, for the period 2022- 2026.</li> </ul>	<ul style="list-style-type: none"> <li>Current excise tax on tobacco and its increase rate until 2026 does not make it less affordable and is almost half the minimum value of the EU.<sup>20</sup></li> <li>To amend the excise tax law to include tobacco excise in the indexation scheme as the other excise goods.</li> </ul>	2012
<b>NON FISCAL CONTROL LEGISLATION</b>			
Law no. 9636, dated 06.11.2006 “On the Protection of Health from Tobacco Products”	<ul style="list-style-type: none"> <li>Provides for warning labels on cigarette packs;</li> <li>Provides for sale restrictions, to people under 18 and in certain places/ ways;</li> <li>Prohibits advertisement of tobacco products and sponsorship of tobacco companies;</li> <li>Bans smoking in public and other places</li> <li>Provides penalties for violation of its requirements and inspection services.</li> </ul> <p><u>2014 amendments</u></p>	<p>Practical implementation of the law is not satisfactory, especially concerning:</p> <ul style="list-style-type: none"> <li>Smoke-free areas compliance, such as in public institutions, school yards, restaurants, cafés, night clubs, etc.</li> <li>Inadequate inspection and penalties against law infringers;</li> <li>Sale of cigarette packs to children under 18 and through vending machines;</li> <li>Labeling on packs is not adequate and promotion in supermarkets is very visible;</li> <li>Hotline service is not functional, etc.</li> <li>Data on inspections and fines/ confiscations is not available</li> </ul>	2007

<sup>19</sup> Exchange rate 1 EUR=103.24 ALL, as of 03.01.2023

<sup>20</sup> COUNCIL DIRECTIVE 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (codification): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0064>



	<ul style="list-style-type: none"> <li>Reinforces ban on advertising tobacco and its byproducts on printed and electronic media.</li> </ul> <p><u>2013 amendments</u></p> <ul style="list-style-type: none"> <li>Introduced fines for production and trade.</li> <li>Bans sale of open cigarettes or of unknown origin or producers, or damaged packaging.</li> </ul>		2013
Law no. 10138/2009 “On Public Health”	<ul style="list-style-type: none"> <li>Provides as cores duties of public health service the general information function and prevention and control of abusive use of substances, including tobacco products.</li> <li>Refers to tobacco control measures such as protection from passive spoking, awareness raising campaigns and smoking prevention and quitting.</li> </ul>	<ul style="list-style-type: none"> <li>No specific reference to tobacco products’ harmful health effects.</li> <li>Refers to anti-tobacco law to regulate the “manner and organization of such protection” although elements of awareness raising, smoking prevention and support services are not provided by the anti-tobacco law.</li> <li>Health education and health promotion and awareness raising, are not specifically regulated in this law with regard to smoking.</li> </ul>	2010
Law no. 10107/2009 “On Healthcare”	<ul style="list-style-type: none"> <li>Provides general health information right of citizens on the maintaining and improving health and available health services.</li> </ul>	<ul style="list-style-type: none"> <li>No specific duties on tobacco or substance specialized health support services, also in line with the provisions of public health law, (article 51, pg. 1 “c”), anti-tobacco law (article 2 pg. “c”) and child protection law (article 25).</li> <li>Such services should be foreseen and established at primary health care level, especially targeting young people</li> <li>Similarly provisions of this law provide that health care services also include prevention aspects (article 3 pg.6) and that the PHC also covers needs for prevention and rehabilitation (article 9 pg.3)</li> </ul>	

