



Financial Oversight and Integrity in Albania's Security Sector



Institute for Democracy and Mediation
Instituti për Demokraci dhe Ndërmjetësim

**FINANCIAL
OVERSIGHT
AND INTEGRITY
IN ALBANIA'S
SECURITY
SECTOR**

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Introduction

by Arjan Dyrmishi

Corruption has emerged as one of the main problems for Albania's governance system and, due to the failure to effectively address it over throughout the transition period, it has also grown to be also perceived as one of top security threats as provided in the official strategic documents.¹

The fact that corruption in Albania is considered a top security threat places more emphasis on the integrity and anticorruption measures in the security institutions that are entrusted with the task to combat corruption.

In the Albanian context, corruption and misuse of public funds by security institutions have a number of major negative implications.

First of all, corruption poses considerable challenges to the efficiency of the security institutions and their operational effectiveness. As a result, it destroys the respect of the society and international partners, puts the security of the citizens in danger, and ultimately threatens the democratic governance and the legitimacy of the state.

Moreover, given that security institutions play a vital role in fighting corruption in the overall national anti-corruption efforts, by failing to address the problem of corruption within their realm they ultimately undermine these efforts.

In addition, resources generated through corrupt practices are often trans-formed into economic and political influence, thus weakening the democratic institutions and further expanding the cycle of corruption.

Corrupt security institutions can easily be manipulated to interfere with the

¹ Republic of Albania, National Security Strategy. Tirana, July 2014

country's political processes, distort elections through interference or failure to act, violate human rights, and ultimately jeopardise the democratic order.

An issue that has frequently arisen within the security institutions in Albania is that accountability and transparency are often lacking and, as a result, corruption and abuse with public funds have become widespread practices.

This vicious circle continues to be unbroken. Hence, the fight against corruption and building integrity in the security institutions have emerged as top priorities.

However, the processes of building integrity and fighting corruption cannot be detached from accountability and transparency. Accountability means that public officials are responsible for their decisions and actions and must accept the appropriate level of scrutiny. Transparency, on the other hand, is a means to hold public officials accountable and to reduce the potential for abusing the public office and systems.

Drawing on the above mentioned assumptions, this publication provides an independent research and a critical overview of the financial transparency and accountability mechanisms of the security institutions in Albania.

The overall objective of this report is to contribute to strengthening the financial transparency and accountability and to building integrity and reducing corruption in Albania's security sector through concerted efforts of the civil society and state institutions.²

The institutional scope of the report addresses all the relevant actors in the field of security, including the armed forces, the police, the intelligence agencies and all the security-providing agencies, the respective ministries, the in-dependent oversight institutions, and, last but not least, the parliament.

In terms of thematic scope, the report examines the financial transparency and accountability of the security institutions, based on the accountability hierarchy presented in the figure below (Figure 1), by conducting an analysis of the budgeting, procurements, assets management, auditing, and parliamentary oversight.

2 OECD. "The OECD DAC Handbook on Security System Reform (SSR) Supporting Security and Justice". Paris: OECD 2007. pp. 103-104

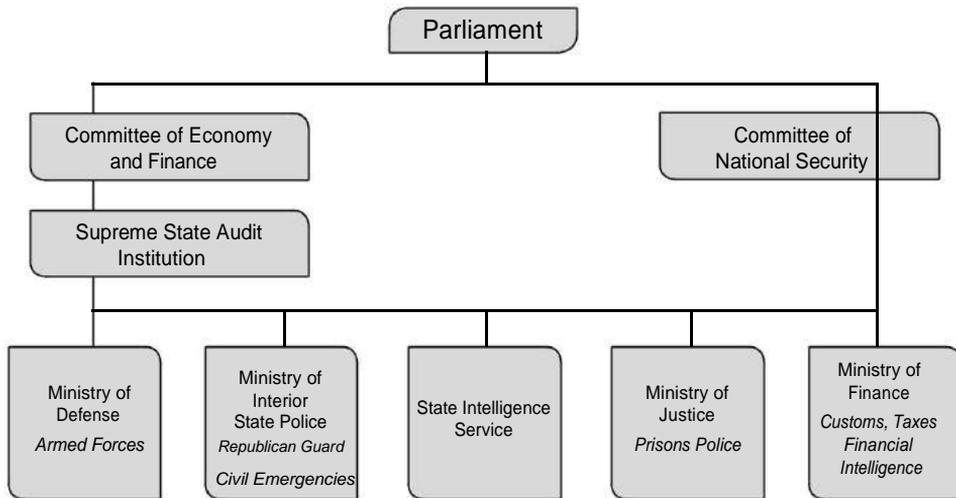


Figure 1. Accountability hierarchy of security institutions in Albania

The report is divided in two main parts. The first part contains three back-grounder documents that introduce the international and Albanian regulations and practices in the area of budgeting, procurement, and auditing of the security sector (Chapters 2, 3, and 4). The second part brings three cases studies that provide in-depth analyses on: (1) open procurements in the security institutions by examining the procurement of the State Police uniforms, (2) management of assets in the Albanian Armed Forces, and, (3) the process of oversight of two classified procurement procedures for the acquisition of military supplies (Chapters 5, 6, and 7).

The information for the backgrounder documents and the case studies has been collected from primary sources, such as official strategic documents, laws and regulations, official reports of national and international institutions, government documents and information from official websites, as well as interviews wherever necessary and possible, and from secondary sources such as books, academic articles, and newspaper articles.

Main Findings and Recommendations

On Security Budgeting

One of the main shortcomings identified when examining the budgeting practices in Albania relates with the absence of a holistic approach to security sector budgeting. This shortcoming is reflected in the entire budget cycle.

In the planning and approval phase, the budget for the security institutions is developed and adopted based mainly on ministries' objectives rather than clear linkages between the budgets and stipulated objectives. This is also reflected in the phases of budget execution and evaluation, considering the persistence of the approach to legitimacy-based audit of spending rather than performance-based audit conducted by the Supreme State Audit Institution (SSAI). The nature of parliamentary debates on both the annual audit reports and adoption of the upcoming budgets supports this finding. (See backgrounder on performance auditing.)

This approach to budgeting has a series of negative implications. First of all, the conceptualisation of security as an aggregate of unrelated institutional endeavors rather than government' indivisible approach to security has produced institutional competition to cohesion and has ultimately led to a loss of value for money of public spending.

Another major negative implication relates to the failure to evaluate security institutions' performance based on inputs, outputs and outcomes, where inputs refer to resources an organisation obtains or receives in order to perform its operations, outputs refer to the measurable results of the work of the core security providers, and outcomes refer to what is ultimately achieved by a given operation.³ This has prevented the security institutions from modernising their management practices based on a results-oriented method, in which the revenues and costs related to specific state actors are measured against the tangible results expected from these actors.⁴

While this has been the traditional approach to budgeting in Albania, the adoption of legislation that shifted from line item budgeting to program budgeting and the introduction of the midterm budget planning (MTBP) for nearly a decade have not contributed to addressing this shortcoming indicating that

3 OECD. "Glossary of Key Terms in Evaluation and Results Based Management". OECD 2002 <https://www.oecd.org/dac/2754804.pdf>

4 United Nations Development Programme. "Handbook on Monitoring and Evaluating for Results". UNDP. Evaluation Office 2002

institutions tend to maintain this form of operation and are reluctant to change their practices in a mechanical way.

In terms of transparency, the Ministries of Justice, Ministry of Defense, and the Ministry of Internal Affairs have failed to comply with the legal requirements of publishing information related to their budget monitoring mechanisms, audit reports, performance indicators, and procurement procedures.

While all relevant institutions have clearly failed to fully implement the applicable legislation as well as to upgrade and harmonize their budgeting and evaluation practices, the main responsibility falls on the Parliament, which, in addition to adopting legislation and the budget, has the constitutional authority to oversee their implementation.

Recommendations

- The Parliament should adopt a holistic approach to security sector budgeting and exercise its powers to involve all security institutions in the process of planning and approving the security budget.
- The Parliament should take the lead in demanding that security budgeting be based on results-oriented method, in which the revenues and costs related to specific security institutions are measured against tangible outcomes expected of these institution.

On Auditing

The main institution tasked with the economic and financial control of state institutions is the Supreme State Audit (SSAI).⁵ Budget spending in the Albanian security sector is audited by internal and external auditing bodies, including the Supreme State Audit Institution, which is the highest auditing entity in Albania.⁶ SSAI's legal mandate is to guarantee the highest level of independence and objectivity of its audits, which are expected to produce objective assessments and recommendations to the Parliament and executive bodies on the current financial and quality control challenges of public institutions. All the security institutions are subject to auditing by the SSAI, which has the power to access all financial data, including classified information. The

5 Constitution of the Republic of Albania, Article 162

6 Constitution of the Republic of Albania, Article 162, paragraph 1

financial activities that are classified as state secret are controlled by staff authorised by the Chairman of the SSAI and the findings are reported to the Parliamentary Committee on Economy and Finances.⁷

Over the last two decades, the SSAI has gradually moved towards the adoption of performance-based auditing, which is understood as the independent examination of current and past activities in accordance with principles of economy, efficiency and effectiveness.⁸ In 2008, the SSAI established a department on performance-based auditing, while in 2014 performance-based auditing was introduced as a legal requirement.⁹ However the SSAI has not conducted any performance-based auditing for specific budgetary programs in security institutions of the Ministry of Defence and of Interior, although, even as a whole, this type of auditing comprises only a small percentage of SSAI's overall auditing activity.

The SSAI's rationale for this situation relates with the poor performance of the internal audit units and institutions' skepticism to adopt innovative approaches that have prevented the SSAI from focusing more in performance-based audits.¹⁰ Given that they operate within the security institutions, internal audit units are not immune from political pressure influences and their under-performance affects the overall auditing structure of the SSAI.

On the whole, the failure to introduce performance-based auditing to the desired levels shows the lack of adequate preparedness and planning when adopting laws as well as unclear understanding of the feasibility of introduced legal requirements from the perspectives of capabilities and political willing-ness.

Moreover, there is a lack of convergence among approaches, as pointed out by the former Minister of Finances last year, when he suggested SSAI continue to remain focused in auditing the legitimacy and propriety of spending rather than in performance-based auditing.¹¹

Although the SSAI has generally failed to introduce performance-based audit-

7 Law 154/2014, "On Supreme State Audit Institution", Articles 27, 40,

8 Court's Audit Policies and Standards 2015 and ISSAI 300

9 Law 154/2014, "On Supreme State Audit Institution", Articles 13

10 Parliament of Albania, Committee of Economy and Finance. "Meeting Minutes: Annual Performance Report of the Supreme State Audit Institution for 2014". Dated 15.07.2015, (pp .9, 43-44). https://www.parlament.al/wp-content/uploads/2015/11/komisioni_i_ekonomise_date_15_07_2015_copy_1_23618_1.pdf

11 Comments made by former Minister of Finances Ridvan Bode in the CEF during the presentation of the SSAI, Annual 2015 Report (See: Parliament of Albania, Committee on Economy and Finance. "Meeting Minutes: Annual Performance Report of the Supreme State Audit Institution for 2014". Dated 15.07.2015, (pp. 25-26).

ing as a mainstream practice, it has conducted typical audits on the legitimacy and propriety of spending by the security institutions.

Despite the SSAI challenges and deficiencies, such as the inadequate human and logistic capacities, a rather limited number of audits and lack of thorough and in-depth analysis of the collected evidence makes such audits reactive rather than proactive. Indeed, the main issue with such audits remains the acknowledgment of the SSAI findings by the executive and the lack of support by the Parliament to implement and enforce the SSAI recommendations.

Due to the continuous politicisation of the public administration and because of the executive branch's intentional use of populist rhetoric by accusing this institution of political bias, the SSAI is increasingly perceived as repressive and abusive in the selection of institutions to be audited and in the recommendations and sanctions delivered.

This has led to its use as a justification for an increasing trend in the failure to implement the SSAI recommendations and to successfully prosecute public officials involved in abusive use of public funds. In particular, what is worrisome is the trend of a growing number of high and medium level officials found by the SSAI to have been involved in wrongdoing and the failure to instigate investigation and prosecution as well as the refusal of the executive to enforce administrative sanctions. In 2016, the SSAI reported that 18 senior officials referred for prosecution by the SSAI were still on duty.¹²

SSAI Chairman has filed complaints to both the executive and to the members of Parliament that this practice has led to "further consolidation of the culture of impunity" among top officials and a dismissal of the SSAI authority.¹³ De-spite such calls, the Parliament has taken no action to look into this matter.

Recommendations

- The SSAI should move ahead with planning and conducting performance-based audits, first of all as an issue of the rule of law given that performance-based auditing is a legal requirement, but also as an issue of institutional objectives already set forth in the SSAI strategy.

12 Supreme State Audit Institution, "Annual Performance Report 2015", p. 48 http://www.SSAI.org.al/web/pub/raporti_i_performances_se_SSAI_2015_2727_1.pdf

13 Parliament of Albania, Committee of Economy and Finance. "Meeting Minutes: Annual Performance Report of the Supreme State Audit Institution for 2014", dated 15.07.2015. p. 19

- In addition to contracting external expertise, the SSAI could overcome its expertise problem by setting up joint audit teams with the internal audit units to conduct performance-based audits.
- Under the leadership of the Prime Minister, the executive should take steps to restore the public administration's confidence in SSAI and to ensure full compliance and cooperation of the public administration with the auditors.
- The executive should take steps to adopt guidelines and codes of conduct that allow the ministries to take measures for facilitating full investigation of the SSAI findings on alleged criminal offences with public trust and funds.
- The Parliament should take steps to support the SSAI in following-up the implementation of its recommendation including the full investigation of alleged criminal offences with public trust and funds.

On Procurements

Abuse and irregularities with public procurement have become a widespread practice in the Albanian public administration, including the security institutions.

In 2015, the SSAI estimated that the overall financial loss to the state budget from irregularities in public procurement amounted to 19 million Euros, an almost threefold increase from 4.8 million Euros loss in 2014. Abuses with funds intended for public procurements have shown an increasing trend in the recent years and in 2015 constituted more than 60 percent of the overall irregularities identified by the Supreme State Audit Institution.

Due to the inherent challenges that stem from the need to maintain the confidentiality and secrecy, the potential for abusive procurements in the security institutions is higher while no meaningful steps have been undertaken to mitigate the risk.

Legislation on procurements in the field of defense continues to be unaligned with the EU regulations and practice despite the repeated EU and OECD calls for revising the law.

The practice of non-competitive and single source procurements is widespread. There has been a growing trend in the number of procurements conducted through negotiated procedures without prior notification, which goes against the OECD and EU recommendations to use open tender procedures. In 2015, 42% of the contracts awarded for private security services were awarded through the negotiated procedure without prior notification.

Irregularities and abuses have been also found with major procurements conducted by the Ministries of Defense and the Ministry of Interior. Both ministries' procurements have been conducted under the unclassified and classified procedures.

Irregularities consist in the modification of the laws and regulations driven by the motivation of the incumbent executive to allow for certain procurements to be conducted or procedures to be excluded rather than by value for money concerns; the violation of existing procedures such as using single source procedures when there is no justification for it, drafting technical specifications to fit with the offer of certain provider; violation of the contracts by allowing for incomplete or partial services or supplies delivered; outright violations of qualified offers and arbitrary selection of providers, etc. (See Chapters 4, 5 and 6).

Recommendations

- The Government and the Parliament should take immediate steps to address the legislation gaps and deficiencies and to harmonize the procurement law on defense and security with the EU and OECD standards.
- The legislation should reflect the risks and challenges stemming from the existing governance culture, which will be difficult to change immediately once the new legislation is adopted.
- Given the complexity of the procurements conducted by security institutions, the regulatory framework should take into consideration the risks posed at the decision-making process where the justification for the procurement is made.
- The Parliament should improve the oversight practices by getting substantially involved throughout the budget cycle. The various parliamentary committees in charge of interacting with security institutions and the SSAI should coordinate their activity.
- The civil society should be more proactive with independent research and feedback to the parliament in order to provide expertise on specific issues and trigger change of the current practice.

On Management of the Military Assets

Besides procurement, another important aspect that links security sector budgeting and spending is the management of assets. The quantity of assets that various security institutions possess varies, as the armed forces have a larger number of assets, while the police and intelligence have fewer.

Given that the military asset management and disposal mechanisms are difficult to evaluate because information is largely classified, this report provides an analysis of the asset management in the Armed Forces by examining the management system, the procedures for the disposal of assets as well as the disposed assets.

The effective management of military assets and equipment is critical as the armed forces' tasks have become more complex. The ability to know in real time the quantity and quality of materiel, stock levels and locations, as well as understanding the physical condition of individual assets contribute to the optimization of the use of military resources. The solid asset management allows the military to establish a link with the military strategy and to avoid corruption practices, which all lead to strengthening the integrity of the armed forces.

The management of assets in the Albanian Armed Forces shows a number of weaknesses. First of all, there is no holistic approach to the military assets as parts of an integrated system. Official documents use different terms, such as properties, resources, materiel, or logistic materiel, which are often inter-changeably used but there is no coherent approach to military assets and to their integrated management.

Secondly, the governance system for the management of the military assets is concentrated within the Ministry of Defense and does not provide for a balanced decision-making system that fully includes the Armed Forces as well as external oversight actors, such as the Parliament. This has allowed for a management of military assets driven largely by narrow and short-term interests of the successive governments, often pushed by political motivations, which over the last two decades have led to a dramatic reduction of these assets often through corrupt and abusive practices. The SSAI audits have revealed a number of abuses with the management of military assets, particularly with the privatization of a number of military properties, while the media has of-ten reported abuses with the management of redundant military materiel and ammunition.

Recommendations

- Given the relevance of an optimized system for the management of assets for the effectiveness of the Armed Forces and to reduce the vulnerabilities of corruption, the government should adopt a holistic approach to the management of military assets.
- The governance system of the military assets should provide for a bigger role of the Parliament and a more substantive role of the President.

Role of Parliament and SSAI in Strengthening Integrity

The data and the analysis provided in this publication show that in the long run poor financial control and oversight of the security institutions have encouraged corruption and undermined their integrity, thus jeopardizing their overall ability to perform as security providers.

In the domestic domain, one of the main negative implications is the poor performance of security and law enforcement institutions in fighting corruption, which at the national level is the highest in the region and one of the highest in Europe. But as NATO member country also, Albania's performance as a reliable ally within this organization depends, among others, on the good governance system and its resistance to corruption.

The responsibility of the democratically elected institutions is to uphold the integrity of its security institutions and to ensure that the opportunities for corrupt practices are minimised. One of the first steps in this direction is to analyse the corruption issues that exist at the national and institutional contexts.

In this respect, the main contributions of this publication is that it provides for the first time a rather comprehensive examination of the problems and shortcoming with the financial accountability of the security institutions and an analysis of legal and institutional gaps that account for such situation.

However, in order to be successful it is essential that these findings are taken into consideration and adequate action is taken by the political leadership and the respective security institutions. Addressing corruption and malpractice by building integrity is more rewarding, motivating and sustainable. Ultimately, the largest benefits for both the political leadership and security institutions are the positive effects that this has on the effectiveness of these institutions and in raising public trust.

In this respect it is vital for the Parliament to take a greater role in this endeavor and to strengthen the relations with the SSAI. Some of the steps that can be undertaken in this direction include:

- Ensure that the SSAI is guaranteed the independence from political influences by appointing for the position of the Chairman of SSAI individuals who have not connections with the political parties and ensure the independence of SSAI from both the government and Parliament.
- Develop relations of trust and confidence between the parliamentary committees in charge of overseeing the security institutions (CNS and CEF) and the SSAI by engaging with SSAI throughout the budget cycle in order to draw from its expertise and by proposing specific topics or institutions to be audited.
- Develop procedures to ensure that the relevant parliamentary committees (CNS and CEF) take prompt actions based on the SSAI audit reports.

PART I

Backgrounder: Budgeting of Security Sector

by Besfort Lamallari

What is Security Budgeting?

National budget is the main policy instrument for defining and further pursuing a country's priorities within limited public resources. Competing national priorities are, after all, reconciled and implemented through the budget cycle¹. As for any other country, provision of security is one of the most competing priorities of Albania.

Despite the lack of a specific definition for it, the security sector (SS) budgeting may be understood as the process of allocating financial resources to SS institutions for expenditures including programs, personnel, equipment and infrastructure. The final product of this process is the SS budget, which is an integral part of the annual budget and serves as an itemised estimate of planned resources and expenditures for the pertinent ministries and related agencies responsible for the provision of security. Projected for a certain period of time (annual and midterm budget), SS budgeting helps ensure that public resources are designated for defined priorities in the realm of security and that these funds are spent effectively and accountably. SS budgets, particularly those covering defense institutions, serve also as an instrument of transparency within and outside the country. They inform domestic taxpayers and voters, neighboring countries and international organizations about the

1 Harborne, B. "The Costs Of Security Sector Reform: Questions of Affordability And Purpose", Sustainable Security, 09.04.2014, Accessed online on 04.05.2016, at: <https://sustainablesecurity.org/2014/04/09/costs-of-the-security-sector/>

government's intentions.²

In Albania, the institutions tasked with the provision of security include:

1. 1. The Armed Forces
2. The State Intelligence Service
3. The Intelligence and Security Agency of Defense³
4. The Military Police
5. The State Police
6. The Service for Internal Affairs and Complaints
7. The Republican Guard
8. The General Customs Directorate
9. The Prisons Police
10. The Service for the Internal Control of Prisons
11. The Forestry Police
12. The Judicial Police
13. The Civil Emergencies
14. Agencies fighting Illegal Financial Transactions (under the Ministry of Finance)⁴

Some of these (SS) institutions appear in the annual budget classifications. The graphs below (No. 1 and No. 2) show their budget allocations and a break-down of their expenditures in the last five years (2012-16).⁵ Clearly, the State Police and Armed Forces (Fighting Forces and Support) take the largest share of the SS budget, followed by the Prisons system. Precisely, the 2016 annual budget projected 26.4 billion ALL for both the State Police and Armed Forces. This amounts to 67 per cent of the 39.4 billion ALL total budget of all SS institutions appearing in the following graph. As it can be noted, while the budget allocations for the State Police have increased each year, the contrary has occurred with the Armed Forces, with 2016 as an exception. This difference has also been noted during the discussions about the 2014 budget of the Ministry

2 The Geneva Centre for the Democratic Control of Armed Forces (DCAF), "Parliament's Role in Defence Budgeting", September 2006. Accessed online on 05.06.2016, at http://www.davidmlaw.com/wp-content/uploads/2012/01/Parliaments-role-in-Defence_Bud-geting_2009.pdf

3 This replaced the former Military Intelligence Service (SHIU) which was dissolved in 2012. See: Law Law nr. 65/2014 "On the Intelligence and Security Agency of Defence"

4 Such agencies include: the Financial Intelligence Unit, Directorate of Taxation Investigations at the General Directorate of Taxation, and the Operational and Investigative Department at the General Directorate of Customs

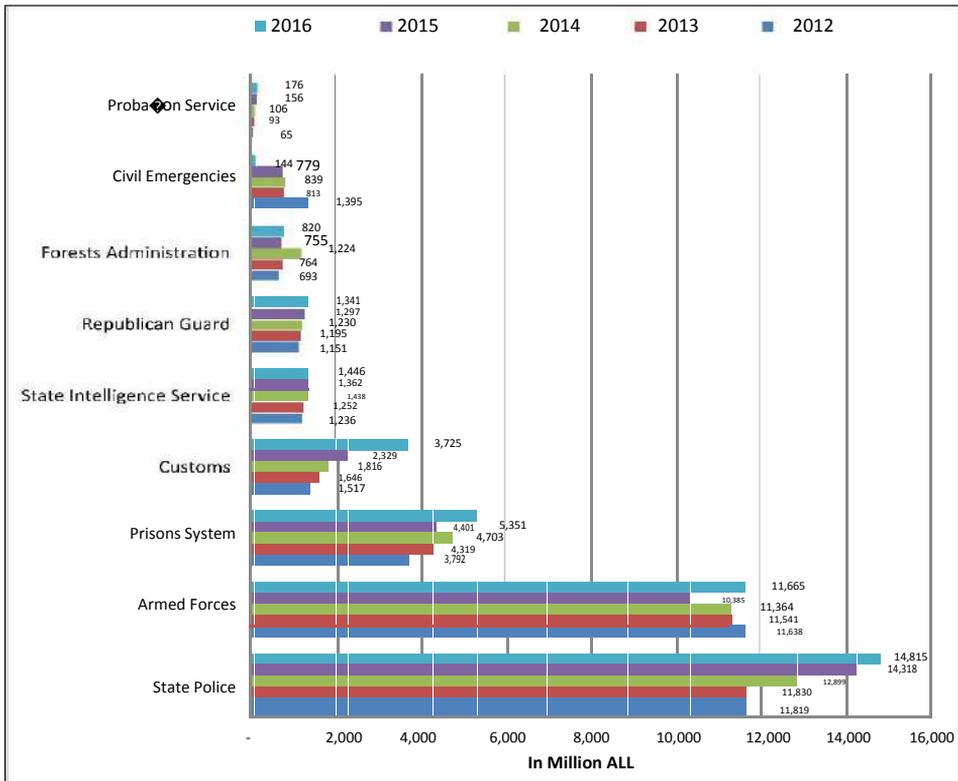
5 Source: Ministry of Finance of Albania, Budget Over Years (2012-2016), <http://www.financa.gov.al/al/raportime/buxheti/buxheti-ne-vite>

of Interior, where a majority MP stated that “the increase of the budget up to USD 180 million, or 1.2 per cent of the GDP is higher than what we aim for the Armed Forces”. The said MP further added that this increase is justified by the need to show stronger support and respect for the police officers. Translated into the language of figures, this meant a wage increase of up to 24 per cent for 4,350 police officers holding the “Inspector” grade. An additional increase of 15 per cent was allocated the same year for investments.⁶ The rationale behind the declining budget of the Armed Forces (AF) concerns the restructuring and reduction of personnel of the AF military units, which, according to the Minister of Defense, “have been considered to be inefficient and often have become shelter to unprofessional people who have made a strained career (without merit)”.⁷ However, in 2016 the defense budget increased and is expected to continue so in line with the commitment taken by Albania at the NATO Wales Summit in 2014 to “aim to move towards the 2% of GDP within a decade with a view to meeting the NATO Capability Targets and filling NATO’s capability shortfalls”.⁸

