

POLICY PAPER

Rovena Sulstarova
Jetnor Kasmi

GUARDING THE GUARDIANS: PARLIAMENTARY OVERSIGHT OF INDEPENDENT INSTITUTIONS IN ALBANIA

December 2020

This document was prepared by the Institute for Democracy and Mediation with the support of Hanns Seidel Foundation Albania. Any opinion or views expressed in this project belongs to the implementing organization and does not necessarily represent the views of the Foundation.

CONTENTS

INTRODUCTION	3
INDEPENDENT INSTITUTIONS AND THEIR RELATION TO THE PARLIAMENT	6
CHALLENGES TO PARLIAMENTARY OVERSIGHT	13
a. Limited use of Procedural Instruments.....	13
b. Limited Interaction Among Parliament, Executive, and Independent Institutions	14
c. Non-Proactive Engagement of the State Minister for Relations with Parliament	20
CONCLUSION AND RECOMMENDATIONS	22
ANNEXES	24
Annex 1. Questionnaire with MPs and IPs (N=47)	24
Annex 2. Main Highlights from In-Depth Interviews with Independent Institutions.....	26
Annex 3. List of Figures	28
Annex 4. Questionnaire for Parliamentarians	32
Annex 5. Questionnaire for Independent Institutions.....	37
Annex 6. Questions for Independent Institutions.....	41

INTRODUCTION

In a parliamentary republic, as Albania is, power resides in the people. Parliamentary oversight is one of the core functions of a Parliament. The elected representatives in the Parliament, under the parliamentary oversight function, scrutinize the executive branch to ensure that the latter is held accountable on behalf of the voters. This notion is inherent in the concept of the separation of powers, known as *trias politica*. Parliamentary oversight remains a vital part of the check-and-balance system ensuring no one is able to wield absolute power in a democracy¹.

The Parliament also oversees independent institutions and is responsible for approving their mandate, budget, and management. The independent institutions are either part of the state institutions established by the Albanian constitution, such as the Supreme State Audit and the Ombudsman, or they are founded by particular laws adopted by the Parliament, such as the Commissioner for Information and Personal Data Protection (CIPDP) and the Commissioner for Protection against Discrimination (CPD). In fulfilling their mandate, independent institutions issue recommendations to improve the functions of the executive and to guard the public interest. However, they lack the authority to enforce them. It is thus the role of the Parliament, who watches over both the executive and independent institutions to ensure that the recommendations are enforced.

This issue was also raised by the European Commission in the framework of the reforms demanded of Albania to improve the governance and public accountability of the executive in the country.² In 2017, following the European Commission's *avis*, the Parliament of Albania established the inter-institutional mechanism for the systematic monitoring of the follow-up and implementation of independent institutions' recommendations. This joint mechanism includes the Parliament, the

¹ Inter Parliamentary Union (2017), "Parliamentary Oversight: Parliament's Power to Hold Government to Account" Geneva, Switzerland. Last accessed on March 1, 2021, at: <https://www.ipu.org/resources/publications/reports/2017-10/global-parliamentary-report-2017-parliamentary-oversight-parliaments-power-hold-government-account>

² European Commission (2019), "Albanian 2019 report", Commission Staff Working Document, Brussels, p. 8, last accessed on April 7, 2020, at <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>

government, and the independent institutions themselves.³ Despite this development, the EU Commission's 2019 Report on Albania still pointed out that the implementation of the independent institutions' recommendations remained poor. Moreover, according to the 2019 Communication on EU Enlargement Policy, the Albanian citizens' right to good administration is limited by the systematic failure of the country's public institutions to implement the recommendations of oversight bodies.⁴

In this paper, we argue that the Parliament of Albania, in its capacity as the overseer of both the executive and the independent institutions, should play a more active role in pressuring the executive to respond to the recommendations issued by independent institutions that contribute to good governance and promote the public interest. To scrutinize the relationship between the Parliament and independent institutions it is useful to distinguish between (1) the implementation of recommendations issued by independent institutions to the executive; and (2) the implementation of recommendations issued by the Parliament to independent institutions. Our research covers mainly the period after the establishment of the joint inter-institutional mechanism and focuses on a sample of 4 out of the 21 independent institutions in Albania.

The selected institutions include the Supreme State Audit (SSA), the Ombudsman, the Commissioner for Information and Personal Data Protection (CIPDP), and the Commissioner for Protection against Discrimination (CPD). These independent institutions were selected as they cover important areas of public interest, such as public finance management and human rights. They are also among the most consolidated bodies and are closer to the public given that their recommendations or reports are often communicated to the public through the media.

The methodology used for the analysis is based on qualitative and quantitative instruments. The analysis was supported by a rigorous review of legal documents, key strategic documents, administrative reports and documents made public by the independent institutions, the Parliament and the Minister of State for Relation with the Parliament. The review of literature and key documents helped to identify legal or administrative issues that affect the effectiveness of parliamentary oversight, which were further explored gathering administrative statistics.

³ Decision No 49/2017 of the Parliament of Albania, "On the Establishment of the Joint Mechanism for the Systematic Monitoring of the Follow-up and Implementation of the Recommendations of Constitutional Independent Institutions and Those Created by Law"

⁴ European Commission Staff Working Document: Albania 2019 Report, last accessed on March 18, 2020.

Administrative data and primary data were gathered and analyzed in order to depict how parliamentary oversight affects the effectiveness of independent institutions in holding the executive branch to account. As a measure of effectiveness, we have examined –through the administrative data– the level of implementation of recommendations issued by independent institutions to the executive and the level of implementation of recommendations issued by the Parliament to independent institutions. Administrative data were extracted from annual reports of independent institutions and online interinstitutional platform of parliamentary monitoring.

In order to understand the process of parliamentary oversight and its impact on the effectiveness, primary information was collected by means of surveying members of the Parliament and representatives of the independent institutions. The survey sample was based on the self-identification and responsiveness of the population, which is composed of Members of the Parliament and senior representatives of independent institutions.

The survey was implemented through an online platform and was sent to all members of the population, i.e., all the Members of Parliament (MPs) and the managing staff of independent institutions involved in this study. Overall, the survey was distributed to 140 MPs, and 70 employees of independent institutions. The response rate of the survey was 15%, as 52 questionnaires were completed. Thus, 24 questionnaires were completed by MPs and 28 questionnaires were completed by independent institutions. Based on the sample size and using a confidence interval of 95%, the error margin of measurement in reported results is +/- 2,8%. The survey analyses are used to explain the findings from administrative data on the implementation of recommendations issued by the Parliament or independent institutions.

Finally, an in-depth interview instrument was used as a methodological tool to validate findings from the review of key documents, administrative data, and survey information with representatives from independent institutions and the Parliament. Overall, seven in-depth interviews were carried out by the authors between September and October 2020.

The analysis and recommendations in this paper could serve as a basis for improving the parliamentary oversight capacity and Parliament's relationship with independent institutions. This paper is structured in two parts. The first is a general overview of the relationship between the independent institutions and the Parliament. In the second part, we analyze the challenges to an effective parliamentary oversight over independent institutions. Conclusions and recommendations are provided at the end of this paper.

INDEPENDENT INSTITUTIONS AND THEIR RELATION TO THE PARLIAMENT

Independent institutions are an integral part of the checks and balances of any constitutional democracy and accountable government. To be fully independent, they must be outside the influence of other public or private institutions. Thus, they must have operational autonomy. In particular, to comply with their legal duties and effectively contribute to maintaining independent oversight, these bodies should be independent of the executive.⁵ Yet, regardless of their independence, these institutions are not above the law and have to be held to account.⁶ This task falls with the Parliament, which oversees and monitors their work. The reports of independent institutions submitted to the Parliament have to be reviewed by relevant committees and plenary sessions.⁷ As such, the power of independent institutions –like that of any other democratic institution– is also kept in check.

Depending on their functions, independent institutions can be grouped into two categories. The first includes those institutions that oversee the government's compliance with good governance and human rights standards. The second category brings together agencies and entities that perform advisory, regulatory, and other functions for both the government and non-governmental actors (like businesses, companies, or media). The oversight function is mostly embodied in the Supreme State Audit Institution (SAI), which primarily oversees financial matters. SAI is the highest institution of economic and financial control in Albania. Other independent institutions scrutinized here include:

- The Ombudsman, which initiates case reviews of misconduct in the public administration and third parties acting on its behalf;
- The Commissioner for Information and Personal Data Protection (CIPDP), which checks access to information and documents, subject to appeal,

⁵ Bulmer, Elliot (2019) "Independent Regulatory and Oversight (Fourth-Branch) Institutions." doi:10.31752/idea.2019.27, last accessed on May 7, 2020 at: <https://www.idea.int/sites/default/files/publications/independent-regulatory-and-oversight-institutions.pdf>

⁶ De Vrieze, F. (2019) "Independent oversight institutions and regulatory agencies, and their relationship to parliament: Outline of the assessment framework." Last accessed on March 20, 2020. https://www.wfd.org/wpcontent/uploads/2019/02/WEB_INDEPENDENT-OVERSIGHT-INS.pdf

⁷ Article 103 in the Rules of Procedure of the Parliament <https://shtetiweb.org/wpcontent/uploads/2013/06/Rregullorja-e-Kuvendit.pdf>

according to the law on freedom of information. It also conducts administrative investigations into access to personal data processing and collects all the necessary information it needs to fulfill its supervisory obligations;

- The Commissioner for Protection from Discrimination (CPD), which is the authority responsible to provide adequate protection from discrimination and any form of behavior that promotes bigotry.

