

# CONFLICT OF INTEREST IN ALBANIA

## REGULATORY FRAMEWORK AND CHALLENGES TO IMPLEMENTATION

conflict of  
interest  
legislation  
asset declaration  
interest of official  
declaration  
law enforcement  
anticorruption



Institute for Democracy and Mediation  
Instituti për Demokraci dhe Ndërmjetësim



Konrad  
Adenauer  
Stiftung

## Authors

Arjan Dyrmishi

Marsida Çela

© Institute for Democracy and Mediation  
Tirana, October 2014

### *Acknowledgement and Disclaimer*

*This study is supported by the Konrad-Adenauer-Stiftung, Rule of Law Program Southeast Europe. The opinions expressed herein are solely those of the author and do not necessarily represent the official standpoint of the Konrad-Adenauer-Stiftung.*

# Contents

Abbreviations	4
1. Executive Summary	5
2. Introduction	8
3. Conflict of Interest and International Standards	10
4. Conflict of Interest and the Regulatory Framework in Albania	13
4.1. Brief Overview of the Legislating Efforts	13
4.2. The Law on the Prevention of Conflict of Interests in the Exercise of Public Functions	13
4.3. The Law on the Rules of Ethics in the Public Administration	18
4.4. The Law on the Declaration and Audit of Assets, Financial Obligations of the Elected and Certain Public Officials	20
5. Institutional Framework and Implementation	23
5.1. Institutional Framework	23
5.2. Implementation and Practice	25
6. 6. Conclusions and Recommendations	34
Annex: Broader Regulatory Framework	36
References	38

# Abbreviations

ALUIZNI	Agency for the Legalization, Urbanization and Integration of Informal Areas/Settlements
Col	Conflict of Interest
DPA	Department of the Public Administration
EU	European Union
GRECO	Group of States against Corruption
HIDAACI	High Inspectorate for the Declaration and Audit of Assets and Conflict of Interests
ITAP	Public Administration Training Institute
MoU	Memorandum of Understanding
OECD	Organization for Economic Co-operation and Development
OSCE	Organization for Security and Co-operation in Europe
PACA	Project against Corruption in Albania
SIGMA	Support for Improvement in Governance and Management
UN	United Nations
UNCAC	United Nations Convention against Corruption
USAID	United States Agency for International Development

# 1. Executive Summary

During the last decade, Albania has been developing policies to tackle the conflict of interest as a means to fight corruption and strengthen the integrity of its institutions. These measures have been mainly driven by Albania's efforts to meet the obligations stemming from the EU integration process and the commitments deriving from the membership in international organizations such as the Council of Europe and the United Nations.

The legislation has been constantly revised over the course of the last ten years with the aim of addressing implementation deficiencies. Efforts have been made to improve implementation by adopting a number of manuals, guidelines, and other regulatory instruments. In addition, there has been a constant focus on the improvement of administrative capacities of the institutions responsible for the implementation and monitoring of the legislation. Since its establishment nearly ten years ago, the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI) has grown from a pilot project to a full-fledged institution.

The impact of all these efforts has not, however, been effective enough and the conflict of interest remains a challenging and a complex issue to be addressed.

This paper argues that the broader political context has not been conducive to the adequate implementation of the adopted laws. The division of powers stipulated by the Constitution of Albania has been constantly challenged by the politics' power struggle and the tendency of the executive branch to overshadow or minimize the role of other institutions. The public administration has been subject to constant political pressure and is far from being based on merit and fair compensation.

The amendments to the legislation on the conflict of interest have been driven by the aim to broaden its scope and address everything while the overall political and broader context has not been conducive to the ef-

fective implementation of the legislation. This has produced a culture of noncompliance and ultimately an inadequate management of the conflict of interest for many years.

Moreover, the approach to regulate the behavior of public officials through sanctions, rather than create the conditions that conduce towards embracing ethical principles in their behavior, has resulted in a lack of genuine willingness by the civil servants to adopt and implement ethical standards. Thus, programs that aimed at providing advice and training have failed to provide the desired effects.

In addition, this paper maintains that it will be difficult to effectively manage the conflict of interest with the current approach to the legislation. Therefore the focus of the regulatory framework should be on a two-pronged approach: provide a framework of compliance and sanctions; and, aim at developing institutional integrity and ethical decision making. Such an approach has consequences also on the organization and distribution of the institutional competences and therefore requires a different thinking based on the subsidiary principle.

On the other hand, the current legislation on conflict of interest in Albania incorporates all the officeholders, including the elected officials of both central and local level, the appointed officials in a growing number of institutions and regulatory bodies, including the judiciary and the civil service. As a result, the HIDAACI is under pressure to perform while undergoes at the same time the political pressure and scarce resources, which affecting its performance.

In order to address this shortcoming, the management of the conflict of interest of the three categories of officeholders (elected officials, appointed officials, civil servants) should be decentralized and additional capabilities should be built. This would allow the HIDAACI to assume a greater guiding and overseeing role and a producer of norms and knowledge rather than to conduct the actual management of the conflict of interest of each and every officeholder. In addition, this approach would contribute to relieving political pressure from the HIDAACI, whose role over the last years has been contested and criticized by opposition political parties, and thus undermined the legitimacy of the institution.

As part of this approach, a number of existing laws and codes on ethics should be reconsidered and their proper enforcement should be encouraged. The Law on Rules of Ethics in the Public Administration, adopted in

2003 but scarcely enforced so far, could be reconsidered and could with minor amendments become an integral part of the ethical management of the civil service. Similarly, the codes of ethics in the judiciary and other codes such as the code of ethics in the police, etc., which have not been implemented or implemented partially, could be reconsidered and reinforced.

Given that transparency and access to information are key preconditions for the effective implementation of the legislation and, ultimately, the more effective management of the conflict of interest, it is vital to encourage as well as to create the necessary conditions and capabilities for a more active involvement of the media, civil society and the citizens.

## 2. Introduction

For over a decade, Albania has made efforts to tackle the conflict of interest by adopting legislations and developing institutional capacities. However, the management of the conflict of interest remains a challenging issue. The legislation has been implemented partially or with little effects and the integrity of public institutions has been undermined by high levels of corruption and a declining public trust.

Against this context, this paper is an attempt to assess the legislation, institutional framework and practice of management of conflict of interest in Albania. The aim of the paper is to identify legal and implementation shortcomings, and to provide recommendations for policymakers and practitioners, but also broader academic and media audiences.

Irrespective of decade-long efforts to address the conflict of interest, there has been a lack of analysis and discussion of this subject beyond the institutional boundaries. So, this paper seeks to contribute not only to the policy but also to the academic discussion. The management and resolution of the conflict of interest is a complex and challenging issue, and the failure to adequately address it risks and undermines good governance and democratization processes. Therefore, the involvement and contribution of societal stakeholders, such as civil society, media and academia, can provide more legitimacy to the efforts made by institutions.

The study is based on the analysis of national and international regulations and reports as well as on the data collected from interviews, focus groups with relevant individuals and stakeholders, and from the media.

Findings suggest that the management and prevention of conflict of interest has been deficient due to frequent amendments of the regulatory framework –a process that has been mainly driven by the tendency to provide for a highly regulated regime while the capabilities in place have been limited to match such goals. In addition, their development has not been taking place with the same rhythms.