6 Committee on National Security, Record dated 18.12. 2013, “Principled Discussion of the draft law “On the 2014 Budget” for the Ministry of Interior, Available online at: https://www.parlament.al/wp-content/uploads/2015/11/komisioni_i_sigurise_date_18_12_2013_14990_1.pdf

7 Committee on National Security, Record dated 10.11. 2014, “Principled Discussion of the draft law “On the 2014 Budget” for the Ministry of Defence, Available online at: https://www.parlament.al/wp-content/uploads/2015/11/komisioni_i_sigurise_date_10_11_2014_19929_1.pdf

8 NATO, Wales Summit Declaration, 05.09.2014, Available online at: http://www.nato.int/cps/en/natohq/official_texts_112964.htm

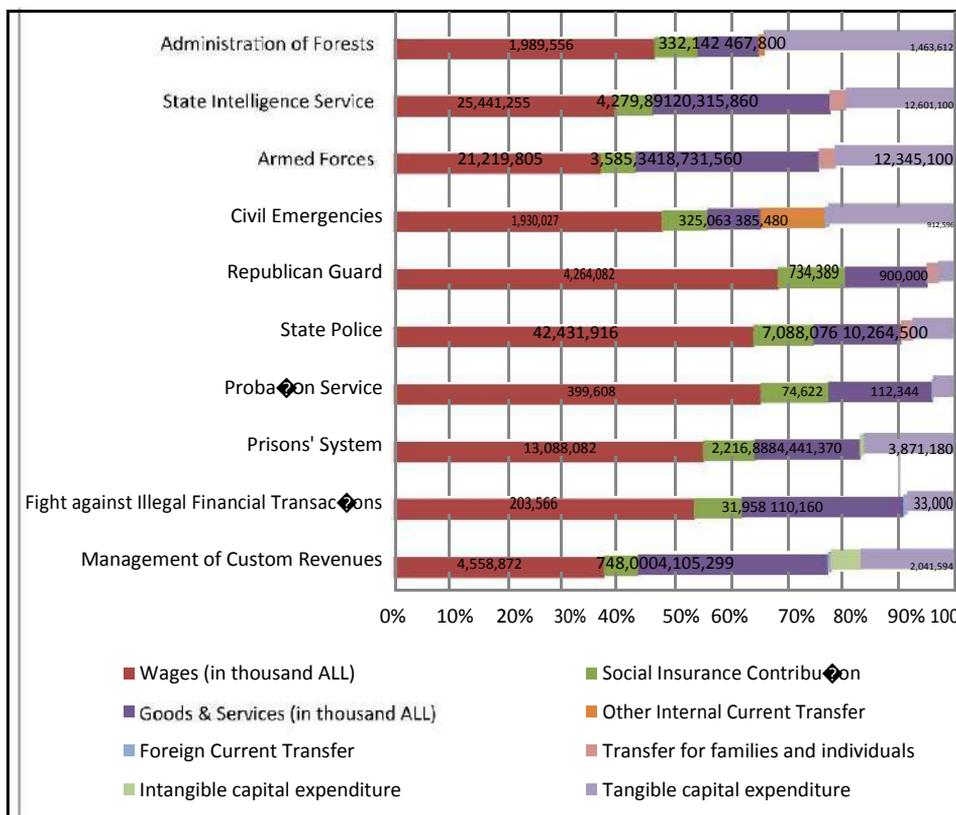


Graph 1: Budget of security institutions during 2012-2106

Source: Ministry of Finance of Albania

In general, wages, followed by goods and services, and tangible capital, comprise the largest share of their budgets (Graph 2). For instance, in a time period of five years (2012-2016), the State Police has absorbed the largest amount of money amounting to 66.2 billion ALL, out of which, 42.4 billion or 64 per cent have been allocated for personnel wages, and 7.5 per cent (circa 5 billion ALL) for investments. Every year, due to its large personnel, the Po-lice receive the largest share (around 75.5%) of the budget of the Ministry of Internal Affairs.⁹

⁹ Ministry of Finance of Albania, "Monitoring Reports", <http://www.financa.gov.al/al/legjislacioni/buxheti-thesari-borxhi/buxheti/raporte-monitorimi>



Graph 2: Breakdown of SS expenditures in 2012 to 2016

Source: Ministry of Finance of Albania

Why Is the Security Budget Different?

Given the limits of state revenues, governments are naturally faced with choices between funding development options and funding security. However, in practice, neither development nor security can proceed alone. Therefore, governments are forced to strike a balance between, on one hand, national defense and public order and safety, and on the other hand, provision of social services, such as education and health.

Whether in developed or developing countries, security budgets are different from the national budgets and remain often non-transparent and weakly scru-

tinized.¹⁰ They are different due to their political nature, complexity, secrecy, and the potential to harbor serious corruption.¹¹

Firstly, as mentioned earlier, security sector budgeting competes with the need to fund basic social services, and thus, making trade-offs between the two is not a simple task, and it often involves political implications. When choosing between “guns or butter”, significantly increased funds for security and defense may be accompanied by increased fears and doubts among a country's own citizens and its neighbouring states about the rationale behind such a choice. Has the need for more security funds been triggered by in-creased levels of criminality or is it related to any plans or perceived national threats from abroad? These are common questions that may arise in such instances, which require solid political responses by the government. It should be borne in mind that defense budget also acts as an instrument of foreign policy. As such, its level of transparency may define the level of trust and quality of relations between neighbouring countries.

Security budgeting is a complex process which requires long term planning and continuous reforms and adaption for a large number of diverse security agencies. Therefore, security budgeting is dependent on the expertise of permanent specialized parliamentary committees. In reality, parliamentarians often have limited knowledge of security issues and lack expertise to over-see the complex activity of SS budgeting. In Albania, members of Parliament (MPs) usually rely on data and assessments provided by the executive and military, which are the precise actors that parliamentarians are expected to oversee and hold accountable.¹² In light of these shortcomings, recruitment of specialized staff assisting MPs and establishment of a non-partisan “budget office” within the Assembly are considered to contribute to the better development and oversight of the security sector budgets.¹³

In addition, there is a general tendency to withhold information on security issues on grounds of national security. Admittedly, given the sensitive character

10 The Geneva Centre for the Democratic Control of Armed Forces (DCAF) (2006), “Parliament's Role in Defence Budgeting”, Accessed online on 05.06.2016, at http://www.david-mlaw.com/wp-content/uploads/2012/01/Parliaments-role-in-Defence_Budgeting_2009.pdf

11 Fuor, T “The Role of Parliament in Defence Budgeting”, The Geneva Centre for the Democratic Control of Armed Forces (DCAF), Accessed online on 05.06.2016, at: <http://www.dcaf.ch/Event-Attachement/The-Role-of-Parliament-in-Defence-Budgeting-Teodora-Fuor>

12 Dyrnishi, A., Qesaraku, M., and Baka, B (2002) “Almanac on Security Sector Oversight in the Western Balkans” referring to “Gumi, V (2003). ‘The Parliament and the Security Sector,’ in Fluri and Trapans (eds.) Defence and Security Vol. 1, pp. 57-66.”

13 Klepsvik, K., Emery, R., Finn, B., and Bernhard, R (2013) “Budgeting in Albania”, Organisation for Economic Co-operation and Development (OECD), p.7.

of the information on security expenditures, there is a need for confidentiality, which, however, must not be used to circumvent and justify a lack of public oversight.¹⁴ Parliament's scrutiny of security budgets becomes an imperative considering the susceptibility of the sector to harbour corruption, off-budget expenditure and opaque procurement practices.¹⁵ Also, control and audit of classified procurements and covert operations are both a prerogative and a legal obligation of independent institutions, such as the Supreme State Audit Institution (SSAI), which need to be materialized effectively in practice.

In contrast to the tendency to over-classify information on security issues, it should be borne in mind that confidentiality should be an exception, not a general rule.¹⁶ In practice, the tendency of security sector institutions to not make full transparency over financial matters has become evident through a monitoring of their online 'transparency programs' by the Information and Data Protection Commissioner (IDPC). Hence, the Ministries of Justice, Finances, Defense, and Internal Affairs are among the public authorities who have, fully or partially, failed to publish online, as requested by the law, information related to their monitoring mechanisms, audit reports; performance indicators, and procurement procedures. Aside from the Ministry of Finances, the three other ministries make no reference to their budgets in their online transparency programs.¹⁷ Besides, during the course of 2015-2016, the IDPC has received and addressed complaints against the General Prosecutor's Office, the State Police and the State Intelligence Services for refusing to provide information on the grounds that the requested statistics are considered "state secret".¹⁸ In another instance, the IDPC ordered the Ministry of Defense to provide the complainant with a copy of a study, which had been refused on the grounds of

14 The Geneva Centre for the Democratic Control of Armed Forces (DCAF) (2006), "Parliament's Role in Defence Budgeting", Accessed online on 05.06.2016, at http://www.david-mlaw.com/wp-content/uploads/2012/01/Parliaments-role-in-Defence_Budgeting_2009.pdf

15 Harborne, B. "The costs of security sector reform: questions of affordability and purpose", Sustainable Security, 09.04.2014, Accessed online on 04.05.2016, at: <https://sustainablesecurity.org/2014/04/09/costs-of-the-security-sector/>

16 The Geneva Centre for the Democratic Control of Armed Forces (DCAF) (2006), "Parliament's Role in Defence Budgeting"

17 The Information and Data Protection Commissioner, "Monitorim mbi hartimin e programit të transparencës" [Monitoring over drafting of transparency programs], Accessed online on 01.06.2016 at: http://www.idp.al/images/informacione/shtyp/New_folder/2016/June/MONITORIM_MBI_HARTIMIN_E_PROGRAMIT_T%C3%8B_TRANSPARENC%C3%8BS.pdf

18 See the decisions of the Information and Data Protection Commissioner regarding the complaints of the Centre "Res Publica" against the State Intelligence Service, the Prosecution's Office, and the State Police: http://www.idp.al/images/inspektimi_di/vendim_07_shish.pdf; http://www.idp.al/images/inspektimi_di/vendim_09_pp.pdf; http://www.idp.al/images/inspektimi_di/vendim_08_pol.pdf

“internal usage and protection of (foreign) authors’ rights.”¹⁹

Reluctance and refusal of public authorities, including security agencies, to disclose full and quality information has been considered also as an obstacle to the work of the Supreme State Audit Institution. In particular, the refusal of the Taxation Directorate to provide requested information to SSAI auditors has been a disturbing issue, which has lasted for more than 4 years, even in disrespect to a Tirana’s Appellate Court’s decision issued in October 2013, which ordered taxation authorities to provide all the information needed for their auditing.²⁰ The SSAI’s work is also impeded by the quantity and quality of information provided by the subjects being audited, which is regarded as “evasive, distorted and flawed.”²¹

Program Budgeting of the Security Sector

Program budgeting as a concept is more closely related to the budgeting infrastructure rather than budgeting standards concerning transparency, accountability, efficiency or midterm budgeting. Basically, a program-oriented security budgeting system is structured according to the government’s policies and objectives in the realm of security. In essence, program budgeting links resources and results. Programs are the units by which resources are to be allocated, and performance and accountability are to be assessed.²²

Program budgeting in Albania began in 2001 and pilot efforts were undertaken for the next five years.²³ In 2006, program budgeting was implemented in all ministries, including those covering security programs. The Law on Management of Budgetary System (MBS) was enacted in 2008, and became the main legal structure for the budget. Allocation of resources according to the

19 Decision of The Information and Data Protection Commissioner, dated 25.01.2016, Available online at:

http://www.idp.al/images/inspektimi_di/2016/vendim_01_Min_Mbrojtjes.pdf

20 The Supreme State Audit Institution, “Annual Performance Report 2013”, Tirana 2014, p.64, Available online at:

http://www.SSAI.org.al/web/pub/raporti_performances_se_SSAI_2013_1159_1.pdf

21 The Supreme State Audit Institution, “Annual Performance Report 2014”, p.74 http://www.SSAI.org.al/web/pub/rap_performances_SSAI_2014_2068_1.pdf

22 Kim, J (2007) “From Line-item to Program Budgeting: Global lessons and the Korean case”, Korea Institute of Public Finance and the World Bank, Accessed online on 06.06.2016, at: <http://www1.worldbank.org/publicsector/pe/bookprogrambudget.pdf>

23 Klepšvik, K., Emery, R., Finn, B., and Bernhard, R (2013) “Budgeting in Albania”, Organisation for Economic Co-operation and Development (OECD), p. 26.

strategic objectives of the government is recognized by article 4 of the law as one of the principles upon which the budgeting system functions. Article 11 provides for budget classifications which are to be approved by the Minister of Finance, and should include, at a minimum, an administrative, an economic, a functional, a program-based classification, as well as a classification of the source of funding.²⁴ Budget allocations are approved by administrative unit (incl. line ministries and independent central government institutions), function (incl. public order and security; defense), program (e.g., activity of state intelligence) and by major economic categories (i.e., current and capital). Budget decisions are made on a program basis. The table below presents the main security sector institutions in Albania along with their budgetary pro-grams (Table 1).

Ministry / Independent SS institution	Program
Ministry of Finance	Management of Tax Revenues Management of Custom Revenues Fight against Illegal Financial Transactions
Ministry of Justice	Prisons System Probation Service
Ministry of Internal Affairs	Planning, Managing and Administration State Police Republican Guard Civil Emergencies
Ministry of Defense	Planning, Managing and Administration Fighting Forces Fighting Support Military Education Health System Support
State Intelligence Service	Activity of the State Intelligence
Ministry of Environment	Management of Forests

Table 1: Breakdown of SS Budget in programs in the 2016 budget

Source: The Annual Budget, Ministry of Finance of Albania

In order to fulfil their programs, the above listed institutions operate through subordinate actors, such as the Taxation Police, Customs Police, State Police, Forestry Police, Armed Forces, etc. It should be noted that the structure of the annual budget does not necessarily include all the security actors as spending

²⁴ Law No. 9936, date 26.06.2008 "On the Management of Budgetary System in the Republic of Albania", Article 11.

units. This is the case, for instance, with the Intelligence and Security Agency of Defense, which has and uses its own budget within the budget approved for the Ministry of Defense.²⁵

Security sector budgeting is not a free-standing process, but is an integral part of the annual budget preparation, which in itself is centered on the development of the program-oriented Midterm Budget Program (MTBP).²⁶ Thus, the SS budgeting should not be regarded as a separate process, but as part of a whole process, which aims to make decisions and allocate funds according to the broader government's policies and programs. If the annual budget (including security sector expenditures) is regarded as separate, the MTBP will be considered as a redundant technical exercise with no relevance to how programs are designed and spending is decided.²⁷

The MBS law provides legal stipulations for program budgeting, its preparation and monitoring timeline, budgetary roles and responsibilities. Budgeting in Albania is a rolling budget planning process, where the annual budget and MTB are reviewed and revised to accommodate new policy initiatives and economic constraints. Program budgeting is developed through three rounds, beginning with the approval of expenditure ceilings for ministries and feedback by the Ministry of Finance (in January-June and July-September rounds), and eventually presenting the annual budget in the third round (November-December). Although the process shows a top-down budgeting feature with the Ministry of Finance setting the expenditure ceilings, all the central government units prepare and present their requests related to the MTBP and additional request through their "Authorizing Officers". For the preparation of the security sector budgets, the central government units, shown in Table 1, are responsible to interact with the Ministry of Finance (Budget Directorate). Upon enactment of the Annual Budget Law and allocation by the Ministry of Finance of a budget to each of them, their Authorizing Officers are thereafter responsible for the budget execution and monitoring in accordance with the programs and appropriations of the annual budget law. According to the 2008 law, the "Authorizing Officers" (AO) are the highest-ranking civil servant with authority for public expenditure management, whereas the Executive Officers are high-level civil servants appointed by the AO to implement financial management rule, keep accounts, and prepare financial statements.²⁸

25 Law No. 65/2014, "On the Intelligence and Security Agency of Defence", Article 20

26 Klepsvik, K., Emery, R., Finn, B., and Bernhard, R (2013) "Budgeting in Albania", Organisation for Economic Co-operation and Development (OECD), p. 23

27 Kim, J (2007) "From Line-item to Program Budgeting: Global lessons and the Korean case", Korea Institute of Public Finance and the World Bank, p. 30

28 Law No. 9936, dated 26.06.2008, "On the Management of Budgetary System in the Re-public of Albania", Articles 19 and 20

Despite its mission to link policies to resources, while aiming value for money, the program budgeting has its own practical problems. This is particularly the case when it comes to the security budgeting, a process which is fraught with many risks for abuse and corruption given the reasons explained in the previous section. Bearing in mind that the devil is in the details, the subsequent sections describe and analyse the four budget phases and roles of the main actors involved, while aiming to identify the strengths and weaknesses of the process.

The Budget Cycle and Its Main Actors

Like in many other countries, the budget cycle in Albania is comprised of four different phases: formulation, approval, execution and control. The Albanian budget system is regulated by the Constitution and the organic budget law-the Law on Management of the Budgetary System (LMBS). With regards to the main actors involved in the budgeting process and their responsibilities, put simply, it could be said that the government proposes and the parliament disposes. Certainly, actors such as independent oversight bodies (e.g., Supreme State Audit Institution) and the security institutions themselves are also involved in the SS budgeting process. While the State Intelligence Service is directly involved in budgetary negotiations with the Ministry of Finance and meetings held for this purpose by the Parliament's Committee on National Security (CNS), the other security providers are usually represented in the negotiation/reporting stages by the political heads of the line ministries and their high technical experts. The Committee on Economy and Finance (CEF) is also involved in discussing matters or laws involving security institutions for as much as economic aspects are concerned. As mentioned earlier, security budgeting is a rolling planning action, which is characterized by a continuing interaction between the Ministry of Finance and the security-related ministries and the State Intelligence Service. The Parliament oversees the formulation phase through receipt of copies of the draft MTB, revised MTB and the Annual Budget draft. Upon receipt of the latter by the Prime Minister, the Parliament operates through meetings of its standing committees and the plenary session. However, the Parliament continues to remain the linchpin of the security budgeting owing to its exclusive monitoring and accountability mechanisms. Such mechanisms include hearings and inquiries on particular security issues or inspections of security services, interpellations etc. Ministers, directors of independent oversight institutions and the State Intelligence Service are legally bound to

respond to such requests. Having said that, it should be borne in mind that the extent to which such interaction and mechanisms occur and are used effectively in practice leaves much room for consideration and improvement. Below, we will discuss and analyse the development of the security sector budgeting through the four phases (formulation, approval, execution and control) with a special focus on the roles and responsibilities of the main actors involved.

SS Budget Formulation

The annual budget submitted to the Parliament consists of the Annual Budget Law and annexed tables, which are enacted into law by the Parliament. The Midterm Budget Program and the updated Economic and Fiscal Program are also submitted for information along with the Annual Budget Law. Funding levels for all ministries, including those covering security agencies, are specified in the Annual Budget Law by reference to its annexes. These annexes cover inter alia:

- Employees by budgetary institution; and,
- State budget by ministry and independent budget institutions and major program – divided between current and capital expenditure.

As mentioned earlier, preparation of the annual budget is an integral part of the Midterm Budget Program. As such, security sector budget preparation undergoes the same procedure and schedule as foreseen by the Law on Management of the Budgetary System of the Republic of Albania. Hence, preparation of the SS budget follows three main rounds aimed at setting and structuring expenditure ceilings, revising initial budgetary plans, and eventually approving the draft annual budget law. The main institutions involved in this phase are the Ministry of Finance (MoF) on the one hand, and the respective security institutions on the other. The Assembly is informed about this process through submission of the MTBP by the Minister of Finance in July.

The budget preparation phase is presented graphically in the following page.

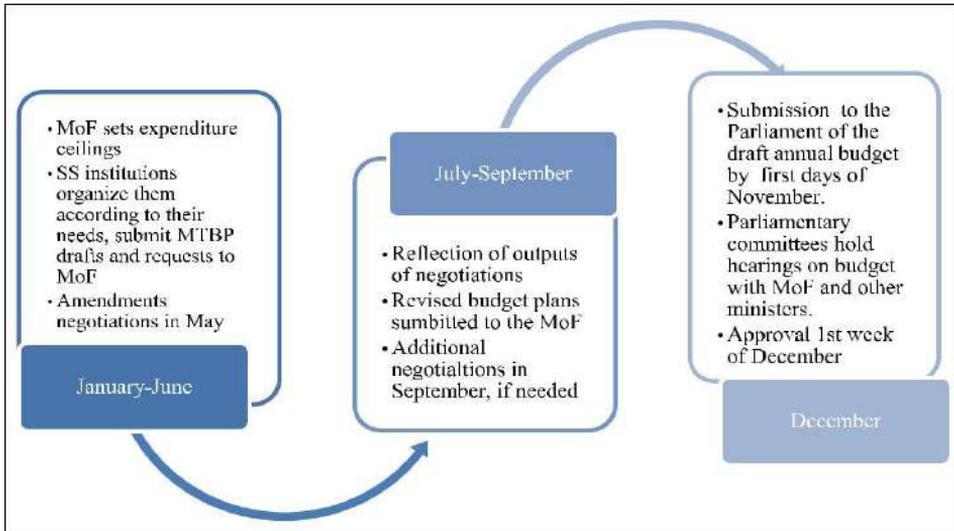


Figure 1: Budget formulation and adoption phases

SS Budget Approval

As shown in the graphic above, approval of the draft budget follows a series of negotiations between the MoF and central institutions covering security provision. Prior to the final approval of the draft budget in plenary session, the Parliamentary Committee of the National Security and that of the Economy and Finance play the main role in analyzing, discussing and amending the draft budget submitted by the Minister of Finance. According to the Code of Procedures of the Parliament, each standing committee holds hearings on matters within its jurisdiction and has the right to invite institutions, individuals or interested groups within the scope of its authority.²⁹ Hence, the approval of the security sector budget falls under the jurisdiction of the standing Committee on National Security, which holds hearings for this purpose with ministers and deputy ministers of line ministries, heads of security institutions, and other relevant stakeholders. Experts of the Ministry of Finance may also be invited, as they can provide explanations on the compatibility of SS budgets with the Midterm Budget Program, and other technicalities. Based on these hearings, the committee formulates recommendations or amendment proposals to the standing Committee of Economy and Finance. The MPs who have requested amendments to the budget may present them during its voting article-by-article at both the Committee of Economy and Finance and the plenary ses-

29 Code of Procedures of the Assembly, Chapter III, "Consideration of Budget Bill and Financial Law"

sion.³⁰ However, the amendment powers of the parliamentarians at the budget approval stage are not explicitly foreseen by the Code of Procedures of the Parliament and this has occasionally provoked disputes on whether MPs have the right to simply 'issue opinion' or also propose amendments.³¹ Although the process of hearings is well regulated and organized, the quality of the debate leaves room for improvement. Often, the debate is polarized with minority MPs hurling accusations against the government on the one hand, and majority MPs, on the other hand, expressing unequivocal support for the draft budget submitted by the executive. In one case, the minority members of the Committee of National Security abandoned the meeting while the 2014 draft budget of the Ministry of Interior was being discussed.³² Overall, parliamentarians show limited knowledge of security issues and poor analytical consideration of the budgets. In addition to this lack of in-depth debates, they commonly rely on information and analysis provided by the executive or military and do not make use of independent and external expertise. In order to address this lack of analytical analysis by the parliamentarians, establishment of a non-partisan budget office has been recommended.³³ Finally, based on these hearings at these two standing committees, a consolidated report is then compiled and sent to the plenary for a second reading and final vote.³⁴

SS Budget Execution

While budget formulation and approval are primarily about planning and revising, budget execution involves mainly management. The security sector bud-get is executed by the relevant institutions, generally with little parliamentary involvement, though additional expenditure for certain operations may require

30 Code of Procedures of the Assembly, Chapter III, "Consideration of Budget Bill and Financial Law", Articles 83-84

31 Committee of Economy and Finance, Debate between Chair of the Committee, Mr. Braçe and the Opposition MP, Edmond Spaho during the Presentation of the Draft Law on "Military Career in the Armed Forces", meeting held on 03.06.2014. (page 9 of the Record available online at: https://www.parlament.al/wp-content/uploads/2015/11/komisioni_i_ekonomise_date_03_06_2014_17651_1.pdf)

32 Committee of National Security, Record dated 18.12. 2013, "Principled Discussion of the Draft Law "On the 2014 Budget" for the Ministry of Interior, Available online at: https://www.parlament.al/wp-content/uploads/2015/11/komisioni_i_sigurise_date_18_12_2013_14990_1.pdf

33 Klepsvik, K., Emery, R., Finn, B., and Bernhard, R (2013) "Budgeting in Albania", Organisation for Economic Co-operation and Development (OECD), p. 39

34 Regulation (Code of Procedures) of the Assembly of Albania, Chapter III, "Consideration of Budget Bill and Financial Law", Article 84

the Parliament's authorisation.³⁵

Following budget approval in the Parliament, the Minister of Finance issues budget implementation instructions specifying execution procedures and timelines. Meanwhile, all central institutions are allocated a budget within the appropriations in the budget law. As mentioned earlier, budget allocations are divided by program and economical classifications. In line with the Law on Management of the Budgetary System, all security sector institutions are informed about their budget allocations through their Authorising Officers (AO), who in turn, detail the expenditures for all spending units (e.g. Forestry Police, Prisons Police, etc.) in accordance with the distribution of budget allocations as adopted earlier by the Minister of Finance. All their expenditure is executed through the Treasury Single Account, which rejects any spending for which there are inadequate allocations.³⁶ The managers of the SS institutions (authorizing officers and executive officers) are thereafter responsible for the budget execution and monitoring. They are tasked with the maintenance of effective internal controls and for this purpose they should regularly keep accounts and prepare financial statements.