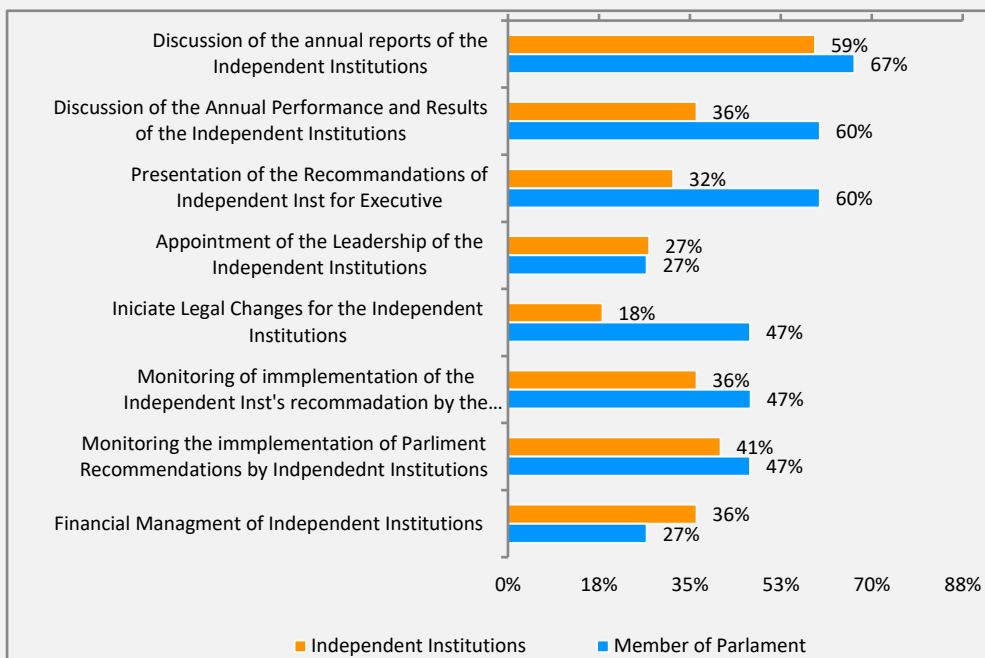
These independent institutions have been established, among other reasons, to assist the Parliament's oversight function. The independent institutions scrutinize the executive and public administration through a specialized staff that has a clear mandate on a given area. In doing so, independent institutions contribute and strengthen the Parliament's oversight function and, together with the Parliament, they act as watchdogs of the government and other public institutions.

The relationship between Parliament and independent oversight institutions is governed mainly by constitutional laws that regulate the functioning of specific independent institutions and by the Parliament's Rules of Procedure. According to the legislation in force, the Parliament interacts with independent institutions in its oversight function in at least four different ways: i) determining the mandate and responsibilities of the agencies; ii) monitoring and reporting on the institutions' annual activity, including the follow-up of recommendations issued by the Parliament; iii) appointing the governing boards of the respective institutions; and, iv) reviewing or approving the institutions' budget.

In the survey, Members of Parliament (MPs) and representatives of independent institutions were asked to report on some of activities of parliamentary oversight they have been engaged in. The MPs stated that participating during the annual reporting of independent institutions is the most commonly used instrument to engage in parliamentary oversight. They have participated less frequently in activities where independent institutions present initiatives on legal changes, their leadership is appointed, or their financial planning is approved.

On the other hand, representatives of independent institutions reported that they are engaged more often in annual activity reporting, in activities of monitoring the implementation of the Parliament's recommendations to independent institutions, and the recommendations made by the latter. Their engagement with the Parliament in financial planning is reported as less frequent than annual reporting and monitoring (see Figure 1).

Figure 1: Proportion of MPs and independent institutions representatives participating often/very often in different activities of Parliamentary Oversight

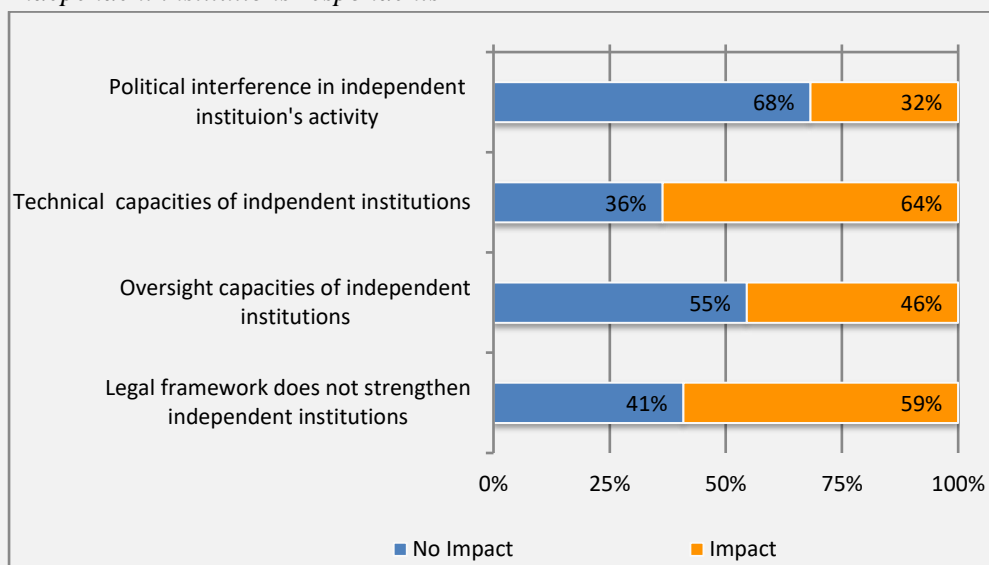


Independent institutions are part the democratic governance and play an oversight role by affecting the continues strengthening of the democracy. . Their performance is closely related to their level of impartiality including the independence from the executive which they must control. The main challenge that institutions face here is politicization, which weakens their independence. The heads of these institutions are mostly appointed by a simple majority in the Parliament (excluding the Ombudsman who is elected by qualified voting) and proposed by the Council of Ministers. However, the Parliament of Albania is highly polarized, taking into account that the executive holds the majority of seats in the Parliament and it also controls the budget of independent institutions (the budget of the Independent institutions expect SAI is proposed by the executive). Therefore, any involvement of the executive not only in the elections but also in the authority to issues sublegal acts or to propose the budget of this institutions affect their independence. It is thus unclear how the heads of independent bodies can maintain their independence from the executive.

In the survey, representatives of independent institutions were asked about the factors affecting the strengthening of the independent institutions. Some 59% of these representatives found the existing legal framework to be hampering institutional consolidation (see Figure 2). The deficient implementation of their recommendations is attributed to the non-binding character of their recommendation as stipulated in the

national legislation. ⁸In general, the legal framework on independent institutions' operation complies with international standards known as the Paris Principles⁹ and allows for independent institutions to fulfill their tasks. The political interference is perceived by 68% of respondents as non-impactful in strengthening the independent institutions. On the other hand, the technical capacities of independent institutions are considered to be impactful factor that mostly affect the strengthening of the independent institutions (see Figure 2).

Figure 2: Factors affecting independent institutions strengthening as per Independent institutions respondents



Effective parliamentary oversight requires Parliament to work closely with independent institutions but ensuring that these institutions have the capacity (in terms of independence and human and financial resources) to exercise their mandate. Some 68% of respondents from independent institutions report that parliamentary oversight affects the independence of independent institution (see Figure 3).

A frequent recommendation from the Parliament to independent institutions is to strengthen their capacities and build human resources –a suggestion that arguably applies to all public institutions in Albania.¹⁰ Such shortage obstructs the Parliament's role in understanding and monitoring independent institutions in the long run. Some

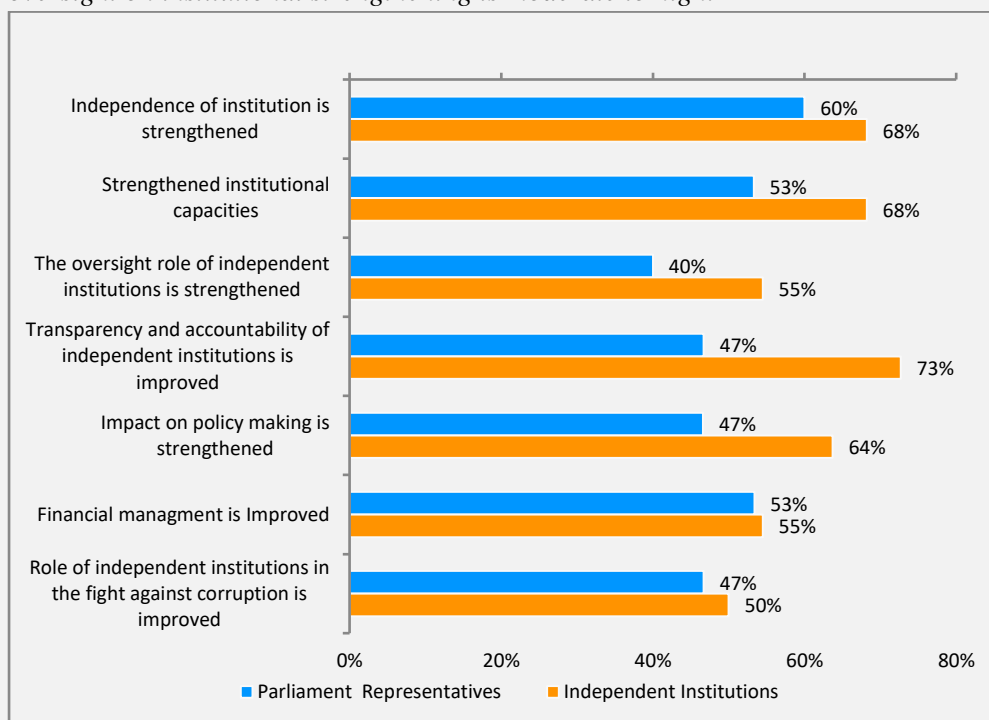
⁸ Interview with representative of an independent institution, 20 October 2020

⁹ <http://nhhr.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx>.

¹⁰ Monitoring by the Albanian parliament of independent institutions during 2018, *op. cit.*

68% of independent institutions’ respondents surveyed confirm that their institutional capacities, especially human capacities, have been moderately to highly improved by parliamentary oversight (see Figure 3). This result was also confirmed by in-depth interviews with representatives of independent institutions, who stated “The Parliament, through its oversight instrument, has supported capacity building of independent institutions, with the final aim of improving and strengthening their independence”.¹¹

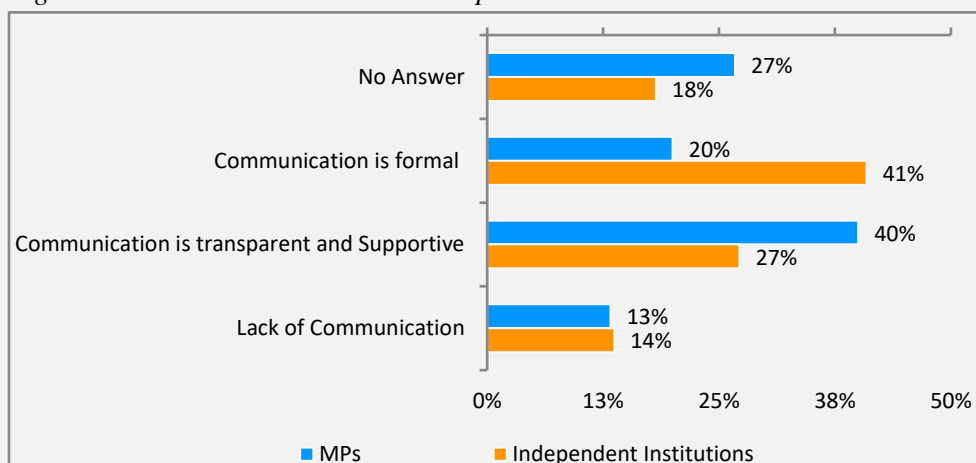
Figure 3: Proportion of respondents reporting the impact of the parliamentary oversight on institutional strengthening is moderate to high.