To address this shortcoming, the implementation should focus on establishing a new balance between the objectives of the regulatory framework and the capabilities in place, and to redefine the role of HIDAACI by allocating more responsibilities to the various institutional branches and segments of the public administration.

The study is organized as follows: the first section provides a brief overview of the international norms and standards on the conflict of interest. The subsequent section discusses the legal and institutional framework on the conflict of interest in Albania, followed by a section on the implementation and practices. The last section provides some concluding remarks and recommendations.

### 3. Conflict of Interest and International Standards

Prior to discussing the conflict of interest regulatory framework and practice, this section introduces a definition on conflict of interest and the international standards on management and prevention of conflict of interest.

The management of conflict of interest has become a major matter of public concern and a significant challenge to governance as an increasingly commercialized public sector that works closely with the business and non-profit sectors give rise to the potential for new forms of conflicts between the individual private interests of public officials and their public duties.

Although conflict of interest is not corruption per se, there has been an increasing recognition that inadequate management of private interests and public duties of public officials can result in corruption.

By the end of '90s and early 2000, the need to manage conflict of interest became increasingly apparent as the fight against corruption rose up in the list of priorities of the international agenda as a major governance issue.

To address the problem of the conflict of interest regulation, there has been an increased involvement of the international organizations over the last two decades by adopting internationally binding obligations for the member states. The most prominent documents analyzed in this study are the Council of Europe Model Code of Conduct for Public Officials (Model Code) adopted in 2000, the United Nations Convention against Corruption (UNCAC), adopted in 2003, and the OECD Guidelines for Managing Conflict of Interests in the Public Service, adopted in 2003.

The Model Code provides, among others, the definition of the conflict of interest. According to this document “the conflict of interest arises from a situation in which the public official has a private interest which

is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties”.<sup>1</sup>

The definition of the conflict of interest has been subject to discussions and varying approaches, as it is recognized that all public officials have legitimate interests which arise out of their capacity as private citizens, while the line between apparent and factual conflict of interest or between financial and nonfinancial interests cannot be easily established. OECD has provided another definition of the conflict of interest, which is in attempt to avoid the ambiguity deriving from the clause ‘appear to influence’ provided in the Council of Europe definition. The OECD avoid the term apparent from its definition, based on the assumption that an apparent conflict of interest may not be in fact a conflict of interest. In addition, the OECD definition allows identifying both an actual conflict of interest and a conflict of interest that may have existed at some time in the past. According to OECD, conflict of interest can be actual, perceived or potential. An actual conflict of interest involves a direct conflict between a public official’s current duties and responsibilities and existing private interests. Thus, OECD defines the conflict of interest as a “conflict between the public duty and private interests of a public official, in which the public official has private capacity interests which could improperly influence the performance of his official duties and responsibilities”.<sup>2</sup> The European Union has adopted the OECD definition in a report issued by the European Court of Auditors.

All three organizations, the Council of Europe, UN and OECD, have called on the respective state parties to address the conflict of interest.

The Model Code calls for the adoption of legislation and regulations that provide for the duties and rights of public officials, such as the duty of declaration of interests, the incompatibility of outside interests, gifts, improper offers, misuse of official position, duties after leaving the public service, etc. Regarding the duty to declare, the Model Code specifies that “a public official should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official”. Regarding the incompatibility of outside interests,

1 Council of Europe, Model Code of Conduct for Public Officials, 2000, Article 13, [https://www.coe.int/t/dghl/monitoring/greco/documents/Rec\(2000\)10\\_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/documents/Rec(2000)10_EN.pdf)

2 Guidelines For Managing Conflict of Interest in The Public Service, OECD, June 2003, <http://www.oecd.org/dataoecd/13/22/2957360.pdf>

the Model Code sets out that the “public official should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official”.

Similarly, UNCAC provides the general obligations for states to “adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest”. Regarding the duty to declare, the UNCAC stipulates that states “shall endeavor [...] to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials”.

Regarding the conflict of interest, UNCAC stipulates that states should take measures to prevent “conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure”.

## 4. Conflict of Interest and the Regulatory Framework in Albania

### 4.1. Brief Overview of the Legislative Efforts

In response to international obligations and to the growing pressure from the EU to tackle the widespread and systemic corruption,<sup>3</sup> Albania began to undertake steps to address the conflict of interest by adopting legislation and establishing institutional capacities. The Law on the Declaration and Audit of Assets, Financial Obligations of the Elected and Certain Public Officials, and the Law on the Rules of Ethics in the Public Administration were adopted in 2003, and the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI) established in the same year. The law was drafted with the assistance of OECD and World Bank. In the following years, these laws were amended several times in order to better align with the international regulations and requirements. In addition, secondary legislation and regulations have been adopted and/or amended to strengthen implementation, including the Criminal Code, which now treats the violation of the Law on Conflict of Interest as a criminal offense (See Annex).

### 4.2. The Law on the Prevention of Conflict of Interests in the Exercise of Public Functions

The Conflict of Interest (CoI) Law was adopted in 2005, but over the years it has been subject to a number of amendments (amended twice in 2006, in 2012 and in 2014). The amendments have been undertaken with

---

3 Commission of the European Communities, Albania Stabilization and Association Report, SEC (2003) 339, Brussels, 2013, [http://eas.europa.eu/delegations/albania/documents/eu\\_albania/2003\\_progress\\_report\\_en.pdf](http://eas.europa.eu/delegations/albania/documents/eu_albania/2003_progress_report_en.pdf)

the aim to achieve better harmonization with the international and domestic law, but also to provide for a broader and deeper scope of the law. The 2014 amendments, for instance, have expanded the number of officials subject to declaration of their private interests making it obligatory for every public official; introduced criminal sanctions for providing false declarations; strengthened the role of the responsible authorities, were introduced by the 2012 amendments; strengthening of the role of the HIDAACI and the obligations of the public institutions to cooperate more closely with the HIDAACI. In order to achieve better harmonization and facilitate its implementation, since 2006, the approach has been to amend simultaneously both the Col Law and the Law on Declaration and Audit of Assets. One of the important amendments made in 2012 is the provision to merge the declaration of assets and the declaration of interests in one single act called the 'periodical declaration of interests'.<sup>4</sup>

The 2014 consolidated version of the law provides for the definition of rules, means, manners, procedures, responsibilities and competencies for the identification, declaration, registration, treating, resolution and punishment of cases of conflicts of interest. It spells out the procedures and means for identifying and registering conflicts of interest; the restriction of private interests for the prevention of conflicts of interest in particular questions and cases; the ways of treating and resolving conflicts of interest; the invalidity of acts taken under conditions of a conflict of interest and the consequences; the institutions responsible for the prevention of conflicts of interest; and the sanctions.

The definition of the conflict of interest in the Albanian law is largely based on the OECD definition, but has included the 'apparent' conflict of interest also, as provided by the Council of Europe definition. So the definition reads as following: 'the conflict of interest is a situation of conflict between the public duty and the private interests of an official, in which he has direct or indirect private interests that affect, might affect or seem to affect the performance, in an incorrect way, of his public responsibilities and duties'.<sup>5</sup>

The law provides for a broad range of conflicts of interest including actual, apparent, potential, case by case, and continuing conflict of interest.