SS Budget Control

Like all public institutions or other entities receiving public funds, security sector bodies are subject to parliamentary, executive and independent over-sight. They are required to report on budget execution to both the Ministry of Finance at least four times a year, as well as to the parliament on an annual basis or whenever it is requested so by its standing committees. Security sector agencies are also subject to oversight by independent bodies, namely the Supreme State Audit Institution and the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI). In addition to external audit, they are responsible for the management of their funds, financial controls and internal audit. Also, security providers are subject to financial inspections carried out by the Ministry of Finance. The main legal instruments supporting the control of their budgets, include: the 2007 Public Procurement Law and the Internal Audit Law, the Law on the Management of the Budget System which came into effect in 2009, the 2010 Law on Financial Management and

35 The Geneva Centre for the Democratic Control of Armed Forces (DCAF) (2006), "Parliament's Role in Defence Budgeting", Accessed online on 05.06.2016, at http://www.david-mlaw.com/wp-content/uploads/2012/01/Parliaments-role-in-Defence_Budgeting_2009.pdf

36 Klepsvik, K., Emery, R., Finn, B., and Bernhard, R (2013) "Budgeting in Albania", Organisation for Economic Co-operation and Development (OECD), p. 40.

Control, the 2015 Law on the Public Financial Inspection, the organic law of the Supreme State Audit Institution of 2014 (amended) and the 2005 Law on the Prevention of Conflict of Interest in the Exercise of Public Functions.

The Parliament oversees the security sector through its ex-ante and ex-post mechanisms. While the former include the adoption of budget laws and approval of supplemental expenditure, the latter are comprised of controls exercised primarily by its standing committees, that is, the CNS and the CEF. In order to oversee the implementation of security budgets, ministers covering security provision and the Head of the State Intelligence Service are required to report and give explanations upon request of these committees. The obligation of the Head of SSAI to report to the Parliament on the budget execution is also another form of the parliamentary ex-post oversight of security sector.

Besides, the Parliament exercises its controlling powers through the quarterly and annual reports presented by the Minister of Finance. Prepared initially by the Authorizing Officers of the SS institutions, the performance-based re-ports are presented by the Minister of Finance also to the Council of Ministers. Based on these reports, the parliament has the right to examine implementation of their budgets. For this purpose, MPs have the right to request hearings and call for debates line ministers or heads of security agencies, both in the standing committees and the plenary. Instruments such as interpellations, inspections, and hearings on particular budget issues related to the security sector are yet to become effective tools in the hands of the parliamentarians.

The Supreme State Audit Institution is an independent body, mandated by the Constitution and its organic law to oversee economic and financial matters of all institutions, including security providers. The SSAI's functions include financial audit, performance audit and other audits such as legitimacy, regularity and financial management. In order to have access to classified information, the SSAI personnel should be vetted and cleared with Personnel Security Clearances.

The SSAI has the right to control all budget lines. However, it does not access the so-called "black budget" of security agencies.³⁷ They may include classified procurements or covert operations. Over the last 5 years (2011-2015), performance-based auditing conducted by SSAI has followed an increasing pattern, amounting to a total of 31 audits aimed at increasing public responsibility of institutions based on the 'value for money' principle. Despite this trend, only few of these performance-based audits have covered segments of the security sector, namely, the collection of excise and sanctions by the

37 Dymishi, A., Qesaraku, M., and Baka, B (2012) "Almanac on Security Sector Oversight in the Western Balkans", p.26.

Tax and Customs Directorates (2012)³⁸, the service of hemodialysis and food catering in the Military Hospital (respectively in 2012 and 2013)³⁹, as well as the economy, effectiveness and efficiency of the functioning of the chemical laboratory and the rented premises of the customs authorities (in 2014 and 2015).⁴⁰

But what can account for this low 'representation' of the security sector in the SSAI's performance-based audits? According to the SSAI, the themes and institutions to be audited are chosen based on the SSAI's annual activities program, media reports, and complaints by citizens. Does this mean that security sector has performed in a way that has allowed it to keep a low profile, and thus, slip under the SSAI's radar? Not very likely. While there is no clear, official explanation about this, the SSAI has, nevertheless, stated repetitively that increasing the quantity and quality of performance auditing is among their top priorities. Besides, SSAI's auditing, including that of performance, faces often many obstacles and challenges that are of internal or external nature.

SSAI's Own Weaknesses

- Inadequate human and logistic capacities. The quality controls of audited files have frequently shown lack of expertise by the auditors in the specific theme being audited (e.g., security provision), as well as insufficient capacities to deal with the massive electronic data. Auditors' work is often overloaded and this brings about delays, confusion, poor quality of auditing, inefficiency and increased likelihood of errors by the auditors. Improper planning and assignment of auditors (in number and expertise) is also another problem. For these reasons, auditing needs to be driven by a risk analysis.
- Limited number of audits, carried out usually at the end of the year. The SSAI has considered this as a weakness, and has further stressed the need to increase the number of audits that ought to be carried out continuously.
- Lack or poor collection of data prior to the auditing of the institutions, as well as lack of thorough and in-depth analysis of collected evidence, a situation

38 The Supreme State Audit Institution, "Annual Performance Report 2012", p. 72 http://www.SSAI.org.al/web/Raporti_Vjeter_i_Performances_2012_524_1.php?kc=0,1,2,0,0

39 The Supreme State Audit Institution, "Annual Performance Report 2013", p. 60, 62. http://www.SSAI.org.al/web/pub/raporti_performances_se_SSAI_2013_1159_1.pdf

40 The Supreme State Audit Institution, "Annual Performance Report 2014", p. 30 http://www.SSAI.org.al/web/pub/rap_performances_SSAI_2014_2068_1.pdf; The Supreme State Audit Institution, "Annual Performance Report 2015", p. 58 http://www.SSAI.org.al/web/pub/raporti_i_performances_se_SSAI_2015_2727_1.pdf

which does not allow for a full view of the problem. Overall, auditing is reactive rather than proactive.

External Obstacles and Challenges Posed to the SSAI

- Poor quantity and quality of information provided to the SSAI's auditors; At times, the provided information is evasive and distorted. Worth mentioning is the relatively longstanding conflict between the SSAI and tax authorities, caused by the refusal of the latter to provide information to the auditors.
- Risks of perceiving the SSAI as repressive, arbitrary and abusive in the selection of institutions to be audited and sanctions/recommendations delivered. The majority of public administration officials, of all levels, are not yet familiar with the role of the SSAI, especially with its performance-based auditing. SSAI's reports note that their auditors are often seen as 'guardians' in a negative sense, instead of 'counterparts of the internal auditors'.
- Disturbingly low level of implementation of SSAI's sanctions and recommendations. Dismissal and prosecution of high ranking public officials are the most ignored measures taken by the SSAI, thus indicating a pressing culture of impunity. Proof of this is the fact that 18 high ranking officials referred for prosecution by the SSAI are still on duty.⁴¹ For this reason, the SSAI has proposed revision and renewal by the current government of the former Prime Minister's order stipulating measures for the execution of the SSAI's recommendations.⁴²

The High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI) is another oversight institution, focused more specifically in the fight against corruption, economic crime, and conflict of interest. As such, the HIDAACI controls the declarations of financial assets and their source of creation by security sector officials. Line ministers, deputy ministers, commanders of Armed Forces and directors of the State Intelligence Service as well as police chiefs are all subject to controls exercised by the HIDAACI. The Inspector General publishes annual reports on its activities, although the data are not organized according to specific sectors (i.e. security, education), which makes it complicated to conduct a review and analysis on the security sector.

41 Supreme State Audit Institution, "Annual Performance Report 2015", p. 48 http://www.SSAI.org.al/web/pub/raporti_i_performances_se_SSAI_2015_2727_1.pdf

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Backgrounder: Performance-Based Auditing in Albania's Security Sector

by Ebi Spahiu and Derand Krasniqi

Introduction

This study examines the practice of performance auditing in the public sector and the capacities that the mandated institutions possess in conducting performance audits as a means to strengthen accountability in the security sector in Albania.

The analysis provides an overview of key concepts that describe performance auditing and its objectives for public institutions. Secondly, the backgrounder examines relevant legal and institutional frameworks as a way of understanding different types of auditing practices that aim at ensuring financial integrity in the public sector, and particularly in the security sector. The backgrounder similarly analyses the process of implementation of performance audits in other countries from more established democracies where performance audits are more common practice and where control power is increasingly decentralized within public institutions. The researchers examined a number auditing reports produced by Albania's SSAI.

Primary and secondary data, including analysis of the current legal framework on performance auditing, the law on State Auditing Institution and approved manuals on performance auditing, were analysed. Additional documentation and literature were also studied as means to expand the understanding of auditing practices in other countries and the role international agreements have had in advancing performance audits as means to ensure accountability in the public sector. Interviews officials from relevant institutions were also used to

corroborate data and conclusions.

What Is Performance Auditing? Key Concepts: Aim, Capacities, Division of Roles

Performance auditing is an independent examination of current and past activities that aims at providing an objective and reliable overview of state systems, operations, programs and organizations on whether they are operating in accordance with principles of economy, efficiency and effectiveness.¹ In order to deliver an objective and reliable analysis, performance-based audits adopt a qualitative approach to assess institutional and legal gaps in addition to other elements that need room for improvement or require more effective use of funds on the part of state entities. Based on these expectations, performance auditing is envisioned to support accountability, acumens, and transparency in governance by delivering credible, objective and reliable information on the implementation of policy goals that aim at providing good governance.

Auditing in the Albanian public sector is conducted through internal and external audit bodies, the latter includes the Supreme State Audit Institution, which is the highest auditing entity in Albania.² SSAI's legal mandate is to guarantee the independence and objective level of audits that are expected to produce objective assessments and recommendations to the Parliament and executive bodies on the current financial and quality control challenges of public institutions. The reports produced, and their findings can also contribute to media and the general public's discussions on corruption and transparency mechanisms within public institutions. Based on these baseline factors, SSAI's main mission is to increase the role and contribution of its institutional efforts towards a better administration of public finances, by conducting quality control and reporting on regularity and effectiveness of the use of state financial resources.

In order to ensure an objective process of delivering performance-based audits, the SSAI's main role is to ensure that auditors are not influenced by political motivations, unlimited empowerment that might lead to abuse, nepotism, and conflict of interest, but rather maintain their objectivity, impartiality, and

1 Court's Audit Policies and Standards 2015 and SSAI 300

2 Constitution of the Republic of Albania, Article 162, paragraph 1.
<http://www.osce.org/sq/albania/41889>

professionalism.

On the other hand, internal auditing in most Albanian public institutions is performed through internal audit departments and directorates within the institutional framework of each institution. These departments and directorates are composed of certified auditors who often undergo a year of training in order to receive their certification as officially recognized auditors.³ Internal auditors conduct their tasks based on handbooks and guidelines produced and approved by the Ministry of Finance. Each institution's internal audit department is in charge of developing audit plans, which are later approved by the head of the institution⁴. Audit plans have to be largely based on assessments of risk factors and indicators established through adopted strategic document and their objectives.⁵

Principles of Performance-Based Auditing

Performance auditing focuses on two primary questions raised in relation to its outcome:

- 1) Are things being done in the right way?
- 2) Are the right things being done?

Performance auditing is based on the following baseline principles (See Table 1):

- Economy aims to keeping low costs (inputs) without impacting the quality and quantity of outcomes (outputs);
- Efficiency is one of the most complex objectives of performance auditing. Efficiency is a relative concept. The efficiency is evaluated by comparing achieved productivity with the desired norm, target or standard. Output quantity and quality delivered and the level of service provided are also compared to targets or standards to determine to what extent they may have caused changes in efficiency. The latter improves when more outputs of a given quality are produced with the same or fewer resource inputs, or when the same amount of output is produced with fewer resources;
- Effectiveness is intrinsically connected to the Efficiency, because it is an important factor in determining the least-cost method of achieving desired outcomes.

3 This process is required by Law 114/2015

4 http://www.qbz.gov.al/botime/fletore_zyrtare/2015/PDF-2015/195-2015.pdf

5 Interview, Ministry of Interior, Department of Strategic Planning, June 2016

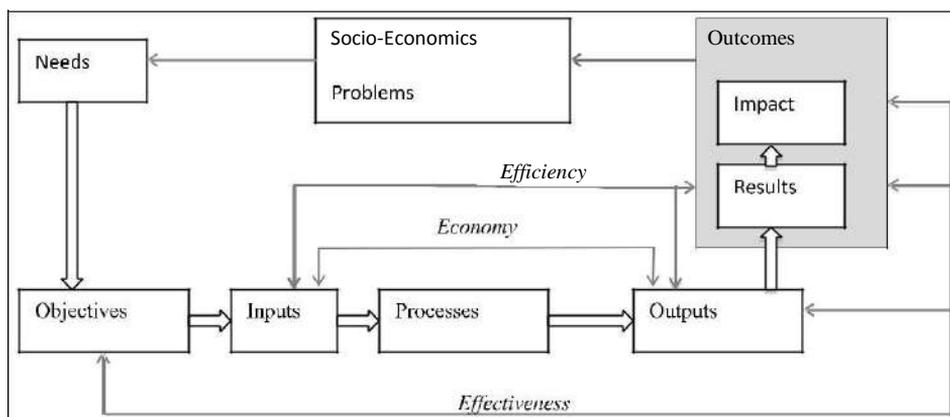


Table 1: Goals and concepts of performance auditing

Source: Authors' creation after European Court of Auditors Performance Audit Hand-book⁶

A Brief Overview of the Introduction of Performance Auditing in Albania

Performance auditing in Albania has come as a result of a combination of institutional reforms introduced since the fall of the Communist regime in the early 1990s. Earlier structures had included the Service of State Control, which later transformed into the Supreme State Audit Institution, reflecting Albania's political moves to adopt Western institutional models aimed at ensuring higher accountability. At the time, international auditing practices were similarly undergoing significant changes of their own. The International Congress of Supreme Audit Institutions (INCOSAI), held in Montevideo in 1998, developed key guidelines for the implementation and establishment of the International Organization of Supreme Audit Institutions (INTOSAI) and the inclusion of performance auditing through the draft Guidelines for Performance Auditing based on generally-accepted principles of performance auditing, distilled from the experience of INTOSAI members. This encouraged international partners, including SIGMA, to push for legal amendments on performance auditing in Albania and align the adopted framework to INTOSAI standards.

Although legally obliged to be a common audit practice, performance auditing

⁶ Performance Auditing Manual, European Court of Auditors, pg. 17, issued in 2015, accessed July 2016. http://www.eca.europa.eu/Lists/ECADocuments/perf_audit_manual/perf_audit_manual_en.pdf

remains unfamiliar to public institutions, which are still largely reliant on previous audit practices based on controlling and identifying violations, instead of identifying problems, offering recommendation and providing quality solutions. As a result, even among more experience auditors, auditing is highly perceived as a control of financial feasibility and management of accounts. (See section below.)

Legal and Institutional Framework for Performance-Based Auditing in Albania

Performance auditing is regulated under the Law on Supreme State Audit Institution, first established between 1997- 2000 and then amended in 2014, whereby significant directives on performance-based auditing was added by the Law No. 154/2014 “On Organization and Functioning of the Supreme State Audit Institution”. The authority and activities of SSAI are guaranteed under the Constitution of the Republic of Albania, which also highlights SSAI’s relationship and reporting line with the Parliament. Under Article 164, SSAI re-ports to Parliament on the execution of state budgeting and provides feedback regarding the draft budgets prepared by the Council of Ministers. However, additional audit reports, including those on performance-based auditing, are only submitted upon the request of parliamentary standing committees.

The current legal framework of SSAI in Albania details the role and the process of performance auditing as a separate auditing activity, but there are additional needs that call for a further completion of this framework. This legal gap is reflected in a number of ways within the institutional framework of SSAI, which only recently dedicated a separate department to performance auditing at SSAI. The department itself, established in 2008, functioned with-out an explicit legal basis until 2012, even though staff members were obliged and trained to conduct performance-based audits.⁷ To external auditors and internal audit units, this legal basis has yet to complete the stipulation of core competencies of audit units and the role to be played by Parliament in engaging and pushing for increased capacity in performance auditing. These institutional and hierarchical confusion was noticed since the draft law was first introduced at the Parliamentary Committee of Economy and Finance, where members of the committee expressed strong opposition on prioritizing

7 Ligj, 154/2014, Për Organizimin dhe Funksonimin e Kontrollit të Lartë të Shtetit, available at <http://www.klsh.org.al/>

8 Individual interview, Rinald Muça, Head of Performance Auditing Department, SSAI, July 4, 2016

performance auditing as an audit practice: "To this day not many of them understand what performance auditing consists of. Almost all hold on to the idea that auditing practices should have a penalizing effect, rather than offering recommendations and methods of prevention".⁸

The latest amendments on the institutional roles of SSAI were completed in 2014, as an additional move to strengthen SSAI's independence and capacity in financial and quality control of state activities and programs. Under these amendments, SSAI is financed by the state budget, even though it is qualified as an independent institution. Despite its budgetary ties to the Parliament and state budget commissioned by the Economic and Finance Committee, SSAI may also utilize external sources of income that may be provided by international donors or other solicitations. However, SSAI's annual and monthly plans of action and audit activities are established independently and according to its own functioning systems.

The concept of performance auditing and practices of performance auditing are similarly new to internal auditing units within public institutions. Most internal auditors undergo a year-long training on auditing practices, but financial audits are more prioritized in their training methods,⁹ even though the current legal framework on internal audit is expected to be updated and enter into force in force on 2017, requiring for performance audits and the financial audits to compose 60% of the total internal audits. When planning its periodic auditing activities, SSAI is able to take into consideration recommendations and suggestions from other state units, including Parliament. However, current practices show that the Chairman of SSAI has had the greatest role in selecting areas to carry out performance audits and in measuring risk factors.¹⁰ This is a practice that changes in between performance auditing models in other countries. The United Kingdom, for instance, is legally obliged to take into account suggestions submitted from the House of Commons when selecting areas for performance audits. Performance audits comprise almost 40% of the country's audit plans.

Performance audits are also conducted by internal audit (IA) units within public institutions. In this case, the leading authority for internal audit units is the Ministry of Finance. Internal audit departments are found in the majority of governmental and state institutions, including those of the security sector. In cases where there is no IA department/unit, audits can be performed by other

8 Individual interview, Rinald Muça, Head of Performance Auditing Department, SSAI, July 4, 2016

9 Individual interview, Ministry of Interior, Auditing Department, June 2016

10 Individual interview, Rinald Muça, Head of Performance Auditing Department, SSAI, July 4, 2016

public IA departments or external auditors. The external audition is performed by institutions with the legal and professional prerogative of controlling and supervising finance and economic activity of governmental and state institution. The external audit institutions are the Supreme State Audit Institution and the Albanian Financial Supervisory Authority. The current legal framework between internal audits and performance auditing conducted by SSAI, differentiates each audit's role, but does not specify how the two can interact in order to harmonize recommendations and findings of each.

The Practice of Performance-Based Auditing

At the moment, there is not enough capacity between external and internal audit units to conduct thorough reports based on qualitative analysis. "Internal audit bodies are a lot more qualified to conduct performance audits, whereas SSAI is still keener in completing financial audits".¹¹ The abovementioned le-gal and institutional deficiencies have created significant gaps in staff capacity as regards conducting performance-based audits while leaving audit departments to rely on financial and compliance control, rather than quality and effectiveness control. As shown in Table 2, performance auditing ranks low compared to other audit practices prioritized by institutions, although there is an increase in auditing reports. Even though the EU integration processes and recommendations require for public institutions to strengthen practices of performance auditing, the challenges of adopting this practices outweigh their objectives.

Year	Audition in Total	Performance Audit	Financial Audit	Compliance Audit	Performance Audit in %
2015	158	12	12	120	7.6%
2014	160	8	12	131	5%
2013	153	6	21	118	3.9%
2012	158	4	17	81	2.5%

Table 2. Number of finance, compliance and performance-based audits conducted during 2012-2015

Source: (Data collected from the SSAI bulletins)¹²

¹¹ Individual interview, Holta Bello, Risk and Audit, Albania, June 13, 2016

¹² http://www.klsh.org.al/web/Buletini_Auditimeve_80_1.php

With the assistance of international partners, including NATO in the UK and the Dutch Accountability Court, several pilot performance audit activities have been carried out since 2008, when SSAI adopted performance audit approach as a necessary tool to oversee and evaluate the effectiveness, efficiency and quality of public sector institutions in relation to their stated policy objectives. Until recently, most independent audits carried out by SSAI focused mainly on budgetary matters, including financial management of public institutions, thus avoiding qualitative oversight of important institutional gaps that often affect the effectiveness of public services.

According to several interviews conducted with officials from the Department of Harmonization of Audit in the MFA, performance auditing remains a challenge for many institutions, including SSAI. Even though the manual on performance auditing has already been published, there are gaps and omissions and a new updated version is expected to be adopted.¹³ Since its inception as a new department within SSAI, there have been about 30 performance-based audit reports issued by SSAI. In 2015, SSAI issued 15 similar reports. By 2018, the institution intends to produce 24 performance-based audit reports per year.¹⁴

Whereas in internal auditing units, during its visit at the Ministry of Interior, the team observed that components that would fall under performance auditing are often conducted by different departments whose objectives and roles fall under different descriptions. Monitoring reports are based on the production and full realization of objectives based on strategic documents. However, since most activities are not measured through numeric indicators, performance auditing would play an important role in ensuring accountability. Most audits completed are financial audits, thus limiting the understanding of the successfulness, weaknesses of certain institutional activities. "We can't always rely on receipts that we receive and whether they were completed correctly or not. Auditing is mainly focused on verifying budgetary and financial receipts and how they are noted in the books, but this does not allow us to view the full picture of these activities and how they are in line with strategic planning."¹⁵ Albeit, the internal audit is under the competences of the institution chair, therefore the engagement, impartiality and commitment of the audit is interconnected with the principles of good governance, goodwill, and institutional accountability.

The new handbook on internal auditing, expected to enter into force in early 2017, will require from the internal auditing departments to conduct 60%

13 Individual interview, Department of Harmonization, Ministry of Finance, June 2106

14 Individual interview, Rinald Muca, Head of Performance Auditing Department, SAI, July 4, 2016

15 Individual interview, Department of Strategic Planning, Ministry of Interior, June 2016

of their tasks in performance-based audits and financial audits, rather than compliance auditing, thus foreseeing performance auditing as a practice that should be focused on recommendation rather than controlling.

The recruitment process of new auditors is a key priority, but remains a challenge for auditing units because the majority of qualifications fall under law or finance-focused degrees. Given the research-based nature of performance auditing, it is increasingly challenging for auditing units to find qualified individuals to conduct, at times, investigative work to produce research-based reports.

Professional qualification and certification of auditors is a challenge that is making relevant institutions strongly reconsider their recruitment approach for new upcoming auditors. At the moment, there are 1,834 certified auditors and only 374 of this list are enrolled in the public audit departments. The recruitment process requires also the capacity building through efficient professional qualification and training on a number of areas that can be covered from performance auditing.¹⁶

Performance-Based Audit Reports and Practices

Since 2008, SSAI has conducted several performance-based audits on a number of areas in the public sector. Most performance audit reports are currently available to the public, addressing important issues, such as inclusion of people with disabilities in the workplace, environmental protection of the Ohrid Lake, performance of border customs or waste management in hospitals. However, SSAI performance-based audit reports that address national security matters and the Ministry of Defense's management of assets and public institutions are less accessible to the public. Currently there are no independent public performance-based audits that address the management of assets or other aspects of the security sector reform. Until now, performance-based audits in the security sector have not been prioritized by the performance audit directorate at SSAI. Even though security sector institutions are prioritized by the state budget, the criteria used to select areas for performance-based audits are largely measured through risk factors, but also through the feasibility of conducting performance audits in specific areas: "The budget is not the main

¹⁶ Individual interview, Department of Harmonization, Ministry of Finance, June 2106

criteria for us. We have to take into account whether certain areas are viable to audit; whether we can have enough information on the subject; whether our staff is trained enough and whether the legal framework is complete.”¹⁷ Despite these challenges, SSAI has increasingly conducted performance audits which have touched a number of sensitive topics such as the collection of excise and sanctions by the Tax and Customs Directorates in 2012,¹⁸ on the service of hemodialysis and food catering in the Military Hospital respectively in 2012 and 2013,¹⁹ and others concerning some relation with road safety and measures against domestic violence.²⁰ Although many of the thematic areas that have been covered by published performance auditing reports may loosely relate to questions of national security, SSAI has yet to touch upon issues that directly concern institutions in the security sector, their use of public resources and the administrative impact from decision-making hierarchies.²¹

Over time, the selection criteria for both have varied, between suggestions from international partners and risk factor analysis from internal auditors. However, more attention needs to be paid to advice from external actors and suggestions coming from Parliament. At the moment, performance audits conducted by SSAI are a hybrid of auditing of institutions and institutional processes - an approach that it is more clarified in other models, including that of the UK and Sweden. However, considering Albania's high level of institutional corruption by avoiding legal gaps and accountability measures, this hybrid approach may create the necessary flexibility between internal and external auditor and the conditions for increased capacity. Given that performance audits are rarely conducted by internal audit departments, it is increasingly difficult to assess specific issues and challenges that security institutions encounter in response to effectiveness and transparency of public funds.

Conclusion: Achievements, Failures, Issues, Ways and Means of Improvement

The adoption of performance auditing as a new audit practice presents several opportunities and challenges for public institutions and the Albanian SSAI. By adopting performance auditing, public institutions are introducing a new way

17 Individual interview, Rinald Muça, Head of Performance Auditing Department, SAI, July 4, 2016

18 The State Supreme Audit Institution, “Annual Performance Report 2012”, p. 72, http://www.SSAI.org.al/web/Raporti_Vjetor_i_Performances_2012_524_1.php?kc=0,1,2,0,0

19 The State Supreme Audit Institution, “Annual Performance Report 2013”, pp. 60, 62. http://www.SSAI.org.al/web/pub/raporti_performances_se_SSAI_2013_1159_1.pdf

20 1. “Siguria Rrugore” “Përdoruesi i Rrugës si Element Kyç i Sigurisë” (Road Safety – Usage of Road as Key Element of Road Safety). 2. “Efektiviteti i Strategjisë Kombëtare për Baraz-inë Gjinore dhe Reduktimin e Dhunës me Bazë Gjinore dhe Dhunës në Familje 2011-2015” (The Effectiveness of National Strategy of Gender Equality and Reduction of Violence on Gender-Based and Domestic Violence)

21 Kontrolli i Lartë i Shtetit, Departamenti i Auditit të Performancës, “Burimet Alternative të Energjisë në Shqipëri”, 2015, available at: <http://www.klsh.org.al/>

of thinking on audit practices, which have been largely seen as controlling and penalizing mechanisms against corruption and mismanagement of funds. SSAI's recommendations to public institutions, after completing performance audits, are not legally binding and do not have automatic penalizing effects on audited institutions and individuals. Even though to some auditors this may seem as insufficient of power, it may also help SSAI's auditors to build trust with public institutions to gather as much data and information as possible for their recommendations. While internal audit departments and external audit units are regulated and protected by the law, direct dependence on institutional hierarchies shows that audit units are not immune from pressure and higher influences. This presents several challenges for performance auditing since the legal and the regulatory framework, including the handbook on performance auditing, have yet to consolidate the auditors' role and independence in public institutions.