The results of the survey and in-depth interviews undertaken for this study indicate also that the communication between the Parliament and independent institutions in Albania is perceived functional. Only a minor share of MPs (13%) indicated a lack of communication with independent institutions. The latter seem to perceive their communication with the Parliament as being formal and supportive, while MPs declare that it is transparent and conducive to better oversight (see Figure 4). In order to have an effective parliamentary oversight, the working culture between Parliament and independent institutions must be based on mutual trust.

¹¹ Interview with representative of an independent institution, 20 October 2020.

Figure 4: Communication between independent institutions and Parliament



In 2017, the Parliament established a joint inter-institutional mechanism to boost the Parliament’s supervisory role.¹² Depending on the priorities and problems of individual institutions, the monitoring mechanism defines measures for coordination and implementation on a case-by-case basis. One of these mechanism’s primary functions is to ensure a follow-up on the Parliament’s recommendations to the executive. The mechanism involves the Minister of State for Relations with the Parliament, whose role is to coordinate implementation of independent institutions’ recommendations with the executive.¹³ According to interviews with representatives of independent institutions, a more active role of the Minister of State for Relations with Parliament is necessary. (Annex 2: Summary of In-depth Interviews)

The State Minister has established a network of coordinators in line ministries to support the process of implementing independent institutions’ recommendations. This network is also responsible for monitoring the progress and for reporting. The first annual report on the implementation of the independent institutions’

¹² The decision of the Albanian Parliament no. 49/2017 “For monitoring systematic follow-up and implementation of the recommendations of independent constitutional institutions and those created by law.” Published in the “Official Gazette” no. 90, dated April 27, 2017.

¹³ In the Decision of the Council of Ministers 11/2019 “For determination of the state responsibility of the State Ministry and its relation with the parliament,” the Minister, among other things, coordinates the work and addresses the concerns of independent institutions or other institutions regarding the institutional relations they have with the Council of Ministers, ministries or various responsible state authorities; drafting projects that address their organization and functioning; other interests they have for various draft projects or the legislative process. Last accessed on April 2, 2020 at: <http://www.bmp.al/wp-content/uploads/2019/01/Fletorja-zyrtare.pdf>



recommendations was prepared by the Ministry and delivered in 2019, in the parliamentary session planned for independent institutions reporting.¹⁴

In September 2019, the Parliament also launched the Inter-Institutional Online Platform to foster a transparent system and a more efficient assessment of executive and subordinate agencies' implementation of recommendations from independent institutions.¹⁵ This platform is part of the joint inter-institutional monitoring mechanism and is composed of the Supreme State Audit, the Ombudsman, the Competition Authority, and the Commissioner for the Protection against Discrimination, the Commissioner for the Right to Information, and the Commissioner for the Supervision of the Civil Service – six out of the 21 independent institutions that operate in Albania.¹⁶

The network of coordinators appointed to report on implementation of the independent institutions' recommendations are trained by the State Ministry for Relations with the Parliament. The platform's website describes recommendations given to the executive by each institution but offers little insight into how many of these were (being) implemented. The platform is also not clear on who, more specifically, these recommendations are addressed to, what the actual recommendations are, which institution has approved them, and how they are being enforced. The MPs reported that detailed information on the recommendations is available on the internal report of the Monitoring Service in the Parliament for the years 2018 and 2019.¹⁷

¹⁴ Personal communication with State Minister for Relations with Parliament date December 15, 2020.

¹⁵ Mima, Gjergji (2019), "Increasing parliamentary control, the online inter-institutional platform is presented," Albanian Telegraphic Agency, last accessed on April 2, 2020, at: <https://ata.gov.al/2019/09/13/rritje-e-kontrollit-parlamentar-prezantohet-platforma-nderinstitucionale-online/>

¹⁶ Inter-Institutional Online Platform Mechanism, last accessed on August 15, 2020, at: <http://134.0.63.165:5000/public>. From the day it was last accessed until recently, the website has no new updates and the data is still from 2018. Hence, the comments in this section on the online platform still stand.

¹⁷ Personal Communication with the Monitoring Service in the Parliament, on December 19, 2020

CHALLENGES TO PARLIAMENTARY OVERSIGHT

Until now, the Parliament of Albania has proven ineffective in enforcing the implementation of recommendations that independent institutions have addressed to the executive and other public institutions. Our research has revealed three key reasons, respectively: a) limited use of the procedural instruments for parliamentary oversight used by the parliamentary committees; b) limited interaction among the Parliament, the executive, and the independent institutions to address recommendations; and c) non-proactive engagement of the State Ministry of the Relations with the Parliament.

a. Limited Use of Procedural Instruments

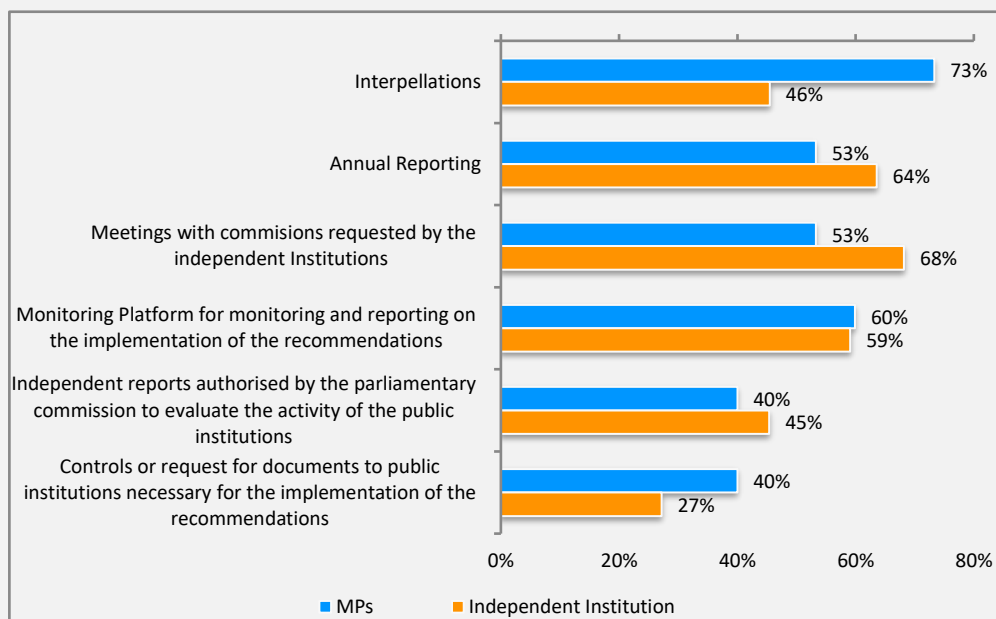
From an oversight perspective, members of the parliament have a variety of tools such as: oversight in parliamentary committees, oversight in the plenary sessions and oversight of the budget. The procedural instruments of parliamentary oversight are detailed in the Rules of Procedure of the Parliament and include receipt and review of annual/periodical reports, interpellations, oral and written questions, reports, recommendations etc. According to Article 102 of the Rules of Procedure, the MPs can request explanations from the institutions and call in special committees to address issues. The leadership of the public institutions, at the request of the parliamentary committees, provide explanations related to the implementations of independent institutions' recommendations. Furthermore, the standing committees can conduct checks or request documentations within their areas of responsibilities that they deem necessary for the consideration of a certain issue and prepare a report.

As mentioned earlier, representatives of the Parliament and independent institutions surveyed here regarding the question on the interaction between parliament and independent institutions identified the annual reporting to the Parliament as the most common and efficient instrument of scrutiny (see Figures 1 and 5).

The MPs surveyed also report that parliamentary interpellations are very effective in the process of overseeing independent institutions. The latter ascertain the annual reports as an effective parliamentary oversight instrument. A large number of independent institutions (64%) perceive committee's meetings on issues within their competence requested by the latter a helpful tool and 53% of responding MPs agree

on this point (see Figure 5). The electronic monitoring platform for monitoring and reporting on the implementation of the recommendations is reported as a very effective instrument by approximately 60% of MPs and independent institutions.

Figure 5: Proportion of MPs and independent institutions reporting oversight instruments are very effective/effective



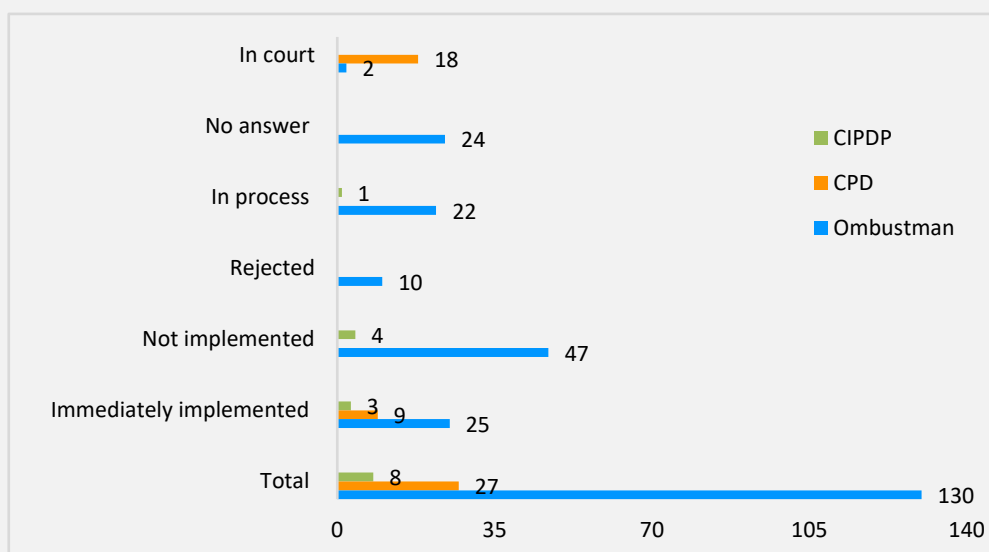
b. Limited Interaction Among Parliament, Executive, and Independent Institutions