The law applies to every official in the executive branch at the central

4 Law on the Prevention of Conflict of Interests, Article 48

5 Ibid., Article 3

and local levels, the legislative and the judiciary, as well as state or local enterprises, commercial companies with a controlling participation of state or local capital shares, that take part in a decision-making on: administrative acts and contracts; acts of the judicial organs, notaries acts, acts for the execution of executive titles by the execution organs and acts of the prosecutor's office; normative acts, and only those laws that create juridical consequences for individually specified subjects.<sup>6</sup>

The law incorporates a broad range of private interests to be declared including property rights and obligations of any kind of nature; every other juridical civil relationship; gifts, promises, favors, preferential treatment; possible negotiations for employment in the future by the official during the exercise of his function or negotiations for any other kind of form of relationships with a private interest for the official after leaving the duty performed by him during the exercise of duty; engagements in private activity for the purpose of profit or any kind of activity that creates income, as well as engagements in profit-making and non-profit organizations, syndicates or professional, political or state organizations and every other organization; relationships (family or living together; community; ethnic; religious; recognized relationships of friendship or enmity); prior engagements from which the interests have arisen or arise.<sup>7</sup>

The law requires each and every official to prevent and to resolve on voluntary and timely basis every situation of a conflict of his interests upon assuming and official position and the obligation to continually declare their private interests in advance and on case-by-case basis.<sup>8</sup> The law also provides for the obligation of every other official and institution as well as the right of every person and interested party to provide information on private interests of an official.<sup>9</sup> In addition, the law requires the public institutions to take an active role in collecting information on their officials' private interests.<sup>10</sup>

The declarations on the private interests are treated as official documents and can be made available to the public, in accordance with the applicable legislation and provisions on the protection of private data.<sup>11</sup>

6 Ibid., Article 4

7 Ibid., Article 5

8 Ibid., Articles 6 and 7

9 Ibid., Article 8

10 Ibid., Article 10

11 Ibid., Articles 19-20

The law outlines a broad range of specific prohibitions of private interests, such as: prohibition/restrictions of entering into contracts with public authorities; prohibition on receiving income because of their function or position; prohibition of receiving gifts, favours, promises or preferential treatments; prohibition of indirect interests; restrictions of interests for the persons related to the public official.<sup>12</sup>

The law provides for the prevention of continuing conflict of interest, concerning in particular higher level officials such as the president, prime minister, ministers and deputy ministers and members of the parliament, but also elected officials at the local level, members of the regulatory bodies, high officials of the security institutions, customs and tax officials, members of the Constitutional Court, Supreme Court, Chairman of Supreme State Audit, Prosecutor General, People's Advocate, members of the Central Election Commission, members of the High Council of Justice, and Inspector General of the HIDAACI.<sup>13</sup>

The law stipulates the ways for resolving conflict of interests including a number of clauses such as: transferring or alienating private interests; self-excluding in advance from the decision-making process; resigning from the private engagements, duties or functions; resigning from the public function.<sup>14</sup> In addition, the law specifies ways of resolving particular cases of continuing conflicts of interest by obliging the official to: resign from the management functions or membership in the management bodies; interrupt the exercise of the conflicting activities; transfer the rights of active ownership to a trusted person (blind trustee).<sup>15</sup>

According to the law, the administrative acts and contracts, and each and every civil contract issued or enacted under the conditions of an actual or apparent conflict of interest, are rendered invalid.<sup>16</sup>

The law provides for penal, administrative and disciplinary sanctions for violation of the law. Penal sanctions apply in case of false declarations.<sup>17</sup> Administrative sanctions apply in cases of: failure to make a preliminary self declaration or a declaration on request; failure to issue an autho-

12 Ibid., Articles 21-25

13 Ibid., Articles 26-33

14 Ibid., Article 37

15 Ibid., Article 38

16 Ibid., Article 40

17 Ibid., Article 43/1



rization that authorizes the public institution to check and obtain personal data about the official; finalizing a contract while being in conflict of interest, failure to resolve conflict of interest cases (resignation from management functions or membership in management bodies, transfer of ownership rights, interruption of prohibited private activities, failure to respect established deadlines, application of blind trust instruments not in accordance with the provisions of the law, failure by the by superiors or superior institution to apply the required resolution instruments such as review of official duties, transferring the official to another position).<sup>18</sup> Regarding the application of disciplinary sanctions, the law refers to the provisions of the legislation that regulates the relevant public institution.<sup>19</sup>

HIDAACI is the central authority responsible for the implementation of the Col Law.<sup>20</sup> In order to fulfill its mandate, HIDAACI is provided with a range of competences including management and improvement of the policies and mechanisms, provision of technical assistance and advice to public institutions; offering of recommendations to Parliament regarding legal initiative related to conflicts of interest; strengthening of capacities for the administration of conflicts of interest in public institutions; monitoring, audit and assessment of compatibility with the principles and obligations of this law of the sublegal acts and internal rules approved by public institutions for conflicts of interest; monitoring, audit and assessment of the implementation of this law by the public institutions; the periodic registration of private interests of officials; definition of the model of a case-by-case declaration of interests, as well as the registration of the data that are related to such conflict; verification and administrative investigation of the periodic declarations of interests; verification and administrative investigation of case-by-case conflicts of interest, as well as the prohibitions and restrictions of interests at the request of the public institution or on its own initiative; and, setting of punitive administrative measures.<sup>21</sup>

The Law on the Declaration and Audit of Assets elucidates the political and institutional independence of HIDAACI. The Inspector General is elected by the Parliament on the proposal of the President for a five-year

18 Ibid., Articles 44, 10, 21, 22, 23, 24, 37, 40/1, and 42

19 Ibid., Article 45

20 Ibid., Article 41

21 Ibid., Article 42

mandate.<sup>22</sup> The legal provisions on the termination of the Inspector General's mandate include: the final judicial conviction for the commission of a criminal offence, the resignation, the incapacity declared by final judicial decision, and the absence from work for more than three months. The law also provides for the dismissal of the Inspector General by the Parliament upon the request one third of all the members in cases of violation of the law provisions, a disclosed incompatibility of functions, the performance of an activity that creates conflict of interest.<sup>23</sup> The Parliament approves the budget of HIDAACI as well as the number of employees and their salary.<sup>24</sup> HIDAACI is accountable to the Parliament and the Inspector General is obliged to report annually or whenever called upon by the Parliament.<sup>25</sup>

### 4.3. The Law on the Rules of Ethics in the Public Administration

The Law on the Rules of Ethics in the Public Administration was adopted in 2003,<sup>26</sup> several months after the adoption of the Law on the Declaration and Audit of Assets. The law was drafted by the newly-established Department of the Public Administration (DPA) based on the Council of Europe Model Code.<sup>27</sup> Judging from its objective and scope, this law can be regarded as the precursor of the Law on Conflict of Interests. The law sets out the principles to which the public administration officials should adhere; the definition of the conflict of interest and the means to avoid the conflict of interest; external activities and the cases when these activities are allowed and forbidden; restrictions on the benefits from gifts and favors; as well as employment and post-employment obligations.