Moreover, a consolidated relationship between internal and external audit units would help to produce more audit reports on a greater number of areas. Most often, auditors at SSAI spend at least five months studying and analyzing an issue before developing a field audit plan. By increasing the capacity of internal audit units on producing and conducting internal performance-based audits, this process would speed up external auditors' work and enhance the quality of analysis that needs to come from internal audit experts. Over the years, agencies related to the security sector have not undergone completed performance-based audits that are available to the public.

SSAI has strengthened its presence as an independent audit institution and has signed a number of memoranda of agreements with public institutions and civil society groups as a way to increase capacity and share information, but no substantial information has been revealed on current activities envisioned and the role each actor can play in strengthening performance-based audits. For instance, at the moment SAI suffers from a lack of certified staff capacity to focus in the area of the security sector, but also a lack of information provided by internal audit departments of the security sector agencies that could provide SSAI auditors with key elements to plan audits. This relationship can only be strengthened through more practice and specific activities that aim at reinforcing the role that performance auditing has in ensuring accountability and preventing wrongdoing. New forms of effective cooperation and collaboration between departments and bodies of audition should be put in place.

<p>Strengths</p> <ul style="list-style-type: none"> • Detailed overview of budget spending • Insight analysis of value for money • Improvement of governance and decision making • Increase of accountability • Prevention of corruption and abuse of power 	<p>Weaknesses</p> <ul style="list-style-type: none"> • Longer of audit missions • Lack of practice from the Internal Auditing ranks • Scarce human resources • Lack of understanding the practice • Lack of mechanisms of punishment • Neglecting of remarks and recommendations • Political interference
<p>Opportunities</p> <ul style="list-style-type: none"> • Improvement of auditing guidelines, manual and law • Capacity building and refreshing of the auditors pool • Widening the auditing initiators entities (e.g. Parliament, civil society, academia) 	<p>Threats</p> <ul style="list-style-type: none"> • Disregard of report findings, remarks and recommendations • Lack of political will • Lack of understanding the main purposes of the performance-based auditing

Table 3: An analysis of strengths, weaknesses, opportunities and threats of performance auditing

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Backgrounder: Security Sector Procurements

by Arjan Dyrmishi

Introduction

Irregularities with public procurement have become a widespread practice in the Albanian public administration. Although the problem has become more and more evident and the abuses with funds dedicated to public procurements make more than 60 percent of the overall irregularities identified by the Supreme State Audit Institution, no meaningful action has been taken to tackle it. On the contrary, over the last years there has been an increase in both the number of irregularities, the number of public administration officials involved, the number of top public officials as well as the amount of money misused.

Public procurement is one of the most important activities in the budgetary spending of the security institutions, because depending on what is being procured demonstrates the government's security policy purposes and concerns. On the other hand, depending on how the procurement processes and procedures are conducted demonstrates the level of integrity of the institutions involved and the level of attention paid to the strengthening their integrity.

In principle, procurement in the security sector is subject to the same rules as any public procurement, but there are certain characteristics that distinguish it at technical and political levels. On the technical level there are issues such as, long-term planning that involves development, production maintenance and disposal of the procured equipment or the research and development which makes exact calculations difficult. On the political level, the sensitivity towards public exposure due to the usually high costs of certain procurements or

maintenance of the balance between secrecy and transparency make security sector procurements more difficult to conduct and subject to public debate.

In order to ensure that the procurements in the security sector contribute to delivering security and provide the best value for money, to avoiding mismanagement and corruption risks and contribute to strengthening the integrity of the security sector institutions it is important first of all to acknowledge the set of issues entailed and to take the necessary steps to adequately address them.

Against this context this document analyses the security sector procurement in Albania. Initially the document discusses some key internationally recognized and accepted norms and practices to follow with an overview of Albania's legal and institutional framework on procurements and the main issues of concern.

The aim of this document is to provide policy makers, practitioners as well as the media and the larger public with a knowledge base on security sector procurement but also to trigger some action towards an improved situation.

What is Public Procurement?

Public procurement refers to the purchase by governments and state-owned enterprises of goods, services and works. The public procurement process is the sequence of activities starting with the assessment of needs through awards to contract management and final payment.¹ The European Union de-fines the public procurement as "the process by which public authorities, such as government departments or local authorities, purchase work, goods or services from companies which they have selected for this purpose".²

The objective of public procurement is to be efficient and legally certain and take advantage of competition in the market, while promoting innovative solutions and taking environmental and social considerations into account. In this way, public procurement contributes to well-functioning public services for the benefit of citizens and the development of the business sector, while making the best use of tax revenues.³

Public procurement is a crucial pillar of services delivery for governments.

1 OECD, Public Procurement, <http://www.oecd.org/gov/ethics/public-procurement.htm>

2 European Commission, "Public procurement reform; Fact sheet no 1: General overview", https://ec.europa.eu/growth/single-market/public-procurement_en

3 Government of Sweden, 'Public procurement objectives', <http://www.government.se/government-policy/public-procurement/public-procurement-objectives/>

Because of the sheer volume of spending it represents, well governed public procurement can and must play a major role in fostering public sector efficiency and establishing citizens' trust. Well-designed public procurement systems also contribute to achieving pressing policy goals such as environmental protection, innovation, job creation and the development of small and medium enterprises.⁴

In order to ensure strategic and holistic use of public procurement the OECD has issued a series of recommendations to be adopted by national governments for modernizing procurement systems that can be applied across all levels of government and state owned enterprises.

Box 1. OECD Recommendations on Public Procurement⁵

1. Ensure an adequate degree of transparency of the public procurement system in all stages of the procurement cycle.
2. Preserve the integrity of the public procurement system through general standards and procurement-specific safeguards.
3. Facilitate access to procurement opportunities for potential competitors of all sizes.
4. Recognize that any use of the public procurement system to pursue secondary policy objectives should be balanced against the primary procurement objective.
5. Foster transparent and effective stakeholder participation.
6. Develop processes to drive efficiency throughout the public procurement cycle in satisfying the needs of the government and its citizens.
7. Improve the public procurement system by harnessing the use of digital technologies to support appropriate e-procurement innovation throughout the procurement cycle.
8. Develop a procurement workforce with the capacity to continually deliver value for money efficiently and effectively.

4 Directorate for Public Governance and Territorial Development, 'OECD Recommendation of the Council on Public Procurement', <http://www.oecd.org/gov/ethics/recommenda-tion-on-public-procurement.htm>

5 Directorate for Public Governance and Territorial Development, 'OECD Recommendation of the Council on Public Procurement', <http://www.oecd.org/gov/ethics/recommenda-tion-on-public-procurement.htm>

9. Drive performance improvements through evaluation of the effectiveness of the public procurement system from individual procurements to the system as a whole, at all levels of government where feasible and appropriate.
10. Integrate risk management strategies for mapping, detection and mitigation throughout the public procurement cycle.
11. Apply oversight and control mechanisms to support accountability throughout the public procurement cycle, including appropriate complaint and sanctions processes.
12. Integration of public procurement into overall public finance management, budgeting and services delivery processes.

What is Security Sector Procurement?

Security sector procurement is the process by which the security institutions acquire the equipment and services necessary to fulfil their mission.

The procurements in the security sector are part of two distinct processes: the process of acquiring the equipment and/or services and the process of maintaining existing capabilities from external agencies.

Equipment refers usually to items such as weapons, ammunitions, logistical and transportation means, surveillance systems as well as items and services that are not explicitly security related such as fuel, food, uniforms, etc. Services refer to non-physical items that are nevertheless required by security institutions, which are externally sourced such as logistics support, various forms of consultancy, training and education courses, etc.

The items acquired by the security institutions are complex, expensive and often remain in service for many years therefore the when a decision is made about a procurement in this sector it will have implications for the future also. For this reason procurements of items and services by security institutions involve not only the acquisition but also their support and maintenance.

There are different reasons why the need for procurements may arise within a security institution. .

- KWhen there is a change in the policy. For instance, when Albania decided to join the NATO modernisation of the military arsenal became a priority

because of the interoperability requirements. This led to the adoption of the modernisation of the systems and equipment in the Military Strategy 2007.⁶

- When the threat has changed. For instance when the armed forces were deployed in missions abroad to combat terrorist activities procuring now logistic and communication support means for the troops became necessary.
- When technology has advanced. For instance the massive use of the smart-phones and the internet for voice and message communications has brought the need for the procurement of new capabilities to intercept communications by the intelligence and security services.⁷

The process of procurement of new items or services by security institutions goes through three main interrelated phases: deciding what to procure; how to procure it; and finally conducting the procurement.⁸

Deciding what to procure is a challenging process because military and security related equipment are expensive and often they are technologically very complex. On the other hand, the budgets of security institutions are limited, which means that not all the needs of the security institutions may be fulfilled. Therefore, prioritising among the competing requirements and striking the right balance between the needs and budget constraints are among the most important parts of the process.

Deciding how to procure an equipment or service, which is the next phase, is also complex for a number of reasons. For instance, the required equipment or services may be provided by one or by many suppliers. In case it is provided by one supplier, or when some suppliers may be excluded for security or other reasonable motives, a single source procurement will be more appropriate. When multiple suppliers are available, the open competition is more appropriate to making the procurement, because competition leads to the best value for money and optimum between price and performance. Other considerations include the project and management structure, pricing, payment arrangements, etc. All these considerations are usually achieved through the preparation of a procurement strategy, which outlines and justifies the decisions taken.

The practice of actually acquiring the equipment or services, providing the support through their service lifecycle, and ultimately disposing them is often

6 Law No. 9858, dated 27.12.2007, "On Adoption of Military Strategy of the Republic of Albania"

7 Juxhin Mustafaj, 'Përgjimi i "WhatsApp the 'Viber', 2.6 milionë euro shitesë SHISH', Pan-orama 25 Nëntor 2016 [Interception of WhatsApp and Viber communications, an additional fund of 2.6 million Euros to State Intelligence Service]

8 Anthony Lawrence, "Acquisition Management," in *Defence Management: An Introduction* (Geneva: DCAF, 2009), 156–157

broken down into a series of phases in order to make the overall process more manageable and controllable.

What Makes the Security Sector Procurement Different?

In general, security sector procurements are similar to any kind of government procurement. However, there are some of the characteristics that distinguish this kind of procurement.⁹

- Long-term planning. In the defense sector, in particular, procuring certain weapons systems and developing the force structure that will use them take many years or even decades. This implies a number of important factors that need to be taken in consideration in order to make the adequate procurement. For instance, is the equipment available off-the-shelf or does it need to be developed? In case it needs to be developed in advance, payments need to be made. Other factors include the availability of the equipment from one or more suppliers; or the interest or lack thereof of other states for the same equipment or project; the spread of the project over a number of years, etc.
- Research and development. The security sector involves the use of cutting-edge technology and often costs are difficult to predict with accuracy, which may lead to increased costs in the future that could jeopardise the entire project.
- The balance between secrecy and transparency, since security related materiel, requires a balance between secrecy of technical and operational issues and the access to information necessary to ensure transparency and accountability.
- Concerns of other states. Because procurement decisions about major weapons systems may provoke international concern, they need to be properly managed at the political and diplomatic level.
- Interoperability needs. Security arrangements with other countries and the need for interoperability may influence the choice of the technology and suppliers

⁹ DCAF, Parliament's Role in Defence Procurement. Geneva Centre for the Democratic Control of Armed Forces (DCAF), 2006, <http://www.css.ethz.ch/en/services/digital-library/publications/publication.html/25142>

How to Manage Risks in the Security Sector Procurement?

In general, larger budgets for procurements are allocated to the military, but non-military security institutions such as intelligence services, police and border officials have also acquisition needs that may be comparable to those of defense system.

Due to the complexity, expense, technological sophistication, and long lifecycles of equipment and systems that the security sector procurement entails, the potential for unforeseen events with damaging consequences, or other-wise risks, is a high.

Therefore, the security sector procurements involves the application of management techniques and processes that aim to reduce project risks and help to ensure that the right capability will be procured in a timely manner, with an affordable price, and with no budget losses.

The risk management is the process of identifying the risks, assessing their importance, and planning how to deal with when they arise. The first source of risks is internal, coming from within the security institutions. These risks might include changes to the user requirement, shifting of security priorities or risks of political nature from the government.

The second source of risks is external, coming from suppliers or potential suppliers and other external sources. These risks might include difficulties that the supplier may face of financial and technological nature, failure to respect commitments in terms of timely delivery, quality of services, etc. In terms of corruption, external risks include pressures to influence the tendering processes. One simple way to mitigate these risks is to judge the probability that they will occur and the impact on cost, time, and performance.

Box 2: The defense procurement risk typology developed by the Transparency International

1. 1. Technical requirements or specifications which are not well quantified, identified or linked to a transparent national strategy;
2. Single source or non-competitive procurement practiced to a significant extent and without sufficient oversight;
3. Poorly regulated, undisclosed and underscrutinized usage of agents and brokers;

4. Collusive bidding in the absence of relevant defense sector specific laws and enforcement;
5. Complex, ill-defined and secretive financing packages;
6. Complicated, ill-monitored and underpublicized offsets arrangements;
7. Under-regulated tender boards, inadequate disclosure of supplier obligations and lack of mechanisms for companies to complain about corruption during contract award and delivery stages;
8. Standards expected from subcontractors or subsidiaries;
9. Political influence from seller nations at the cost of legitimate defense needs.

Source: Tehmina Abbas. 'Defense procurement – understanding, identifying and addressing corruption risks', (pp. 8-10) in Hans-Joachim Prieß, 'Getting the Deal Through – Public Procurement in 33 jurisdictions worldwide', Law Business Research Ltd 2014

Assessing the importance of each of these risks is usually done by judging the probability that they will occur and the impact on cost, time, and performance. This can be done by using terms such as 'high,' 'medium' and 'low', or through the application of numerical scoring scale, for example from 1 to 5.

The result of this process will lead to the production of a document, which identifies possible risks, assesses their seriousness, and outlines the way, in which they will be handled in case they arise. The document should be subject to update and revisions.

The main importance of the adoption of such processes and techniques is that it develops a culture of integrity and allows the control and oversight actors to actively participate, and contribute to the process, and ultimately helps to further strengthen the culture of integrity.

For instance, one of the main risks to security procurements is use single source procurement. However, the most efficient, honest, and transparent way used in public procurement is to run a competition. In order to maximize transparency and take precautionary measures to enhance integrity, OECD recommends competitive tendering in the procurements conducted for security purposes.¹⁰

10 OECD, 'Enhancing Integrity in Public Procurement: A Checklist', OECD 2008, <https://www.oecd.org/gov/41760991.pdf>

After the procurement is made the equipment or services will start to be used, entering thus their lifecycle. From this perspective, effectiveness and value of the procurement will be subject to performance auditing and other reviews in order to appraise the value for money (see the chapter on Performance Auditing). The lifetime of the equipment and the quality of services delivered will be the best test for the overall procurement strategy.

Given the usually long life cycle of the equipment and materiel in particular, the maintenance and eventual upgrade may be required. Therefore, a well-documented inventory and management is essential (see the chapter on Asset Management in the AAF).

The final area of activity concerns their disposal, which may pose a renewed risk to corruption. Equipment or materiel or other assets may be removed from the inventory in order to open the way to a new procurement, which may not necessarily be a priority, or may be otherwise used to provide a business opportunity to particular contractors, (see the chapter on Uniforms Procurement in the State Police), or to sell the materiel or assets to private interested parties (see the chapter on Asset Management in the AAF).

Albania's Security Sector Procurements

Legal Framework

In Albania, the public procurement in the security sector is regulated by the Law on Public Procurement (LPP) adopted in 2006. LPP is based mainly on the provisions of EU Directive 2004/18/EC.¹¹ The purpose of the LPP are:

- a) a) promote efficiency and efficacy in public procurement procedures carried on by contracting authorities;
- b) ensure a better use of public funds and reduce procedural costs;
- c) encourage economic operators to participate in public procurement procedures;
- d) promote competition among economic operators;
- e) guarantee an equal and non-discriminatory treatment for all economic operators participating in public procurement procedures;

¹¹ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004, "On the Coordination of Procedures for the Award Of Public Works Contracts, Public Sup-ply Contracts and Public Service Contracts"

f) guarantee integrity, public trust and transparency in public procurement procedures.

The LPP provides for seven public procurement procedures: Open procedure; Request for Proposals; Negotiated Procedure without prior publication; Negotiated Procedure with prior publication; Restricted Procedure; Design Competition; Consulting Services.¹² The Negotiated procedure without prior publication is the procedure that requires minimal transparency.

The LPP provides for specific provisions on procurements related to the national defense,¹³ and on secret contracts, on contracts that require specific security measures and contracts that are dictated by vital state interests.¹⁴

On procurements related to the national defense, the LPP provisions do not apply in cases when (a) there is a risk that the contracting authority may disclose information that is essential interests of national security, (b) for the purchase of arms, munitions and war material, or related services, and (c) in specific circumstances caused by natural disasters, armed conflicts, war operations, military training and participation in military missions outside the country.¹⁵

On procurements related to the secret contracts and contracts requiring special security measures, the LPP provisions do not apply when 'their performance must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force, or when the protection of the state's essential interests so requires'.¹⁶

In the defense sector, a Government Decision (Decision of Council of Ministers (DCM) No. 1403) specifies the bodies, rules and procedures for conducting the procurements for which the LLP does not apply.¹⁷ DCM No. 1403 provides for three procurement procedures: the limited procedure, the direct negotiation procedure, and the state-to-state procedure.¹⁸

The limited procedure is used for the procurement of weapons, ammunitions, systems, military materiel and related services in which only the economic

12 Law No. 9643, dated 20.11.2006, "On Public Procurement", Article 33

13 Law No. 9643, dated 20.11.2006, "On Public Procurement", Article 5

14 Law No. 9643, dated 20.11.2006, "On Public Procurement", Article 6

15 Law No. 9643, dated 20.11.2006, "On Public Procurement", Article 5

16 Law No. 9643, dated 20.11.2006, "On Public Procurement", Article 6

17 Council of Ministers' Decision No. 521, dated 08.08.2007, "On Procedures of Ministry of Defense Purchasing of Materiel Excluded from Overall Rules of Public Procurement", (amended by DCM No. 1403, dated 27.10.2008)

18 DCM No. 1403, dated 27.10.2008, "On Amendments to DCM No. 521, dated 08.08.2007, "On Procedures of Ministry of Defense Purchasing of Materiel Excluded from Overall Rules of Public Procurement" , Chapter IV

operators selected by the contracting authority may participate.

The direct negotiation procedure is the procedure through which the contracting authority has the motives to select the economic operator to negotiate the terms of the contract. This procedure is used in the cases when: there is only one economic operator available, when only one viable offer has been presented, when there is an emergency, when the goods/services needed are a follow up of previously procured goods/services.

The state-to-state procurement is applied in two ways: direct procurement and procurement conducted through the authorisation of a contracting authority in another state.

Another Government Decision (DCM No. 17) provides for the procurement for which the LLP law does not apply in the intelligence and security agencies.¹⁹ DCM No. 17 stipulates that the State Intelligence Agency (SHISH) can procure through negotiations procedure. DCM No. 17 stipulates that the SHISH can procure goods and services through the negotiation procedure with no prior public announcement.

According to the OECD, these legal provisions on defense procurements are incomplete.²⁰ The European Union also has identified this area as problematic and has recommended in two consecutive reports that 'Albania should take steps to further harmonise with EU public procurement rules including in the area of defense procurement'.²¹ However no steps have been undertaken in this respect although the LPP has been amended nine times since its adoption in 2012.

Pursuant to the LPP, the Council of Ministers has issued DCM No. 1, "On rules on public procurements."²² The Decision specifies the procedure for the Contracting Authorities, the maximum and minimum price levels, procedures for the calculation of contracts, tender documents, guidelines for the bids' selection procedures, the tender procedures, execution of contracts and administrative sanctions. Since its adoption in 2007, the DCM No. 1 has been subject frequent amendments, sometimes three times within the same year.²³

19 DCM No. 17, dated 21.1.2000, "On Use and Control of Public Funds for Specific Operational Activities of the State Intelligence Service"

20 OECD Albania Assessment, March 2012. p. 27

21 European Commission, Albania 2015 Report, Brussels, 10.11.2015 SWD(2015) 213 final; European Commission, Albania 2016 Report, Brussels, 9.11.2016 SWD(2016) 364 final

22 DCM No. 1, Dated 10.01.2007 "On Public Procurement Rules"

23 DCM No. 1, Dated 10.01.2007 "On Public Procurement Rules", amended by DCM No. 153, dated 22.03.2007, DCM No. 135, dated 03.02.2008, DCM No. 392, dated 08.04.2008, DCM No. 822, date 18.06.2008, DCM No. 46, dated 21.01.2009, DCM No. 495, dated 15.05.2009, DCM No. 917, dated 29.7.2009, DCM No. 398, dated 26.05.2010, DCM No. 32, date 23.01.2013 and DCM No. 547, dated 13.6.2013

As the OECD points out, 'the Albanian authorities do not seem to have a coherent, comprehensive strategy concerning the further development of the procurement system in either a medium or long-term perspective. In practice, almost all of the actions that have been taken recently were the result of dispersed initiatives of various stakeholders, undertaken on an ad hoc basis'.²⁴

Institutional Framework

The procurement procedures are conducted by the Contracting Authorities (CA) in the security institutions. The security institutions that have a CA are:

- The Ministry of Defense
- The Ministry of Interior
- The State Intelligence Service
- The Prisons General Directorate
- The General Customs Directorate

Given the size and complexity of the procurements, the MoD has the more complex procurement structure. The relevant bodies and competences are presented in the table below (Table 1).

Body	Competences
Contracting authority	Makes Procurements and reports to the Council of Ministers every year
The Structures for the Generation of Operational Demands	Generate requests for equipment or services which will be used for operational purposes.
The Defense Modernisation Board (DMB)	Analyses, classifies and evaluates the requests from the Structures for the Generation of Operational Demands and is also responsible for classifying requests which will be excluded from public procurements
The Directorate for the Project Management and Modernisation (DPMM)	Responsible for conducting and administering the procurement process, in concurrence with the decisions of the DBM. The latter is comprised of 13 individuals, as per Minister's executive order. ²⁵

24 OECD Albania Assessment, March 2012. f. 29

25 Urdhër nr. 728, datë 30.04.2015, "Për përbërjen dhe funksionimin e bordit të modernizimit të Forcave të Armatosura të Republikës së Shqipërisë"

Body	Competences
The Bids Assessment Unit (BAU)	Temporary structure set up by the Minister of Defense to evaluate offers from potential bidders.
The Contract's Negotiation Group	Temporary structure set up by the Minister of Defense depending on the nature of the contract.
The Contracts' Management Unit	Responsible for the management and administration of contracts after procurement is conducted.

*Table 1. Procurement bodies and competences in the Ministry of Defense*²⁶

In 2008, the Council of Ministers (CoM) decided to establish the Centralised Procurement Directorate (CPD) in the Ministry of Interior to manage public procurement procedures for six types of goods and services.²⁷ In 2009, the CoM expanded the variety of procurable commodities and services to include an additional list of seventeen items.²⁸ However, on certain occasions, the CoM has decided to allow few institutions to directly procure services that fall under the remit of the CPD.

Another body that plays a central role in the procurement system is the Public Procurement Agency (PPA), which reports to the Prime Minister.²⁹ Some of the PPA's main duties include: preparation of standard tender documents, verification of the implementation of public procurement procedures, monitoring of the progress of the public procurement system, and provision of technical assistance to contracting authorities.

The highest body in procurement system, however, is the Public Procurement Commission (PPC), which was established in 2009 as an arbitration body pursuant to the amendments made in that year to the LPP.³⁰ This Commission was established with the purpose of aligning the Albanian public procurement

26 DCM No. 521. dated 08.08.2007, "On Procedures of Purchase by the Ministry of Defense of Certain Commodities Exempted from General Public Procurement Rules", (amended by DCM No. 1403, dated 27.10.2008)

27 DCM No. 53, dated 16.1.2008 "On Designation of the Ministry of Interior to Conducts Public Procurement Procedures on behalf and to the account of the Prime Minister's Office, Ministries and Subordinate Institution regarding Specific Goods and Services"

28 DCM No. 53, dated 21.1.2009, "On Designation of the Ministry of Interior to Conducts Public Procurement Procedures on behalf and to the account of the Prime Minister's Office, Ministries and Subordinate Institution regarding Specific Goods and Services"

29 Law No. 9643/2006 "On Public Procurement"; Law No. 125/2013 "On Concessions and Public-Private Partnerships"; Law No. 9874/2008 "On Public Auction"

30 Law No. 9643, dated 20.11.2006, amended by Law No. 9800, dated 10.09.2007, Law No. 9855, dated 26.12.2007, Law No. 10170, dated 22.10.2009, Law No. 10309, dated 22.07.2010, Law No. 22/2012, Law No. 131/2012, and Law No. 182/2014

system with the EU.³¹ Similar to the PPA, the PCC also reports to the Prime Minister and is funded by the state budget. The main task of the PCC is to examine complaints on procurement procedures and give a final ruling pursuant to the LPP.³²

In general, the overall capacity of the contracting authorities to manage public procurement procedures is moderate and needs to be improved substantially.³³ The compliance with the rules and regulations is weak, especially in more complex procedures. This is reflected in the increasing number of the complaints filed with the PCC. In 2015 the PPC reviewed 1,111 complaints on public procurement;³⁴ in 2014, 834 complaints had been filed,³⁵ and in 2013, 561 complaints had been submitted to PCC.³⁶

The Main Issues with Public Procurements

The generally poor compliance with the LPP and institutional weaknesses have caused increasing financial losses to public funds. In 2015, the State Audit Institution estimated the financial loss to the state budget from irregularities in public procurement amounted to be approximately 19 million Euros³⁷, an almost threefold increase from 4.8 million Euros loss in 2014.³⁸ Over the years, there has been a growing trend in the number of procurements conducted through negotiated procedures without prior publication. This trend goes against the OECD and EU recommendations for using open tender procedures. During 2015, the number of negotiated procedures without prior publication increased to 2,706, 67 % of which were carried out in the first quarter of the year.³⁹ In the first half of 2015, the number of unpublished negotiated procedures increased to 2,224 procedures as compared to 2,121 procedures for the entire 2014.⁴⁰

31 Public Procurement Commission website, <http://www.kpp.gov.al/ppadv/default.aspx>

32 Law on Public Procurement, Article 19/1

33 EU Albania Progress Report 2016

34 Ibid.

35 EU Albania Progress Report 2015

36 EU Albania Progress Report 2014

37 SSAI, Annual Performance Report 2015, Tirana 2016
http://www.SSAI.org.al/preview-doc.php?file_id=2624

38 EU Albania Progress Report 2016

39 Ibid.

40 EU Albania Progress Report 2015

In 2015, the negotiated procedure was the most commonly used procurement procedure in the public tenders for private security services.⁴¹ Even though the LPP stipulates that the preferred procurement procedure should be the open procedure and that the negotiated procedure without prior publication should be applied only in exceptional cases,⁴² 42% of all contracts for private security services in 2015 were awarded through the negotiated procedure without prior publication.⁴³

Given the difficulty to accessing data and information from the security institution on procurements by independent actors, the reports of the Supreme State Audit Institution are the main source of information on this matter. The review of these reports suggests that security sector procurements represent a part of the problems and issues that concern the public procurement in general in Albania.

