



Institute for Democracy and Mediation
Instituti për Demokraci dhe Ndërmjetësim

NATIONAL INTEGRITY SYSTEM ASSESSMENT

Albania 2023



Funded by
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National Integrity System Assessment: Albania 2023

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Cover: everst / Shutterstock

This report has been produced as part of Transparency International's project "EU4 Rule of Law: Citizen Engagement for Public Integrity (CEPI) in the Western Balkans and Turkey". Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of November 2023. Nevertheless, Transparency International and Institute for Democracy and Mediation cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

ISBN: 978-3-96076-253-9

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EXECUTIVE SUMMARY

Over the last seven years since the 2016 National Integrity System (NIS) assessment, Albania has noted significant improvements in the vast majority of sectors under scrutiny of this report. Significant progress has been observed in the judicial branch of power – most notably in the judiciary and prosecution – as well as in relation to some of the independent institutions such as the Ombudsperson or HIDAACI, as well as in the business sector, with positive change in scores ranging from +.10 to +28. A smoother but still progressing trend has been noted in the executive branch (+4) and supreme audit institution (SAI; +7) compared to the last NIS review for Albania (2016).

However, stagnation is still clearly perceptible in some of the key non-state sectors under review such as civil society and the media with rather modest improvement of 1-2 scores. The public sector, on the other hand, has experienced a steady decline from the 2016 NIS review for Albania with a score change of -3.

This captures the impact of development reforms in a country in which the last seven years have marked one of the most difficult times of the past two decades, owing mostly to the political confrontation and the opposition's boycott of the political system and institutions. Since the last NIS review (2016), Albania has struggled to progress towards the opening of EU accession negotiations while the fight

against corruption and organised crime as well as the implementation of judicial reform marked the headlines of various reports monitoring the state of democracy and rule of law in the country.

Since 2016, when Albania was ranked 83rd in Transparency International's Corruption Perceptions Index, its performance has declined, resulting in a five-year stagnation with scores ranging between 35 and 36. In 2022, it ranked 101st out of 180 countries. This reaffirms the European Commission's repeated conclusion that corruption remains prevalent.

Albania has committed to anti-corruption reforms, approving extensive legislation and prioritising governance reforms within the EU integration process. However, the legislative framework remains fragmented, and the effectiveness of the reforms is limited, with many public institutions lacking the necessary capacities, resources and staff for their duties.

The executive's influence over the Assembly is significant, and independent institutions such as the SAI, HIDAACI and the Ombudsperson apply limited substantive pressure on the executive to design effective anti-corruption policies.

The executive dominates the Assembly through its political majority and weak opposition, leaving the legislative body unable to effectively exert its

constitutional obligation of control and oversight over the executive. The Assembly should strengthen its oversight mechanisms, improve legislative procedures and examine the normative acts adopted by the executive in a timely manner. For a period of three years, the Constitutional Court was effectively disabled and unable to exert its functions due to a lack of quorum and only resumed its full operation in December 2020.

Albania has reformed its justice system, conducting vetting for judges and prosecutors and establishing new governing institutions. The vetting process, which examined assets, integrity and professional capacity, has led to the dismissal of 138 judges (out of 408) as of July 2023. Corruption cases targeting high-ranking officials are on the rise, with investigations underway against the former President and Prime Minister, Deputy Prime Minister, Minister of Environment, several majors and a member of the Assembly.

As a result, the judiciary and the prosecution have shown the most improvement since the last assessment. However, both continue to face undue external influence, particularly from the executive and opposition politicians. Business owners who also own media outlets exploit their platforms to single out judges handling cases connected to their business interests. Money-laundering cases are rarely prosecuted, with only the Special Prosecution Against Corruption and Organised Crime (SPAK) taking action against them.

Although the Ombudsperson and the state audit institution are the highest scoring pillars, their implementation rate of their recommendations is low, hindered by the public administration's failure to follow them and the Assembly's inability to hold public bodies accountable. The SAI's recurring findings over the last five years suggest its effectiveness in improving financial management is marginal. However, findings of SAI audits have supplied valuable evidence to some high-profile anti-corruption cases pursued by SPAK.

The SAI's criminal referrals for public officials to the prosecution are seldom investigated. At the same

time, the Group of States Against Corruption (GRECO) report has raised concerns about the inadequate follow-up on cases forwarded to the prosecution by HIDAACI.

Apart from modest results with respect to the implementation of the law on the audit of assets, the implementation in practice of the law for preventing conflicts of interest and for whistleblower protection remain poor.

A new law on public procurement aimed to align with EU standards by prioritising the most economically advantageous tender. However, public procurement procedures in the health sector and infrastructure suffer from a number of issues ranging from fictitious bidding to lack of effective oversight. Details regarding the implementation and performance of concession/public-private partnership (PPP) contracts are not disclosed. The government has announced plans to use artificial intelligence in procurement processes as a strategy to reduce corruption and increase transparency.

Decision-making within the Central Election Commission (CEC) is often split along party lines. The CEC still lacks sufficient resources to be able to effectively monitor political party financing and issue timely and effective sanctions on political parties that fail to adhere to the Electoral Code provisions.

Mechanisms to prevent the misuse of public resources during political campaigns are ineffective. There are allegations of political parties interfering in state resources and data. For instance, in April 2021, the leaked list of the Socialist Party containing the political affiliations and personal data of 910,000 citizens showed evidence of potential voter intimidation.

The process of appointing key positions such as the Ombudsperson, the head of the SAI, the State Election Commissioner and the General Inspector of HIDAACI is prone to politicisation, typically leading to appointments as a result of compromises among major political actors.

Albania's public sector is the lowest-scoring pillar. The sector suffers from vague professional

standards, corruption risks and political interference. Reform efforts have improved some aspects of the recruitment process and transparency mechanisms, but fall short in establishing a professional and accountable public sector. Merit-based recruitment processes must be oriented towards policy-related expertise and competencies rather than political appointments.

While terminations in the civil service have decreased, unfair dismissals remain a significant concern. "Revolving door" scenarios are inadequately addressed in the legal framework as it lacks clarity in addressing the transition of ministers to private or public roles.

Civil society, media and political parties also score poorly.

Trust in political parties is very low. Political parties have embraced clientelism, offering benefits in return for electoral and financial backing, increasing doubts about the involvement of criminal groups in this relationship. Intra-party democracy struggles with non-contested party leadership, staged consultations on candidate lists and strategies to align members' opinion with that of the leadership.

Journalism has turned into reporting. Government-prepared materials and hidden advertising question journalistic integrity and the public role of media. Editorial independence is conditioned by owners' interests and allegations suggest that media outlets promote government, business and criminal group agendas for personal gain in lucrative markets.

Access to information remains an issue, particularly for investigative journalists, civil society and media professionals. The establishment of the Agency for Media and Information in 2021 has further centralised the control of the information content that is made public by government institutions.

Although civil society organisations (CSOs) pursue government accountability via monitoring, research, investigations and lawsuits, their impact is limited, with only occasional success stories in strategic litigations and filing criminal reports against government acts. They face limited attention towards their policy recommendations, ongoing intimidations, harassment and attacks. The Roadmap for Enabling Environment for the Development of Civil Society has seen negligible progress, with only about one-fifth of its outlined actions estimated to have been addressed by 2022.

The business sector's regulatory regime has made notable progress, particularly with the establishment of a beneficial ownership register to ensure transparency. However, Albania's business environment remains prone to corruption due to challenges such as informality, ineffective public administration and low trust in the justice system. Cases of public officials receiving payments from the private sector are widespread, although there have been initiatives to reduce contact between businesses and public officials.

NIS METHODOLOGY

The National Integrity System (NIS) comprises the principal governance institutions in a country responsible for the fight against corruption. When these governance institutions function correctly, they constitute a healthy and robust National Integrity System, effective in combating corruption as part of the larger struggle against the abuse of power, misconduct and misappropriation in all its forms. However, when these institutions are characterised by a lack of appropriate regulations and by unaccountable behaviour, corruption is likely to thrive, with adverse ripple effects on the societal goals of equitable growth, sustainable development and social cohesion. Therefore, strengthening the NIS promotes better governance in a country and contributes to a more just society overall.

Transparency International (TI) developed the NIS as part of TI's holistic approach to combating corruption. While there is no absolute blueprint for an effective anti-corruption system, there is a growing international consensus on the salient aspects that work best to prevent corruption and promote integrity. The NIS assessment evaluates the legal basis and the actual performance of institutions relevant to the overall anti-corruption system. The NIS comprises the institutions or "pillars" depicted in Figure 1, which are based on a number of foundations in terms of political, social, economic and cultural conditions.

The NIS is based on a holistic approach to preventing corruption since it looks at the entire range of relevant institutions and also focuses on the relationships among them. Thus, the NIS presupposes that a lack of integrity in a single institution would lead to severe flaws in the entire integrity system. Consequently, the NIS assessment does not seek to offer an in-depth evaluation of each pillar, but rather puts an emphasis on covering all relevant pillars and assessing their inter-linkages.

TI believes that such a holistic "system analysis" is necessary to appropriately diagnose corruption risks and develop effective strategies to counter those risks. This analysis is embedded in a participatory approach, involving the key anti-corruption agents in government, civil society, the business community, and other relevant sectors to build momentum, political will, and civic pressure for relevant reform initiatives.

The NIS assessment creates a sound empirical basis that adds to our understanding of strong or weak performers on a cross-country level. In addition, from a regional perspective, the results can create a sense of peer pressure for reform and an opportunity for learning from those countries in similar stages of development.

Figure 1: Pillars of a National Integrity System



COUNTRY ANALYSIS

GOVERNANCE AND POLITICS

Albania is a parliamentary republic. Parliamentary elections are held once every four years, and citizens 18 years old or older vote for political parties. In the 2021 election, the political party lists were included in the ballot for the first time since the electoral reform of 2008, which changed the electoral system from a majoritarian to a proportional representation system.¹ The party lists were included in the ballot after a long societal debate on the right of the voters to know for whom they were voting, after it was revealed that a few Assembly members appointed by their political parties had criminal records.² The President appoints the Prime Minister based on the proposal from the largest party or coalition. The Socialist Party (SP) is currently governing in its second mandate alone after once again gaining 74 seats out of 140 members in the Albanian Assembly in the April 2021 parliamentary elections, as it had done in the parliamentary elections in 2017. From 2013 until 2017, the SP was the largest coalition partner governing together with the Socialist Movement for Integration (SMI).³

The President is elected by the Assembly for a five-year term.⁴ The President must be elected within five rounds. In the first three rounds, the presidential candidate must secure three-fifths of

the votes, but a simple majority is sufficient for the last two rounds.⁵ Traditionally, the President has been nominated by the governing party or coalition. In 2022, the current President was elected amidst a voting process boycotted by the majority of the opposition parties.⁶

The President is the Commander-in-Chief of the Armed Forces and appoints the top military leadership, the chief of the State Intelligence Service and the country's ambassadors based on the proposals of the Prime Minister. The President also appoints three of the nine Constitutional Court judges. The remaining six judges are appointed by the Assembly and the High Court, whereby each of them appoint three.

The governance of the judiciary has been radically changed after the justice reform and the vetting process.⁷ The High Judicial Council is the responsible institution for the governance of the judiciary. It appoints judges from the lower courts to the High Court. Similarly, the High Prosecutorial Council is responsible for the governance of the prosecutorial system, and appoints the public prosecutors. A special prosecution against corruption and organised crime has been established, which is independent of the General Prosecutor's Office.

Despite these fundamental changes, the state of democracy and the rule of law continues to be

problematic. Since 2018, several international surveys on the state of democratic governance indicate that Albania has been deteriorating. According to the World Justice Project Rule of Law Index, the state of the rule of law has been slowly declining. In 2018 and 2019, Albania had scored 0.50, whereas in 2021 and 2022 it scored 0.49 on a scale from 0 to 1.⁸ Freedom House's *Nations in Transit* report indicates similar results. Its democracy score, which is based on measurements of the democratic governance, electoral process, civil society, independent media, the judiciary and perceptions of corruption, has declined from 3.89 in 2019 to 3.72 in 2022 on a scale from 1 to 7.⁹

SOCIETY AND CULTURE

Human and civil rights are enshrined in the Constitution and protected by law. Nevertheless, there have been several documented violations of human and civil rights that suggest their protection is deteriorating. Reports from the Ombudsperson have highlighted violations of the right to free assembly, unlawful detentions and violations of the right to housing. Some of these violations – particularly with regard to the right to free assembly – deteriorated largely due to the COVID-19 restrictions, but the trend had started before the pandemic. Ahead of the local elections in June 2019, for example, the police unlawfully detained 26 citizens after a peaceful protest in Dibër.¹⁰ COVID-19 restrictions on public gatherings during the April 2021 election campaign were selectively enforced.¹¹ Similarly, an order issued on 19 April 2021 – less than a week before the parliamentary elections – by the Ministry of Health and Social Protection forcing Albanian citizens living in Greece and North Macedonia to quarantine for two weeks after entering Albania to vote actually constituted a violation of their right to vote according to the Ombudsperson.¹² Furthermore, the right to housing has been violated through forced evictions and demolition of property to make room for infrastructure projects in the city of Tirana.¹³

Societal divisions in Albania are mainly economic, but also ethnic/racial, particularly with regard to the Roma community. The Roma community suffers from deprived access to proper education, medical care, housing and work.¹⁴ On the other hand, the 2014 Law on Territorial and Administrative Division and Local Governance established two municipalities in Greek-majority areas and one municipality in which majority of the inhabitants are ethnically Macedonian.¹⁵

Media freedom has deteriorated in the last couple of years. In 2021, Albania was ranked 83 out of 180 countries, but in 2022 it dropped to 103, which is the worst performing country in the region.¹⁶ The media tends to be significantly politicised, and the relationship between the government and media owners seems to be one of mutual benefit – i.e. positive coverage for the government in exchange for access to public funds and/or facilitation of administrative procedures. Since the owners of the largest media companies are also active in other economic sectors – e.g. construction, healthcare or finance – economic self-interest dictates their editorial line.¹⁷ These relations further develop into full-fledged clientele networks essential for grand corruption and the opportunity to benefit from public contracts.¹⁸

ECONOMY

The Albanian economy rebounded well after it fell 3.5 percent during the COVID-19 pandemic in 2020. Real gross domestic product (GDP) growth in 2021 was 8.5 per cent, but it is projected to decline to 2.2 per cent in 2023.¹⁹ GDP per capita has been generally rising, except for a decline in 2020, but it has not changed markedly as a percentage of the average of the European Union.²⁰ GDP per capita (adjusted for purchasing power parity) in 2021 reached US\$ 15,810, which is the second to lowest in the Western Balkans.²¹ Energy, infrastructure (transportation and waste management) and healthcare are key sectors that have been prone to corruption.²²

Albania's Human Development Index score peaked in 2019 at 0.810, while its 2021 score was 0.796.²³ Similarly, life expectancy peaked at 79.3 years in 2019, and has since decreased to 76.5 years in 2021. Other important health indices such as the infant mortality rate, neonatal mortality rate and under-five mortality rate have slightly worsened since 2018.²⁴

Approximately 95 per cent of the population have access to drinking water services, but 71 per cent have access to safely managed drinking water services.²⁵ Issues with access to healthcare have also been highlighted in the Ombudsperson's report. Key issues remain insufficient healthcare providers and the lack of proper diagnostic and intervention equipment.²⁶ The rate of out-of-pocket payments for health as a share of health expenditure was estimated to be 56 per cent, which is the highest in the Western Balkans and about four times higher than the rate for the EU area.²⁷

The average number of registered citizens receiving unemployment benefits for the third quarter of 2022 was 2,587, but that number reached around 6,000 (approx. 0.2 per cent of the population) during the COVID-19 pandemic.²⁸ The amount of paid unemployment benefits has risen from 13,000 Albanian lek (ALL) during 2019-2020 to 16,330 ALL in the third quarter of 2022.²⁹ The number of families benefiting from social assistance decreased sharply

from 80,945 in 2017 to 53,982 in 2018, but rose to 60,496 in 2019 and it has continued to slowly rise.³⁰ In 2021, the at-risk-of-poverty rate was 22 per cent, which is equivalent to 622,705 citizens.³¹

CORRUPTION & ANTI-CORRUPTION

From 2018 to 2022, the Transparency International Corruption Perception Index (CPI) score has not changed significantly. It ranges from 35 to 36 on a scale from 0 to 100, where 0 is extremely corrupt and 100 is less corrupt.³² However, its global ranking has changed more significantly from the 99th place out of 180 countries in 2018 to the 110th place in 2021. In 2022, Albania was able to improve by reaching the 101st place, almost catching up to its 2018 rank. Nevertheless, a 2022 report published by the Albanian Centre for Economic Research indicates that corruption perceptions have worsened from 2019 to 2021. The report found that 46.8 per cent of respondents had given bribes during 2020-2021, which was 12.8 percentage points higher than the result for 2018-2019.³³ On the other hand, corruption perception surveys of the Albanian population show a slight decrease since 2019 on their perceptions on both petty and grand corruption, but the share of those who think they are both widespread in Albanian society has not dipped below 80 per cent.³⁴

Various forms of corruption are present in Albania, from petty corruption and nepotism to money laundering and state capture. While petty corruption is present, its impact and damage to the economy and well-being of the citizens is arguably less worrying than grand corruption. It is, however, important to highlight that petty corruption and nepotism in the healthcare and education sectors do profoundly affect quality of life.³⁵ While these forms of corruption have been present in Albanian society to varying degrees, several reports indicate a significant rise in grand corruption, state capture and money laundering. Grand corruption and state capture have significantly increased in the last decade as Albania has increased such risks through privatisation, concessions and public-private partnerships.³⁶ These modes of transfer of public

money and capital into private hands has been particularly prone to corruption, and they are alleged to have contributed to the personal enrichment of government officials.³⁷ Based on ongoing criminal cases and media reports, the most affected economic sectors by grand corruption have been energy and transportation infrastructure, construction, healthcare, and tourism and hospitality.³⁸

The International Monetary Fund (IMF) has criticised the lack of effective governance and oversight in the evaluation and monitoring of projects, as well as weaknesses in the coordination of the management of PPPs.³⁹ It is worth noting that until the 2020 amendments to the Law on Concessions and Public-Private Partnerships, unsolicited proposals were common for virtually every sector. The 2020 amendments have not completely removed the provision but have restricted it to transportation and energy infrastructure projects.⁴⁰ High annual budgetary caps on concessions and PPPs have profoundly increased the opportunities for state capture and grand corruption. In the 2021 budget, the cap for concessions/PPP was set at 49.8 per cent. of GDP⁴¹ – the highest since 2018. Money laundering⁴² and collusion between political parties/government officials and organised criminal groups⁴³ are concerning developments that have also worsened. Financial costs due to corruption are difficult to estimate; however, the SAI provides general figures on financial losses and damages due to waste, fraud and abuse of public funds.

In July 2016, the Albanian Assembly approved the constitutional amendments that enabled a profound overhaul of the country's judiciary. The justice reform, which is still ongoing, entailed the re-evaluation (or “vetting”) of all judges and prosecutors. The process of re-evaluation started with the Constitutional Court, which was dysfunctional for more than two years (July 2018 to December 2020).⁴⁴ The High Court suffered the same fate. By the end of July 2019, the High Court had only one judge remaining, and it reached the necessary quorum to be functional in June 2022.⁴⁵ This process created a fundamental power vacuum,

undermined the constitutional checks and balances, and arguably facilitated arbitrary government decision-making.

While the judiciary has recovered, the anti-corruption legal and institutional framework is not sufficiently effective to prevent high-level corruption despite some improvements. The Albanian Assembly adopted the Law on Whistleblowing and Whistleblower Protection⁴⁶ in June 2016. In addition to this law, the Law on the Declaration and Audit of Assets and Other Financial Obligations of Elected Persons and Certain Public Officials⁴⁷ (Law on the Declaration of Assets), Law on the Prevention of Conflicts of Interest in the Exercise of Public Functions⁴⁸ (Law on the Prevention of Conflicts of Interest), and the Law on Guaranteeing the Integrity of Elected and Appointed Officials⁴⁹ (Law on Decriminalisation) complete the anti-corruption legal framework. According to the 2020 evaluation of the Group of States against Corruption (GRECO), the anti-corruption legislative framework is quite comprehensive, but not sufficiently clear and coherent in establishing the institutional responsibilities to enforce it.⁵⁰ Furthermore, a lack of institutional transparency and evidence-based policymaking facilitates corrupt decision-making and state capture. Despite some progress achieved towards the establishment of basic standards of transparency and public consultation through the Law on the Right to Information and the Law on Public Notification and Consultation, public institutions still fail to disclose relevant budgetary and procurement data⁵¹ while public consultation processes tend to be formal.⁵²

Anti-corruption policy is coordinated by the Ministry of Justice as the national anti-corruption coordinator. The Ministry is responsible for convening representatives from other line ministries, law enforcement agencies and independent oversight institutions to draft the national anti-corruption policy. Albania's national anti-corruption policy has three main approaches – (i) preventive, (ii) punitive and (iii) awareness and

Table 1. Financial losses and damages according to the SAI audit findings

	2017	2018	2019	2020	2021
Financial losses and damages (2020 ALL in billion)	109.07	211.76	157.12	77.44	73.85
Financial losses and damages (US\$)	9,816,268.42	19,058,490.00	14,140,931.40	6,969,600.00	7,089,984.00

Source: SAI annual performance reports, https://www.klsh.org.al/cat_list/13.⁵⁶

education – which are outlined in the Inter-Sectoral Strategy against Corruption 2015-2020.⁵³ The preventive approach focuses on the integrity of public officials, public internal financial controls, transparency and public consultation. The measures under this approach are financed by the state budget (372 million ALL – approximately US\$3.4 million) and international donors (438 million ALL – approximately US\$4 million) with a gap of 176 million ALL (approximately US\$1.6 million). The Ministry of Justice, as the national coordinator, is supported by a technical secretariat whose main purpose is to collect and process reports from other institutions responsible for the implementation of specific measures and coordinates the action plans designed to implement the strategy.

In accordance with the Law on Whistleblowing and Whistleblower Protection, both public institutions with more than 80 employees and private entities with more than 100 employees have established whistleblower units.⁵⁴ Additionally, the Ministry of Justice has established the Network of Anti-Corruption Coordinators in October 2021.⁵⁵ The coordinators have been appointed to 44 agencies, directorates (e.g., customs and taxation), state-owned enterprises and hospitals. There are also four regional anti-corruption coordinators. The Network is part of the Responsible Structure against Corruption, which is a directorate at the Ministry of Justice. The mandate of the Structure is almost exactly the same as that of HIDAACI's on whistleblowing, and thus presents significant challenges in its implementation.

Anti-corruption policy has been heavily supported by the international donor community. Key donors

and partners include the EU Delegation, the World Bank, the United Nations Development Programme (UNDP), the Organisation for Security and Cooperation in Europe, the US Agency for International Development (USAID) and the Swedish Agency for International Development (SIDA). The Institute for Democracy and Mediation (IDM) has provided technical assistance to draft the integrity plans of local and central government institutions, the Information and Data Protection Commissioner and the High Prosecutorial Council, as well as the code of ethics of the Constitutional Court. The IDM, as well as the Norwegian Centre for Integrity in the Defence Sector, have implemented projects that seek to promote integrity in the Albanian State Police, the Ministry of Interior and the Ministry of Defence.

ENDNOTES

- ¹ Venice Commission, *Constitutional Amendments approved by Parliament on 30 July 2020*, 2020, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2020\)074-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2020)074-e).
- ² Institute for Political Studies, *Decriminalization: Current Situation, Issues, and Expectations*, 2018, https://www.kas.de/documents/252038/253252/7_dokument_dok_pdf_51617_1.pdf/1eadef39-ba88-a0c5-4c21-63343d6d448d?version=1.0&t=1539655072473.
- ³ After the 2013 elections, the SP won 65 seats while its coalition partner, the SMI, won 16 seats.
- ⁴ Article 88, Constitution of Albania, <https://qbz.gov.al/preview/635d44bd-96ee-4bc5-8d93-d928cf6f2abd>.
- ⁵ Article 87, Constitution of Albania.
- ⁶ Voice of America, *Albania Elects Top General as Country's New President*, 2022, <https://www.voanews.com/a/albania-elects-top-general-as-country-s-new-president-/6603918.html>.
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- ⁸ The scale measures weak (0) to strong (1) adherence to the rule of law. For more information, see World Justice Project, "Albania", accessed on 7 March 2023, <https://worldjusticeproject.org/rule-of-law-index/country/2022/Albania/>.
- ⁹ The scale measures democratic progress: 1 represents the lowest progress and 7 the highest. For more information, see Freedom House, "Nations in Transit 2022: Albania", accessed on 7 March 2023, <https://freedomhouse.org/country/albania/nations-transit/2022>.
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- ¹² ODIHR, *Republic of Albania Parliamentary Elections 25 April 2021*, p. 22; Ombudsperson, "Annual Report on the Activities of the People's Advocate 2021", p. 133-134, <https://www.avokatipopullit.gov.al/media/manager/website/reports/PA%202021%20Annual%20Report.pdf>.
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- ¹⁵ Law no. 115/2014 "On territorial and administrative division and local governance", <https://qbz.gov.al/eli/ligj/2014/07/31/115>.
- ¹⁶ Reporters without Borders, "Albania", accessed on 7 March 2023, <https://rsf.org/en/index>.
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- ¹⁹ International Monetary Fund, "Albania: Staff report for the 2022 Article IV consultation" in *IMF Country Report No. 32/362*, (Washington, DC: IMF Publishing Services, 2022), <https://www.imf.org/en/Publications/CR/Issues/2022/12/09/Albania-2022-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-526816>.
- ²⁰ GDP per capita as a share of the EU's average is approximately 32 per cent. International Monetary Fund, "Albania: Staff report for the 2022 Article IV consultation", p. 24.
- ²¹ The World Bank, "GDP per capita, PPP (current international \$) - Albania, Serbia, Montenegro, Kosovo, Bosnia and Herzegovina, North Macedonia", accessed on 8 March 2023, <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD?locations=AL-RS-ME-XK-BA-MK>.

²² Gjergji Vurmo, Rovena Sulstarova, and Alban Dafa, *Deconstructing State Capture in Albania: An Examination of Grand Corruption Cases and Tailor-made Laws from 2008 to 2020*, p. 17.

²³ United Nations Development Programme, "Human Development Reports", accessed on 8 March 2023, <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>.

²⁴ See UN Inter-agency Group for Child Mortality Estimation, "Albania", accessed on 8 March 2023, <https://childmortality.org/data/Albania>.

²⁵ <https://data.unicef.org/country/alb/>.

²⁶ Ombudsperson, "Annual Report on the Activities of the People's Advocate 2021", p.100-104.

²⁷ United Nations Albania, "Health Sector Budget Brief", 1 March 2023, accessed on 9 March 2023, <https://albania.un.org/en/173584-health-sector-budget-brief>.

²⁸ See data under "Pagesa e papunësisë" in INSTAT, "Mbrotjtja sociale", accessed on 8 March 2023, <https://www.instat.gov.al/al/temat/kushtet-sociale/mbrotjtja-sociale/#tab2>.

²⁹ INSTAT, "Mbrotjtja sociale".

³⁰ In 2021 there were 62,030 families. See data under "Numri i familjeve dhe fondi i ndihmës ekonomike sipas strukturës së familjes" in INSTAT, "Mbrotjtja sociale".

³¹ INSTAT, "Matja e të Ardhurave dhe Nivelit të Jetesës në Shqipëri, 2021", accessed on 9 March 2023, <https://www.instat.gov.al/al/temat/kushtet-sociale/anketa-e-t%C3%AB-ardhurave-dhe-nivelit-t%C3%AB-jetes%C3%ABs-aanj/publikimet/2022/matja-e-t%C3%AB-ardhurave-dhe-nivelit-t%C3%AB-jetes%C3%ABs-n%C3%AB-shqip%C3%ABri-2021/>.

³² A graphical representation of the changes throughout the years can be accessed at Transparency International, "Corruption Perceptions Index", accessed on 13 March 2023,

<https://www.transparency.org/en/cpi/2018/index/alb>.

³³ Zef Preçi et al., *Results of the Corruption Monitoring System in Albania*, (Tirana: Albanian Centre for Economic Research, 2022), p. 13, https://acer.org.al/wp-content/uploads/2021/09/ACER_SELDI_ENG_CMS-2021-FINAL.pdf.

³⁴ 'Trust in Governance' opinion poll reports for 2018-2020 can be found at: <https://idmalbania.org/trust-in-governance/>. The 2021 report can be found at: <https://idmalbania.org/public-opinion-poll-trust-in-governance-2021/>.

³⁵ See Deniz Devrim, *The Gendered Impact of Corruption in the Albanian Health Care and Tertiary Education Sectors*, (Tirana: OSCE Presence in Albania, 2021), <https://www.osce.org/files/f/documents/5/4/513448.pdf>,

³⁶ See Gjergji Vurmo, Rovena Sulstarova, and Alban Dafa, *Deconstructing State Capture in Albania: An Examination of Grand Corruption Cases and Tailor-made Laws*, (Tirana and Berlin: Institute for Democracy and Mediation and Transparency International, 2021),

https://images.transparencycdn.org/images/2021_Report_DeconstructingStateCaptureAlbania_English.pdf and Transparency International, "High-level corruption in the Western Balkans and Turkey", accessed on 13 March 2023, <https://www.transparency.org/en/projects/cases-project/data>.

³⁷ As an example of the corruption through PPPs, the Special Prosecution against Corruption and Organised Crime (SPAK) has filed several indictments for a former minister and a former secretary general, who are currently under arrest. The indictments are part of an investigation into the three concessions for waste management plants awarded to one company. See "Zbardhen emrat, kush janë të arrestuarit për inceneratorët", *Euronews Albania*, 16 November 2022, <https://euronews.al/zbardhen-emrat-kush-jane-te-arrestuarit-per-incenorete/>; Edmond Hoxhaj, "Stela Gugallja e aferës së inceneratorëve, në proces ekstradimi në Vienë", *Reporter.al*, 7 February 2023, <https://www.reporter.al/2023/02/07/stela-gugallja-e-aferes-se-incenoreteve-ne-proces-ekstradimi-ne-viene/>; Armand Bajrami, "SPAK mbyll hetimet për inceneratorin e Elbasanit, i komunikon akuzat Lefter Kokës", *A2*, 10 November 2022, <https://a2news.com/2022/11/10/spak-mbyll-hetimet-per-incenoreteve-e-elbasanit-i-komunikon-akuzat-lefter-kokes/>.

³⁸ See for example Gjergji Vurmo, Rovena Sulstarova, and Alban Dafa, *Deconstructing State Capture in Albania: An Examination of Grand Corruption Cases and Tailor-made Laws* and Walter Kemp, Kristina Amerhauser, Ruggero Scaturro, *Spot Prices: Analyzing flows of people, drugs and Money in the Western Balkans*, (Geneva: Global Initiative against Organised Crime, 2021), 46-58, <https://globalinitiative.net/wp-content/uploads/2021/05/Spot-Prices-Analyzing-flows-of-people-drugs-and-money-in-the-Western-Balkans.pdf>.

³⁹ International Monetary Fund, "Albania: Staff report for the 2022 Article IV consultation" in *IMF Country Report No. 32/362*, (Washington, DC: IMF Publishing Services, 2022), p. 13,

<https://www.imf.org/en/Publications/CR/Issues/2022/12/09/Albania-2022-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-526816>.

⁴⁰ See Article 25, Law no. 125/2013 “On concessions and public-private partnerships”,

<https://qbz.gov.al/eli/ligj/2013/04/25/125-2013>.

⁴¹ Article 18, Law no. 137/2020 “On the 2021 budget”, <https://qbz.gov.al/eli/ligj/2020/11/16/137>.

⁴² Walter Kemp, Kristina Amerhauser, Ruggero Scaturro, *Spot Prices: Analyzing flows of people, drugs and Money in the Western Balkans*, 46-58.

⁴³ Transparency International, “Narcotics trafficking (Tahiri)”, accessed on 14 March 2023,

<https://www.transparency.org/en/projects/cases-project/data/narcotics-trafficking-tahiri>.

⁴⁴ <https://albanianpost.com/gjykata-kushtetuese-behet-funksionale/>.

⁴⁵ <https://www.zeriamerikes.com/a/6602069.html>.

⁴⁶ <https://qbz.gov.al/eli/ligj/2016/06/02/60-2016>.

⁴⁷ <https://www.ildkpkj.al/legjislacioni-en/?lang=en>.

⁴⁸ <https://www.ildkpkj.al/legjislacioni-section2-en/?lang=en>.

⁴⁹ <https://qbz.gov.al/eli/ligj/2015/12/17/138>.

⁵⁰ GRECO, “Fifth Evaluation Round: Evaluation Report: Albania”, December 2020, p. 22, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a0923d>.

⁵¹ Dorian Matlija and Irena Dule, *E Drejta e Informimit 2021*, (Tirana: Res Publica, 2022), pp. 21-22.

⁵² European Commission, “Albania 2022 Report”, pp. 6, 9, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Albania%20Report%202022.pdf>.

⁵³ The action plan of the strategy was extended until 2023. Meanwhile, a new strategy is in the process of being adopted and will cover the period 2023-2030. More information can be accessed at Ministry of Justice, “Dokumente Strategjike”, accessed on 14 March 2023, <https://www.drejtesia.gov.al/dokumente-strategjike/>.

⁵⁴ According to the 2021 HIDAACI annual report, 362 public sector institutions and 527 private sector entities had established whistleblower units. See HIDAACI, 2021 Annual Report, pp. 11-12, <https://www.ildkpkj.al/gloosys/2022/07/Raport-Vjetor-i-Inspektoratit-te-Larte-te-Deklarimit-dhe-Kontrollit-te-Pasurive-dhe-Konfliktit-te-Interesave-Viti-2021.pdf>

⁵⁵ Decision of Council of Ministers no. 618, date 20.10.2021 “On the establishment and organization of the network of anti-corruption coordinators”, <https://qbz.gov.al/eli/vendim/2021/10/20/618>.

⁵⁶ The values in the SAI reports have been brought to 2020 based on the CPI index published by the Bank of Albania, which can be accessed under the rubric “Inflacioni bazë”, available at: https://www.bankofalbania.org/Politika_Monetare/Objektivi_dhe_strategjia/Inflacioni_baze.html. The average exchange rate for 2017-2020 has been estimated at 1 ALL to 0.009 USD. For 2021, it has been estimated at 1 ALL to 0.0096 USD.

ACRONYMS

ADISA	Agency for the Delivery of Integrated Services Albania
AIS	Albanian Institute of Sciences
ALL	Albanian lek
ALSAI	Albania's Supreme State Audit Institution
AMA	Audiovisual Media Authority
APO	Agency for Police Oversight
ARMO	Albania Refining and Marketing of Oil
ASCS	Agency for Civil Society Support
ASP	Albanian State Police
ASPA	Albanian School of Public Administration
BCC	Ballot Counting Centres
BCSDN	Balkan Civil Society Development Network
BIRN	Balkans Investigative Regional Network
CCJE	Consultative Council of European Judges
CEAZ	Commissions of the Electoral Administration Zones
CEC	Central Election Commission

COCS	Commissioner for the Oversight of the Civil Service
CPI	Corruption Perception Index
CRD	Civil Rights Defenders
CSC	Complaints and Sanctions Committee
CSO	Civil society organisations
DCAF	Democratic Control of the Armed Forces
DoPA	Department of Public Administration
DP	Democratic Party
EACIDS	Electronic Asset and Conflict of Interest Declaration System
ERA	Energy Regulatory Authority
EU	European Union
FP	Freedom Party
FSA	Financial Supervisory Authority
GANHRI	Global Alliance of National Human Rights Institutions
GDP	Gross domestic product
GJP	General Jurisdiction Prosecution
GPD	General Police Director
GRECO	Group of States Against Corruption
HJC	High Judicial Council
HJI	High Justice Inspector
HPC	High Prosecutorial Council
IDM	Institute for Democracy and Mediation
IDP	Information and Data Protection
IDRA	Institute for Development, Research and Alternatives
IFRS	International Financial Reporting Standards
HIDAACI	High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest

IMF	International Monetary Fund
INSTAT	Institute of Statistics
IPC	Institution of Public Commissioners
IQC	Independent Qualification Commission
IT	Information technology
JAC	Judicial Appointments Council
KESH	Albanian Power Corporation
KRIIK	Coalition for Reforms, Integrations, and Consolidated Institutions
LGBT	Lesbian, Gay, Bisexual and Transgender
LPP	Law on Political Parties
MFFR	Media Freedom Rapid Response
MP	Member of Parliament
NAS	National Accounting Standards
NBC	National Business Centre
NDI	National Democratic Institute
NGO	Non-governmental organisations
NPO	Non-profit organisations
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
OSFA	Open Society Foundation Albania
OSHEE	Albanian Operator of Energy Supply
OST	Albanian Transmission Operator
PCEF	Parliamentary Commission on Economy and Finances
PPC	Public Procurement Commission
PPP	Public-private partnership
RC	Regulatory Committee

RIA	Regulatory impact assessment
SAI	Supreme audit institution
SCA	Sub-Committee on Accreditation
SELDI	Southeast Europe Leadership for Development and Integrity
SIGMA	Support for Improvement in Government and Management
SIDA	Swedish Agency for International Development
SLAPP	Strategic Lawsuits against Public Participation
SMI	Socialist Movement for Integration
SOE	State-owned Enterprises
SoM	School of Magistrates
SP	Socialist Party
SPAK	Special Prosecutor's Office Against Corruption
TACSO	Technical Assistance to Civil Society Organisations in the Western Balkans and Turkey
UBO	Ultimate Beneficial Owners
UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USAID	US Agency for International Development
VAT	Value-added tax
VCC	Voting Centre Commissions

LEGISLATURE

OVERVIEW

Albania is a parliamentary republic. The Assembly has 140 Members of Parliament (MPs) elected based on a proportional electoral system on regional level with a national threshold of one per cent and semi-opened lists, with citizens having one preferential vote. The tenth legislature started on September 2021.⁵⁷

There is a lack of independence of the legislature from the executive due to the effects of the electoral system, lack of intra-party democracy, a single-party government and weak opposition actions due to internal fractions and conflicts. The Assembly oversight of the executive directly or through supporting the implementation of recommendations of the Supreme Audit Institution (SAI) and Ombudsperson for the government is weak.

The Assembly has recently increased its transparency and accountability by engaging more actively in public consultation and with civil society, but this engagement remains mostly formal for the Assembly's decision-making. While there are mechanisms for ensuring the MPs' integrity, the Assembly does not monitor their implementation, ethics and integrity provisions are enforced poorly, and MPs' misbehaviour goes mostly unsanctioned. The Assembly has adequate planned financial resources, but its existing political and administrative staff in support of the MPs is insufficient for the vast activity of the Assembly.

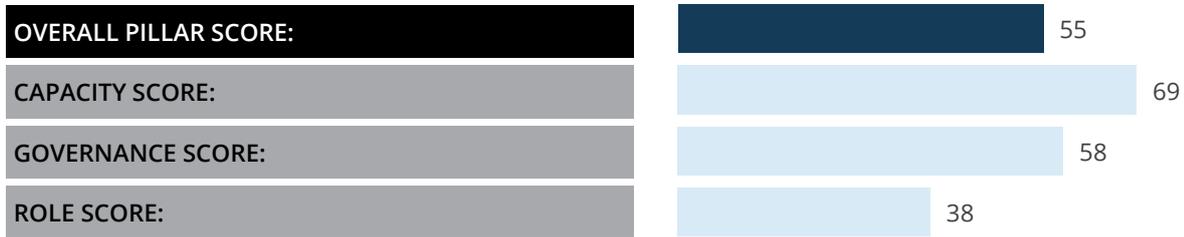
The Assembly has prioritised anti-corruption reforms through ratifying international conventions and by approving a vast legislative framework, and has also prioritised other reforms related to good governance in the framework of the European Union (EU) integration process. However, the legislative framework is still fragmented. It contains gaps related to political parties and campaign finances, and the reforms are mostly ineffective or have yet to produce tangible results in combatting corruption in the country.

LEGISLATURE



	Indicator	Law	Practice
Capacity	Resources	100	50
	Independence	100	25
Governance	Transparency	100	75
	Accountability	50	25
	Integrity mechanisms	75	25
Role	Executive oversight		25
	Legal reform		50

SUMMARY



CAPACITY

INDICATOR 1.1.1 RESOURCES (LAW)

To what extent are there provisions in place that provide the legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?



There are sufficient provisions in place in the Constitution, the Law on the Status of Members of Parliament and in the Regulation of the Assembly to ensure that the legislature receives adequate resources to effectively carry out its duties.

According to the Constitution, the organisation and functioning of the Assembly is based on its own regulation which is approved by an absolute majority of the MPs.⁵⁹ The Assembly determines its own budget and number of staff as part of the state budget which is approved by law. The Bureau of the Assembly is the decision-making body for the administrative and financial aspects.⁶⁰ The Secretariat for the Budget of the Assembly, in cooperation with the Secretary General, follows and oversees all the procedures of drafting the annual and mid-term budget until its approval from the Bureau, and supervises the implementation of the budget during the year.⁶¹ The draft budget approved by the Bureau is forwarded to the Parliamentary Committee for Economy and Finances, which is responsible for discussing the draft law on the state budget, and is then subsequently sent to the Assembly for its final

approval.⁶² While there may be mid-term budget cuts from the government with normative acts taken by the Council of Ministers, such acts require the approval of the Assembly within 45 days.⁶³

The Law on the Status of MPs provides for additional financial benefits for MPs, such as covering their rent if not resident in the capital city, expenses for telephone services, and specialised health treatments abroad if not provided within the country.⁶⁴ The law also provides that parliamentary committees, parliamentary groups and MPs, including their assigning staff, are provided with offices within the premises of the Assembly as well offices in each region, one for the MPs of the majority and one for the MPs of the opposition.⁶⁵

The administrative activity of the Assembly is directed by the General Secretary,⁶⁶ who is answerable to the Head of the Assembly and to the Bureau of the Assembly.⁶⁷ The Assembly is independent with regards to recruiting and self-administering the working relations of its staff.⁶⁸ A new human resources strategy and internal regulation for the services of the Assembly were approved recently.⁶⁹

INDICATOR 1.1.2 RESOURCES (PRACTICE)

To what extent does the legislature have adequate resources to carry out its duties in practice?



The legislature has sufficient financial resources. However, the number of political staff for supporting the parliamentary activity is low and there are significant vacancies in administrative and political human resources which may impact the performance of MPs and of the Assembly.

While the Assembly has agreed each year on budget revisions deviating from the planned budget, for example due to the lower number of MPs from 2019 to 2021 after MPs from opposition parties rescinded their mandates or due to the COVID-19 emergency in 2020, its overall budget has been adequate to effectively carry out its duties.⁷⁰

The digital infrastructure and other technical resources such as the electronic voting system and the audio-video system have been increased to support the activities in parliamentary committees and plenary sessions, as well as to ensure better accessibility of such activities for the public.⁷¹ The Parliamentary Institute was established in 2020 with eight employees to provide the MPs with research or other information in the framework of their representative, legislative and scrutinising functions.⁷² Twenty-four offices to be used by MPs, one for the MPs of the majority and one for MPs of the opposition in each of the 12 regions of Albania,

have been established for facilitating the MPs' communication with their constituents.⁷³ Meanwhile, on the premises of the Assembly, individual offices are provided only for certain roles such as the Speaker and the chairs of parliamentary groups and parliamentary committees, while MPs generally share offices.⁷⁴

According to a study from the National Democratic Institute (NDI) in 2020 in a comparative perspective, the Assembly of Albania had one of the lowest rates of administrative staff as well as non-partisan and partisan staff per MP.⁷⁵ However, recently there has been an improvement in the number of political staff dedicated to supporting parliamentary activity. For example, there are now eight advisers for the two largest parliamentary groups compared to four before, and there is one dedicated adviser for the smaller parliamentary groups. All parliamentary groups have a secretary for their activities.⁷⁶ However, according to an adviser of the Socialist Party parliamentary group, which constitute the parliament majority, the political staff is deemed to be insufficient for the vast activity of the parliamentary committees and for the Assembly. Parliamentary committees are supported by only two advisers and the number of political staff dedicated to supporting parliamentary groups is still low compared to other countries in the region.⁷⁷ There are no personal assistants to support the MPs' activity apart from the political staff for the parliamentary group.⁷⁸

While the increased number of approved administrative staff is considered adequate by the

Budget/year	2019	2020	2021	2022
Planned Budget for the Assembly in lek and euro¹	1,324,000,000 lek €10,852,459	1,341,000,000 lek €10,982,800	1,153,160,000 lek €9,375,284	1,431,566,000 lek €12,288,120
Revised Budget for the Assembly	1,231,000,000 lek €10,090,163	1,174,100,000 lek €9,703,306	1,050,293,440 lek €8,538,970	-

¹ The euro amounts are calculated from the official exchange rate of the Bank of Albania for each year, https://www.bankofalbania.org/Tregjet/Kursi_zyrtar_i_kembimit/Arkiva_e_kursit_te_kembimit/

Assembly, there are significant staff vacancies in the administrative or political staff which may impact the work performance of the Assembly.⁷⁹ The Assembly does not provide clear data on the overall planned and actual administrative or political staff in its reports. However, it reported that in 2019 there were 43 administrative and political staff who had left their job in the Assembly.⁸⁰ In 2020, compared to the planned 407 overall staff, which includes MPs and Assembly staff, the total existing staff was 339, and in 2021, compared to the overall 409 planned staff, the total existing staff was 356.⁸¹ The approximative number of vacancies for the political and administrative staff of the Assembly was more than 60 in 2020 and more than 50 in 2021.⁸²

INDICATOR 1.1.3 INDEPENDENCE (LAW)

To what extent is the legislature independent and free from subordination to external actors by law?



The legislative framework comprehensively ensures the independence of the legislature.