The objective of the law is to set the rules of conduct of the public administration officials in accordance with the required standards, to assist them in reaching these standards and to inform the public on the behavior that the public officials should adopt.<sup>28</sup> The law applies to all the public institutions' officials as well as to private organizations that perform public

22 Law on Declaration and Audit of Assets, Article 11

23 Ibid., Article 14

24 Ibid., Article 16

25 Ibid., Article 39

26 Law No. 9131, dated 8.9.2003, "On the Rules of Ethics in the Public Administration"

27 Report of the Commission on Civil Service 2002, <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjeter%20Dap/raportivjeter2002.pdf>

28 Law on the Rules of Ethics in the Public Administration, Article 1

services.<sup>29</sup>

The law lays down the principles to which the public administration officials should adhere, which, among other, include avoiding the conflict of private interests with the official position and not to exploit the official position for serving the private interests.<sup>30</sup>

The law defines the conflict of interest as the “situation in which a public administration official has a private interest that influences or can influence the impartiality and objectivity in the performance of the official duty”.<sup>31</sup> The private interests are defined as “any advantage for oneself, relatives, individuals or organizations with which the official has had or has business or political relations, in addition to any financial or civil obligation of the official”.<sup>32</sup>

The law provides for the means to avoid the conflict of interest, which include: the resolution of any conflict of interest before the employment, as well as the obligation to resolve the conflict of interest at any instance when the official realizes that such a conflict has appeared. The official resolves the conflict of interest by notifying the line manager and the human resources management. Both instances have the obligation to undertake the necessary measures to resolve the conflict of interest of the official. The law provides for the resolution of continuing conflict of interests by obliging the official to renounce or transfer the conflicting interests.<sup>33</sup>

The law regulates the external activities of the public official which are defined as “any regular or occasional activity that requires the commitment of the public administration official performs out of the official duty for the purpose of profit or nonprofit”.<sup>34</sup> The law does not forbid the performance of external activities by the officials when such activities do not prevent the official from performing the official duty, do not damage the image of the official or the institution and with prior notification of the line manager.<sup>35</sup> In addition, the law bans the public officials from requiring or

29 *Ibid.*, Article 2

30 *Ibid.*, Article 3/e

31 *Ibid.*, Article 4/1

32 *Ibid.*, Article 4/2

33 *Ibid.*, Article 5

34 *Ibid.*, Article 6

35 *Ibid.*, Articles 7-8

accepting any benefit such as gifts, favors or any other benefit or promise for himself, his family, friends or affiliated organizations. The law requires the official to refuse any such benefit and report the attempts to provide him/her with such benefits.<sup>36</sup> The regulation of external activities and benefits are further specified by a Council of Ministers' Decision.<sup>37</sup>

The law provides for the obligations of the officials during their employment in the public administration regarding the use of time and resources as well as for post-employment obligations regarding the use of confidential information and representation of individuals or organizations in a conflict or commercial relation with the public administration.<sup>38</sup>

Regarding the sanctions, the law provides for disciplinary sanctions in accordance with the Law on the Status of Civil Servant and requires the relevant public institutions and DAP to identify and register all the sanctions in the national register of the public administration.<sup>39</sup>

#### 4.4. The Law on the Declaration and Audit of Assets, Financial Obligations of the Elected and Certain Public Officials

The Law on the Declaration and Audit of Assets, Financial Obligations of the Elected and Certain Public Officials (from now on the Law on the Declaration of Assets) specifies the civil servants and public officials that are subject to declaring their assets, the rules for the declaration and audit of assets, as well as the origin and sources of the creation of the declared assets.

According to the law, all the elected officials are obliged to declare their assets.<sup>40</sup> With regard to civil servants and public officials, the law is restricted to the level of position of the civil servant (medium-high rank officials), pay scale and type of risk (customs and tax officials).<sup>41</sup>

<sup>36</sup> Ibid., Articles 11

<sup>37</sup> Council of Ministers' Decision, No. 714, dated 22.10.2004, "On the External Activity and the Giving of Gifts by Public Administration Officials"

<sup>38</sup> Law on the Rules of Ethics in the Public Administration, Articles 12-17

<sup>39</sup> Ibid., Articles 19-20

<sup>40</sup> Ibid., Article 3

<sup>41</sup> The following civil servants and public officials have the obligation to file a declaration with the High Inspectorate of the Declaration and Audit of Assets: President of the Republic, members of the Assembly, Prime Minister, Deputy Prime Minister, ministers and deputy ministers; civil

However, the Parliament may impose the obligation to make a declaration of assets for other functions not included in the law upon the proposal of the Inspector General of the HIDAACI.

In addition to the designed officials, the law also allows the case-by-case submission of asset declarations by official's parents, in-laws or other related persons when requested by the Inspector General of HIDAACI.<sup>42</sup>

The designed officials are obliged to declare their movable and immovable properties, shares, securities and parts of capital owned, value of liquidities, financial obligations, personal income and the sources of the income.<sup>43</sup> The declaration of assets is made upon assuming the official duty or entering the public service, yearly while in office, and upon leaving the office.<sup>44</sup>

In regard to the auditing of the data submitted in the declarations, the law provides for systematic annual verification through preliminary arithmetical check and complete audit based on a random selection procedure.

The number of officials subject to complete audit was increased from 4% to 8% following amendments made to the law in 2014. In addition, the amendments provide for the prohibition to hold cash of more than 15,000 USD outside the banking system for the officials declaring for the first time as well as a lower threshold for the value of items subject to declaration (from 5,000 USD to 3,000 USD).<sup>45</sup>

The law stipulates administrative sanctions in case of failure to de-

---

servants of high and middle management level; prefects, chairman of the regional councils, mayors of municipalities, of municipal units and of communes; directors of directorates and commanders of Armed Forces in the Ministry of Defense and in State Intelligence Service; prosecutors, judges and enforcement officers (bailiffs) of all levels; directors of independent public institutions; general directors, the directors of directorates and the chiefs of sectors (commissariats) in the centre, districts and regions, of the General Directorate of the Police, the General Directorate of Taxation and that of Customs; directors of all levels of structures for return of and compensation for property, of privatization and the registration of property; directors of all levels of Territorial Adjustment Commissions; officials who are elected and appointed by the Assembly, President of the Republic, Prime Minister, ministers or persons equivalent to them; directors of joint stock companies with the participation of state capital of more than 50 percent of shares and on the average more than 50 workers.

42 Law on Declaration and Audit of Assets, Article 21, 22

43 Ibid., Article 4

44 Ibid., Article 5/1, Article 7 and Article 7/1

45 Law No. 45/2014, dated 24.4.2014, "On Amendments to the Law on the Declaration and Audit of Assets"

clare, failure to declare within established time, incomplete declaration, and provision of false information.<sup>46</sup> In addition, the law also delineates penal sanctions for refusal to declare and for submission of false declaration.<sup>47</sup>

An analysis of the Law on the Declaration of Assets is relevant in this context, because HIDAACI relies on the provisions of this law in the course of enforcing the Col Law, and, as already mentioned earlier, the trend has been to merge the declaration of assets with the declaration of private interests.

---

<sup>46</sup> *Ibid.*, Article 40

<sup>47</sup> *Ibid.*, Articles 5 and 38

# 5. Institutional Framework and Implementation

## 5.1. Institutional Framework

HIDAACI is the central authority for the implementation of both the Law on the Declaration of Assets and the Law on Conflict of Interest. HIDAACI was formally established with the adoption of the Law on the Declaration and Audit of Assets and has been operational since early 2004. It is organized in two main departments, one dealing with the verification of assets and the other with the conflicts of interests.