<p>Law no. 69/2012 “On Pre-University Education”</p>	<ul style="list-style-type: none"> <li>• Provides as general purpose of basic education also to cultivate in children values, health care, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• No specific provisions on tobacco related health risks/ health in general awareness raising or school curricula were found in this law.</li> </ul>	<p>2012</p>
<p>- Law no. 18/2017 “On Child Rights and Protection”</p>	<ul style="list-style-type: none"> <li>• Refers to tools to protection children from smoking including, <ul style="list-style-type: none"> <li>○ cigarette sale restrictions to children,</li> <li>○ education and awareness raising,</li> <li>○ design of the necessary curricula,</li> <li>○ support to children and families through counseling and rehab services from tobacco and other substances.</li> </ul> </li> <li>• Tasks the state police, ministries of education, health and social affairs, and CPU at local level, to take the above measures according to their area of responsibility protect children from smoking.</li> </ul>	<ul style="list-style-type: none"> <li>• Other sectorial legislation such as law on public health, health care, education etc., should be amended to be in line with the requirements of this law for child protection from smoking</li> <li>• Practical implementation of the requirements of this law are not satisfactory.</li> </ul>	
<p>- Law no. 97/2013 “On Audio-visual Media” and AVM Broadcasting Code</p>	<ul style="list-style-type: none"> <li>• Prohibit any form of tobacco advertising, product placement or sponsorship of broadcastings by tobacco companies or persons;</li> </ul>	<ul style="list-style-type: none"> <li>• Concerning parent and children right to health information, no provisions were found neither in the Law on Audio-visual Media nor the Broadcasting Code.</li> <li>• This would also harmonize this law with anti-tobacco education duties of public broadcasters introduced by the 2014 amendments to the anti-tobacco law</li> <li>• Smoking in “reality” shows and other audio- visual media programs (not commercial communications) should be regulated/ prohibited by this law as a form of smoking promotion.</li> </ul>	<p>2013</p>

## 4. CONCLUSIONS AND RECOMMENDATIONS

### *Summary of tobacco consumption patterns, impact and policies*

- Smoking prevalence in Albania remains high, (42 % M/ 7 % F) and above global (36.7 % M/ 7.8 F), and OECD countries rates (20.6 % M/ 12.8 % F), and is more widespread among younger males with more than 50% of 25-34 years of age man smoking;
- Smoking in Albania causes thousands of tobacco –attributable deaths per year or, and is one of the three main risk factors of the disease burden;
- The impoverishing effect of smoking in Albania have pushed 13,000 households with 60,000 members, including more than 10,000 children, below the poverty line and have made the already poor, poorer;
- According to previous research cigarette affordability, surrounding smoking behavior of peers/ family members, and effective implementation of tobacco control legislation are the main smoking predictors among youth in Albania;
- Research has found an increase of price (tobacco taxation) by 10 % reduces the likelihood of smoking initiation by 5 %;
- Non-price tobacco control measures have also proven effective in Albania - research shows that the introduction of penalties against both businesses and individual smokers smoking in public spaces (e.g. bars) resulted in 20-30% percent lower smoking initiation among youth.

### *Recommendations*

- Making tobacco excise subject to inflation -based indexation, similar to other excise goods (e.g. fuel, alcohol) is important to at best avoid making tobacco more affordable in relative terms (when compared to food for example) and thereby reduce its consumption while speeding up EU minimum requirements fulfillment. (that requires amending law 61/2012 on the excise tax);
- The revenues from tobacco excise tax can be partially used for anti-tobacco measures such as, health –care related / cancer treatment costs, specialized services against addictions for young / smokers, promotion and education campaigns addressed to parents and children, etc.;
- Albania should ratify the FCTC Protocol on the Elimination of Illicit Trade in Tobacco Products as soon as possible to help the government implement provisions to mitigate this trade and protect society from these less expensive products;
- In line with the EU policy framework on the fight against cancer and tobacco control, Albania should develop its strategic framework towards a tobacco –free generation by 2040, and align its tobacco -control legislation with that of the EU;
- Implementation of anti-tobacco law (no. 9636, dated 06.11.2006) should be strengthened through more inspections, especially with regard to respecting smoke-free areas, cigarette sale restrictions, adequate labelling and tobacco promotion restriction compliance, etc.;
- The anti-tobacco law should be further improved to include in smoke -free areas also in non-enclosed public spaces as the original version before the 2014 amendments;
- 2014 amendments narrowed the protection of the law from passive smoking in public spaces by qualifying phrase “enclosed spaces” (in art. 15 pg. “ë”) compared to the original law which only states “other public spaces”.