The joint mechanism for systematic monitoring of the recommendations issued by independent institutions was established specifically for an efficient monitoring of the follow-up and implementation. From the start, the mechanism paid particular attention to the implementation of recommendations from the Supreme State Audit – the most significant oversight body in the country.¹⁸ In 2018, in a meeting with independent institutions, the Minister of State noted that 50% of the recommendations had been implemented and the process of fulfilling the recommendations was

¹⁸ The decision of the Assembly of Albania, No. 49/2017 “On the creation of a mechanism for systematic monitoring of follow-up and implementation of recommendations of independent constitutional institutions and those of created by law”.

underway.¹⁹ According to the 2018 and 2019 annual reports, for the four independent institutions surveyed here, the level of implementation of their recommendations by the executive bodies and their subordinate institutions was off the course (see Figure 6). For example, out of 130 recommendations issued by the Ombudsman to the central government, only 25 had been implemented, 47 have not been fulfilled, for 24 others there was no follow-up, 10 recommendations were rejected and two had been brought to the court. The rest of recommendations had not been dealt with at all. The public administration’s low rate of implementation of recommendations, the delays, or the lack of appropriate explanation of response to independent institutions obstruct the oversight process (see Figure 6). The Ombudsman of Albania explains that public institutions tend to implement a recommendation if it relates to a specific issue. One interviewed representative of independent institutions explained: “If the recommendation addresses a structural problem or a significant issue linked to the application of human rights, it is usually not implemented.”

Figure 6: Recommendations from independent institutions to executive bodies and subordinate units, 2018



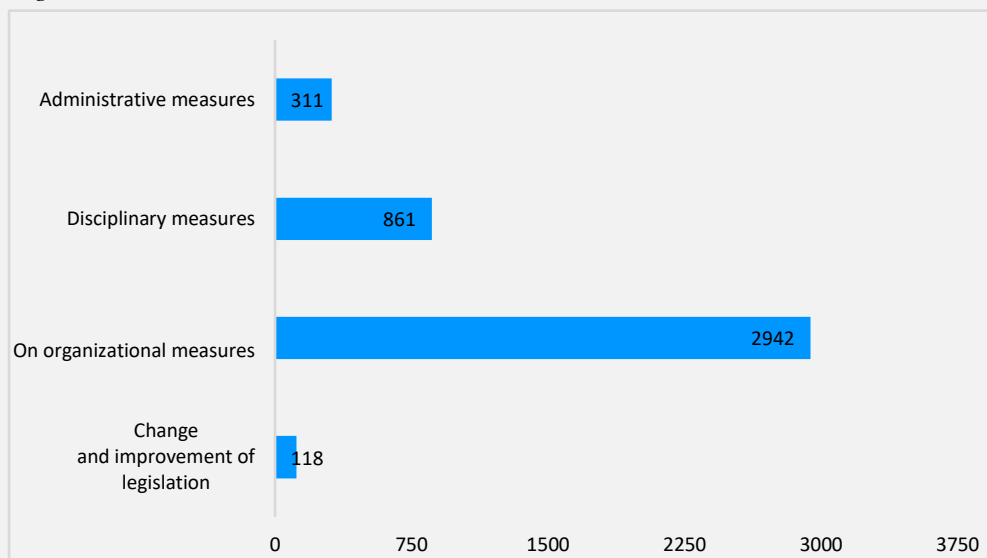
Source: Monitoring by the Parliament of Albania of independent institutions during 2018²⁰

¹⁹ The address of the Minister for Relations with the parliament on the First Annual Meeting of the Speaker of the Assembly with the independent institutions, last accessed on April 3, 2020, at: <https://ata.gov.al/2019/04/12/institucionet-e-pavarura-spiropali-zbatim-i-plote-i-rekomandimeve/>

²⁰ Monitoring during 2018, last accessed on September 21, 2020, at: <http://134.0.63.165:5000/Botim2018.pdf>

The Supreme State Audit (SAI) oversees the central and local government, as well as other public institutions. Given the large number and different categories of SAI recommendations, the data is presented in two different figures below as they represent two different years (2017- data from the Parliament and 2018 – data from SAI). Figure 8 compiles data from 2017 because information on the 2018 monitoring of recommendations for the SAI report is not available on the Parliament’s website. The only data from 2018 in (figure 7) refer to how many recommendations are given based on specific fields. Reviewing the monitoring report of Parliament of Albania 2018, which is the first report of its kind, we observed that the data used to compile this report for SAI were the data for 2017. This for the reason that the follow up and implementation of the recommendations for SAI extends over a longer period time than for other independent institutions, the status of the recommendations for 2017 is reflected by the end of 2019.

Figure 7: SAI recommendations to audit institutions, 2018



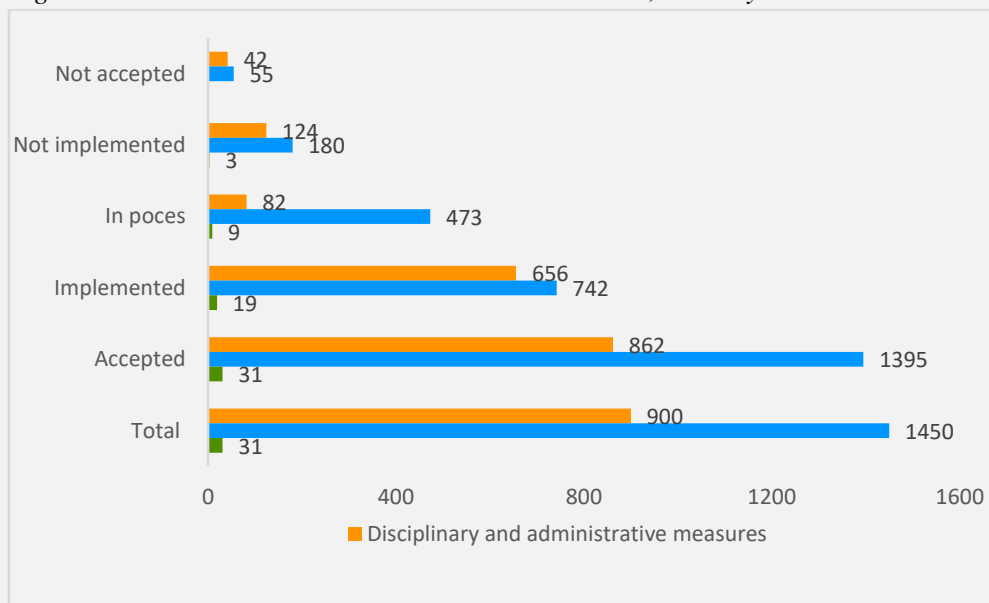
Source: SAI Annual Performance Report 2018 ²¹

Compared to 2017 data, the number of measures given by SAI to audited public institutions has increased. As Figure 7 suggests, in 2018, SAI issued 4232 measures (the total of all the measures in the figure) or 711 more than in 2017 (Figure 8), of which 118 are measures for legal improvements, 2,942 organizational measures, 861 disciplinary measures, and 311 administrative measures. According to the SAI’s 2018 report, some of the most substantial violations audited related to the areas of revenue

²¹ SAI Annual Performance Report 2018, last accessed on August 23, 2020, at: http://www.klsh.org.al/web/raporti_performances_2018_4788.pdf

and budget management, state property administration, and public procurement.²² The increased number of measures intended for audited institutions could indicate closer and more effective scrutiny by the SAI.

Figure 8: SAI recommendations to audited institutions, January- December 2017



Source: Monitoring by the Parliament of Albania of independent institutions during 2018²³

To monitor and ensure the effectiveness of independent institutions, the Parliament adopted Decision No. 134 /2018, “On the Annual and Regular Monitoring Manual”. The regulations included in the monitoring manual specify that, in their yearly and periodic reports, independent institutions should *inter alia* include the recommendations of the “Commission Staff Working Document - Albania 2019 Report” and the degree to which they have been fulfilled. They should also add a list of recommendations issued to institutions that are subjected to monitoring as well as a report on whether these recommendations have been implemented. Moreover, the Parliament’s Monitoring Department of independent institutions has the authority to develop a closer working relationship between independent institutions and the Parliament and to coordinate independent institutions’ annual reporting.²⁴

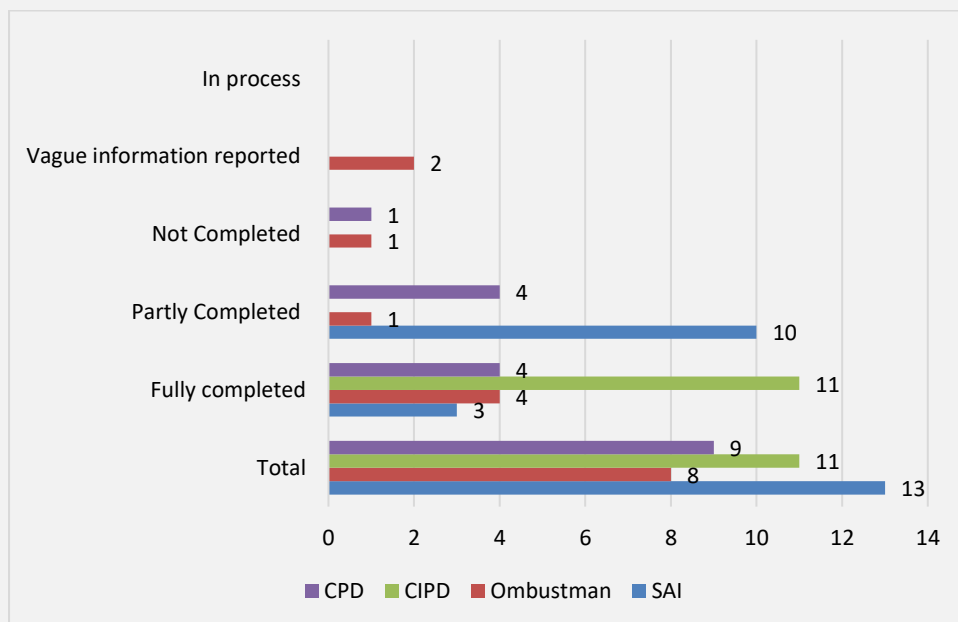
²² *Ibid.*

²³ Monitoring during 2018, last accessed on August 23, 2020, at <http://134.0.63.165:5000/Botim2018.pdf>

²⁴ Internal regulation of organization and functioning services of the Albanian parliament, last accessed on April 2, 2020, at https://www.parlament.al/Files/sAdministrata/Rregullore_e_brendshme.pdf

All independent institutions report periodically to the Parliament and their reports are deliberated in their relevant legislative committees. Once the report reviews are submitted to the Parliament, a performance evaluation of independent institutions is conducted. Following this evaluation, the Parliament drafts recommendations intended for the independent institutions. Through the review of past evaluation performances, the recommendations merely assess the duties performed by these institutions and are basically a rephrase of duties assigned to them in respective reports. The recommendations issued by the Parliament to the independent institutions do not envisage continuity of follow-up means of existing procedures, processes, or mechanism to monitor their enforcement. Figure 9 below presents the status report of the recommendations given to independent institutions by the Parliament.