Since its beginnings, HIDAACI has had a staff of 45 employees. The number of employees was increased to 56 in 2012,<sup>48</sup> and 9 staff were added later in 2013.<sup>49</sup> The current HIDAACI's staff is 65, of whom 11 are high inspectors and 11 vice high inspectors. The staffs enjoy the status of the civil servant.

In addition to its staff, HIDAACI relies on 520 responsible authorities,<sup>50</sup> who are employed in the public institutions that are subject to the law on conflict of interest. The responsible authorities are (as the law states) directors of human resource departments, or senior human resources specialists, but wherever a human resources structure is absent, the Responsible Authorities are selected and appointed among the staff that performs similar functions.

The HIDAACI budget has undergone a slight increase over the years. Such increase has, however, resulted principally from the increased number of personnel rather than from allocations for operational purposes.

Overall, both human and financial resources of HIDAACI are considered to be limited, which is one of the limitations that HIDAACI has met while

48 HIDAACI Report 2013

49 Data provided by HIDAACI

50 Data provided by HIDAACI

performing its mandate.<sup>51</sup>

HIDAACI cooperates with a number of institutions that possess data that may hold information on potential conflicts of interests of public officials and with institutions that support HIDAACI to perform audits and investigation functions. While such cooperation has been problematic over the years, it has improved through legal amendments and the practice of signing memoranda of understanding (MoU) between HIDAACI and these institutions.

So far, HIDAACI has signed MOUs with the Ministry of Justice, Ombudsman, Immovable Property Registration Office, Supreme State Audit, Department of Internal Administrative Control and Anticorruption in the Council of Ministers, Commissioner for the Protection of Private Data, General Directorate of Customs, General Directorate of Taxes, General Prosecutor's Office, Public Procurement Agency, Ministry of Public Order, General Directorate of State Police, Institute of Statistics, Public Administration Training Institute, Directorate of Coordination for the Fight Against Money Laundering, Authority of Competition, Bank of Albania, High Council of Justice, General Directorate of Rural Transport Service, and General Directorate of Ports.

Another dimension of the institutional development of HIDAACI includes the support and cooperation with international actors and donors, such as OSCE, Group of States against Corruption (GRECO), Council of Europe's Project against Corruption in Albania (PACA), USAID, etc. These organizations have provided substantial support in drafting legislation, guidelines and manuals in addition to continuous provision of technical assistance.

A concrete outcome of these efforts has been the training of over 2,500 officials over the period from 2008 to 2012. However, taking full advantage of the acquired knowledge and preserving the expertise has proven to be a challenge in particular at the local level where turnover after elections is higher.<sup>52</sup>

In terms of reporting, HIDAACI has regularly issued annual reports to the Parliament. The reports are made public and can be found in its official website. The Parliament formally endorses the reports and issues adoption resolutions, where generic statements or at times the impor-

51 SIGMA, Assessment Albania 2010, EU Progress Report 2012, Nations in Transit 2011

52 HIDAACI Reports 2008-2012



tance of the institution is reiterated.

Since its establishment, HIDACCI has enjoyed reasonable political support by the broader political spectrum. However, the contested appointment of the Inspector General in early 2013 and the later replacement of the Inspector General through the modification of the appointment and dismissal procedure stipulated in the law as amended in 2014 have exposed HIDACCI to politicization. Given that the division has dominated the Albanian political spectrum over the last years, it will be a challenge for this institution to enjoy broad political support. On the other hand, this will also be an additional challenge in the enforcement of the law.

## 5.2 Implementation and Practice

In general, the implementation of the law on conflict of interest has been partial and fragmented. In particular, during the first three or four years, after the adoption of the law in 2005, the implementation was very inadequate.

Considering that the Col Law was not adopted in complete vacuum, as the Law on Rules of Ethics in the Public Administration has been in place since 2003, it is worth examining the implementation of this law too, prior to analyzing the implementation of the law on the conflict of interests.

The analysis shows that there is no significant track record of implementation even on the Law on the Rules of Ethics in the Public Administration. This law was adopted with two main purposes: 1) introduce ethics in the civil service; 2) serve as a basis for adopting more specific and detailed laws on ethics by the different segments of the public administration.<sup>53</sup>

Regarding the latter, apart from the State Police, which already had a code of ethics adopted in 1998,<sup>54</sup> no other codes have been adopted by law. Some sectors or institutions such as the health sector, the pre-university education sector,<sup>55</sup> the tax administration or the Bank of Albania<sup>56</sup>

53 Report of the Commission of the Civil Service 2003, <http://dap.gov.al/dokumenta/raportet-vjetore/65-raporti-vjetor-dap-2003>

54 Law No. 8291, dated 25.02.1998, "On Code of Ethics of the Police"

55 Code on Ethics for the Public and Private Pre-University Teachers, adopted upon an Order of Minister of Education on 12 November 2012

56 Code of Ethics of the Bank of Albania, Decision of the Supervisory Council No. 46, dated 25.06.2003

have adopted codes of ethics but in general these documents are statements of norms with no sanction mechanisms and it has not been possible to track any data to assess the impact of these codes.

Regarding the implementation of the law on the rules of ethics in the public administration, which at the time of the adoption was the main target of the law, the analysis of the reports of the Commission of the Civil Service for the period 2006 to 2013 shows no relevant implementation records.

The reports of early years (2003- 2004) highlight the relevance of the law, but no implementation outcomes are reported, while for a number of years (2005-2009) no related data exist. In later years (2010-2013), the Public Administration Training Institute (ITAP) has reported a number of awareness raising activities and training seminars on ethics, conflict of interest and anticorruption.<sup>57</sup> In general, these activities have been organized within the framework of projects supported by OSCE, USAID, and EU Delegation to Albania.<sup>58</sup> The conduct of such activities, with the almost exclusive involvement of foreign donors, shows that ITAP has not yet been able to build sustainable capabilities and resources to effectively pursue the implementation of the law.

The Law on the Rules of Ethics in the Public Administration includes sanctions as well, which, as the law stipulates,<sup>59</sup> are administered in accordance with the Law on the Status of the Civil Servant. These sanctions include: expulsion from the civil service; suspension of promotion for 2 years; appointment to a lower position (demotion); written reprimand; written reprimand and warning.<sup>60</sup> The table below presents a summary of the disciplinary and administrative sanctions given to civil servants over the period from 2006 to 2013, as reported by the Commission of the Civil Service (Table 1).

57 Report of the Commission on Civil Service 2010, 2011, 2012, and 2013, available at <http://dap.gov.al/dokumenta/raportet-vjetore>, accessed in September 2014.