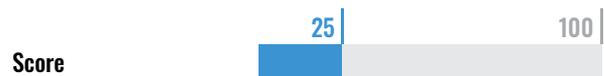
The President of the Republic convenes the newly elected Assembly, or if he or she does not exercise this power, the Assembly convenes itself.⁸³ Similarly, it may recall itself outside normal sessions if requested by one-fifth of all MPs.⁸⁴ The Assembly elects and dismisses its Speaker and controls the appointments to its permanent and special committees,⁸⁵ and determines its own agenda.⁸⁶

The legislators are not legally responsible for their votes and speeches expressed in the Assembly, with the exception of defamation. They have immunity, which can be lifted only by the Assembly, except if caught committing a crime.⁸⁷ The Assembly can be dismissed before the end of its four-year term if it fails to elect the President of the Republic or the Prime Minister, or if a motion of confidence submitted by the Council of Ministers is approved by less than half of all members of the Assembly.⁸⁸

The dominance of the executive vis-à-vis the legislature was enforced in 2008 through the constitutional provision of a constructive motion of no-confidence,⁸⁹ since the Assembly has to elect a new Prime Minister with an absolute majority before dissolving the existing government.⁹⁰ Additionally, any non-governmental legal initiative which increases budget expenditures or reduces state incomes cannot be approved by the Assembly without obtaining the opinion of the Council of Ministers, which must be expressed within 30 days.⁹¹ However, it is the legislature that mandates the government and approves and scrutinises the state budget and the overall executive activity.⁹²

INDICATOR 1.1.4 INDEPENDENCE (PRACTICE)

To what extent is the legislature free from subordination to external actors in practice?



The executive often interferes with the activities of the legislature with consequences for the behaviour of the legislature.

Although Albania introduced a proportional electoral system at the regional level in 2009, it has produced a single-party majority in the Assembly since 2017,⁹³ which has enforced the stability of the executive vis-à-vis the legislature more than in a “first past the post” electoral system.

The Prime Minister, beyond being the leader of the ruling party, also has the final word on the ranking of the candidate lists for MPs, which, as a result, are more linked to the political party leader rather than a single constituency and its citizens. In Albania, the domination of the political party leader is also enforced through low intra-party democracy in selecting MP candidates, strong political leaders and a lack of support for party fractions.⁹⁴ However, the MP candidate lists were partially opened in 2021 through the introduction of one preferential vote. 17 candidates overcame the electoral quotient and three of them were elected through repositioning

due to electoral support.⁹⁵ However, they too were part of the lists that were defined by party leadership.

The institutional activity of the Assembly was also hampered by the opposition parties, which rescinded their mandates from February 2019 up to the end of the legislature in 2021 and were replaced by candidates from small parties or candidates who acted as independent MPs. This meant that the main opposition party's activity was extra-parliamentary. The main opposition parties returned to parliamentary activities in the new legislature that started in September 2021, and they lead three of the eight permanent Assembly committees and two from the seven secretariats of the Assembly Bureau. An opposition MP is also one of the two Deputy Chairmen of the Assembly.⁹⁶ However, the new legislature saw the main opposition party fragmented due to internal conflicts for the head of party leadership, hindering common political activity in the legislature.

The executive has the main legislative initiative, and from January 2021 to July 2022, it proposed around 86 per cent of draft bills. During this timeframe, there were no instances when a draft bill introduced by the government was not voted through by the Assembly.⁹⁷ However, the Assembly is mostly active through amending the government proposals, and in 2021, it approved a total of 940 amendments to draft laws.⁹⁸ The lack of independence of the Assembly from the executive is also visible in its weak oversight in practice of governmental activity directly or by supporting the recommendations of independent bodies to the executive (*see 1.3.1*).

GOVERNANCE

INDICATOR 1.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?

100

Score

There are multiple comprehensive provisions in the Constitution, the Regulation of the Assembly and in the Law for the Right to Information⁹⁹ which ensure that the public can obtain information on the organisation and functioning of the Assembly, on the decisions it takes, and how these decisions were made. There are no deadlines for publishing the written minutes of plenary sessions and committee meetings after their approval. However, their sessions are broadcast on public television.

The Secretariat for Transparency and Information Technology of the Assembly is in charge of ensuring and supervising the transparency of the institution for the public.¹⁰⁰ As a rule, the meetings of the Assembly have to be open, with the exception of situations in which the majority of all its members have voted against this after a proposal by the President of the Republic, the Prime Minister or one-fifth of the MPs.¹⁰¹

The open activity of the Assembly is carried out through conveying its activity in written and visual media free of charge and by publishing parliamentary documentation. According to the Regulation of the Assembly, the approval of the political programme and the composition of the Council of Ministers, the sessions of questions, the weekly question-and-answer session, interpellations, urgent interpellations, motions, motions of confidence and no-confidence, as well as the reports of committees of inquiry are broadcast in full on public television.¹⁰² Accredited representatives of written and electronic media also take part in the plenary sessions of the Assembly.¹⁰³ The parliamentary documentation also must be

published in written form and on the Assembly's official website. Parliamentary documentation includes the agendas of legislative sessions and committee hearings, the texts of the submitted draft laws or proposed amendments together with their accompanying documentation, voting records and minutes of the plenary sessions or parliamentary committee meetings.¹⁰⁴ The minutes are published on the Assembly's official website after their final approval in the subsequent plenary session or committee meeting.¹⁰⁵ While committee meetings and plenary sessions are broadcast on public television, there is no deadline for publishing the written minutes after their final approval.

There are dispositions that allow members of the public to access and attend legislative sessions, as well as forward petitions to the Assembly.¹⁰⁶

In March, the Bureau of the Assembly approves the annual report of the activity of the Assembly and the annual report of public participation in the Assembly's decision-making, and both reports must be published on the Assembly website.¹⁰⁷ The Bureau also authorises the publication of the financial expenses incurred by the Assembly on the official website every two months.¹⁰⁸ MPs' declarations of private interests and assets can be published only in accordance with the legislation on the right to information and on the protection of personal data, which means that personal data must be redacted (*see 10.2.1*).¹⁰⁹

The MPs' written declarations on conflicts of interest for each case must be published on the official website of the Assembly.¹¹⁰ The Assembly also has to comply with the law on the right to information for making public its programme of transparency or by providing to the public information upon request within ten working days.¹¹¹

INDICATOR 1.2.2 TRANSPARENCY (PRACTICE)

To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the legislature in practice?



The public is able to obtain relevant information on most aspects related to the organisation and functioning of the legislature on decisions that concern them and how these decisions were made. However, there are delays in publishing meeting minutes after their approval and the website of the Assembly is currently under construction.

A parliamentary working group on transparency standards has existed since 2021, and the Assembly is in the final steps of approving clear transparency standards and indicators based on the best international practices for an open parliament and promoting a constructive dialogue with the civil society.¹¹²

Meanwhile, the Assembly has facilitated the participation of members of the public in its sessions. The Assembly provided 546 permissions for members of the public to attend the Assembly sessions in 2021.¹¹³ A civic education service has been established within the Parliamentary Institute to encourage the citizens to engage actively in the work of the Assembly.¹¹⁴

A dedicated channel on national TV broadcasts the plenary sessions of the Assembly live. Plenary sessions and the parliamentary committees' meetings with public interests, as well as further information on Assembly activity, are also broadcasted on the Assembly's social media profiles.¹¹⁵

With the new legislature in 2021, the Assembly has also improved its transparency for the public, which includes publishing the Assembly annual report and the annual report of public participation in the Assembly decision-making, minutes of parliamentary committees and of the plenary sessions, voting records, statistical data on the MPs

or on the Assembly activities, the Assembly budget and its monitoring reports as well as expenditures for each MP and cases when MPs do not take part in voting due to their possible conflict of interest on its official website.¹¹⁶

The improved transparency of the Assembly is also stressed by monitoring reports of civil society organisations. However, there are delays in practice for publishing the written minutes of meetings of parliamentary committees or plenary sessions after their approval and the official website of the Assembly has been under construction for several months, which creates difficulties in practically accessing the published information.¹¹⁷

INDICATOR 1.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the legislature has to report on and be answerable for its actions?



There are provisions for the constitutional review of legislative activities. However, provisions for public consultation do not facilitate the public's possibility to forward comments, and the consultation of interested groups is at the discretion of the parliamentary committees.

While the law on public consultation determines the obligation that draft acts have to be consulted upon with the public,¹¹⁸ in practice this process is made difficult by provisions of the Assembly. The new manual of public participation in the decision-making of the Assembly, although recognising the public's right to forward comments and recommendations on draft acts, also provides that they should take the form of amendments according to the legislative technique.¹¹⁹ Additionally, the public hearing of experts, representatives of civil society, representatives of interest groups, and other interested groups during the legislative process in the parliamentary committees is at the discretion of the respective

parliamentary committee unless one-third of its members expressly requires the hearings with a written and motivated request.¹²⁰

The Constitutional Court reviews the compatibility of laws with the Constitution or with international agreements as well as conflicts of competencies among branches of power, and is the final adjudication of complaints by individuals against any act of public power or judicial decision that infringes upon their fundamental rights and freedoms guaranteed by the Constitution.¹²¹

The Constitutional Court is also the final adjudication for the decision of the Assembly to dismiss the President of the Republic or for determining his or her incapacity to execute their duties, and for deciding whether an MP has acquired public funds or performed profitable activities against the law.¹²² MPs do not bear legal responsibility for opinions expressed and their votes in the Assembly except in the case of defamation.¹²³

INDICATOR 1.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do the legislature and its members report on and answer for their actions in practice?



While members of the legislature have to report and be answerable for certain actions of theirs, public consultation with civil society remains formal, Assembly decision-making and public information on the petitions received from citizens is ineffective, and there is low public trust in the Assembly.

The Assembly proactively publishes reports and documents on its legislative activity, but this information is not published in due time (see 1.2.2). Since 2017, several MPs have been convicted of defamation by the court and have been asked to pay damages to the offended colleague or citizens.¹²⁴ However, other provisions for keeping MPs responsible are applied only partially. In 2017, the Assembly prevented the arrest of a MP from the

majority party by using immunity regulations and only granting the prosecutor’s office authorisation to search his residence.¹²⁵ The former MP was arrested and convicted after they voluntarily resigned from their parliamentary mandate.¹²⁶ In a recent case, the Assembly could not determine immunity for another MP, again from the majority party, since they had voluntarily resigned from their mandate after the prosecutor’s office asked for their arrest.¹²⁷

According to a study in 2020, there was a gap between the perception of the Assembly and that of civil society organisations about the facilitation by the Assembly of civil society organisations’ and interest groups’ participation in the legislative process.¹²⁸ The Assembly started engaging in public consultations on relevant issues in 2021 through the implementation of a public consultation platform and by being more proactive in involving civil society organisations in the legislative activity.¹²⁹ However, according to the 2022 European Commission report on Albania, the consultation with interest groups and civil society organisations still remains mostly a formal procedure.¹³⁰

Similarly weak is Assembly decision-making and public information on the petitions received from citizens. According to a 2022 study by the Albanian Helsinki Committee, there was a lack of proper parliamentary records on its follow-up for 24 out of 42 petitions submitted between 2016 to 2020, and only one of such petitions was deemed successful for influencing the Assembly’s decision-making.¹³¹ Public trust in the Assembly also remains low. Several polls rate the trust of citizens in the Assembly between 7 and 41 per cent.¹³²

INDICATOR 1.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms in place to ensure the integrity of members of the legislature?



While provisions are in place to ensure the integrity of members of the legislature, the Code of Conduct for MPs lacks sanctions for ethics violations, and the provisions in the Regulation of the Assembly classify the violations of rules on gifts and lobbying as minor.

The Constitution provides for the incompatibility of being an MP with other public functions, except as a member of the Council of Ministers, and prohibits MPs from making a profit from activities that stem from public property.¹³³ There are also several mechanisms in law for ensuring MPs' integrity. The declaration of assets and private interests are regulated according to the law on declaration of assets and law for preventing conflicts of interests, which includes the declaration and registration of possible conflicts of interests on a case by case basis and prohibits MPs from taking part in decision-making for such cases (see 10.3.1).¹³⁴ MPs also have to comply with the provisions of the law on decriminalisation, which bans those convicted of several crimes from running for elections or keeping their mandate.¹³⁵

The ethics of MPs, as for other elected officials, is not included in the scope of the law on ethics in Albanian Public Administration.¹³⁶ However, similar provisions are regulated through the Code of Conduct for MPs, which provides for ethical behaviour rules, rules on conflicts of interest, gifts and hospitality, and disclosing contacts with lobbyists.¹³⁷ After the end of their mandate, MPs have the right to return to their previous working position or to a similar job if it was in a public institution within a year of their mandate ending.¹³⁸ However, provisions in the Code of Conduct regulate post-employment restrictions like the obligation to refrain from disclosing classified

information gained during the mandate and a one-year cooling-off period during which one cannot enter into contractual, consultancy or business relations with the Assembly or represent a third party in a conflict with the Assembly.¹³⁹ The Bureau of the Assembly has approved a dedicated manual for facilitating the understanding of the Code of Conduct for MPs.¹⁴⁰ A full evaluation of ethical standards and their impact on MPs' activity as provided by the Code of Conduct is to be conducted six months before the end of a legislature.¹⁴¹ The evaluation report must be presented to the plenary session of the Assembly and published.¹⁴²

However, the Code of Conduct does not provide for disciplinary measures for ethical violations. Disciplinary measures and the disciplinary procedure for ethical violations are provided in the Regulation of the Assembly, in which, however, the Code of Conduct is considered an integral part and is included as an annex.¹⁴³ The separation of ethical rules from the consequences of their violation in two documents is a gap that may hinder the proper understanding and implementation of rules on ethics and integrity from MPs.

Apart from criminal acts and defamation,¹⁴⁴ MPs face slight punishment for violations of ethics and integrity. According to the Regulation of the Assembly, disciplinary measures are classified as minor or serious violations, and the latter may be appealed.¹⁴⁵ For minor violations, the disciplinary measures range from a verbal warning to a written reprimand up to suppression of the right to speak in the plenary or parliamentary committee session.¹⁴⁶ The disciplinary measures for serious violations range from exclusion from plenary or committee meetings to exemption from participation for up to ten days in parliamentary activity accompanied by the suspension of the MP's salary for those days.¹⁴⁷ However, these disciplinary measures mostly provide for MPs' repetition or gravity of misbehaviours in parliamentary activity like using offensive language, preventing other MPs from taking the floor, violating the order in the plenary session or committee meeting, voting for another

MP or refusing to leave the session or meeting if under a disciplinary measure.¹⁴⁸ Violations of ethical rules and integrity on gifts or lobbying are classified as minor and are punished with a verbal warning.¹⁴⁹

INDICATOR 1.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of legislators ensured in practice?



While there are some actions with the aim to ensure the integrity of legislators, the Assembly does not monitor the implementation of the Code of Conduct of MPs in practice, integrity rules are poorly enforced, and MPs' misbehaviour mostly goes unsanctioned.

While the Code of Conduct for MPs approved in 2018 provides that the Assembly, six months before the end of a legislature, must evaluate ethical standards and publish a report which includes their impact on the MPs' activity,¹⁵⁰ this monitoring report is still missing.¹⁵¹ The lack of monitoring of the Code of Conduct from the Assembly prevents an overview of its practical implementation as well as clear statistical data on ethical violations from MPs during their mandate or post-mandate employment.

The parliamentary political discourse remains often characterised by offensive and unethical language and misbehaviour in parliamentary activity.¹⁵² According to a monitoring report from a civil society organisation, in 2022, disciplinary sanctions from the Secretariat for Procedures, Voting and Ethics of the Assembly for such violations were often reduced from the Assembly Bureau and were mostly applied for MPs of the opposition parties while overlooking ethical breaches of MPs from the majority or members of the government.¹⁵³ For example, from November 2022 to February 2023, there were seven decisions by the Secretariat for Procedures, Voting and Ethics of the Assembly, affecting four MPs of the majority party and two from the opposition. All decisions were related to serious violations for

misbehaviour.¹⁵⁴ 24 opposition MPs were sanctioned with exclusion from participating in committees or plenary sessions for three to ten days while a request for sanctioning the Prime Minister for similar violations was dismissed.¹⁵⁵

On the declaration of assets, significant concerns have been raised about the Inspectorate of Declaration and Audit of Assets and Conflict of Interests' capability to perform full and accurate audits or administrative investigations into private interest and asset declarations (see 10.3.3). There have been 14 declared case by case conflicts of interest by MPs published on the Assembly website since 2017.¹⁵⁶ However, a civil society organisation has raised concerns regarding several possible cases of conflicts of interest that were not registered, and has not received an official reply as to whether such conflicts existed.¹⁵⁷ There are four cases of declared gifts and hospitality to MPs from governments or international organisations in 2019, but no case has been registered up to September 2023 for the new legislature that started in 2021.¹⁵⁸ The register of declarations of MPs for meetings with lobbyists is empty.

There has been improvement in enforcing the law on decriminalisation. In 2018, during the previous legislature, the Central Electoral Commission decided to revoke the mandate of two MPs who had not declared that they had been convicted for criminal acts abroad. However, both MPs had also served in the previous legislature period of 2013-2017, while the decriminalisation law was approved in 2015, which demonstrates the long and difficult procedures for enforcing this law.¹⁵⁹

In a recent case, the Constitutional Court nullified as unconstitutional two decisions of the Assembly to block the submission of a motion from the opposition concerning the incompatibility of the mandate for a minister.¹⁶⁰ There have been also cases of criminal charges for MPs for their previous duties as a member of government which resulted in their conviction after their resignation from their mandate (see 1.2.4).

INDICATOR 1.2.7 GENDER REPRESENTATION

To what extent are women represented in the legislature?



Legal provisions exist and are implemented, but only 36 per cent of the members of the legislature are women and the representation of women in parliamentary committees remains unbalanced.

Legal provisions promote gender equality and provide that at least 30 per cent of seats at the Assembly must be reserved for the underrepresented gender.¹⁶¹ In the current legislature, 36 per cent of MPs are women.¹⁶² Monitoring reports also stress an active participation and good performance of women in parliamentary activity. From January 2021 to July 2022, 40 per cent of the Assembly's overall debate in parliamentary committees and plenary sessions was from women.¹⁶³ The Speaker of the Assembly is a woman and the participation of women and men in the legislative leadership like the Bureau of the Assembly or as leaders of parliamentary committees is balanced.¹⁶⁴ However, the gender participation in parliamentary committees remain unbalanced and reflect gender bias. Women are overrepresented in the Parliamentary Committee for Work, Welfare and Health with 62 per cent of committee members and in the Parliamentary Committee for Education on Information with 58 per cent, while they are underrepresented in the Parliamentary Committee for Production Activities, Trade and Environment where only 10 per cent are women and in the Parliamentary Committee for National Security at 15 per cent.¹⁶⁵

ROLE

INDICATOR 1.3.1 EXECUTIVE OVERSIGHT

To what extent does the legislature provide effective oversight of the executive?



While the Assembly has the power to exercise oversight over the executive, the effectiveness of its action has been limited. There is a lack of independence of the legislature from the executive due to the effects of the electoral system, lack of intra-party democracy and a single-party government as well as a weak opposition.

Members of the Council of Ministers have the obligation, if requested by the Assembly, to participate in plenary sessions and committee meetings.¹⁶⁶ The main tools of legislative oversight of the executive is realised through written questions for receiving information, interpellations to get explanations about the motives, intentions and attitude of the Council of Ministers or related to important aspects of its activity, and motions presented by the leader of a parliamentary group or at least seven MPs with the purpose of conducting a debate in the Assembly on a particular issue and, at its conclusion, they may propose the adoption of a resolution or declaration.¹⁶⁷ The Assembly can also set up a committee of inquiry at the request of one-fourth of its members.¹⁶⁸

Still, these instruments have only occasionally been enforced. From January 2021 to July 2022, there were ten questions and six interpellations to the Council of Ministers¹⁶⁹ and two committees of inquiry.¹⁷⁰ Regarding the committees of inquiry,

there has been an improvement in their functioning and impact on the public debate, but without producing any result due to the bloc voting of the majority in support of the government.¹⁷¹ For example, a good practice is the Committee on Urban Waste with a constructive approach from the government and the broadcasting of discussions in the media. However, the Committee concluded with two separate reports, one from the opposition and one from the majority, with clearly different results. The report of the majority received support in the committee of inquiry and from the plenary session due to majority bloc voting.¹⁷²

The Assembly has the power to influence the national budget, including the budget mid-term cuts with normative acts, which require the approval of the Assembly within 45 days, otherwise they are nullified.¹⁷³ In 2021, the parliamentary committees organised 79 hearings with public institutions and interests groups for the draft budget and the fiscal package and approved 65 amendments.¹⁷⁴ In total, the Assembly approved 940 amendments to draft laws in 2021.¹⁷⁵ However, parliamentary scrutiny of the annual budget remains weak.¹⁷⁶ There are concerns regarding the tolerance of the Assembly in cases where there is a lack of required documentation forwarded from the Council of Ministers in the framework of its legislative initiatives as well as cases of tailor-made or government-sponsored laws with accelerated procedures.¹⁷⁷ According to Support for Improvement in Government and Management (SIGMA), the parliamentary scrutiny on law implementation and executive policies is weak.¹⁷⁸ The role of the Assembly in supporting the implementation of the recommendations from

Budget/year	2019	2020	2021	2022
Planned Budget for the Assembly in lek and euro¹	1,324,000,000 lek €10,852,459	1,341,000,000 lek €10,982,800	1,153,160,000 lek €9,375,284	1,431,566,000 lek €12,288,120
Revised Budget for the Assembly	1,231,000,000 lek €10,090,163	1,174,100,000 lek €9,703,306	1,050,293,440 lek €8,538,970	-

independent institutions to the government is also weak (see *Pillar 8 Ombudsperson and Pillar 9 Supreme Audit Institution*).¹⁷⁹ In 2021, the President of the Republic returned 22 laws out of the 136 approved back to the Assembly for reconsideration, and all the decrees were overturned by the Assembly.¹⁸⁰

The role of the Assembly in providing effective oversight of the executive was weakened during the previous legislature by the main opposition parties, which rescinded from their parliamentary mandates in February 2019. The vacancies were partially filled by candidates from minor parties or from some candidates from main opposition lists who acted as independent MPs after being formally excluded from their party membership. There were two oppositions, one in the parliament and one outside it. However, the main interlocutor of the majority for the electoral reform in 2020 was not the parliamentary opposition but the extra-parliamentary one, which shows the weak role of the opposition action within the Assembly in that time.¹⁸¹ In the new legislature constituted in September 2021, while the main opposition party returned to the Assembly, its action has been weak due to internal fractions and conflicts. Therefore, according to World Justice Project index, there is no increase in the Assembly's oversight of government in the new legislature.¹⁸²

INDICATOR 1.3.2 LEGAL REFORMS

To what extent does the legislature prioritise anti-corruption and governance as a concern in the country?



While comprehensive and concrete legal reforms to counter corruption and promote integrity have been enacted by the Assembly, the legislative framework in place is still fragmented, and the resulting reforms mostly ineffective.

Albania has ratified and is part of all international conventions against corruption.¹⁸³ The Constitution

of the Republic of Albania has been amended twice since 2016 in the framework of justice reform and the Assembly has approved the legislative framework for its enforcement. Some results have been produced in fighting corruption of the highest executive or elected officials, which improved the corruption rating of Albania by the Freedom House from **2.75 to 3.00** in 2023 (for more details see *Pillar 3 Judiciary and Pillar 4 Public Prosecutor*).¹⁸⁴ It has a vast legislative framework for preventing corruption, including laws on ethical behaviour, declaration of assets, preventing conflicts of interest, whistleblower protection, public information and public consultation, integrity of elected persons in public functions, etc.¹⁸⁵ In 2021, SIGMA rated the overall legal drafting as good, and considered that the legal framework is mostly stable and comprehensive, but that it is still fragmented and without a centralised reporting unit for its implementation.¹⁸⁶ However, according to the 2022 European Commission report on Albania, the legislative framework in Albania contains gaps, since it complies only partly with the OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.¹⁸⁷ Similarly, legal reforms on political parties and campaign finances recommended by the Organization for Security and Co-operation in Europe (OSCE)'s Office for Democratic Institutions and Human Rights (ODIHR) and the European Commission have not been yet approved.¹⁸⁸ Still to be approved by the Assembly is also the new law on preventing conflicts of interest supported by the High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) since 2021, which would introduce a clear procedure and mechanisms for enforcing the prevention of conflicts of interest in practice (see 10.3.1). The Assembly's ex-post scrutiny on law implementation is also weak. The insufficient supervision of the Assembly concerning the practical enforcement of laws and their practical implementation may enable corrupt practice. According to SIGMA, it is rare for the Assembly to undertake a review of major policies or of the implementation of key laws.¹⁸⁹

The recommendations to the executive from independent bodies do not receive enough support from the Assembly to be enforced in practice (*see Pillar 8 Ombudsperson and Pillar 9 ALSAI*).

While the Minister of Justice approved a methodology in 2022 which includes the assessment of potential areas for corruption in legal initiatives initiated by the government,¹⁹⁰ the Assembly itself lacks a methodology for such assessment, which may impact the Assembly's ability to check government initiatives and may be more problematic for legal initiatives by MPs or citizens.¹⁹¹

The vast regulatory framework and major reforms approved by the Assembly did not produce the expected results, and according to United States (US) Department of State, corruption remains persistent in all branches of government and at the local level.¹⁹² Citizens' perception of corruption in the country also remains high.¹⁹³

INTERACTIONS

The Assembly interacts in the framework of the division and balance of powers with the executive and the judiciary. However, these powers are unbalanced, and there is a domination of the executive with respect to the legislative in practice that is greater than that provided for in law. The Assembly in the framework of the Constitution and its functions interacts with the President of the Republic and the independent institutions foreseen in the Constitution or in the law. The independent institutions report to the Assembly, but their recommendations to the executive do not receive enough support from the Assembly (*see 8.2.4 and 9.3.3*).

The Assembly is proactive in parliamentary diplomacy. Its delegations have participated in meetings of the European Parliament and it is represented in the Parliamentary Assembly of NATO, the Council of Europe, the OSCE and several regional initiatives. It has also intensified bilateral cooperation with other assemblies in the region or

in EU member states in the framework of the European accession process of the Republic of Albania.

PILLAR RECOMMENDATIONS

- + The Assembly should develop a methodology for assessing potential areas for corruption in draft laws according to international standards and in consultation with experts and civil society organisations and implement it in practice for legal proposals from the Council of Ministers, MPs and citizens.
- + The Assembly should enforce in practice ex-post legislative scrutiny in the framework of preventing and fighting corruption by supervising the practical implementation of legislation and major policies.
- + The Assembly should support the implementation of independent institutional recommendations for the executive by making effective use of mechanisms for controlling the executive, such as parliamentary hearings, questions and interpellations on the implementation of such recommendations.
- + The Assembly should evaluate the integrity standards provided by the Code of Conduct for MPs and monitor its practical effects on the MPs' activity six months before the end of a legislature. It should revise the Code of Conduct according to the evaluation and monitoring report.
- + The Assembly should sanction integrity breaches and ethical misbehaviours by MPs regardless of their political affiliation.
- + The Assembly should actively engage in public consultations as part of its legislative decision-making and evaluate and take into consideration inputs from experts, civil society organisations and citizens.
- + The Assembly should record, handle and make transparent the decision and its follow-up for petitions submitted to the Assembly by citizens.
- + The Assembly must employ sufficient political and administrative staff to support and enable

the wide-ranging activity of the parliamentary committees and of the Assembly to high standards. It should employ sufficient political staff to support parliamentary groups and individual MPs in order to ensure a greater independence from their respective political parties in their decision-making.

ENDNOTES

⁵⁷ The Socialist Party has 74 MPs, the Democratic Party 59 MPs, the Social Movement for Integration (Party of Liberty) four MPs and the Social Democratic Party three MPs.

⁵⁸ The overall pillar score, according to the methodology, does not take into consideration the indicator 1.2.7 Gender Representation.

⁵⁹ Article 75 (2), Constitution of the Republic of Albania, amended, <http://staging.parlament.al/Files/sKuvendi/kushtetuta.pdf>, [accessed 10 October 2022].

⁶⁰ According to the Article 8, Assembly of the Republic of Albania, Regulation of the Assembly of the Republic of Albania, amended, the Bureau of the Assembly is headed by the President of the Assembly and its composition must reflect, as much as possible, the political composition of the Assembly, <https://web-api.parlament.al/Files/RregullorjaeKuvenditeperditesuar.pdf>, [accessed 10 October 2022].

⁶¹ Article 10/1, Regulation of the Assembly of the Republic of Albania, amended.

⁶² Ibidem, Articles 79-85.

⁶³ Article 101, Constitution of the Republic of Albania, amended.

⁶⁴ Articles 14, 19 and 20 (2), Law No.8550, date 18.11.1999 On the Status of MPs, amended, <http://staging.parlament.al/Files/Informacione/ligji-per-statusin-e-deputetit.pdf>, [Accessed on 21 June 2023]

⁶⁵ Article 18, Law No.8550, date 18.11.1999 On the Status of MPs, amended.

⁶⁶ Article 75, Constitution, amended; Article 121, Regulation of the Assembly, amended.

⁶⁷ Article 3 (2) of the *Internal Regulations of the Organisation and functioning of the Services of the Assembly of Albania*, amended, http://staging.parlament.al/Files/sAdministrata/Rregullore_e_brendshme.pdf, [Accessed on 10.10.2022].

⁶⁸ Articles 8-11, The Assembly of the Republic of Albania, *Internal Regulations of the Organisation and functioning of the Services of the Assembly of Albania*, amended,

http://staging.parlament.al/Files/sAdministrata/Rregullore_e_brendshme.pdf, [Accessed on 10.10.2022].; Law 152/2013 on civil servants, amended, <https://www.dap.gov.al/legjislacioni/per-sherbimin-civil>, [Accessed on 10.10.2022]

⁶⁹ The Assembly of the Republic of Albania, *Internal Regulations of the Organisation and Functioning of the Services of the Assembly of Albania*; The Assembly of the Republic of Albania, *Annual Report of the Activity of the Assembly of the Republic of Albania 2021*, <http://www.parlament.al/boxhetiFooter>, [Accessed on 10.10.2022]

⁷⁰ See Assembly of the Republic of Albania (2020), *Annual Report 2019*; Assembly of the Republic of Albania (2021), *Annual Report 2020*; Assembly of the Republic of Albania (2022), *Annual Report 2021*, <http://www.parlament.al/struktura/f5e7176c-d17e-4427-a627-c3e47e202e31/#doku>: The planned budget for 2022 has been accessed in the official page of the Ministry of Finance, <https://financa.gov.al/per-buxhetin-e-vitit-2022/>

⁷¹ Assembly of the Republic of Albania, *Annual Report 2021*, p. 40.

⁷² The Assembly of the Republic of Albania, *Raport Vjetor mbi Veprimtarinë e Kuvendit të Shqipërisë 2020 (Annual report of the Assembly 2020)*, pp. 60-61; The Assembly of the Republic of Albania, *Raport Vjetor mbi Veprimtarinë e Kuvendit të Shqipërisë 2021 (Annual report of the Assembly 2021)*, pp. 50-52, accessed at

<http://www.parlament.al/boxhetiFooter>, [10.10.2022]; Regarding the functioning of the Parliamentary Institute, see <http://staging.parlament.al/Files/sAdministrata/insparlamentar.pdf>, <http://staging.parlament.al/Files/sAdministrata/IPinfografike.pdf>, [Accessed on 10.10.2022]; Structure of the

Assembly Services, amended, provided by mail from the Assembly of the Republic of Albania; Information provided by the National Democratic Institute in Albania on 31 July 2023.

⁷³ Reply to a request for information from the Assembly with official letter No. 2486, dated 08.08.2023. See also National Democratic Institute, *Stronger Parliaments vital to Democracy: Overview of Resources and Expertise available to Members of Parliament*, 2020,

<https://www.ndi.org/sites/default/files/Overview%20of%20Resources%20and%20Expertise%20available%20to%20Members%20of%20Parliament.pdf>, [Accessed 31 July 2023]

⁷⁴ Ibid, p. 14

⁷⁵ Ibid, p. 4

⁷⁶ Interview with a political adviser of the Socialist Party parliamentary group in January 2023.

⁷⁷ Ibidem, the political adviser mention as example the Assembly of the Republic of Kosovo, where there was one supporting staff for three MPs.

⁷⁸ 5 and 24

⁷⁹ Interview with a senior administrative staff of Assembly from the Institute for Democracy and Mediation on October 2022.

⁸⁰ Assembly of the Republic of Albania, Annual Report 2019, pp. 68-69.

⁸¹ Assembly of the Republic of Albania, Annual Report 2020, p. 64; and, Assembly of the Republic of Albania, *Annual Report 2021*, p. 50.

⁸² This is an approximative calculation keeping as constant the number of planned and existing MPs considering that since 2019 rescinded mandates of the opposition where partly substituted and no major change happened in 2020, and in 2021 the new legislature was constituted,

⁸³ Article 67, Constitution, Amended.

⁸⁴ *Ibidem*, Article 74

⁸⁵ *Ibidem*, Articles 75, 77.

⁸⁶ Article 12, The Assembly, *Regulation of the Assembly of the Republic of Albania*, amended.

⁸⁷ Constitution, Article 73

⁸⁸ Constitution, amended, Articles 87, 96, 104.

⁸⁹ Constructive motion of no-confidence, firstly introduced by the German Basic Law in 1949, differently from the simple motion of no-confidence in which the Assembly can dissolve the executive and then there will start the procedure for forming a new government, requires that a new Prime Minister is simultaneously elected with the vote of no-confidence, which dissolves the existing government. This makes this motion more difficult and ensures more stability for the existing government. This provision was introduced through an amendment to the Albanian Constitution in 2008 based on the German model.

⁹⁰ *Ibid*, Article 105.

⁹¹ *Ibid*, Article 82..

⁹² *Ibid*, Articles 95-98, 155-160.

⁹³ The Socialist Party currently has 74 MPs out of the total of 140 MPs in the Assembly.

⁹⁴ There are two main political parties in Albania, the Socialist Party and the Democratic Party, A study stresses that "Party leaders have consistently failed to provide mechanisms that would make possible internally democratic parties" and found that both main parties have the same law score of intra-party democracy in selecting MP candidates, See Anjeza Xhaferaj, *Measuring Intra-Party Democracy in the Albanian Political Parties*, Institute for Democracy and Mediation, 2022, <https://idmalbania.org/study-measuring-intra-party-democracy-in-political-parties-in-albania/>, [accessed 21.12.2022].

⁹⁵ The 2021 Albanian Parliamentary Elections results can be consulted at <https://kqz.gov.al/results/results2021/results2021.htm#>, [Accessed on 12 November 2022]

⁹⁶ Decision of the Assembly No. 67/2021 "Për caktimin e kryesive të komisioneve të përhershme të Kuvendit", <http://www.parlament.al:5000/Files/20210915121841vendim%20nr.%2067,%20dt.%2013.9.2021.pdf>, and Decision of the Assembly No. 66/2021 "Për zgjedhjen e Byrosë dhe përbërjen e sekretariateve të Kuvendit", <http://www.parlament.al:5000/Files/20210915121805vendim%20nr.%2066,%20dt.%2013.9.2021.pdf>, [Accessed on 12 November 2022]

⁹⁷ The Assembly of the Republic of Albania, *Statistical Bulletin 2021-2025*, pp. 17 and 22. <http://staging.parlament.al/Files/Informacione/Buletini%20statistikor%202021-2025..pdf>, [Accessed on 20.10.2022]

⁹⁸ *Ibid*

⁹⁹ Constitution of the Republic of Albania, Regulation of the Assembly of the Republic of Albania, amended; Law 119/2014 on the right to information, <https://www.idp.al/wp-content/uploads/2016/11/160-2014-DI.pdf>, [Accessed on 12 November 2022]

¹⁰⁰ Article 10, Regulation of the Assembly of the Republic of Albania, amended, The Secretariats, according to the Regulation of the Assembly, amended, article 10, are bodies composed of MPs and approved by the Assembly which supervise the work of the administrative services.

¹⁰¹ Article 79, Constitution, amended; Article 43, Regulation of the Assembly of the Republic of Albania, amended.

¹⁰² Article 108, Regulation of the Assembly of the Republic of Albania, amended.

¹⁰³ Article 53 of the Internal Regulation for the Organisation and Functioning of the Services of the Assembly of Albania, consulted at <https://web-api.parlament.al/Files/202307311524154035Rregullore%20e%20brendshme.pdf>.

¹⁰⁴ Articles 105-108, Regulation of the Assembly of the Republic of Albania, amended. Articles 35-39 foresee that the meetings and the proceedings of the parliamentary committees are public, excepting information that is considered a state secret.

¹⁰⁵ Article 54 of the Internal Regulation for the Organisation and Functioning of the Services of the Assembly of Albania

¹⁰⁶ Articles 35, 43, 53, 77 (a), 104, 105, Regulation of the Assembly of the Republic of Albania, amended.

¹⁰⁷ Articles 11, 107, Regulation of the Assembly of the Republic of Albania, amended.

¹⁰⁸ Articles 11, Regulation of the Assembly of the Republic of Albania, amended.

¹⁰⁹ Articles 34 (1) and 34 (2), Law No. 9049, Date 10.04.2003, "On Declaration of Assets", amended, consulted in <https://www.ildkpkj.al/legislacioni-3/>; Article 16, Decision of the Assembly No. 61/2018 "Për miratimin e Kodit të Sjelljes së Deputetit të Kuvendit të Republikës së Shqipërisë" (Code of Conduct of MPs), consulted at <http://staging.parlament.al/Files/RaporteStatistika/Kodi%20i%20Sjelljes.pdf>; [Accessed 20.10.2022].

¹¹⁰ Article 13, Code of Conduct of MPs.

¹¹¹ Law 119/2014 on the right to information

¹¹² The Open Parliament Plan and the draft document with the standards and indicators which are planned to be fully functional in September 2023 were provided by the National Democratic Institute in Albania on 31 July 2023.

¹¹³ See The Assembly, *Annual Activity Report 2021*, p. 36,

<http://www.parlament.al:5000/Files/202212261911282533Raport%20vjetor%202021.pdf>

¹¹⁴ Information provided from the NDI Albania by mail on 31 July 2023.

¹¹⁵ See <https://tv.rtsh.al/kanalet/rtsh-kuvend>; and <https://www.facebook.com/kuvendishqiperise>.

¹¹⁶ The Assembly annual reports are published at <https://www.parlament.al/struktura/f5e7176c-d17e-4427-a627-c3e47e202e31/#doku>; The reports of public participation in Assembly decision-making are published at <https://www.parlament.al/struktura/1f6ca8d8-fdf4-440b-869d-05ac3d0b915d/#doku>; Monitoring reports of the budget of the Assembly and expenditures for each MP are published at <https://www.parlament.al/struktura/67d6663d-5f74-4836-b7b8-ec0c88bf1419/#doku>; Declaration of conflicts of interest case by case by MPs are published in <https://www.parlament.al/struktura/1cd4218c-b5cf-4a59-895f-b92291c0f5da/#doku>; The new declaration of assets have been forwarded to HIDAACI within 31 October 2022 and will be published according to the respective legislation (See 10.2.1)..

¹¹⁷ See Institute of Political Studies (2022), *Deputetët, Kuvendi dhe aktiviteti parlamentar në Shqipëri. Monitorim dhe analizë shtator – dhjetor 2021*, pp. 18-20, <http://deputetim.al/wp-content/uploads/2022/06/ISP-Deputetet-Kuvendi-dhe-aktiviteti-parlamentar-i-2022.pdf>, [Accessed 12.09.2022]; Altin Gjeta and Eno Muja, (2022). *Aktiviteti parlamentar dhe cilësia e përfaqësimit, Raport monitorimi i Kuvendit 2022*: Institute of Political Studies, pp.21-23, <http://deputetim.al/wp-content/uploads/2022/09/ISP-Aktiviteti-parlamentar-dhe-cilesia-e-perfaqesimit-raport-ii-2022-3.pdf>, [Accessed 12.09.2022]; <http://www.parlament.al/>, [Accessed 15.09.2022].

¹¹⁸ Law No. 146/2014 "Për njoftimin dhe konsultimin publik", Fletorja Zyrtare Viti: 2014 – Nr. 178, www.qbz.gov.al, [Assessed on 15 November 2022]

¹¹⁹ Interested parties have the right to send comments and/or recommendations for legal acts that are reviewed in the Assembly from the moment they are announced to the public and published on the official website. Interested parties can send comments and/or recommendations for draft acts to the address of the coordinator for interest groups or to the address of the commission. Another way to send comments and/or recommendations is through the online consultation platform of draft laws, which can be accessed on the official website of the Assembly. Comments and recommendations should have the form of amendments according to the legislative technique. See The Assembly of the Republic of Albania, *Manuali i përfshirjes së publikut në procesin vendimmarrës së Kuvendit*, 2022, p. 14, consulted at <http://staging.parlament.al/Files/sTransparenca/Manual%20Pjes%20e%20Publikut%20n%20n%20Procesin%20Vendimmarrjes%20t%20e%20Kuvendit.pdf>, [Accessed 10.10.2022].

¹²⁰ Article 36, Regulation of the Assembly, amended.

¹²¹ Article 131, Constitution of the Republic of Albania, amended; Article 134 foresees that the Constitutional Court can initiate a judgment at the request of the President of the Republic, the Prime Minister, not less than one-fifth of the MPs, or the People's Advocate; and, for issues related to their interests, the Chair of the Supreme State Audit Office, any court, every commissioner established by law for the protection of fundamental rights and freedoms guaranteed by the Constitution, the High Judicial Council and the High Prosecution Council, local government units, bodies of religious communities, political parties, organisations or individuals; Constitution,

amended, Article 145 foresees that in normal trials, when a judge considers that a law contradicts the Constitution, they must not apply it and but send the case to the Constitutional Court.

¹²² Articles 70, 90, 91, Constitution, amended,

¹²³ Ibid, Article 73.

¹²⁴ For example, the court has convicted for defamation the former MP Artur Rroshi, see

<https://tvklan.al/denohet-per-shpifje-ish-deputeti/>; the former MP Luçano Boçi, see <https://www.gazetatema.net/2019/04/08/ish-deputeti-i-pd-humb-gjyqin-dhe-denohet-per-shpifje-ndaj-ish-ministres-nikolla-ja-gjoha-ge-do-paguaje>; the MP Edi Paloka <https://kohajone.com/denohet-per-shpifje-ndaj-tahirit-paloka-gjykata-vendosi-nen-presionin-e-rames/>; the MP Sali Berisha <https://shqiptarja.com/video/sali-berisha-denohet-nga-gjykata-per-shpifje-ndaj-kryeministrit-rama> [accessed on 15.10.2022].

¹²⁵ Assembly of the Republic of Albania, Vendim nr. 104/2017 "Për kërkesën e Prokurorisë pranë Gjykatës së Shkallës së Parë për Krime të Rënda, Tiranë "Për dhënien e autorizimit për arrestimin ose heqjen e lirisë, të kontrollit personal dhe të banesës të deputetit të Kuvendit të Shqipërisë, zotit Saimir Tahiri", <http://www.parlament.al:5000/Files/vendim-nr-104-dt-25-10-2017.pdf>, [Accessed on 15.10.2022].

¹²⁶ Balkanweb, the declaration of resign from the mandate of MP of Mr. Saimir Tahiri, in

<https://www.balkanweb.com/lajm-i-fundit-saimir-tahiri-heq-dore-nga-mandati-i-deputetit-cmimi-i-se-vertetes-para-karrieres>, [Accessed 15.10.2022]; In 2022, the MP was convicted for abusing his position of former minister, see DW, *Dënohet me burg ish ministri i brenshëm Saimir Tahiri*, in <https://www.dw.com/sq/tiran%C3%AB-d%C3%ABnohet-me-burg-ish-ministri-i-brendsh%C3%ABm-saimir-tahiri/a-60668845>, [accessed on 15.10.2022];

¹²⁷ Top Channel, *Alqi Bllako dorëzon mandatin e deputetit, Kuvendi anulon mbledhjen*, <https://top-channel.tv/2022/03/30/alqi-bllako-dorezon-mandatin-e-deputetit-kuvendi-anulon-mbledhjen/>; <https://lapsi.al/2022/03/30/alqi-bllako-dorezon-mandatin-e-deputetit-kuvendi-anulon-mbledhjen>, [Accessed on 15.10.2022].

¹²⁸ Report of the Assembly Secretariat for Transparency and Information Technology, *Perspectives on transparency: reducing the gap between the Assembly and Civil Society*, Concepted and realised by NDI and HIDRAA in 2020. Provided by NDI Albania by mail on 31 July 2023.

¹²⁹ According to a report of the Albanian Helsinki Committee, the Assembly did not apply the law on public consultation up to 2020 for draft laws, but only public hearings, which were at the discretion of parliamentary committees according to the Article 36 of the Parliamentary Regulation. The same report also stresses that the majority of petitions sent by citizens to the Assembly from 2016-2020 did not result in a decision from parliamentary committees. See Albanian Helsinki Committee, *Raport Studimor. Instrumentet ligjorë dhe sfidat e angazhimit të qytetarëve dhe të shoqërisë civile në proceset vendimmarrëse dhe legjislativ të Kuvendit (Legal Instruments and challenges of citizens and civil society in the Assembly legislative and decision-making processes)*, 2022, <https://ahc.org.al/wp-content/uploads/2022/10/Raport-Studimor-Instrumentet-ligjore-dhe-sfidat-e-angazhimit-te-qytetareve-dhe-te-shoqerise-civile-ne-proceset-vendimmarrrese-dhe-legjislativ-te-kuvendit.pdf>, [consulted on 12.10.2022]; The new electronic platform for public consultation of draft laws was activated through donors' support in November 2020, See The Assembly of the Republic of Albania, *Raport mbi pjesëmarrjen e publikut në proceset vendimmarrëse të Kuvendit 2020*, pg. 30, consulted in http://staging.parlament.al/Files/RaporteStatistika/2020_Pjes%C3%ABmarrja_Publikut.pdf, [accessed on 12.10.2022]; However, the process of consultation has started only in October 2021, See the platform of consultations at <https://konsultimi.parlament.al/archive>, [accessed on 12.10.2022]; The Assembly provides data on public participation in its activities since 2015, See <http://www.parlament.al/boxhetiFooter>, [accessed on 12.10.2022]; It has been more proactive in engaging civil society organisations in its decision-making and has established a coordinator for civil society and an electronic register of civil society organisations which advocate at the Assembly, see <http://www.parlament.al/struktura/1f6ca8d8-fdf4-440b-869d-05ac3d0b915d>, [accessed on 12.10.2022]; By the end of 2021, there were 482 civil society organisations registered in the parliamentary register for civil society and 68 organisations in the lobbying register, see The Assembly, *Annual Report 2021*, p. 33.

¹³⁰ European Commission, *Albania Report 2022*, p. 9, consulted at https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en, [Accessed on 15.10.2022].