Figure 9: Recommendations given by the Parliament to independent institutions, 2018²⁵



According to official information received from the Commissioner for Protection from Discrimination, out of the nine recommendations addressed by the Parliament of Albania in the resolution adopted on 19/04/2018 “On the Evaluation of the Activity of the Commissioner for Protection against Discrimination (CDM) for 2017”, only

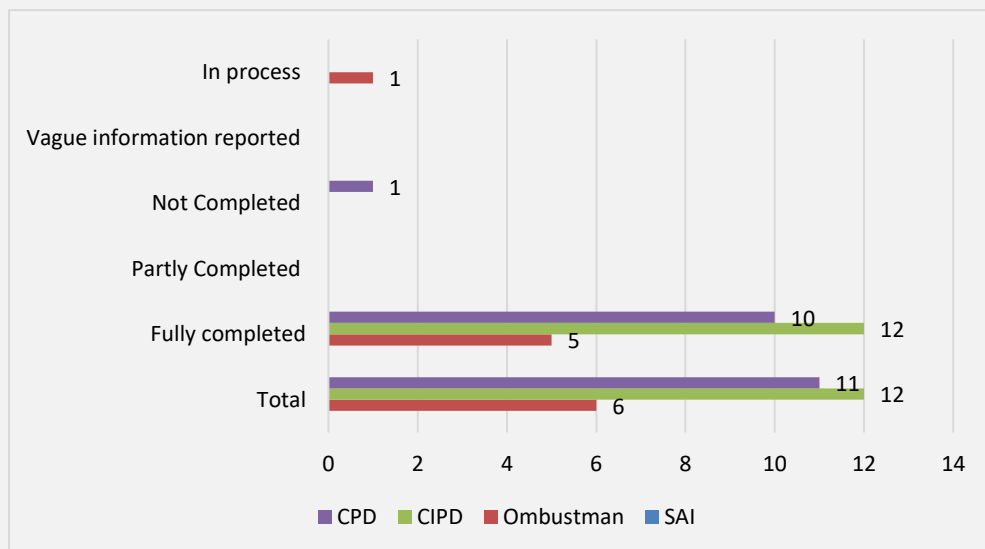
²⁵ Monitoring of independent institutions by the Parliament of Albania during 2018 op. cit. <http://134.0.63.165:5000/Botim2018.pdf>

four have been fully implemented and another four partially so, while one recommendation has not been implemented at all.

Out of 6 recommendations issued by the Parliament in the resolution approved on 30.05.2019 on the evaluation of the activity of the Ombudsman for 2018”, until December 2019 5 recommendations are fully implemented while one recommendation is still in the implementing process. In addition, 12 recommendations approved for the Commissioner for the Right of Information and Protection of Personal Data are fully implemented. Out of 11 recommendations approved in the resolution dated 11.04.2019 for the Commissioner for Protection from Discrimination for 2018, 10 recommendations have been fully implemented, while one is unfulfilled (see figure 10).

In the “Monitoring by the Parliament of Albania of Independent Institutions During 2018”, a few of the recommendations issued to independent institutions are actually specified and indicated whether or not they have been completed. In contrast, many others are just referred to by number. For example, it is stated that “Five recommendations have not been completed” – without any further specific details as to what these recommendations are. One of the unfulfilled recommendations mentioned by name is addressed to the Ombudsman and relates to the creation of a new online complaint management system to replace the one dating back to 2002. The recommendation has not been met due to a lack of funds, which the Parliament needs to allocate to the Ombudsman. Similar observation is found in the last monitoring report of the Parliament for 2019. Although a high level of fulfilment of the recommendations by the independent institutions is reported the monitoring reports of the Parliament, are not associated with the monitoring methodology, which will provide a way of measuring how the recommendations are fulfilled or are being implemented.

Figure 10: Recommendations given by the Parliament to the independent institutions in 2019



Note: Based on the data compiled by the Monitoring Service in the Parliament of Albania – there was no parliamentary resolution for SAI in 2019 and there was no specific information as to why.²⁶

c. Non-Proactive Engagement of the State Minister for Relations with Parliament

The guidelines set in Decision No. 134 /2018 suggest that, at least once a year, the State Minister for Relations with the Parliament drafts for and proposes to the Council of Ministers a status report on the implementation of recommendations that independent institutions have intended for the executive branch. Every six months, the Minister is expected to inform the Speaker of the Parliament about the findings of the auditing performed by SAI and intended for the central and subordinate institutions. Furthermore, the monitoring report seeks to update the implementation status of the recommendations of SAI (categorized by institutions where the audit was performed) and on the reasons as to why the institutions refuse to implement recommendations.

²⁶ Report of the President of the Assembly on the monitoring of independent institutions, February 2021, Last Accessed March 2, 2021: http://134.0.63.165:5000/Raport%20i%20Kryetarit%20te%20Kuvendit%20mbi%20punen%20e%20Kuvendit%20me%20institucionet%20e%20pavarura_compressed.pdf

The State Ministry has presented to the Parliament Speaker semi-annual and annual report on the implementation of the recommendations of independent institutions for the executive as specified in the guidelines of the Annual and Periodic Monitoring Manual²⁷, but the reports are not published. The network of coordinators set up in line ministries extends the restricted capacities at ministry level. Yet, training and communication need to improve to better support coordination and monitoring.²⁸ However, representatives of independent institutions interviewed for this study report they lack communication with the ministry as regard the progress in implementing the recommendations. Furthermore, the State Ministry for Relations with the Parliament remains short-staffed and operates under limited internal capacities.

²⁷ Personal communication with State Minister for Relations with Parliament date December 15, 2020.

²⁸ Interview with representative of an independent institution, 20 October 2020.

CONCLUSION AND RECOMMENDATIONS

The parliamentary oversight tools and processes are not used to their full potential, because parliamentarians rely specifically on the annual reporting of the independent institutions to the Parliament, compared to other instruments. The joint inter-institutional mechanism for systematic monitoring of the recommendations of independent institutions was established precisely with the goal to address these shortcomings through efficient monitoring of the follow-up and implementation. However, to date, there is no positive evidence to claim otherwise. Due to the lack of institutional cooperation among the Parliament, government and independent institutions, the implementation of the recommendation issued by independent institutions for the government is low. Therefore, we make the following recommendations to the Parliament, independent institutions, and the State Ministry for Relations with the Parliament.

The Parliament in the best possible use of the its ‘oversight powers’ should:

- Strengthen relations with the independent oversight institutions and ensuring that these institutions have capacities (in terms of the independence, human and financial resources) to undertake their mandate. Parliament and independent institutions should build a culture of a mutual trust by working together in a timely and systematic manner and use the series of mechanisms in place to review reports and to take vigorous follow-up action where appropriate. This ensures that Parliament is confident in the findings and recommendations of the independent bodies and that the latter are confident in Parliament’s will to take their recommendations seriously.
- Establish an inclusive mechanism to evaluate whether the conditions for effective oversight are being met and propose improvements where necessary. The mechanism shall include the assessment of the sufficiency of the rules and procedures in place, parliamentary capacities for the oversight, monitoring methodology for implementation of the recommendations, etc. An assessment on the effectiveness of the existing mechanisms, such as the joint mechanism for systematic monitoring of the independent institutions’ recommendations or the online institutional platform, should be conducted considering this approach.
- Should also ensure systems are in place to keep track of independent institutions’ recommendations to government, as well as government responses to these recommendations. It is particularly important to keep track of commitments made

by the government. But tracking independent institutions' recommendations is a joint responsibility with government. A system should be agreed with government whereby the latter are obliged to provide formal, on-the-record answers to the recommendations within a specified timescale; and, when such a system is in place, it should be rigorously maintained. The systematic approach helps to focus the attention of government and Parliament on independent institutions' recommendations.

- Improve the technical capacities of the Parliament with expertise in evaluating the annual reports of independent institutions, for monitoring the implementation of the recommendations issued by independent institutions as well as the recommendations for the latter issued by the Parliament.

The State Ministry for Relations with the Parliament:

- Should have a more proactive engagement toward a good functioning of the joint mechanism for systematic monitoring of independent institutions' recommendations. It should aim to increase the number of staff to foster effective and timely communication with other involved institutions in the joint mechanism.

Independent institutions should:

- Engage in pro-active initiatives with the relevant parliamentary committees to ensure they have a better understanding of their activity and secure the Parliament' support with regard to their performance in the executive branch's implementation of the recommendations.
- Improve their oversight institutional mechanisms and develop their institutional technical capacities to implement them.