58 Report of the Commission on Civil Service 2010, 2011, 2012, and 2013, available at <http://dap.gov.al/dokumenta/raportet-vjetore>, accessed in September 2014

59 Law on the Rules of Ethics in the Public Administration, Article 19

60 Law No. 8549, dated 11.11.1999, "On the Status of Civil Servant", Article 25

Table 1: Administrative sanctions administered to the civil servants for the period 2003-2013

Viti	Masa					Total
	Expulsion from civil service	Suspension of promotion for 2 years	Demotion	Written reprimand	Written reprimand and warning	
2002						
2003						
2004						
2005						
2006	27		6	2	10	45
2007	15	1	5	14	14	49
2008	10			10	3	23
2009	6		1	12	6	25
2010	13		2	7	7	29
2011	7	1	1	4	1	14
2012	4		1	3	14	22
2013	15		1	1	6	23
Total	97	2	17	53	61	230

Source: Civil Service Commission Reports 2003-2013

An analysis of the data reveals that the data are not accurate with regard to the realistic turnover in the civil service over the reported years. The number (97) reportedly expelled from the civil service represent only a fraction of the civil servants dismissed over these years.<sup>61</sup> Similarly, as reported by the European Commission, based on DPA data, approximately 380 civil servants of the central institutions were dismissed, resigned or put on waiting lists while 100 were demoted since September 2013.<sup>62</sup>

In addition, the reports do not refer to sanctions given for violations of the law on the rules of ethics. Therefore, it is not possible to trace the number of sanctions given. Overall, given that keeping accurate data is

61 European Commission, Instrument for Pre-Accession Assistance (IPA) Multi-annual Indicative Planning Document (MIPD) 2011-2013 Albania, [http://ec.europa.eu/enlargement/pdf/mipd\\_albania\\_2011\\_2013\\_en.pdf](http://ec.europa.eu/enlargement/pdf/mipd_albania_2011_2013_en.pdf)

62 European Commission, Albania 2014 Progress Report, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-albania-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf)

one of the most important components of the management of conflict of interest, the discrepancy between the reports and the real turnover in the civil service is indicative to the poor enforcement of the law on the rules of ethics.

While, as already discussed in the previous section, the Law on the Rules of Ethics in the Public Administration and the Law on Conflict of Interest overlap in terms of their objectives, the study has not found any established connection or attempt to implement the two laws in a harmonized manner. The frequent amendment to the Law on the Conflict of Interests in the recent years, which includes all public officials, including the public administration, and the fact that Law on the Rules of Ethics in the Public Administration is dedicated almost entirely to the management of conflict of interests should have led to either the abrogation of the latter or to amendments aimed at specifically addressing ethical issues in the civil service.

Regarding the implementation of the Law on the Conflict of Interests, the data obtained from HIDAACI reports show that the implementation has been intermittent, partial, and fragmented. The reports show no implementation records prior to 2008. From 2008 onwards, the number of cases that HIDAACI has been able to manage and resolve is relatively small.

It must be said from the outset that the reports provide rather detailed information regarding the declaration of assets, while the data provided on the conflict of interest is less systemized and rather haphazard. In addition, some data, such as the number of cases referred to for criminal investigation, are aggregated and it is not possible to divide the number of cases that pertain to violations of the Law on Conflict of Interest or to the Law on Declaration and Audit of Assets.<sup>63</sup> Furthermore, the reports in the later years provide data that are incongruent with the data provided in previous reports.

Besides the obvious fact that HIDAACI has acquired more expertise regarding the implementation of the Law on the Declaration and Audit of Assets, the haphazardness observed with regard to the records related to the implementation of the Col Law indicates the inherent complexity of identifying, managing and resolving the conflict of interests.

The table provided in the next page is an attempt to organize in a mean-

<sup>63</sup> HIDAACI 2011 Annual Report

ingful manner the cases of conflicts of interest as reported by HIDAACI in its reports from 2008 to 2013 (Table 2).

In addition to the categorizations provided in the table, the reports include categories where processes and outcomes are merged in one, such as 'cases of conflict of interest presented by different institutions that were processed and confirmed to the HIDAACI',<sup>64</sup> which are difficult to interpret and analyze.

The reported cases of conflict of interest focus almost entirely on the conflicts of interest of financial or economic nature. For instance, 120 (out of 195) cases of conflict of interest processed during 2010 involved officials from Customs Administration.<sup>65</sup>

In addition, there are no data related to managed or resolved cases of other kinds of conflict of interest as provided by the law, such as preferential treatment, possible negotiations for future employment, relationships (family or living together, community, ethnic, religious, recognized relationships of friendship or enmity).

*Table 2: The cases of conflict of interest managed by the HIDAACI during 2008-2013*

Year	Cases processed or suspected	Cases managed, prevented or resolved	Cases to be interpreted by the responsible authorities	Cases treated jointly with the responsible authorities	Administrative investigation conducted	Administrative sanctions	Cases referred for criminal procedure
2008	120	34	14	25	-	-	-
2009	121	19	-	84	-	8	-
2010	195	110	38	47	-	20	-
2011	210	1	55	92	-	22	-
2012	168	-	48	24	5	3	2
2013	46	-	-	-	-	-	-

*Source: Data from the 2008-2013 HIDAACI annual reports to the Parliament*

On the other hand, the media has reported on a number of cases that might constitute conflict of interest of such nature including appointments based on political affiliations, family connections, post-office employment, etc., that have remained out of the scope of HIDAACI.

64 HIDAACI 2009 Annual Report

65 HIDAACI 2010 Annual Report

The failure to effectively pursue all the cases of conflict of interest, including those of nonfinancial or pecuniary nature demonstrates that inclusion into the law of all kinds of conflicts of interests by all public officials of all branches and levels has not contributed to improved implementation. Among the factors that can explain the poor implementation is the gap between the expectations of the legislation the institutional capabilities and resources available.

In order to address this deficiency, the HIDAACI approach has been to focus on the management of the continuous conflict of interest. However, HIDAACI has met difficulties in the management of the case by case conflict of interests stemming from its inability to control, more than one thousand administrative acts on daily basis reportedly.

In such cases, the responsible authorities have the competence to perform implementation tasks, but the analysis reveals that they are constrained by a number of limitations that are either inherent to the sector or institution or result from the lack of willingness to comply with the law. The study has found out that the responsible authorities have difficulties in getting the required information and data from the high level officials and are not entirely independent in their performance as in most cases they are appointed by and report to the same officials as the ones they have to manage and resolve the conflict of interest. Moreover, the motivation of responsible authorities is undermined by the lack of recognition of their role. In general, their function as responsible authorities is not integrated into their job description, so they perform this task on the basis of individual motivation and dedication. Even the financial compensation of 15 percent on top of the monthly salary, granted by the 2005 law, was repealed with the amendments of year 2007.<sup>66</sup>

Due to frequent turnovers in the public administration, the responsible authorities are also frequently changed, leading to an increase of the costs of institutions that need to train new people and lose the accumulated expertise. This is more problematic at local administration level, where the establishment of the responsible authorities was not even formally completed until 2012.

Another aspect concerns the lack of an integrated approach in managing the conflicts of interest as part of the day-to-day management. Indeed,

66 Law No. 9690, dated 5.3.2007, "On Some Amendments to the Law No. 9367, dated 7.4.2005 'On the Prevention of Conflict of Interest in the Exercise of Public Functions'", as amended

the Law on Conflict of Interest reiterates the role of the line managers by endowing them with substantial powers in the implementation process, including the obligation to prevent conflicts of interest; the case-by-case declaration of the private interests of an official; the identification of private interests of an official by third persons; the collection of information about the private interests of an official; the prohibition of receiving gifts, favors, promises or preferential treatment; the assessment of the dominant market position of a company; the basic ways of treating and resolving conflicts of interest; the resolution of particular cases of continuing conflicts of interest; the procedures for the treating and resolution of conflicts of interest; the authorities responsible for the prevention, audit and resolution of conflict of interest situations; and, the regulation of the legal consequences of the undertaken action in the condition of conflict of interests.<sup>67</sup>

However, the relation among HIDAACI, responsible authorities, and line managers has not been yet institutionalized in accordance with the above-mentioned provisions, and, for this to happen may require a more robust involvement of DPA and legal amendments as well.