¹³¹ See Erida Skëndaj & Elona Dhëmbo, (2022), *Raport Studimor. Instrumentet ligjorë dhe sfidat e angazhimit të qytetarëve dhe të shoqërisë civile në proceset vendimmarrëse të kuvendit dhe legjislativ (Legal instruments and challenges of citizens and civil society engagement in the legislative and decision-making processed of the Assembly)*, Albanian Helsinki Committee, , pp. 23-52, <https://ahc.org.al/wp-content/uploads/2022/10/Raport-Studimor->

[Instrumentet-ligjore-dhe-sfidat-e-angazhimit-te-qytetareve-dhe-te-shoqerise-civile-ne-proceset-vendimmarrese-dhe-legjislative-te-kuvendit.pdf](#), [accessed 12.12.2022].

¹³² See Gjergji Vurmo & Besjana Kuçi, *Deliberative Polling 'Shqipëria N'Kuvendim' Final Report*, February 2020; Megi Reçi, *Citizens' engagement in parliamentary decision-making. Thematic Report*, February 2020; Accessed at <https://idmalbania.org/deliberative-polling-shqiperia-nkuvendim/>, [15.10.2022]. The Assembly is trusted by 33.2 per cent of citizens according to Irma Semini & Iliada Korçari, *Opinion Poll 2021: Trust in Governance. Survey Report*, 2022, Institute for Democracy and Mediation, p. 29, <https://idmalbania.org/public-opinion-poll-trust-in-governance-2021/>, [Accessed on 1.11.2022]; According to the Barometri, only 7.4 per cent per cent of citizens trust the Assembly, see Euronews Albania, Barometri – Besimi tek Institucionet, 19.11.2022, consulted at <https://www.youtube.com/watch?v=0yKZ963YpQ8>; According to Balkan Barometer there is an improvement in the trust of the Assembly from 31 per cent in 2021 to 41 per cent in 2022, see <https://www.rcc.int/balkanbarometer/results/2/public>, [accessed 20.12.2022]

¹³³ Article 70, Constitution of the Republic of Albania, amended.

¹³⁴ Law No.9049, date 10.4.2003 "Për deklarimin dhe kontrollin e pasurive, të detyrimeve financiare të të zgjedhurve dhe të disa nëpunësve publikë", amended, <https://www.ildkpk.al/legjislacioni-3/>; Law No .9367, date 7.4.2005 "Për parandalimin e konfliktit të interesave në ushtrimin e funksioneve publike", amended, <https://www.ildkpk.al/legjislacioni-section2/#>, [Accessed on 10 November 2022]

¹³⁵ Law No. 138/2015 "For guaranteeing the integrity of the persons who are elected, appointed or exercise public functions", <https://www.kryeministria.al/newsroom/ligji-nr-138-i-dates-17-dhjetor-2015/>, [Accessed on 15 December 2022]

¹³⁶ Article 2, Law No. 9131, date 8.9.2003 On ethic rules in the public administration, consulted at <https://www.dap.gov.al/legjislacioni/per-administraten-publike/44-ligi-nr-9131-date-08-09-2003-per-rregullat-e-etikes-ne-administraten-publike> [Accessed on 15.10.2022].

¹³⁷ Decision of the Assembly No. 61/2018 "Për miratimin e Kodit të Sjelljes së Deputetit të Kuvendit të Republikës së Shqipërisë" (Code of Conduct of MPs), consulted in <http://staging.parlament.al/Files/RaporteStatistika/Kodi%20i%20Sjelljes.pdf> [Accessed 20.10.2022].

¹³⁸ Article 22, Law No. 8550, date 18.11.2009 On the status of MPs, amended, <https://staging.parlament.al/Files/Informacione/ligji-per-statusin-e-deputetit.pdf>

¹³⁹ Articles 26-27 of the Code of Conduct of MPs.

¹⁴⁰ Decision of the Bureau of the Assembly No. 19, date 27.9.2018 consulted at <https://staging.parlament.al/Files/RaporteStatistika/Udhezuesi%20ne%20BYRO-i%20zbardhur-%20e%20hene15%20tetor.pdf>

¹⁴¹ Article 28, Code of Conduct of MPs.

¹⁴² Ibid

¹⁴³ Articles a/1 (2) and articles 40, 62-67 of the Regulation of the Assembly, amended

¹⁴⁴ Articles 71 and 73, Constitution of the Republic of Albania, amended.

¹⁴⁵ Articles 63, 65/3, 65/4 of the Regulation of the Assembly

¹⁴⁶ Articles 63, 64, 64/1 and 64/2 of the Regulation of the Assembly

¹⁴⁷ Articles 63, 65, 65/1 of the Regulation of the Assembly

¹⁴⁸ Article 64, 64/1, &4/2, 65, 65/1 of the Regulation of the Assembly

¹⁴⁹ Article 64 of the Regulation of the Assembly.

¹⁵⁰ Article 28, Code of Conduct of MPs.

¹⁵¹ See also National Democratic Institute, Strengthening the role of Parliament of Albania in curbing corruption, August 2023, provided by NDI Albania by mail on 12 September 2023.

¹⁵² There are five articles that provide for the parliamentary ethical discourse in the MPs' Code of Conduct, namely Articles 3, 5, 6, 8 and 11. See also Institute for Political Studies, *Deputetët, Kuvendi dhe aktiviteti parlamentar në Shqipëri. Monitorim dhe analizë shtator-dhjetor 2021*, p. 7, 2022, consulted at <http://deputetim.al/wp-content/uploads/2022/06/ISP-Deputetet-Kuvendi-dhe-aktiviteti-parlamentar-I-2022.pdf>; Elsa Ballauri, *Gjuha fyese në Kuvend, Ballauri: S'kemi zgjedhur njerëzit e duhur për përfaqësim*, interview in Euronews Albania on 22.09.2022, consulted at <https://euronews.al/gjuha-fyese-ne-kuvend-ballauri-skemi-zgjedhur-njerezit-e-duhur-per-perfaqesim/>, [Accessed on 1 December 2022]

¹⁵³ Altin Gjeta & Eno Muja (2022), *Aktiviteti Parlamentar dhe Cilësia e Përfaqësimit*, 2022, Institute for Political Studies, August 2022, pg. 25; Recently, the Assembly has sanctioned four MPs of the opposition by suspending

their participation in committees or plenary sessions for five to ten days. See

<http://www.parlament.al:5000/Files/202211211202082755Vendim%20nr.%2031.%20dt.%2017.11.2022%20i%20Sekretariatit.pdf>; <http://www.parlament.al:5000/Files/202211211201463556Vendim%20nr.%2030.%20dat%20C3%AB%2011.11.2022%20i%20Sekretariatit.pdf>; <http://www.parlament.al/lajme/%206586838f-f8df-4d07-8488-cbd322d9b61f>; [Accessed on 20.10.2022].

¹⁵⁴ Composition and decisions of the Secretariat for Procedures, Voting and Ethics of the Assembly consulted at <https://www.parlament.al/struktura/c040b468-ecdc-44d8-973e-2f01d07974b8>, [Accessed on 1 September 2023].

¹⁵⁵ Ibid.

¹⁵⁶ See <http://www.parlament.al/struktura/1cd4218c-b5cf-4a59-895f-b92291c0f5da/#doku>.

¹⁵⁷ A civil society organisation has raised concerns on some cases of conflict of interest in decision-making in 2021 and 2022. See Institute for Political Studies, *Deputetët, Kuvendi dhe Aktiviteti Parlamentar shtator-dhjetor 2021*, pg. 22; Altin Gjeta & Eno Muja, Institute for Political Studies, pg. 24-25.

¹⁵⁸ MPs' self-declarations for gifts and hospitality are published at <https://www.parlament.al/struktura/1cd4218c-b5cf-4a59-895f-b92291c0f5da/#doku>, [Accessed on 10 September 2023].

¹⁵⁹ Central Election Commission, *Raport për veprimtarinë e Komisionit Qendror të Zgjedhjeve 1 Janar – 31 Dhjetor 2018* (Annual Report 2018), pg. 19-20, in <http://cec.org.al/wp-content/uploads/2019/04/RAPORTI-VJETOR-P%20C3%8BR-VEPRIMTARIN%20C3%8B-E-KOZ-s%20C3%AB-P%20C3%8BR-VITIN-2018.pdf>; Institute for Political Studies, *Parlamenti dhe Përfaqësimi Politik në Shqipëri, 2018*, consulted in <http://deputetim.al/wp-content/uploads/2018/01/RAPORTI-I-PARE-MBI-KUVENDIN-2018-1.pdf>, [accessed 20.10.2022].

¹⁶⁰ Blerina Gjoka, Mandati i Olta Xhaçkës, argumentet pro dhe kundër të Gjykatës Kushtetuese, published on 23.02.2023 in Reporter.al, consulted at <https://www.reporter.al/2023/02/23/mandati-i-olta-xhaces-argumentet-pro-dhe-kunder-te-gjykatës-kushtetuese/>; Blerina Gjoka, Mazhoranca sfidon Gjykatën Kushtetuese për mandatin e Olta Xhaçkës, published on 3.04.2023 in Reporter.al, consulted at <https://www.reporter.al/2023/04/03/mazhoranca-sfidon-gjykatën-kushtetuese-per-mandatin-e-olta-xhaces/>, [Accessed on 1.05.2023].

¹⁶¹ Article 15, Law No. 9970, dated 24.07.2008 “For equal representation of gender in society”, art introduced the obligation of gender quotas of at least 30 per cent in the organs of the legislature, executive, judiciary and in public administration; The gender quotas are also foreseen in Article 4, Law No. 10 019, date 29.12.2008 “Kodi Zgjedhor i Republikës së Shqipërisë” (Electoral Code). According to Article 67, for each constituency in the elections for the Assembly, not less than one in every three names of the multinomial list must belong to the underrepresented gender. If not, the Central Election Commissions must apply sanctions. The quotas reserved for the underrepresented gender, according to Article 163, must be respected also if the preferential votes influence the winner list, or, as per Article 164, for replacing MPs in case of vacancies.

¹⁶² There are 50 women and 90 men elected in the current legislature which started its work in September 2021. The number of female MPs at the end of the previous legislature was slightly less than 30 per cent, which was influenced by the boycott of the Assembly by the opposition parties and the legislatures functioning with 18 vacancies, for a total of 122 MPs. See The Assembly, *Report për pjesëmarrjen e pubikut dhe shoqërisë civile në procesin vendimmarrës së Kuvendit*, pg. 9; Assembly of the Republic of Albania, Annual performance report 2021, p. 9, <http://www.parlament.al:5000/Files/202212261911282533Raport%20vjetor%202021.pdf>

¹⁶³ The Assembly of the Republic of Albania, *Statistical Bulletin 2021-2025*, p. 38, <http://staging.parlament.al/Files/Informacione/Buletini%20statistikor%202021-2025..pdf>, [Accessed on 20.10.2022]; Institute for Political Studies, *Aktiviteti parlamentar dhe cilësia e përfaqësimit*, 2022, 2, pg. 28-29; Institute for Political Studies, *Kuvendi dhe aktiviteti parlamentar shtator-dhjetor 2021*, pg. 32-33.

¹⁶⁴ The composition of the Bureau of the Assembly has 50 per cent women as consulted at <http://www.parlament.al/struktura/79de9e7f-5e70-4cac-a983-23864d6c1619>; the chairs of parliamentary committees are also gender balanced. See the structure at <http://www.parlament.al/>

¹⁶⁵ See The Assembly, *Report për pjesëmarrjen e pubikut dhe shoqërisë civile në procesin vendimmarrës së Kuvendit*, (Report on public participation and civil society in the Assembly Decision-making process), p. 9

¹⁶⁶ Article 47, Regulation of the Assembly, amended.

¹⁶⁷ Articles 89-99, Regulation of the Assembly, amended.

¹⁶⁸ Article 25, Regulation of the Assembly.

¹⁶⁹ According to Articles 90 and 96 of the Regulation of the Assembly of Albania, each MP has the right to submit a written question to a member of the Council of Ministers to ask for information on its activity, while an

interpellation consists of a written request addressed to any member of the Council of Ministers to obtain explanations about the motives, intentions and position of the Council of Ministers related to important aspects of their activity and provides for a longer period of discussion than the questions.

¹⁷⁰ The Assembly of the Republic of Albania, *Statistical Bulletin 2021-2025*, p. 26, and pp. 28-30.

<http://staging.parlament.al/Files/Informacione/Buletini%20statistikor%202021-2025..pdf>, [Accessed on 20 October 2022];

¹⁷¹ Decision of the Assembly No. 79, date 14.10.2021 *On the Committee of Inquiry "For the control of the activity of public administration bodies and local government to verify the use of state administration resources for electoral purposes in the elections of April 25, 2021"* and Decision of the Assembly No. 81, date 28.10.2021 *On the Committee of inquiry "For checking the legality of the actions of public bodies in the procedures for the construction and administration of urban waste treatment plants"*. See The Assembly, *Annual Report 2021*, p. 22.

¹⁷² Altin Gjeta & Eno Muja, Institute for Political Studies, 2022, p. 19; Blerina Gjoka, *Komisioni Hetimor për inceneratorët del me dy raporte të kundërta*, in reporter.al, date 07.03.2022, consulted at

<https://www.reporter.al/2022/03/07/komisioni-hetimor-per-inceneratoret-del-me-dy-raporte-te-kunderta/>;

ABCnewsalbania, *Kuvendi voton raportin e shumicës për inceneratorët. Rrëzohet PD-ja*, 10.03.2022, consulted at <https://abcnews.al/kuvendi-voton-raportin-e-shumices-per-inceneratoret-rrzohet-pd-ja-tabaku-50-pergjegjes-per-aferen/>, [Accessed on 22.10.2022].

¹⁷³ Articles 78-85, Regulation of the Assembly, amended.

¹⁷⁴ The Assembly, *Annual Report 2021*, p. 17.

¹⁷⁵ Ibid.

¹⁷⁶ SIGMA, *Monitoring Report. The Principle of Public Administration Albania*, November 2021, p.140,

<https://www.sigmaweb.org/publications/Monitoring-Report-2021-Albania.pdf>, [Accessed on 22 October 2022].

¹⁷⁷ See SIGMA, *Monitoring Report. The Principle of Public Administration Albania*, November 2021, p.49. A previous report analysed the cases of tailor-made laws, See Gjergji Vurmo, Rovena Sulstarova, Alban Dafa, *Deconstructing State Capture in Albania: An Examination of Grand Corruption Cases and Tailor-Made Laws from 2008 to 2020*, Transparency International, pp. 18-35, in https://idmalbania.org/wp-content/uploads/2021/11/2021_Report_DeconstructingStateCaptureAlbania_English-1.pdf, [Consulted on 22.10.2022]. A recent case is the approval with accelerated procedures of the Agreement with the Eagle Hills Real Estate Development, Albanian Seaports Development Company and Nshmi Development L.L.C. on the strategic investment "Marina & jahtet e Durrësit". The agreement was approved by the majority in the Parliamentary Committee for Productive Activity, Trade and Environment on 21.11.2022, while opposition MPs raised concerns that there was lack of information and their questions did not receive a reply. The Agreement was approved by the plenary session on 25.11.2022 with the votes of the majority party. See Blerina Gjoka, *Marrëveshja e Portit të Durrësit miratohet mes kundërshtimesh*, in reporter.al, 21.11.2022, consulted at <https://www.reporter.al/2022/11/21/marreveshja-e-portit-te-durresit-miratohet-mes-kundershtimesh/>; Almarina Gegvataj, *Kuvendi miraton marrëveshjen për portin turistik të Durrësit*, Albanian Telegraphic Agency, 25.11.2022, consulted at <https://ata.gov.al/2022/11/25/kuvendi-miraton-marreveshjen-per-portin-e-turistik-te-durresit/>, [Consulted on 20.11.2022].

¹⁷⁸ SIGMA, *Monitoring Report. The Principle of Public Administration Albania*, November 2021, p.30.

¹⁷⁹ See also Rovena Sulstarova & Jetnor Kasmi, *Ruajtja e Rojtarëve. Mbikqyrja parlamentare e institucioneve të pavarura në Shqipëri*, 2020, Institute for Democracy and Mediation.

¹⁸⁰ Assembly of the Republic of Albania, *Annual performance report 2021*, pp. 64-65.

¹⁸¹ See also OSCE/ODIHR, *Republic of Albania Parliamentary Elections 25 April 2021. ODIHR Limited Election Observation Mission Final Report*, p. 5, 26.07.2021, <https://www.osce.org/files/ff/documents/5/1/493687.pdf>, [Accessed on 10.11.2022].

¹⁸² According to World Justice Project, the indicator for "The Government powers are effectively limited from the legislature" is unchanged from 2021 to 2022. This indicator is even lower than that of 2020, when the opposition had rescinded their mandates. See <https://worldjusticeproject.org/rule-of-law-index/country/2022/Albania/Constraints%20on%20Government%20Powers/>, [accessed 20 December 2022].

¹⁸³ Albania has ratified and is part of all international instruments against corruption like the UN Convention Against Corruption, the Council of Europe Conventions against corruption, etc. See the international Conventions and international instruments ratified by the Republic of Albania at the Ministry of Justice website:

<https://www.drejtesia.gov.al/aktet-nderkombetare/marreveshje-shumepaleshe/marreveshje-shumepaleshe/>;

criminal law international instruments ratified by the Republic of Albania can also be accessed on the website of the General Prosecutor Office at https://www.pp.gov.al/Bashkepunime/Instrumentet_Shumepaleshe/, [Accessed on 15 November 2022].

¹⁸⁴ Constitutional amendment with Law No. 76/2016, date 22.7.2016 and Law No. 16/2022, date 10.2.2022. The legislative framework for the justice reform can be consulted at Qendra e Botimeve Zyrtare, *Paketa e ligjeve të reformës në drejtësi*, 2018, <https://klgj.al/wp-content/uploads/2019/09/Paketa-e-Ligjeve-t%C3%AB-Reform%C3%AB-n%C3%AB-Drejt%C3%ABsi-2018.pdf>, [Accessed on 15.11.2022]. In 2021, the Assembly amended ten laws related to the justice reform, including the Code of Criminal Procedures and the Code of Civil Procedure, see the Assembly, Annual report 2021, p. 18; See Freedom House, *Nations in Transit 2023: Albania*, in <https://freedomhouse.org/country/albania/nations-transit/2023>.

¹⁸⁵ Law No. 9131, date 8.9.2003 On ethics rules in the public administration, consulted at <https://www.dap.gov.al/legjislacioni/per-administraten-publike/44-ligj-nr-9131-date-08-09-2003-per-rregullat-e-etikes-ne-administraten-publike>; Law no. 9049 dated 10.04.2003 “On the Declaration and Audit of Assets, Financial Obligations of the Elected and certain Public Officials”, amended; Law no. 9367, dated 7.4.2005 “On the Prevention of Conflict of Interest in the Exercise of Public Functions”, amended; Law No. 60/2016 “On whistleblowing and whistleblower protection”, amended, accessed at <https://www.ildkpi.al/#>; Law No. 119/2014 “On the Right of Information”, <https://qbz.gov.al/eli/ligj/2014/09/18/119>, Law No. 146/2014 On public notification and consultation; Law No. 138/2015 “For guaranteeing the integrity of the persons who are elected, appointed or exercise public functions”, <https://www.kryeministria.al/newsroom/ligji-nr-138-i-dates-17-dhjetor-2015/>, [Accessed on 15 December 2022].

¹⁸⁶ SIGMA, *Monitoring Report. The Principle of Public Administration Albania*, November 2021, <https://www.sigmaweb.org/publications/Monitoring-Report-2021-Albania.pdf>, [Accessed on 10.11.2022].

¹⁸⁷ European Commission, *Albania Report 2022*, p. 25.

¹⁸⁸ See, OSCE/ODIHR, *Republic of Albania Parliamentary Elections 2021*, p. 28, <https://www.osce.org/odihr/elections/albania/493687>; European Commission, *Albania Report 2022*, p. 25, https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en, [Accessed on 8 December 2022].

¹⁸⁹ SIGMA, *Monitoring Report. The Principle of Public Administration Albania*, November 2021, p. 51, <https://www.sigmaweb.org/publications/Monitoring-Report-2021-Albania.pdf>, [Accessed on 10 November.2022]

¹⁹⁰ Article 8 of the Ordinance of the Minister of Justice No. 6, dated 29.4.2022 “On the unified methodology for drafting normative acts”, https://www.drejtësia.gov.al/wp-content/uploads/2022/06/Xerox-Scan_02062022000129.pdf, [Accessed on 20 December 2022]

¹⁹¹ See ACER (2023), *Blue Paper on Asset Recovery*, and ACER (2023), *Blue Paper on Public Procurement*, <https://acer.org.al/increased-government-accountability-through-a-more-responsive-parliament/>, [Accessed on 20 July 2023].

¹⁹² See US Department of State, *2021 Country Reports on Human Rights Practices: Albania*, <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/albania>, [Accessed 20 December 2022].

¹⁹³ According to Transparency International, *Corruption Perception Index 2022*, Albania's score is 36/100 and the country ranks in place 101 out of 180 countries, <https://www.transparency.org/en/cpi/2022/index/albassessed>, [Accessed on 12 July 2023].

EXECUTIVE

OVERVIEW

In Albania, the executive branch consists of the President, the Prime Minister and the Council of Ministers. The President of Albania (since 2022 Bajram Begaj) is the head of state and is elected by the Assembly for a five-year term. The President's role is largely ceremonial, and their powers are limited. The Prime Minister (since 2013 Edi Rama from the Socialist Party of Albania), as the head of government, holds significant power within the executive branch. The Prime Minister is usually the leader of the majority party or coalition in the Assembly. The Council of Ministers, headed by the Prime Minister, is responsible for implementing government policies and managing the day-to-day affairs of the state.

The executive faces challenges in merit-based recruitment, salary reform transparency, professional development infrastructure, administrative capacity for policymaking and financial sustainability of reforms. There are laws for executive transparency, but some provisions, especially regarding 'state secrets', are vague and can be misused to limit transparency. There are laws for executive accountability, but they do not address the government's use of normative acts to amend laws without immediate parliamentary scrutiny.

Oversight provisions are only partially effective due to political polarisation and underutilisation of oversight tools by the Assembly. Independent oversight institutions like HIDAACI and the SAI have minimal impact. The legal framework, including the Ministerial Code of Ethics, has gaps in addressing 'revolving door' scenarios, a lack of clear enforcement mechanisms and vague provisions on free speech. While there are reforms to combat corruption, they are ineffective due to limited political will, inconsistent efforts and inadequate resources. The executive's power over the Assembly is significant, and its interactions with the public sector, SAI and HIDAACI suggest limited substantive pressure on the executive to design effective anti-corruption policies. The oversight power of HIDAACI is limited, focusing mainly on asset and private interest declarations.

EXECUTIVE



	Indicator	Law	Practice
Capacity	Resources	n/a	50
	Independence	100	100
Governance	Transparency	50	25
	Accountability	50	50
	Integrity	50	25
Role	Public Sector Management		25
	Legal system		50

SUMMARY



CAPACITY

INDICATOR 2.1.1 RESOURCES (PRACTICE)

To what extent does the executive have adequate resources to effectively carry out its duties?



The executive has partially sufficient resources. However, there are significant challenges in other areas, such as consistent application of merit-based recruitment, salary reform transparency, professional development infrastructure, administrative capacity for policymaking and financial sustainability of reforms, which lead to ineffectiveness in carrying out its duties. The executive has financial resources to a certain extent, but financing of reforms depends heavily on donor funding.

The executive shows a mixed capacity in resource adequacy for carrying out its duties. While successful in filling a significant number of vacant positions in 2022 and early 2023,¹⁹⁴ it faces challenges in consistently applying merit-based recruitment and legal compliance across public administration.

Despite some progress on civil service reform and on policymaking and coordination (such as the institutionalisation of regulatory impact assessment, the introduction in 2021 of an integrated electronic planning and monitoring system for central government, the implementation and standardisation of a Human Resource Management Information System, and the maturity and resilience

of the civil service system),¹⁹⁵ Albania continues to face significant challenges to shape a professional, meritocratic and ethical civil service that is able to design, plan, coordinate and implement central government policy.¹⁹⁶ For instance, the human resources management information system is filled in with data at a slow pace, does not cover all institutions and is yet to be extended to local government.¹⁹⁷ The administrative capacities for inclusive and evidence-based policy development are still limited and the proportion of legal acts that undergo online public consultations remains very low.¹⁹⁸

The current recruitment framework for senior civil servants is based on a pool-based recruitment approach that disregards the policy-related expertise of the candidates for senior managerial positions.¹⁹⁹ Furthermore, the heads of key government departments and agencies that have regulatory roles, e.g. the General Directorate of Taxation, General Directorate of Customs, National Agency for Information Society, National Agency of Natural Resources, are political appointees and not civil servants, meaning they get changed when the government changes, making them highly dependent on the Prime Minister.²⁰⁰

Salary reforms, including increases and structural changes, are underway, but remain complex and not fully transparent, lacking comprehensive performance incentives. In 2024, new changes are expected, including increasing salaries for political mandate holders and introducing changes to the civil service salary structure.²⁰¹ However, the comprehensive salary reform has not been finalised,

and the system remains complex and not fully transparent regarding incentives for career progression and linking the remuneration system with harmonised job descriptions. Performance incentives are not yet effectively applied, indicating a gap in resource allocation with respect to incentivising and retaining talent.

In terms of professional development and training in the public sector, the Albanian School of Public Administration (ASPA) is improving its training for the public administration, but needs better infrastructure and resources.²⁰² Additionally, these programmes need to be better monitored and evaluated with a clear set of indicators and based on the strategic goals of the executive.²⁰³ Additionally, there is a need to strengthen administrative capacity for evidence-based policymaking, particularly in line ministries and the Prime Minister's Office. A notable concern is the financial sustainability of reforms, as they heavily depend on external donor funding, indicating a need for more robust financial resource management for the executive.²⁰⁴

INDICATOR 2.1.2 INDEPENDENCE (LAW)

To what extent is the executive independent by law?



There are comprehensive laws seeking to ensure the independence of the executive.

Although there are constitutional provisions that provide the President of the Republic with the power to approve ministers, diplomatic representatives and the chair of the General Staff of the Armed Forces – amongst other government offices at the executive level – those approvals are largely formal and are based on proposals from the Prime Minister.²⁰⁵

The Council of Ministers is elected by the Albanian Assembly and the qualifications for government ministers are the same as those for a member of the Assembly, i.e. they cannot be judges or

prosecutors, active duty military personnel, members of the police and security services, diplomatic corps, heads of counties, municipalities or municipal councils, the chair or members of the Central Electoral Commission, senior civil servants or the President of the Republic.²⁰⁶

Ministers enjoy the same immunity as members of the Assembly, including immunity from prosecution.²⁰⁷ Albania is a parliamentary republic, where the Assembly – at least one-fifth of its members – may request a no-confidence vote against the Prime Minister in office and propose a new Prime Minister.²⁰⁸ If the no-confidence measure is passed by a simple majority, the Prime Minister in office is relieved of duty. At the same time, the Prime Minister may request a confidence vote for the Council of Ministers, and if approved by less than half of the Assembly, the Prime Minister in office asks the President of the Republic to dissolve the Assembly.²⁰⁹

INDICATOR 2.1.3 INDEPENDENCE (PRACTICE)

To what extent is the executive independent in practice?



The executive operates free from any interference by other actors such as the parliament or the military. The opposite is the case.

The Albanian executive is not constrained by other internal actors. It has virtually no interference from domestic actors as it pursues its public policies. The legislature is rather weak, and its weakness is not just structural but also administrative. It stems from the lack of internal party democracy in Albania,²¹⁰ and from the substantial power of political party leaders and party steering committees to dictate to the members of the Assembly the policy and legislative agenda (See indicators 1.3.1 and 11.2.6). This is demonstrated in particular by the low number of legislative proposals by members of the Assembly compared to those by the Council of

Ministers (see 1.3.2).²¹¹ Furthermore, the executive frequently bypasses the Assembly through the use and misuse of normative acts, which are government amendments of laws that take immediate effect for a 45-day duration without requiring parliamentary approval.²¹²

The Albanian military, on the other hand, is rather weak and extremely deferent to the country's political class. There have been multiple cases suggesting that the military is under the full control of the executive to the detriment of its professionalism and effectiveness. Prominent examples include the appointment of senior officers in leadership positions without the necessary expertise, such as the cases of various navy commanders who were army officers.²¹³

GOVERNANCE

INDICATOR 2.2.1 TRANSPARENCY (LAW)

To what extent are there regulations in place to ensure transparency in relevant activities of the executive?



While there are sufficient laws to govern the transparency of the executive, several provisions in these laws – particularly with regards to information that may be classified as ‘state secrets’ – are not clear and may be misused to impede the transparency of the executive.

In accordance with the Law on the Right to Information, government institutions must publish a range of documents as part of their transparency programme, including *inter alia* budgetary reports as well as procurement plans and reports.²¹⁴ The information provided to the requesting party may be restricted proportionately if it undermines the privacy, trade secrets or copyrights of any relevant public or private party. It may also be restricted if it undermines the country's international relations, national security, ongoing investigations and audits,

monetary and fiscal policies, or the intra-governmental consultation process prior to the adoption of government decisions and legislative proposals.²¹⁵ If the requested documents are classified, the public institution responsible for the documents must begin a procedure to review the classification of the document in accordance with the provisions of the Law on Information Classified as ‘State Secret’, and notify the requesting party about the initiation of such procedure.²¹⁶

With regards to the publication of Cabinet minutes, the Law on the Organisation and Functioning of the Council of Ministers deems the discussions in those meetings to be confidential.²¹⁷ However, it is unclear whether the minutes are formally classified in accordance with the Law on Information Classified as ‘state secrets’. Furthermore, this provision seems to contradict another provision in the same law, which tasks the Secretary General of the Council of Ministers with publishing a final report on the issues discussed in the Cabinet meetings.²¹⁸

The government budget, which is part of the overall state budget, is published as it is subject to parliamentary approval.²¹⁹

The data collected from asset declarations is accessible to the public only in compliance with existing legislation on the right to information and personal data protection.²²⁰

INDICATOR 2.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in relevant activities of the executive in practice?



While the public can obtain basic information on the organisation and functioning of the executive, access to the decision-making process of the executive is significantly restricted, while access to classified information is automatically denied.

Public authorities of the executive have to publish and update the Transparency Programme and the

Registry of Requests and Responses on their official webpage.²²¹ According to the Annual Report 2022 of the Commissioner for the Right to Access to Information and Data Protection, in 2022, 331 public authorities have published the Transparency Report and 350 have maintained and published the Registry of Requests and Responses, marking an increase from the previous reporting period.²²² However, public institutions tend to publish only basic information about structure,²²³ organisation and areas of activities,²²⁴ is the nature of the Transparency Programme,²²⁵ and the legislation and regulatory framework,²²⁶ while information on annual reports, audit reporting, budget reporting, monitoring and evaluation reports and other key information of public interest is not made public. Decisions of the Council of Ministers, guidelines, orders and draft laws are published after each Council of Ministers meeting,²²⁷ but Cabinet meeting reports are not yet published, although this is required by law.²²⁸ The Ministry of Finance and Economy has a dedicated section in its website where it publishes annual budget tables, implementation reports and relevant amendments to the approved annual budget.²²⁹

However, the Annual Report 2022 of the Commissioner for the Right to Access to Information and Data Protection indicates challenges with the transparency of public institutions. In 2022, the Commissioner administered 1,032 complaints, the majority from journalists, related to the refusal of public institutions to provide information, which marks an increase compared to 715 complaints in 2021 and 992 in 2022.²³⁰ The Commissioner’s office managed to resolve slightly more than half of the complaints by making the requested information available to the complainants during the administrative investigation process. In September 2021, the Government of Albania announced the establishment of a Media and Information Agency, which has raised concerns among civil society organisations, media associations and press freedom advocates about the potential impact on access to public information and transparency.²³¹

The asset and private interest declarations, considered official documents, are supposed to be published on the HIDAACI official website with sensitive personal information redacted, and the use or unauthorised distribution of this data is strictly regulated to ensure legal compliance.²³² However, so far they have not been published, but are made available based on a request for information.²³³ The new electronic system envisages the publication of asset and private interest declarations, but it is still a work in progress until the cyber security requirements are met.

INDICATOR 2.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that members of the executive have to report and be answerable for their actions?



While a number of laws exist to ensure that members of the executive have to report and be answerable for their actions, they do not cover the potential for the government to use normative acts as a means to amend laws without immediate parliamentary scrutiny.

The executive is subject to parliamentary oversight and the oversight of independent institutions such as the Ombudsperson,²³⁴ the Supreme Audit Institution,²³⁵ the Commissioner for the Oversight of the Civil Service,²³⁶ the Information and Data Protection Commissioner,²³⁷ the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest,²³⁸ and the Commissioner for Protection against Discrimination.²³⁹ Executive decision-making may be appealed in court based on the nature of the claimed violation.

Except for draft laws on fiscal policy, international relations, civil emergency and national security, the executive is required to provide a regulatory impact assessment (RIA) with the draft law presented for approval. The RIA is also included when the proposed law seeks to approximate the EU

acquis.²⁴⁰ The representatives of the government institution responsible for the proposal are required to participate in the readings of the draft law (in principle, article by article, and in its entirety) in the relevant committees where the draft laws are discussed.²⁴¹ They may be questioned by the committee members, who may introduce amendments to the law.²⁴² Amendments may also be introduced in the plenary session, during which the draft law is subject to the same three readings as in the committee. Members of the Assembly may subpoena expert opinion since the Rules of Procedure foresee the consultation of external experts during the legislative process.²⁴³

The government, however, can circumvent legislative accountability, namely, through normative acts, which are essentially government amendments of laws that enter into force immediately upon approval for 45 days. Nevertheless, the government may forward the normative act to the Assembly for permanent approval.²⁴⁴

Independent oversight institutions exert their oversight powers in accordance with their respective mandates. The mandates of the independent oversight institutions, including the Commissioner for Protection against Discrimination and the Commissioner for the Oversight of the Civil Service (COCS), are generally clear (for more see 5.1.2). One difference that must be noted is that the COCS, unlike other independent oversight institutions, does not have a mandate to propose amendments to the law whose implementation it oversees, namely the Law on the Civil Servant.

INDICATOR 2.2.4 ACCOUNTABILITY (PRACTICE)

To what extent is there effective oversight of executive activities in practice?



While members of the executive in Albania are required to report to the Assembly on policy implementation, the effectiveness of these provisions is limited due to political polarisation and inadequate use of oversight tools by the Assembly, as well as fundamental implementation issues and minimal impact of independent oversight institutions like HIDAACI and the SAI.

Although the Assembly has at its disposal sufficient tools to exert effective oversight, it largely fails to do so effectively. From September 2021 to July 2022, there were six interpellations and two parliamentary inquiries.²⁴⁵ In autumn 2023, the Assembly witnessed rising tensions and clashes as six parliamentary inquiry commissions were not accepted by the majority in parliament.²⁴⁶ The European Commission Report 2023 on Albania highlights as a major concern the limited parliamentary oversight of the government as parliament's key functions of holding the executive accountable through effective scrutiny and serving as a forum for constructive political debate, as well as its responsibility to elect the heads of key independent institutions in a timely manner, are hindered by political polarisation and deep divisions within the opposition.²⁴⁷

Similarly, the work of independent oversight institutions do not have a significant impact on improving the governance, performance and integrity of the executive. HIDAACI has provided no data on the implementation of the legislation on conflicts of interest, thus suggesting fundamental problems in the implementation of the law. On the declaration and audit of assets and other financial disclosures, its reports suggest an implementation at a very basic administrative level rather than at a substantive level.²⁴⁸

The data provided by the SAI in its annual reports indicate that public institutions implement less than half of the recommendations made in audit reports, and the number of penal cases that go to trial is extremely low. During 2021, the SAI had filed 14 penal lawsuits: 12 were dismissed by the court at the pre-trial phase, while two of them – which were against two municipalities – were returned to the prosecution for further investigation.²⁴⁹ Additionally, the SAI filed four lawsuits as per the Penal Code in 2022 against 16 public officials following its auditing results.²⁵⁰ The SAI reports to the Assembly on the implementation of the state budget, provides opinions on financial expenditure reports of the executive and public institutions, and submits information on audit results and final audit reports as needed or requested. Additionally, an annual report on its activities is presented to the Assembly each year.²⁵¹

The Information and Data Protection (IDP) Commissioner's administrative sanctions (fines) are inadequate. In 2021, the Commissioner issued four fines, while in the previous year it had issued three related to its mandate on institutional transparency.²⁵² In 2022, the IDP conducted 35 inspections in central government institutions and as a result these public authorities published Transparency Programmes on their official webpages.²⁵³ The IDP acknowledges that public authorities still lack proactiveness in publishing relevant information of public interest. Concerning the implementation of its mandate on personal data protection, the Commissioner issued 16 fines to public institutions and 14 to private entities in 2021, and 37 (to both public institutions and private entities) in 2020.²⁵⁴ The IDP issued 42 recommendations and 34 administrative sanctions regarding its mandate on personal data protection in 2022.²⁵⁵

Over the past three years, the government's increasing reliance on normative acts rather than the regular legislative process has consistently raised concerns about transparency deficits and weaknesses in planning capacities.²⁵⁶

The Commissioner for the Oversight of the Civil Service may issue binding orders to public institutions that fail to correctly implement legal provisions and fines if public institutions fail to implement them.²⁵⁷ Nevertheless, according to the Commissioner's 2021 annual report,²⁵⁸ there have been no issues regarding the implementation of the measures issued to the public institutions. They were either fully implemented or in the process of being implemented.²⁵⁹

INDICATOR 2.2.5 INTEGRITY (LAW)

To what extent are there mechanisms in place to ensure the integrity of members of the executive?



The Ministerial Code of Ethics in Albania, while regulating ministerial conduct and conflicts of interest, lacks clarity in addressing 'revolving door' scenarios and the transition of ministers to private or public enterprise roles. It is also limited by vague enforcement mechanisms and unclear provisions on freedom of speech, impacting overall transparency and accountability.

Albania needs to increase the coherence of the legal and institutional framework on the prevention of corruption and integrity of public officials, which is comprehensive but overly complex, in particular regarding high-level officials. The legislative framework on conflict of interest needs to be aligned with European standards and the EU acquis.²⁶⁰

The Ministerial Code of Ethics²⁶¹ includes provisions that have been borrowed from the Law on the Prevention of the Conflict of Interest²⁶² and – to a certain extent – the Law on Ethics Rules in the Public Administration.²⁶³ The Ministerial Code of Ethics in Albania was significantly revised on September 29, 2021.²⁶⁴ The Ethics Commission was established by the Prime Minister's Order no. 90 on May 20, 2022, with the authority to interpret the Code, provide

advisory opinions and determine breaches by government members.

The Code of Ethics establishes the standards of conduct of the ministers and deputy ministers, and includes provisions on conflict of interest, gift taking, post-ministerial employment, use of government resources, relationships with businesses and confidentiality of information. Ministers and deputy ministers must recuse themselves from a Council of Ministers session in which a decision is taken in which he or she is found to have a personal interest.²⁶⁵ The provisions on gifts are similar to those in the Law on Ethics in the Public Administration. Ministers and deputy ministers must refrain from accepting favours or gifts because of their position; they may accept gifts if they have only symbolic value, which is not specified.²⁶⁶

Moreover, the Code encompasses broader provisions than just the filing of private interest declarations, which fall under HIDAACI's purview as per the conflict of interest law. Additionally, several provisions in the Code, such as systematic awareness raising on integrity-related matters, are assigned to the Minister of State for Standards, a position that has been non-existent since September 2023.

The Code of Ethics also does not include provisions on 'revolving door' situations. Article 37 prohibits a former minister from being appointed to leadership positions or from controlling private or public enterprises for one year if in the last two years prior to the termination of the ministerial mandate they have been involved directly in the activity of such enterprises. This provision, however, does not specifically define the meaning of 'control' or 'being directly involved in the activity'. Furthermore, these restrictions may also be waived by the Ethics Commission, but it does not outline the conditions.

The Code of Ethics has provisions on ethical rules of travelling, engaging in public activities and performance in public (Article 12) and is guided by the principle "to be a role model for the staff and to behave in a way that encourages the implementation of the highest standards of conduct

also for the young people who contribute to the public administration."²⁶⁷ It also imposes several restrictions on freedom of speech under the principles of confidentiality and collegiality: interviews and speeches need to be coordinated with Media and Information Agency; articles may be published on the condition that they do not violate the principles of 'trustworthiness' and 'solidarity'; ministers cannot write memoirs while holding the position.²⁶⁸

Regarding lobbying, Article 26 of the Ministerial Code now requires government members to conduct meetings with business or interest group representatives in the presence of two senior ministry officials, with minutes recorded and maintained in a registry by the ministry's Secretary General. While government members can confidentially consult the Ethics Commission regarding third-party interactions, the Code lacks detailed rules on managing and disclosing contacts with lobbyists and others through various communication means like emails and calls. The register of these meetings is not publicly available online and is not updated regularly.²⁶⁹

The Ethics Commission has the authority to interpret the Code, provide advisory opinions and determine breaches by government members. In case of violations, it recommends disciplinary actions to the Prime Minister. However, the Group of States against Corruption (GRECO) has raised serious concerns about the presence of a member of the government in its composition, deliberations and voting process which would hamper its effective functioning, in particular its independence and impartiality from the executive.²⁷⁰ The role of the Ethics Commission in Albania is primarily limited to recommending disciplinary measures to the Prime Minister for ministers who breach the Ministerial Code of Ethics.

The regulations governing the Council of Ministers and political advisers in Albania lack explicit restrictions on post-government employment or business relationships in sectors related to their prior official duties. GRECO further notes that the effectiveness of post-employment restrictions with regards to members of the government hinges on the composition and functioning of the Ethics Commission, which is dependent on the executive.²⁷¹ Rules on post-employment restrictions that apply both to members of the Council of Ministers and to political advisers need to be put in place including an effective enforcement mechanism regarding persons with top executive functions.²⁷²

A wide range of executive branch officials are required to disclose their assets to HIDAACI. They include *inter alia* the Prime Minister, ministers and deputy ministers, mid- and senior-level civil servants, senior officials in the military, the State Intelligence Service and the Albanian State Police, General Directors, general deputy directors, directors of directorates at the centre and regions in the General Directorate of Taxes, the General Directorate of Customs, and the General Directorate for the Prevention of Money Laundering; heads of all levels of structures for property restitution and compensation, privatisation and property registration; officials elected and appointed by the parliament, the President of the Republic, the Prime Minister, ministers or persons equivalent to them; and heads of public institutions dependent on central institutions at the regional level.²⁷³ HIDAACI is responsible for administering the asset declarations and applying administrative measures, such as fines, and referring cases to law enforcement agencies for further investigation in instances of irregularities and situations of serious financial mismanagement.²⁷⁴

INDICATOR 2.2.6 INTEGRITY (PRACTICE)

To what extent is the integrity of members of the executive ensured in practice?



Actions to ensure integrity are either limited to the fulfilment of basic and formal administrative obligations or are completely missing.

Since 2021, line ministries have established integrity plans supplemented by action plans. However, not all integrity coordinators have been appointed to monitor the integrity plan in the respective line ministries and specific measures to address integrity-related risks that ministers and political advisers might face have not been identified.²⁷⁵ In addition, the Directorate General against Corruption has been established within the office of the National Coordinator Against Corruption at the Ministry of Justice, which has the overarching role of coordinating the fight against corruption.²⁷⁶ In order to ensure efficiency, this Directorate will also enter into cooperation with other specialised institutions, such as the Special Prosecutor's Office Against Corruption (SPAK), the General Prosecutor's Office, HIDAACI, the Public Procurement Agency, the General Directorate for the Prevention of Money Laundering and the SAI. However, the results of this framework of institutions and mechanisms in terms of ensuring integrity of members of the executive in practice has yet to be evaluated.

Only sporadic trainings have been organised by the ASPA on the revised Ministerial Code of Ethics. There is no publicly available report detailing the implementation of the Code or the actions undertaken by the Ethics Commission.

A recent report and accompanying database of high-level corruption provides evidence for the phenomenon of state capture in Albania regarding the undue influence of private interests in shaping public policies at the expense of the public.²⁷⁷ The Strategic Investors Law in Albania appears to have been influenced heavily by private interests,

particularly in the construction sector. Intended to boost Foreign Direct Investment, the law instead favoured local businesses, as evidenced by the majority of the benefits accruing to domestic projects.²⁷⁸ Critics, including economic experts and opposition members, argue that the law's implementation has deviated from public interest goals, focusing instead on high-revenue generating investments like real estate, which do not align with the broader economic needs of production, industry or agriculture.²⁷⁹ The lack of transparency in the permit process further suggests that the law may cater to a selected few, undermining its original purpose and the potential for equitable economic growth.

HIDAACI has introduced an online system for assets, and as of 2022, around 4,000 persons concerned have entered their declarations into the online system, but the publication of assets will not occur until the cyber security requirements are met.²⁸⁰ In 2022, a cooperation agreement has been concluded between SPAK and HIDAACI, which has led to increased assistance and intensification of the exchange of information between both institutions.²⁸¹

The number of reported whistleblower cases to respective units and/or to the HIDAACI remains low.²⁸² In 2022, HIDAACI reviewed 13 whistleblower cases and two requests for protection against retaliation.²⁸³ 12 whistleblowing cases come from public sector and one from private sector.²⁸⁴ Sources or whistleblowers who report on corruption or provide information to the media can also be pressured and often refrain from reporting due to fear that their identity will be revealed. The reluctance to report corruption as well as overall distrust in its effective investigation is evident among public officials too and reflected in the very low number of whistleblower cases over the years.²⁸⁵

INDICATOR 2.2.7 GENDER REPRESENTATION

To what extent are women represented in the different levels of the executive (Cabinet and other presidential appointments or equivalent)?

Score 

Legal provisions are in place to ensure fair gender representation, and the minimum legal standards are exceeded by the government.

There are legal provisions in place to ensure women are fairly represented in the executive. Article 15 of the Law on Gender Equality in Society obliges the executive, legislative, judiciary, and other public institutions to ensure that both genders are represented by at least 30 per cent in leadership bodies.²⁸⁶ The Council of Ministers includes the Prime Minister and 16 ministers; ten out of the 16 ministers are women.²⁸⁷

Gender equality policy is part of the mandate of the Ministry of Health and Social Protection. The minister chairs the National Council for Gender Equality, an advisory body whose purpose is to ensure equal gender representation in various fields, including social, economic, political and cultural life; it may propose policies for gender inclusion to the Council of Ministers; and it approves the gender equality report prepared by the Ministry of Health and Social Protection. The National Council's members include ten government representatives and three representatives from civil society.²⁸⁸

ROLE

INDICATOR 2.3.1 PUBLIC SECTOR MANAGEMENT (LAW AND PRACTICE)

To what extent is the executive committed to and engaged in developing a well-governed public sector?