The 2015 SSAI report, on legality and financial propriety in the Ministry of Defense for the period 2013-2014 has revealed a number of irregularities regarding defense procurements.⁴⁴

The report reveals irregularities in 14 tenders, representing 44 percent of the total amount of the funds spent for procurements. Only in one procurement, on the acquisition of multirole helicopters, the cost of irregularities amounted to 639,794 Euros. Following the audit, the SSAI recommended the initiation of criminal investigations on charges of abuse of competences for seven Ministry of Defense officials.⁴⁵ The SSAI audit conducted in the Ministry of Interior for the period 2013-2014 found similar irregularities with procurements and recommended the initiation of criminal investigations on charges of office abuse for twelve officials.⁴⁶

The audit reports on Prisons Directorate and the General Customs Directorate show that wrongdoings with procurements are present in these two intuitions also.⁴⁷ Only in three procurements conducted by the General Customs Direc-

41 Public Procurement Agency newsletter (2015), https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx

42 The Law specifies this as cases of "urgent need" or "to meet the needs of the beginning of the year until the opening of the bidding process in March of each year".

43 Public Procurement Bulletins January-November 2015, https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx

44 SSAI, Report on Audit in the Ministry of Defense 'Audit of Financial Legitimacy and Compliance for the Timespan 16.09.2013 - 31.12.2014'. www.SSAI.org.al/previewdoc.php?file_id=2529

45 SSAI, Annual Performance Report 2015, Tirana 2016 http://www.SSAI.org.al/preview-doc.php?file_id=2624

46 Ibid.

47 SSAI, Report on Audit in the General Directorate of Prisons 'Audit of Financial Legitimacy

torate during 2014 the financial loss amounted to over nine hundred thousand Euros..⁴⁸

The Role of Parliament in the Security Sector Procurements

The public procurement cycle refers to the sequence of related activities, from needs assessment, through competition and award, to payment and contract management, as well as any subsequent monitoring or auditing. Therefore, it is vital for the integrity system to ensure that the monitoring of the performance of the public procurement system is controlled both internally and externally.

In this respect, the Parliament has a number of powers related procurements and that may be exercised in the plenary sessions or in the Parliamentary Committee on National Security or Parliamentary Committee on Economy and Finance.

In addition to adopting the legal framework for procurement and approving the budget for the security institutions, the Parliament has also the power to oversee the executive and the security institutions by requesting reports from the executive, hearing statements or testimony by government officials or directing questions and interpellations to the government. In addition, the Parliament can be the ultimate decision maker on procurements above a certain amount of money. However, the role of the Albanian Parliament in ensuring a greater accountability of the security sector in general has been weak and with regard to procurements it has been weaker.

In the legislating area, the Parliament has been unable to set the agenda for fulfilling the EU and OECD recommendations to introduce amendments to the Law on Public Procurements that would provide for greater transparency and accountability in security and defense procurements.

Regarding the oversight area, the Parliament has failed to play any substantial role in tackling the problems with the public procurements in general or with the security sector procurements in particular.

and Compliance for the Timespan 01.01.2014 - 31.12.2015,
http://www.SSAI.org.al/pre-viewdoc.php?file_id=2238

48 SSAI files criminal charges against former Head and two customs officials of Berat Customs Branch and three officials of the General Customs Directorate with the Prosecutor's Office. <http://www.SSAI.org.al/>

Despite the problems on procurements reported by the SSAI, the Parliamentary Committee on Economy and Finance has limited its involvement to only hearing of the SSAI's annual report. It has not undertaken any follow-up activity.⁴⁹

One of the main issues that the Chairman of SSAI pointed out to the Members of Parliament is the failure of the executive branch to implement the SSAI recommendations on sanctioning high level officials who have been found to have abused with the procurement procedures.

Although 62 percent of the recommendations are related to abuses with public procurements no or very few actions or investigations have been undertaken but with no sanctions or punishments.⁵⁰ The Chairman of SSAI complained to the Members of Parliament that this practice has led to a "further consolidation of the culture of impunity" among high level officials, such as general secretaries and general directors, and a rejection of the SSAI authority.⁵¹ In the hearing with the CEF on the presentation of the 2013 Annual Performance Report, the SSAI Chairman has brought to their attention the case of the General Secretary of a ministry who in one missive sent to the SSAI argued that "the SSAI has no right to audit the public procurements".⁵²

The lack of action to take measures on sanctioning those responsible and to enhance integrity in order to prevent the public officials' abuse with procurements has led to a further increase of the number of wrongdoings. During the presentation of the 2015, Annual Performance Report the Chairman of SSAI informed the Committee that the SSAI had asked the Persecution Office to initiate 51 criminal investigations involving 159 high and medium level officials. The number of criminal investigations recommended for 2015 was equal to the aggregate number of the criminal investigations recommended for the period 2008-2011, marking thus a notable increase.⁵³ The Chairman of SSAI informed the CEF that his office had informed the Executive of the names and positions of those involved and that that he would send the list to the CEF also.⁵⁴

49 The period scrutinized under this observation is 2013 - 2016.

50 Parliamentary Committee for Economy and Finance, "Minutes of: SSAI Annual Performance Report for 2014". Dated 15.07.2015, p. 25-27, https://www.parlament.al/wp-content/uploads/2015/11/komisioni_i_ekonomise_date_15_07_2015_copy_1_23618_1.pdf

51 Parliamentary Committee for Economy and Finance, "Minutes of: SSAI Annual Performance Report for 2014", Dated 15.07.2015. p. 19

52 Parliamentary Committee for Economy and Finance, "Minutes of: SSAI Annual Performance Report for 2014", Dated 15.07.2015. p. 43

53 Parliamentary Committee for Economy and Finance, "SSAI Annual Performance Report for 2015", Tirana, 28.06.2016, p. 7

54 Parliamentary Committee for Economy and Finance, "SSAI Annual Performance Report for

Despite the emphasized expression of this concern by the SSAI, no specific action or effort has been undertaken by the parliament to contribute to addressing this problem.⁵⁵

An area which has been overlooked during the last years involves the procurements made by using the so-called secret funds. In 2010, the SSAI reported irregularities with procurements made by the Ministry of Defense, the Ministry of Interior and the State Intelligence Service.⁵⁶ The irregularities were justified by the by the lack of bylaws which prompted the Council of Ministers to adopt a decision on classified information in the industrial filed.⁵⁷

The lack of follow-up action by the Parliament is mainly driven by two factors. First, the two main parliamentary committees in charge of overseeing budgetary issues do not work in tandem with each other. While the Committee on National Security is involved in the process of the adoption of the budget, the Committee on Economy and Finances is involved in the process of overseeing the execution of the budget. Yet, these two committees do not interact or cooperate with each other. Thus, the Committee on National Security, which has the mandate to oversee the security institutions, has no ex post role on budgetary issues and, therefore, never gets involved in discussion issues presented by the SSAI. This Committee has the right to call upon the SSAI Chairman to report on issues of interest to the Committee, but this has never happened.

Second, the parliamentary committees are motivated chiefly by partisan politics and the majority that supports the executive branch has never undertaken any action that might undermine the government it supports. This means that when it comes to overseeing the procurements and to forwarding demands for further scrutiny, it is only the parliamentary opposition that is motivated to undertake such action. However, given that decisions in the Committees are made by majority of votes, and the opposition by default has never enough votes, no action has ever been taken.⁵⁸

As the evidence of the SSAI reports shows, the lack of action to hold the executive and the high level officials of the public administration to account has

2015", Tirana, 28.06.2016, p. 8, https://www.parlament.al/wp-content/uploads/2016/07/Komisioni_i_Ekonomise_date_28-06-2016-2.pdf

55 Resolution on SSAI Performance Evaluation for Year 2015, <https://www.parlament.al/wp-content/uploads/2016/10/rezoluta-e-SSAI-se-dt.-20.10.2016-1.pdf>

56 SSAI, "Annual Performance Report for 2009", Mars 2010, p. 37

57 DCM No. 121, dated 2.2.2009, "On Safeguarding of Information Classified as "State Secret" in the Industrial Field"

58 Klopfer Franziska, Douglas Cantwell, Miroslav Hadžić, and Sonja Stojanović. "Almanac on Security Sector Oversight in the Western Balkans." Editors UNAGRAF, Belgrade (2012), pp. 36-37

led to a constant increase in the number of abuses with procurements, further undermining the efforts for building integrity.

Recommendations

Following the repeated recommendations of the EU Commission and the OECD, the Government and the Parliament should take immediate steps to address the legislation gaps and deficiencies.

The legislation should reflect the specificities and risks related to the security sector procurements and provide for the establishment of dedicated institutional capacities and structures to ensure coherent and sustainable control and oversight.

The SSAI should enhance its managerial and administrative capacities in order to improve auditing of procurements conducted by security institutions.

Performance auditing should be performed by the SSAI in order to address the long term issues that such procurements entail.

Given the complexity of the procurements conducted by security institutions, the SSAI should pay particular attention to the decision-making process and the rationale of procurement made as well as the disposal of existing equipment and materiel.

The Parliament should take steps to change the oversight practices in order to mitigate the risks created by the gap between the ex-ante and the ex-post oversight procedures. In addition to the role in the phase of approving the budget of security sector institutions, the Committee on National Security should be involved in examining the effectiveness of the execution of the budget and of the procurements in particular given the problems identified.

The Committee on National Security and the Committee on Economy and Finances should, within the existing legislation, demand that procurement above a certain amount to be approved by the parliament.

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PART II

Case Study:

Oversight of the Classified Procurements in Albania

by Erion Lena

Executive Summary

The designation of the most appropriate procurement method for ensuring the transparency and control, in the cases of the classified procurements in the security sector, is a challenging task for developing countries, such as Albania. When applying classified procurements procedure in the security sector, the following aspects represent a real challenge for the parliamentary control.

Classified procurements may hinder efforts to improve transparency in the security sector procurements. Laws and regulation on secrecy may limit or put at risk the parliamentary oversight of this sector. On the other hand, poor oversight leads to poor procurement practices by security institutions and undermine their integrity.

The importance of national security may affect the transparency and democratic legitimacy of the security institutions and may leave the Parliament out of the process. It is, thus, crucial that Parliament be able to provide input to, participate in and follow up on debates and decisions in the evaluation process.

The Parliament should review and/or approve major arm procurement projects, and should also legislate on the process of developing decision-making, implementing and evaluating the national security policy, defining its role in all four phases of the cycle.

Introduction

This paper analyses the procurements conducted under classified procedures for national security purposes.

The classified procurement in Albania is governed by a combination of laws and security sector regulations.

A system of checks and balances is needed to explore how the system works regarding the classified procurements and the factors that contribute to making this system function partially or ineffectively or inadequately. Parliamentary oversight of the security sector is thus an essential element of power-sharing at state level and, if effective, sets limits on the power of the executive or president.

In open societies, national security institutions are obliged to face the challenge; how to strike a right balance between operational secrecy and open-ness, which should know how to protect the rights guaranteed by law and protect from the misuse of public funds which leads to corruption in the security sector.

As security sector organizations use a substantial share of the state's budget, it remains essential that Parliament monitor the use of the state's scarce re-sources both effectively and efficiently.

The role of the audit institutions and the parliament is to strengthen the financial integrity of the security sector with main objective to avoid corruption, increase the efficiency and the effectiveness of security sector institutions.

The aim of the study is (1) to provide an understanding on the legislation that regulates purchasing of goods, services and materiel under classified procedure; (2) to examine the role of the institutions involved in the over-sight process, namely the Supreme State Audit Institution, the Parliament (the committees in charge) and their role in strengthening the financial transparency of security institutions (the armed forces, the police and the intelligence services).

This paper seeks to analyze recent case studies of classified procurements in Albania. It examines on how the state institution proceeded and what was the benefit or/and damage in the state budget from these procurements. The data analyzed for the purpose of this study include laws and regulations, reports (of the SSAI and other relevant institutions), minutes from the meetings of the Parliament Committees, as well as other information from all the institutions involved.

Normally, there should be a logical link between national security policies, operational set of guidelines, defense strategy and budget demands..

Legal and Institutional Framework

The Albanian legal framework in the area of classified procurements is compiled by laws, regulations, and directives.

The Law No. 9643, dated 20 November 2006, "On Public Procurement Law" (PPL), as amended governs all public procurement unless otherwise exempted. In this regard, the PPL applies to security sector procurement. However, there are security sector procurements exemptions in Article 5 of the PPL, and those include mostly, defense procurement, since it exempts procurements related to matters of national security, the purchase of "arms, munitions and war materiel, or related services," or procurements under emergency circumstances, armed conflicts, training, and operations outside Albania.

To the extent that the PPL conflicts with an obligation of the State under, or arising out of, an agreement with one or more other states or with an international organization, the provisions of that agreement shall prevail. In all other respects, public procurement activities shall be governed by the PPL.

For example, the procurement of equipment for a military base would be subject to the PPL unless it was determined to be for a "matter related to national security".

The PPL shall not apply to public contracts when their performance must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force, or if such a thing is dictated by the essential interests of the state. (Article 6)

The Albanian Government will give approval for the procurement of arms, ammunition or military equipment and materiel, separately or as part of a system that is considered to have significant impact on matters of defense and national security, is applied under paragraph 15 of Article 14 of Law No. 8671, dated 26.10.2000, "On the Powers and Authorities of Control of the Strategic Direction of the Armed Forces of the Republic of Albania".

Decision No. 1403 regulates the classified procurements that are exempted from the PPL. The Decision assumes that its purpose is to effect procurements of the type which, if conducted according to the PPL, could "harm the

essential interests of the state and the national security.”

This decision specifies that the Contracting Authority, which is the Minister of Defense, has the responsibility for the conduct and administration of the classified procurement that executes the day-to-day details of the tendering, contract award, and contract administration processes.

The Decision links procurement to resource management and budgeting by drawing/formulating an early distinction between multiyear and annual contracts, and specifying that multiyear contracts affecting national security, as so classified by the Modernization Board (MB), fall under the responsibility of the Council of Ministers.

The Decision provides guidance on the cost estimating of procurements for purposes of planning, budget formulation, and coordinating with NATO, and it recommends pricing techniques and advises planners to consider the cost effectiveness of the entire system.

The key roles in the procurement process are those of the Contracting Authority and the Procurement Unit, the Tender Evaluating Group, the Contract Negotiating Group, and the Contract Management Sectors.

The MoD initiates the procurement. It provides the funding and selecting the procurement procedure, to include the rationale for its selection; selecting the participants for consideration and in selecting the contractor for award. Contracts subject to the Decision are made on the basis of a combination of technical quality and price. This is referred to as the “greater economic priority.” The Decision does not address evaluation methodology, nor does it discuss methods of assessing “past performance,” or of establishing quantitatively or qualitatively assigned values (i.e., weighting).

Procurement methods that are applied in the classified procurement are “restricted,” “negotiated,” and “country-to-country”.

The Restricted Procedure is used for types of weapons, ammunition, war systems materiel and services related thereto.

Restricted Procedures

- The Restricted Procedure is used for types of weapons, ammunition, war systems materiel and services related thereto. It is the procedure in which only selected economic operators by the contracting authority participate. In this procedure is taken into account that:

1. Selection of economic operators is to be based on nature contract, the decision of BMP and study conducted by Directorate Modernization Board project management.
2. Contract Notice is sent only to subjects that are studied as prospective candidates. This notice contains necessary information according to the regulation for this step of the process.
3. The invitation is sent only to selected candidates. It contains all the necessary information, in order to allow the elected candidates to submit their bids.
4. The complexity of the contract and the time needed to prepare the offer is held into account in determining the deadline for the restricted procedure and with direct negotiation.

After the conduct of a restricted procedure, it is determined that only one competitor is capable or qualified.

Direct Negotiated Procedures

This is the version of sole source procurement (i.e., with one offeror), with the Contracting Authority having the authority to employ this procedure under seven circumstances set forth in the Decision. These circumstances are as follow:

1. The limiting effects of proprietary rights that necessarily restrict the purchase to one source;
2. After the conduct of a restricted procedure, it is determined that only one competitor is capable or qualified to provide the good or service;
3. There are urgent circumstances that warrant the procedure, in which case the resultant contract cannot be for a period in excess of the current budgetary period;
4. The procurement is a follow-on to a previous purchase. In this case, the system must have at least 50% of its anticipated usage remaining, and the Modernization Board plays a role in this determination;
5. The purchases are warranted from a particular source in order to ensure the continued capability of, or interoperability with, existing systems and equipment;
6. The purchase represents, in effect, a necessary modification to an existing contract for reasons not anticipated at the outset, and which warrant the modification in order to achieve and maintain the purpose and effect

of the initial contract.

7. In cases where the public procurement process could pose security concerns.

State-to-State Procurement

This procurement can be accomplished in two ways:

1. Direct procurement, and
2. Authorization of another state to perform the procurement procedures on behalf of the contracting authority.

A Tendering Evaluation Commission and a Contract Negotiation Commission evaluate the tenders and negotiate the terms. These Commissions are duly appointed by the Minister of Defense for each procurement. The Commissions can operate jointly, except in the restricted procedures, in which case they will consist of different members. The Tendering Evaluation Commission consists of an odd number of no less than three persons, none of whom involved in the preparation of the said tendering documents.

When tenders are evaluated, the Procurement Unit acts in a supporting, ministerial, and advisory role, but it does not evaluate tenders.

In the classified procurements, the complaint process provides for a complaint form and instructions in the tendering documents. The Decision gives the right of complaint to any person whose present or past "interest in a procurement" is "damaged or risks to be damaged," by a decision of a Contracting Authority. The complaint is to be filed with the Contracting Authority within five days of when the protestor recognizes, or "should have" recognized the infringement, and it must set out the factual and legal basis of the complaint. Upon the filing of a complaint, the Contracting Authority will direct that the procurement be suspended until the complaint is resolved.

The decision of the Head of the Contracting Activity is to be made within 10 days of the complaint, but this period can be extended for reasons such as waiting for the receipt of the documents needed to make the examination.

Unlike the Public Procurement Law, the Decision makes no mention of complaints to the courts. The only structure that might take this complaint into consideration is the Parliament. According to the Law "On the Powers and Authorities of Control of the Strategic Direction of the Armed Forces of the Republic of Albania" (Law No. 8671, dated 26.10.2000), the Parliament has the power to "exercising parliamentary control over the activities related to the

Armed Forces" (Article 4, point 4).

The National Security Committee is responsible for the organization of national defense and the armed forces, military cooperation, internal affairs, civil emergencies, public order and security services. Within the areas of responsibility, it reviews draft laws, draft decisions and other issues that arise in the Parliament; conduct studies on the effectiveness of laws; monitors the implementation of laws; and, controls the activities of ministries and other central organs by proposing to the Parliament or the Council of Ministers to take appropriate measures and propose draft laws or draft-resolutions for approval to the Parliament.

As result, a comparison of the laws and competences of the institutions reveal that there is a mismatch between the competences of the parliamentary National Security Committee, the government and the Ministry of Defense in the case of the classified procurements.

The Parliamentary National Security Committee is not involved in any of the phases of the tendering procedure conducted by the Ministry of Defense.

The Practice

Acquisition of French Helicopters

Albanian government signed an agreement with the French Company Euro-copter for the purchase of five helicopters. The Parliamentary Committee on National Security (CNS) approved this agreement on majority of votes. The Minister Defense reported to the CNS on the purchase of new helicopters, providing full transparency on the contract signed with the French company. The project received the support of the members of the CNS and the Ministry of Defense experts.

In particular, the Ministry of Defense assured full transparency in connection with the contract between the Albanian government and the Eurocopter Company. The Albanian Defense Minister stressed that the contract was signed in accordance with the interests of the country and in respect of two companies involved in the production of these helicopters. He mentioned that the tender was conducted in accordance with all the rules and laws of Albania and that the tender had been won by a French-German, one of the largest in Europe and in the world and that builds the Air-Bus, Eurocopter.

The contract also provided many other details, such as payment for the company's original spare parts, training pilots, etc.

An SSAI audit on "helicopter payment installments" revealed a number of violations causing losses to the state budget at an amount of 639.794 Euros. During the performance of the contract tender on "Supply of 5 medium multi-role helicopters," the French company was paid 3,458,142 Euros for the four kits, even though the value, according to the documents, was 2,764,348 Euros, or 639 794 Euros less.

The SSAI audit revealed that all kits were delivered during September 2013-December 31, 2014, which according to the contract cost 3,458,142 Euros, while according to the invoices submitted, their value was 2,764,348 Euros.

Consequently, although the value of the delivered kits appears to be 2,764,348 Euros according to the invoices, the payment for these kits in reality was made in the amount of 3,458,142 Euro as specified in the contractual stipulations.

So, an extra amount of 693.794 Euros was paid for equipment or elements of kits, which are not delivered and are not reported to have entered the army warehouse.

In the above case, the contract was sent to the Parliament for approval. In this case, an important gap in the relationship between the MoD and the Parliamentary Security Committee is identified. The executive should be obligated to fully inform the Parliament on its procurement decisions.

The Parliament has the right to approve/reject contracts, but it should also be involved in the following phases of procurement:

- a. Determining the need for new equipment/cost to the state budget
- b. Comparing and selecting the proposals/offered contracts

Acquisition of Military Police Armored Vehicles

During 2014 the MoD conducted through the classified procurement for the purchase of Armored Vehicle for the Military Police. The total amount of this tender was determined to be Euro 1,200,000.

The audit on the development of military procedure "on the Ministry of Defense's direct negotiated procedure for purchasing IVECO armored vehicles for the military police" with a value of 1,420,000 Euros for year 2014" disclosed that the working group had modified the technical specifications to be different from those of the military unit demand, as a result of which there was

an increase of 220,000 Euro to the amount specified in the proposed initial idea by the military Police Command.

More specifically, the audit of the procurement procedure revealed: The preparation of the technical proposal draft by the working group in one day and the review and approval of the project proposal by Modernization Board in the next day, although the legal basis on which the proceeding of the military have no deadlines defined, give the impression of "unjustified hurry" to purchase military armored vehicles. In addition, the MB made two decisions within a week: the first decision was on the approval of the operational requirements of technical specifications, whereas the second decision approved the changes to the technical specifications. So, it looks like these two decisions have nothing to do with financial value, but any modification or change to the specific requirements is translated into cost, which increased from 1.2 million to 1.42 million Euro. This made military operational structures appear not serious in the presentation of their request, while the same unchanged request was resubmitted to the Legal Department of the Ministry of Defense on 03.11.2014, even though the working group had modified the technical specifications.

Since these armoured vehicles (which under the contract were scheduled to be delivered in September 2015) have not been produced yet, the contracting authority is not justified in the selection procedures of emergency. In this case, the contracting authority should have selected the restricted procedure, which would give them the possibility of receiving offers from other operators' manufacturer, certainly within the coalition partners.

The audit showed that the working group had designed the technical project worth 1,420,000 Euros, a 220,000 Euros increase from the original project idea proposed by the Command of the Military Police. This sum was justified by the working group with the addition of some elements, by without providing detailed information on preventive prices of these items.

As stated above, the Parliament was not involved in the subsequent phases of the procurement, such as needs assessment for new equipment, which have some cost to the state budget, or in the comparison and final selection of the proposals/bids

Conclusions and Recommendations

The Parliamentary Committee on National Security is responsible for the organization of the national defense and armed forces, military cooperation, internal affairs, civil emergencies, public order, and security services. The

Parliament was not involved in the procurement procedure of whatever Classified Procurement Methods, such as “restricted,” “negotiated,” and “state-to-state”, for approving the purchase of arms, ammunition or military equipment and materiel.

Effective parliamentary oversight of the security sector requires expertise and resources within the parliament or at its disposal. However, the expertise found within parliament rarely matches the expertise of the government and the security forces.

The problem is that members of the National Security Committee rely mainly on information emerging from the government and military. Yet, these are the institutions they are supposed to oversee. This creates a disadvantageous position for the Members of Parliament vis-à-vis the government and the military. The situation is aggravated by the closed nature of the security sector due to its typically military work, culture, education and secrecy laws, but also from the fact that not all parliamentarians, members of the National Security Committee, have sufficient knowledge and expertise to deal with military or national security issues in an effective manner.

In a democracy, the representatives of the people hold the supreme power and no sector of the state should be excluded from their control. Apart from exercising parliamentary control over the activities related to the Armed Forces, as per the Law No. 8671, the Parliament should also be involved in preliminary approval for the procurement of arms, ammunition or military equipment and materiel needed by the Armed Forces, or other state security services or institutions.