These clauses are, however, irrelevant for a number of officials and institutions that have organizational features that are different from the public administration, such as the heads of independent institutions, members of the regulatory bodies, judges, and elected officials in the local administration or the Parliament. As Transparency International notes, the regulation of conflict of interest in the same way for the elected officials and civil servants is not a good practice, as the “emphasis for elected officials should focus on the disclosure of interests rather than all-embracing prohibitions”.<sup>68</sup>

Another limitation to the implementation of the law has been the lack of sufficient resources of HIDDACI. Various international reports, such as the EU progress reports, the SIGMA assessment reports, the GRECO evaluation reports,<sup>69</sup> Transparency International, etc., have continuously highlighted the lack of sufficient resources and capabilities of HIDAACI to

67 Ibid, Articles 6, 7, 8, 10, 23, 34, 37, 38, 39, 41, and 40/1

68 Transparency International, Albania: Overview of Political Corruption, Transparency International, 2014, [http://www.transparency.org/files/content/corruptionqas/Country\\_profile\\_Albania\\_2014.pdf](http://www.transparency.org/files/content/corruptionqas/Country_profile_Albania_2014.pdf)

69 Greco Eval IV Rep (2013) 9E, ‘Evaluation Report, Albania’, Council of Europe, GRECO, 27 June 2014, [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2013\)9\\_Albania\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2013)9_Albania_EN.pdf)

fully implement the laws.

In addition, HIDAACI has not been in the position to ensure the commitment and effective cooperation of other institutions that according to the law are obliged to collaborate in order to collect the information required and to pursue investigations. One way to ensure this cooperation has been the signing of MoUs between HIDAACI and these institutions. However, despite some moderate improvements, MoUs are a mere expression of intention of good will rather than legally binding document. Therefore, it is necessary to resort to these kinds of solutions demonstrating the high discretion that the other institutions have regarding the implementation of the laws.

Another barrier to the effective implementation of the Law on Conflict of Interest has been the lack of infrastructure to conduct effective audits, verification of the data provided by the officials as well as the lack of digitalized information. Partial solutions have been achieved by collecting data from the agencies, such as the Immovable Property Registration Office, Agency for the Legalization, Urbanization and Integration of Informal Areas/Settlements (ALUIZNI), Ministry of Finances, and the Ministry of Justice, in order to facilitate the exchange of information.<sup>70</sup>

Even by limiting the scope of implementation and focusing on the management of conflict of interests of financial nature, and further on the cases of continued conflicts of interest, HIDAACI has met difficulties in specific sectors. Due to the increasing public-private partnership, the public procurement remains an area particularly exposed to the conflict of interest and where HIDAACI has not been effective to influence. Interview data show that the cases of resolution of conflict of interest in this area are very small despite the exposure of a large number of officials to the risk of conflict.<sup>71</sup>

Another area is the local administration, which, as a result of the decentralization processes and the increased interactions between the local administration and the public, has been increasingly exposed to the risk of conflict of interest. The interview data suggest that the case of conflict appear mostly in the area of building permits, procurements, and use of public spaces.<sup>72</sup>

70 European Commission, Albania Progress Report 2012, p.14-16

71 Interview data with Responsible Authority, August 2014

72 Interview data with Responsible Authority, August 2014



The politicization of HIDAACI work over the recent years has produced a negative effect on the implementation. As a result of disagreements between government and the Inspector General of HIDAA, during 2013, the institution suffered a setback in terms of processing the declaration of interests.<sup>73</sup>

---

73 HIDAACI 2013 Annual Report

## 6. Conclusions and Recommendations

This study analyzed the legislation on the conflict of interest and its enforcement. The findings suggest that the management of the conflict of interests in Albania has been partial and fragmented. The implementation has been hampered by a number of factors whose interplay has contributed towards a lower common denominator in the process of law enforcement.

The political will has been present to respond to the international calls to adopt or improve the regulatory framework, but the laws have been amended with no meaningful analysis of the obstacles to implementation.

One such obstacle has been the gap between the broad scope of the law and the inadequate capabilities to ensure its effective implementation. The implementation has been almost inexistent for a number of years.

In the last few years, there has been a partial approach in the implementation process by focusing on the management of the conflict of interest of financial and economic nature and the continued conflict of interest, while the case-by-case conflicts of interest and the conflicts of interests of nonfinancial nature have been almost disregarded.

HIDACCI has met difficulties in verifying and cross-referencing the provided information due to lack of digitalized register, partial information provided by the officials but, above all, due to the dynamism of the decision making in particular for the case by case conflicts of interest.

Another obstacle to the implementation has been based on the approach of the law to rely on compliance sanction mechanisms without paying the necessary attention to integrity building and consolidation of ethical standards of the public institutions.

As stipulated by the law, HIDAACI has to rely on the responsible authorities and the management capabilities of the public institutions in the

process of implementation. It has taken time to establish the responsible authorities in all institutions and levels and their performance is limited by a number of difficulties.

Overall, the public administration remains politicized and poorly motivated due to poor compensation and where the merit-based system has been challenged by nepotism and cronyism.

In order to improve the implementation, this paper maintains that the regulatory framework should be balanced towards developing institutional integrity and ethical decision-making in addition to the compliance and sanctions mechanisms.

As part of this approach, a number of existing laws and codes on ethics should be reconsidered and their proper implementation should be encouraged. The Law on the Rules of Ethics in the Public Administration should be reconsidered and DPA should be more involved in implementing and developing integrity and ethical standards.

In addition, HIDAACI and other stakeholders should encourage the partial approach to regulate the conflict of interest by developing tailored provisions for the elected officials, the regulatory bodies, and the judiciary, separately from the civil service and public administration.

Codes of ethics and conduct should be adopted for the members of Parliament, the judiciary, and regulatory bodies and mechanism for the case-by-case notification of conflicts of interest should be established for both branches.

Given that transparency and access to information are key preconditions for the effective implementation of the legislation and, ultimately, more effective management of the conflict of interest, it is vital to encourage but also create the necessary conditions and capabilities for a more active involvement of the media, civil society and citizens.

# Annex: Broader Regulatory Framework

## Primary Laws

Law No. 9049, dated 10. 04. 2003, 'On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials', as amended by Law No. 9367 dated 7. 04. 2005, Law No. 9475, dated 9. 02. 2006, Law No.9529 dated 11.05.2006, Law No. 85/2012, dated 18.09.2012, and Law No.45/2014 dated 24.4.2014

Law No. 9367, dated 7.4.2005, 'On the Prevention of Conflicts of Interest in the Exercise of Public Functions', as amended by Law No.9475, dated 9 February 2006, Law No. 9529 dated 11.05.2006, Law No. 86/2012, dated 18.09.2012, and Law No. 44/2014, dated 24.4.2014

## Secondary Laws

Law No. 9030, dated 13.03.2003, an Amendment to the Law No. 8240, dated 10.04. 1997, 'Criminal Code of the Republic of Albania', amended by Law No. 8279, dated 15.01.1998, and Law No. 8733, dated 24. 01. 2001

Law No. 9131, dated 8.09. 2003, 'On the Rules of Ethics in the Public Administration'

Law No. 8610, dated 17.2000, 'On the Prevention of Money Laundering', amended by Law No. 9084, dated 19.06.2003, and Law No. 9917, dated 19.05.2008, 'On the Prevention of Money Laundering and Financing of Terrorism'