Unclear rules and regulations for promotion, training and appraisal tend to lead to uncertainty and reliance on the good will of one's superiors for career progress, thus fostering a climate that is not professional nor conducive to a well-governed public sector.

The civil service legislation includes provisions that regulate the performance evaluation, training needs, promotion and remuneration of civil servants. Article 62 of the Civil Service Law establishes the basic rules for performance evaluation, which are further detailed in the Decision of Council of Ministers no. 109, dated 26 February 2014. Civil servants must be evaluated every six months. They are assessed based on the fulfilment of objectives in accordance with their positions and their professionalism – i.e. leadership, teamwork and adaptation to change.²⁸⁹ In addition to the regular six-month performance evaluation, civil servants are also evaluated on the attainment of additional knowledge in accordance with the specifications of the Decision of Council of Ministers no. 1037, dated 16 December 2015. The Decision of Council of Ministers requires that every four years civil servants are tested on their knowledge, and they must attend additional training if they score below 70 out of 100 points.²⁹⁰ The civil servants who score above 70 are not required to attend additional training. The purpose of this assessment is not only to gauge the knowledge of civil servants, but also to determine whether they are suitable for the positions they occupy.

The remuneration system is rather complex. It includes the base pay of each civil servant category, a two per cent annual increase and additional

compensation in accordance with their academic qualification and institutional affiliation.²⁹¹

According to the 2021 SIGMA monitoring report on Albania, performance appraisal, promotion and training are not interlinked and thus do not constitute a comprehensive performance management system, while ASPA is yet to roll out its training programme for the Top Management Corps TMC.²⁹²

SIGMA has also noted the lack of sufficient performance evaluations for senior civil servants²⁹³, and a lack of data on the remuneration of civil servants, e.g. the average monthly salary per civil service category²⁹⁴.

INDICATOR 2.3.2 LEGAL SYSTEM

To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?



While there are a number of reforms initiated and promoted by the executive to counter corruption and promote integrity, these are mainly focused on petty corruption usually related to service delivery and – more recently – on institutional corruption in certain high-risk institutions. However, these are ineffective in achieving their goals due to limited political will, inconsistent efforts and inadequate resources, tools and skills.

In recent years, the government has been engaged in a profound reform of public service delivery through establishment of integrated 'one stop shops' for services and digitalisation. For instance, the government, together with international donors, implemented the 'Innovation against corruption: Building a citizen-centric service delivery model in Albania' (ISDA) project, whose purpose was to improve service delivery through digitalisation, front office/back office separation and the establishment of 'one stop shop' service delivery centres.²⁹⁵ A new

agency responsible for service delivery policy was established – the Agency for the Delivery of Integrated Services Albania (ADISA) – and the quality of service delivery in the country has improved, as shown in several reports.²⁹⁶ In May 2022, the government took a significant step in digitalising its public services by closing all physical 'front desks' for national administrative services (ADISA offices). This transition meant that all services were delivered to citizens only online through the e-Albania platform. The aim of this move was to improve service delivery and reduce corruption.²⁹⁷ However, this rapid shift to a fully online system raised concerns about service accessibility for those with limited digital skills as well as personal data security concerns.²⁹⁸

However, corruption in the public administration remains a significant problem.²⁹⁹ The European Commission notes that in 2022, efforts continued on improving the track record of investigations, prosecutions and convictions in the fight against corruption, but greater political will and more structured and consistent efforts, including adequate resources, tools and skills, remain necessary.³⁰⁰

In 2021, the government established the Network of Anti-Corruption Coordinators to address corruption in high-risk institutions such as Customs or the Cadastre Agency, for example. The Network is part of the General Directorate Against Corruption at the Ministry of Justice.³⁰¹ The Directorate is responsible for anti-corruption programmes, and also evaluates and makes decisions based upon the investigative reports it receives from the Coordinators dispatched in the institutions. Although the Ministry of Justice has forwarded some of corruption cases to the prosecution, the Directorate does not publish reports on its work, and it is thus difficult to assess its impact.³⁰² Some of the duties of the Network of Anti-Corruption Coordinators and the General Directorate Against Corruption overlap with the competencies of HIDAACI (see indicator 5.2.6) or the whistleblower protection units in the relevant

institutions regarding the responsibility for processing whistleblower complaints.³⁰³

The Coordinators may start an investigation based on a complaint that is submitted to them either directly by a citizen or a public servant, or through a portal that is administered by the Agency for Dialogue and Co-Governance.³⁰⁴ Legally, however, this is the job of the whistleblower protection unit of the institution or of HIDAACI when the potential whistleblower decides to file the complaint directly with the High Inspectorate.³⁰⁵

The Prime Minister of Albania announced in early November 2023 that it is necessary to strengthen the internal capacities of the executive in the fight against corruption.³⁰⁶ In addition, there have been announcements by high-level officials regarding the usage of Artificial Intelligence for procurement processes to reduce corruption and increase transparency.³⁰⁷

INTERACTIONS

Some of the key interactions of the executive are with the Assembly, the public sector, the SAI and HIDAACI. The relationships between the executive and these other pillars are governed through constitutional provisions (in the case of the Assembly) and relevant laws and regulations (in the case of the public sector, the SAI and HIDAACI). The Assembly, the SAI and HIDAACI must oversee the work of the executive. While the Assembly has a broad constitutional mandate to ensure that the executive is effectively executing the laws it passes, HIDAACI must ensure that the executive is effectively implementing relevant provisions on declaration of assets, prevention of conflicts of interest, and whistleblowers, while the SAI scrutinises government budgets, expenditures and financial management to ensure that public resources are used effectively, efficiently and in accordance with the law, ensuring that government agencies and public entities comply with financial regulations and laws.

The power of the executive over the Assembly is significant and is manifested through the disproportionate amount of legislation initiated by the Council of Ministers and the use of normative acts to bypass standard parliamentary procedures of oversight. The oversight power of HIDAACI over the executive is rather limited and is focused mainly on asset and private interest declarations. HIDAACI has issued fines for officials who have refused to declare their assets, although the penal and administrative referrals are relatively low.³⁰⁸ The executive's interactions with the public sector are equally problematic despite improvements in the legal framework for the civil service. Several government agencies and public sector positions that should be part of the civil service and subject to the Civil Servant Law are exempt from the Law (such as the National Authority for Veterinary and Plant Protection, the National Youth Agency, the State Expropriation Agency, the National Institute for Registration of Cultural Heritage, the National Food Authority), and thus present a significant risk for politicisation.³⁰⁹

The interactions of these three pillars with the executive suggest that there is little substantive pressure on the executive to design effective anti-corruption policies. The power of the executive is such that it is not only able to bypass oversight, but also to encroach on the anti-corruption mandate of an independent oversight agency, HIDAACI.

PILLAR RECOMMENDATIONS

- + The executive should establish and adhere to rigorous, merit-based recruitment processes to ensure that civil service positions, especially senior roles, are filled based on policy-related expertise and competencies rather than political appointments. This should involve reforming current recruitment frameworks of high-level positions based on a pooled approach by introducing open selection and competence-based recruitment and providing transparent criteria for selection.
- + The executive should finalise the comprehensive salary reform, make the system more straightforward and communicate changes openly to the civil service. Salary reforms should be transparent, with clear performance incentives to retain and incentivise talent. The new system should be fair – equal positions should receive equal pay – and complemented by a clear and outcome-driven financial incentive structure.
- + ASPA should be adequately resourced to provide high-quality training. Professional development programmes should be closely monitored and evaluated against clear indicators aligned with the strategic goals of the executive.
- + The executive should proactively publish key documents and reports that are of public interest, including Cabinet meeting reports and the outcomes of the Transparency Programme. It should also ensure that requests for information are responded to promptly in order to improve public trust and access to information by enforcing an organisational culture of openness and transparency and ensuring the political will for proactive transparency. To further improve budget transparency, the executive should publish audit reports online in a timely manner as well as include data on the financial position of the government and data on the macroeconomic forecast in its Budget Proposal. All data published needs to be in accordance with the

- standards of accessibility and usability of open data.
- + The Assembly should ensure that the use of normative acts is minimised by strengthening its oversight mechanisms and enhancing its legislative procedure as well as requesting consistent and regular reporting on normative acts by the executive. The executive should ensure that all significant legislative changes are subject to proper parliamentary scrutiny and public consultation. The Assembly's legal affairs committee should scrutinise any use of normative acts and report their findings publicly.
- + The Assembly should make full use of its constitutional mandate to scrutinise the executive effectively. This includes accepting and acting upon parliamentary inquiries, having more frequent interpellations to hold the executive accountable, requesting ministers and high-level officials to report in relevant parliamentary commissions, and inviting civil society, media and other stakeholders to these meetings.
- + The Assembly should revise the laws concerning 'state secrets' to define clearly what constitutes a state secret and establish a transparent review process for classified information. This revision should involve input from civil society and legal experts to balance national security with the public's right to information.
- + The executive should revise the current integrity and ethics codes to address 'revolving door' scenarios and ensure that there are clear, enforceable rules regarding post-employment and conduct in office. The Ethics Commission should be restructured to include members from the judiciary and civil society in order to improve its independence. It should be given the power to enforce sanctions and to review potential conflicts of interest, including those concerning the Prime Minister, and not just ministers and deputy ministers.
- + The executive should prioritise the fight against corruption with more consistent, sustainable and well-coordinated efforts and adequate resources, targeting both petty and institutional corruption. Collaboration among anti-corruption bodies should be strengthened by establishing regular coordination meetings, exchange of information and integrated data systems, allocating funding for collaboration, and introducing performance metrics on the results of collaboration so as to increase efficiency and effectiveness.

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²⁸⁷ Prime Minister's Office, 'Ministers', <https://www.kryeministria.al/qeveria/> [accessed 11 November 2023].

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²⁸⁹ Chapter II, Paragraph 10, Decision of Council of Ministers no. no. 109, dated 26.2.2014 "On the assessment of the performance of civil servants", <https://www.dap.gov.al/legjislacioni/per-sherbimin-civil>.

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²⁹³ SIGMA, 2021, p. 85

²⁹⁴ SIGMA, 2021, p. 87.

²⁹⁵ United Nations Development Programme Albania, "Innovation for Service Delivery", <https://www.undp.org/albania/projects/innovation-service-delivery> [accessed 11 November 2022].

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²⁹⁹ EU Commission, *Albania 2023 Report*, (Brussels: EU Commission, 2023), p. 22, available at https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf, accessed 21 November 2023.

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³⁰⁴ Chapter VI, Paragraph 2, Decision of Council of Ministers no. 618, dated 20.10.2021.

³⁰⁵ Chapter II, Law no. 16/2016 "On whistleblowing and whistleblower protection".

³⁰⁶ Albanian Telegraphic Agency, 3 November 2023, "Rama: Flight against corruption need to strengthen internal controlling mechanisms of executive", available at <https://ata.gov.al/2023/11/03/lufta-kunder-korrupsionit-rama-te-forcojme-kapacitetet-e-brendshme-kontrolluese-te-pushtetit-ekzekutiv/>, accessed 21 November 2023.

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³⁰⁸ During 2021, there were only 16 penal and other referrals. See HIDAACI, 2021 Annual Report, (Tirana: HIDAACI, 2022), p. 16, <https://www.ildkpi.al/gloosys/2022/07/Raport-Vjetor-i-Inspektoratit-te-Larte-te-Deklarimit-dhe-Kontrollit-te-Pasurive-dhe-Konfliktit-te-Interesave-Viti-2021.pdf>.

³⁰⁹ SIGMA, 2021: 72-73.

JUDICIARY

OVERVIEW

In 2015, the *ad hoc* committee of the Albanian Parliament on Justice System Reform assessed that “the judiciary is considered as one of the areas with high level of corruption.”³¹⁰ Since then, the Albanian justice system has undergone a deep reform. In 2016, the new legal framework was adopted, which included the establishment of the vetting institutions and the Judicial Appointments Council (JAC).³¹¹

The vetting institutions include the Independent Qualification Commission (IQC), composed of 12 commissioners, elected by the parliament in 2017;³¹² the Special Appeal College (SAC; a special chamber of the Constitutional Court with a nine-year mandate until the completion of the vetting process), composed of seven judges, elected by the parliament in 2017;³¹³ and the Institution of Public Commissioners (IPC), composed of two commissioners, elected by the parliament in 2017.³¹⁴

The vetting institutions are supported and monitored by the International Monitoring Operation, composed of international observers from the US and the EU, which include judges and prosecutors with at least 15 years of professional experience in their respective countries. The International Monitoring Operation is led by the EU Commission.³¹⁵

At the end of 2018, the new governing institutions, the High Judicial Council (HJC) and the High Prosecutorial Council (HPC) were established, followed by the establishment of the High Justice Inspector (HJI) in 2020. The HJC is composed of 11 full time members who are engaged exclusively with the governance of the judiciary. The reform also placed the High Court under its mandate.

The new judicial map overhauled the territorial competences of the courts, closing down nine smaller courts of general jurisdiction, as well as four administrative courts and five courts of Appeal in order to increase their efficiency and to cope with the reduction in the number of judges by half, mainly as a result of the vetting process.³¹⁶

The vacancies in the judiciary remain one of the main challenges for this pillar. Up to the end of July 2023, after verifying the three components³¹⁷ stipulated in the law (assets, integrity and professional capacity), IQC had dismissed 138 judges and 96 prosecutors (often only for one of three criteria).³¹⁸ This has had a serious impact on the efficiency of the courts and their efforts to clear the accumulated backlog of cases. In 2022, the backlog at the High Court reached over 36,000 cases, whereas the backlog at the courts of appeal of general jurisdiction reached over 28,000 cases.³¹⁹ Among the shortcomings identified in the decisions of IQC are the insufficient professional capacities of its members and the double standards of its decisions.³²⁰

The other challenges are related to the support needed in terms of financial and human resources, a functioning case management system and stronger cooperation with the media and the civil society to increase transparency in order to strengthen the public’s trust in the judiciary.

JUDICIARY



	Indicator	Law	Practice
Capacity	Resources	75	50
	Independence	75	50
Governance	Transparency	75	75
	Accountability	75	75
	Integrity mechanism	75	50
Role	Executive oversight		50
	Corruption Prosecution		50
	Mutual Legal Assistance		75

SUMMARY



CAPACITY

INDICATOR 3.1.1 RESOURCES (LAW)

To what extent are there laws seeking to ensure appropriate salaries and working conditions of the judiciary?



There are comprehensive laws seeking to ensure appropriate judicial salaries and provisions against income reduction. However, there are no prescribed inflation adjustments or provisions for a minimum budget.

Judges’ salaries are determined by law according to the court category: First Instance, Appeal, Special Courts, or High Court. As such, the salaries of judges depend on the position held and on the experience of the judge.³²¹

The law also stipulates that judges’ salaries must be in accordance with the dignity of the position of the judge and suitable to guarantee their independence and protection from external influence.³²²

Moreover, the Constitution of the Republic of Albania stipulates in Art. 138 that judges’ salary and other benefits may not be reduced.³²³

However, the constitution does not guarantee the judiciary’s budget as a whole. In practice, when the budget is changed,³²⁴ the total budget of the judiciary may be reduced by the legislative and/or the executive while not reducing the salaries of the

judges. It could be the case that while judges’ salaries remain intact, the amount of the budget dedicated to “planning, management and administration” or “support for the judicial IT systems” may be reduced because the latter are not included in the constitutional provision.

The legal definition of the “judiciary” in Albania includes only the Supreme Court, the courts of appeal and the courts of first instance, which are established by law.³²⁵ Thus, legally, in the narrow meaning of the term, the Constitutional Court is not part of the “judiciary” in Albania. As such, the Constitutional Court has a separate budget, which it administers independently.³²⁶ The Constitutional Court’s budget, as part of the state budget, is drafted by that court and submitted for approval to the Assembly.³²⁷ As with the budget of the judiciary, the Constitutional Court’s budget is not guaranteed, and it may be reduced by the legislative and/or the executive, as has happened in the years 2016, 2020 and 2022 (see 3.1.2). This is not in line with Opinion No. 2 (2001) of the Consultative Council of European Judges (CCJE) on the funding and management of courts with reference to the efficiency of the judiciary.³²⁸

There is no mechanism securing salary adjustment with regard to inflation as there are no legal provisions which require that the judiciary has to be apportioned a minimum percentage of the state budget.

INDICATOR 3.1.2 RESOURCES (PRACTICE)

To what extent does the judiciary have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?



The current budget and resources of the judiciary are not sufficient for it to perform its duties.

While there has been a considerable improvement in the judges' salaries as of 1 January 2019, the judicial physical infrastructure (court buildings, courtrooms, security, information and communication technology [ICT], case management systems,³²⁹ vehicles, etc.) is critically underfunded. Despite the continuous increase in the judiciary's budget, massive investment is needed in order to improve the inadequate infrastructure of the judiciary. Albania spends €10 per capita for the judiciary, while the average EU member state's budget allocation for the judicial system is €64 per capita.³³⁰

As for the budget of the Constitutional Court, in the years 2016³³¹ and 2020, it was lower than in the preceding years.³³² In 2022, the Constitutional Court had been allocated ALL 155.5 million (approx. EUR 1.5 million),³³³ which is 0.024 per cent of the state budget, while for the year 2023 it had been allocated ALL 170.5 million (approx. EUR 1.62 million).³³⁴

In 2022, the budget of the Constitutional Court was 0.024 per cent of the state budget, whereas the budget of the judiciary as a whole was approximately 0.589 per cent of the state budget of Albania,³³⁵ i.e. a total of 0.613 per cent of the state budget for both the Constitutional Court and the judiciary.

As indicated, the judiciary's physical infrastructure is critically underfunded. The Supreme Court building is not fit for purpose and has no space to accommodate even the 19 judges, let alone the administrative staff, archive, etc. A uniform case management system is missing. Two of the courts

use the ARK IT system while the rest use the ICMS system.³³⁶

Additionally, the ratio of the administrative staff per judge in Albania is less than 3:1, and widespread vacancies for judges continue to abate. There is an inadequate number of clerks, library resources and modern computer equipment for judges. The courts themselves hire their administrative staff, and therefore there is a considerable degree of stability of human resources.³³⁷

Current salary levels for judges, compared to the national average in Albania, may be considered adequate and do not necessarily create a strong economic reason for them to resort to corruption. While the minimum salary in Albania stands at ALL 32,000 (approx. €300),³³⁸ a junior judge's salary is ALL 224,000 (approx. €2,000). However, there have been several cases of judges accused of and sentenced for corruption by the courts, as well as judges dismissed through the vetting process. Since the beginning of vetting process in November 2017, 138 judges have been dismissed because they cannot justify their assets.³³⁹

Staff members have various training opportunities within the system itself, i.e. training organised by the School of Magistrates and the HJC, or through various partners: international organisations like the EU, Council of Europe (CoE), OSCE, or non-governmental organisations (NGO).³⁴⁰

The judges have a legal obligation to attend continued training activities for between 5 and 40 days per year,³⁴¹ which is part of their performance evaluation carried out by the HJC. There are sufficient training activities to enhance judges' knowledge of the law and their judicial skills, including court and case management, judgment writing and prevention of conflicts of interest, organised regularly by the School of Magistrates³⁴² within the process of the continued training of judges.³⁴³

INDICATOR 3.1.3 INDEPENDENCE (LAW)

To what extent is the judiciary independent by law?



The current legal framework after the legislative reform of 2016 has strengthened the independence of the judiciary in Albania. However, a small loophole exists in the form of the competence given to the prosecutors of the Special Prosecution, who may investigate and prosecute the judges of the special courts against corruption and organised crime with no procedural guarantees or previous barriers.³⁴⁴

The highest courts, the Constitutional Court³⁴⁵ and the Supreme Court,³⁴⁶ are anchored in the constitution, which guarantees their independence. The amendment of the Constitution requires two-thirds of the votes of the Assembly (93 votes out of 140).³⁴⁷ The Constitutional Court is composed of nine judges while the Supreme Court is composed of 19 judges.³⁴⁸

In the judicial system, the appointments, dismissals, performance evaluations, disciplinary measures, transfers and promotions are made by the HJC, the governing body of the judiciary.³⁴⁹ There are no provisions for the participation of civil society in appointment proceedings of judges. Civil society is only involved in the process of the election among their ranks of one of the members of HJC (the current Chair of the HJC comes from civil society).³⁵⁰

Judges are appointed for life by the HJC in order to prevent them from being threatened with arbitrary termination of their contract.³⁵¹ They are appointed among the graduates of the School of Magistrates after completing their three-year initial training at the School of Magistrates and after undergoing a process of verification of their assets and background checks.³⁵²

Both judges and the HJC members have constitutional guarantees. Judges have immunity regarding the opinions expressed and the decisions made in the course of duty, except for cases of

deliberately issuing a judgment as result of a self-interest or in bad faith.³⁵³ In such a case, this would be considered “disciplinary misconduct in connection with the exercise of the function”³⁵⁴ and would be subject to the disciplinary proceeding by the HJI, and eventually dismissal by the HJC.

Judges may be disciplinarily sanctioned by the HJC when committing serious professional or ethical misconduct which discredit the position and the image of the judge.³⁵⁵

The HJC proposes candidates for judges of the Supreme Court to the President of the Republic,³⁵⁶ and the President appoints them.

The procedure for the removal of judges from office³⁵⁷ offers all the guarantees of due process.³⁵⁸

Both the HJI and the Councils (the HJC and the HPC) must respect and aim at the appropriate balanced application of constitutional principles.³⁵⁹

Regulations protecting judges from undue influence³⁶⁰ are included in the Penal Code, as for all other public officials.³⁶¹

Nonetheless, a loophole is present in the authority granted to the prosecutors of the Special Prosecution, allowing them to investigate and prosecute judges of special courts dealing with corruption and organised crime without procedural safeguards or preliminary checks. In its current form, this provision raises concerns about potential misuse by a special prosecutor, enabling the manipulation of power to coerce or intimidate a judge presiding over a case brought forth by the same prosecutor. Introducing a prior barrier, such as requiring authorisation from the HJC before initiating investigations into judges of special courts, would address this vulnerability.

INDICATOR 3.1.4 INDEPENDENCE (PRACTICE)

To what extent does the judiciary operate without interference from the government or other actors?



There is undue external interference in judicial proceedings, especially by the executive and the media. The verbal attacks on the judiciary persist, and there is no evidence of effective enforcement of the regulations protecting judges from undue influence.

The vetting process has caused uncertainty among judges as to whether they will continue to be part of the judiciary.³⁶² A considerable number of judges have been expelled from the judiciary.³⁶³ Outside of the vetting process, it is uncommon for the judges to be removed from office before the end of their term unless they commit a criminal or disciplinary offence.

Judges do not get transferred or demoted due to the content of the decisions they have issued. Moreover, even the HJC is prohibited by law from entering into the merits of a decision while conducting the performance evaluation of the judge, and it cannot issue instructions for the solution of a concrete case or a group of cases.³⁶⁴

There are examples of undue external interference in judicial proceedings, especially by the executive,³⁶⁵ and the media,³⁶⁶ as well as by the politicians of the opposition parties.³⁶⁷ The judges have been insulted by being called e.g. “robbers”,³⁶⁸ being without brains or ears, only with pockets,³⁶⁹ or being a criminal wearing a uniform.³⁷⁰

Politicians, including ministers and the Prime Minister himself, as well as the leader of the opposition, have made offensive and intimidating public remarks against the judges because of their judgments. Additionally, owners of big businesses who are at the same time owners of media outlets have used their media to attack judges that were adjudicating cases involving their businesses.³⁷¹ The HJC has been striving to protect the judges from

external influence,³⁷² but the verbal attacks on the judiciary persist, despite the reaction from the HJC. There is no evidence of effective enforcement of the regulations protecting judges from undue influence.

GOVERNANCE

INDICATOR 3.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the judiciary?



Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the judiciary, on decisions that concern them and how these decisions were made. However, a controversial provision leads to anonymisation of proposed candidates for the highest court in the country.

All the Albanian judges, including the judges of the Constitutional Court, have an obligation to declare their assets to the HIDAACI each year. The declaration must include the shares they own in a company, any registered movable property (cars, boats, planes), any immovable property, any transactions for the transfer of property and any expenditure of more than ALL 300,000 (approx. €2,800) which may have been paid for education, medical treatment, holidays, refurbishment or other expenses of this kind.³⁷³

The judiciary is required to proactively publish on its premises and on the official website information on judgements, judicial statistics, court hearing records and transcripts, membership of relevant organisations and other relevant activities for the public in a timely manner. There is no legal deadline for the publications, only for the Information Requests Register, which has to be updated every three months. Each court, as well as the HJC, is required by law to have an institutional

transparency program which sets out the types of information that must be published proactively and the means of publication.³⁷⁴

The legislation on the right to information, which includes the transparency, is equally applicable to the judiciary.³⁷⁵ Court hearings are required by law to be open to the public.³⁷⁶

The information on the appointment, transfer and removal of judges is required to be made public, but there is a provision that the HJC interprets as a requirement to publish its decisions with the respective reasoning on the status of judges or judicial civil servants on its official website, but that the identity of the judge must be concealed.³⁷⁷ The provision states that the information on HJC decisions regarding the appointment, transfer and removal of judges has to be anonymised prior to publication.³⁷⁸ This means that the public are unable to learn the name of the person that is proposed by the HJC to the President of the Republic to become a member of the highest court in the country.³⁷⁹ The narrow interpretation by the HJC means that even its decisions on the appointments of the judges are anonymised.³⁸⁰

INDICATOR 3.2.2 TRANSPARENCY (PRACTICE)

To what extent does the public have access to judicial information and activities in practice?



The public cannot easily obtain information on the appointment, transfer and removal of judges because of a problematic provision in the law (see 3.2.1).

There is a comprehensive website on the judiciary managed by the HJC.³⁸¹ The judiciary publishes regular and comprehensive reports on its activities, spending and governance. In general, the data are available in the websites of the courts.³⁸² The HJC also publishes on its website comprehensive reports on its activities, spending and governance.³⁸³ There is reliable access to information on court

procedures, judgments, judicial statistics, court hearing records and transcripts.³⁸⁴ Court hearing records and transcripts are provided upon request to the parties in full, while the public can obtain them upon request, after anonymisation, in accordance with the data protection legislation. The public has access to information on the number of cases adjudicated annually.³⁸⁵

All the courts in Albania publish annual report on their websites which include the number of incoming cases, the number of the adjudicated cases, the number of cases carried over to the following year, the caseload per judge, the length of the proceedings, etc. Citizens can access this information on the website of the relevant court, but not all the courts publish all the documents as required by law. For example, the Court of First Instance of Fier has not published the decisions of that Court Council for more than one year. The Court of First Instance of Berat has also published only one report of the meetings of the Court Council for all the years.³⁸⁶

INDICATOR 3.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the judiciary has to report and be answerable for its actions?



After the comprehensive reform of 2016, there is a legal framework in place on the accountability of the judges. There are no provisions in place to review the meritocracy of the appointments and promotions within the judiciary. However, the HJC had included the conduct of a survey among the judges to receive their opinion regarding the meritocracy of the appointment and promotion process in its 2019-2020 Action Plan.³⁸⁷ However, the conduct of such a survey has not been included in the 2022-2024 Strategic Plan.³⁸⁸

Judges are required by the Constitution to give reasons for their decisions³⁸⁹ which can easily be understood by the affected stakeholders. If they fail

to provide reasons for their decisions, there are sufficient disciplinary measures, depending on the degree of negligence.

The HJC assesses the legal reasoning provided by the judges in their judicial decisions regarding indicators such as: the clarity and comprehensiveness of the decision; a consistent and developed structure of the decision; the quality of analysis; and the logical argumentation. The evaluator will assess the judicial capacity without judging the correctness of the decision or merits of the case and not substituting the interpretation or the logic of the evaluated judge.³⁹⁰

The independent body investigating complaints against judges is the High Justice Inspector, a position stipulated in the Constitution.³⁹¹ The HJI is elected by the Assembly from among the candidates selected and ranked by the Justice Appointments Council.³⁹² At least half of the inspectors of the High Justice Inspectorate should be magistrates that have been seconded to HJI by the HJC or the HPC. The rest are to be appointed by the HJI after consultation with the Committee for the Appointment and Evaluation of Inspectors.³⁹³ The HJI's competencies include the verification of complaints, the investigation of violations on its own initiative and the initiation of disciplinary proceedings of the judges and prosecutors of all levels, of the members of the HJC, of the HPC and the Prosecutor General, as well as the institutional inspection of courts and prosecution offices.³⁹⁴

Judges have no immunity regarding corruption and other criminal offences. There is a formal complaints and disciplinary procedure initiated by the HJI. The High Justice Inspector may commence the disciplinary procedure on its own motion, or through the action of the complainants. The HJI receives complaints filed by any natural or legal person.³⁹⁵ The HJI is fully independent in investigating complaints, but does not impose sanctions, only proposes them to the respective councils, i.e. to the HJC for judges and the HPC for prosecutors. Complainants are effectively protected in practice and no problems have been identified.

After receiving the initial complaint, if the HJI deems from the evidence that a reasonable doubt arises concerning the conduct of a magistrate, a disciplinary investigation will begin. The HJI may propose one or more of the following disciplinary measures: confidential warning, public reprimand, temporary reduction of salary, demotion, suspension or dismissal.³⁹⁶

INDICATOR 3.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do members of the judiciary have to report and be answerable for their actions in practice?



Members of the Albanian judiciary have to report and be answerable for their actions. However, the existing provisions have only partially been effective in practice, because of the partial effectiveness of the body investigating complaints and due to the difficulties regarding human resources.

Generally, in practice, the legal provisions on reasoning in decisions are implemented. This is reflected in the performance evaluation of judges conducted by the HJC, where the majority of the evaluated judges scored “very good”, the second highest evaluation degree.³⁹⁷

However, there has been a case investigated by the HJI in which the HJC decided in 2021 to take the disciplinary measure of dismissing a judge who, apart from the earlier release of a convict, had not provided reasoning in any of their decisions regarding that convict.³⁹⁸

It is difficult for the HJI to recruit inspectors among the judges due to the lack of incentives for the judges to be seconded to the HJI. Because of the many vacancies in the judiciary at present, the judges prefer to be promoted to higher courts rather than be seconded to the HJI and engage in cases where they would have to investigate their own colleagues.³⁹⁹ In practice, this means insufficient human resources for the body

responsible for investigating complaints in order to make judges answerable for their actions, impairing the effectiveness of the HJI.

The disciplinary procedures have been relatively effective. During 2021, at the conclusion of the disciplinary proceedings, the HJI had proposed the dismissal of six judges, while HJC had dismissed two of them and suspended one judge. Out of the three remaining judges, one process is still ongoing, whereas the other two have lost the status of the magistrate. In 2022, the HJI proposed disciplinary proceedings against 3 three judges to the HJC, which then sanctioned two judges: one of them was dismissed while the other was issued a public reprimand.⁴⁰⁰

INDICATOR 3.2.5 INTEGRITY MECHANISM (LAW)

To what extent are there mechanisms in place to ensure the integrity of members of the judiciary?



While there is a code of conduct and laws that ensure the integrity of members of the judiciary, the provisions do not cover post-employment restrictions for judges entering the private or public sector after leaving the judiciary.

The legislative reform of 2016 affected more than one-third of the provisions of the Albanian Constitution and included the enactment of nearly 40 new laws or legal amendments. Apart from the legal framework, the institutional framework was set up as well. The vetting institutions include the Independent Qualification Commission, the Special Appeal College which reviews IQC decisions that have been appealed, and the Institution of Public Commissioners, supported and monitored by the International Monitoring Operation. The HJC was established in December 2018 as the independent governing body of the Albanian judiciary.

Judges are required to disclose their assets and make them available to the High Inspectorate of Declaration and Audit of Assets and Conflict of

Interests in accordance with the Law on the Declaration and Audit of Assets.⁴⁰¹ The vetting legislation went much further, requiring that judges, along with the declaration of assets, shall submit all documents justifying the veracity of the declarations regarding the legitimacy of the source of the assets. If they have assets outside the territory of the Republic of Albania, he or she shall submit the bank statements of recent years, most current property records or other documents demonstrating the value of the foreign-located asset. When they have been acting as donors, lenders and borrowers, they have the obligation to justify the legitimacy of the source of these assets.⁴⁰² Apart from the scrutiny of asset declarations, the re-evaluation process is carried out on two more criteria: a background assessment and a professional proficiency assessment.⁴⁰³

The Code of Judicial Ethics was adopted in 2021⁴⁰⁴ and is rather comprehensive.⁴⁰⁵ It is focused on the respect for the principles of independence, impartiality, integrity, decent behaviour and self-restraint, due care and professionalism, respect and careful consideration, equal treatment and transparency.⁴⁰⁶ It provides that any judge can seek an advisory opinion from the Ethics Advisor (presently, a High Court judge) in case of an ethical dilemma related to the certain acts or behaviour while on judicial duty or in private life.⁴⁰⁷ It also provides the mechanism for monitoring the implementation of the Code, which is vested in the President of each court, who must report any ethical issues to the HJC.⁴⁰⁸ In cases of minor breaches, when they do not reach the level of a disciplinary offence, these are taken into account in the performance evaluation of the judge.⁴⁰⁹

There are no provisions in the Code preventing judges from receiving reimbursements, compensation and honoraria in connection with privately sponsored trips, but there is a general provision that stipulates that judges must not accept gifts, favours or any other benefits for themselves personally or for any of their relatives which may put their impartiality into question.⁴¹⁰

There are no restrictions whatsoever for judges entering the private or public sector after leaving the judiciary.

Citizens can challenge the impartiality of a judge if they fail to step down from a case. The judge is obliged to recuse themselves if they or their relatives (which are further defined in the law) have an interest in the case, have given advice or expressed an opinion on the case at trial, or have participated in the trial (for example as a witness or in a trial on the case at a different level).⁴¹¹

INDICATOR 3.2.6 INTEGRITY MECHANISM (PRACTICE)

To what extent is the integrity of members of the judiciary ensured in practice?



There has been a reactive approach in Albania to ensure the integrity of members of the judiciary, but the process has not been consistent, including double standards within the vetting process.

In general, the vetting process has had a positive impact on the Albanian judiciary, strengthening the fight against corruption among the judges, who used to consider themselves as “untouchable” because of the constitutional guarantees that they enjoyed. As a result of the ongoing vetting process, by the end of July 2023, the IQC has dismissed 138 judges⁴¹² out of a total of 408 judges. The vetting process has uncovered serious cases of the lack of integrity of judges. For example, the 2022 case of a judge who had made an insufficient declaration of his assets, made a false statement to conceal the true source of these assets and provided a lack of evidence to justify his assets.⁴¹³

However, despite the strict monitoring by international observers, there have been controversial decisions of the vetting institutions, either when judges have been dismissed for minor breaches or when they have been confirmed as judges while there was evidence of their improper

contacts or when they could not legally justify their assets. A striking case is that of the former judge of the Administrative Court of Appeal, Mr Artur Malaj. Despite the problems with his background and his assets, the IQC confirmed him in 2018.⁴¹⁴ Another controversial case is that of two spouses, both judges, who had common assets, but the husband was confirmed⁴¹⁵ while his wife was removed from office.⁴¹⁶ Both decisions were taken by the Special Appeal College on the same day, 6 July 2022.

A controversial case is that of Ms. Alma Hicka. In November 2015, the European Court of Human Rights ordered Albania to pay over €2,000,000 to three families expropriated by the communist regime. In the trial, Albania was represented by state attorney Alma Hicka, while the applicant was represented by her husband Mr E. H. with his law firm H. and H. In 60 cases communicated in January 2014 against Albania in the European Court of Human Rights, 15 of them were represented by this law firm, where the partner was her husband. The IQC removed the judge from office in 2021.⁴¹⁷ The Special Appeal College reinstated her on 26 October 2023.⁴¹⁸

The Code of Judicial Ethics was adopted in 2021, but its provisions have not been tested in practice to ensure the ethical behaviour of judges as no cases have been initiated based on it.⁴¹⁹ This might be because of the ongoing vetting process, in which the parties prefer to refer any complaints directly to the vetting institutions rather than to the governing bodies. The judge appointed by the HJC as the Ethics Advisor in 2019 has proactively provided two opinions on ethical issues in 2023.⁴²⁰ However, these opinions are based on the provisions of the law on the status of judges, as well as on international practice, and not just on the Code of Judicial Ethics.

Judges comply with the legal obligation to disclose their assets in practice. Their asset declarations are scrutinised, but the vetting process uncovered cases of judges who had no legal justification for their assets. For these judges, the HIDAACI had found no problems with their declarations, but the IQC

dismissed them because they could not provide evidence that could legally justify their assets. For example, the HIDAACI found no problems for the former President of the Constitutional Court, but the vetting commission decided that the former judge had made a false declaration on the legal source of income for an apartment valued at 1,959,546 lek (€18,546).⁴²¹

However, there have been cases in which HIDAACI found irregularities and imposed sanctions on judges. For, example in 2021, HIDAACI sanctioned 128 public officials.⁴²²

The HJC has not had the opportunity to ensure compliance with the code of ethics since there have been no cases so far in practice.⁴²³

In practice, citizens are able to challenge the impartiality of a judge if they fail to step down from a case, and this is regularly applied in the courts.

INDICATOR 3.2.7 GENDER

To what extent are the Judiciary's mechanisms gender-sensitive?



No explicit gender-sensitive guidelines or gender-disaggregated data on the judiciary's mechanisms exist.

The judiciary's complaint and investigation mechanisms have no explicit gender-sensitive protocols and guidelines, but include front-facing female staff.⁴²⁴ The judiciary does not produce gender-disaggregated data such as complaints filed by women or men, the processing times of complaints filed by women or men, complaints solved or disregarded by women or men, etc.

Based on the training calendar of the School of Magistrates, there is no evidence that the judiciary provides officials and staff with training and awareness-raising material for the implementation of gender-sensitive mechanisms.⁴²⁵

ROLE

INDICATOR 3.3.1 EXECUTIVE OVERSIGHT

To what extent does the judiciary provide effective oversight of the executive?



While there is control of bylaws by the Constitutional Court and administrative courts, there was a period when the Constitutional Court was not functional because of the judges' dismissals and resignations connected to the vetting process and administrative courts assumed the responsibility, facing challenges such as prolonged proceedings and a lack of statistics. Despite successful lawsuits against the executive, instances exist where the Constitutional Court failed to annul certain executive actions, indicating both its efficacy and limitations in safeguarding against unconstitutional practices.

The executive issues normative and individual bylaws. Normative bylaws are controlled by the Constitutional Court⁴²⁶ and the administrative courts,⁴²⁷ whereas individual bylaws are controlled by the administrative courts.⁴²⁸ After the exhaustion of effective remedies, these may be controlled by the Constitutional Court.⁴²⁹

During the time that the Constitutional Court was not functional for more than two years (July 2018 – December 2020) because of the vetting process that dismissed judges or and caused them to resign, it was the administrative courts that held the burden of controlling the executive. While individual bylaws were normally challenged at the Administrative Court of First Instance, normative bylaws were challenged at the Administrative Court of Appeal.

Long proceedings, a low clearance rate and a large case backlog continue to negatively impact the efficiency of the judicial system.⁴³⁰ These are routine and extensive, but the administrative courts have no statistics on the number of cases against the executive.

A 2019 report by the civil society organisation INFOÇIP shows that lawsuits against the executive have been successful in most cases.⁴³¹ Judgments that overturn decisions of the executive are implemented, as the Constitution stipulates that state bodies have the obligation to execute the court decisions.⁴³² The Constitutional Court routinely reviews the actions of the executive and may declare them unconstitutional, thus rendering them invalid.⁴³³ The Constitutional Court controls normative acts of the executive if they are set in motion by the subjects provided by the Constitution (for example, the President, members of the Assembly, the Ombudsman, the SAI, etc.).⁴³⁴ There have been key examples of cases when the Constitutional Court has stopped certain government initiatives. For example, in 2023, the Constitutional Court annulled the normative act that created a board for setting prices for some basic food products, because the normative acts were not issued under conditions of need and emergency and thus the executive had used powers that the Constitution grants to the Assembly.⁴³⁵

However, there are also cases when it clearly has failed to fulfil this role. For example, in 2023, the Constitutional Court failed to annul the normative act which established a board that set the prices for oil and its products as well as another one that enabled illegal construction by offering the construction companies the opportunity to pay a penalty to consider the construction legal.⁴³⁶

INDICATOR 3.3.2 CORRUPTION PROSECUTION

To what extent is the judiciary committed to fighting corruption through prosecution and other activities?



While it seeks to penalise offenders in corruption-related cases, the efforts of the Albanian judiciary are limited and sometimes unsuccessful.

The judiciary is active in the corruption prosecution of public officials. In 2022, the prosecution brought 13 cases to be adjudicated by the Specialised Court of First Instance, out of which four were adjudicated within 2022, three of them having guilty verdicts.⁴³⁷ However, given the scale of corruption in Albania as indicated by the 2022 Corruption Perception Index (with a score of 36/100, placing it in position 110 out of 180 countries)⁴³⁸, the prosecution and courts will have to scale up efforts to detect and sanction corruption in the public sector.

Specialised courts have the competency to adjudicate corruption and organised crime as well as criminal charges against the President of the Republic, Speaker of the Assembly, Prime Minister, members of the Council of Ministers, judges of the Constitutional Court and High Court, the Prosecutor General, the HJI, mayors, deputies of the Assembly, deputy ministers, members of the HJC and HPC, and heads of central or independent institutions as defined by the Constitution or by law, as well as charges against former officials as mentioned above. Key cases against corruption in 2023 included the prosecution of the former President of the Republic and former Prime Minister⁴³⁹ (the highest ranking public official so far), the former Deputy Prime Minister,⁴⁴⁰ the former Minister of Environment and a Member of the Assembly,⁴⁴¹ the former Minister of Interior,⁴⁴² mayors, etc.

Judges of the specialised courts are appointed by the HJC. Judges of the specialised courts may be dismissed by a two-thirds majority (eight out of 11) of the members of the HJC.⁴⁴³

Corruption-related cases are brought before the specialised court, which provides separate statistics on corruption cases.⁴⁴⁴ These statistics are detailed and comprehensive.⁴⁴⁵

The judiciary is involved in suggesting anti-corruption measures and reforms because judges are regularly members of the working groups on legal reforms.

Judicial authorities also sanction cases of money-laundering. The Special Court on Corruption and Organised Crime of first instance issued two judgments on money laundering in 2019, three in 2020, three in 2021, one in 2022 and two as of the end of May 2023.⁴⁴⁶

The EU Commission concluded in its 2022 report on Albania that there is some level of preparation in the fight against corruption and that Albania continued its efforts to build on its track record of investigation, prosecutions and convictions in the fight against corruption and delivered some results.⁴⁴⁷

INDICATOR 3.3.3 MUTUAL LEGAL ASSISTANCE

To what extent do judicial authorities cooperate with foreign law enforcement agencies to provide and receive mutual legal assistance?



Judicial authorities respond to the requests for legal assistance from foreign agencies in a timely manner. They make use of mutual legal assistance tools when investigating cases. However, statistics on cases have been subject to foreign interference.

Interaction with foreign partners is conducted in a timely manner, but statistics on cases involving mutual legal assistance have been subject to illegal interference by foreign powers, which have disrupted them.⁴⁴⁸

Judicial authorities respond to all the requests for assistance by foreign partners in a timely manner through the Ministry of Justice. An electronic system

has been installed in the Ministry of Justice and in the Office of the Prosecutor General for requests for assistance by foreign partners. The Ministry of Justice is mandated with providing and receiving mutual legal assistance, and it is the authority responsible for publishing statistics on cases.⁴⁴⁹

INTERACTIONS

The judiciary has the most interactions with the public prosecutor, law enforcement agencies and the media. The nature of the interactions is formal, based on an existing legal framework.

With respect to the first two, the interactions are stipulated in the specific provisions of the Code of Criminal Procedure that regulates the interactions between the courts, the prosecution service and the investigating police. Apart from the procedural regulations, the purpose of these interactions includes information sharing, cooperation on joint programmes and expertise sharing. They positively influence the anti-corruption work of this pillar because they influence the increase in transparency and accountability of the judiciary.

The relationship of the judiciary with the media and civil society has improved, but needs to be strengthened in order to improve the effectiveness and impact of the pillar's anti-corruption efforts. Among other improvements, new institutions have been established in 2019 within the judiciary that did not exist before, such as the appointment of the HJC member responsible for public relations,⁴⁵⁰ the appointment of the dedicated judges for public relations in each appeal jurisdiction,⁴⁵¹ as well as the approval of the Strategic Plan⁴⁵² and of the Communication Strategic Plan for the judiciary in 2020.⁴⁵³ The establishment of a Judiciary-Media Relations Council with representatives from both actors would be an important development that would strengthen their relationship and improve the transparency and accountability of the judiciary.

PILLAR RECOMMENDATIONS

- + The executive and legislature need to amend the Constitution to include guarantees for the judiciary's budget as a whole, alongside the existing guarantees provided by Article 138 of the Constitution for the salary and benefits of the judges; there should be a provision that stipulates that the judiciary must be allocated at least 1% of the state budget.
- + The executive and legislature should increase the funding for the judicial physical infrastructure in the 2024 state budget for investments in case management systems, ICT, buildings, courtrooms, security and vehicles.
- + The executive and legislature need to amend Law 96/2016 "On the status of judges and prosecutors in the Republic of Albania" to include the following:
 - that the third year of the studies at the School of Magistrates be considered a "year of professional practice", during which the candidates adjudicate less complicated cases;
 - that the process of verification of the assets and background checks of the candidates at the School of Magistrates be conducted only at the beginning of the School.
- + The executive and legislature need to amend Law 115/2016 "On the governing bodies of the justice system" in order to abolish the requirement for the HJC to anonymise the information on the appointment, transfer and removal of judges.
- + The HJC needs to take the initiative for the establishment of a Judiciary-Media Relations Council with representatives from both actors.
- + The HJC needs to amend the Code of Judicial Ethics, which should include a provision that stipulates that judges should not receive reimbursements, compensation and honoraria in connection with privately sponsored trips.
- + The HJC needs to adopt an act for the inclusion of the number of cases against the executive and their outcome, as well as gender-disaggregated data, within the judiciary's statistics.
- + The School of Magistrates needs to include topics on the implementation of gender-sensitive mechanisms in the continuing education programme.