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Case study:

Procurement of the Albanian State Police Uniforms

by Eranda Begaj

Introduction

While focusing on enhancing the integrity and reducing corruption in the security sector in Albania, there is a need to analyse the management of public funds in this area. There is a strong correlation between the credibility of the state institutions in building public trust and managing public funds effectively.

In this context, public procurement is considered an integral part of the strategic management of public funds to promote overall value for money, as well as to help prevent corruption. The Business and Industry Advisory Committee to the OECD stipulates that: "Public procurement is one of the most important public governance issues. Action is needed to ensure integrity by reducing bribery and corruption".

On the other hand, public procurement is a key aspect of public investment as it stimulates economic development. In 2015, approximately 22 % of the Albanian state budget was allocated to public procurements.¹ This indicator reaffirms the potential of the public procurement as a key driver of investments as well as economic growth in the entire Albanian society. Thus, analysing public procurement is essential for the proper development of the security sector in Albania.

To this extent, this case study analyses the procurement process for the pur-

¹ Based on data available on the website of Agency of Public Procurement and Ministry of Finance

chase of uniforms for the Albanian State Police. This study will help the Albanian authorities to better understand the challenges and the issues related with the procurement process, highlighting along the way areas where mistakes are typically made and how to avoid them. An effective management of the public procurement process will definitely lead to a higher performance of the security sector.

This case study also reviews the role of the Supreme State Audit Institution² and the Parliament – as the two most important oversight institutions in ensuring that procurements are made in accordance with the value for money criteria. Audits are essential for the functioning of the state, for its effectiveness, for the well-being of its citizens, and also for democracy and transparency.

Ultimately the relation between the Supreme Audit Institution and the Parliamentary Committee of Economy and Finance will be analysed. In conclusion, this case study will set out some recommendations highlighting the lessons learned and the forthcoming challenges.

The purchase of the uniforms of the Albanian State Police has not only been a complex process but a sensitive case for the Albanian authorities, too. Analysing the procurement process of the State Police uniforms has been under a very political debated context. This political environment has increased the sensitivity of analysing this case study. To this light, while analysing the case study for the procurement of uniforms for the State Police, different sources have been used and referred to. The legal framework regulating State Police as well as all sublegal acts introducing standards on the uniforms, grades, flag and State Police signs have been examined. The case study reviewed the purchase of uniforms of State Police for the period 2004-2016.

Procurement of State Police Uniforms

Review of Legal Changes Associated with the Procurement of the State Police Uniforms

This section reveals a link between continues change of legislation on State Police and procurements of uniforms. Therefore, the aim of this section is to show (1) that changes in police uniforms are linked to the changes in the legis-

² Hereafter will be refereed as SSAI

lation, and (2) that the legal changes have not been necessarily introduced for reform purposes but to open new opportunities for procurements of uniforms by the different governments and political parties in power.

In this frame, changes in State Police uniforms have been closely related to legal reform. The design and types of grades, symbols, signs and uniforms of the State Police are clearly set in the Albanian legal framework. Since 1998 the uniforms and other State Police signs have been frequently changed, following legislation amendments as well.

The Law No. 8553, dated 25.11.1999, "On State Police", stipulated that State Police shall perform the duties and maintain order and public security with uniforms and signs as decided by the Council of Ministers. Therefore, the Decision of Council of Ministers (DCM) No. 236, dated 23.04.2004, determined the uniform and signs of the State Police. The purpose of the adoption of this uniform was to set standards on the appearance of uniform, as well as the importance of visible symbols and signs for the State Police administration. It is worth mentioning that changes proposed by the law in 1999 were related to the reform that State Police underwent at that time. For the first time, the State Police was considered part of public administration.³ Thus classification of State Police under the Armed Force⁴ of the Republic of Albania was terminated with the adoption of this law. Following this reform, the changes introduced to the State Police uniforms were necessary.

In 2007, the Parliament of Albania adopted the new Law No. 9749, "On the State Police". In 2009, new amendments were proposed to this law. As a consequence, DCM No. 79, dated 21.01.2009, "On the Approval of Emblem, Uniforms, Ranks, Flag and Signs of State Police" entered into force. To this end, a procurement process was launched, which was not carried out in 2009 or even in 2010. The legal changes had been introduced before the procurement processes for the purchase of State Police uniforms were launched.

In 2011, the DCM No. 281, dated 06.04.2011, introduced new amendments to the DCM No. 79 providing for some modifications in the colour and symbols. Immediately after the legal changes were introduced, the procurement procedures for the purchase of the State Police uniforms were published on 11 April 2011.⁵ The tender procedure was concluded with a four-year contract signed between the contracting authority and the winning bidder/operator. It is important to note that DCM No. 32, dated 19.01.2011,⁶ authorized the General

3 Law No. 8553, dated 25.11.1999, Article 1

4 <https://www.asp.gov.al/index.php/en/2014-11-10-16-11-58/historiku-2>

5 Agency of Public Procurement Bulletin No. 14, April 11, 2011

6 Amended the DCM No. 53, dated 21.01.2009,

Directorate of State Police (GDSP) to conduct the procurement procedure for purchasing State Police uniforms. This was considered an exception, specifically for the year 2011. The procurement procedures are entitled to the Directorate General of Public Procurement at the Ministry of Interior as a body specialized in centralized procurements (DCM No. 53, dated 21.01.2009). Decision No. 32 was already conflicting with the reform initiated by the same government to centralize public procurement.

In 2014, a new law on State Police entered into force.⁷ Articles 98 and 99 of the new law specify that the flag, emblem and uniforms and signs of the State Police are to be approved by the Council of Ministers. The above legal acts should be completed within 6 months after the entry into force of this law.

In 2015, new changes were proposed to the DCM 79. Thus, DCM No. 853, dated 21.10.2015, entered into force. However, it is not clear why the government did not propose a new decision as required by the law, but proposed amendments to the existing DCM No. 79, dated 21.01.2009. Following the amendments proposed by the new DCM, a new procurement procedure for the purchase of uniforms for the State Police was finalised. A highly controversial contract, currently under prosecutor investigation, was awarded.

In 2016, a new DCM No. 55, dated 27.01.2016, "On the Approval of Design, Form and Technical Specifications of the Ranks, Symbols, Uniforms and Signs of the State Police" entered into force.

The government decided on 1 June 2016 to introduce new amendments to the new DCM No. 55 of 27.01.2016. Legal changes presented in less than 4 months definitely show high irresponsibility of state authorities and very low capacity on policy making. Recalling the great importance the Law on State Police present in the wellbeing of the entire society in Albania, security institutions should develop consolidated/long lasting legal reforms. Frequent amendments presented in the State Police legislation decrease the integrity of the police authorities to undertake reforms. Mostly the changes presented have not introduced novelty in the existing legislation. Indeed, they raise serious doubt that such changes are based on abusive intentions. This section shows that all the legal changes had been adopted before the procurement procedures were published. This leads us to the assumption that legal changes were presented as an excuse to conduct costly tender procedures. An evidence of this are continuous amendments presented to the DCM No. 79 before publishing the tender procedures.

In overall, the legal framework was changed eight times over the period 2007-

7 <https://www.asp.gov.al/index.php/legjislacioni-2/laws/7036-per-policine-e-shtetit-ligj-nr-108-2014-date-31-07-2014-dt-miratimit-31-07-2014-flet-zyrtare-nr-137-faqe-137>

2016, including repeated amendments within the same year..⁸

Overview of the Procurement Process for the Purchase of the Albanian State Police Uniforms (2007-2016)

State Police uniform may be considered as one of the most critical issues in the field of public procurement in the security sector, for unclassified items. Frequent changes in the respective legislation over the last years required the procurement of new uniforms with new design and technical specifications and high budget allocations. This has been considered as misuse of public funds bearing in mind that the old uniforms, procured also with public funds, could not be used anymore, especially taking into account the significant number of police officers using these uniforms.

Changes of Police uniforms over the last years have always been followed by heated debates and allegations between political parties, during and after the procurement processes. Some of the criticism related mainly with the procurement processes, budget requirements, the selection of the contractors, and the quality of material used for the uniforms. Each change in uniform design and technical specifications has been associated with financial considerations. It is hard to identify the financial damage caused to the state budget as a result of these legal changes and procurement of new uniforms, since reliable official data from the relevant institutions is not available.

However, this section will try to provide a full picture of the procurement processes of the purchase of uniforms for the Albanian State Police from 2007 to 2016. By undertaking a detailed examination of all procurements processes of the State Police uniforms, this paper aims to identify related problems over the last years, so it draws adequate recommendations for further improvements and raise awareness on measures to be introduced in order to prevent abuse of public money.

To this extent, this case study shows that changes in State Police uniforms have been triggered by changes in the legislation on police. The design and types of ranks, symbols, signs and uniforms of the State Police are set in the legal framework. Since 1998, the uniforms and other State Police signs have changed time and again following legislation amendments.

As stated in the previous section, eight years after its entry into force, the Law No. 8553/1999 was repealed and in 2007 a new Law on State Police was

⁸ During year 2016

adopted by the Parliament of Albania.⁹ As a consequence, DCM No. 79, dated 21.01.2009, "On the Approval of Emblem, Uniforms, Ranks, Flag, and Signs of the State Police" entered into force.

The approval of DCM No. 79, dated 21.01.2009, "On the Approval of Emblem, Uniforms, Ranks, Flag, and Signs of the State Police", triggered considerable political controversies. According to the Socialist Party, the changes were completely unnecessary and unjustified, because the police uniform and symbols established by legal act in 2004 were designed based on a study, which involved the best police experts. We witnessed the same situation in 2015 and 2016; this time, the opposition Democratic Party complained about the change of uniforms.¹⁰ Thus, changes in State Police uniforms have been closely related to diverse political contexts.

Likewise, DCM No. 79 has been questioned with regard to the limited information provided on specifications of the uniform, including the size, technical materials to be used, the structure of the materials, the color, etc. This was considered as concealment of information to create opportunities for abuse during the procurement procedures. The public procurement of limit fund of 650,000,000 ALL for the purchase of uniforms, footwear and other related elements was announced in March 2009.¹¹ The tender procedure was cancelled and a new one was announced in June of the same year. The contracting authority divided the tender in two lots. The first lot for the purchase of footwear for the State Police was announced on 8 June 2009.¹² The second lot for the purchase of uniforms, clothes and other related elements was announced on 15 June 2009. The limit fund for the second lot was declared to be 971,708,784 ALL.¹³ The huge difference with the originally planned fund in our understanding demonstrates deficient capacities of state authorities on planning and budgeting process, indicating their need to develop realistic costing and budgeting. Market analyses that clearly identify market dynamics, trends, size, and direction should be developed so as to avoid unrealistic plans. On the other hand, this discrepancy between the original and modified funds and the delays in the accomplishment of the tender procedure cast serious doubt on the integrity, professionalism and effectiveness of the state authorities.

⁹ Law No 9749/1999, "On State Police"

¹⁰ Declaration made on behalf of the Democratic Party (DP) by Mr. Enkelejdr Alibeaj, DP Member of Parliament

¹¹ Agency of Public Procurement Bulletin No. 11/1-March 2009

¹² Agency of Public Procurement Bulletin No. 23, dated 8 June 2009

¹³ Agency of Public Procurement Bulletin of 15 June 2009: scope of procurement: Purchase of uniforms, clothing and other related element. Lot 1: Purchase of uniforms and their related elements for the General Directorate of State Police with a designated fund of 809,757,320 ALL excluding VAT.

The failure of the procurement procedures in 2009 and 2010 left the State Police officers without the new uniforms. The consequences of these repetitive failures, as highlighted by the former Minister of Interior Mr. Bujar Nishani, were very high. "This situation has created difficulties to the image but also to the fulfilment of duties on the part of the State Police,"¹⁴ stated former Minister.

Additionally, the procurement of 2009 was accompanied by corrupt actions¹⁵ by members of the evaluation committee, before and during the procedure of uniforms procurement, which resulted in criminal charges and the arrest of some Ministry of Interior officials and the administrator of the selected economic operator. It should be mentioned, however, that in the end of the trial process, the Albanian courts acquitted the defendants of all charges.

In 2011, the procurement procedure for the purchase of the uniforms of the State Police re-opened. It is important to note that by DCM No. 32, dated 19.01.2011,¹⁶ the Council of Ministers decided to allow the General Directorate of State Police (GDSP) to conduct the procurement procedure for the purchase of uniforms. This was considered as an exception, specifically for the year 2011. Usually the procurement procedures are entitled to the Directorate General of Public Procurement at the Ministry of Interior, as a specialized body in centralized procurements (DCM No. 53, dated 21.01.2009). This decision was totally against the reform already initiated by the government to centralize public procurement.

By means of the tender procedure of 23.05.2011 on the "Purchase of Uniforms for the State Police", the GDSP procured not for one year only as was foreseen in the DCM No. 32, but for 4 consecutive years (2011, 2012, 2013, and 2014) for a fund limited to 2,262,606,259 ALL.¹⁷ The then-opposition Socialist Party considered this case to be in violation of the Law on Public Procurement. The second issue related to this procurement procedure included the selection of the contractor, which was the same economic operator that had been involved in the scandal of the tender of uniforms back in 2009. The third issue was linked with the procurement fund, which was higher than the limit fund foreseen in 2009.

In 2015, the debate on the procurement of new uniforms for the State Police restarted. The Democratic Party in opposition accused the Government

14 Parliamentary Work 2011, 18th Legislature: Plenary Session with Minister of Interior required by Mr. Gazmir Bizhga, Member of Parliament.pg 1167
<https://www.parliament.al/wp-content/uploads/sites/4/2016/01/4-2011-1.pdf>

15 Operative Statement No. 357, dated 23 December 2009, issued by General Directorate of State Police

16 Amended the DCM No. 53, dated 21.01.2009,

17 Bulletin of Agency for Public Procurement No. 14 dated 11.04.2011

of determining the tender criteria to match the winner's profile (contractor), a Turkish company.¹⁸ The allegations were dismissed by the Government on an official declaration,¹⁹ according to which, the State Police Department had established a special working group to develop the technical specifications for the new police uniforms. The tender procedure was conducted by the Centralized Procurement Department of the Ministry of Interior in pursuance of the Decision No. 28, dated 14.01.2015. Four economic operators participated in the tender. The winner of the tender, the Turkish firm "Yakupoglu Tekstil Ve Deri San.Tic. As & Marsi AL SHPK",²⁰ had offered the lowest price among bidders participating in this tender. The winner was announced on 23.11.2015. The process was again accompanied by accusations from the Democratic Par-ty that the new police uniforms were just a copy of the Turkish police uniforms. The Democratic Party argued that the same uniform was used by the police motorcyclist unit in Istanbul and designers were satisfied with a simple copy. It is important, however, to mention that in addition to allegations of the opposition, the Prosecutor's Office instigated a criminal investigation on this procurement.

Recent Procurement Process for the Acquisition of Police Uniforms

The Ministry of Interior and the General Directorate of State Police introduced the new State Police uniforms in an event organized for this purpose in February 2016 amid wide media coverage. The Interior Minister described the introduction of new uniforms of the State Police as a remarkable day. The Minister stated that these changes were necessary because of the chaos created with the ongoing changes to the police uniforms and other signs and symbols over the last 20 years.²¹ He referred to "the chaos as lack of identity in the police uniform, chaos with specific elements of the uniform i.e. some were tradition-al, some modern, and some others copied from other EU countries."

In addition, according to the Minister, the latest changes were aimed at creating a uniform that would be 'considered more than a piece of cloth or a design, but actually the best reflection of the State Police to the citizens'. Inclusion of traditional elements in the new uniforms and uniformity in the treatment of

18 Declaration made on behalf of Democratic Party by Mr.Enkelejd Alibeaj

19 <http://transparenca.al/category/post/Transparenca/258/enkelejd-alibeaj-pr-unifor-mat-e-reja-t-policis>

20 Agency for Public Procurement Bulletin No. 51, dated 28 December 2015, p. 120

21 <http://shqiptarja.com/m/aktualitet/gar--nd-rkomb-tare-p-r-unifor-mat--blu-tahiri-n--ek-spozit--me-djalin-287912.html>

national elements were also among the reasons for the recent changes. The new uniform is designed (considering its mission and philosophy) to resonate the service of the State Police to the citizens and to identify the police force itself with its tasks, colleagues, superiors, subordinates and, above all, with the citizens – said the Minister.²²

The opposition raised allegations on this case as well and a criminal investigation was initiated by the Prosecutor Office.²³ The investigation is ongoing, thus its outcome is still to be seen.

However, with regard to procedures followed for this tender, similarity can be drawn with the scenario of 2009. Delays in the tender procedure were also the purchase of uniforms of State Police also for the year 2015. It should be pointed out that the tender procedures were finalized in December 2015²⁴ with the contract signed at the beginning of January 2016 and delivery of the uniforms was completed within 25 days²⁵ after the signing of the contract (as requested by the Contracting Authority).

We strongly believe that this procurement process shows that the winner was predetermined. It is totally unrealistic that the delivery of such a big contract can be executed in such a short time unless the winner was predetermined. The time for delivery of uniforms, as requested by the authority, goes against its own policy. For instance, when examining this case study we saw that contracting authority had set a deadline of 45 days for the delivery of office equipment upon signing the contract.²⁶ This indicates the Contracting Authority uses double and unrealistic standards prompting serious doubts that the procurement winner was predetermined, particularly if we bear in mind that a foreign (Turkish) company was awarded the contract, implying that additional time was needed for a foreign company to execute such a contract.

Moreover, immediately after the introduction of the new uniforms, new changes to the State Police uniforms were legally approved in January 2016 by means of a Decision of the Council of Ministers. This new decision repealed the previous decision No. 79, dated 21.01.2009. The new decision specified new requirements for the uniforms of the State Police and clearly enlivened controversy on the Government's decision-making that seemed to conflict with the reforms it had undertaken thereto. The situation aggravated as of 1 June

22 <http://www.punetebrendshme.gov.al/al/newsroom/lajme/prezantohen-uniformat-e-re-ja-te-policise-se-shtetit&page=7>

23 <http://www.panorama.com.al/shkeljet-prokuroria-nis-hetimet-per-tenderin-e-unifor-mave-te-policise/>

24 Ibid.

25 Agency for Public Procurement Bulletin No. 44, dated 9 November 2015, p. 32

26 Agency for Public Procurement Bulletin No. 24, dated 20 June 2011, p. 82

2016²⁷, by which time the Government decided to introduce new amendments to the recent DCM No. 55 of 27 January 2016. These new amendments provided a transition period for the new uniforms of State Police to be introduced.

Drawing on the analysis of this case study, we conclude that State Police authorities have provided very poor governance. Misuse of public money for the procurement of State Police uniforms seems to be common practice of State Police authorities. On the other hand, capture of the policy-making process for private gain has influenced legislation/policies of this sector. Many indications lead us to the assumption that political leaders influence the development of laws, decisions, orders or other government policies to their own advantage.

Conclusions and Recommendations

During the research of this case study, we came to the same conclusion as stated by a Socialist Party Member of Parliament back in 2009, who said: "We are a poor country and we do not have the luxury to change the models of the State Police uniforms every time a new government comes to power."²⁸

Frequent changes in uniforms have created chaos and serious doubt of abusive action in all these reforms undertaken by the State Police authorities. Moreover continuous change of State Police uniforms every time a new government comes to power has lead us to argue that misuse of public money is a common practice of State Police. The analysis of this case shows strong signs of political interference and political leaders' vulnerability to corrupt practices. It is obvious that the reforms undertaken to address the problems with the State Police uniforms have not been based on the value of public money concerns, rather for personal gains.

We strongly argue that State Police sector is suffering of "systemic corruption" evident in the governments of both periods: 2005-2013 and 2013-2016. Combatting systemic corruption focuses on prevention by repairing corrupt systems. (Klitgaard, 1998) To this end, the comprehensive judicial reform taking place currently in Albania is strongly related with the effective fight against corruption. The purpose of this reform is to dismantle this corruptive system in the State Police as well. However, this paper does not deliberate on judicial reform; therefore, the new institutions established in this context are not the

²⁷ <http://www.kryeministria.al/al/newsroom/vkm/vendime-te-miratuara-ne-mbledhjen-e-keshillit-te-ministrave-date-1-June-2016&page=2>

²⁸ Mr. Gazmir Bizhga Member of Parliament presenting Socialist Party

scope of this paper. Our recommendations are related with existing institutions that have a fundamental role in providing better governance, promoting accountability and curbing corruption. Our aim is to vitalize the role of existing institutions and to advocate for new mechanisms in their internal procedures in order to ensure integrity at the State Police.

To this end, we strongly argue that the Supreme State Audit Institute plays an important role in overseeing and preventing such office abuses. There is a need to assess government activities at police sector according to the principle of economy, efficiency and effectiveness, in order to contribute to the value of the public money. Moreover, improvements in government spending on police sector, public accountability and public management are indispensable. The protection and representation of the public interest are crucial in making the management of public funds transparent. Above all, an overall and internal perspective of governmental operations in the police sector is more than necessary with the aim to impact and improve the performance of the State Police.

In this light, there is an immediate need to strengthen the SSAI capabilities in combatting corruption and fraud. In our understanding, the performance-based or value for money auditing is an important tool to help improve this process. It is generally understood that performance auditing can help detect corruption²⁹. Moreover the performance-based audit is, as stated by the Chairman of SSAI, "A philosophy that considers the audit work not an end of itself but primarily a prevention tool, correction and counseling instrument for the auditing institution". Therefore, we strongly argue that performance-based audits should be used widely and should become the working philosophy of SSAI.

Likewise, Parliament's involvement and engagement are crucial in enforcing the role of SSAI. The Parliamentary Committee of Economy and Finance is the competent authority to examine Supreme State Audit Institution reports. However, the committee only deals with the annual SSAI activity report and the annual report on the budget execution. Hence, the intensification of the relations between the SSAI and the Parliamentary Committee of Economy and Finance remains a constant challenge. Of similar importance is the collaboration with the Parliamentary Committee of National Security, as the responsible committee for internal affairs. The active involvement of both committees will give a new impetus to the further development and effective management of the public money in the security sector.

29 Kenneth M. Dye and Rick Stapenhurst, Pillars of integrity: The importance of Supreme Audit Institution in Curbing Corruption , The Economic Development Institute of the World Bank, 1998

Additionally, the role and the involvement of civil society with monitoring tasks on the procurement process will definitely improve and facilitate the performance of SSAI (and not only) in its mission to better monitor the spending of public money. The civil society should be involved also in the reporting and hearing process at the Parliamentary Committee of Economy and Finance.

Specific recommendations for each actor with an important role in improving the State Police performance are provided below.

To the Supreme State Audit Institution

SSAI is an independent constitutional institution intended to be an “agent” of the Parliament and a guardian of public money. The mission of the SSAI is not limited to only reporting the use of public money in accordance with the law. A professional body, SSAI provides opinion on the possibility to use such money in the best way possible. The overall mission of SSAI is to contribute to the added value and savings of the public money by giving assurance on the financial accounts of their users and by helping to improve government management through audit.

Therefore, SSAI plays an important role for the oversight of public spending and prevention of abuses with public funds. In this context, strengthening SSAI capabilities to introduce new ways and methodologies in combatting corruption and fraud is an immediate need. Currently, SSAI conducts all types of audits, but it mostly undertakes regularity/compliance audits determining economic damage and violations of rules rather than focusing on how to pre-vent such damages.

Approximately 90% of audits in 2016 were foreseen to be regularity/compliance audits.³⁰ Based on SSAI audits program for the year 2016, 14 out of 169 audits³¹ undertaken during the performance-based audits including 4 of which were estimated to take place during the first 7 months of 2016. In addition, during 2015 SSAI conducted 11 performance-based audits. In 2014, seven similar audits³² were carried out. In 2013 the institution planned to conduct 10 performance audits, but only five were finalized.³³ While in 2012, SSAI conducted four performance audits.

While it is necessary to introduce it in the police sector, performance audit is

³⁰ Based on data available at SSAI audits program for 2016

³¹ http://www.SSAI.org.al/web/pub/plani_i_programeve_te_vitit_2016_2_2468_1.pdf

³² http://www.SSAI.org.al/web/Auditime_Performance_824_1.php

³³ http://www.SSAI.org.al/web/Auditime_Performance_831_1.php

not a regular practice of SSAI. Currently, no performance audit is conducted in the Police sector. We believe that due to the importance the police sector represents to Albanian citizens' life and due to significant state budget allocation for this purpose, performance-based audits are a must in this sector. This would enable an evaluation of the effectiveness, efficiency and quality of the reforms undertaken by the police authorities. It would also prevent the continuous abuse with public money, such as in the case of State Police uniforms. Therefore, SSAI needs to advance its efforts to introduce regular performance audits in the police sector. Given that performance audits are stipulated in the legal framework of 2014, efforts are needed to ensure full implementation of these legal provisions, especially in the case of upcoming procurement procedure for the purchase of State Police uniforms.

*To the Parliamentary Committee of Economy and Finance
and the Parliamentary Committee of National Security*

The Parliamentary Committee of Economy and Finance is the competent authority to examine State Audit Institution reports. However, the Committee only deals with the annual SSAI activity report and the annual report on the budget execution. The legitimacy and compliance audit reports are not scrutinized separately by the Parliament. The parliamentary follow-up to SSAI's audit reports is almost inexistent³⁴. To this end, intensification of the relationship between the SSAI and the Parliamentary Committee of Economy and Finance remains a constant challenge.

The audit reports, performance-based audit reports in particular, should be shared and broadly discussed with the Members of Parliament (particularly with the members of Parliamentary Economic and Finance Committee and National Security Committee in the case of security issues). Actually, it is obvious that the Albanian Parliament pays limited attention to SSAI reports. Therefore, a collaborative approach should be pursued by both the Parliament and the SSAI in order to deal more effectively with audit reports. In our opinion, letter "c" of paragraph 1 of Article 164 of the Albanian Constitution could use better implementation.

³⁴ As envisaged by the European Commission in 2015: The SAI annual audit report to the Parliament is discussed in the Economic and Financial Committee, but there is again no systematic parliamentary follow-up.