Law No. 152/2013, 30.05.2013, 'On the Civil Servant'

Law No. 9887, dated 10.03.2008, 'On the Protection of Personal Data' as amended by Law No. 48/2012, amended by Law No. 120/2014

Law No. 119/2014, 'On the Right to Information'

Law No. 8485, dated 12.5.1999, 'The Code of Administrative Procedures of the Republic of Albania'

Law No. 7905, dated 21.03.1995, 'Criminal Procedure Code of the Republic of Albania'

Sublegal acts

Guideline For Representative Authorities No. 622, Dated. 30.11.2012, 'On the Establishment, Operation and Responsibilities of Authorities Responsible for the Prevention of Conflicts of Interest'

Regulation on the Prevention of Conflicts of Interest in the Exercise of Public Functions at HIDAACI

Methodology 'On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials and on the Prevention of Conflict of Interests in the Exercise of the Public Functions'

## References

- Commission of the European Communities, Albania Stabilization and Association Report, SEC(2003) 339. [http://eeas.europa.eu/delegations/albania/documents/eu\\_albania/2003\\_progress\\_report\\_en.pdf](http://eeas.europa.eu/delegations/albania/documents/eu_albania/2003_progress_report_en.pdf)
- Code of Ethics of the Bank of Albania, Decision of the Supervisory Council nr.46, date 25.06.2003
- Council of Europe, Model Code of Conduct for Public Officials, 2000, [https://www.coe.int/t/dghl/monitoring/greco/documents/Rec\(2000\)10\\_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/documents/Rec(2000)10_EN.pdf)
- Council of Ministers Decision, No.714, dated 22.10.2004, On the external activity and the giving of gifts by public administration officials.
- European Commission, Instrument for Pre-Accession Assistance (IPA) Multi-annual Indicative Planning Document (MIPD) 2011-2013 Albania, [http://ec.europa.eu/enlargement/pdf/mipd\\_albania\\_2011\\_2013\\_en.pdf](http://ec.europa.eu/enlargement/pdf/mipd_albania_2011_2013_en.pdf)
- European Commission, Albania progress report 2012, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/al\\_rapport\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf)
- European Commission, Albania. 2014 Progress Report, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-albania-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf)
- European Court of Auditor special report N° 15//2012: Management of conflict of interest in selected EU agencies. [http://www.eca.europa.eu/Lists/ECADocuments/SR12\\_15/SR12\\_15\\_EN.PDF](http://www.eca.europa.eu/Lists/ECADocuments/SR12_15/SR12_15_EN.PDF)
- Gazeta Shqip, "Administrata, deri në fund të 2013-s do të ketë 87710 punonjës" <http://gazeta-shqip.com/lajme/2013/10/11/administrata-deri-ne-fund-te-2013-s-te-kete-87710-punonjes/>, 13 Tetor 2013
- Greco Eval IV Rep (2013) 9E, 'Evaluation Report, Albania', Council of

- Europe, GRECO 27 June 2014 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2013\)9\\_Albania\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2013)9_Albania_EN.pdf)
- Guidelines for Managing Conflict of Interest in The Public Service, OECD June 2003, <http://www.oecd.org/dataoecd/13/22/2957360.pdf>
- HIDAACI Annual Report 2008 [http://www.hidaa.gov.al/raportet/RAPORTI\\_2008.doc](http://www.hidaa.gov.al/raportet/RAPORTI_2008.doc)
- HIDAACI Annual Report 2009 [http://www.hidaa.gov.al/raportet/RAPORTI\\_2009.doc](http://www.hidaa.gov.al/raportet/RAPORTI_2009.doc)
- HIDAACI Annual Report 2010 [http://www.hidaa.gov.al/raportet/RAPORTI\\_2010.doc](http://www.hidaa.gov.al/raportet/RAPORTI_2010.doc)
- HIDAACI Annual Report 2011 <http://www.hidaa.gov.al/raportet/RAPORTI%202011.doc>
- HIDAACI Annual Report 2012 [http://www.hidaa.gov.al/raportet/RAPORTI\\_2012.doc](http://www.hidaa.gov.al/raportet/RAPORTI_2012.doc)
- HIDAACI Annual Report 2013 <http://www.hidaa.gov.al/raportet/RAPORTI%20VJETOR%202013.doc>
- Law No. 9049, dated 10. 04. 2003, “On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials”, as amended by Law No.9367 dated 7. 04. 2005, Law No. 9475 dated 9. 02. 2006, Law No.9529 dated 11 May 2006, Law No. 85/2012 dated 18.09.2012 and Law No.45/2014 dated 24.4.2014.
- Law No. 9367, dated 7.4.2005, “On the Prevention of Conflicts of Interest in the Exercise of Public Functions”, as amended by Law No. 9475, dated 9.2.2006, Law No. 9529, dated 11.05. 2006, Law No. 86/2012, dated 18.09.2012, and Law No. 44/2014, dated 24.4.2014
- Law No. 9131, dated 8.09.2003, “On the Rules of Ethics in the Public Administration”
- Law Nr.8291, dated 25.02.1998, “On Code of Ethics of Police”
- Law nr.8549, dated 11.11.1999, ‘On Status of the Civil Servant’
- Report of the Commission on Civil Service 2002 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/raportivjetor2002.pdf>
- Report of the Commission on Civil Service 2003 <http://dap.gov.al/>

dokumenta/raportet-vjetore/65-raporti-vjetor-dap-2003

Report of the Commission on Civil Service 2004 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/raportivjetor2004.pdf>

Report of the Commission on Civil Service 2005

Report of the Commission on Civil Service 2006 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/raportiVjetor2006.pdf>

Report of the Commission on Civil Service 2007 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/raportiVjetor2007.pdf>

Report of the Commission on Civil Service 2008 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/Raportivjetor2008.pdf>

Report of the Commission on Civil Service 2009 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/Raportivjetor2009.pdf>

Report of the Commission on Civil Service 2010 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/Raportivjetor2010.pdf>

Report of the Commission on Civil Service 2011 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/Raportivjetor2011.pdf>

Report of the Commission on Civil Service 2012 <http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/Raportivjetor2012.pdf>

Report of the Commission on Civil Service 2013 [http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/DAP\\_Raporti\\_Vjetor\\_2013\\_.pdf](http://dap.gov.al/images/tedhenainst/websitedap/dokumenta%20strategjike/raporte%20vjetor%20Dap/DAP_Raporti_Vjetor_2013_.pdf)

SIGMA Assessment Albania, 2012 [http://www.sigmaweb.org/publications/Albania\\_Assess\\_2012.pdf](http://www.sigmaweb.org/publications/Albania_Assess_2012.pdf)

Transparency International, Albania: Overview of political corruption, Transparency International 2014 [http://www.transparency.org/files/content/corruptionqas/Country\\_profile\\_Albania\\_2014.pdf](http://www.transparency.org/files/content/corruptionqas/Country_profile_Albania_2014.pdf)



Transparency International, 'Albania: Overview of political corruption', 2014, [http://www.transparency.org/files/content/corruptionqas/Country\\_profile\\_Albania\\_2014.pdf](http://www.transparency.org/files/content/corruptionqas/Country_profile_Albania_2014.pdf),

United Nations Convention against Corruption 2003, Article 7.4 [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