ENDNOTES

³¹⁰ Ad hoc Parliamentary Committee on Justice System Reform - Group of High Level Experts, "Analysis of the justice system in Albania", June 2015, p.10. <https://euralius.eu/images/Justice-Reform/Analysis-of-the-Justice-System-in-Albania.pdf> (consulted on 08.08.2023).

³¹¹ http://www.gjykataelarte.gov.al/web/Funksionet_5588_1.php: The JAC is composed of nine members, judges and prosecutors, selected by drawing lots by the President of the Republic, between December 1 and 5 of each year: two judges of the Constitutional Court, one judge of the High Court (who presides over the Council), one prosecutor of the General Prosecution, two judges and two prosecutors of appeal, and one judge of the administrative court. The JAC conducts the verification of the legal, professional and moral criteria and provides the ranking of the candidates for election as judges of the Constitutional Court and the High Justice Inspector. The JAC ranks the candidates according to their professional merits. The President of the Republic, the Assembly and the Supreme Court elect the judges of the Constitutional Court among the three candidates ranked highest by the JAC. The Assembly elects the High Justice Inspector from among the five candidates ranked highest by the JAC. In cases when these institutions fail to elect the candidates, the candidate ranked highest by JAC is considered to be appointed

³¹² <https://kpk.al/>.

³¹³ <https://kpa.al/>.

³¹⁴ <https://ikp.al/>.

³¹⁵ https://www.eeas.europa.eu/delegations/albania/international-monitoring-operation_en?s=214 (consulted on 31.08.2023)

³¹⁶ High Judicial Council, "New Judicial Map": <https://klgi.al/harta-e-re-gjyqesore/> (accessed 24.10.2023)

³¹⁷ However, in practice this has not always been the case. Vetting authorities have dismissed judges and prosecutors only for one criterion, mainly assets, therefore not examining the two other criteria.

³¹⁸ Independent Qualification Commission Statistical Report February 2018-July 2023, p.1. <https://kpk.al/wp-content/uploads/2023/08/RAPORTI-STATISTIKOR-2018-KORRIK-2023.pdf> (consulted on 09.08.2023).

³¹⁹ High Judicial Council, Annual Report of the judiciary in 2022, p. 60 and 76. <https://klgi.al/wp-content/uploads/2023/07/RAPORT-VJETOR-2022-shkarko.pdf> (consulted on 09.08.2023).

³²⁰ Albanian Helsinki Committee, Study Report - Monitoring the process of the vetting of judges and prosecutors during the period January 2017 – June 2018, p. 45-46. https://www.osfa.al/sites/default/files/raport-studimor-monitorimi-i-procesit-te-vettingut-te-gjyqtareve-dhe-prokuroreve_jan17-qer18.pdf (consulted on 09.08.2023).

³²¹ Law 96/2016, "On the status of judges and prosecutors in the Republic of Albania", Art. 12.

³²² Other financial benefits include compensation for temporary transfers or participation in the delegation scheme, supplementary state pension, etc. Law 96/2016, "On the status judges and prosecutors in the Republic of Albania", Art. 11.

³²³ With the exception of: a) general economic-financial measures in the cases of financial emergencies or other national emergencies; b) the judge returns to the position held before the appointment; c) the judge is issued a disciplinary measure or his/her performance is evaluated as "professionally insufficient".

³²⁴ Law 9936/2008, "On the management of the budgetary system in the Republic of Albania", Art. 46.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Ligji%209936%2026.6.2008%20P%C3%8BR%20MENAXHIMIN%20E%20SISTEMIT%20BUXHETOR%20N%C3%8B%20REPUBLIK%C3%8BN%20E%20SHQIP%C3%8BRIS%C3%8B.pdf> (consulted on 09.08.2023).

³²⁵ Constitution of the Republic of Albania, Art. 135(1) and Law 98/2016, "On the organisation of the judiciary in the Republic of Albania", Art. 3(1).

³²⁶ Constitution of the Republic of Albania, Art. 124(3).

³²⁷ Law 8577/2000, "On the organization and functioning of the Constitutional Court of the Republic of Albania", Art. 6.

³²⁸ "...although the funding of courts is part of the State budget presented to Parliament by the Ministry of Finances, such funding should not be subject to political fluctuations. Although the level of funding a country can afford for its courts is a political decision, care must always be taken, in a system based on the separation of powers, to ensure that neither the executive nor the legislative authorities are able to exert any pressure on the judiciary when setting its budget. Decisions on the allocation of funds to the courts must be taken with the strictest respect for judicial independence." <https://rm.coe.int/1680747492> (consulted on 9.9.2022).

³²⁹ A uniform case management system is missing. Two of the courts use the ARK IT system, whereas the rest use the ICMIS system.

³³⁰ Andi Hoxhaj, "The EU Rule of Law Initiative Towards the Western Balkans", Hague Journal on the Rule of Law 13, 143–172 (2021).

³³¹ <https://financa.gov.al/ligji-i-buxhetit-2016/> (consulted on 17.05.2023).

³³² Year 2015: ALL 120.1 million (approx. EUR 850,000), <https://financa.gov.al/buxheti-2015/>; Year 2016: ALL 116 million (approx. EUR 845,000), <https://financa.gov.al/ligji-i-buxhetit-2016/>; Year 2019: ALL 162.7 million (approx. EUR 1.35 million), <https://financa.gov.al/buxheti-2019-fillestar/>; Year 2020: ALL 147 million (approx. EUR 1.2 million), <https://financa.gov.al/buxheti-2020/> (consulted on 17.05.2023)

³³³ Interview with the Head of the Cabinet of the Constitutional Court, Mr Aleksandër Toma, 8 September 2022.

³³⁴ <https://financa.gov.al/per-buxhetin-e-vitit-2023/> (consulted on 17.05.2023)

³³⁵ Interview with the Department of Budget Programming and Administration of the High Judicial Council, Mrs Luljeta Laze and Mr Xhevdet Haxhiu, 6 September 2022.

³³⁶ Analytical report of the Working Group established by Order of the Chair of the High Judicial Council no. 232, date 4.11.2019, "On the establishment of the Working Group, for carrying out a study, regarding the Case Management System in the courts", p.6 (accessed 29.01.2020; the report is not available online).

³³⁷ Law 98/2016, "On the organization of the judiciary in the Republic of Albania", Art. 38.

<https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=193&catid=88&m=0> (accessed 27.10.2023).

³³⁸ <https://www.tatime.gov.al/d/8/45/0/1707/njoftim-per-pagen-minimale-nga-periudha-prill-2022> (consulted on 31.08.2023).

³³⁹ Independent Qualification Commission Statistical Report February 2018-July 2023, p.1. <https://kpk.al/wp-content/uploads/2023/08/RAPORTI-STATISTIKOR-2018-KORRIK-2023.pdf> (consulted on 09.08.2023).

³⁴⁰ Training program of the School of Magistrates: <https://www.magjistratura.edu.al/sq/programi-i-trajnimeve> (accessed 25.10.2023); The EU-funded project EURALIUS "Consolidation of the Justice System in Albania" "Objective 5: increase the capacity of the School of Magistrates (SoM) and other training institutions responsible for training of (judicial) civil servants at courts and prosecution offices..." <https://www.cilc.nl/project/consolidation-of-justice-system-in-albania-euralius-v/> (accessed 25.10.2023); NGO Infoçip training program "Open Courts through Press Judges": <https://www.infocip.org/al/?p=14466> (accessed 25.10.2023).

³⁴¹ Law 96/2016, "On the status of judges and prosecutors in the Republic of Albania", Art. 5(3).

³⁴² <https://www.magjistratura.edu.al/sq/programi-i-trajnimeve>.

³⁴³ Ibid.

³⁴⁴ Law no.95/2016, "On the organization and functioning of institutions for combating corruption and organized crime", Art. 14. Available at: https://klp.al/wp-content/uploads/2020/02/lligj_nr_95_2016_per_organizimin_dhe_funksionimin_e_institucioneve_per_te_luftuar_korrupsionin_dhe_krimin_e_organizuar_s_1728.pdf (accessed 25.10.2023).

³⁴⁵ Part 8, "Constitutional Court", Constitution of the Republic of Albania, Art. 124-134.

³⁴⁶ Part 9, "Judiciary", Constitution of the Republic of Albania, Art. 135-147/ç.

³⁴⁷ Constitution of the Republic of Albania, Art. 177

³⁴⁸ Constitution of the Republic of Albania, Art. 125.

³⁴⁹ The HJC is composed of 11 members, six judges (elected among the judges themselves) and five non-judges, of which two are elected among practicing lawyers, two are elected from academia and one is elected from civil society. Both the chair of the HJC and the deputy are elected among the non-judges as a balancing measure to offset the slight majority (six to five) that the judges have in the Council.

³⁵⁰ Articles 54-58 of the Law 115/2016 "On the governing bodies of the justice system", http://www.gjykataelarte.gov.al/web/Thirrja_e_Mbledhjes_se_Posacme_te_gjyqtareve_te_Gjykates_se_Larte_per_te_zgjedhur_anetarin_e_Gjykates_Kushtetuese_19897_1-5.php (consulted on 19.05.2023).

³⁵¹ Constitution of the Republic of Albania, Art. 140.

³⁵² Constitution of the Republic of Albania, Art. 136/a.

³⁵³ Constitution of the Republic of Albania, Art. 137.

³⁵⁴ Law 96/2016, "On the status of judges and prosecutors in the Republic of Albania", Art. 102.

³⁵⁵ Constitution of the Republic of Albania, Art. 140.

³⁵⁶ Constitution of the Republic of Albania, Art. 147/a.

³⁵⁷ Arts. 100-150 of the Law 96/2016, “On the status of judges and prosecutors in the Republic of Albania”, The HJI shall open the investigation if there are reasonable doubts that the misconduct might have occurred based on the facts and evidence collected which justify the opening of the investigation (Art. 123). The magistrate is a party in the proceedings upon the opening of the investigation has access to the file to the extent that is consistent with the scope of the investigation (Art. 129). Where there are reasonable grounds to believe that a magistrate has committed a misconduct, HJI shall initiate the disciplinary proceeding by submitting the investigation report together with the investigation file to the HJC. The HJC shall determine a date for a hearing, which must be not later than one month after the date of receipt of the file from the HJI, and give all parties at least 15 days’ notice of the hearing. The HJC must consider all factors relevant to the case; obtain additional evidence, including summoning witnesses; where it considers it appropriate, engage experts or request the HJI to engage experts (Art. 138). A magistrate who is informed that a disciplinary proceeding has been instituted against them must at the same time be informed of their rights: a) to submit a written defence within a specified time; b) to attend any hearing; c) to call witnesses who may provide information of significance to the case; ç) to present documents; d) to take other measures for the purpose of providing evidence in support of his or her defence; dh) to be represented under the provisions of the Code of Administrative Procedures, e) recover his/her legal costs reasonably incurred in cases where no disciplinary measure is imposed (Art. 141). After having considered all facts and evidence, the Council shall either: a) reject the request for disciplinary proceeding, on the grounds that the facts alleged did not occur or that they do not constitute a disciplinary misconduct; b) uphold the allegations and impose one or more disciplinary measures (Art. 146). The magistrate has the right to appeal a decision imposing a disciplinary measure before the competent court (Art. 147).

³⁵⁸ The HJI has competencies for the verification of complaints, the institutional inspection of the courts, the investigation of violations on its own initiative and the initiation of disciplinary proceedings against judges and prosecutors of all levels, members of the HJC, HPC and the Prosecutor General. Constitution of the Republic of Albania, Art. 147/d.

³⁵⁹ Law 96/2016, “On the status of judges and prosecutors in the Republic of Albania”, Art. 100.

³⁶⁰ For example, prior to the local elections of 14 May 2023, undue influence on the judges would be considered any attempt at requiring a judge of the Electoral College of the Court of Appeal to rule in favour of a certain political party. Or any attempt at requiring a judge of the Special Court on Corruption and Organised Crime to give a favourable decision for a politician who has been accused of committing a crime.

³⁶¹ Undue influence includes the promising, proposing or handing to the judge any illegal profit for him/her or other persons, and is punished by imprisonment of between six months and one year (if less than ALL 50,000/approx. EUR 480 is involved), or by imprisonment of between one and three years (if more than ALL 50,000/approx. EUR 480 is involved). Penal Code of Albania, Art. 245/1.

³⁶² Previous studies have concluded that the terminology used by the IQC regarding the conclusions related to the conduct of the administrative investigation could have been clearer. The reasoning is contradictory, because in the logical analysis used, while in paragraph 9 it is stated that the adjudicating panel has decided to inform the subject that they have the burden of proof to oppose the investigation’s results, in fact, the subject has been informed that they have the burden of proof only for the assets criterion. Albanian Helsinki Committee, Study Report, Vetting and its dynamics, November 2019-July 2020, p.18-19. Available at: https://ahc.org.al/wp-content/uploads/2020/09/KShH_Raport-studimor--Vettingu-dhe-dinamikat-e-tij--Nentor-2019-Korrik-2020.pdf, last visited 6 October 2022.

³⁶³ Up to the end of July 2023, while the magistrates’ vetting process is still ongoing, 138 judges have been removed from office before their term by the IQC either because of their inability to provide evidence for their assets or for not possessing the necessary professional capabilities. Independent Qualification Commission Statistical Report February 2018-July 2023, p.1. <https://kpk.al/wp-content/uploads/2023/08/RAPORTI-STATISTIKOR-2018-KORRIK-2023.pdf> (consulted on 09.08.2023). As a result of the vetting process, 49 other judges have resigned, formally submitting personal issues as the reason for their resignation. Statistical Report, “5 years activity”. Available at: <https://kpk.al/wp-content/uploads/2022/06/Raporti-5-vjecar.pdf>, last visited 3 October 2022. Another judge has resigned in 2023, adding up to 50 resigned judges in total. Interview with the Director of the Department of Legal Affairs and International Relations of the High Judicial Council, Ms Maela Alicanaj, 10 August 2023.

³⁶⁴ Law 115/2016, “On the governing bodies of the justice system”, Art. 97/2.

³⁶⁵ Harsh reaction of the Minister of Internal Affairs: accuses judges and prosecutors for leniency towards the criminals. Public reaction of the Court of Fier: <https://www.tpz.al/reagimi-i-ashper-i-ministrit-te-brendshem-gjykata-e-fierit-i-pergjigjet-akuzave-te-cucit>; <https://www.hashtag.al/index.php/2021/06/28/cuci-akuzoi-prokuroret-dhe-gjykatesit-per-lehtesime-te-masave-te-denimit-reagon-gjykata-e-fierit-sjapim-denime-me-shume-se-sa-kerkojne-prokuroret/>. Prime Minister Edi Rama: "Scandalous and shamelessly irresponsible approach of some prosecutors and judges in the districts.": <https://www.gazetatema.net/politika/zjarrveniet-rama-prokuroret-dhe-gjykatesit-te-zbatojne-rreptesisht-ligj-i400743> (consulted on 08.08.2023).

³⁶⁶ <https://klgj.al/2022/11/deklarata-e-unionit-te-gjyqtareve-te-republikes-se-shqiperise-ne-lidhje-me-sulmet-mediatike-ndaj-gjyqtareve/> (consulted on 09.08.2023).

³⁶⁷ Sali Berisha, one of the leaders of the Democratic Party (in opposition), claimed that "Judges are more criminal than any other criminals, but these are again the Party's judges." Interview at the A2 CNN Tv channel published on 5 May 2023. Available at: <https://a2news.com/2023/05/05/berisha-vrasesi-i-kenianes-fle-ne-qeveri/>, last visited 7 May 2023.

³⁶⁸ <https://lajmifundit.al/politike/uci-paralajmeron-gjyqtaret-kk-te-reflektone-brenda-javes-nis-ndryshim-i1144790> (accessed 27.10.2023)

³⁶⁹ <https://dosja.al/dosja-edi-rama-dhe-gjyqtarja> (accessed 27.10.2023).

³⁷⁰ <https://shqiptarja.com/lajm/para-seances-berisha-sulm-gjyqtare-kriminele-me-uniforme-flet-ne-encrochat-me-ramen> (accessed 27.10.2023).

³⁷¹ <https://top-channel.tv/2021/03/24/gjyqtaret-rrihen-me-grushte-skandali-ne-gjykatën-administrative-te-vlores/> (accessed 27.10.2023).

³⁷² <https://www.reporter.al/2021/06/10/ministri-cuci-sulmoi-gjyqtarin-klgj-ankohet-ne-pergjithesi-ndaj-nderhyrjeve/>.

³⁷³ Law 9049/2003, "On the declaration and audit of assets, financial obligations of elected persons and certain public officials", Art. 3/1/b and Art. 3/1/dh. <https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=77&catid=13&m=0>. (accessed 27.10.2023).

³⁷⁴ Law no. 119/2014, "On the right to information", Art. 4, Art. 7 and Art. 8. <https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=165&catid=55&m=0> (accessed 27.10.2023).

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³⁷⁵ Law no. 119/2014, "On the right to information", Art. 2§1sa and Art. 4. <https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=165&catid=55&m=0> (accessed 27.10.2023).

³⁷⁶ Civil Procedure Code of Albania, Art. 26.

³⁷⁷ Law 115/2016, "On the governing bodies of the justice system", Art. 98/2.

³⁷⁸ Law 115/2016, "On the governing bodies of the justice system", Art. 98/2.

³⁷⁹ Decision No. 458, date 25.07.2023, Proposal for appointment as a judge of the High Court. <https://klgj.al/wp-content/uploads/2023/07/Vendim-458-i-arsyetuar-propozim-p%C3%ABr-em%C3%ABrim-V.K.pdf> (consulted on 09.08.2023).

³⁸⁰ <https://klgj.al/wp-content/uploads/2023/10/VENDIM-Nr.-636-dat%C3%AB-19.10.2023-P%C3%8BR-NGRITJEN-N%C3%8B-DETYR%C3%8BN-E-GJYQTARES-S%C3%8B-GJYKAT%C3%8BS-S%C3%8B-POSA%C3%87ME-T%C3%8B-SHKALL%C3%8BS-S%C3%8B-PAR%C3%8B-P%C3%8BR-KORRUPSIONIN-DHE-KRIMIN-E-ORGANIZUAR-T%C3%8B-ZNJ.-%E2%80%A6.pdf>.

³⁸¹ Website of the High Judicial Council: <http://klgj.al/>.

³⁸² Data on the budget and procurement procedures of the Supreme Court: https://www.gjykataelarte.gov.al/web/Informacion_mbi_buxhetin_dhe_procedurat_e_prokurimit_te_Gjykates_se_L_arte_4061_1-10.php.

³⁸³ Reports of the High Judicial Council: <http://klgj.al/raporte-klgj/>.

³⁸⁴ Information on the procedures at the Court of First Instance, Durres: <http://www.gjykata.gov.al/rrethi-durr%C3%ABs/gjykata-e-rrethit-durr%C3%ABs/>.

³⁸⁵ <http://www.gjykatatirana.gov.al/kendiinformativ/evidencat-statistikore-specifike/>;

<https://www.gjykata.gov.al/rrethi-durr%C3%ABs/gjykata-e-rrethit-durr%C3%ABs/statistika/koh%C3%ABzgatja-e-c%C3%ABshtj%C3%ABve/>.

³⁸⁶ <https://www.gjykata.gov.al/rrethi-fier/gjykata-e-rrethit-fier/mbledhja-e-k%C3%ABshillit-t%C3%AB-gjykat%C3%ABs/> (consulted on 09.08.2023); <https://www.gjykata.gov.al/rrethi-berat/gjykata-e-rrethit-berat/mbledhja-e-k%C3%ABshillit-t%C3%AB-gjykat%C3%ABs/> (consulted on 09.08.2023).

³⁸⁷ HJC Action Plan for the judiciary 2019-2020. <https://klgj.al/2019/10/plani-i-veprimit-i-klgj-se-per-sistemin-gjyqesor-2019-2020-versioni-shqip/> (accessed 27.10.2023).

³⁸⁸ HJC Strategic Plan for the judiciary 2022-2024. https://klgj.al/wp-content/uploads/2022/05/Plani-Strategjik-Final_2022-2024.pdf (accessed 27.10.2023).

³⁸⁹ Constitution of the Republic of Albania, Art. 142/1.

³⁹⁰ Law 96/2016, "On the status judges and prosecutors in the Republic of Albania", Art. 72. <https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=198&catid=86&m=0> (accessed 27.10.2023).

³⁹¹ Constitution of the Republic of Albania, Art. 147/d-147/ë. The HJI is elected by a three-fifths majority of all members of the Assembly for a nine-year term without the right to re-election from among the ranks of prominent jurists with no less than 15 years of professional experience and who of high moral and professional integrity.

³⁹² Law 115/2016, "On the governing bodies of the justice system", Art. 201.

³⁹³ Law 115/2016, "On the governing bodies of the justice system", Art. 209. The Committee for the Appointment and Evaluation of Inspectors shall consist of three inspectors of the High Justice Inspectorate elected by lot for a one-year mandate.

³⁹⁴ Constitution of the Republic of Albania, Art. 147/d.

³⁹⁵ Law 96/2016, "On the status judges and prosecutors in the Republic of Albania", Art. 119.

³⁹⁶ Law 96/2016, "On the status judges and prosecutors in the Republic of Albania", Art. 105.

³⁹⁷ Decision no. 432, dated 18.07.2023, "On the ethical and professional evaluation of the judge {...}, for the year 2022". <https://klgj.al/wp-content/uploads/2023/07/VENDIM-Nr.-432-dat%C3%AB-18.07.2023-P%C3%8BR-VLER%C3%8BSIMIN-ETIK-DHE-PROFESIONAL-T%C3%8B-GJYQITARIT-%E2%80%A6-P%C3%8BR-VITIN-2022-1.pdf> (accessed 27.10.2023).

³⁹⁸ HJC Decision No.92, date 17.03.2021. Available at: <https://klgj.al/wp-content/uploads/2021/10/V-E-N-D-I-M-Nr.-92-dat%C3%ab-17.03.2021-P%C3%8BR-CAKTIMIN-E-MAS%C3%8BS-DISIPLINORE-NDAJ-GJYQTARES-....pdf>.

³⁹⁹ Interview with High Justice Inspector, Mr. Artur Metani, 13.06.2023.

⁴⁰⁰ HJI Annual Report 2022, p. 21. Available at: <https://ild.al/wp-content/uploads/2023/05/RAPORTI-I-PUNES-VITI-2022.pdf>.

⁴⁰¹ Law 9049/2003, "On the declaration and audit of assets, financial obligations of elected persons and certain public officials", Art. 3/1/dh.

⁴⁰² Law No.84/2016, dated 30.8.2016, "On the transitional re-evaluation of judges and prosecutors in the republic of Albania" (Vetting Law), Art.32. <https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=1&catid=98&m=0> (accessed 27.10.2023).

⁴⁰³ Ibid., Art.4

⁴⁰⁴ HJC Decision no. 171, date 22.4.2021, Code of Judicial Ethics. Published in the Official Journal no. 66, dated 29.4.2021.

⁴⁰⁵ Available at:

https://www.gjp.gov.al/rc/doc/KODI_I_ETIK_S_GJYO_SORE_VKLGJ_nr_271_date_22_4_2021_4666.pdf.

⁴⁰⁶ Code of Judicial Ethics, Part II.

⁴⁰⁷ Ibid. Art. III (14).

⁴⁰⁸ Ibid. Art. III (15).

⁴⁰⁹ Ibid. Art. III (16).

⁴¹⁰ Ibid., Art. B/7/gj.

⁴¹¹ Civil Procedure Code of Albania, Art. 74..

⁴¹² Independent Qualification Commission Statistical Report February 2018-July 2023, p.1. <https://kpk.al/wp-content/uploads/2023/08/RAPORTI-STATISTIKOR-2018-KORRIK-2023.pdf> (consulted on 09.08.2023).

⁴¹³ Decision of the Special Appeal College No. 23, dated 28.06.2022 https://kpa.al/wp-content/uploads/2022/09/Vendim_Astrit_SHEMA_anonimizuar.pdf (accessed 27.10.2023).

⁴¹⁴ Decision No. 62, date 03.08.2018. <https://kpk.al/wp-content/uploads/2018/10/Vendimi-Artur-Malaj.pdf> (consulted on 10.08.2023). Upon the Recommendation of the International Monitoring Operation (<https://ikp.al/wp-content/uploads/2018/10/Rekomandim-dat%c3%ab-10.8.2018.pdf>), the Public Commissioner filed an appeal to the Special Appeal College (<https://ikp.al/wp-content/uploads/2018/10/Ankim-kund%C3%ABr-vendimit-nr.-62-dat%C3%AB-3.8.2018-t%C3%AB-KPK-s%C3%AB-p%C3%ABr-subjektin-e-rivler%C3%ABsimit-z.-Artur-Malaj.pdf>), which overruled the IQC's decision and dismissed the judge through Decision No. 27, dated 24.10.2019. <https://kpa.al/wp-content/uploads/2019/12/Vendimi-A-Malaj-i-anonimizuar-pdf.pdf> (consulted on 10.08.2023).

⁴¹⁵ Decision of the Special Appeal College No. 27, dated 06.07.2022. https://kpa.al/wp-content/uploads/2022/11/VENDIMI_GERD-HOXHA_perfshire_mendimin_paralel_dhe_mendimin_e_pakices_anonimizuar.pdf (accessed 27.10.2023).

⁴¹⁶ Decision of the Special Appeal College No. 26, dated 06.07.2022. https://kpa.al/wp-content/uploads/2022/10/Vendim_Elbana_Lluri_p%C3%ABrshir%C3%AB_mendimet_e_pakic%C3%ABs_anonimizuar.pdf (accessed 27.10.2023).

⁴¹⁷ Decision of the Independent Qualification Commission no. 364, dated 02.04.2021, parag. 21.2-21.4, <https://kpk.al/wp-content/uploads/2021/07/Vendim-Alma-Hicka.pdf> (accessed 27.10.2023).

⁴¹⁸ <https://www.reporter.al/2023/10/27/kpa-rikthen-ne-detyre-gjyqtaren-alma-hicka/>.

⁴¹⁹ This is probably due to the need for more intensive awareness-raising activities related to the Code of Ethics among the judges themselves and the public. Interview with Ms Albana Boksi, Ethics Advisor judge, 14.06.2023.

⁴²⁰ Opinions on the use of mobile phone by the judges during the hearing and on the use of social networks by judges. Available at: <https://klgj.al/opinione-2/>, consulted on 14 June 2023.

⁴²¹ Decision of the Independent Qualification Commission (Vetting) No. 24, dated 13.06.2018, p. 3 and p. 38.. Available at: <https://kpk.al/wp-content/uploads/2018/07/Vendimi-Bashkim-Dedja.pdf>, consulted on 14.06.2023.

⁴²² HIDAACI Annual Report 2022. <https://www.ildkpk.al/gloolsys/2023/09/Raport-vjetor-2022.pdf> (accessed 27.10.2023).

⁴²³ Supra, note 82.

⁴²⁴ Interview with High Justice Inspector, Mr. Artur Metani, 13.06.2023.

⁴²⁵ The training calendars do not include topics on gender-sensitive protocols and mechanisms. Available at: <https://www.magjistratura.edu.al/sq/kalendari-i-trajnimeve>, consulted on 14.06.2023.

⁴²⁶ Constitution of the Republic of Albania, Art.131, Paragraph 1c.

⁴²⁷ The administrative courts control the executive's normative bylaws in two kinds of procedures as outlined in Article 38 of Law No. 49/2012 "On administrative courts and adjudication of administrative disputes". Article 10 Paragraph 1b, of Law no. 49/2012 "On administrative courts and adjudication of administrative disputes".

⁴²⁸ Articles 15 and 17 of Law no. 49/2012, "On administrative courts and adjudication of administrative disputes".

⁴²⁹ Constitution of the Republic of Albania, Art. 131 Paragraph 1f:1. This constitutional provision is further supplemented by articles 71, 71/a, 71/b and 71/c of Law no. 8577, dated 10.2.2000, "On the organization and functioning of the Constitutional Court".

⁴³⁰ Delegation of the European Union to Albania, "Key findings of the 2022 Report on Albania". https://www.eeas.europa.eu/delegations/albania/key-findings-2022-report-albania_en?s=214.

⁴³¹ In cases of unfair dismissal of public administration employees, for the year 2018 the judgments in favour of the plaintiff (against the executive) have been successful in 72 per cent of the cases. INFOÇIP, "National thematic evaluation – length of judicial administrative proceedings 2017-2018". Available at: <https://www.gjykataehapur.al/wp-content/uploads/2019/02/Kohezgjatja-e-shqyrtimit-gjyqesor-administrativ-2017-2018-gjykataehapur.pdf>.

⁴³² Constitution of the Republic of Albania, Art. 142/3.

⁴³³ Constitutional Court Decision No. 25/2014. Available at: https://www.gjk.gov.al/web/Lista_e_Vendimeve_92_1.php, consulted on 14 June 2023.

⁴³⁴ Constitution of the Republic of Albania, Art. 134.

⁴³⁵ Judgment no. 8, dated 22.02.2023.

⁴³⁶ Judgment no. 21, dated 18.04.2023; Judgment no. 35, dated 15.06.2023.

⁴³⁷ Based on Article 259 of the Penal Code, "Passive corruption of public officials": during 2022, the prosecution brought 13 cases to be adjudicated by the Specialised Court of First Instance, out of which four were adjudicated within 2022, three of them received guilty verdicts. Based on Article 319/ç of the Penal Code, "Passive corruption

of judges, prosecutors, and other justice system officials”: during 2022, the prosecution brought two cases to be adjudicated by the Specialised Court of First Instance, both of them received guilty verdicts. Available at: https://www.gjp.gov.al/rc/doc/Analiza_Vjetore_e_punes_viti_2022_4814.pdf (p.58).

⁴³⁸ Corruption Perception Index, Transparency International, 2022, <https://www.transparency.org/en/cpi/2022>
⁴³⁹ <https://spak.gov.al/njoftim-per-shtyp-date-22-10-2023/>.

⁴⁴⁰ <https://spak.gov.al/njoftim-per-shtyp-date-10-07-2023-a-ahmetaj/>

⁴⁴¹ <https://spak.gov.al/njoftim-date-10-03-2023/>.

⁴⁴² <https://www.gjykata.gov.al/gjykata-e-posacme-e-apelit-per-korrupsionin-dhe-krimin-e-organizuar/gjykata-e-posacme-e-apelit-per-korrupsionin-dhe-krimin-e-organizuar/njoftime-p%C3%ABr-median/>.

⁴⁴³ Constitution of the Republic of Albania, Art. Article 135.

⁴⁴⁴ Article 244/2 of the Penal Code – Active corruption of public officials; Article 245 of the Penal Code - Active corruption of high public officials and local government officials; Article 259/2 of the Penal Code – Passive corruption of public officials; Article 260 - Passive corruption of high public officials and local government officials.

⁴⁴⁵ Available at: https://www.gjp.gov.al/rc/doc/Analiza_Vjetore_e_punes_viti_2022_4814.pdf.

⁴⁴⁶ Interview with Ms Dinora Aleks, Spokesperson of the Special Court on Corruption and Organised Crime of first instance, 13.06.2023.

⁴⁴⁷ European Commission, Albania Country Report 2022, p.4. Available at: https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en, last visited on 13 October 2022.

⁴⁴⁸ The Iranian cyber-attack had a detrimental effect on the electronic systems of Albania in 2022. Interview with Ms Kejti Hoxha, Director of International Cooperation Directorate of the Ministry of Justice, 14.06.2023.

⁴⁴⁹ The most recent statistics are for year 2021. Available at: <https://www.drejtesia.gov.al/wp-content/uploads/2022/06/REPUBLIKA-E-SHQIP%C3%8BRIS%C3%8B-Vjetari-Statistikor-2021-pdf.pdf> Consulted on 15.06.2023. No statistics have been published yet for 2022.

⁴⁵⁰ High Judicial Council Decision no. 68, date 24.04.2019, “On the appointment of the HJC Member responsible for Public Relations.

⁴⁵¹ High Judicial Council Decision no. 280, date 10.12.2019, “On the appointment of the Media Judges on each Appeal jurisdiction”

⁴⁵² High Judicial Council Decision no. 126, date 19.07.2019, “On the approval of the HJC Strategic Plan for the Albanian Judiciary for 2019-2020”

⁴⁵³ High Judicial Council Decision no. 590, date 26.11.2020, “On the approval of the Communication Strategic Plan for the Judiciary”. All the HJC decisions are available at: <https://klgj.al/vendime/> (Consulted on 30.08.2023).

PUBLIC PROSECUTOR

OVERVIEW

The Prosecution Service of Albania is composed of the General Jurisdiction Prosecution (GJP)⁴⁵⁴ and the Special Prosecution.⁴⁵⁵ The former was the only prosecution service in Albania up until the justice reform in 2016, which established the Special Prosecution Office to prosecute Corruption and Organised Crime, as well as the independent investigation unit, the National Investigation Bureau, which together compose the Special Structure Against Corruption and Organised Crime (SPAK).

The Albanian justice system has undergone deep reform. The new legal framework was adopted in 2016, while the new governing institutions, the High Prosecutorial Council (HPC) and the High Judicial Council (HJC), were established in 2018, followed by the establishment of the High Justice Inspector (HJI) in 2020. The HPC is composed of 11 full time members, and it appoints, evaluates, promotes and transfers all prosecutors at all levels, decides on disciplinary measures imposed on all prosecutors at all levels, proposes candidates for Prosecutor General to the Assembly, adopts rules of ethics for prosecutors and supervises their observance, proposes and administers its own budget, and informs the public and the parliament on the state of the prosecution offices.⁴⁵⁶

The new judicial map overhauled the territorial competences of the courts, closing down 9 smaller courts of general jurisdiction and five courts of appeal. As a consequence, the prosecution offices were affected in the same manner.

The public prosecutor faces significant challenges stemming from vacancies resulting from the vetting process, with 96 prosecutors⁴⁵⁷ dismissed by the IQC as of September 2023. This impacts prosecutorial efficiency. Additional challenges include the need for increased financial and human resources as well as enhanced cooperation with media and civil society to boost transparency and public trust. There are no constitutional guarantees provided for the prosecution budget to stipulate that the prosecution must be allocated a certain

percentage of the general budget in order to carry out its mission efficiently.

Furthermore, there has been a lack of assessment by the HPC and the General Prosecution to determine optimal prosecutor workload, necessitating a comprehensive analysis. Until substantial vacancies are filled, a balanced distribution of workload among prosecutors is crucial for enhanced efficiency.

The initial training programme for prosecutors lacks differentiation from judges and should focus on criminal law. Constitutional guarantees for the prosecution budget are absent, hindering efficient mission fulfilment.

The prosecution is reactive rather than proactive in transparency, responding to information requests as per the right to information law.

Critical accountability gaps include the absence of performance evaluations for prosecutors to guide promotions and a lack of specific provisions preventing prosecutors from receiving reimbursements, compensation and honoraria related to privately sponsored trips in the Standards and Rules.

PUBLIC PROSECUTOR



	Indicator	Law	Practice
Capacity	Resources	75	50
	Independence	75	50
Governance	Transparency	50	50
	Accountability	75	50
	Integrity mechanism	75	50
Role	Corruption Prosecution		50

SUMMARY



CAPACITY

INDICATOR 4.1.1 RESOURCES (LAW)

To what extent are there laws seeking to ensure appropriate salaries and working conditions of prosecutors?



There are comprehensive laws seeking to ensure appropriate salaries of prosecutors and provisions against income reduction. However, there are no prescribed inflation adjustments or provisions for a minimum budget.

According to the law on the status of judges and prosecutors in the Republic of Albania, prosecutors' salaries are determined based on the prosecutor's position, i.e. whether he or she is a prosecutor of the first instance court, appeals court, General Prosecution or Special Prosecution. As such, the salaries of prosecutors depend on the position held, not on their experience. A younger prosecutor who has 10 years of experience but who is the Head of the Prosecution Office of First Instance is paid more than an older colleague of the First Instance who has 15 years of experience but is still his subordinate. Apart from the category the prosecutor belongs to, the salary of a prosecutor is determined based on the rank in profession and leadership position.⁴⁵⁸

The salary of a prosecutor is pegged to that of a Director General in the Prime Minister's office. It includes a reference payment, plus an experience bonus, plus a qualifications bonus, plus a position bonus, plus a difficulty bonus.⁴⁵⁹ The reference payment is 118,100 lek (approx. €1,000). Beginning in 2019, a new salary system was enacted. There are currently 3 categories: G-1 first instance prosecutors, G-2 appeal prosecutors, and G-3 prosecutors of the General Prosecutors and the Special Prosecutors, where the latter, apart from their salary and seniority pay, receive a bonus as a compensation for their work difficulties and their waiver of privacy.^{460,461}

The magistrates' salaries are determined by Article 12 of Law no. 96/2016, on the status of judges and prosecutors in the Republic of Albania. But there are no provisions in the law against the reduction of the salaries of prosecutors.

There is also no mechanism to secure salary adjustment for inflation. There are no legal provisions which require that a minimum percentage of the state budget must be allocated to the prosecution. The budget is apportioned through a process of communication and negotiation between the Ministry of Finance and Economy on one side and the General Prosecution and Special Prosecution on the other.⁴⁶²

INDICATOR 4.1.2 RESOURCES (PRACTICE)

To what extent does the public prosecutor have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?



The prosecution has some resources. However, significant financial and human resource reductions lead to a certain degree of ineffectiveness in carrying out its duties.

As for the General Prosecution, in the year 2021, there was a reduction of nearly ALL 500 million (approx. 4 million) in its budget, from ALL 2,178,800,000 (EUR 17.8 million) to ALL 1,680,000,000 (approx. 13.7 million),⁴⁶³ because of the financial crisis. In 2022, the budget of the General Prosecution was ALL 2,424,270,000 (EUR 20.2 million), almost at the same level as the pre-pandemic period.⁴⁶⁴ On the other hand, because of the focus on the fight against corruption and organised crime, the Special Prosecution was established by law in 2016⁴⁶⁵ and began operating in December 2019. Compared to the first financial year (2020), its current budget has been increased considerably,⁴⁶⁶ by more than 300 per cent.⁴⁶⁷

Despite the improvements, the budget of the prosecution is not sufficient for it to perform its duties.

The prosecutors' salaries are determined comparatively. Within the national wages' scheme, current salary levels for prosecutors are adequate, such that there are no strong economic reasons for resorting to corruption.^{468,469}

Prosecutors' salaries cannot in substance be compared to salaries for practicing lawyers, as there is a high degree of informality among the latter. All the practicing lawyers are considered legal persons, irrelevant of their income, where the reputable lawyers' income is much higher than prosecutors.

There is not an adequate amount of clerks, library resources and modern computer equipment for prosecutors, or even office space. Especially in the Tirana Prosecution Office, the situation is more difficult because of the higher caseload. Additionally, because of the distance from the prosecution office to the Court, they often have to travel several times a day, back and forth, with lower efficiency at work.⁴⁷⁰ Support must be offered to the prosecutors at least through administrative assistants in order to help them deal with their workload.

Human resources have been severely hit by the vetting process. By the end of September 2023, 96 prosecutors had been dismissed by the IQC.⁴⁷¹ Apart from the dismissals, taking into account the number of the prosecutors that have resigned and those that are seconded to other institutions of the justice system, there are 223 prosecutors on duty, out of a total of 341.⁴⁷² Staff members have training opportunities through the School of Magistrates and the School of Public Administration. There are sufficient training activities to enhance a prosecutor's knowledge of the law and legal skills, including case management and prevention of conflicts of interest, organised by the School of Magistrates.⁴⁷³

INDICATOR 4.1.3 INDEPENDENCE (LAW)

To what extent is the public prosecutor independent by law?



The current legal framework after the legislative reform of 2016 has strengthened the independence of the prosecution in Albania. However, they are obliged by law to obey the general written instructions of their superiors.⁴⁷⁴

The independence of the public prosecutor is guaranteed by the Constitution of the Republic of Albania, which needs two-thirds of the votes in the parliament to be amended.⁴⁷⁵

Prosecutors must be Albanian citizens appointed by the High Prosecutorial Council after having graduated from the School of Magistrates and after having completed the preliminary process of verification of their assets and their background checks.⁴⁷⁶ Appointments of prosecutors are indefinite and have to be based on clear professional criteria.⁴⁷⁷

The HPC is responsible for the appointment of prosecutors. Prosecutors are appointed indefinitely by the HPC⁴⁷⁸ to prevent them from being threatened with arbitrary termination of their contract. Prosecutors are appointed after the verification of their professional capacity (professional criterion), and the verification of their assets and their background checks (moral criterion).⁴⁷⁹ However, after their appointment, there have been no performance evaluations of the prosecutors, which should be the foundation for their promotion and career advancement.⁴⁸⁰

Only the appointment of the Prosecutor General is made by three-fifths of the members of the parliament among three candidates proposed by the HPC for a seven-year mandate, without the right to re-appointment. The three most qualified candidates have to be selected based on an open and transparent procedure among the ranks of prominent jurists with not less than 15 years of professional experience, of high moral and professional integrity, who have graduated from the School of Magistrates or have an academic degree in law.⁴⁸¹

The special prosecutors⁴⁸² are also appointed by the HPC.⁴⁸³ The special prosecutors are part of the Special Prosecution Office, with the mandate to prosecute Corruption and Organised Crime. The independent investigation unit, the National Investigation Bureau, functions under its authority. Together, the Special Prosecution Office and the National Investigation Bureau compose the Special Structure Against Corruption and Organised Crime (SPAK).

The HPC is the independent body with constitutional protection for the appointment and removal of prosecutors.⁴⁸⁴ The High Justice Inspector (HJI) is the responsible body for conducting disciplinary investigations for cases of disciplinary infringements. The findings of the investigation are forwarded to the HPC, which may decide to terminate the prosecutors' contract if they are found to have committed serious professional or ethical offences or when sentenced by a final court decision for committing a crime.⁴⁸⁵ The procedure for the removal of the prosecutors is initiated by HJI⁴⁸⁶ and offers all the guarantees of due process.⁴⁸⁷

The regulations protecting prosecutors from undue influence are included in the Penal Code, as for all other public officials, and they are generally considered to be sufficient. They prohibit the direct or indirect promise, proposal, or offer of any illegal benefit for the public official, as well as the direct or indirect soliciting, receiving or accepting of any such illegal benefit.⁴⁸⁸

There is no room for participation of civil society in appointment proceedings, but one of the five lay members elected to the HPC comes from civil society and two from academia, and two from defence attorneys.⁴⁸⁹ The current head of the HPC comes from civil society.⁴⁹⁰

INDICATOR 4.1.4 INDEPENDENCE (PRACTICE)

To what extent does the public prosecutor operate without interference from the government or other actors?



There is undue external interference, especially by the executive and the media. Verbal attacks on the prosecution persist, while there is no evidence of effective enforcement of the regulations protecting prosecutors from undue influence. Also, unequal procedures in the vetting process have caused uncertainty among prosecutors, making them vulnerable to undue influence.

The vetting process has caused uncertainty in the prosecution⁴⁹¹ as to whether they will continue to be part of the prosecution service, or whether their career will end by dismissal from the vetting authorities. For the period 2019-2020, it has been observed that the procedure followed by the vetting bodies for the administration of reports (from the HPC and the HJC) has not been equal. Specifically, there have been cases where the vetting process of some prosecutors had begun after the establishment of the HPC (December 2018), but the procedure has not been identical. As a rule, the IQC (first instance vetting) after the establishment of the HPC should have requested from the latter a special report on the professional qualities of the prosecutor, but it decided not to administer such a report. It decided based only on the report from the working group set up at the General Prosecution, analysing only the professional qualities of the prosecutor.⁴⁹² In practice, the standards have not been uniformly applied to all the prosecutors.

By the end of September 2023, after verifying the three components stipulated in the law (assets, integrity and professional capacity), the IQC had dismissed 96 prosecutors.⁴⁹³ There have been controversial cases of dismissal of prosecutors by the vetting institutions, one of them deemed to be in violation of the right to respect for the private and family life of the prosecutor. In this case, the European Court of Human Rights ordered the reopening of the vetting proceedings.⁴⁹⁴

Outside of the vetting process, it is uncommon for the prosecutors to be removed from office before the end of their term.

During 2022, HJI proposed disciplinary proceedings for three prosecutors to the HPC, including dismissal for two and the temporary reduction of salary for the other. Because two of these prosecutors are at the same time undergoing the vetting process, for them the disciplinary proceeding has been suspended, whereas the third has been dismissed.⁴⁹⁵

Prosecutors do not get transferred or demoted due to the content of their decisions.

However, there are examples of undue external interference in prosecution proceedings, especially by the executive⁴⁹⁶ and the media, in the form of pressure exerted on the prosecutors by the executive, by publicly insulting them, accusing them of "raising the amount of bribes". The claims were that even after several accusations were put forward to the Tirana Prosecution Office by different institutions, such as Taxes and Customs, nothing has been done by the prosecutors.⁴⁹⁷ This has led to the point that even prosecutors of the Special Prosecution, who receive special financial and personal security treatment, step aside from the cases that they have under investigation.⁴⁹⁸

In 2022, the HPC had been striving to protect the prosecutors from external influence,⁴⁹⁹ mainly through public statements, denouncing the efforts to influence the work of the prosecutors, but the verbal attacks on the prosecution persist, despite the reaction from the HPC. The HPC was itself in the centre of a media debate between the Prime Minister and the US Ambassador, regarding the alleged attempts by the executive at interfering in the election process of the Head of the Special Prosecution.⁵⁰⁰ The US Ambassador decided to be present during the HPC meeting for the election of the Head of the Special Prosecution.⁵⁰¹

There is no evidence of effective enforcement of the regulations protecting prosecutors from undue influence.

GOVERNANCE

INDICATOR 4.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the public prosecutor?



Provisions are in place which allow the public to obtain information on the organisation and functioning of the prosecution on decisions that concern them and how these decisions were made via the Law on the Right to Information. However, there are no specific provisions for the transparency of the prosecution in its specific law and a lack of prescribed proactive transparency.