ANNEXES

Annex 1. Questionnaire with MPs and IPs (N=47)

Independent Institutions	Sample Properties	Member of Parliament	Sample Properties
Type of Institutions	Frequency (in %)	Parliamentary Group	Frequency (in %)
Regulative Institution	22,7%	Democratic Parliamentary Group	20,0%
Independent Institution	22,7%	Socialist Parliamentary Group	33,3%
Oversight of Executive	54,5%	Independent	46,7%
Total	100,0%	Total	100,0%
Job Position	Frequency (in %)	Mandate as MP	Frequency (in %)
Not Reported	18,2%	First Mandate	60,0%
Management Level	50,0%	Second Mandate	26,7%
Political Staff	4,5%	Third Mandate	13,3%
Technical Staff	27,3%	Total	100,0%
Total	100,0%	Age Category	Frequency (in %)
Working Experience	Frequency (in %)	18-35 Years Old	13,3%
Not Reported	18,2%	35-55 years old	46,7%
Up to 5 years of work experience	68,2%	Over 55 years old	40,0%
Over 5 years of work experience	13,6%	Total	100,0%
Total	100,0%	Gender	Frequency (in %)

Independent Institutions	Sample Properties	Member of Parliament	Sample Properties
Age	Frequency (in %)	Female	46,7%
No Answer	18,2%	Male	53,3%
18-35 Years Old	27,3%	Total	100,0%
35-45 Years Old	40,9%	Participating in parliamentary commissions	Frequency (in %)
Above 45 Years Old	13,6%	No, do not participate	26,7%
Total	100,0%	Participate	73,3%
Gender	Frequency (in %)	Total	100,0%
Female	59,1%	Parliamentary Commission	Frequency (in %)
Male	40,9%	Do not participate in any commissions	26,7%
Total	100,0%	Education and Information	40,0%
Education	Frequency (in %)	Commission on Laws and National Security	20,0%
Secondary	22,7%	Economy and finance	6,7%
Tertiary - University Level	18,2%	Employment and social affair	6,7%
Post-University level	59,1%	Total	100,0%
Total	100,0%		

Annex 2. Main Highlights from In-Depth Interviews with Independent Institutions

Main Instruments of Parliamentary Oversight You are Subject to:

Periodic reports on activity, results, recommendations and financial management are the main instruments that independent institutions report to engage with Parliamentary Commissions. Independent Institutions continuously contribute in law making by providing their opinions on legal initiatives. Contributing to the on-line monitoring platform is also important to institution engagement with the Parliament. Institutions have reported to have hosted site visits from the Parliamentary Commissions responsible for their oversight, while all interviewers reported that the relation of their institution with the Parliamentary authority is excellent and very supportive to their activity and institutional building.

How do you perceive parliamentary oversight impacts your institutions activity:

Parliamentary Oversight of our institutions does not affect strongly our activity. However, we follow closely all the recommendation of the parliament. The parliamentary resolution on our institution activity acts for us as a guideline for future work. Parliamentary oversight has supported the institutional building and improving capacity as well as strengthening of the independency of the institution. (KMD) “The parliamentary oversight acts as a motivating mechanism for our institutions leading toward improvement of our performance and results” (Ombudsman)

Do you expect that Parliament strengthens the role of independent institutions in monitoring of public institutions:

The best way for the parliament to improve the effectiveness of independent institution is to support them in monitoring the public institutions (central and regional) and forcing them to adopt and implement recommendation of independent institution. The on-line monitoring platform helps in an effective monitoring of recommendations implementation. This remains a challenge for the Ombudsman, the level of public institutions adoption and reflection on the recommendation provided by the Ombudsman. We believe that not only public institution but also Parliament has to take a leading role in enforcing the executive to endorse recommendation of the independent institutions. On

this aspect the on-line monitoring platform is not enough, Albanian could follow the Kosovo example.

How can Parliament Oversight help Independent Institutions to strengthen their role: The only way to improve effectiveness of independent authorities is to strengthen their capacities and improve the status of the commissioners versus the administrative clerks the monitor/control. Sometimes it seems difficult to investigate on cases when the authority you investigate is ranked higher than the commissioners. We believe that bureaucracy and lack of coordination between executive and independent institutions needs to be tackled by a more active the Ministry of State for the Relation with the Parliament. Public information and raise of awareness would help on strengthening of our institutional role and impact. Strengthening of the Parliament role in check/balance of the executive power would lead to strengthening of the independent institutions. Parliament should also identify and support mechanisms of enforcing recommendation of independent institutions to be implemented and taken seriously by the executive. The role an agility of the Ministry of State for Relations with Parliament would improve the role and contribution of independent institutions to the public good. Including the monitoring of the status of independent institutions recommendation in the framework of EU Commission Reporting would enforce implementation of the independent authorities' recommendations.

Annex 3. List of Figures

Figure 11: Percentage of MPs participating in various parliamentary oversight activities

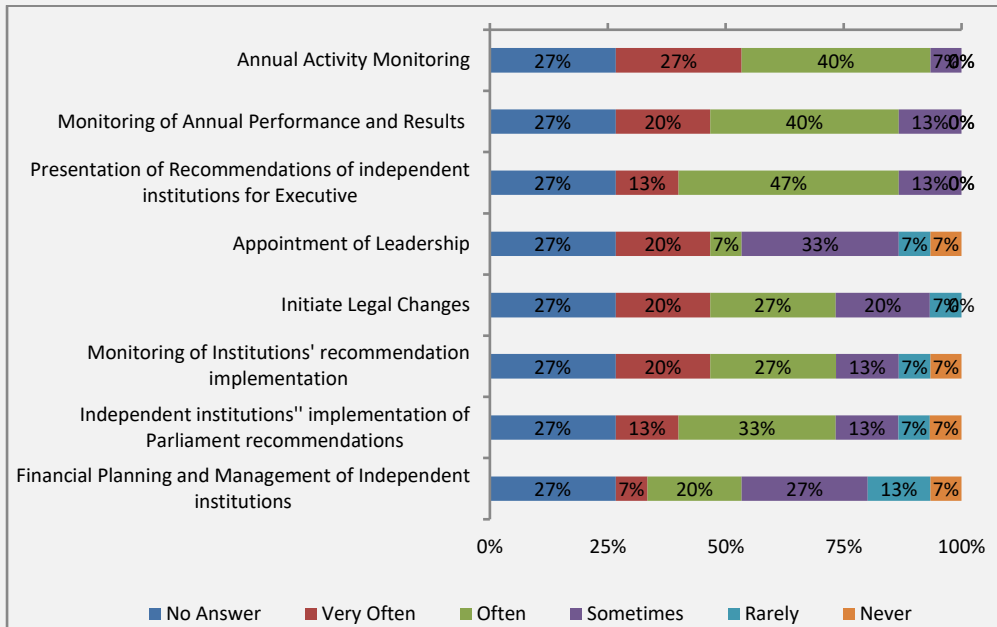


Figure 12: Frequency of independent institutions participating in parliamentary oversight activity

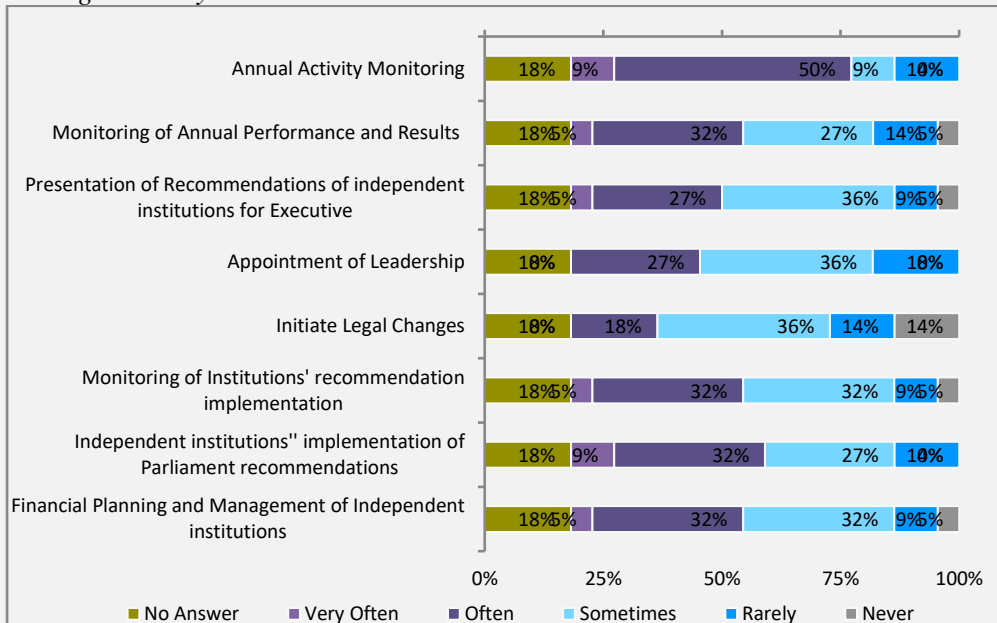


Figure 13: Effectiveness of different mechanism of parliamentary oversight, as per MPs reporting

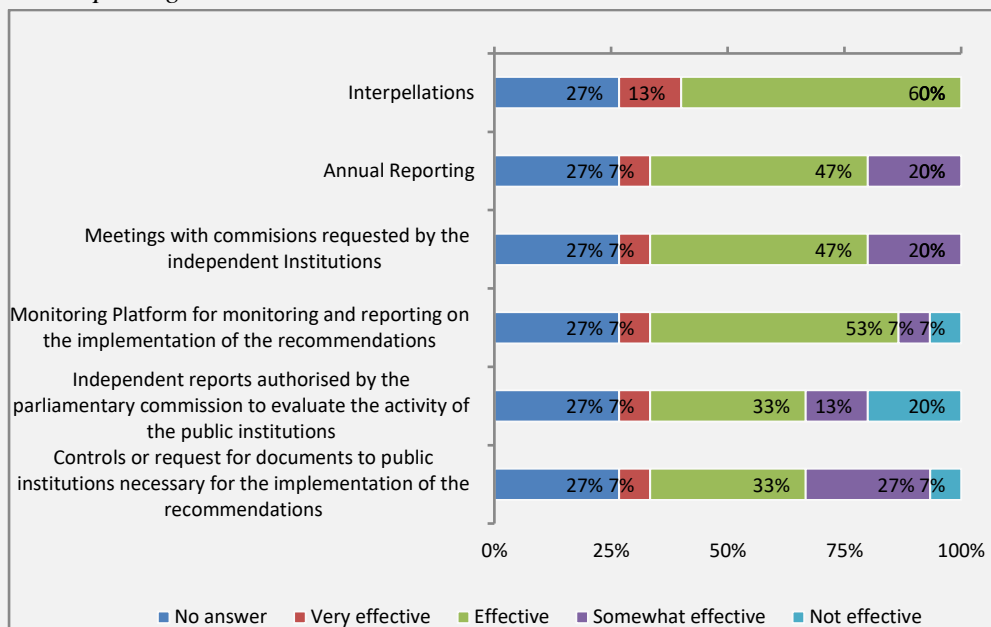


Figure 14: Effectiveness of different mechanism of parliamentary oversight, as per independent institutions' reporting