- Law no. 10138/ 2009 “On Public Health” should regulate tobacco products’ harmful health effects and information duty of public health services to awareness raising and education duties with regard to tobacco and its effects on health and society.
- Law no. 10107/2009 “On Healthcare” should regulate specific duties on tobacco/ substance specialized health services at PHC level, also in line with the provisions of public health law, anti-tobacco law and child protection law;
- Law no. 69/2012 “On Pre-University Education” should regulate about education and awareness raising about tobacco/substance related health risks and related school curricula;
- Implementation of the child protection law (no. 18/2017) with regard to protection of children from smoking should be strengthened among others by harmonizing and budgeting sectoral legislation with its requirements and proper enforcement;
- Law no. 97/2013 “On Audio-visual Media” and AVM Broadcasting Code should be harmonized with the anti-tobacco law education duties for the public broadcasters on smoking effects, as introduced in 2014 and regulate the smoking promotion in “reality” shows.

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## 6. ANNEX I: CURRENT TOBACCO EXCISE INCREASE ANNUALLY

Below is the calendar of annual increase of all tobacco products excise, as per the 2021 amendments to the Law no. 61/2012 “On Excise Tax” by law 114, Article 2 thereof.

<b>HS code</b>	<b>Excise levels</b>
24 02 10 00	6750 ALL/kg, on 1 January 2022 7000 ALL/kg, on 1 January 2023 7250 ALL/kg on January 2024 7500 ALL/kg, on 1 January 2025 7750 ALL/kg, on 1 January 2026
24 02 20	6750 ALL/ 1000 Piece on 1 January 2022 7000 ALL/1000 Piece on 1 January 2023 7250 ALL/1000 Piece, on 1 January 2024 7500 ALL/1000 Piece, on 1 January 2025 7750 ALL/1000 Piece, on 1 January 2026
24 02 90	6750 ALL/kg, në 1 January 2022 7000 ALL/kg on 1 January 2023 7250 ALL/kg, on 1 January 2024 7500 ALL/kg, on 1 January 2025 7750 ALL/kg, on 1 January 2026
24 03	6750 ALL/kg, on 1 January 2022 7000 ALL/kg, on 1 January 2023 7250 ALL/kg, on 1 January 2024 7500 ALL/kg, on 1 January 2025 7750 ALL/kg, ne 1 January 2026
	2750 ALL/kg, on 1 January 2022 3000 ALL/kg, on 1 January 2023 3250 ALL/kg, on 1 January 2024 3500 ALL/kg, on 1 January 2025 3750 ALL/kg. ne 1 January 2026
240 4 12	12 ALL/ml on 1 January 2022 14 ALL/ml on 1 January 2023 16 ALL/ml on 1 January 2024 18 ALL/ml on 1 January 2025 20 ALL/ml on 1 January 2026
2404 91	6750 ALL/kg, on 1 January 2022 7250 ALL/kg, on 1 January 2023 7750 ALL/kg. on 1 January 2024 8250 ALL/kg, on 1 January 2025 8750 ALL/kg, ne 1 January 2026
24 04 11	6750 ALL/kg. on 1 January 2022

	7250 ALL/kg, on 1 January 2023 7750 ALL/kg, on 1 January 2024 8250 ALL/kg, on 1 January 2025 8750 ALL/kg, ne 1 January 2026
24 03 11	6750 ALL/kg, on 1 January 2022 7250 ALL/kg, on 1 January 2023 7750 ALL/kg, on 1 January 2024 8250 ALL/kg, on 1 January 2025 8750 ALL/kg, ne 1 January 2026
	2750 ALL/kg, on 1 January 2022 3000 ALL/kg, on 1 January 2023 3250 ALL/kg, on 1 January 2024 3500 ALL/kg, on 1 January 2025 3750 ALL/kg, ne 1 January 2026