The legislation on the right to information is equally applicable to the public prosecutor.⁵⁰²

There are no specific provisions for the transparency of the prosecution in its specific law, other than the provision stipulating that prosecutors in the course of their duty respect the Constitution, international agreements and other laws in force, and that they respect the principle of fair, equal and due legal proceedings and the protection of human rights and freedoms and of the public interest.⁵⁰³

The public prosecutor is required to provide information on statistics, membership of relevant organisations and other relevant activities to the public in a timely manner. There is no legal deadline for the publications, only for the Information Requests Register, which has to be updated every three months. Each prosecution office, as well as the HPC, is required by law to have an institutional Transparency Programme which sets out the categories of information that must be published proactively and the means of publication.⁵⁰⁴ There is no proactive transparency,⁵⁰⁵ but the public is entitled to information on the number of cases disposed of annually. Citizens can access this information through a request that can be

submitted to any of the prosecution offices, which must respond within 10 days.⁵⁰⁶

The HPC has to provide information on its activities and decisions, as well as statistics and other relevant activities to the public in a timely manner.⁵⁰⁷ The audio recording of the plenary meeting must be made public on the official website of the HPC within 24 hours from the day of the meeting, whereas the minutes of the meeting with a summary discussion must be published on the official website of the Council after being approved by the next plenary meeting of the Council. Audio recordings of the HPC meetings and the summary minutes must be stored for at least 10 years, in accordance with the Law on Archives.⁵⁰⁸

Appointments, transfers and dismissals of prosecutors are decided in the plenary meetings of the HPC, so these too must be made public on the official website of the HPC within 24 hours from the day of the meeting. The minutes of the meeting with a summary discussion must be published on the official website of the Council after being approved by the next plenary meeting of the Council.⁵⁰⁹

INDICATOR 4.2.2 TRANSPARENCY (PRACTICE)

To what extent does the public have access to information on the activities and decision-making processes of the public prosecutor in practice?



There is a lack of proactive transparency due to a lack of legal obligation, which leads to a lack of available information on the criteria for the parallel secondments and appointments of the prosecutors to fill the temporary vacant positions.

The prosecution publishes regular reports on its activities, spending and governance. All the data is available on the official General Prosecutor website,⁵¹⁰ as well as on the Special Prosecution website.⁵¹¹ The HPC publishes regular reports on its activities, spending and governance. These reports

are comprehensive and available to the public via the HPC's official website.⁵¹²

Information on the appointment, transfer and removal of prosecutors by the HPC is generally made public and all such decisions are available on the official HPC website.⁵¹³

However, the procedures of the High Prosecutorial Council for filling the vacancies in the prosecution and the temporary secondments of the prosecutors should be based on clear criteria defined by HPC.⁵¹⁴ Despite the legal obligation for the HPC to determine the criteria for parallel secondments (between the prosecution offices of the same instance) and the adaptation of these criteria for appointments of prosecutors to fill temporary vacant positions, this has not yet been fulfilled. Such clearly defined criteria would increase the transparency of the process of parallel secondments and appointments of the prosecutors to fill the temporary vacant positions.

Information on case management, statistics or activities of prosecutors are not proactively published, but they can be accessed upon request in accordance with the provisions of the Law on the Right to Information.⁵¹⁵ Citizens can also obtain information on the appointment, transfer and removal of prosecutors easily. This information is publicly available in the HPC website.⁵¹⁶

The Prosecutor General has admitted that there are problems related to the performance of the heads of the prosecution offices on the quality of information and on reporting and providing statistics. They do not comply with the legal obligations on reporting and providing information.⁵¹⁷ The information provided is incomplete and delayed. Additionally, the evaluations that prosecutors carry out on the professionalism and integrity of the judicial police officers are formal and clearly not objective.⁵¹⁸

INDICATOR 4.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the public prosecutor has to report and be answerable for its actions?



After the comprehensive reform of 2016, there is a legal framework in place for the accountability of the prosecutors. However, there are no provisions in place to review the meritocracy of appointments and promotions within the prosecution.

The independent body investigating complaints against prosecutors is the HJI, as anchored in the Constitution.⁵¹⁹ Prosecutors have no immunity regarding corruption and other criminal offences. There is a formal complaints and disciplinary procedure initiated by HJI. The HJI may initiate the disciplinary procedure or the procedure may be initiated through the action of the complainants, who may be any natural or legal person, the Minister of Justice, any member of the HPC or the head of any prosecution office.⁵²⁰

Complainants are protected by law. They have the legal right for their identity to remain confidential if they wish.⁵²¹ The HJI may propose one or more of the following disciplinary measures: confidential warning, public reprimand, temporary reduction of salary, demotion, suspension or dismissal.⁵²²

INDICATOR 4.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do prosecutors report and answer for their actions in practice?



After the comprehensive reform of 2016, there is a legal framework in place for the accountability of the prosecutors. However, no periodic ethical and professional evaluations of the prosecutors have been carried out.

Complainants are effectively protected in practice and have not had to face any consequences because of their complaints. There is no single case of consequences because of a complaint.

The disciplinary procedures have been effective.⁵²³ For HJI archiving decisions, appeals have been very few and in any case these decisions have been left in force by the respective councils. Regarding the requests for proceedings initiated by the HJI, it appears that so far they have all been accepted, with the exception of one request that was rejected by the HPC.⁵²⁴ Since the establishment of the HJI in February 2020, at the conclusion of the disciplinary proceedings, the HJI has proposed the dismissal of seven prosecutors, while the HPC has dismissed four of them.⁵²⁵

During 2022, the HJI proposed disciplinary proceedings for three prosecutors to the HPC, including dismissal for two of them and a temporary reduction in salary for the other. Because two of these prosecutors are at the same time under the vetting process, the disciplinary proceeding has been suspended for them, whereas the third has been dismissed.⁵²⁶

The HPC has dedicated the first three programmes of its “Strategic Plan 2021 – 2024 for the High Prosecutorial Council” to the administration of prosecutors' careers based on their individual professional performance professionalism and integrity ensured through periodic ethical and professional evaluations, and the accountability of prosecutors ensured through the disciplinary

system.⁵²⁷ However, no periodic ethical and professional evaluations of the prosecutors have been carried out.

INDICATOR 4.2.5 INTEGRITY MECHANISM (LAW)

To what extent are there mechanisms in place to ensure the integrity of prosecutors?



While there is a Code of Conduct and laws that ensure the integrity of members of the prosecution, the provisions do not cover post-employment restrictions outside of the prosecution, leading to a lack of measures in place to avoid “revolving doors” between the prosecution and private sector or the prosecution and the executive.

The “Prosecutors’ Ethical Standards and Rules of Behaviour” were adopted in 2022⁵²⁸ and are comprehensive.⁵²⁹

Prosecutors are required to disclose their assets and make them available to the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests.⁵³⁰

There are no provisions in the Standards and Rules preventing prosecutors from receiving reimbursements, compensation and honoraria in connection with privately sponsored trips. The Standards and Rules contain provisions that stipulate that prosecutors must avoid personal benefits for themselves, their family members or others that come about because of their duty as a prosecutor.⁵³¹ Prosecutors are forbidden from requesting or accepting gifts, loans or favours connected to their duty.⁵³² They may receive symbolic gifts or benefits, according to the law,⁵³³ on condition that the gift, prize or benefit may not be perceived as impairment of impartiality, or as an aim to influence them while carrying out their duty.⁵³⁴

Citizens can challenge the impartiality of a prosecutor, who may then be replaced by another prosecutor following a decision by their superior.⁵³⁵

There are no restrictions for prosecutors entering the private or public sector after leaving their duty. There are no post-employment restrictions outside of the prosecution. There are no measures in place to avoid “revolving doors” between the prosecution and private sector or the prosecution and the executive.

If a prosecutor is dismissed as a result of the vetting process, or if they voluntarily resign during the vetting process, they may no longer be appointed as a judge, prosecutor, a member of the High Judicial Council, High Prosecutorial Council, High Justice Inspector or Prosecutor General for a duration of fifteen years.⁵³⁶

INDICATOR 4.2.6 INTEGRITY MECHANISM (PRACTICE)

To what extent is the integrity of members of the prosecution ensured in practice?



The vetting process has revealed cases of insufficient verification of asset and interest declarations by the HIDAACI. Additionally, a lack of post-employment restrictions leads to cases of the “revolving door” in practice.

The “Prosecutors’ Ethical Standards and Rules of Behaviour” were adopted in February 2022, and therefore at the time of writing, its provisions have not been tested in practice to ensure the ethical behaviour of prosecutors.⁵³⁷

Prosecutors comply with the legal obligation to disclose their assets in practice. Their asset declarations are scrutinised, but the vetting process uncovered cases of prosecutors who had no legal justification for their assets and yet had not been identified by HIDAACI. This means that the review

process has not been effective. The breaches are sanctioned by the HIDAACI.⁵³⁸

The HPC has the legal obligation to ensure compliance with the Ethical Standards and the Rules of Behaviour, but there have so far been no cases in practice.

Prosecutors are required to disclose their assets and make them available to HIDAACI,⁵³⁹ but these declarations do not get published by HIDAACI.⁵⁴⁰ Special prosecutors must reveal their personal and professional integrity background and assets and interests prior to their appointment.⁵⁴¹

Since there are no post-employment restrictions for former prosecutors, this enables cases of the “revolving door” in practice. The current⁵⁴² Minister of Justice of the Republic of Albania is a former prosecutor. In July 2023, the sister of the Deputy Speaker of the parliament was appointed in the prosecution office in Tirana.⁵⁴³

In practice, citizens are able to challenge the impartiality of a prosecutor if they fail to step down from a case and this is regularly applied in practice.⁵⁴⁴

INDICATOR 4.2.7 GENDER

To what extent are the prosecution’s mechanisms gender-sensitive?



No explicit gender-sensitive guidelines or gender-disaggregated data on the prosecution’s mechanism exist, but complaint mechanisms include front-facing female staff.

The Prosecution’s complaint and investigation mechanisms have no explicit gender-sensitive protocols and guidelines. Based on the training calendar of the School of Magistrates, there is no evidence that the prosecution provides officials and staff with training and awareness-raising material for the implementation of gender-sensitive mechanisms.⁵⁴⁵ However, the complaint and

investigation mechanisms include front-facing female staff. The Prosecution does not produce gender-disaggregated data.⁵⁴⁶

ROLE

INDICATOR 4.3.1 CORRUPTION PROSECUTION

To what extent does the public prosecutor investigate and prosecute corruption cases in the country?



The prosecution is committed to sanctioning corruption. It has been fairly effective in this task and comprehensive statistics are kept. However, money laundering cases are rarely prosecuted, and corruption levels remain high, indicating that many corruption cases have not been prosecuted or not brought in front of the prosecution. Recently, there is an increase in the number of cases of prosecuting high-level politicians for the crime of corruption by the Special Prosecution Against Corruption and Organised Crime.

Corruption-related cases are brought before the Special Court Against Corruption and High-level Crime.⁵⁴⁷ The statistics are detailed and comprehensive. They include the number of cases investigated, the number of cases sent to the court, the number of persons under investigation, the number of cases transferred to the General Prosecution offices, the number of suspended cases, the number of cases where the accused has been imprisoned by court decision, the number of cases for the execution of judgments, etc.⁵⁴⁸

Albania has made some progress in combatting corruption. While in 2013 it recorded its lowest Corruption Perceptions Index (CPI) of 31/100, in 2022, Albania's corruption index stands at 36 out of 100, placing it in the 110th position among 180 countries. These statistics show that despite the progress, corruption is still prevalent in Albania.⁵⁴⁹

The judiciary is active in corruption prosecution of public officials. In 2022, the prosecution brought 13 cases to be adjudicated by the Specialised Court of

First Instance, out of which four were adjudicated within 2022, three of them issuing guilty verdicts.⁵⁵⁰ However, given the scale of corruption in Albania, the prosecution will have to scale up its efforts to prosecute corruption in the public sector.

The Special Prosecution Against Corruption and Organised Crime (Special Prosecution) filed 43 criminal proceedings on corruption in 2020, which included 95 accused persons, and the Special Court of First Instance issued 20 verdicts convicting 29 persons. Convictions vary from one year to eight years imprisonment.⁵⁵¹

During 2021, the Special Prosecution filed 33 criminal proceedings on corruption, which included 115 accused persons, and the Special Court of First Instance issued 46 verdicts, convicting 90 persons.

During 2022, the Special Prosecution filed 33 criminal proceedings on corruption, which included 146 accused persons, and the Special Court of First Instance issued 22 verdicts, convicting 76 persons.⁵⁵² The Special Court of Appeal on Corruption and Organised Crime provides its own statistics.⁵⁵³

Key cases against corruption include the prosecution in October 2023 of the former President of the Republic and former Prime Minister (the highest ranking public official in Albania),⁵⁵⁴ the former Deputy Prime Minister,⁵⁵⁵ the former Minister of Environment and a Member of the Parliament in 2023,⁵⁵⁶ the former Minister of Interior in 2022,⁵⁵⁷ mayors in 2023,⁵⁵⁸ etc.

Money laundering cases brought before the courts are rare. The Special Court on Corruption and Organised Crime of first instance has issued two judgments on money laundering in 2019, three in 2020, three in 2021, one in 2022 and two up until the end of May 2023.⁵⁵⁹

There have been no recent cases of involvement of public prosecutors in suggesting anti-corruption measures or reforms to the government based on their experience and expertise. The Minister of Justice is legally obliged to seek the opinion of the

HPC prior to preparation of the draft legal acts in the criminal justice system.⁵⁶⁰

The EU Commission concluded in 2022 that Albania has some level of preparation in the fight against corruption and that it has continued its efforts to build on its track record of investigation, prosecutions and convictions in the fight against corruption and delivered some results.⁵⁶¹

INTERACTIONS

The prosecution has most interactions with the judiciary, the police and the media. The nature of the interactions is formal, based on legal obligation. With the first two, the interactions are stipulated in the specific provisions of the Code of Criminal Procedure that regulates the interactions between the courts, the prosecution service and the investigation police. However, in practice, the provision of the Code of Criminal Procedure regulating the preliminary court hearing has not positively affected the adjudication of the cases brought by the prosecution before the court. This legal provision has not increased the efficiency of the work of the prosecution, or the courts; quite the contrary. The court must decide on the request to initiate the trial within 30 days from the date of its filing by the prosecution.⁵⁶² In practice, in some cases it has taken much longer.

Apart from the procedural regulations, the purpose of these interactions includes information-sharing, cooperation on joint programmes, and expertise-sharing. They positively influence the anti-corruption work of this pillar because they influence the increase in transparency and accountability of the prosecution.

PILLAR RECOMMENDATIONS

- + The Ministry of Justice and the Ministry of Finance and Economy should propose to the Council of Ministers (which subsequently proposes to the parliament) constitutional amendments that provide guarantees for the prosecution budget, adding a provision that stipulates that the prosecution must be allocated a certain percentage of the general budget.
- + The executive and legislature need to amend Law 96/2016 on the status of judges and prosecutors in the Republic of Albania in order to reduce the time-period for the appointment of prosecutors after the graduation at the School of Magistrates from three to two years, as well as for the process of verification of the assets and background checks of the candidates at the School of Magistrates to be conducted only at the beginning of the studies.
- + The executive and legislature need to amend Law 96/2016 on the status of judges and prosecutors in the Republic of Albania in order to differentiate the initial training programme for the prosecutors. Their study programme must be tailor-made, i.e. it should focus more on criminal law, rather than delve into civil law, as judges do.
- + The HPC should adopt specific provisions in the Standards and Rules preventing prosecutors from receiving reimbursements, compensation and honoraria in connection with privately sponsored trips.
- + The HPC should adopt detailed rules regarding temporary secondments to fill the vacancies in the prosecution system and act immediately to carry out performance evaluations of the prosecutors. The promotion of the prosecutors must be based on these performance evaluations.
- + The HPC and the General Prosecution must carry out an assessment to determine the workload that a prosecutor can and must handle within working hours, i.e. establishing a maximum standard. This standard must be determined after a study and a comprehensive analysis of all

the determining factors that affect the prosecutor's workload, starting from the changes that the Criminal Procedure Code has undergone, which significantly increases the prosecutor's workload, the time it takes to investigate a case, and to participate in court hearings, with the existing working conditions in mind. Thereafter, the number of prosecutors that the system needs should not be determined by referring only to the existing vacancies, or by making comparisons with previous years, but based on the existing workload and the workload that a prosecutor can handle. Until the prosecution fills its vacancies, measures should be taken for a balanced distribution of the workload among prosecutors around the country (and not only among prosecutors of the same office), given that there are significant differences in the workload while there are no differences in their wages.

ENDNOTES

⁴⁵⁴ General Jurisdiction Prosecution are the prosecution offices that prosecute cases in the courts of general jurisdiction of the first instance, the courts of appeal and the General Prosecution. Law no.97/2016, "On the organisation and functioning of the prosecution", Art. 2§d. <https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=181&catid=89&m=0> (accessed 05.11.2023)

⁴⁵⁵ The Special Prosecution prosecutes and represents the accusation in the name of the state in the Anti-Corruption and Organised Crime Court of First Instance, Anti-Corruption and Organised Crime Court of Appeal, and the Supreme Court, takes measures and oversees the execution of criminal judgments, and performs other duties as provided by law. Law no.95/2016, "On the organisation and functioning of institutions for combatting corruption and organised crime", Art. 4. Available at: https://klp.al/wp-content/uploads/2020/02/lligj_nr_95_2016_per_organizimin_dhe_funkcionimin_e_institucioneve_per_te_luftuar_korrupsionin_dhe_krimin_e_organizuar_s_1728.pdf Consulted on 16.06.2023.

⁴⁵⁶ Constitution of the Republic of Albania, Art. 149/a. <https://klp.al/>.

⁴⁵⁷ Independent Qualification Commission Statistical Report February 2018-September 2023, p.1. <https://kpk.al/wp-content/uploads/2023/10/RAPORTI-STATISTIKOR-2018-SHTATOR-2023-.pdf> (accessed 01.11.2023).

⁴⁵⁸ Law no. 96/2016 On the status of judges and prosecutors in the Republic of Albania, Article 11.

⁴⁵⁹ Decision of the Council of Ministers No. 187, date 08.03.2017, "On the structure and levels of salaries...". Available at: <https://www.dap.gov.al/legjislacioni/per-administraten-publike/144-vkm-187-pagat-e-nepunesve-civile> consulted on 14.06.2023.

⁴⁶⁰ For example: $118,100 + (118,100 * 106 \text{ per cent}) = 243,286$ lek (approx. €2000 euro) for the prosecutors' salary at the General Prosecution. Added to this is the seniority bonus. It is calculated at 2 per cent of the reference basic salary for each year of service in the function, but for not more than 25 years of service.

⁴⁶¹ Decision of the Council of Ministers No.187, date 8.3.2017, "On the salaries' structure and levels"https://www.idp.al/wp-content/uploads/2018/09/VKM_187_08032017_perditesuar_2018.pdf (accessed 01.11.2023).

⁴⁶² Instruction of the Minister of Finance and Economy No. 8, date 21.02.2022, "On the amendment of Instruction No. 5, date 9.3.2018, "On preparing, presenting and reporting of the annual financial statements..." <https://financa.gov.al/wp-content/uploads/2022/03/Udhezimi-nr.-5-versioni-final.pdf> (accessed 01.11.2023).

⁴⁶³ The budget for the General Prosecution for year 2021. Available at: <https://financa.gov.al/buxheti-2021/>; The budget for the General Prosecution for year 2020. Available at: <https://financa.gov.al/buxheti-2020/> consulted on 17.06.2023.

⁴⁶⁴ Budget for the year 2022. <https://financa.gov.al/per-buxhetin-e-vitit-2022/> (accessed 01.11.2023).

⁴⁶⁵ Law 95/2016, "On the organisation and functioning of the institutions to fight corruption and organised crime".

⁴⁶⁶ Reporting by Special Prosecutor Mr. Edvin Kondili to the European Commission, Brussels, 24 November 2022.

⁴⁶⁷ The budget for the Special Prosecution for year 2023 is ALL 1,111,000,000 (approx. EUR 9.2 million). Available at: <https://financa.gov.al/per-buxhetin-e-vitit-2023/> consulted on 17.06.2023.

⁴⁶⁸ For example: $118,100 + (118,100 * 106 \text{ per cent}) = 243,286$ lek (approx. €2000 euro) for the prosecutors' salary at the General Prosecution. Added to this is the seniority bonus. It is calculated at 2 per cent of the reference basic salary for each year of service in the function, but for not more than 25 years of service.

⁴⁶⁹ Decision of the Council of Ministers No.187, date 8.03.2017, "On the salaries' structure and levels...". Available at: <https://www.dap.gov.al/legjislacioni/per-administraten-publike/144-vkm-187-pagat-e-nepunesve-civile> consulted on 16.06.2023.

⁴⁷⁰ Interview with the Prosecutor of the Tirana Prosecution Office, Ms. Elsa Miha. Conducted on 3 October 2023.

⁴⁷¹ Independent Qualification Commission Statistical Report February 2018-September 2023, p.1. <https://kpk.al/wp-content/uploads/2023/10/RAPORTI-STATISTIKOR-2018-SHTATOR-2023-.pdf> (accessed 01.11.2023).

⁴⁷² Interview with Ms. Arta Mandro, Member of the High Prosecutorial Council. Conducted on 2 November 2023.

⁴⁷³ The training schedule for prosecutors and judges. Available at: <https://www.magjistratura.edu.al/sq/kalendari-i-trajnimeve> Consulted on 17.06.2023.

- ⁴⁷⁴ Law no.97/2016, "On the organisation and functioning of the prosecution", Art. 6. <https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=181&catid=89&m=0> (accessed 05.11.2023).
- ⁴⁷⁵ Constitution of the Republic of Albania, Art. 124(3).
- ⁴⁷⁶ Constitution of the Republic of Albania, Art. 148/ç.
- ⁴⁷⁷ Law 96/2016, "On the status of judges and prosecutors in the Republic of Albania", Article 32 and 35.
- ⁴⁷⁸ Constitution of the Republic of Albania, Art. 148/ç
- ⁴⁷⁹ Constitution of the Republic of Albania, Art. 148/ç.
- ⁴⁸⁰ <https://klp.al/category/vendime-akte-administrative/> (accessed 05.11.2023).
- ⁴⁸¹ Constitution of the Republic of Albania, Art. 148/a. .
- ⁴⁸² There are 18 special prosecutors. <https://spak.gov.al/prokuroret-spak/> Consulted on 20.09.2023. An increase of their number is expected by the end of September 2023, as HPC has proclaimed three vacancies for special prosecutors <https://klp.al/wp-content/uploads/2023/09/Axhenda-dt-29.09.2023.pdf> (Consulted on 27.09.2023).
- ⁴⁸³ Law no.95/2016, "On the organisation and functioning of institutions for combatting corruption and organised crime", Art. 4. Available at: https://klp.al/wp-content/uploads/2020/02/lligj_nr_95_2016_per_organizimin_dhe_funksionimin_e_institucioneve_per_te_luftuar_korrupsionin_dhe_krimin_e_organizuar_s_1728.pdf Consulted on 16.06.2023.
- ⁴⁸⁴ Constitution of the Republic of Albania, Art. 149: 1.
- ⁴⁸⁵ Constitution of the Republic of Albania, Art. 148/d/2.
- ⁴⁸⁶ Constitution of the Republic of Albania, Art. 147/d.
- ⁴⁸⁷ Law 96/2016, "On the status of judges and prosecutors in the Republic of Albania", Article 100-150.
- ⁴⁸⁸ Penal Code of Albania, Art. 245/1.
- ⁴⁸⁹ <https://klp.al/>.
- ⁴⁹⁰ <https://klp.al/stafi-yne/>.
- ⁴⁹¹ Albanian Helsinki Committee, Study Report, Vetting and its dynamics, November 2019-July 2020, p.18-19. Available at: https://ahc.org.al/wp-content/uploads/2020/09/KShH_Raport-studimor--Vettingu-dhe-dinamikat-e-tij--Nentor-2019-Korrik-2020.pdf last visited 6 October 2022.
- ⁴⁹² Albanian Helsinki Committee, Study Report, Vetting and its dynamics, November 2019-July 2020, p.25. Available at: https://ahc.org.al/wp-content/uploads/2020/09/KShH_Raport-studimor--Vettingu-dhe-dinamikat-e-tij--Nentor-2019-Korrik-2020.pdf last visited 17.06.2023.
- ⁴⁹³ Independent Qualification Commission Statistical Report February 2018-September 2023, p.1. <https://kpk.al/wp-content/uploads/2023/10/RAPORTI-STATISTIKOR-2018-SHTATOR-2023-.pdf> (accessed 01.11.2023).
- ⁴⁹⁴ Case of Sevdari v. Albania, App. No.40662/19. <https://hudoc.echr.coe.int/#f%22itemid%22:%22001-221482%22> (accessed 05.11.2023).
- ⁴⁹⁵ HJI Annual Report 2022, p. 20. Available at: <https://ild.al/wp-content/uploads/2023/05/RAPORTI-I-PUNES-VITI-2022.pdf> consulted on 17.06.2023.
- ⁴⁹⁶ <https://tvklan.al/rama-prokuroria-e-tiranes-eshte-nje-zullum-i-madh-atje-rritet-pazari-i-prokuroreve/>.
- ⁴⁹⁷ Prime Minister calling the Prosecution Office of Tirana as "corrupt", where "bribes are raised". Ibid. (accessed 01.11.2023).
- ⁴⁹⁸ <https://www.reporter.al/2023/03/10/prokurore-te-dorehequr-dhe-spak-nen-presion-nga-portalet/>.
- ⁴⁹⁹ Reaction of the Chairperson of the High Prosecutorial Council to the declaration of the Prime Minister of Albania that judges and prosecutors act with the motto: "Grab whatever you can". <https://abcnews.al/deklarata-erames-per-kck-kreu-i-klp-politike-nuk-mund-ta-paragjykojme-nje-proces-gjyqesor/> consulted on 22.09.2023.
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 (accessed 05.11.2023) consulted on 17.06.2023. However, the General Prosecution publishes the Transparency Programme in compliance with the Right to Information Law. Available at:
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<https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=165&catid=55&m=0>
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- ⁵⁰⁸ Law 115/2016, “On the governing bodies of the justice system”, Art. 167.
<https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=107&catid=87&m=0>
 (accessed 02.11.2023).
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<https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=216&catid=103&m=0>
 (accessed 04.11.2023).
- ⁵²¹ Ibid. Art. 119/3.
- ⁵²² Law 96/2016, “On the status of judges and prosecutors in the Republic of Albania”, Art. 105.
- ⁵²³ The fact that complainants are not discouraged from filing their complaints is an indication that there have been no consequences because of their complaint. During May 2023 alone, the HJI received 85 complaints. HJI Newsletter, May 2023. Available at: <https://ild.al/en/2023/06/01/newsletter-may-2023/> Consulted on 17.06.2023.
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- ⁵²⁵ <https://ild.al/sq/2022/02/01/mesazh-i-inspektorit-te-larte-te-drejtuese-ne-2-vjetorin-e-krijimit-te-institucionit/>.
- ⁵²⁶ HJI Annual Report 2022, p. 20. <https://ild.al/wp-content/uploads/2023/05/RAPORTI-I-PUNES-VITI-2022.pdf>.
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- ⁵²⁹ The “Prosecutors’ Ethical Standards and Rules of Behaviour”. Available at: The “Prosecutors’ Ethical Standards and Rules of Behaviour”, consulted on 17.06.2023.
- ⁵³⁰ Law 9049/2003, “On the declaration and audit of assets, financial obligations of elected persons and certain public officials”, Art. 3/1/dh: “Have an obligation to periodically declare to the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interests: dh) Prosecutors, judges and bailiffs of all levels.
- ⁵³¹ Prosecutors’ Ethical Standards and Rules of Behaviour, Article 6/dh.
- ⁵³² Ibid., Article 6/ë.

- ⁵³³ Law no. 9131, dated 08.09.2003, "On ethical rules in the public administration" stipulates that "...the prohibition not to accept gifts, favours, or any benefits is not applicable in cases of normal invitations, traditional hospitality, symbolic gifts, that do not raise suspicions on the impartiality..." Available at: <https://www.kryeministria.al/wp-content/uploads/2021/10/ligj-2003-09-08-9131.pdf> consulted on 17.06.2023.
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- ⁵³⁷ There have been no cases in practice based on the "Prosecutors' Ethical Standards and Rules of Behaviour".
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- ⁵⁴³ <https://euronews.al/en/albanian-opposition-accuses-assembly-deputy-speaker-of-influencing-justice/> (accessed 05.11.2023).
- ⁵⁴⁴ Interview with Judge Brunilda Kadi, District Court of Tirana, Criminal Chamber, 03.11.2023.
- ⁵⁴⁵ The training calendars do not include topics on gender-sensitive protocols and mechanisms. Available at: <https://www.magjistratura.edu.al/sq/kalendari-i-trajtimeve> (accessed 05.11.2023).
- ⁵⁴⁶ Interview with the Chairperson of the High Prosecutorial Council, Mr. Alfred Balla, 16.06.2023.
- ⁵⁴⁷ Article 244/2 of the Penal Code – Active corruption of public officials; Article 245 of the Penal Code – Active corruption of high public officials and local government officials; Article 259/2 of the Penal Code – Passive corruption of public officials; Article 260 – Passive corruption of high public officials and local government officials). <https://spak.gov.al/veprimtaria/>.
- ⁵⁴⁸ SPAK Annual Report 2022. Available at: https://spak.gov.al/wp-content/uploads/2023/05/raporti-vjetor-2022_Publikuar.pdf.
- ⁵⁴⁹ Sara Mahilaj and Marko Cenaj, "The Venice Commission's Contribution to Anti-Corruption Measures: Case Study of Albania, Georgia, and Ukraine", European Journal of Law and Political Science, Vol. 2, Issue 2, April 2023, p. 71. https://www.venice.coe.int/cocentre/Mahilaj_Cenaj_VeniceCommissionContributiontoAnti-CorruptionMeasuresAlbaniaGeorgiaUkraine.pdf (consulted on 30 August 2023).
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- ⁵⁵¹ https://www.gjp.gov.al/Kendi_informativ/Ceshtje_te_perfunduara/Dosje_penale/#/details/2022-55-9-4.
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⁵⁶⁰ Law 115/2016, "On the governing bodies of the justice system", Art. 169.

<https://euralius.eu/index.php/en/library/albanian-legislation?task=download.send&id=107&catid=87&m=0> (accessed 02.11.2023).

⁵⁶¹ European Commission, Albania Country Report 2022, p.4. Available at: https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en last visited on 2 December 2022.

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PUBLIC SECTOR

OVERVIEW

The Albanian public sector suffers from low salaries, unclear professional and accountability standards, and is prone to corruption and political interference. Albania has implemented an ambitious public administration reform agenda since 2015. The reforms have improved some aspects of the recruitment process (such as standardisation of job descriptions, online recruitment of the civil service and implementation of court decisions favourable to dismissed civil servants) and transparency mechanisms (increase in number of institutions publishing transparency programmes, electronic register of requests and responses, publication of key budget documents), but they have not effectively addressed the need for a professional and accountable public sector.

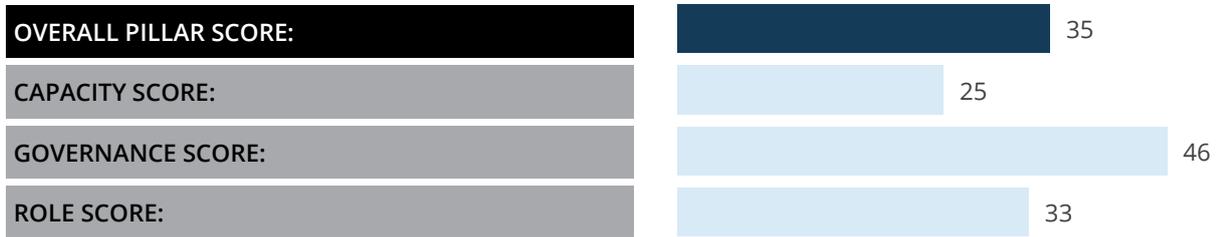
Multiple agencies and heads of directorates such as the National Authority for Veterinary and Plant Protection, the National Youth Agency, the State Expropriation Agency, the National Institute for Registration of Cultural Heritage, and the National Food Authority, which should be part of the civil service, are not included in the civil service legislation and thus are political appointees. Internal accountability mechanisms to foster integrity and prevent conflicts of interest are not effective, while the use of public resources during political campaigns has been documented in virtually every election cycle. Lack of transparency continues to be a key obstacle to public sector accountability. Several reports from Albanian CSOs demonstrate the need for greater proactive disclosure of information and a stronger enforcement of the Law on the Right to Information through a more rigorous sanctions regime by the Access to Information and Data Protection Commissioner.

PUBLIC SECTOR



	Indicator	Law	Practice
Capacity	Resources	n/a	25
	Independence	25	25
Governance	Transparency	75	25
	Accountability	75	50
	Integrity mechanisms	25	25
Role	Public Education		25
	Cooperate with public institutions, CSOs and private agencies in preventing/ addressing corruption		25
	Reduce Corruption Risks by Safeguarding Integrity in Public Procurement		50

SUMMARY



CAPACITY

INDICATOR 5.1.1 RESOURCES (PRACTICE)

To what extent does the public sector have adequate resources to effectively carry out its duties?



The public sector lacks sufficient financial and technical resources to effectively carry out its duties.

Based on official data for the second quarter of 2022, the average public sector pay is 19 per cent higher than in the private sector. The average gross public sector pay is 68,245 ALL (€610) per month, while the average gross private sector pay is 57,327 ALL (€512) per month.⁵⁶³ Nevertheless, these estimates do not take into account the informality of the private sector and the tendency for employers to declare a lower salary for their employees than the actual one in order to evade paying more social security and healthcare contributions as well as a higher income tax. Albania ranks last in the Western Balkans region regarding average salary in the public sector.⁵⁶⁴ The average salary breakdown by category in the public sector is as follows: (i) lawmakers, senior civil servants and other senior executives – 102,156 ALL (€843); (ii) public servants with higher education – 79,925 ALL (€660); (iii) public servants – 63,363 ALL (€524); (iv) armed forces – 65,359 ALL (€583).⁵⁶⁵ The average rental prices for a one-bedroom apartment in Tirana are around €400-500 per month,⁵⁶⁶ and lower in other cities depending on the city. Furthermore, the year-on-

year change in the real estate price index for the country increased 39.2 per cent,⁵⁶⁷ while the average salary increased approximately seven per cent for the same period.⁵⁶⁸

The Law on Salaries includes bonus provisions for the members of boards and councils, who exercise their functions part-time.⁵⁶⁹ The decision of the Council of Ministers for the salary structure in the civil service does not foresee bonuses, but their salary depends on their educational attainment, academic titles and institutional affiliation.⁵⁷⁰ The Albanian Labour Code includes provisions for compensation of overtime through days off or additional pay;⁵⁷¹ however, overtime is mostly compensated through additional days off.⁵⁷²

Although there have been important strides in the digitalisation of service delivery,⁵⁷³ key services such as education and healthcare are increasingly suffering from low quality and a lack of professionals.⁵⁷⁴

Some public institutions in Albania have faced budget constraints. While there has been substantial development in infrastructure in the urban centres, some areas, particularly rural ones, might not be as adequately served. EU funds⁵⁷⁵ and international financial institutions have been instrumental in providing financial support for various projects for public institutions both at the central and local level (e.g. EU support to public administration for programmes to training the staff of 61 municipalities, the fight against corruption, justice reform, the scholarship program for young civil servants, etc. amounts to €125 million; support

to public administration by the World Bank in the past nine years amounts to US\$21.45 million).⁵⁷⁶

INDICATOR 5.1.2 INDEPENDENCE (LAW)

To what extent is the independence of the public sector safeguarded by law?



The laws in place to ensure the political impartiality of the public sector are rather weak and miss provisions on preventing political bias in the recruitment, promotion and dismissal of public employees, especially those on temporary contracts.

Only the Civil Servant Law includes provisions on political rights,⁵⁷⁷ impartiality,⁵⁷⁸ and objective grounds for dismissal.⁵⁷⁹

The civil service law in Albania applies to all employees performing public functions in state or independent institutions and local government units. However, it excludes elected officials, high-ranking government appointees by the Assembly, the President of the Republic or the Council of Ministers, judges, prosecutors, armed forces personnel, state intelligence agents, direct public service workers, certain committee members, administrative staff, judicial police agents/officers, civilians within military structures, Financial Supervisory Authority employees, border checkpoint staff and attorneys at the State Advocate.⁵⁸⁰ For the rest of the public sector employees, there are no provisions to ensure that they are not recruited, promoted or dismissed based on political criteria.

Civil servants may be members of a political party and actively engage in campaigning, provided they are not part of the party's leadership structures, while senior civil servants are prohibited from being members of political parties.⁵⁸¹ Despite the prohibition, there are no regulations to verify their status before they become part of the top-management corps of the civil service.⁵⁸²

Additionally, there are several agencies/directorates and leadership positions that are excluded from the

scope of the Civil Servant Law, but which should be part of it nevertheless.⁵⁸³ For example, the heads of the National Authority for Veterinary and Plant Protection, the National Youth Agency, the State Expropriation Agency, the National Institute for Registration of Cultural Heritage and the National Food Authority. The authority responsible for overseeing the governance of the civil service is the Commissioner for the Oversight of the Civil Service. The Commissioner is appointed by the Assembly for a five-year term through a simple majority.⁵⁸⁴ They have the power to conduct administrative investigations and issue fines, as well as issue binding orders to public institutions that fail to correctly implement legal provisions and issue fines if public institutions fail to implement them.⁵⁸⁵

The rights and obligations of other public sector employees on temporary contracts are governed by the Labour Code of the Republic of Albania, which does not include any provisions to ensure that the process for the recruitment, promotion or dismissal of public sector employees on temporary contracts is not politically influenced. Furthermore, the Decision of the Council of Ministers "On setting the standards for conducting some activities with temporary employees in central government units" outlines the type of positions for temporary engagements but does not include the criteria for employment. According to the Decision, employees on temporary contracts are hired based on the requirements of the position they are expected to hold.⁵⁸⁶

INDICATOR 5.1.3 INDEPENDENCE (PRACTICE)

To what extent is the public sector free from external interference in its activities?



Political actors routinely interfere in the activities of the public sector, particularly after changes in the governing party or coalition, and by appointing politically affiliated individuals in public sector positions of different levels.

The governing coalition changed after the 2013 elections from the coalition between the Democratic Party (DP) and the Socialist Movement for Integration (SMI) to the coalition between the Socialist Party (SP) and the SMI. After the 2017 parliamentary elections, the SP has been governing alone. The 2021 SIGMA monitoring report highlights that while terminations in Albania's civil service decreased by 31% in 2020 compared to 2019, unfair dismissals remain a significant concern.⁵⁸⁷ This is evidenced by ongoing court cases, acknowledgments from state institutions themselves and decisions by the Commissioner on Anti-Discrimination concerning the termination of employment due to political convictions.⁵⁸⁸ The SAI's annual report for 2021 points out the financial implications of these unlawful terminations, citing expenses of around €108 million (13.3 billion ALL) from 2014 to 2021 for penalties and related fees due to wrongful dismissals.⁵⁸⁹ According to government reports, the execution rate of final court decisions on dismissals and reinstatements in the civil service improved from 79.5 per cent in 2021 to 81.5 per cent in 2022, with a significant reduction in dismissals (19 in 2022 compared to 346 in 2021 and 619 in 2020), all in compliance with the civil service law.⁵⁹⁰

Due to the lack of legal protections, clear regulations and oversight mechanisms, the situation with regard to public servants on temporary contracts is worse. The 2021 SIGMA report⁵⁹¹ outlines how they are appointed and fired at will, without due regard for institutional effectiveness and stability. While

there are no comprehensive reports to clearly understand the scale of the problem, a salient case that has drawn much media attention has been that of the director of the Regional Cadastre Directorate of Vlora, in southern Albania. From October 2013 to the end of 2019, no director has held the position for more than 14 months, while the shortest time in office has been only ten days.⁵⁹² Officially, however, they have not been fired, but they have resigned. One of the directors, along with other employees in the Directorate, was arrested in 2021 for forgery of documents related to land title claims.⁵⁹³ Indeed, this is an outlier both in terms of the turnover rate within the mandate of one governing party – not after a change in the government – and the associated legal violations. Nevertheless, after the SP won the 2017 elections alone – without the SMI – it started to dismiss public officials affiliated with the SMI.⁵⁹⁴ Data from BIRN reveals that prior to the May 14, 2023 elections, municipalities controlled by SP hired thousands of new employees as a strategy to secure votes.⁵⁹⁵ INSTAT data further shows that the public administration workforce in Albania peaked at 184,111 in 2022, an eight per cent increase over five years, indicating expansion of the public administration for electoral purposes.⁵⁹⁶

The politicisation of the public sector has introduced the risk of skewing public policy decisions to favour electoral objectives. For example, 30 per cent of the recovery funds allocated in the 2021 annual budget for the areas affected by the November 2019 earthquake were distributed during the month preceding the April 2021 elections; 56 per cent of the funds were allocated between January and April 2021.⁵⁹⁷ Ahead of local elections of May 2023, the Albanian government allocated approximately 10 billion ALL (EUR 89 million) for municipal projects and 8 billion ALL (EUR 29 million) in cash rewards to citizens in December 2022, practices that civil society activists criticise as electoral planning rather than serving public interests.⁵⁹⁸ In addition, the OSCE/ODIHR Report on the local elections in Albania on May 14, 2023,⁵⁹⁹ noted misuse of state resources at both the central and local levels, including claims of pressure on public sector workers and voters, with local authorities engaging in activities like

infrastructure repairs, food distribution and short-term employment offers (including to national minority communities), leading to sanctions by the Central Election Commission on local administrations for misuse of administrative resources for campaigning, although such sanctions were not applied at the central government level.

GOVERNANCE

INDICATOR 5.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure transparency in financial, human resource and information management of the public sector?



There are several laws and provisions in Albania that address transparency, including the publication of asset declarations for public officials, but they do not cover all aspects (for example, the announcement of temporary public sector vacancies) and give considerable leeway in limiting or refusing access to information.

According to the Law “On the declaration of assets and financial obligations of some civil servants”, HIDAACI is the institution responsible for the administration, verification and online publication of the declarations of assets and other financial information for public sector employees in the civil service (mid- and senior-level), security services, law enforcement agencies, taxation and customs administration, financial intelligence unit and directors of public institutions at the regional level.⁶⁰⁰ In Albania, data collected from private interest declarations are made publicly accessible in accordance with laws governing information rights and personal data protection. These declarations are officially published with confidential information redacted and any data obtained during compliance checks or investigations are strictly used for legal purposes and cannot be disseminated without authorisation.⁶⁰¹

Information management is regulated through the Law on the Right to Information. The law includes provisions for the publication of information. Public institutions must publish a range of documents including *inter alia* budgetary reports and procurement plans and reports (see 2.2.2). The law also includes provisions for the access of information that is not published on the websites of public institutions. The Information and Data Protection Commissioner oversees the implementation of the law and has a mandate to enforce it through fines and other administrative measures (see 2.2.2). Nevertheless, authorities can withhold details on grounds such as national security, privacy and ongoing investigations. The ambiguous nature of the "public interest" clause gives institutions considerable leeway in limiting or refusing access to information.⁶⁰² The changes in the Law for Access to Information in the spring of 2023 are expected to strengthen the role of the Commissioner.⁶⁰³ Vacancies in the civil service must be posted online on the portal of the Department of Public Administration and on the National Employment Service portal.⁶⁰⁴ However, there are no provisions for the mandatory announcement of vacancies for public sector positions on temporary contracts.

INDICATOR 5.2.2 TRANSPARENCY (PRACTICE)

To what extent are the provisions on transparency in financial, human resource and information management in the public sector effectively implemented?



Although legal frameworks exist for transparency and information access, their execution is frequently uneven and obstructed by bureaucratic challenges and lack of political will as well as by the Commissioner for the Right of Information's limited enforcement power, significant irregularities and non-disclosure in public procurement, and public entities' reluctance to release

sensitive data, all exacerbated by inadequate data collection systems.

The Commissioner for the Right to Information and Personal Data Protection is tasked with overseeing adherence to the Law on the Right to Information and can penalise authorities for unjustified refusals to share information. The Law on the Right to Information sets out a process for information requests, but institutions often delay responses beyond the limit of ten days or deliver unhelpful data. Specifically, in 2022, the Commissioner's office handled 1,081 complaints, of which 456 came from journalists denied information access, a rise from 409 in 2021. More than half (643 out of 1,081) of the complaints were settled by providing the requested data during the investigation, and the Commissioner's Office took formal decisions on 61 complaints.⁶⁰⁵ Access to information remains an issue in Albania, particularly for investigative journalists, civil society and media professionals.⁶⁰⁶ The Commissioner often acts as a mediator for institutions failing in their obligations, rather than serving as a robust independent entity with the power to impose sanctions. The establishment of the Agency for Media and Information in 2021⁶⁰⁷ has further centralised the control of the information content that is made public by government institutions.⁶⁰⁸

Albania's central electronic public procurement portal mandates the publication of tenders, contracts and guidelines. The Public Procurement Agency's website offers standardised tender documents and an online register of procurement forecasts is consistently updated for transparency.⁶⁰⁹ The SAI reported irregularities in public procurement, with an estimated loss to the state budget of around €3.1 million, and the Public Procurement Agency imposed fines on 102 employees and proposed disciplinary measures for 145 employees.⁶¹⁰ In October 2021, the Public Procurement Committee introduced a digital system for e-appeals and e-complaints, which, despite providing real-time data and accessibility features, still requires consolidation and staff training for optimal functionality.⁶¹¹ Additionally, information on

procurement and expenditures is frequently incomplete. A 2023 report by the UN Convention Against Corruption coalition shows that the Public Procurement Committee must publish the decisions on the appeals online on its website, but it has not done so for part of 2021 and for 2022.⁶¹² The Public Procurement Agency shares public procurement reports annually, predominantly with statistical content. Their weekly updates list procurement notices and excluded operators. These reports often lack comprehensive data on contract implementation, and both the Concessions Treatment Agency and the Ministry of Finance and Economy do not publish the implementation details of concessions or public-private partnerships.⁶¹³

Similarly, while information on civil service vacancies is published regularly, information on vacancies outside the scope of the civil service is not.⁶¹⁴

Additionally, HIDAACI does not publish any asset declarations.