For civil society

The civil society's involvement is seen as a success factor for improving oversight of public expenditure management in the security sector. Also, increasing the public authorities' accountability calls for good relations between SSAI and civil society organizations. Giving a 'voice' to the civil society is a very democratic approach used by many states facing problem with abuse of public money and corruption in particular.³⁵ This collaboration or partnership will definitely lead to stronger budgetary oversight. It is our understanding that the Albanian civil society has enhanced its capacity in making public expenditure management more transparent and accountable. Civil society organizations can be strong advocates for ensuring transparency in the public procurement and spending. To this end, of great importance is the collaboration of civil society organizations with the Parliament with regard to monitoring and building the right pressure on the government to consider and address audit performance findings. Therefore, this paper strongly suggests a closer collaboration among SSAI, Parliament, and the civil society organizations on regular basis.

35 Akram Khan M., Role of Audit in Fighting Corruption, 2006 Paper Prepared For Ad Hoc Group Meeting On "Ethics, Integrity, and Accountability in the Public Sector: Re-building Public Trust in Government through the Implementation of the UN Convention against Corruption"

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Case Study:

Assets management

in the Albanian Armed Forces

by Redion Qirjazi

Executive Summary

Asset management in the Albanian Armed Forces (AAF) is a process that requires higher standardization and greater transparency. For years, asset management in the AAF has not been conducted in accordance with the defense objectives but rather directed by political objectives. Decisions on military asset management have often been taken from political leadership (outside or within the Armed Forces) and somewhat ad hoc, with little consideration for a standard process of decision-making which would also involve the military leadership. In the strategic documents of the AAF there is no specific strategic concept on asset management to clarify the procedure and the strategic logic behind decisions on asset management. Asset management within the AAF is mostly perceived at the tactical and operational level, placing almost the entire responsibility for the strategic level decision-making on the hands of civilian (political) leadership. Based on the legal and strategic documents, it appears that the input of the military leadership on asset management is insignificant and there are no mechanisms in place to guarantee a balance of powers between the civilian and military leadership in the decision-making process. This enables a much greater dominance of the civilian (political) leadership in strategic, political and often operational decisions.

The main causes for this situation include the centralization of power, the absence of procedures and structures, which filter and balance decisions on military asset management as well as the lack of transparency and publica-

tions that would make the institution visible to public and state accountability. The situation could be improved by:

1. 1. Developing a strategic concept for the management of military assets, built on a system of checks and balances of authorities (powers) between the military and civilian leadership;
2. Developing a process for greater cooperation between the military and civilian leadership to guarantee balance in decision-making and unity of purpose between the political objectives and the security and defense operational objectives;
3. Creating (legal and administrative) Standard Operating Procedures for as-set management;
4. Creating a decision-making organizational structure which can enable a separation of the decision-making bodies from the supervising bodies (read: civil-military leadership and auditing) to guarantee an independent and effective check of the procedures for military asset management;
5. Detailed evaluation of the strategic importance of military assets, particularly properties and facilities. Due to the specific nature of military assets, they should be evaluated in their strategic value and their purpose in order to balance the long-term strategic needs with the profit obtained from decommissioning them releasing for public use. Quite often, military assets have a much greater value than their monetary evaluation.

Introduction

Military asset management is rarely mentioned in institutional politics, politics or even the general Albanian public. Naturally this also happens due to the 'particular' nature of many of the activities of the Ministry of Defense; however, various governments since the early '90s until most recently have constantly been criticized for mismanagement, misuse and abusive policies with negative economic and strategic impact for the nation and its security.¹ According to specialists of Military Analyses, of the Scientific Sector, Albanian Military Academy, at the beginning of the '90s the Albanian Military possessed around 100 billion USD worth of military assets.² These assets were distributed

1 Eliona Lata, "Fired General: Where Have 800 Properties Gone?!" Shekulli, 17 June 2013, accessed on 3 December 2016, <http://www.shekulli.com.al/p.php?id=25173>

2 Eliona Lita, "The Albanian Military of the '90 with 100 Billion USD of Assets," Interview with Leonard Veizi, Former Expert of Military Analyses, Shekulli, 11 August 2013, accessed on 3 December 2016, <http://www.shekulli.com.al/p.php?id=28557>

in various forms such as: properties, military infrastructure, weapons and ammunition as well as the military industrial complex itself. In the incoming years, the Albanian Military has reduced many of its military assets, starting with the reforms of the '90s which led to a major reduction in personnel numbers, redistribution of facilities and finally (most recently) the disposal of old ammunition and weapons stocks. Reserve military officers have argued that if these assets were managed better by being distributed into the economy of the country, they would have contributed significantly to the country's economic recovery in its years of democratic transition.³ Unfortunately, it appears that both the country and the military have gained little effective economic benefits from Albania's old military assets. It is not uncommon for many former military experts to wonder and ask "what happened to the properties and wealth of the military", but regardless of this curiosity, very little has been made clear and transparent for the public and legislators to understand.⁴

The fact that no such profits have returned into the Albanian economy, raises suspicions about the method and efficacy of military asset management. Unfortunately, the civil society as well as their elected representatives have not paid close attention to the issue of military asset management. This has led not only to the redistribution and reallocation of valuable military assets but also in a systemic lack of accountability. Today, the Albanian military is much smaller in size and possesses much fewer assets than in the early '90s. However, it is important to know whether nowadays, the procedures and administrative processes of these assets are efficient and whether they allow for good accountability and transparent supervision in the years to come. Thus, it is important to evaluate how much the civil society and public or elected officials are capable of conducting an effective supervision of the ways in which military assets are managed.

Therefore, the purpose of this paper is to present an overview of the concepts and procedures in place for the management of military assets in the Albanian Armed Forces (AAF) and of the ways in which legislators and the civil society is holding the AAF and their Ministry of Defense (MoD) accountable for such actions. The main research sources for this writing will be taken from the legal documents, strategic concepts, regulations, journals, news and other public documents. For the purposes of this report, it is important that the analysis is based on documents which are made public because this indicates the real capacities of the Albanian public and their elected officials (parliamentary

3 Eliona Lita, "The Albanian Military of the '90 with 100 Billion USD of Assets," Interview with Leonard Veizi, Former Expert of Military Analyses, Shekulli, 11 August 2013, accessed on 3 December 2016, <http://www.shekulli.com.al/p.php?id=28557>

4 Ibid.

committees) to measure the effectiveness of military asset management and consequently determine the legality behind this process of managing public funds.

Naturally, this research has several limitations and constrains. First, this research attempts to analyze the strategic logic through which the AAF attempt to conduct asset management and, therefore, it focuses on strategic documents such as the National Security Strategy, Defense Strategy, Defense Directives, specific military laws, executive orders, international reports that might touch on the issue, and reports from the Supreme State Audit Institution. This research purposefully focuses on a strategic level analysis. Hence, it does not attempt to clarify the inner administrative work of the institution. Second, the aim of the research is not to 'find mistakes' and 'point fingers' but rather to shed light on issues of asset management in the AAF, by bringing to the attention of the public and legislators the actual practices legal and administrative loopholes and offer suggestions for improvement. The analysis will be limited to the research base at disposal which the AAF have made public. Third, this paper will evaluate asset management efficiency and accountability at present moment. Thus, it will go as far back as year 2013 when the present government came to power. A deeper evaluation on this issue would require a detailed research of specific cases, which could be accessed from the archives of the MoD and the AAF.

This paper will continue as follows. First, it will discuss the method in which NATO conceptualizes and executes its policies of asset management. Second, it will provide an understanding of the way in which the AAF conduct asset management, while drawing similarities with NATO practices regarding the process & structure which enables effective asset management. The paper will then identify some of the actual problems of asset management in the AAF and effectiveness of parliamentary oversight. Finally, the research will conclude by offering some suggestions for the improvement of policy practices on asset management as well on improving accountability methods.

The comparison between NATO and the Albanian MoD will be done on elements of organizational structure and operating procedures (legal or administrative). The research will focus on several guiding principles when conducting the analysis such as: (1) strategic concept/ logic, (2) checks and balance, (3) public transparency, (4) decentralization of power and (5) effectiveness and efficacy of current procedures. Using these principles allows for an objective evaluation of the process of asset management in the AAF and the level of parliamentary oversight on it.

Asset Management and Identified Problems

NATO and Asset Management

NATO is a political and military organization composed of 28 member states which contribute to the collective security in accordance to their own economic and military capabilities. States contribute with assets asymmetrically in various quantities and forms based on their possibilities as well as the re-quests posed by the Alliance. So, military assets of NATO should be under-stood as the total of (1) military assets that each member state has placed at NATO's disposal and (2) assets which member states possess and might delegate to NATO forces if need be. The later are military assets owned and possessed by the individual states and which are not necessarily under the service or administration of the Alliance at a given time. Consequently they are managed under the discretion of the country which owns the assets. In any case, although assets might be administered by NATO, they are owned by a given member state. The final say on the quantity and methods of using military assets owned by a given state, depends ultimately from the contributing member.

Due to this strategic concept of military asset management, NATO focuses mostly on the logistical aspect of asset management. For NATO, strategic management of assets and its logistical capabilities is "the science of planning and carrying out the movement and maintenance of forces."⁵ This simple definition allows NATO much flexibility in determining the various aspects and categories of military "assets". According to the logistic handbook of NATO, the military operations which involve logistical administration, among many, are: "procurement, storage, movement, distribution, maintenance, evacuation, disposal of material, personnel transport, construction, facilities, medical services and furnishing."⁶ As one might observe further below, this definition and division in different logistical sectors, is very similar to how the AAF views military assets. However, more important than the way in which military as-sets are defined by NATO is the way in which the Alliance is organized to execute its asset-management operations. The reason why NATO military asset management is highly effective stands behind a decentralized organizational structure which allows for a transparent system of 'checks and balance' of power.

5 NATO, NATO Logistics Handbook, Chapter 1, pg., 20, accessed 24 December 2016, [http:// www.nato.int/docu/logi-en/logistics_hndbk_2012-en.pdf](http://www.nato.int/docu/logi-en/logistics_hndbk_2012-en.pdf)

6 Ibid.

Organization for Asset Management in NATO

NATO pays special attention to strategic plans on military asset management. The Alliance, being composed of 28 member states, views the application of an asset-management strategy as essential for guaranteeing that the needs of the individual states, and the Alliance overall, are met accordingly. This is why NATO implements a series of executive bodies into its decision-making process dedicated to asset-management. These bodies include the North Atlantic Council, Resource Policy and Planning Board, Budget Committee and the Investment Committee.

The main responsibility for developing strategic policies for asset management falls upon the Resource Policy and Planning Board and its subordinate body, the NATO Office of Resources. The first is the main "the senior advisory body to the North Atlantic Council on the management of all NATO resources" and "it has responsibility for the overall management of NATO's civil and military budgets, as well as the NATO Security Investment Program and manpower."⁷ The second, NATO office of Resources is responsible for guaranteeing a correct application of the NATO policies for asset management. The final step that the Alliance takes to guarantee a good administration of its military assets is enabling transparency and checks through independent auditing and internal checks which enhance effectiveness. This is why NATO ensures auditing from the International Board of Auditors for NATO (IBAN), continuously publishes the NATO's Financial Regulations along with its detailed budget expenditures and periodically changes the process to improve its efficacy in budget use (this is done upon receipt of recommendations from the IBAN).⁸

In particular it is worth mentioning the link between the NATO Office of Resources and the Resource Policy and Planning Board. Although the latter is a superior body, its responsibilities and authorities are limited to developing the strategic policies for resources, hence, it does not interfere in the execution process of asset management; this is a responsibility of the NATO Office of Resources only. So this decentralized system of command and control that NATO has built to create an effective management of its assets, creates a balance of power between the different executive bodies, where responsibilities and authorities are distributed. Furthermore, this method enables for a reciprocal check of all the institutions and encourages institutional effectiveness. Besides this reciprocal check, the decentralized organization of these bodies allows for greater transparency, accountability and

7 NATO, Resource Planning and Policy Board, accessed 30 November 2016, http://www.nato.int/cps/en/natohq/topics_67653.htm

8 NATO, Transparency and Accountability, accessed, 30 November 2016, http://www.nato.int/cps/en/natolive/topics_111582.htm

effectiveness and efficiency. Overall one can notice a typical system of 'checks and balances' within the institution. Schematically, this administrative process can be depicted as below:

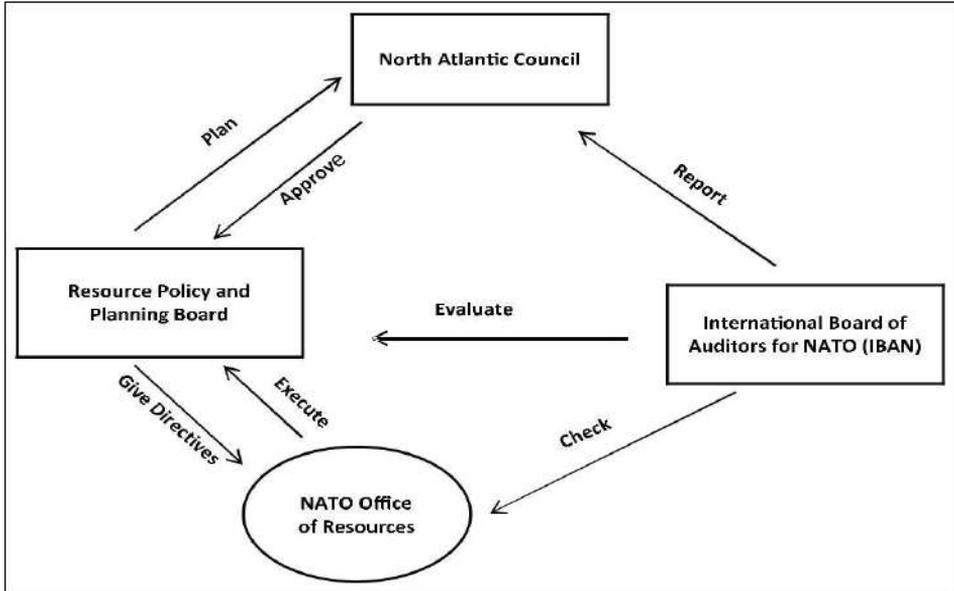


Figure 1. Asset administration process

Note: The diagram above is produced by the author to illustrate in broad lines the current NATO system of checks and balances for guaranteeing effective management of resources and public transparency.

It is important to emphasize that NATO has dedicated vast human and other administrative resources (financial, material) in building and maintaining a system which guarantees a legally correct and effective management of the Alliances assets, to better suit its strategic vision.

Asset Management in Albania

For the Albanian Armed Forces, although there is no official definition for 'military assets' they have often been referred to as resources, active properties, materials and even logistical materiel. None of the current military manuals offers a proper definition of military assets and often the above mentioned terms are used interchangeably. What's important to notice is that military assets, under the given manuals at disposal, are mainly seen as elements of

logistical support, placing a heavy emphasis on their military character; consequently, military asset management is perceived at an operational and tactical level. According to the Internal Regulation for the Operation of the Centre for the Management of Materials and the Central Laboratory of the Armed Forces, published in 2016: *“Asset management (of all logistical materials) is the process of monitoring the current state of assets, ensuring quality control, cataloguing, identifying needs, procuring materials, maintenance of stock materials, distribution, furnishing and transport in accordance to the logistical classes from I-V.”*⁹

This definition, the closest available for the purposes of this paper, allows one to interpret military assets as the entirety of military services which includes infrastructure and military equipment and materials (weapons, ammunition, transport, etc.). Nonetheless, it is interesting that the AAF, which had once controlled many assets in the form of ammunition, weapons and infrastructure, does not possess a strategic concept and special handbook which could be used for determining the strategic logic in the process of asset management. “Strategic logic” implies the motives that have caused the AAF to make its decisions on the process and methods of managing its military assets. Furthermore, this ‘logic’ should account for how plans for asset management conformed to the strategic vision of the AAF, the strategic goals of Albania, the Defense Directives, the Long Term Development Plan, the Defense Strategy and last (but certainly not the least), the National Security Strategy.

This principle of maintaining a “strategic logic” is important even for the process of oversight which can be done through auditing or parliamentary committees, because by understanding the strategic goals and objectives, it is easier to measure the correct implementation of the policies and vice versa. Hence, performance checks would not be effective in determining the effectiveness of asset management if there is no strategy to direct and specify objectives in this area.

Organization of Asset Management in the AAF

Unlike NATO's organizational structure for managing military assets, the AAF has a very centralized and hierarchical structure, which does not permit (at least bureaucratically) a balance between the political and military decision makers. Furthermore, structures which are supposed to guarantee a correct

⁹ Ministry of Defense, Internal Regulation for the Operation of the Center for the Management of Materials and the Central Laboratory of the Armed Forces, Tirana, 2016, pg. 75, accessed 05 December 2016, http://webcache.googleusercontent.com/search?q=cache:http://www.tradoc.mil.al/files/Rreg__QMM_dhe_LQFA.pdf.

legal performance and in accordance with military regulations (interior audit) are entirely under the control of the civilian leadership within the Ministry of Defense and as a result they are incapable of evaluating the civilian leadership in a way which is independent, not sided and free.

In the MoD, all of the executive bodies accredited for the management of military assets report to the Minister of Defense. The Directorate of Asset Management reports to the General Directorate for Supporting Services and they both fall under the control of the Minister of Defense through the Secretary General.¹⁰ The Directorate of Internal Audit is also a sub-unit of the Secretary General, and operates under guidance of the civil/political leadership with the MoD. The MoD structure in relation to the management of military assets can be illustrated as below.

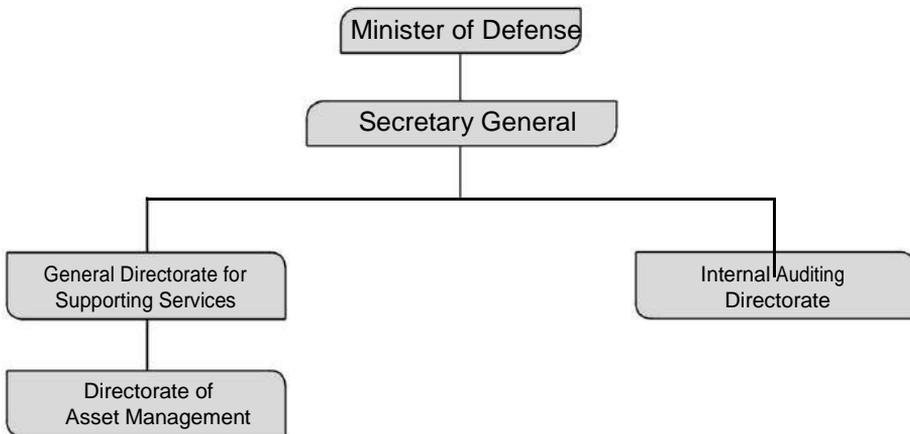


Figure 2. Asset management scheme

Note: The illustration is produced from the author to show the system of command and control in place for ensuring asset management policies within the AAF

So, the organizational structure of the AAF allows the civilian leadership to be “decision-makers, judges and executioners” by controlling (technically at least) the entire process of asset management while not being realistically accountable on issues related to military asset management. This unbalanced control over assets is seen in several occasions where the use of executive orders by the Council of Ministers has been used as a tool to re-distribute ad hoc many military assets and infrastructure. The absence of a system of ‘checks and balance’ of powers is supported by the fact that there has never been an internal auditing regarding the procedures of military asset management – logically, the civilian leadership of the MoD has little incentive to inspect itself

10 Ministry of Defense, Organizational Structure, official site, accessed 26 December 2016, <http://www.mod.gov.al/index.php/ministria-2/99-organizimi-i-ministrise-se-mbrojtjes>

for legal or procedural wrongdoing. The only institutions within the MoD which are partially responsible for the management of military assets in the AAF is the Centre for the Management of Materials and the Central Laboratory of the Armed Forces which are mainly responsible for the logistical management of materials at the tactical and operational level. This center has a limited purpose as it does not interfere with the politics of asset management but simply serves as a mechanism for the execution of procedures related to the administration and maintenance of assets (this is after policy decisions have been made) – the center can be considered a 'ground-level' operational base.

As we will see in the following sections, the lack of 'strategic logic' on how to better manage military assets as well as the existence of a hierarchical command structure have not allowed for an effective and transparent administration of military assets in the AAF.

Issues

The lack of a "strategic logic" is evident in the fact the 'military asset management' is almost entirely absent in strategic documents. The Defense Directive of 2016 discusses the concept of interoperability with other NATO countries and consequently advises for "continuing to implement the modernization pro-grams as prioritized" and fulfilling the requirements for improving fighting capabilities.¹¹ Furthermore, this directive briefly touches upon the issue of military properties and infrastructure, suggesting that the MoD will continue to "follow up on properties in accordance with the Plan for Distribution and Dissemination [of military bases] through privatization, leasing, transferring and application for ownership certificates for every property under the administration of the MoD."¹² This document does not give any specifications as to how these assets will be administered or even the modernization programs. Also, from this document it follows that there must be a program which determines the criteria for de-commissioning military properties; however, the MoD does not possess such plan or program, implying that arbitrary criteria might have been implemented. Finally, on 11 January 2017, the MoD released the latest Defense Directive, which, apart from the fact of being over 80% identical in substance with the previous year's, still fails to offer clear "directives" for the

11 Ministry of Defense, Defense Directive, 2016,pg.5, accessed 02 December 2016, [http:// www.mod.gov.al/images/PDF/Direktiva_Mbrojtjes_2016.pdf](http://www.mod.gov.al/images/PDF/Direktiva_Mbrojtjes_2016.pdf)

12 Ibid.

way in which military assets should be managed in the year to come.¹³

The Military Strategy, simultaneously Law No. 72, 2015, propel the Defense Directive a step further by attempting to explain the strategic concept of AAF's defense by delineating future objective and the way in which they will be achieved. The main focus is still interoperability, collective defense, modernization and capacity building for better achieving the constitutional mission. What's interesting about this strategy is the fact that military assets are mentioned in the operational context by describing the specific reasons of their use rather than the strategic way through which they will be used. This strategy states that "the future force will be modern, equipped with interoperable systems and equipment in accordance with NATO standards,"¹⁴ but it does not discuss the ways in which such objectives will be achieved or what it means for the Albanian Armed Forces. For example, strategic aspects of asset management would include: financial cost, qualifications and trainings, modification vs. procurement, quality vs. quantity, reduction vs. enlargement, dissemination vs. concentration and so on. Furthermore, the strategy explains that: "*the logistic support concept attempt to meet the demands of the Armed Forces of the Republic of Albania as well as fulfill its ambition levels in national and international operations through and effective use of logistic assets.*"¹⁵

Expressed this way, the concept seems almost a tautology. It barely offers any tangible policies for the way in which the concept will be applied. Concerning infrastructure, the Defense Strategy perhaps offers a provisional idea for future asset management when it states that the AAF will ensure the "concentration of military bases with the intent of creating a small number with higher efficiency; building of new facilities and adapting the existing ones to contemporary standards."¹⁶ This implies that the AAF intends to reduce the number of military properties under its administration while increasing investment in other assets to meet NATO requirements. The exact specification of the properties that will be taken off the AAF administration and the "strategic logic" behind this decision are not clear in this law, but presumably it will be covered in following strategic documents. However, as one will see further below, such specifications are lacking even in the follow-up strategic documents.

The next strategic document, the Long-Term Plan for the Development of the

13 Ministry of Defense, Defense Directive, 2017, accessed, 11 January 2017, http://www.mod.gov.al/images/PDF/2017/Direktiva_Mbrojtjes_2017.pdf

14 Ministry of Defense, General Staff, Military Strategy of the Republic of Albania, 9 July 2015, pg., 19, accessed on 3 December 2016, <http://www.mod.gov.al/images/PDF/strate-gjiaushtarakeRSH.pdf>

15 Ibid., p. 28

16 Ibid., p. 29

Armed Forces, establishes, as per definition, “the direction in which the Armed Forces will develop and directs the process of building the necessary capabilities for fulfilling the constitutional mission.”¹⁷ This document too mentions ‘changes’ in infrastructure to improve the operational capacity, but it does not touch upon the vision of the AAF on how the infrastructure will transform 10 or more years from now. Furthermore, the strategy enforces the standing of previous strategic documents that “developing the capacities of the future force will require a cost-effective ratio, better management and a balanced expenditure on personnel, operations, maintenance and modernization.”¹⁸ All in all, although it appears relevant, one can conclude that almost all strategic documents of the AAF or the MoD present a very superficial coverage of a strategy for asset management, thus failing to deliver an applicable vision for the future development and transformation of the military assets. Although, undoubtedly, logistic documents indicate how military assets are managed in on a day to day basis for tactical purposes, they should not be confused with strategic level concepts which cover the long term evolution of military asset management.

As we progress from strategic documents to laws, which regulate the way in which assets are managed, it becomes evident that they are broken down according to the specific function of the law and that there is a lack of an ‘over-arching’ concept for their management.

Import-export is such a function and an area, which is best covered in terms of legal acts that regulate the management of military assets. This is an important aspect of asset management as it establishes the authority, responsibilities and limitations of certain actors in the field of import-export. Furthermore, the main authority in this domain, the State Authority for Export Inspection (SAEI), has competencies to “propose elements of politics and national strategy in the domain of inspection of strategic materials,”¹⁹ – technically this allows for a balance of power from the side of institutional specialists, however, this authority has no decision-making competencies over these policies. The main responsibility of this body is mostly technical and limited to “controlling the movement of military materials with dual purpose” and “authorize, verify and supervise the import-export of these products.”²⁰ SAEI operates on behalf

17 Law 121/2015, date 12.11.2015, “On the Approval of the Long Term Development Plan of the AAF, 2016-2025” Official Journal of the Republic of Albania, No. 254, pg. 1803, accessed on 5 December, 2016, <http://www.mod.gov.al/pdf/PAZHFA-2016-2025.pdf>

18 Ibid., 18006

19 DCM No. 43, 16. 01. 2008, “On the Organization, Functioning and the Status of the State Authority for Export Inspection,” pg, 2, accessed 4 December 2016, <http://www.akshe.gov.al/Doc/VKM%20nr.%2043,%20date%2016.01.2008.pdf>

20 Ibid.

of the Republic of Albania and not only the MoD in order to “ensure safety with regards to the non-proliferation of conventional weapons and weapons of mass destruction in order to prevent their use from terrorists or other groups, and guarantee a surveillance of embargoes set by the UN.”²¹ Hence, SAEI does not deal specifically with military asset management.