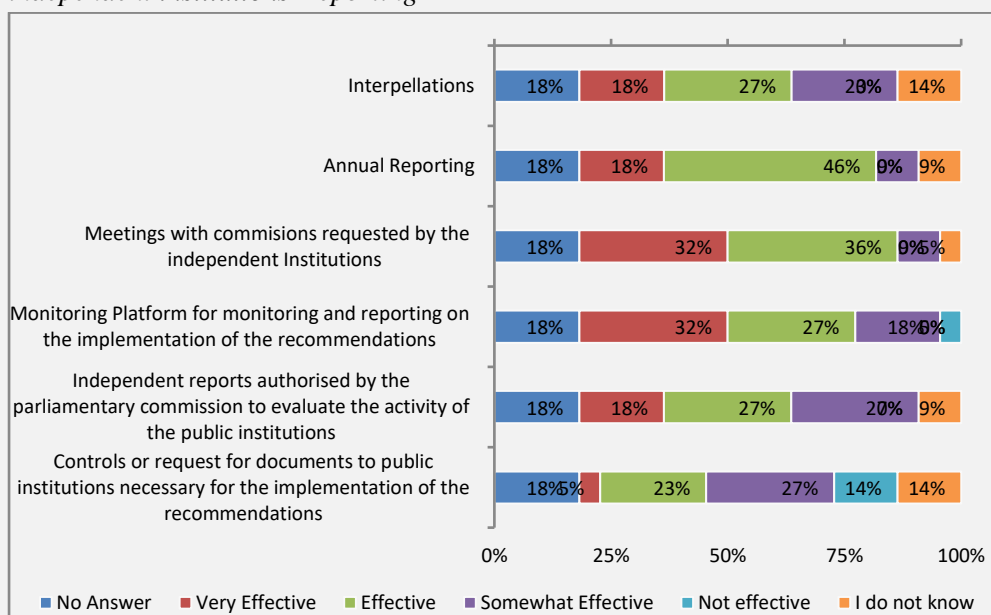


Figure 15: Impact of parliamentary oversight on independent institutions as reported by MPs

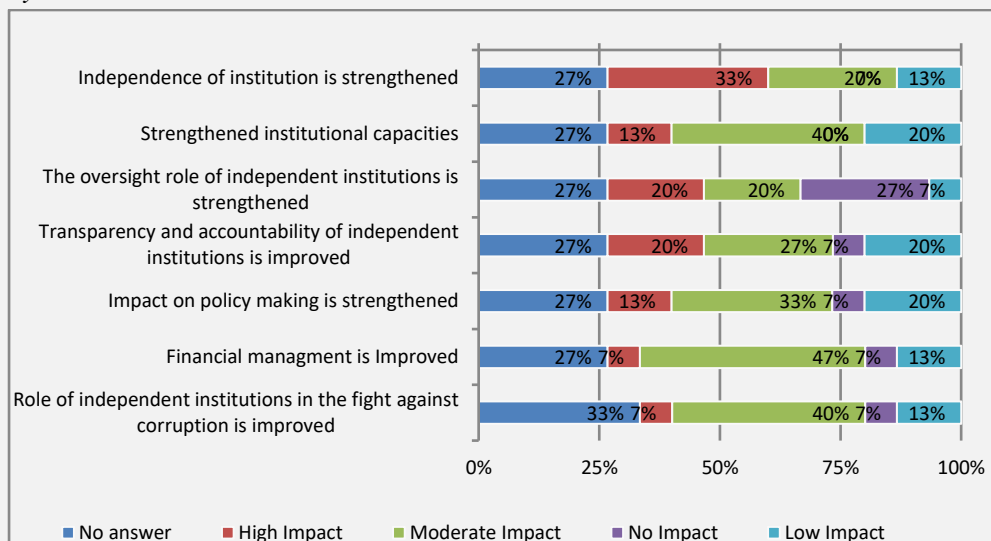


Figure 16: Impact of parliamentary oversight on independent institutions as reported by independent institutions

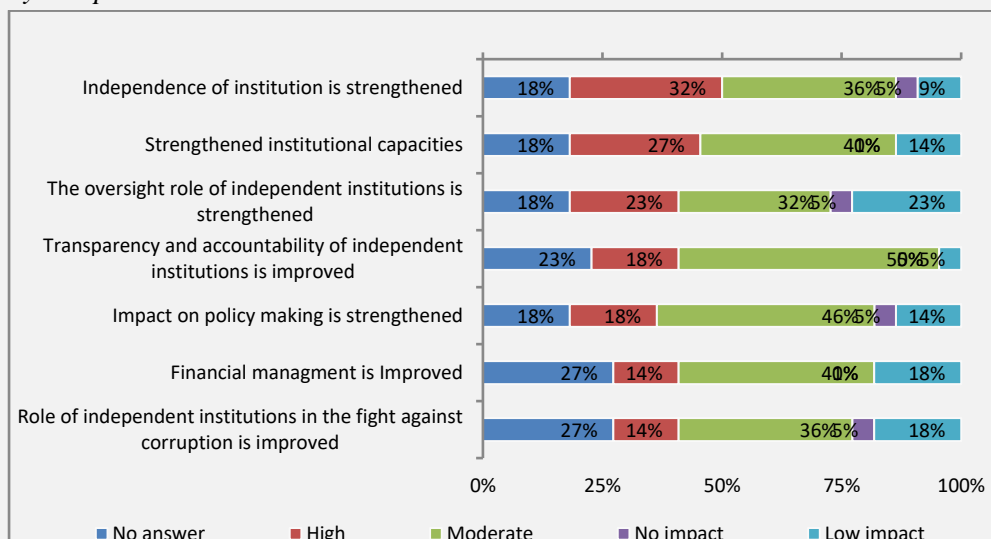


Figure 17: Factors affecting independent institutions' strengthening, as per independent institutions' respondents

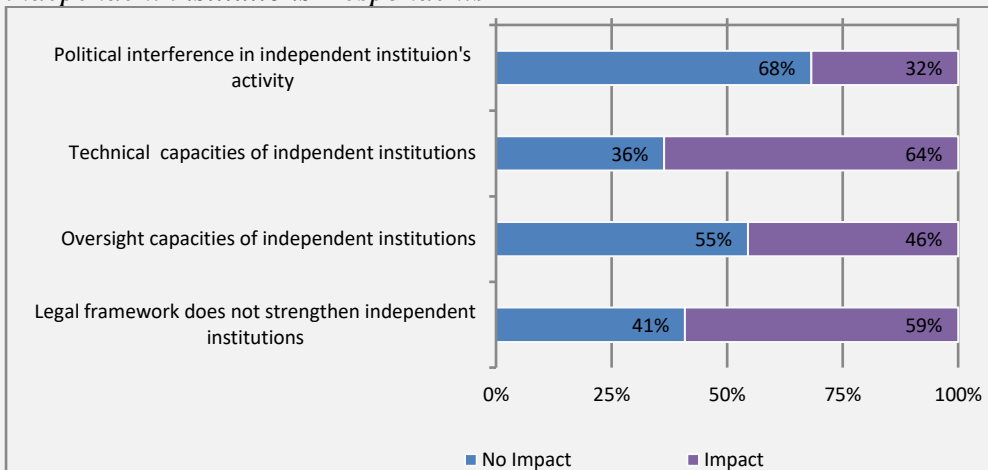
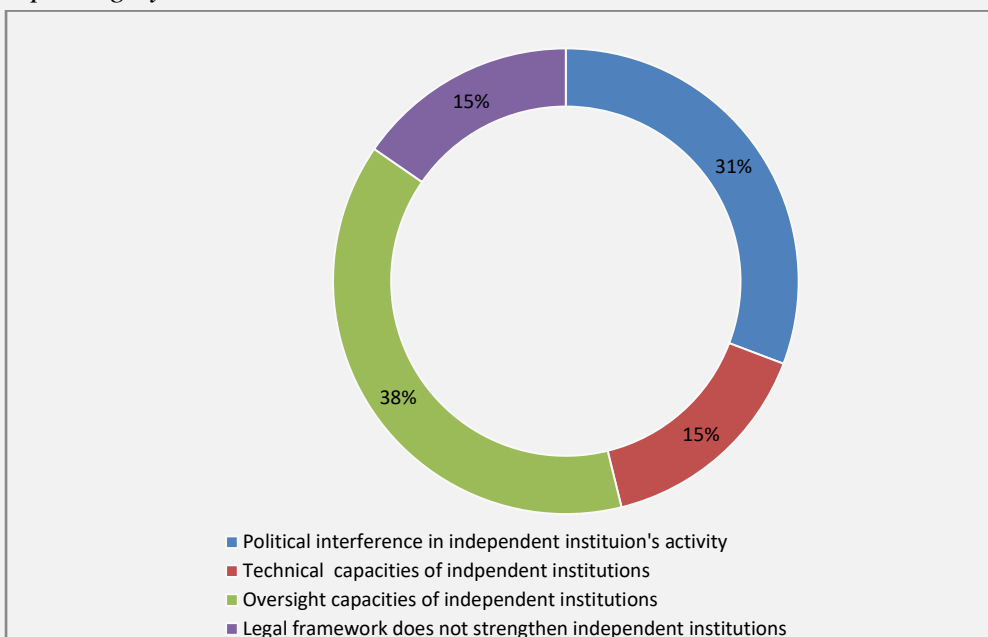


Figure 18: Factors affecting independent institutions' strengthening, as per reporting by MPs



Annex 4. Questionnaire for Parliamentarians

I. General Information

1. The political party that you represent:

- Socialist Party
- Democratic Party
- Socialist Movement for Integration
- Other, please specify

2. Your mandate as a legislator in parliament is:

- Your first
- Second
- Third
- I have more than three mandates

3. Please identify your age group:

- 18-35 years old
- 35-45 years old
- 45-55 years old
- over 55 years old

4. Please specify your gender

- Male
- Female

5. Please identify your field of study / profession:

- Education / Teaching
- art
- Social sciences, journalism and politics
- Economy, business, law
- Natural Sciences
- Information technologies
- Engineering / Processing / Construction
- Agriculture, forestry, fishing and veterinary medicine
- Medical Science
- Other

6. Do you participate in any of the parliamentary oversight committees of independent institutions?

| ____ | Yes, | ____ | No (If not, complete the interview)

7. If yes, please specify the parliamentary committees that exercise oversight functions of the independent institutions in which you have participated and/or currently participate (write below):

II. Parliamentary Activity in Oversight of Independent Institutions and its efficiency:

8. Referring to your parliamentary activity related to parliamentary oversight of independent institutions, please report if you have participated in any of the following activities. You can choose from the options listed or explain your experience.