Public entities are often hesitant to voluntarily release sensitive data such as public procurement contracts or corruption risk assessments, despite their high public interest and potential for corruption.⁶¹⁵ Existing appeal mechanisms frequently fail to provide timely access to such critical information.⁶¹⁶ Additionally, there is an absence of unified guidelines to balance public interest against legal restrictions on information, leading to misuse of exemptions and incomplete or irrelevant responses.⁶¹⁷ Furthermore, the lack of robust, detailed data collection systems in public bodies complicates their ability to adequately respond to specific information requests.

INDICATOR 5.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that public sector employees have to report and be answerable for their actions?



While a number of laws on accountability of the public sector exist, there are gaps, as anti-corruption networks cover only 44 institutions, complaint-handling provisions are vulnerable to abuse, administrative codes lack mandates for justifying complaint rejections, and oversight mechanisms, particularly in financial controls, are delayed and limited in scope.

The public sector is subject to various accountability mechanisms. The civil service in particular is subject to the oversight exercised by the Commissioner for the Oversight of the Civil Service, while the State Inspectorate for Labour and Social Services is responsible for ensuring that working conditions provided by public and private employers comply with the provisions of the Labour Code.⁶¹⁸ Independent oversight institutions such as the Ombudsperson or the Information and Data Protection Commissioner exercise their oversight powers over the public sector in accordance with their mandate (see also 2.2.2). The Law on Whistleblowers and Whistleblower Protection includes relevant provisions for the establishment of units responsible for processing whistleblower complaints by public sector employees (see 2.2.6).

Citizens may file complaints through various channels, including the centralised online platform for co-governance,⁶¹⁹ the e-Albania portal, by appealing directly to the public sector institution through their contact point, or by submitting a complaint through relevant independent oversight institutions. The anti-corruption coordinators network – part of the General Directorate against Corruption – is another option to file complaints; however, the institutional scope of the network is restricted to 44 public institutions.⁶²⁰ The Code of Administrative Procedures includes general provisions for the filing and handling of complaints.

It sets time limits for the filings (30 days after the administrative act has been issued or refused),⁶²¹ and includes provisions when the act of filing a complaint does not lead to the suspension of the administrative act.⁶²² Nevertheless, these provisions are rather broad and prone to abuse.

Public sector agencies can be requested by the Assembly to report and testify in regular parliamentary committee hearings⁶²³ and as part of parliamentary investigations.⁶²⁴ The public sector sets also the criteria for accepting complaints,⁶²⁵ but does not include any provisions that obligates the public authority processing the complaint to justify the rejection.⁶²⁶

The Albanian Criminal Code includes provisions for the criminalisation of bribery, corruption, abuse of power and state resources, extortion, refusal to declare assets and other financial interests, violation of equal treatment in public tenders and abuse of privileged state information.⁶²⁷

With regards to financial oversight, the Ministry of Finance and Economy is responsible for public internal financial oversight by establishing standards for internal oversight of public expenditures and monitoring their implementation by public sector administrative units.⁶²⁸ The finance minister presents the annual report on the quality of public internal financial oversight to the Council of Ministers and the SAI within the month of June of the following year.⁶²⁹ Additionally, the SAI conducts external audits of public sector institutions (see also the SAI pillar).

INDICATOR 5.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do public sector employees have to report and be answerable for their actions in practice?



Public oversight bodies, including the State Inspectorate for Labour and the Supreme Audit Institution, often prioritise private entities over public institutions, under-apply recommendations and encounter legal obstacles in penal referrals, while agencies like the IDP Commissioner show inconsistent penal actions and execution of binding orders, and the Agency for Dialogue and Co-Governance lacks clarity on citizen complaints, leading to a lack of accountability in the public sector.

The reports of the State Inspectorate for Labour and Social Services, which is supposed to oversee the labour conditions of public sector employees whose relations are regulated by the Labour Code, indicate that the inspections of public institutions are a rather marginal part of their work. In 2020, 99.1 per cent of inspections were of private entities, while in 2021, that number stood at 98.7 per cent.⁶³⁰ The data presented by the Inspectorate does not specifically examine the state of labour conditions in public institutions, and does not provide specific statistics on public institutions. HIDAACI reports on the declaration and audit of assets and other financial interests and whistleblowing suggest implementation at a very basic administrative level rather than at a substantive level of legal provisions.⁶³¹ This translated into a low number of cases of penal referrals in 2021, usually for failure to declare assets and other financial interests, and even fewer cases of whistleblowing (see 2.2.6).

The data provided by the Supreme Audit Institution in its annual reports indicate that public institutions implement less than half of the recommendations made in audit reports, while the number of penal referrals that go to trial are extremely low. During 2021, the SAI filed 14 penal lawsuits: 12 were dismissed by the court at the pre-trial phase, while

two of them – which were against two municipalities – were returned to the prosecution for further investigation.⁶³² During 2022, the SAI referred four criminal charges to the competent bodies, the Prosecutor’s Offices of the judicial districts, for 16 officials of different levels.⁶³³

The IDP Commissioner’s administrative sanctions (fines) are not always adequate. In 2021, the Commissioner issued four fines, while in the previous year it had issued three related to its mandate on institutional transparency.⁶³⁴ With respect to the implementation of its mandate on personal data protection, the Commissioner issued 16 fines to public institutions and 14 to private entities in 2021 and 37 (to both public institutions and private entities) in 2020.⁶³⁵ In 2022, the IDP Commissioner issued 63 administrative sanctions regarding access to information. In response to massive personal data leaks in 2021, the IDP Commissioner issued a decision in November 2022 that imposed fines on the Directorate-General for Taxes and Directorate-General for Road Transport Services for their respective liability for the breaches.⁶³⁶

The Commissioner for the Oversight of the Civil Service may issue binding orders to public institutions that fail to correctly implement legal provisions and fine public institutions that fail to implement them.⁶³⁷ Nevertheless, according to the Commissioner’s 2021 annual report, the orders issued to the public institutions were either fully implemented or in the process of being implemented.⁶³⁸

Concerning citizen complaints, the Agency for Dialogue and Co-Governance, which is the responsible body for the coordination of the central complaints platform, has published no reports on the complaint filings and their outcome.

INDICATOR 5.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there provisions in place to ensure the integrity of public sector employees?



While Albania has established laws like the Law on Conflicts of Interest and the Law on Public Administration Ethics, there are gaps in clarity regarding the nature of restrictions, sanctions for violations and specific guidance on government property use, employment and ethical contract fulfilment.

Key laws to regulate integrity mechanisms include the 2005 Law “On the prevention of conflicts of interest of public officials” and the 2003 Law “On the ethics rules in the public administration” (see 2.2.6).

The scope of the law on the prevention of conflict of interest is comprehensive. It covers public officials who have direct or indirect private interests that affect, might affect or seem to adversely affect the performance of their public responsibilities and duties, and who take part in the decision-making process of a public institution.⁶³⁹ For regular declarations in Albania, only the spouse and adult children of an official need to declare their interests. Others connected to the official might be asked to declare if the General Inspector considers it necessary to check the official's information. Under this law, a trustee is also seen as someone connected to the official.⁶⁴⁰ The scope of the law includes also gifts, favours and preferential treatment, but gifts and preferential treatment valued at less than approximately €100 are not declared.⁶⁴¹ HIDAACI must periodically verify the declarations of public officials.⁶⁴²

The Law on Ethics in the Public Administration includes provisions on the correct use of government property (including documents and information), dual employment, and post-employment restrictions.⁶⁴³ The provisions are rather weak and no provisions on “revolving door” situations are included. The provisions of the law are rather general and

resemble those of guidelines rather than of a legal act with specific mechanisms and clear standards to ensure their effective implementation. Post-employment restrictions are rather narrow in scope and time as they forbid a former public official for two years after leaving the public sector from representing a person or organisation engaged in a conflict or trade relation with the Albanian public administration related to actions performed by the official while in office. Additionally, these provisions do not clearly outline the nature of the restrictions and the sanctions for their violation (see 2.2.6).

The Law “On the declaration of assets and financial obligations of elected officials and of some civil servants” regulates the declaration of assets and other financial information for public sector employees in the civil service (mid- and senior-level), security services, law enforcement agencies, taxation and customs administration, the financial intelligence unit and directors of public institutions at the regional level.⁶⁴⁴ They are required to submit declarations before they take office, annually during their time in office, and after they leave office.⁶⁴⁵ The law includes provisions for periodic verifications of the declarations submitted.⁶⁴⁶ In Albania, complete verification of the accuracy and truthfulness of the information contained in the declarations of wealth and private interests is carried out by the General Inspector whenever there are legally sourced data that cast doubt on the accuracy and truthfulness of a public official's declaration. This also occurs when discrepancies arise from arithmetic and logical checks, indicating that the declared sources do not cover or justify the wealth claims made by the declarant.⁶⁴⁷

Article 122 of the Public Procurement Law generally outlines the rules that apply to the contract and point 2 specifies that the terms of the contract made under this law must be fulfilled in good faith by both parties involved. It also mandates that the contracting authority or entity and economic operators should uphold the highest ethical standards and avoid engaging in fraud, corruption or other misconduct during the execution of the contract.⁶⁴⁸ While Article 122 sets a foundational legal standard, its sufficiency

hinges on the strength of its enforcement mechanisms and the level of transparency and accountability it ensures.

INDICATOR 5.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of public sector employees ensured in practice?



There are some mechanisms in place for ensuring the integrity of the public sector, but significant gaps persist in the enforcement of whistleblower and conflict of interest laws as well as the comprehensive guidance and implementation of ethical standards across the public sector.

Established in 2003, HIDAACI is an independent body tasked with scrutinising declarations of assets and private interests. The Inspector General oversees its function of handling the declaration of assets and financial liabilities and the subsequent auditing. While HIDAACI provides annual reports to the Assembly, it also responds when called upon by the Assembly and can proactively seek a hearing. These yearly reports, available online,⁶⁴⁹ highlight its roles in prevention and raising awareness. GRECO has recommended various areas of improvement for HIDAACI, particularly in its capacity to perform efficient verification of the declarations of assets and private interests.⁶⁵⁰ HIDAACI publishes a register of requests for information and responses periodically, but it is very general and contains only statistics of how many requests have been received and how many responses sent.⁶⁵¹ HIDAACI does not yet publish the declarations of conflicts of interests as envisaged by the law. While the electronic submission of asset declarations marks a technical advancement aligned with GRECO recommendations, the limited practical application of the whistleblower protection law (lack of clarity of legal protections and limited enforcement in practice) and the law on preventing conflicts of interest, awaiting a new legal initiative, indicate that

HIDAACI requires more resources or intensified efforts for comprehensive law enforcement.⁶⁵²

Line ministries have adopted integrity plans, which are mainly related to financial risk management.⁶⁵³ The Albanian School of Public Administration has drafted a curriculum on anti-corruption and the prevention of conflicts of interest and has delivered training sessions in 2022 on developing integrity plans and conducting risk assessments. ASPA has delivered training sessions to the anti-corruption coordinators in relevant institutions and other public officials according to their specific needs.⁶⁵⁴

INDICATOR 5.2.7 GENDER

To what extent are the Public Service's mechanisms gender-sensitive?



Although there are some gender-sensitive protocols in place, they do not cover the whole of the public sector and there is no data available on their implementation.

A guideline to prevent violence and harassment in the workplace based on gender is in place, which outlines basic principles of ethical conduct on gender relations and provides two approaches to deal with complaints: informal and formal.⁶⁵⁵ The informal procedure involves dialogue or communication between the aggrieved individual and the rights violator, either directly or through third-party facilitation or specialised mediation. Regarding the regulations for the formal procedure, the current legal and sublegal acts on disciplinary measures and the examination of disciplinary violations committed by civil servants will be applied according to the procedure specified in the civil service legislation.⁶⁵⁶ It is at the discretion of the aggrieved employee to determine which procedure is considered more effective. The guideline applies only to the central-level administration, including the regional directorates or units of central-level institutions.

The institutions subject to the guideline must report to Department of Public Administration (DoPA) detailed statistics on the cases of violence and harassment every quarter.⁶⁵⁷ Nevertheless, no such data can be found either in DoPA's annual reports on the civil service⁶⁵⁸ or the annual reports of the Commissioner for the Oversight of the Civil Service.⁶⁵⁹

Furthermore, ASPA delivers training on the implementation of the two approaches to addressing violence and harassment in the workplace. While ASPA does deliver training modules on gender budgeting and gender integration, it does not include a specific module on addressing workplace violence and harassment.⁶⁶⁰

ROLE

INDICATOR 5.3.1 PUBLIC EDUCATION

To what extent does the public sector inform and educate the public on its role in fighting corruption?



The public sector's efforts to educate the public on corruption are not sufficiently clear, comprehensive, well-designed or clearly measured.

The Ministry of Justice is the national anti-corruption coordinator. Public education on corruption falls under the awareness pillar of the Intersectoral Strategy against Corruption 2015-2020⁶⁶¹ (action plan extended until 2023). Under the awareness pillar, there are three key objectives: (i) public awareness of the consequences of corruption; (ii) promotion of the use of corruption reporting tools; and (iii) encouraging cooperation with civil society. Specific measures under these objectives include the adoption of anti-corruption curricula in high schools, the organisation of national anti-corruption conferences, the establishment of a fund to support corruption research projects of CSOs and awareness campaigns on the right to access public information and public consultations. It is important to note that

not only central government institutions but also the IDP Commissioner, the Ombudsperson and the Central Electoral Commission are responsible for the implementation of these measures.⁶⁶²

The Intersectoral Strategy against Corruption includes specific indicators and targets for all years to increase public awareness of the consequences of corruption.⁶⁶³ The monitoring reports for the implementation of the strategy report based on these indicators.⁶⁶⁴ The monitoring reports suggest that the implementation of various awareness activities rely on external support from the EU Delegation or other member states' programmes.⁶⁶⁵ For 2021, there was no progress regarding the specific measure to encourage cooperation with civil society for public awareness of the strategy. However, the monitoring report stresses that the Ministry of Justice is implementing various measures to increase public awareness, including the publication of a manual in English and Albanian.⁶⁶⁶ An independent monitoring report for the implementation of the public awareness pillar of the strategy is missing. A new strategy for 2023-2030 is in preparation.⁶⁶⁷

The government – the Prime Minister's Office and the Ministry of Justice – has been vocal in urging citizens to use the centralised portal⁶⁶⁸ to file complaints and denounce corrupt practices and officials, as well as promote the anti-corruption activities of the General Directorate against Corruption.⁶⁶⁹ Nevertheless, there is no publicly available comprehensive reporting on the status of the complaints.

INDICATOR 5.3.2 COOPERATE WITH PUBLIC INSTITUTIONS, CSOS AND PRIVATE AGENCIES IN PREVENTING/ ADDRESSING CORRUPTION

To what extent does the public sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?



Public institutions irregularly engage CSOs or private agencies to prevent or address corruption.

Public institutions cooperate generally with CSOs on anti-corruption initiatives in the framework of donor-funded projects. For example, from 2020 to 2023, the Institute for Democracy and Mediation has been cooperating closely with the Ministry of Justice, line ministries and municipalities to draft the integrity plans for these institutions.⁶⁷⁰ The drafting and adoption of the integrity plans is one of the measures of the Action Plan for the Intersectoral Strategy against Corruption that is part of the preventive pillar.⁶⁷¹ Another example is the cooperation with the Academy for European Integration and Negotiations,⁶⁷² which provides training on specific negotiation chapters of the EU *acquis* as well as on the fundamentals cluster of the negotiating framework since 2019.⁶⁷³

Two important public sector fora where CSOs could contribute to address corruption – namely, the Sectoral Steering Committee on Justice Reform and the Sectoral Steering Committee on Internal Affairs – exclude them from participating. However, the Order of the Prime Minister outlining the composition of sectoral steering committees does not foresee the participation of CSOs.⁶⁷⁴

INDICATOR 5.3.3 REDUCE CORRUPTION RISKS BY SAFEGUARDING INTEGRITY IN PUBLIC PROCUREMENT

To what extent is there an effective framework in place to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms?



While the recently adopted public procurement law in Albania introduced measures like open bidding procedures to reduce corruption risks, it still falls short in ensuring integrity and fostering accountability, with irregularities found in post-disaster funding and persistent issues like fictitious bidding, conflicts of interest and ambiguous team selection criteria.

The Assembly adopted a new law on public procurement⁶⁷⁵ in December 2020, which began to be implemented from 31 March 2021, aligning it with EU standards by prioritising the most economically advantageous tender. The new law removed proposal requests, a restricted procedure widely used in the past.⁶⁷⁶

Bidding procedures are open, except for the negotiating procedure without prior notification.⁶⁷⁷ However, the negotiating procedure without prior notification is used after all other relevant open bidding procedures have been exhausted by the contracting authority and a suitable offer has not been found. For example, after the devastating consequences of the November 2019 earthquake, the Albanian government approved a normative act⁶⁷⁸ to conduct separate and accelerated procurement procedures.⁶⁷⁹ The SSAI found various irregularities with regards to the documentation of the funding and tendering procedures for post-earthquake reconstruction, as well as for the use of public funds to respond to the COVID-19 pandemic.⁶⁸⁰

A 2021 report by the Hertie School of Governance and the Albanian Institute of Science which examined public procurement procedures in the health sector and infrastructure found that public procurement suffers from a number of issues ranging from fictitious bidding to a lack of effective oversight. The report has identified cases in which the tendering process may seem competitive due to the participation of many economic operators, however, only one of them submits an offer just below the maximum threshold of the procurement call.⁶⁸¹

The Agency for Public Procurement serves as the national procurement regulatory body, which is responsible *inter alia* for providing standard procurement procedures, administering the public procurement portal, setting and enforcing public procurement standards and supervising the implementation of procurement agreements after they have been signed.⁶⁸² Economic operators may submit requests for clarifications during the procurement process and responses by the contracting authority must be shared with the rest of the bidders. Additionally, economic operators may file complaints both with the contracting authorities and the Public Procurement Commission (PPC).⁶⁸³ Upon confirmation by the contracting authority that the complaint has been filed at the PPC during the tendering process, the complaint is processed and the process is suspended until the PPC issues a decision, which also takes into account the decision issued by the contracting authority on the merits of the complaints and subsequent actions to address it.⁶⁸⁴

Procurement legislation requires that the public officials who draft the tender documents are not involved in the evaluation of the offers submitted to the contracting authority,⁶⁸⁵ however, it does not include any provisions that would prohibit any of these officials from being part of the team that assesses the implementation of the contract.⁶⁸⁶ Furthermore, it does not specify the necessary criteria to become a member of the unit that drafts the tender documents or the one that assesses the offers. It merely states that at least one of the

members of each group must be a procurement expert.⁶⁸⁷

The PPC is the highest administrative appeal body for public procurement. The Commission includes five members appointed through a simple majority by the Albanian Assembly; however, the evaluation of the candidates and their short-listing is done by the Council of Ministers.⁶⁸⁸ Similarly, the Central Purchasing Agency is subordinate to the Ministry of Interior and relies on the resources of the ministry for its support and financial functions.⁶⁸⁹

INTERACTIONS

The public sector has important interactions with the executive, anti-corruption agencies and SAI pillars. The relations between the public sector and the executive are regulated by the Law on Civil Servants, the Labour Code of the Republic of Albania and other relevant laws approved by the Assembly and bylaws issued by the Council of Ministers that govern the organisation and functionality of central government institutions.

While performing their duties, public sector employees are subject to scrutiny from two key independent oversight institutions: HIDAACI and the Supreme Audit Institution. The SAI's mandate derives from the Constitution of the Republic of Albania and it is further detailed in its organic law. The SAI may conduct compliance, performance, financial and information technology (IT) audits of the actions of public sector employees as part of their audits of public institutions. Similarly, public sector employees⁶⁹⁰ are required to submit their declaration of assets to HIDAACI in accordance with the Law on the Declaration of Assets. HIDAACI examines the declarations and issues sanctions in cases of violations. HIDAACI is further responsible for setting the standards on the prevention of conflicts of interest and whistleblowing and whistleblower protection, monitoring their implementation and issuing administrative sanctions to enforce legal standards.⁶⁹¹ Additionally, it may receive whistleblower complaints and conduct investigations based on the complaints.⁶⁹²

There is a tendency by the executive to exert political control over the public sector primarily through the exclusion of government directorates and agencies from the scope of the Civil Servant Law, the lack of clear legal standards for the employment of public sector employees who are not part of the civil service and the misuse of state resources during elections (see also the Executive and Electoral Management Body pillars). The SAI has underscored the financial damages to the state budget and has initiated criminal proceedings in some cases,⁶⁹³ while HIDAACI has mainly been focused on the administration and partial audit of asset declarations. Both the SAI and HIDAACI need to take full advantage of their respective legal mandates. In particular, HIDAACI must strengthen its oversight and regulatory intervention on both whistleblower policy and on the prevention of conflicts of interest.⁶⁹⁴

PILLAR RECOMMENDATIONS

- + The Albanian Assembly and the executive need to revise the public procurement legal framework to address irregularities by:
 - Strengthening digitalised procurement services to ensure there is no fictitious bidding by ensuring integration with the National Business Registry for periodic checks, including monitoring risk indicators, and publish all contracts and concessions regularly in an open format and ensure that cross-check reports are published.
 - Introduce in the digitalised procurement services a conflict of interest database of all bidders where mandatory disclosure of interests is required and checked to prevent conflicts of interest.
 - Establish an independent review body to oversee procurement procedures and enforce deterring sanctions against improper conduct by suppliers and public officials.

- + The Albanian Assembly and the executive need to amend the Civil Servant Law, Law on Salaries and Labour Code and related bylaws and regulations to bolster professionalism and competency in the public sector by:
 - Including the heads of directorates as employees of the civil service to avoid political appointees.
 - Clearly defining and enforcing meritocratic standards for hiring public sector employees, especially those outside the civil servant category and with temporary contracts. This includes changing provisions to strengthen standardised criteria for all positions both within and outside the civil service.
 - Creating transparent hiring processes by making it mandatory to publish available positions, selection criteria, deadlines and results of the application process for both civil servant vacancies and those outside of civil service and to publish vacancies for

- public sector positions on a temporary contract.
- Ensuring merit-based selections by making it mandatory to develop and publish clear merit-based criteria for all positions (also for those outside of the civil service), including temporary contract vacancies, outlining the selection process in detail, using standardised testing and evaluation, enforcing feedback mechanisms for candidates to receive feedback and to appeal decisions, ensuring regular reviews and improvements of the selection process, enforcing consistent internal review and ensuring legal protection of whistleblowers who report cases of violations.
 - Mandating regular employee training and development on the transparency of recruitment, merit-based selection processes, risks associated with violations of policies in place, the importance of integrity and professionalism, and on priority areas related to their job position.
 - Introducing robust performance evaluations.
 - Enforcing anti-nepotism policies by establishing and enforcing clear penalties for violations of such policies, creating internal reporting mechanisms and ensuring legal protection of whistleblowers who report nepotism or other unethical behaviour and conducting regular audits and controls.
- + The Albanian Assembly and the executive need to adopt stronger legal protections for those employees hired on a temporary contract regulated by the Labour Code. The Albanian Assembly and the executive should explore the establishment of a different legal framework that governs the relations of public sector employees who are not civil servants. Such a framework may offer guarantees that are in between the provisions of the Labour Code and the Civil Servant Law, which should include – for example – longer-term contracts and additional protection measures such as whistleblower protection, arbitration mechanisms for employment disputes and safeguards against arbitrary dismissal.
- + The Albanian Assembly and the executive need to revise the legislation on the prevention of conflicts of interest in the public sector to ensure clarity and better implementation. This includes:
- Introducing clear guidance on government property use.
 - Enforcing clear sanctions in case of use of public resources during political campaigns.
 - Defining clear post-employment restrictions, the nature of these restrictions and the sanctions for their violation.
 - Enforcing ethical contract fulfilment with clear measures of sanctions in case of violations.
 - Detailing restrictions, sanctions for violations and procedures for “revolving door” situations.
 - Enforcing internal accountability mechanisms to foster integrity and prevent conflict.
- + HIDAACI should intensify its scrutiny of asset declarations in the public sector by implementing a more robust and systematic approach to verifying the accuracy and completeness of these declarations. This includes:
- Conducting proactive assessments and thorough investigations to detect any potential breaches or discrepancies.
 - Ensuring the publication of asset declarations and conflict-of-interest statements as required by law to enhance transparency and accountability.
 - Equipping HIDAACI with sufficient resources and the legal authority to perform efficient and comprehensive verification checks, including the ability to conduct on-site audits and cross-checks with other databases and asset registers.
 - Strengthening HIDAACI’s capacity for enforcement by providing it with the ability to impose and collect fines effectively, and to refer cases for prosecution when significant violations are uncovered.

- + The Albanian Assembly should revise the legal framework on whistleblowing protection. Whistleblowing within the public sector should be actively encouraged. However, reliance should not be solely on the internal whistleblowing units. The law should be amended to define clearly what constitutes protected disclosure, establish secure and confidential reporting channels and explicitly prohibit retaliation. Additionally, oversight bodies like HIDAACI must be empowered to enforce the law effectively by ensuring sufficient resources (human, financial, technological); specialised capacity development of HIDAACI staff on investigative techniques, legal procedures, protection protocols, confidentiality and security as well as support services and avoiding retaliation; consistent collaboration with other law enforcement and anticorruption authorities; ensuring timely response to reports; and a regular feedback loop. Whistleblowers ought to have the freedom to engage with members of the Albanian Assembly, independent oversight institutions and the media. Throughout this process, they should be granted full legal protection.
- + The Albanian Assembly and the Executive need to revise the legislation so that the mandate of the Department of Public Administration and of the Commissioner for the Oversight of the Civil Service should extend beyond the civil service to encompass the entire public sector. By broadening their mandates, both governance and oversight would be holistic, covering the entirety of the public sector rather than just the civil service. To effectively fulfil this expanded role, it is essential that they receive increased resources and support to match their new, comprehensive responsibilities.
- + The Agency for Dialogue and Co-Governance should promptly initiate the regular publication of detailed reports concerning citizen complaints. These reports should include statistics on the number of complaints received, categorisation of the issues, actions taken in response and the final outcomes.

ENDNOTES

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⁶¹⁸ Law no. 9634, dated 30.10.2006 “On labour inspection and the State Labour Inspectorate”,
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⁶¹⁹ Law no. 107/2021 “On co-governance”, <https://qbz.gov.al/eli/ligj/2021/11/04/107>.

⁶²⁰ Section II, Decision of Council of Ministers no. 618, date 20.10.2021 “On the establishment, organisation, and functioning of the Anti-corruption Network Coordinators”.

⁶²¹ These limits differ in accordance to relevant legal provisions that cover specific administrative processes, e.g. public procurement or access to information. In case of inaction, the complaint cannot be filed earlier than 7 days after the expected date of the administrative decision or later than 45 days. Article 132, Code of the Administrative Procedures of the Republic of Albania, <https://qbz.gov.al/preview/de7df9ee-7c2e-440a-9f46-1929531dc7d1>.

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⁶²³ Article 36 of the Rules of Procedure of the Assembly of the Republic of Albania.

⁶²⁴ Articles 16-17, Law no. 8891, dated 2.5.2022 “On the organisation and functioning of parliamentary investigative commissions”, <http://staging.parlament.al/Files/Informacione/ligji-komisionet-hetimore.pdf>.

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⁶²⁸ Article 6 and Chapter IV, Law no. 10296, dated 8.7.2010 “On financial management and control”,
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⁶³² Supreme Audit Institution, *2021 Annual Performance Report*, (Tirana: Supreme Audit Institution, 2022), p. 8, <https://panel.klsh.org.al/storage/phpY6y1k5.pdf>.

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⁶³⁴ IDP Commissioner, *2021 Annual Report*, (Tirana: IDP Commissioner, 2022), p. 12-13, 21, <https://www.idp.al/wp-content/uploads/2016/10/RAPORTI-VJETOR-2021.pdf>.

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⁶³⁶ European Commission, Annual Report Albania, 2023, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf p.31, accessed 15 November 2023.

⁶³⁷ Articles 14-15 of the Law on the Civil Servant.

⁶³⁸ Commissioner for the Oversight of the Civil Service, *2021 Annual Report*, (Tirana: Commissioner for the Oversight of the Civil Service, 2022), p. 132-138, <https://heyzine.com/flip-book/c7eb3c5db5.html#page/138>. The 2022 Annual Report for Commissioner for the Oversight of the Civil Service is not publicly available yet as of 19 November 2023.

⁶³⁹ Articles 3 (1) and 4, Law on the Prevention of Conflict of Interest, <https://qbz.gov.al/eli/ligj/2005/04/07/9367>.

⁶⁴⁰ Article 14, Law on the Prevention of Conflict of Interest.

⁶⁴¹ Article 15 (b), Law on the Prevention of Conflict of Interest.

⁶⁴² Article 42, Law on the Prevention of Conflict of Interest.

⁶⁴³ Chapters V and VI, Law on Ethics in the Public Administration, <https://www.dap.gov.al/legjislacioni/per-administraten-publike/44-ligj-nr-9131-date-08-09-2003-per-rregullat-e-etikes-ne-administraten-publike>.

⁶⁴⁴ Article 3, Law no. 9049, dated 10.4.2003, <https://www.ildkpkj.al/legjislacioni-3/>.

⁶⁴⁵ Articles 5/1, 7, 7/1.

⁶⁴⁶ Article 25/1.

⁶⁴⁷ Article 25/1.

⁶⁴⁸ See Law no. 162/2020 “On public procurement” and Decision of Council of Ministers no. 486, date 21.7.2022 “On the establishment of rules for the invalidation of public procurement contracts”, <https://www.app.gov.al/legjislacioni/prokurimi-publik/ligji/>.

⁶⁴⁹ Annual Reports of HIDAACI, available at <https://www.ildkpkj.al/raporte-vjetore/>.

⁶⁵⁰ GRECO, Fifth Evaluation Round: Evaluation Report: Albania, (Strasbourg: Council of Europe, 2020), p. 62, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a0923d>.

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⁶⁵³ Institute for Democracy and Mediation, “The integrity plan: A new perspective in the fight against corruption”, 16 October 2020, <https://idmalbania.org/the-integrity-plan-a-new-perspective-in-the-fight-against-corruption-october-2020/>.

⁶⁵⁴ ASPA has provided this information in response to a freedom of information request sent on 9 June 2022. In the reply, ASPA does not further elaborate on the “specific needs” or the positions of the public officials receiving the training.

⁶⁵⁵ “Udhëzues për parandalimin dhe adresimin e dhunës, ngacmimit dhe ngacmimit seksual në mjedisin e punës të administratës shtetërore”, <https://www.dap.gov.al/legjislacioni/udhezime-manuale/468-udhezues-per-parandalimin-dhe-adresimin-e-dhunes-ngacmimit-dhe-ngacmimit-seksual-ne-mjedisin-e-punes-ne-institucionet-e-administrates-shteterore>.

⁶⁵⁶ “Udhëzues për parandalimin dhe adresimin e dhunës, ngacmimit dhe ngacmimit seksual në mjedisin e punës të administratës shtetërore”, p. 23-26.

⁶⁵⁷ “Udhëzues për parandalimin dhe adresimin e dhunës, ngacmimit dhe ngacmimit seksual në mjedisin e punës të administratës shtetërore”, p. 21.

⁶⁵⁸ The DoPA annual report on the civil service can be accessed at: <https://www.dap.gov.al/publikime/raporte-vjetore>.

⁶⁵⁹ The annual reports of the Commissioner for the Oversight of the Civil Service can be found at: <https://www.kmshc.al/raportimi-vjetor-per-kuvendin/>.

⁶⁶⁰ ASPA training modules can be accessed at: <https://aspa.gov.al/aplikimi/>.

⁶⁶¹ Council of Ministers, *Inter-Sectoral Strategy against Corruption 2015-2020*, https://www.drejtësia.gov.al/wp-content/uploads/2021/04/6.-STRATEGJIA-ND%C3%8BRSEKTORIALE-KUND%C3%8BR-KORRUPSIONIT-2015-2020_AL.pdf.

⁶⁶² The monitoring reports of the Strategy can be accessed at: <https://www.drejtësia.gov.al/raporte-monitorimi/>.

⁶⁶³ Passport of Indicators of the Inter-sectoral Strategy against Corruption, https://www.drejtësia.gov.al/wp-content/uploads/2018/10/passport_indicators.pdf.

⁶⁶⁴ Monitoring Report, 2020, <https://www.drejtësia.gov.al/wp-content/uploads/2020/10/MONITORING-REPORT-6M-1-2020-ENG.pdf>.

⁶⁶⁵ Monitoring Report, 2021, https://www.drejtësia.gov.al/wp-content/uploads/2022/05/Raporti-i-monitorimit-SNKK_Janar-Dhjetor-2021_EN.pdf also Monitoring Report 2022, https://www.drejtësia.gov.al/wp-content/uploads/2022/08/Raporti-i-monitorimit-SNKK_Janar-Mars-22_EN_draft-final.pdf.

⁶⁶⁶ Monitoring Report, 2022, The Inter-sectoral Strategy against Corruption, https://www.drejtësia.gov.al/wp-content/uploads/2022/08/Raporti-i-monitorimit-SNKK_Janar-Mars-22_EN_draft-final.pdf.

⁶⁶⁷ European Commission, Annual Report Albania, 2023, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf p.27, accessed 15 November 2023.

⁶⁶⁸ See for example Prime Minister's Office, “Platforma e Bashkëqeverisjes, 33 336 çështje, kërkesa e ankesa”, 30 January 2019, <https://www.kryeministria.al/newsroom/platforma-e-bashkeqeverisjes-33-336-ceshtje-kerkesa-e-ankesa/> [accessed 21 November 2022].

⁶⁶⁹ “Ulsi Manja thirrje qytetarëve: Mos u nënshtroni! Do t'i mposhtim këto shushunja që kërkojnë bekajete dhe fryhen me vulën e shtetit”, *Top Channel*, 9 November 2021, <https://top-channel.tv/2021/11/09/ulsi-manja-thirrje-qytetareve-mos-u-nenshtroni-do-ti-mposhtim-keto-shushunja-qe-kerkojne-bekajete-dhe-fryhen-me-vulen-e-shtetit/>.

⁶⁷⁰ See for example the integrity plan for the Ministry of Justice for 2020-2023, https://www.drejtësia.gov.al/wp-content/uploads/2021/04/1.-Plani-i-Integritetit-për-Ministrinë-e-Drejtësisë-2020-2023_AL.pdf.

⁶⁷¹ Council of Ministers, *Action Plan (2020-2023) for the Implementation of the Inter-sectoral Strategy against Corruption 2015-2020*, p. 8, https://www.drejtësia.gov.al/wp-content/uploads/2021/04/1.-PLANI-I-VEPRIMIT-ANTIKORRUPSION-2020-2023_AL.pdf.

⁶⁷² More information on the Academy can be found at: <http://aien.al/>.

⁶⁷³ More on current activities can be found at: <https://www.aien.al/activities>.

⁶⁷⁴ Annex 1 of the Order of the Prime Minister no. 157, 22.10.2018.

⁶⁷⁵ Law no. 162/2020 “On public procurement”, <https://www.app.gov.al/legjislacioni/prokurimi-publik/ligji/>.

⁶⁷⁶ For example, for 2021, the share of open procedures and proposal requests was 94.9 per cent (61 per cent of which were proposal requests); for 2020, the share of open procedures and proposal requests was 95 per cent (60 per cent of which were proposal requests). See Public Procurement Agency, “Annual Report 2021”, 19, <https://www.app.gov.al/GetData/DownloadDoc?documentId=d60fda7a-4d75-4fea-bea4-e38eb6c54c18>; Public Procurement Agency, “Annual Report 2020”, 20, <https://www.app.gov.al/GetData/DownloadDoc?documentId=09b4c972-7e23-442c-8006-cbfee786e2f0>.

⁶⁷⁷ Article 47, Law no. 162/2020 “On public procurement”, <https://www.app.gov.al/legjislacioni/prokurimi-publik/ligji/>.

⁶⁷⁸ A normative act is essentially a government decree with the power of law for 45 days if it is not approved by the Assembly. See Article 101, Constitution of the Republic of Albania.

⁶⁷⁹ Normative Act no. 9, date 16.12.2019 “On addressing the consequences of natural disasters”, <https://qbz.gov.al/eli/akt-normativ/2019/12/16/9>.

⁶⁸⁰ Supreme Audit Institution, *Raport Përfundimtar Auditimi mbi Përputhshmërinë e Veprimtarisë së Ministrit të Shtetit për Rindërtimin dhe Komisionit Shtetëror të Rindërtimit*, (Tirana: SAI, 2021), <https://panel.klsh.org.al/storage/phpVZqibq.pdf>.

⁶⁸¹ Hertie School of Governance and the Albanian Institute of Science, *Corruption Risk in Albanian Public Procurement 2017 – 2019*, 2021, p. 3, <http://ais.al/new/wp-content/uploads/Executive-Summary Edited CRM May2021 final-with-tables.pdf>.

⁶⁸² Article 23, Law no. 162/2020 “On public procurement”.

⁶⁸³ If economic operators fail to file their complaint also with the Public Procurement Commission, the contracting authority considers the complaint filed as invalid. See Article 112 (1) of the Law on Public Procurement.

⁶⁸⁴ Articles 112-115 of the Law on Public Procurement.

⁶⁸⁵ Article 75 (2) of Decision of Council of Ministers no. 285, dated 19.5.2021 “On the approval of public procurement regulations”, <https://qbz.gov.al/eli/vendim/2021/05/19/285>.

⁶⁸⁶ See Article 107 of Decision of Council of Ministers no. 285, date 19.5.2021 “On the approval of public procurement regulations”.

⁶⁸⁷ Articles 74 and 75, Decision of Council of Ministers no. 285, date 19.5.2021 “On the approval of public procurement regulations”.

⁶⁸⁸ Article 25, Law on Public Procurement.

⁶⁸⁹ Paragraph 8, Decision of Council of Ministers no. 81, dated 14.2.2018 “On the establishment, organisation and functioning of the Central Purchasing Agency”, <http://abp.gov.al/wp-content/uploads/2018/07/VKM-nr.-81-date-14.2.2018.pdf>.

⁶⁹⁰ They include, among others, mid- and high-level civil servants, customs and tax officials, and officials in leadership positions working in property registration, compensation or return. See Article 3 (1/c/f/g), Law on the Declaration of Assets, <https://www.ildkpkj.al/legjislacioni-en/?lang=en>.

⁶⁹¹ See Article 42, Law on the Prevention of Conflicts of Interest, <https://www.ildkpkj.al/legjislacioni-section2/> and Articles 21-23, Law on Whistleblowing and Whistleblower Protection, <https://www.ildkpkj.al/legjislacioni-section3/>.

⁶⁹² Article 11-13, Law on Whistleblowing and Whistleblower Protection.

⁶⁹³ See for example Blerina Gjoka, “KLSH padit zyrtarët e Ministrisë së Shëndetësisë për koncesionin e laboratorëve”, *Reporter.al*, 26 January 2022, <https://www.reporter.al/2022/01/26/klsh-padit-zyrtaret-e-ministrise-se-shendetesise-per-koncesionin-e-laboratoreve/> and “KLSH padit ish-zyrtarët e ALUIZNI-t Diber, shkaktuan 288 milionë lekë dëm shtetit”, *Albanian Telegraphic Agency*, 11 September 2018, <https://ata.gov.al/2018/09/11/klsh-padit-ish-zyrtaret-e-aluizni-t-diber-shkaktuan-288-milione-leke-dem-shtetit/>.

⁶⁹⁴ During the period 2019-2021, HIDAACI did not provide specific data on the implementation of the legislation on the prevention of conflicts of interest. During the same period, less than 20 cases per year have been processed by HIDAACI and other public sector whistleblower units. HIDAACI annual reports can be accessed at: <https://www.ildkpkj.al/raporte-vjetore/>.

LAW ENFORCEMENT AGENCIES

OVERVIEW

The Albanian State Police (ASP) is the principal law enforcement body in Albania, tasked with maintaining public order, preventing and investigating crime, and other related duties. On the other hand, the Agency for Police Oversight (APO) serves as an external entity dedicated to overseeing, monitoring, and evaluating the actions and conduct of the ASP to ensure accountability and adherence to established standards.

The ASP grapples with systemic issues including corruption and susceptibility to political influence, both of which compromise its professionalism and operational efficiency. These issues are further exacerbated by an ambiguous career progression system within the ASP, which lacks clear and merit-based criteria for appointments and rank advancements. The appointment process for the General Police Director (GPD) is criticised for lacking clear professional criteria, and there have been instances of GPDs being moved to government positions. The ambiguous nature of the “return provision”, allowing former members to re-enter the ASP without clarity on their positions, further clouds the organisation's structure.

This politicisation has raised concerns about potential obstruction of investigations into criminal conduct by public officials. Investigations into political interference and corruption within the ASP have been launched, but there is a perception that these probes lack thoroughness or are influenced by political factors. Allegations of corruption involving police officers themselves have also been reported, leading to claims of widespread impunity.

While the ASP has shown capability in addressing organised crime, it is handicapped by insufficient resources to consistently handle economic crimes and internal corruption. The ASP's efforts to combat corruption are primarily reactive, meaning they respond to corruption cases as they arise rather than proactively seeking out high-level corruption. The ASP budget has remained relatively unchanged, with only a minor increase in 2018. The 2023 budget is considered inadequate because the ASP relies on

donations from international aid organisations, foreign states, private national companies and individuals. This reliance on donations raises concerns about potential corruption and *quid pro quo* arrangements. Additionally, there are no specialised units for investigating corruption-related offences.

The public faces challenges in accessing basic information about the ASP, such as its organisation, budget, asset declarations and donations. The ASP website experienced disruptions and content related to transparency could not be found after it was restored. Asset disclosures are made but not published as required by law. Various oversight bodies, including HIDACCI, have not published the asset declarations of police officers as legally mandated. Effective accountability practices are fragmented, with a lower number of investigations and inspections compared to the complaints filed. The APO has been slow in responding systematically to complaints, leading to a low number of investigations and inspections conducted. The Albanian Assembly has not exercised effective oversight over the ASP, despite concerns about corruption and politicisation. Proposed amendments to the Law on State Police have faced criticism and were challenged in the Constitutional Court.

LAW ENFORCEMENT AGENCIES



	Indicator	Law	Practice
Capacity	Resources	n/a	50
	Independence	50	25
Governance	Transparency	50	25
	Accountability	75	25
	Integrity mechanisms	50	25
Role	Corruption prosecution		50

SUMMARY



CAPACITY

INDICATOR 6.1.1 RESOURCES (PRACTICE)

To what extent do law enforcement agencies have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?



There are significant financial resource gaps, high turnover rates, and a lack of experience and technical capacities for dealing with corruption in the ASP which lead to a certain degree of ineffectiveness in carrying out its duties.

The ASP budget has not changed significantly during the last three to five years. After an increase in 2018, the budget has remained at an average of 16.8 billion Albanian lek (approximately €146 million) until 2022.⁶⁹⁵ The 2023 budget is 19.0 billion Albanian lek (EUR 180 million).⁶⁹⁶ However, this budget seems inadequate given that the ASP relies also on donations from international aid organisations or foreign states as well as private entities such as private national companies and private individuals. The donations are mostly in kind such as cars, office furniture, computers and other equipment. The donations by private entities have raised concerns for possible cases of corruption and occurrences of *quid pro quo* arrangements.⁶⁹⁷ According to GRECO, donations in 2019 amounted to 12 per cent of the ASP’s annual budget, although it typically represents 1-3 per cent.⁶⁹⁸

The personnel of the ASP is characterised by high turnover rates, and a lack of experience and technical capacities for corruption and economic crime investigations.⁶⁹⁹ Monthly salaries range from 57,500 Albanian lek (approximately €532) for police inspectors to 125,000 lek (€1,166) for the rank of senior director, while supplements based on the particular duty a police officer has to perform varies from ALL 6,000 (€58) to ALL 40,000 (€388).⁷⁰⁰ The salary scale is similar to that of the civil service (see also the Public Sector pillar).

There are no specific units that are designed to investigate specifically corruption-related offences.

INDICATOR 6.1.2 INDEPENDENCE (LAW)

To what extent are law enforcement agencies independent by law?



Albanian legislation includes a number of provisions to regulate the relationship between the executive and the Albanian State Police, but there are loopholes in terms of the selection process and the appointment of the General Director that undermine the independence of the latter.

The ASP is legally apolitical, and there are specific provisions in place that preclude it from informing the Minister of Interior about ongoing investigations, information gathered through ongoing investigations, and on information about

collaborators with the justice system or about witnesses.⁷⁰¹

The Minister of Interior nominates the GPD, who is appointed by the Council of Ministers. The criteria for the appointment of the GPD are rather general, and do not include any specific professional experience sought for a capable and effective GPD.⁷⁰² For example, specifications that the nominee has relevant operational experience and proven records of leading or co-leading international operations and has maintained a record free from serious violations throughout their police career are missing from the appointment criteria. Article 13 of the law requires the GPD nominee to have 15 years of experience and to have been in leadership positions within State Police for at least 10 years, without further specifications regarding particular operational experience of the nominee which is key for fulfilling the responsibilities of the GPD.⁷⁰³ Similar criteria are stipulated for the Deputy GPD, who is appointed by the minister upon the recommendation of the GPD, such as integrity, clean moral record and no severe disciplinary violations in the previous 3 years. The only difference is that the candidate must have a minimum of 12 years of police experience, including eight in leadership positions.⁷⁰⁴ The GPD holds the rank of "*Drejtues madhor*" (Chief Leader), while the Deputy holds the rank of "*Drejtues i Lartë*" (Senior Leader).⁷⁰⁵

The criteria for dismissal of both General and Deputy General Directors are objective,⁷⁰⁶ except for one criterion – namely, if the GPD or the Deputy GPD fail to fulfil strategic objectives or have low performance.⁷⁰⁷ The law does not specify what it means by "strategic objectives", and therefore it would be the prerogative of the Minister of Interior and the Council of Ministers to determine the assessment criteria.

While the Council of Ministers has a substantially broad prerogative to appoint or dismiss the GPD, the career progression system is riddled with uncertainties. Although there is a minimum⁷⁰⁸ time in rank criterion for each of the ranks, there are no

upper limits, which means that a First Leader that does not get promoted to Senior Leader can stay on until retirement, which renders the ASP professionally stagnant, since promotion in rank relies exclusively on vacancies.⁷⁰⁹ This means that even if a police officer has reached the required time in rank to be promoted, it would be impossible if there were no vacancy available to provide that opportunity. Consequently, mobility within the police force is severely restricted, which makes it prone to political control. The system's reliance on vacancies for promotions means that promotions become easily controllable due to their scarcity. This limited availability of promotion opportunities intensifies competition, thereby heightening the risk of corruption and politicisation within the force.