A second important aspect of asset management is the issue of weapons, equipment and ammunition. Regarding this, DCM (Decision of the Council of Ministers) No. 17, dated 13.1.2006, “On approval of the deadlines for the use of equipment of the AAF and the rules for their treatment after decommissioned from being used”²² has particularly contributed for out processing much of the equipment and weapons of the AAF in the recent years, especially when it was commonly known that Albania possessed large quantities of old ammunition and weapons supplies. This DCM established the necessary criteria to enable these assets to change function and perhaps ownership. Before, it was highly probable that this activity was regulated with specially tailored DCMs specifying the weapons and ammunitions to be re-distributed. These DCMs would be supported by Law No. 64/2014, “On the powers and authorities of command and control of the AAF”, section 11, point d) according to which the Council of Ministers “establishes the periods of service and use for weapons, ammunitions and equipment of the Armed Forces as well as the regulations, procedures and responsibilities on how they should be treated after decom-missioning.”²³ The unique thing about this law is that it has been systematically used to determine ad hoc the decommissioning of many weapons and ammunition in earlier years. The latest DCM is an attempt to regulate the types of assets that can be decommissioned. Prior to this, the absence of specific alternative regulations had led to many similar decisions on military assets being taken under the discretion of political decision-makers.

These legal gaps, unlike in the case with NATO, coupled with a very hierarchical command and control system, has led to a very linear process in asset management. Military asset management, is not being done under a ‘strategic framework’ or special regulation, on the contrary, asset management is regulated by ad hoc DCM (executive orders) designed to serve a specific function.

21 SAEI, official site, accessed 13 January 2017, http://www.akshe.gov.al/Kontrolli_Shteter-or_i_Eksporteve.html

22 This is one of the most fundamental laws regulating the activity of the AAF. It has been changed several times over the years. The earliest version is Law No. 8671, date 26.10.200 (now changed). It was later changed again with law No. 9194, date 19.02.2004 and for the last time in 20.06.2014, with Law No. 64. Regardless of the changes, the law has remained the same on issues concerning this research hence the law used in this paper is the final version.

23 Ibid., 5

Since 2010, the main documents used for developing the procedures on the re-distribution of military assets, and particularly of infrastructure have been Law No. 10296, 08.07.20110 "On Financial Management and Control" and the follow up guidance by the Ministry of Finance No. 30, 27.12.2011 "On Asset Management in the Public Sector"; which were intended to "establish standard procedures for the documentation, preservation, distribution and removal from use of assets in of the public sector."²⁴ The first striking thing on this matter is the fact that the AAF have had to adapt a law, which considers military assets same as any other public assets. The predecessors of this law was Law No. 8743, 22.02.2011, "On Government Properties" which has served in many case as the basis for the re-distribution of military properties (bases, infrastructures). Based on this specific law, the most recent government has released 32 executive decisions (DCM) for the re-allocation of military assets (Annex C).²⁵ Furthermore, several DCMs which are not covered in this annex have been issued for making minor changes to military assets.

The lack of strategic concepts and specific regulations for the administration and management of military assets is another reason why ad hoc DCMs are so prevalent in determining the outcome military assets. Annex C indicated that every year, the current government released an average of 10 DCMs for the re-allocation of military property. This shows that there is no specific concept (be that military or at government level) for the needs of the AAF with regards to its assets, giving a perception that the government can 'pick and choose' any asset from the AAF and do with it as it decides fit for the given moment. This, coupled with the lack of transparency from the MoD regarding the procedures it follows when it comes to asset management, has made the AAF and the governments in power object of various political and media attacks.

The most relevant case is the allocation of a secret war shelter (bunker) to the Ministry of Culture, to be transformed into a touristic destination, commonly known nowadays as "Bunkart". The decision was made to commemorate the 70th anniversary of Albania's liberation from Nazism, however the sudden and quick method of making such decision from the government raises questions on the real level of input that the AAF had on the decision. Most likely very little – in fact, had there been procedures and a less hierarchical decision making structure, it might have taken longer to re-allocate this asset. The decision appeared to be mainly political and which is more, it had not taken into consideration the fact that until the moment when this asset was re-allocated,

²⁴ Ministry of Finance, "On Asset Management in the Public Sector," Guidance No. 30, date 27.12.2011, pg. 1, accessed 29 November 2016, <https://goo.gl/IJcZ0>

²⁵ The annex is developed after viewing all the DCMs of the current government and identifying those decisions which have included transferring or re-allocation of assets which belong to the MoD

it remained an object classified as secret for the purposes of the AAF. Certainly the process of de-classifying secret objects has a unique procedure but it almost never will last as little as the time it took the incoming government to make a decision on Bunkart. In this regard, the law which we direct our attention to is Law No. 8357, 11.2.1999, "For information classified "state secret", section 13, which specifies that "the classifying authority must also be the declassifying authority" and section 16, point c) which excludes from declassification all objects and plans which might weaken national security.²⁶ Secret bases such as the secret dislocation of the General Staff (no Bunkart), which are part of the Distribution Plan are also approved by the President of the Republic (according to the law on authorities of command and control of the AAF – see below), and as such are expected to be de-classified by the President through clear procedures; something which did not happen with Bunkart.

This leads to the final issue, which is relevant to be mentioned regarding the debate on AAF asset management: the role of the President of Albania, the Commander in Chief of the Albanian Armed Forces. The President is expected to guarantee the independence of institutions and to keep in check the power of the executive (in this case the MoD) in order to prevent a dominance in decision-making over independent institutions such as the AAF, thus, maintaining an equilibrium between the MoD and AAF. The Chief of Staff of the AAF is the primary advisor to the President on Defense Policies, he/she a member of the Council for Defense Policies, member of the National Security Council and is responsible for the strategic command of the Albanian Armed Forces.²⁷ In November 2016, the President refused to approve the Prime Minister's request for issuing a second mandate to the Chief of Staff under the pretext that he had not fulfilled his legal obligations towards the institution of the President. The President declared that the decision came as a result of "not respecting the Albanian Constitution and breaking procedure regarding the military chain of command" by not reporting to the Commander in Chief, by not conducting "any consultation on documents, plans or structure of the Armed Forces" and by "allowing the re-allocation of many assets and properties of the AAF without the approval of the Commander in Chief."²⁸

26 Law No. 8457, date 11.2.1999 "On Information Classified 'State Secret'", accessed 12 December 2016, <http://www.mod.gov.al/images/aktelgjore/klasifikuar/6.pdf>

27 Law 64/2014, date 26.06.2014, "On the Powers And Authorities of Command And Control of the AAF", accessed 5 December 2016, http://www.mod.gov.al/images/aktelgjore/ligji-pushteteve/Ligj_nr_64_2014_azhornuar.pdf

28 Top Channel, "Nishani Drop the General. Refuses to Renew the Mandate of Jeronim Bazo at the Head of the General Staff", 20/11/2016, accessed 4 December 2016, <http://top-channel.tv/lajme/artikull.php?id=341032>

The situation supports the above mentioned thesis that the absence of strategic plans for the management of assets has led to many of them being re-allocate without the due process through the various institutions within the military chain of command and without a proper system of checks and balance of the decision making powers. Furthermore, the President's claims imply that military asset management is a very important strategic issue, so much as to be a competence of the Commander in Chief him/herself. In fact, according to the law "For the powers and authorities of command and control of the AAF", section 9, point f), the President "approves with the proposal of the Minister of Defense the plans for the location and distribution of the Armed Forces in peace time." As Commander in Chief, the President is authorized and needs to know about the re-allocation of assets in order to guarantee that they meet the strategic needs for national security. The events of November 2016 show once more the need for establishing standard procedures for the management of military assets.

Auditing

During the governing period of the last government, there has been only 1 (one) exterior audit conducted on the MoD by the Supreme State Audit Institution of Albania (SSAI), in 2015. This report identifies a series of infringements by the MoD in the aspect of asset management.

First, the MoD has not met its states objectives with regard to investments for the AAF. The SSAI report that "in none of the audited periods, be it in planning or in execution, the MoD has met the expenditure goals according the Strategy of Defense or NATO standards"²⁹ and it recommends that it adapts to the Alliance's requests for a minimal investment of 2% of the states GDP. Furthermore, according to this report, payments on investment projects for procuring military vehicles, weapons and ammunition, have met constant changes from the initial yearly plan and have been paid through credit by infringing the principle of annulment (according to which, expenditures should be covered within the same budget year). In fact the MoD has liquidated many of these contracts from the budget of the following year. The report specifies that these activities are "against the Standard Guidance for Budget Implementation, No.2, on 06.02.2012" and that "by using preferential exchange rates from second level

29 Supreme State Audit, Report, "On Auditing Conducted over the Ministry of Defense with the Objective of Auditing the Legality and Financial Correctness, for the Period of 16.09.2013 - 31.12.2014" pg. 2, accessed 8 December 2016, <http://www.SSAI.org.al/>

banks, a negative effect has been observed in the finances of the institution of a value of 4,110,451 lek [30,100 Euros].” The SSAI has recommended that such practices of using credit be eliminated immediately as they have a negative economic impact.

Expenditures after contracting and changes in the annual plan for asset procurement is an indication that the MoD has not had a proper planning on how to manage its assets. Therefore, the lack of a comprehensive strategy and proper planning leads to inefficiency and economic burdens for the state, as it was observed in the SSAI report.

Second, regarding procurements, the SSAI has observed that the MoD “has not kept a registrar for public auctions and it has not build a unit for managing auctions, against section 6 of Law No. 9874, date 14.02.2008 “For public auctions”³⁰ and, furthermore, against the “Regulation on procedures to be used by the Ministry of Defense for the procurement of materials and services which are not included in the general rules of public procurement [special classified materials]”, section III, point 2/a, by “not providing an exact value indication of the money spent until the very end of the execution of the contract.”³¹ According to SSAI, this implies that the MoD does not provide precise evidence on how public funds are being spent in procurements for military purposes. The report suggests that the MoD “delivers in a detailed form every element of the value of military contracts” in order to “not compromise the tendering process in various segments.”³²

On the issue of military infrastructure and properties, the state audit has observed that: *“The MoD, under the auditing period, has not sent representatives to the commission for the evaluation of privatization, by suspending the process under the argument that: ‘it has begun the internal verification and auditing for the privatization procedures of objects outside of the Distribution Plan; there has been a re-shaping of the Albanian Armed Forces; due to previous mistakes, properties which were not under the MoD administration have been included in the listings, etc.’”*³³

Regardless of this argument of the MoD, in the Defense Directive issued in December 2014, it was clearly states that the AAF must “continue working on the registration, transferring, providing property certificates, privatization

30 Supreme State Audit, Report, “On Auditing Conducted over the Ministry of Defense with the Objective of Auditing the Legality and Financial Correctness, for the Period of 16.09.2013 - 31.12.2014” pg. 3, accessed 8 December 2016, <http://www.SSAI.org.al/>

31 Ibid.

32 Ibid.

33 Ibid., 4

and leasing of military properties”³⁴ as well as “refreshing the list of properties which are not under MoD administration and publishing all those which will undergo a process of privatization in the official MoD website to be transparent with the public.”³⁵

Two problems arise with this statement. First, the guidance of the Defense Directives have not been met (as it was cited above), which implies that not much has been achieved with regard to military asset management – something that further supports the thesis of an absence of a strategic concept for asset management. Second, regardless of the guidance offered in this directive there has never been a “refreshing of the list of properties” or their “publication on the official website.” This can show either lack of commitment or an active attempt to not be transparent.

On this issue the SSAI recommends that: *“The MoD, in cooperation with the General Staff of AAF, not suspend the process of evaluation for privatization but rather clearly specify the list of properties which are not being administered by the MoD, list of properties that with be re-included in the Distribution Plan and the list of properties that should be released for public use because they have lost their military purpose. Furthermore, this should be done in cooperation with the Central Office for the Registration of Properties and the Agency for Legalization, Urbanization and Integration of Informal Build Areas.”*³⁶

Also, the SSAI takes a stand on the issue of not publishing and showing transparency with the list of properties out of use, stating that “the list of state properties, administered by the MoD is not adjourned, although they have changed authority of administration and within or outside of the system of MoD.”³⁷ Hence the SSAI recommends that: *“The MoD should take all necessary measures to provide a clear evidence of all assets under its administration as well as conduct a proper registration at the Local Offices for the Registration of Properties, in accordance with legislation for the accountability, registration and management of public assets.”*³⁸

The above-mentioned arguments clearly show that the AAF needs to conduct a precise listing of its assets, be more transparent with procedures for their administration and re-allocation and make them public. The creation of the

34 Ministry of Defense, Defense Directive, 2015, pg.4, accessed 25 December 2016, http://www.mod.gov.al/images/PDF/Direktiva_Mbrojtjes_2016.pdf

35 Ibid., 4

36 Supreme State Audit Institution, Report, “On Auditing Conducted over the Ministry of Defence with the Objective of Auditing the Legality and Financial Correctness, for the Period of 16.09.2013 - 31.12.2014” pg. 4, accessed 8 December 2016, <http://www.SSAI.org.al/>

37 Ibid

38 Ibid.

Centre for the Management of Materials and the Central Laboratory of the Armed Forces in 2016 is a step forward in this direction but its contribution and role towards the consolidation of military asset management, remains to be seen. However, this center still has very limited function and one could argue almost no impact in the decision-making process of military asset management since this center serves simply to matriculate, and list the materials currently under disposal.

Conclusion and Recommendations

Asset management in the Albanian Armed Forces (AAF) is a process that requires higher standardization and greater transparency. So far this process has not been conducted in accordance with the defense objectives but rather directed by political objectives. Decisions on military asset management have often been ad hoc, politically oriented and with little consideration of the military leadership in the decision-making process. Throughout the strategic documents of the AAF there is a lack of strategic logic behind decisions on asset management. Asset management within the AAF is mostly perceived at the tactical and operational level, hence strategic decision have mostly been made by the political leadership. Based on the legal and strategic documents, it appears that the input of the military leadership on asset management is insignificant and there are no mechanisms in place to guarantee a balance of powers between the civilian and military leadership in the decision-making process. This allows for a much greater dominance of the civilian (political) leadership in strategic, political and often operational decisions.

Recommendations for improvement are as follows:

1. The MoD and the AAF must work together to establish procedures, standards and structures which can enable transparency, reciprocal checks as well as increase the coordination between civilian and military leadership. This implies developing a more effective system of “checks and balances” within the AAF with regard to asset management.
2. The military leadership must have a greater say in regards to military asset management.
3. Decisions made on military asset management ought to be based on a greater ‘strategic logic’, implying that they must be based on the AAF’s strategic objectives for defense, and national security because quite often military assets have a much greater value than their monetary evaluation.

Annexes

Annex A

List of documents that regulate the activity of the MoD in the field of import-export and consequently the management of military assets:

1. Law No. 9707 date 5.4.207, "For the state inspection of the import-export activity of military materials and other technologies with dual purpose."
 - a. Note: this law specifies the obligations of the assigned bodies (SAEI) along with its competencies for conducting its activity
2. Law No. 8743, date 22.02.2011, "On State Properties"
3. Law No. 10296, date 08/07/2010, "On Financial Management And Control"
4. Instruction of the Minister of Finances, No. 30, date 27.12.2011, "On Management of Assets in the Public Sector"
5. DCM No. 43, date 16.01.2008, "On Organization, Functioning and the Status of Authorities for the State Control of Exports"
 - a. Note: this decision regulates the relationship between the SAEI and the Ministry of Defense, as well as delineates some of the responsibilities and competencies of this institution.
6. DCM No. 1569, date 3. 12. 2008, "On approval of the list of military materials and technologies with dual purpose which will be undergoing the inspection of the SAEI"
7. DCM No. 304, date 25. 3. 2009, "On establishment of procedures for checks and inspections from the SAEI"
8. DCM No. 305, date 25. 3. 2009, "On establishing the release procedures of the legal documents for quality assurance of the state control over the activity of import-export of military materials and technologies with dual purpose"
9. DCM No. 341, date 8. 4. 2009, "On establishment of fares for the release of legal documents from SAEI to the traders involved in the international transfer of military materials and technologies with dual purpose."

Annex B

List of laws and other official acts used by the AAF for the strategic management of military assets:

1. Law No. 64/2014, date 26.06.2014, "On Powers and Authorities of Command and Control of the Albanian Armed Force"
2. National Security Strategy, also found under Law No. 103/2014, date 31.07.2014, "On Approval of the National Security Strategy of the Republic Of Albania"
3. Military Strategy of the Republic of Albania, also found under Law No. 72/2016, date 9.07.2015, "On Approval of the Military Strategy of the Republic Of Albania"
4. The Long-Term Development Plan of the Albanian Armed Forces, also found under Law No. 121/2015, date 12.11.2015, "On Approval of the Long-Term Development Plan of the Albanian Armed Forces 2016-2025"
5. Defense Directives 2015, 2016, 2017 (presented by the Minister of Defense of Albania)
6. Internal Regulation on the functioning of the Centre for the Management of Materials and Central Laboratory of the Armed Forces

Annex C

DCM released in between 2013 and 2016 in accordance with Law No. 8743, date 22.02.2011, "On State Properties":

1. 26 March 2014
 - a. DCM No. 169. "On transferring into use, without compensation, to the Ministry of Tourism, Culture, Youth and Sports, for the National Theatre of Opera and Ballet and Folk Ensemble, of object No. 2, part of property No. 90, named "General Staff of KML", and of objects No. 21 and No. 35, part of property No. 84, named "Former Chemical Regiment", located in Tufina, Tirana and currently under the administration of the Ministry of Defense"
 - b. DCM No. 176. "On transferring the responsibility of administration, from the Ministry of Defense to the Ministry of Health, of a 12600 m² area, part of property No. 84, named "Former Chemical Regiment", located in Tufina, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties

which will administered by the Ministry of Defense', as amended"

2. 30 July 2014

- a. DCM No. 965. "On transferring the responsibility of administration, from the Ministry of Defense to the Ministry of Finance and Ministry of Economic Development, Trade and Entrepreneurship, of property No. 37, named "Ministry of Defense", located on boulevard "Dëshmorët e Kombit", Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

3. 6 August 2014

- a. DCM No. 524. "On releasing for temporary use, without compensation, from the Ministry of Defense to the Ministry of Interior Affairs, the facilities of Military Base No. 5010, in Bunavia, Vlora, for conducting the Police Basic Course, for year 2014"

4. 3 September 2014

- a. DCM No. 572. "On issue for temporary use, from the Ministry of Defense to the Ministry of Interior Affairs, of object No. 42, named "The Institute of Research and Defense Projections", for the Albanian School of Public Administration, and the revoking of decision No. 786, date 14.11.2012, of the Council of Ministers"

5. 17 September 2014

- a. DCM No. 613. "On transferring the responsibility of administration, from the Ministry of Defense to the Ministry of Education and Sports, of property No. 1051, named "Military Base No. 5013, sub-unit", located in Bigaz, Skrapar, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

6. 12 November 2014

- a. DCM No. 757. "On transferring the responsibility of administration, from the Ministry of Defense to the Ministry of Culture, for the National Theatre of Opera and Ballet and Folk Ensemble, of objects and land equivalent of 11754.2 m², part of property No. 109, named "Sh.A. Artillery Repair", located in Brar, Tirana, and for a change to the Council of Ministers' Decision No. 515, date 18.7.2003, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"
- b. DCM No. 758. "On change of ownership, without compensation, from

the Ministry of Defense to the Charity Mission "Sister of Mother Teresa", of property No. 1218, named "Hospital and ShLU", located in Puka, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

7. 3 Dhjetor 2014

- a. DCM No. 830. "On releasing, for temporary use, without compensation, from the Ministry of Defense to the Ministry of Interior Affairs, of a land area within the territory of property No. 240, named "Northern Sea Fleet", located at the Pal Peninsula (Bishti i Pallës), Katund i Ri, Durrës, for the project "ADRIARADNET"

8. 28 January 2015

- a. DCM No. 70. "On transferring the responsibility of administration from the Ministry of Defense to the Ministry of Justice, for the Court of Gjirokastra Judicial District, of property No. 598, named "Mobilization Cen-ter", located in Gjirokastra, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

9. 18 February 2015

- a. DCM No. 137. "On transferring the responsibility of administration from the Ministry of Defense to the Ministry of Economic Development, Tourism, Trade and Entrepreneurship, of property No. 1119, named "Squadron Shelter (former Regiment 4020)", located in Fushë Prezë, Rinas, Tirana; and of the properties: No. 1120, named "Logistic Depo-Group (former Regiment 4020)", No. 1121, named "Former Assisting Economy, NBU (former Regiment 4020)", Nr 1122, named "Former ADA Artillery, Radiodrita, (former Regiment 4020), located in Rinas, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

10.4 March 2015

- a. DCM No. 194. "On transferring the responsibility of administration from the Ministry of Defense to the Ministry of Transport and Infrastructure, for the Albanian Road Authority, of objects and land areas of an overall size of 2343 m², part of property No. 1042, named "Facilities of Military Base No. 5013", located in Syzet, Berat, and for a change of the deci-sion No. 515, date 18.7.2003, of the Council of Ministers, 'On approval

of the list of state properties which will administered by the Ministry of Defense', as amended"

11.10 June 2015

- a. DCM No. 495. "On transferring the responsibility of administration from the Ministry of Defense to the Municipality of Tirana, of property No. 139, named "Military Base No. 8890, Facility B130", located in Mëzes, Tirana, of some facilities and of an area within the territory of property No. 109, named "Sh.A. Artillery Repair", located in Brar, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

12.18 June 2015

- a. DCM No. 542. "On change of ownership, from the Ministry of Defense to the Municipality of Tirana, for the organization "Sh.A., Water Supply and Sewage, Tirana" of an area of 270.41m², within the territory of property No. 133, named "General Staff of Military Base No. 8836", located in Yzberisht, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"
- b. DCM No. 543. "On releasing, for temporary use, without compensation, from the Ministry of Defense to the Ministry of Energy and Industry, for the Albanian Geological Service, of a facility and land area within property No. 6, named "The Geographical Institute of the Military", located on "Myslym Keta" street, Tirana"

13.2 September 2015

- a. DCM No. 723. "On change of ownership from the Ministry of Defense to the Municipality of Gjirokastra, of land area within property No. 593, named "Brigade Staff", located in Grehot, Gjirokastra, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

14.23 Dhjetor 2015

- a. DCM No. 1049. "On change of ownership from the Ministry of Defense to the Municipality of Berat of facilities and land area of property No. 1045, named "Facilities of Former-Base No. 9910", located in neighborhood "Donika Kastrioti", Berat, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties to be administered by the Ministry of Defense', as amended."

15.27 January 2016

- a. DCM No. 58. "On change of ownership from the Ministry of Defense to the Municipality of Gramsh, of property No. 334, named "Former Military Base No. 9920, Depot-Group", located at "Përroi i Çekrezit", Gramsh, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

16.17 February 2016

- a. DCM No. 114. "On releasing, for temporary use, without compensation, from the Ministry of Defense to the General Directorate of Archives, for the local branch of Berat of the State Archive, of the first and second floor of facility No. 1 and No. 2, part of property No. 1047, named "Mobilization Centre", located in Berat"

17.16 March 2016

- a. DCM No. 202. "On transferring the responsibility of administration from the Ministry of Defense to the Ministry of Transport and Infrastructure, for the Albanian Road Authority, of an area within the territory of property No. 1137, named "The Heliport of Military Base No. 3340" located in Farka, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"
- b. DCM No. 503. "On transferring the responsibility of administration from the Ministry of Defense to the Ministry of Culture of property No. 186, named "Military Base No. 3042, Training Centre" located in Sauk, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"
- c. DCM No. 204. "On transferring the responsibility of administration from the Ministry of Defense to the Albanian Radio-Television, of an area within the territory of property No. 188, named "PZ Battery", located in Sauk, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"
- d. DCM No. 205. "On transfer of ownership from the Ministry of Defense to the Municipality of Vora, of property No. 126, named "Former Tank Brigade", located in Gërdec, Vora, and for an amendment to the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of

Defense', as amended"

18.23 March 2016

- a. DCM No. 217. "On transferring the responsibility of administration from the Ministry of Defense to the General Directorate of Archives, for the local branch of Vlova of the State Archive, of some facilities and land within the territory of property No. 906, named "Military Base No. 7008, Theory School" located in Vlova, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

19.13 April 2016

- a. DCM No. 277. "On transferring the responsibility of administration from the Ministry of Defense to the Ministry of Transport and Infrastructure, of property No. 1147, named "Shelter", located in Bunec, Lukovë, Saranda, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"
- b. DCM No. 278. "On transferring the responsibility of administration from the Ministry of Defense to the Ministry of Urban Development of property No. 101, named "Food Depo of the former Military Base No. 5011", located at Rrapi i Treshit, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

20. 6 July 2016

- a. DCM No. 506. "On a change in executive decision No. 796, date 22.9.2015 of the Council of Ministers "On transferring the responsibility of administration from the Ministry of Defense to the Ministry of Justice for the General Directorate of Prisons, of property No. 98, named "Depo Group (former Military Base No. 5011)" located in Brar, Tirana, for re-leasing for temporary use of some objects and land area within the territory of property No. 6, named "Military Institute of Geography" located at "Myslym Keta" street, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

21.29 July 2016

- a. DCM No. 560. "On change of ownership from the Ministry of Defense

to the Municipality of Kavaja, of property No. 365, named "Former ABD Battery", located at Kalaja e Turrës, Synej, Kavaja, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

22. 3 August 2016

- a. DCM No. 570. "On releasing for temporary use, from the Ministry of Defense to the Ministry of Urban Development, for the Institute of Construction, Tirana, of object No. 2, with an area of 458, a component of property No. 90, named "Military Base No. 4400 (former Logistic Command Head Quarters), located in Brar, Tirana, and for a change of decision No. 88, date, 30.1.2013, of the Council of Ministers"

23. 28 September 2016

- a. DCM No. 676. "On change of ownership from the Ministry of Defense to the Municipality of Tirana, for its administrative units in Farkë, Tirana, of the land with and area of 2187m², within the territory of property No. 186, named "Military Base No. 3042, Training Centre", located in Sauk, Tirana, and for a change of the decision No. 515, date 18.7.2003, of the Council of Ministers, 'On approval of the list of state properties which will administered by the Ministry of Defense', as amended"

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