| ____ | Parliamentary interpellation;

| ____ | Meeting of the parliamentary committee convened by the deputies;

| ____ | Scheduled meeting of the Parliamentary Committee, dedicated to the annual reporting of the independent institution;

| ____ | Meeting of the Parliamentary committee requested by the independent institution itself;

| ____ | Meeting of the Parliamentary Committee requested by other parties (specify);

| ____ | Other, please describe _____

9. Referring to your parliamentary activity, please report, on average, how often you have participated in activities related to the oversight of independent institutions:

| ____ | Up to 2 times a year

| ____ | 2 to 5 times a year

| ____ | More than 5 times a year

| ____ | I do not remember

| ____ | Other, please describe _____

10. Referring to your parliamentary activity related to the parliamentary oversight of independent institutions, please report, how do you consider the participation of your colleagues in these activities:

| ____ | Full participation;

| ____ | Full participation, but the contribution is modest and politicized;

| ____ | Modest participation, only those colleagues who have technical knowledge participate and contribute;

| ____ | Modest participation, only those colleagues representing interest groups participate and contribute

| ____ | Low participation, and low contribution in the exercise of the supervisory function of independent institutions

| ____ | Other, please comment _____

11. Please report the frequency with which you have discussed the following topics related to the oversight function of independent institutions. If you have more than one term, please consider the entire term of office and report an average frequency. Use the following rating scale: 1- very often, 2- often, 3- sometimes, 3- rarely, 4- very rarely, 5- never:

| ____ | Recognition and discussion of annual activity reports of independent institutions

| ____ | Recognition and discussion of the results of the work of independent institutions

| ____ | Recognition and presentation of recommendations of independent institutions to improve the function of the executive

| ____ | Recognition and presentation of candidacies for the leaders of the independent institution

| ____ | Presentation of legal initiatives

| ____ | Monitoring the implementation of recommendations for the executive

| ____ | Monitoring the implementation of the recommendations issued by the Parliament for the Independent Institution

| ____ | Financial management of the institution

| ____ | Other, please describe:

12. Please give your perceptual assessment of the communication with the independent institutions for which you are engaged in oversight activities as a parliamentarian:

| ____ | Communication with the independent institution is transparent and cooperative

| ____ | Communication is formal but collaborative, and helps the oversight process

| ____ | Communication lacks transparency and cooperation making it difficult to exercise effective oversight

| ____ | Other, please describe: _____

13. Based on your parliamentary activity, which relates to the oversight function of independent institutions, please report which of the following instruments is most effective in conducting parliamentary oversight: Use the following rating scale: 1- highly effective, 2- effective, 3- somewhat effective, 4- not at all effective, 5- I do not know;

| _____ | Interpellation reports to parliament

| _____ | Periodic reporting, in writing, according to legal requirements

| _____ | Meetings of the parliamentary committee initiated by the Independent Institution itself

| _____ | Electronic monitoring and reporting system / platform on implementation of recommendations

| _____ | Independent reports commissioned by the Parliamentary Committee for the evaluation of the activity of the institutions on implementation of recommendations

| _____ | Control or request for documentation deemed necessary by state institutions for the implementation of independent institutions' recommendations

| _____ | Other, please describe. _____

14. Based on your experience and parliamentary activity, which has to do with the parliamentary oversight function of independent institutions, how would you assess the impact of oversight on the following aspects of building and strengthening independent institutions. To express the degree of impact Please use the rating as follows: 1- high, 2- moderate, 3- low, 3- no impact, 5- do not know.

| _____ | Strengthening the independence of the institution

| _____ | Strengthening the capacity of the institution

| _____ | The role of independent institutions in executive control has been strengthened following the parliamentary oversight process

| _____ | The institution's transparency and accountability have improved

| _____ | The influence of the Independent Institution on the public good and policy-making has been strengthened

| _____ | The financial management of the institution has improved

| _____ | Oversight has strengthened the role of independent institutions in the fight against corruption

| _____ | Other, please specify _____

15. Based on your experience and parliamentary activity, which has to do with the function of parliamentary oversight of independent institutions, which of the following aspects is the main obstacle in strengthening the role and influence of independent institutions.

| ____ | The degree of policy influence on the activity and decisions of independent institutions

| ____ | Technical capacities of independent institutions

| ____ | Oversight capacities of independent institutions

| ____ | It is often the legal framework that does not allow the empowerment and potential of independent institutions to materialize

| ____ | Other, please describe.

Annex 5. Questionnaire for Independent Institutions

General information on respondent institution and representative completing the questionnaire.

1. The Independent Institution that you represent

2. The function of your institution

- | | Executive supervisor
- | | Regulatory authority / agency
- | | Other

3. Please specify your position in the institution:

- | | Director/Supervisor
- | | Technical position, related to the nature and activity of the institution
- | | Administrative technical position
- | | Other specify: _____

4. Please specify the years of work in this institution, regardless of parallel / promotional movements:

- | | up to 2 years
- | | 2 - 5 years
- | | 5 to 10 years of work
- | | over 10 years of work

5. Please identify your age group:

- | | 18-35 Years
- | | 35-45 Years
- | | 45-55 Years
- | | over 55 Years

6. Please specify your gender

- | | Male, | | Female

7. Please identify your field of study / profession:

- | | Education / Teaching
- | | Art /
- | | Social sciences, journalism and politics
- | | Economy, business, justice

- | ____ | Natural Sciences, Mathematics / Statistics
- | ____ | Information technologies
- | ____ | Engineering / Processing / Construction
- | ____ | Agriculture, forestry, fishing and veterinary medicine
- | ____ | Medical Science
- | ____ | Other

8. Please specify your education:

- | ____ | Secondary
- | ____ | Senior University
- | ____ | Postgraduate, Master
- | ____ | Postgraduate, doctorate
- | ____ | Other, please specify:

II. Parliamentary Oversight

9. Referring to your Institution, please report which of the following instruments have been exercised in its parliamentary oversight. (Choose more than one option in your answer)

- | ____ | Parliamentary interpellation;
- | ____ | Meeting of the parliamentary committee convened by the deputies;
- | ____ | Scheduled meeting of the Parliamentary Committee, dedicated to the annual reporting of the independent institution;
- | ____ | Meeting of the Parliamentary committee requested by the independent institution itself;
- | ____ | Meeting of the Parliamentary Committee requested by other parties (specify);
- | ____ | Other, please describe _____

10. Referring to parliamentary oversight activities, please report, on average, how often they occur in a year? Please refer to all the activities you reported in question 9 and refer to an average from your experience.

- | ____ | up to 2 times a year
- | ____ | 2 to 5 times a year
- | ____ | More than 5 times a year
- | ____ | I do not remember
- | ____ | Other, please describe _____

11. Please report the frequency with which the following topics are discussed in your institution's parliamentary oversight activities. Please consider your entire period of work at this institution and report an average frequency. Use the following rating scale: 1- very often, 2- often, 3- sometimes, 3- rarely, 4- very rarely, 5- never:

- | ____ | Recognition and discussion of the annual activity reports of the institution
- | ____ | Recognition and discussion of the results of the work of the institution
- | ____ | Recognition and presentation of recommendations of independent institutions to improve the function of the executive
- | ____ | Recognition and presentation of candidacies for the leaders of the institution
- | ____ | Presentation of legal initiatives
- | ____ | Monitoring the implementation of recommendations for the executive
- | ____ | Monitoring the implementation of the recommendations left by the Parliament for the Independent Institution
- | ____ | Financial management of the institution
- | ____ | Other, please describe:

12. Please give your assessment of the perception of communication between your institution and the parliament / parliamentary committee responsible for overseeing your institution:

- | ____ | Communication is transparent and collaborative
- | ____ | Communication is formal but collaborative, and helps the oversight process
- | ____ | Communication lacks transparency and cooperation making it difficult to exercise effective oversight
- | ____ | Other, please describe: _____

13. Based on parliamentary oversight Please report which of the following instruments that can be used by your parliament or institution are most effective for an oversight process: Use the following rating scale: 1- highly effective, 2- effective, 3- somewhat effective, 4- not at all effective, 5- I do not know;

- | ____ | Interpellation reports to parliament
- | ____ | Periodic reporting, in writing, as required by relevant laws
- | ____ | Meetings of the parliamentary committee initiated by the Independent Institution itself
- | ____ | Electronic monitoring and reporting system / platform
- | ____ | Independent reports commissioned by the Parliamentary Committee for the evaluation of the activity of the institutions
- | ____ | Other, please describe. _____

14. Based on the experience of your institution, how would you assess the impact of parliamentary oversight on the following aspects of strengthening your institution? To express the degree of impact please use the rating as follows: 1- high, 2- moderate, 3- low, 3- no impact, 5- do not know.

| ____ | Strengthening the independence of the institution

| ____ | Strengthening the capacity of the institution

| ____ | Strengthening the oversight of the independent institutions

| ____ | The institution's transparency and accountability have improved

| ____ | The influence of the Independent Institution on the public good and policy-making has been strengthened

| ____ | The financial management of the institution has improved

| ____ | Oversight has strengthened the role of independent institutions in the fight against corruption

| ____ | Other, specify _____

15. Based on the experience of your institution, which of the following aspects constitutes the main obstacle in strengthening the role and influence of your institution as an independent and supervisory authority of the executive. Choose at least three factors, depending on the impact you perceive.

| ____ | The degree of policy influence on the activity and decisions of independent institutions

| ____ | Technical capacities of independent institutions

| ____ | Oversight capacities of independent institutions

| ____ | It is often the legal framework that does not allow the empowerment and potential of independent institutions to materialize

| ____ | Other, please describe.

Annex 6. Questions for Independent Institutions

1. Referring to your Institution, please report how many times have you participated in a parliamentary committee to report on the institution where you work? What was the reason for reporting / the topic of reporting to the commission?
2. How was the relationship between your institution and the institution of parliament? Which of the instruments of parliamentary oversight has been most common in this relationship between the two institutions? Instruments of parliamentary oversight include Interpellation reporting to parliament; Periodic reporting, in writing, according to the requirements of relevant laws; Meetings of the parliamentary commission initiated by the Independent Institution itself; Electronic monitoring/reporting system/platform; Independent reports commissioned by the Parliamentary Committee for the evaluation of the activity of the institutions; Parliamentary Committees (e.g. investigative) ad-hoc evaluation)
3. In your judgment, how much does parliamentary oversight affect the performance of the institution where you work?
4. How can the institution of Parliament guarantee effective monitoring of the executive institutions carried out by the institution where you work?
5. How do you think the oversight role of your institution in executive monitoring can be improved/strengthened?