Additionally, two provisions – on the right to return to the ASP and on transfers – further increases political risks. Transfers of police officers up to the rank of "*Drejtues i parë*" (First Leader) are made by the GPD. Legal provisions stipulate that transfers from one position to the other can be made only within⁷¹⁰ the rank of the police officer, but they cannot be made before the police officer had completed at least two years⁷¹¹ in his or her position except for *ad hoc* exemptions approved by the GPD. They include *inter alia* promotion in rank.⁷¹²

A former police officer may return to the ASP if he or she has been relieved of duty voluntarily or due to restructuring.⁷¹³ The provision sets only two conditions: (1) that they pass the vetting process; and (2) that they fulfil legal and professional requirements for the specific position. While such provisions may be necessary in emergency situations, under normal conditions this may be used to undermine the career prospects of those in the police force in favour of more politically favourable individuals.

INDICATOR 6.1.3 INDEPENDENCE (PRACTICE)

To what extent are law enforcement agencies independent in practice?



The ASP suffers from regular political interference. Its leadership is not free of political influence, while its operations are at times politically influenced.

The Law on the State Police has two key weaknesses that enable the politicisation of the State Police through the appointment of the GPD, which have been duly exploited by the governing Socialist Party, as shown by the appointment of GPDs who have later on been moved to government positions. Those two weaknesses include the lack of a clear and specific professional criteria (see 6.1.2) for the appointment of the GPD, and the control of the nomination and appointment process completely by the executive. The position of the GPD is notoriously unstable. Since 2017, there have been four GPDs, including the current occupant. Two of the three previous GPDs have been recycled in as political appointees in different positions: one was serving as Deputy Minister of the Ministry of Infrastructure and Energy,⁷¹⁴ while the other was serving as the director of the National Agency for Civil Protection.⁷¹⁵

Given the reported politicisation and corruption⁷¹⁶ in the State Police, there have been strong indications that investigations on criminal conduct by public officials may be obstructed or not started at all. These indications were confirmed in the case against Saimir Tahiri, former Minister of Interior (2013-2017). Tahiri, together with local police chief Jæld Çela, were found guilty of abuse of power because they had provided information and had enabled the operations of an organised criminal group – which also included distant cousins of the minister – to traffic cannabis from Albania to Italy.⁷¹⁷

In a more recent case during the April 2021 parliamentary elections, a police unit in Elbasan did not act on a report provided by volunteers from the Democratic Party in opposition alleging an ongoing vote-buying operation conducted by volunteers from the governing Socialist Party.⁷¹⁸ The volunteers from the two parties eventually clashed and a local Socialist Party member was killed.

Past investigations into allegations of political interference or undue influence on the police, particularly from criminal groups or even organised crime, have been launched, but there is a prevailing sentiment that these probes may lack thoroughness or are influenced by political factors. This sentiment is reinforced when police officers themselves are found to have been involved in criminal activities related to corruption. Specifically, SPAK has recorded 13 such cases from August 2022 to July 2023 for which the prosecution has requested the enforcement of the security measure "arrest in prison".⁷¹⁹ Often, not every implicated party is held accountable, leading to claims of widespread impunity. Nonetheless, an example of the ongoing efforts is the "Metamorfoza" operation by SPAK in July 2023.⁷²⁰ This operation, spurred by intelligence from the French judicial system, resulted in the arrest of 15 individuals associated with organised crime networks, including high-ranking police officers and a prosecutor. These individuals face allegations ranging from murder and trafficking to corruption and illegal arms possession.

GOVERNANCE

INDICATOR 6.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can access the relevant information on law enforcement agency activities?



Despite existing laws and provisions, gaps remain in addressing the full scope of transparency for the Albanian State Police, particularly in areas like the decision-making process for recruitment and promotions, comprehensive reporting on community policing and serious organised crime, and the disclosure of donations and consistent publication of asset declarations.

The ASP is subject to the provisions of the Law on the Right to Information. This law obligates public authorities to publish the Transparency Programme on their website, which is a framework for the publication of documents and information of public interest. In accordance with the provisions of the Law on the Right to Information, the ASP is *inter alia* required to publish information on (i) the organisational structure, functions and responsibilities of the ASP; (ii) policy documents, legal documents, sub-legal acts, conventions and codes of ethics; (iii) information on the education, qualifications and salaries of officials who are subject to the Law on the Declaration and Verification of Assets of Elected and Public Officials (hereinafter “Law on Declaration of Assets”); (iv) selection procedure for the senior officials of the ASP, their obligations and their decision-making process; and (v) budgetary and procurement plans and reports. However, there are no specific provisions that require the ASP to disclose the donations it receives in accordance with Article 139 of the Law on the State Police.

All police officers have to disclose their assets for their transitory and periodic evaluation process as stipulated in Law no. 12/2018 on the transitory and periodic evaluation of the employees of the State Police, National Guard, and Internal Affairs and Complaints Service⁷²¹ (herein after ‘Law on Transitory and Periodic Evaluation’). Police officers first disclose their assets for their transitory evaluation, which determines whether they will continue to remain in the police force. After the transitory process ends, police officers are required to submit their asset disclosure forms every three years based on the risk profile of specific structures and units.⁷²² Additionally, police officers who are county police directors, general directors and directors in the General Police Directorate, as well as the General Police Director and the Deputy GPD, must disclose their assets annually.⁷²³ The Law on the Declaration of Assets requires that HIDAACI publish the asset declarations,⁷²⁴ but the Law on Transitory and Periodic Evaluation does not require asset declarations to be published.

Article 77 of the Law on the State Police requires that the ASP inform the public about its actions pertaining to public order and safety without jeopardising the presumption of innocence of suspects, as well as the dignity and privacy of the victims of crime. The ASP is also required to cooperate with civil society organisations and provide them with information on the arrest procedures for detained individuals,⁷²⁵ whereas victims of crimes have the right to access their case files without compromising the secrecy of the investigation.⁷²⁶

INDICATOR 6.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the activities and decision-making processes of law enforcement agencies in practice?



The public is not able to access even basic information on the organisation and functioning of the ASP, budget and procurement, asset declarations or donations.

In the summer and fall of 2022, the Albanian government information system suffered a series of cyberattacks, which briefly disabled online government services.⁷²⁷ The ASP website was disabled for a few months. After it went back online, the content previously published under the Transparency Programme could not be found, and it is still missing.⁷²⁸ The ASP does, however, still publish various notifications on its operations.⁷²⁹

Assets are disclosed in accordance with the Law on the Declaration of Assets and the Law on Transitory and Periodic Evaluation, but they are not published. HIDAACI does not publish the asset declarations of the state officials who are required to submit them, even though it is a legal obligation. Similarly, the External Evaluation Commission and the APO⁷³⁰ – which are responsible for the transitory and periodic evaluation of the members of the police force – have not published the asset disclosure forms of the police officers being evaluated.⁷³¹

INDICATOR 6.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that law enforcement agencies have to report and be answerable for their actions?



The ASP is subject to a number of accountability mechanisms, and citizens may file complaints with independent institutions and the APO if they have been wronged or if they are the victim of a crime. However,

the APO is not sufficiently independent to fulfil its mission to conduct independent, objective and transparent oversight.

Police officers are subject to prosecution of crimes stipulated in the Criminal Code: abuse of power, corruption, fraud and participation in other criminal activities. They are also subject to disciplinary measures for violations of police regulations, which include *inter alia* unlawful and excessive use of force, sexual harassment, unauthorised or illegal use of a service weapon, corrupt acts and information leaks.⁷³²

Citizens may file a complaint with the APO, or may decide to file lawsuits against specific police officers or other legal entities within the police force, e.g. the county directorate or the General Directorate of the ASP. The APO may conduct inspections and criminal investigations. Upon completion of the inspections, the APO may forward the findings to the Disciplinary Commission, which is convened by the order of the general director of the APO.⁷³³ The measures taken by the Commission may be appealed with the Appeals Commission, which is convened by the Minister of Interior.⁷³⁴ In cases of criminal investigations, the cases are forwarded to the prosecution.⁷³⁵

The APO operates as a subsidiary agency under the Ministry of Interior, making it not entirely independent. Although it maintains operational independence from the ASP, its subordination to the Ministry of Interior raises questions about its political autonomy. If the rights of citizens are violated, they may file complaints with the Ombudsperson, which is an independent institution. The Ombudsperson may recommend the dismissal of an official found in violation of a citizen's rights or recommend to the victim to press criminal charges.⁷³⁶

The APO investigates corruption-related offences and misconduct within the ASP also proactively through planned inspections.⁷³⁷ Nevertheless, the Law on the Agency for Police Oversight provides the Minister of Interior with significant powers to influence its work, activities and priorities.⁷³⁸

Consequently, the APO does not have the necessary independence to pursue priorities to strengthen the integrity of the ASP.

INDICATOR 6.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do law enforcement agencies have to report and be answerable for their actions in practice?



While the ASP has to report and be answerable for its actions, the effective accountability in practice is largely piecemeal, as evidenced by the low number of investigations and inspections as compared to the complaints filed.

State Police employees are not granted immunity from criminal prosecution. They are subject to investigation and trial based on the Code of Criminal Procedure. The Special Prosecution Office handles corruption offences, irrespective of the offender, and a Special Court adjudicates these cases.⁷³⁹

Despite the large number of complaints, the APO has been rather slow to respond systematically given the low number of investigations and the low number of inspections.⁷⁴⁰ In 2021, the APO received 2,039 complaint calls and 1,694 complaints submitted through their complaints case management system.⁷⁴¹ During 2021, the APO conducted 59 administrative investigations as a result of complaints submitted, whereas during 2019 and 2020 it had conducted 118 and 97 investigations respectively.⁷⁴² In 2021, six cases of the administrative investigations have been penal referrals involving 14 police employees, compared to ten cases in 2020 and three cases in 2019. Similarly, the number of inspections in the last three years has ranged from 73 in 2019 to 110 in 2022; the number of disciplinary measures has ranged from 89 in 2020 to 288 in 2022; and the number of penal referrals have ranged from 214 in 2020 to 250 in 2019.⁷⁴³

Additionally, the Albanian Assembly – which has been dominated by the governing Socialist Party – has not exercised effective accountability and oversight over the ASP. Despite the corruption and politicisation of the police force, the Assembly has not passed legislation to curtail political influence or conduct hearings on integrity and corruption in the police. In October 2020, the Assembly approved amendments to the Law on State Police⁷⁴⁴ that included provisions which were criticised and appealed in the Constitutional Court by the Ombudsperson and the Albanian Helsinki Committee for undermining the right to privacy and separation of powers between the executive and the prosecution. The Constitutional Court ruled in favour of the Ombudsperson and the Albanian Helsinki Committee, thus invalidating the relevant provisions.⁷⁴⁵

INDICATOR 6.2.5 INTEGRITY MECHANISMS (LAW)

To what extent is the integrity of law enforcement agencies ensured by law?



While there are some provisions in place that seek to establish some rules on the conduct of police officers, they are not sufficient, as they do not comprehensively address integrity needs, particularly with regards to the specific mechanism to prevent conflicts of interest.

The ASP does not have a separate code of conduct, but the Regulations of the State Police include parts and provisions that refer to the proper conduct of police officers. In addition to various misconducts ranging from gambling to sexual harassment,⁷⁴⁶ the document includes specific provisions on fraud, deception, obstruction of the investigative process and abuse of official functions.⁷⁴⁷ Furthermore, police officers cannot receive gifts due to their functions, and have to declare gifts received in official activities given to them as a token of reciprocity. Violations of these provisions are

investigated by disciplinary commissions based on their severity, and they may be appealed at the Central Appeals Commission.⁷⁴⁸

The Law on the State Police includes a provision that prevents secondary economic activities⁷⁴⁹ – except for teaching, which is subject to approval by the superior officer – and another on preventing and managing conflict of interest situations.⁷⁵⁰ However, the provision on the conflict of interest merely states that the police officer must ensure that private interests do not conflict with official duties, and that in case a situation of conflict of interest arises, the police officer must notify the superior officer. It does not specify further actions to address conflicts of interest; it does not outline the responsible authorities to deal with such cases at various levels within the police force; and it does not outline potential sanctions in cases when a police officer fails to disclose their conflict of interest.

Despite some clearly outlined provisions and the mechanisms in place for disciplinary action in the Regulations of the State Police, the current framework lacks clear, specific and detailed provisions to prevent conflicts of interest in the police force. On the other hand, there are legal provisions in place to sanction violations related to asset declarations. The Law on the Declaration of Assets includes sanctions for failure to declare assets or to provide required information and authorisation for their verification.⁷⁵¹ These provisions apply to the leadership of the State Police (see 6.2.1). According to the Law on Transitory and Periodic Evaluation, the evaluation committee or the APO may decide to dismiss police officers who fail to accurately declare their assets and property.⁷⁵²

INDICATOR 6.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of members of law enforcement agencies ensured in practice?



Despite some important initiatives to improve the integrity in the ASP, their implementation significantly lags while their output is marginal, as evidenced by the concerning infiltration of organised crime amongst police ranks and the slow progress of the police vetting process.

The most comprehensive initiative to foster integrity in the ASP is the transitory and periodic evaluation. Admittedly a challenging process, it has produced marginal positive outcomes. An External Evaluation Committee was established in 2019 to evaluate senior officers. According to a monitoring report of the process published by the Institute for Democracy and Mediation, out of the first 15 senior officers evaluated, 12 were confirmed, one was fired and two resigned.⁷⁵³ According to the APO, 42 evaluations⁷⁵⁴ were concluded, which include members of the APO and other high-ranking police officers that are supposed to conduct the evaluation process for approximately 9,000 police officers.⁷⁵⁵

The establishment of the institutional structure to implement the process was prolonged,⁷⁵⁶ while the law has been amended several times. The process has been progressing rather slowly, and there are no periodic comprehensive reports on its developments and challenges. The APO includes a section in its annual report with updates on the number of evaluations completed.

Meanwhile, the ASP suffers chronically from corruption and infiltration of its ranks by organised criminal groups (see 6.1.3). Even the outgoing GPD accepted himself that police operations are routinely compromised.⁷⁵⁷ In 2022, an attempt to arrest a prominent criminal, Ervis Martinaj, was compromised by a police officer who shared police intelligence with him.⁷⁵⁸ The police officer was

arrested, and the Kurbin Court imposed a security measure with imprisonment in August 2022.⁷⁵⁹

Despite a few cases in which corrupt police officers have been apprehended and convicted, this issue continues to remain the key integrity challenge of the ASP. Training on integrity challenges, mechanisms and plans are typically conducted in cooperation with international donors.⁷⁶⁰

INDICATOR 6.2.7 GENDER

To what extent are Law Enforcement's mechanisms gender-sensitive?



While some gender-sensitive protocols are in place, the training for their implementation is largely dependent on expertise contracted through international donors.

Law enforcement's complaint and investigation mechanisms have explicit gender-sensitive protocols and guidelines. The protocols address specifically sexual abuse cases and domestic violence, but they do not have a specific policy for front-facing female staff.⁷⁶¹ Furthermore, the ASP has a rather low number of women police officers amongst its ranks. It employs a total of 1,562 women: 979 police officers and 583 civilians.⁷⁶² They are assigned to various units in the ASP, including economic crime, the operational centre, general patrol, drugs and trafficking, special forces (two women), and support services.⁷⁶³

The ASP conducts training sessions on the implementation of the provisions of the legislation on gender equality and gender-based violence; however, most of the training is delivered by non-governmental organisations funded by international donors.⁷⁶⁴

Some gender-related data on investigations and complaints are recorded, and they include basic categories such as the gender of the perpetrator and of the victim or the person who submits the complaint.⁷⁶⁵

ROLE

INDICATOR 6.3.1 CORRUPTION PROSECUTION

To what extent do law enforcement agencies detect and investigate corruption cases in the country?



While the ASP does investigate corruption cases, the work is generally reactive and not focused on high-level corruption.

Standing legislation provides comprehensive provisions to combat corruption, but corruption investigation is not a key priority for the ASP; organised crime and drug trafficking have been key policy priorities.⁷⁶⁶ Under the enforcement ("Repressive") approach of the Inter-sectoral Strategy Against Corruption, two of the four objectives refer to improving the legal framework and international cooperation. Out of the remaining two, one objective targets inter-institutional cooperation primarily for data sharing, while the other targets financial investigations.⁷⁶⁷ Despite the emphasis on the need for effective financial investigations, corruption and economic crime investigation units suffer from a lack of expertise and technical capacities (see 6.1.1).

The Law on the State Police includes comprehensive provisions that enable the ASP to gather and use intelligence⁷⁶⁸ and personal data,⁷⁶⁹ engage informants,⁷⁷⁰ conduct searches⁷⁷¹ and seizures,⁷⁷² and detain suspects.⁷⁷³ The Code of Criminal Procedures provides further details and outlines the conduct of the police and its cooperation with the prosecution and the courts in its provisions.

The police have conducted a number of high-profile operations to target organised criminal groups⁷⁷⁴ and high-profile criminals,⁷⁷⁵ but they have not demonstrated that combatting corruption – particularly high-level corruption – is an operational priority. Nevertheless, corruption cases are investigated, and in April 2022 there was an operation led by the APO that targeted corruption

within the ranks of the ASP (specifically the Border Police).⁷⁷⁶

INTERACTIONS

Some of the key interactions of the ASP are with the executive, the Assembly, the prosecution and the judiciary as well as the media. The relationships between the ASP and these other pillars are governed through laws and regulations. The interactions between the executive and the ASP are the most consequential in fighting corruption. Fighting corruption is geared towards government institutions; therefore, an independent and professional police force is paramount. In law and practice, the executive has demonstrated continuous efforts to keep the ASP politically dependent and too ineffective to proactively investigate corruption.

The power of the executive over the ASP is compounded through its power to influence legislation and the accountability of the Assembly over the ASP. Instead of acting as a check on the power of the executive over the ASP, the Assembly has approved – without scrutinising – the executive's unconstitutional legislative initiatives to broaden the ASP's powers for surveillance, thereby broadening the scope for the misuse of the police force by the executive.

The interplay between the ASP and the judiciary and prosecution is characterised by both symbiosis and contention. The ASP's operational efficiency relies on the guidance of the prosecution during criminal investigations. While the police spearhead preliminary inquiries, the prosecution steers the deeper investigative trajectory. This procedural collaboration is imperative for the smooth transition of cases to the judiciary. However, the balance can be disrupted by potential divergences in approach, priorities or interpretation of the law. Moreover, the prosecution's lead role in directing investigations presents challenges when there are discrepancies in objectives or strategies between the prosecution and the police. In some cases, the ASP has expressed frustrations over their arrest efforts

being undercut by judicial decisions to release suspects. Such dynamics can strain inter-institutional rapport and challenge the efficacy of law enforcement efforts, potentially eroding public trust in the coherence and effectiveness of the criminal justice system.

The ASP's relationship with the media is critical for building trust and cooperation with Albanian society and for having an informed public. The ASP does inform the public on ongoing operations, and the media does report extensively on the state of public safety and crime in society. However, at times, both misuse each other: the ASP is eager to show that it is vigorously fighting crime, while the media are eager to report news that is likely to attract greater public attention. These dynamics lead, at times, to sensational coverage that does not build public trust nor inform the public. Furthermore, the ASP tends to provide basic information on the actions taken during an operation, while investigative reports are mostly limited to providing information on the *modus operandi* of criminals and rarely probe into political connections.

PILLAR RECOMMENDATIONS

- + The ASP must review its criteria for appointment and career progression. The current system discourages mobility within the police force and is not conducive to professional excellence and independence. Therefore, a new system needs to be built to include clear professional criteria for career progression, a maximum limit for time in rank, and a well-planned structure and organisation whereby attainment of rank is not conditional upon a vacancy.
- + The GPD and the Deputy should be confirmed through a presidential decree. This procedure would be similar to the one used for the confirmation of the Chief of General Staff of the Albanian Armed Forces and the commanders of the army, navy and air force. This does not prevent politicisation, but it does add an independent check on the power of the executive to appoint these two officials.
- + The return provision, which allows former members of the ASP to return to the force, should be removed. As it currently stands, the provision has essentially no restrictions in rank or position that returnees may occupy – including that of the GPD – while its need and value to the ASP has not been outlined in any official policy documents.
- + The APO must publish the asset declarations of police officers, while the ASP must publish data on the donations received on their websites. This would improve transparency and strengthen the integrity of the police.

ENDNOTES

- ⁶⁹⁵ See budgetary data on the website of the Ministry of Finance and Economy: <https://financa.gov.al/buxheti-ne-vite/>, accessed on 4 January 2023.
- ⁶⁹⁶ See 'Tabela-5-shoqeruese-Shpenzimet-sipas-institucioneve-2023' at Ministry of Finance and Economy, "Buxheti 2023", <https://financa.gov.al/per-buxhetin-e-vitit-2023/>. Accessed on 12 January 2023.
- ⁶⁹⁷ Group of States against Corruption (GRECO), Evaluation Report: Albania (Fifth Evaluation Round), (Strasbourg: Council of Europe, 2020), p. 32, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a0923d>.
- ⁶⁹⁸ Group of States against Corruption (GRECO), Evaluation Report: Albania (Fifth Evaluation Round), (Strasbourg: Council of Europe, 2020), p. 32.
- ⁶⁹⁹ Group of States against Corruption (GRECO), Evaluation Report: Albania (Fifth Evaluation Round), p. 31.
- ⁷⁰⁰ Decision of Council of Ministers no. 200, date 15.3.2017 "On base salary and supplements for the Albanian State Police", <https://qbz.gov.al/eli/vendim/2017/03/15/200>.
- ⁷⁰¹ Article 8 of the Law on the State Police, <https://qbz.gov.al/eli/ligj/2014/07/31/108>.
- ⁷⁰² They include at least 15 years of experience in the police force, a high level of integrity, no sentence for a penal offence, and no serious disciplinary violations in the last three years. See Article 13 of the Law on the State Police,
- ⁷⁰³ Article 13 of the Law on the State Police, <https://qbz.gov.al/eli/ligj/2014/07/31/108>.
- ⁷⁰⁴ Article 14 of the Law on the State Police, <https://qbz.gov.al/eli/ligj/2014/07/31/108>.
- ⁷⁰⁵ Article 13 (1) of the Law on the State Police.
- ⁷⁰⁶ They include being unable to exercise public functions for more than 6 months, reaching retirement age, resigning voluntarily, penal conviction or being disabled, thus leading to a court order restricting or removing the right to independent action. See Articles 15 and 16 of the Law on the State Police.
- ⁷⁰⁷ Article 15 (2/b) and Article 16 (2/b) of the Law on the State Police.
- ⁷⁰⁸ See Article 55 of the Law on the State Police.
- ⁷⁰⁹ Article 54 (2) of the Law on the State Police.
- ⁷¹⁰ Article 43 (1) of the Law on the State Police.
- ⁷¹¹ Article 43 (5) of the Law on the State Police.
- ⁷¹² Article 179 (4/a) of the Regulations of the State Police, https://mb.gov.al/wp-content/uploads/2018/02/RREGULLORE_E_POLICISE_SE_SHTETIT_-_2015.pdf. Other exemptions include restructuring, family or health reasons, life threatening situations for the officer or his family, change of the status of the function, and inability to perform one's duties.
- ⁷¹³ Article 49 (1) of the Law on the State Police.
- ⁷¹⁴ "Ardi Veliu emërohet zv. ministër i Infrastrukturës dhe Energjisë", *Euronews Albania*, 10 November 2021, <https://euronews.al/ardi-veliu-merr-post-ne-qeveri-emerohet-zv-minister-i-infrastruktures-dhe-energjetikes/>. Currently, he is now the director of the Agency for Police Oversight.
- ⁷¹⁵ "Haki Çako emërohet drejtor i Agjencisë Kombëtare të Mbrojtjes Civile", *Albanian Telegraphic Agency*, 21 November 2019, <https://ata.gov.al/2019/11/20/haki-cako-emerohet-drejtor-i-pergiithshem-i-agjencise-kombetare-te-mbrojtjes-civile/>.
- ⁷¹⁶ The Law on Transitory and Periodic Evaluation of the Employees of the State Police, Guard of the Republic, and Internal Affairs and Complaints Service sought to address corruption in the police force. See also Mimoza Agolli, Rovena Sulstarova and Besjana Kuçi, *Police Integrity and Corruption in Albania 3.0* (Tirana: Institute for Democracy and Mediation, 2020), https://idmalbania.org/wp-content/uploads/2021/11/Police-Integrity-Report_3-1.pdf/.
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⁷²⁰ Edmond Hoxhaj, “Metamorfoza”: Investitori strategjik arrestohet për vrasje dhe organizatë kriminale”, *Reporter.al*, <https://www.reporter.al/2023/07/28/metamorfoza-investitori-strategjik-arrestohet-per-vrasje-dhe-organizate-kriminale/>, 28 July 2023. Accessed on 22 August 2023.

⁷²¹ <https://qbz.gov.al/eli/ligj/2018/03/05/12-2018>.

⁷²² Article 65 (1) of Law no. 12/2018 “On the transitory and periodic evaluation of the employees of the State Police, Guard of the Republic, and Internal Affairs and Complaints Service”.

⁷²³ See Article 3 (1/e) and Article 7 of Law no. 9049, dated 10.4.2003 “On the declaration and verification of assets of elected and public officials”, <https://www.ildkpkj.al/legjislacioni/>.

⁷²⁴ Article 34 of the Law on the Declaration of Assets.

⁷²⁵ Article 79 (2) of the Law on the State Police.

⁷²⁶ Article 58 (1/d) of the Code of Penal Procedure of the Republic of Albania, <https://qbz.gov.al/preview/b4819f4d-c246-49b3-87a9-2e6c8512c975>.

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⁷²⁸ Albanian State Police, “Programi i transparencës”, https://www.asp.gov.al/?page_id=600. Accessed on 10 January 2023.

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⁷³² See Articles 94-96 of the Law on the State Police and Part V of the Regulations of the State Police.

⁷³³ Article 40 (3) of the Law on the Agency for Police Oversight.

⁷³⁴ Article 40 (5) of the Law on the Agency for Police Oversight.

⁷³⁵ Articles 27-29 of the Law on the Agency for Police Oversight.

⁷³⁶ Article 21 (d) and (e) of the Law on the Ombudsperson,

<https://www.avokatipopullit.gov.al/sq/article/legislation>.

⁷³⁷ <https://amp.gov.al/wp-content/uploads/2022/09/Rregullore-AMP.pdf>.

⁷³⁸ See Article 14 of the Law on the Agency for Police Oversight. In addition to appointing the Deputy General Director and nominating the General Director for appointment by the Prime Minister, the Minister of Interior approves the APO’s programme, objectives and strategic approaches for development; decides on the key work-related activities in which the Agency should focus; and proposes its structure and organisation.

⁷³⁹ Group of States against Corruption (GRECO), Evaluation Report: Albania (Fifth Evaluation Round), (Strasbourg: Council of Europe, 2020), p. 50, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a0923d>

⁷⁴⁰ In 2021, the APO conducted 67 unplanned inspections based on media reports and complaint reports by citizens or public institutions. See Agency for Police Oversight, *Reporti Vjetor 2021*, p. 11.

⁷⁴¹ Agency for Police Oversight, *Reporti Vjetor 2021*, p. 8.

⁷⁴² Agency for Police Oversight, *Reporti Vjetor 2021*, p. 10, <https://amp.gov.al/wp-content/uploads/2022/05/RAPORTI-VJETOR-2021.pdf>.

⁷⁴³ Agency for Police Oversight, *Reporti Vjetor 2021*, pp. 11, 14.

⁷⁴⁴ Law no. 133/2020, <https://qbz.gov.al/eli/ligj/2020/10/29/133/14f57a5a-5963-45c4-9a0f-6c898f25f77c;q=ligjin%20nr.%20133%2F2020.%20dat%C3%AB%2029.10.2020>.

⁷⁴⁵ See Decision no. 30, date 5.7.2021 of the Constitutional Court of the Republic of Albania, https://www.gjk.gov.al/web/Vendime_perfundimtare_100_1.php.

⁷⁴⁶ Article 120 of the Regulations of the State Police.

⁷⁴⁷ Articles 205 and 208 of the Regulations of the State Police.

⁷⁴⁸ Article 246 of the Regulations of the State Police.

⁷⁴⁹ Article 91 of the Law on the State Police.

⁷⁵⁰ Article 92 of the Law on the State Police.

⁷⁵¹ Article 40 of Law no. 9049, date 10.4.2003 “On the declaration and verification of assets of elected and public officials”.

⁷⁵² Article 62 of the Law on Transitory and Periodic Evaluation of the Employees of the State Police, Guard of the Republic, and Internal Affairs and Complaints Service.

⁷⁵³ Rovena Sulstarova, Armela Xhaho and Mimoza Agolli, *Monitoring Report of the Police Vetting Process* (Tirana: Institute for Democracy and Mediation, 2020), p. 26, <https://idmalbania.org/wp-content/uploads/2021/11/Monitoring-report-on-the-Police-Vetting-Process-2020-1.pdf>.

⁷⁵⁴ Agency for Police Oversight, *Reporti Vjetor 2021*, p. 17.

⁷⁵⁵ Rovena Sulstarova, Armela Xhaho and Mimoza Agolli, *Monitoring Report of the Police Vetting Process*, p. 23.

⁷⁵⁶ See Rovena Sulstarova, Armela Xhaho and Mimoza Agolli, *Monitoring Report of the Police Vetting Process*..

⁷⁵⁷ "Dekonspirimi i operacioneve, Çuçi: Gledis Nano do hetohet për deklaratën që bëri", *Euronews Albania*, 7 September 2022, <https://euronews.al/dekonspirimi-i-operacioneve-cuci-gledis-nano-do-hetohet-per-deklaraten-ge-beri/>.

⁷⁵⁸ "Jeton Lami "tregon shokët", kush janë "ushtarët" e Ervis Martinajt në Policinë e Shtetit: Emrat që shkarkuan Gledis Nanon?", *ABC News*, 5 September 2022, <https://abcnews.al/jeton-lami-tregon-shoket-kush-jane-ushtaret-e-ervis-martinajt-ne-policine-e-shtetit-emrat-ge-shkarkuan-gledis-nanon/>; Edison Vatnikaj, "EKSKLUZIVE/ Foto e Jeton Lamit, ish-agjenti i forcave operacionale, akuzohet se shoqëroi Ervis Martinaj", *Ora News*, 27 August 2022, <https://www.oranews.tv/vendi/ekskluzive-foto-e-jeton-lamit-ish-agjenti-i-forcave-operacionale-akuzohet-i1054564>.

⁷⁵⁹ Elvis Hila, "Arrest me burg oficerit të policisë që shoqëronte Ervis Martinajn", *Reporter.al*, 25 August 2022, <https://www.reporter.al/2022/08/25/arrest-me-burg-oficerit-te-policise-ge-shoqeronte-ervis-martinajn/> Accessed 26 August 2023.

⁷⁶⁰ See for example the project on police integrity delivered by the Centre for Integrity in the Defence Sector from Norway: <https://cids.no/albania/>. The EU's police assistance project PAMECA V has conducted training/workshops and has assisted the design of the integrity plan of the Albanian State Police together with the Geneva-based Democratic Control of the Armed Forces (DCAF): <https://pameca.org.al/6395/>; the integrity plan can be found at: http://pameca.org.al/wp-content/uploads/2021/06/Integrity_Plan_ENG.pdf.

⁷⁶¹ Interview of Albanian State Police coordinator on gender equality and diversity with author, Tirana, January 11, 2023.

⁷⁶² GRECO, 2020: 31.

⁷⁶³ Interview of Albanian State Police coordinator on gender equality and diversity with author, Tirana, January 11, 2023.

⁷⁶⁴ Interview of Albanian State Police coordinator on gender equality and diversity with author, Tirana, January 11, 2023.

⁷⁶⁵ Interview of Albanian State Police coordinator on gender equality and diversity with author, Tirana, January 11, 2023.

⁷⁶⁶ This was reiterated by the Minister of Interior in early January 2023 when he presented plans for restructuring of the Criminal Police Department. "Policia Kriminale, Çuçi: Drejtori të posaçme për narkotikët, krimin e organizuar dhe krimet e rënda", *TV Klan*, 12 January 2023, <https://tvklan.al/policia-kriminale-cuci-drejtori-te-posacme-per-narkotiket-krimin-e-organizuar-dhe-krimet-e-renda/>.

⁷⁶⁷ Council of Ministers, *Inter-sectoral Strategy against Corruption (2015-2020)*, pp. 17-19, https://www.drejtesia.gov.al/wp-content/uploads/2021/04/7.-STRATEGJIA-ND%C3%8BRSEKTORIALE-KUND%C3%8BR-KORRUPSIONIT-2015-2020_EN.pdf.

⁷⁶⁸ Article 132 of the Law on the State Police.

⁷⁶⁹ Articles 124, 128-129 of the Law on the State Police.

⁷⁷⁰ Articles 130 and 138 of the Law on the State Police.

⁷⁷¹ Article 113, 116-117 of the Law on the State Police

⁷⁷² Article 121 of the Law on the State Police.

⁷⁷³ Article 111 of the Law on the State Police.

⁷⁷⁴ Elvis Myrta, "Operacioni "Volvo 4", si u goditën njëherësh 4 grupe kriminale me 44 urdhër-arreste, 27 në pranga, Shijaku ende në "shtetrrethim", *Sot*, 23 October 2018, <https://sot.com.al/aktualitet/operacioni-volvo-4-si-u-goditen-njeheresh-4-grupe-kriminale-me-44-urdher-arreste-27-ne>.

⁷⁷⁵ "E BUJSHME/ Arrestohet i plagosur vrasësi serial Nuredin Dumani", *ABC News*, 29 March 2022, <https://abcnews.al/e-bujshme-arrestohet-i-plagosur-vrasesi-serial-nuredin-dumani/>.

⁷⁷⁶ Arsen Rusta, "EKSKLUZIVE/ Korrupsioni në Morinë, GJKKO lë në burg 15 policë, 12 në arrest shtëpie, pezullohen 4 të tjerë! Pak ditë para se t'iu viheshin prangat pikasën kamerat e përgjuesit e BKH dhe i thyen", *Shqiptarja.com*, 10 April 2022, <https://shqiptarja.com/lajm/merrnin-leket-nen-dore-dhe-ndanin-ryshfetin-me-njeritjetrin-report-tv-zbardh-emrat-e-32-policëve-te-arrestuar-ne-morinë-pak-dite-para-se-tiu-viheshin-prangat-pikasen-kamerat-e-pergjuesit-dhe-i-thyen>.

ELECTORAL MANAGEMENT BODY

OVERVIEW

The Central Election Commission (CEC) is the electoral management body responsible for overseeing and administering elections in Albania. The CEC is responsible for various election-related tasks, including voter registration, candidate nomination and registration, overseeing campaign financing, training election officials, organising polling stations, conducting voter education campaigns and announcing election results. It also handles complaints and disputes related to the electoral process. The CEC is headed by the State Election Commissioner, who is assisted by the Deputy State Election Commissioner.

In July 2020, the Albanian Assembly adopted a bill amending the Electoral Code,⁷⁷⁷ which changed the institutional structure of the Central Election Commission (CEC) and the administration of the electoral process. The previous Commission had seven members, including the chair and deputy chair, who had the power to enact regulations and impose sanctions for election violations. The July 2020 amendments established two five-member commissions: one responsible for regulations (the Regulatory Commission) and another responsible for addressing complaints and sanctions (the Complaints and Sanctions Commission).

The new arrangement has improved the management of the electoral process, while the amendments have improved the regulations for campaign financing. Still, the regulatory framework for political party financing has deficiencies and the CEC's implementation of provisions is not proactive. This is also because the CEC still lacks sufficient resources to be able to effectively monitor political party financing and issue timely and effective sanctions on political parties that fail to adhere to the Electoral Code provisions. Furthermore, the politicisation of the CEC continues to remain a significant issue. There are also difficulties with access to elections for minorities and voters with disabilities. Provisions are in place to promote women's political participation in elections, but effective implementation is lacking, leading to underrepresentation.

ELECTORAL MANAGEMENT BODY



	Indicator	Law	Practice
Capacity	Resources	n/a	50
	Independence	25	25
Governance	Transparency	75	50
	Accountability	75	25
	Integrity	25	25
Role	Campaign regulation		25
	Election Administration		50

SUMMARY



CAPACITY

INDICATOR 7.1.1 RESOURCES (PRACTICE)

To what extent does the electoral management body (EMB) have adequate resources to achieve its goals in practice?



The electoral management body has some financial and human resources. However, funds for elections are not allocated in a timely manner and a shortage of permanent staff leads to reports and complaints not being evaluated timely.

The CEC receives its annual budget as part of the state budget and a separate budget for elections, which are funded through the country's reserve fund.⁷⁷⁸ After increasing from 181.5 million ALL (approx. EUR 1.5 million) in 2021⁷⁷⁹ to 275 million (approx. EUR 2.3 million) ALL in 2022,⁷⁸⁰ the CEC budget decreased to 233.8 million ALL (approx. EUR 2.1 million) in 2023.⁷⁸¹ According to the CEC, the additional funds allocated for the organisation of elections are not allocated on time. While such delays do not appear to have significant adverse effects on the work of the CEC, they render organisation and planning more cumbersome for the CEC staff.⁷⁸² The additional funds allocated to the CEC for the organisation of the 2021 parliamentary elections were 1.46 billion ALL (€12.5 million)⁷⁸³ and for the 2023 local elections 2.6 billion ALL (€22.3 million).⁷⁸⁴

The staff allocated to the CEC has increased from 71 in 2020⁷⁸⁵ to 85 in 2021⁷⁸⁶ to 95 in 2023.⁷⁸⁷ It currently employs 62 civil servants and no employees on a temporary contract⁷⁸⁸ and the current staff allocations are considered sufficient by the CEC. The Assembly allocates additional temporary staff to organise elections. For example, for the upcoming local elections in May 2023, the Assembly has allocated an additional staff of 352.⁷⁸⁹ During the 2021 parliamentary elections, the CEC also recruited 64 monitors as well as 59 trainers for the members of the Commissions of the Electoral Administration Zones (CEAZs), 234 trainers for the members of the Voting Centre Commissions (VCCs) and 92 trainers for the teams in the Ballot Counting Centres (BCCs).⁷⁹⁰ The permanent staff allocated to the CEC is not sufficient to ensure the timely evaluation of reports and complaints submitted by political parties, election observers, auditors, media and regular voters (see also 7.3.1).⁷⁹¹

Recruitment and promotion criteria for the CEC permanent staff, who are predominantly civil servants, are adopted in accordance with the provisions of the Civil Servant Law. They are posted on DoPA's portal and follow the selection procedure provided for in the Civil Servant Law. The criteria for temporary employees are include in the relevant announcements, which are posted on the CEC's website and on the online portal of the National Employment and Skills Agency.⁷⁹² The criteria for the latter tend to be general.⁷⁹³ Nevertheless, the process is open and an *ad-hoc* selection committee is convened to assess the candidates.⁷⁹⁴ Training for both permanent and temporary staff is conducted through the Albanian School of Public

Administration.⁷⁹⁵ Nevertheless, training through ASPA is not sufficient and is supplemented by the training provided through international assistance programmes.⁷⁹⁶

INDICATOR 7.1.2 INDEPENDENCE (LAW)

To what extent is the electoral management body independent by law?



Designation of members of CEC and the electoral administration is politically influenced. The July 2020 amendments to the Electoral Code sought to depoliticise the CEC, but the main political parties introduced legal loopholes via the transitory provisions of the law which allowed them to keep CEC commissioners divided along political lines.

According to the Electoral Code of the Republic of Albania, the CEC is an independent institution. To be appointed, its 12 Commissioners need to be elected by three-fifths of the members of the Albanian Assembly.⁷⁹⁷ They cannot be members of political parties or have private entities whose activities are dependent on central or local government decisions.⁷⁹⁸ Their mandates vary considerably: the Chief Commissioner is appointed for seven years; the Deputy Chief Commissioner for four years; the members of the Regulatory Committee (RC) for five years; the members of the Complaints and Sanctions Committee (CSC) for nine years.

The July 2020 amendments to the Electoral Code include transitory provisions for the first-time appointment of the CEC leadership. The changes provide for essentially sharing the commissioners as follows: the governing party nominates the State Election Commissioner and three commissioners to the RC and CSC respectively, while the opposition party nominates the Deputy Election Commissioner and two commissioners to the RC and CSC respectively.⁷⁹⁹ The amendments have failed to depoliticise the CEC and the election administration and have kept them divided along political lines.

Furthermore, the members of the Commissions of the Electoral Administration Zone,⁸⁰⁰ Voting Centre Commissions,⁸⁰¹ and Ballot Counting Centres⁸⁰² are politically appointed for the duration of the elections.

The appointment of the CEC staff – i.e. its administration – is regulated by the Civil Servant Law (see also 5.1.2). The most senior civil servant of the CEC is the Secretary General. In accordance with the provisions of the Civil Servant Law, the Secretary General and other senior civil servants are appointed and may be dismissed by the State Election Commissioner. The grounds for suspension or dismissal are outlined under Chapter IX and XI of the Civil servant Law, and include, among other things, conflict of interest situations, disciplinary violations, mental fitness, political party membership, two consecutive unsatisfactory performance evaluations, and if the civil servant has not been appointed in a position for at least eight months in five years.⁸⁰³

INDICATOR 7.1.3 INDEPENDENCE (PRACTICE)

To what extent does the electoral management body function independently practice?



The CEC and the election administration are not independent in practice. Its commissioners are political appointees. They are elected by the Assembly, which means that they are not removed before their term is over, but their decision-making is typically split along party lines.

The Albanian Helsinki Committee⁸⁰⁴ and the Institute of Political Studies⁸⁰⁵ monitored the 2021 parliamentary elections. Both examined a sample of the decisions issued by the CSC and found that they have been divided along party lines.

According to the Albanian Helsinki Committee report, the decision of the RC have been unanimously approved by the five commissioners; however, the CEC failed to ensure the right to vote

to citizens infected with Sars-Cov-2 and upheld the decision issued by the Ministry of Health and Social Protection only six days before election day, which forced Albanians traveling from Greece and North Macedonia to a 14-day quarantine.

Similarly, KRIIK (Coalition for Reforms, Integrations, and Consolidated Institutions), a coalition of observers that regularly monitors elections in Albania, has underscored the last-minute recalls the lower level commissioners as particularly disruptive to the election process since new commissioners cannot be properly trained to administer the election process.⁸⁰⁶ Political parties may decide to recall their representatives in the Commissions of the Electoral Administration Zones or Voting Centre Commissions thus disrupting the process if it in their political interest.⁸⁰⁷ Furthermore issues vote buying, undue pressure to influence voter behaviour, and misuse of state resources by the Socialist Party-run government have not been comprehensively addressed by the CSC (see also Indicator 7.3.2).⁸⁰⁸

GOVERNANCE

INDICATOR 7.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the EMB?



There are sufficient legal provisions in place to ensure the transparency of the CEC and of the election process.

The transparency of the CEC is regulated by the Law on the Right to Information, the Electoral Code, and the Law on Political Parties.⁸⁰⁹ In accordance with the Law on the Right to Information, the CEC has to publish information and documents on its organisational structure, activities and regulatory decisions, procurement plans and reports, audit reports and budgets.⁸¹⁰ This covers the full

spectrum of the information the CEC must publish as an institution.

Additionally, the Electoral Code includes provisions for the CEC to ensure the transparency of the election process by publishing the voters list,⁸¹¹ election results⁸¹² and audit reports,⁸¹³ while the Law on Political Parties includes a provision to publish the annual and election financial reports of political parties.⁸¹⁴ The voters list includes also the voting centres. Additionally, the sessions held by CEC bodies,⁸¹⁵ as well as by the CEAZs⁸¹⁶ and the VCCs,⁸¹⁷ must be public.

The Electoral Code requires that political parties must allow full access of their databases to auditors for all financial contributions of a value equal to or greater than 50,000 ALL (approximately EUR 480), including the identity of the donors.⁸¹⁸ Financial reports must include information on loans, monetary and in-kind donations, all expenditure items and an asset-liability balance sheet for the duration of the elections.⁸¹⁹ Nevertheless, standing political party financing legislation does not regulate the financing of political campaigns by third parties that are not electoral subjects. This is an important loophole that may enable political parties to bypass transparency requirements for the financing of political parties (see also 7.3.1 and 11.2.1).

INDICATOR 7.2.2 TRANSPARENCY (PRACTICE)

To what extent are reports and decisions of the electoral management body made public in practice?



While the CEC largely publishes most of the information required by the Law on the Right to Information, the minutes of the meetings from the lower election administration bodies are not public.

In accordance with the relevant legal provisions, the CEC issues press statements, informs the public on the decisions its bodies reach, provides reports on its activities, publishes audit and financial reports

submitted by political parties and broadcasts the sessions of the Regulatory Committee and the Complaints and Sanctions Committee. However, the CEC has not published its organisational structure⁸²⁰ and internal audit reports.⁸²¹

On its website, it features a section on the Transparency Programme,⁸²² reports,⁸²³ election results,⁸²⁴ decisions by CEC bodies⁸²⁵ and minutes⁸²⁶ of their sessions. The CEC communicates regularly through Facebook,⁸²⁷ Twitter,⁸²⁸ LinkedIn⁸²⁹ and Instagram.⁸³⁰ The sessions of CEC bodies are broadcast live on Facebook and YouTube.⁸³¹

While the CEC does not publish a comprehensive schedule of operations – registration of political parties/coalitions, commissioners and transfer of election materials to the voting centres – it does publish the decisions issued by the Regulatory Commission on each of those topics. On the other hand, the decisions and minutes from the sessions of the CEAZs and VCCs are not made public. In its 2021 annual activity report, the CEC notes that some CEAZs have failed to submit the necessary documentary evidence of the decisions they had taken and other voting materials from the voting centres and ballot counting centres.⁸³²

The CEC has an option for citizens to report violations of the Election Code on its website⁸³³ and through a smartphone application.

INDICATOR 7.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the EMB has to report and be answerable for its actions?



The legislation features extensive provisions on the reporting and processing of complaints by the CEC, but the format for the reporting of the CEC is not defined.

According to the Electoral Code, the CEC has to report annually to the Albanian Assembly⁸³⁴ and is subject to external auditing by the SAI. Although the Electoral Code does not specify a date by which the

CEC has to report to the Assembly, the Rules of Procedure of the Albanian Assembly stipulate that reporting to the Assembly of constitutional institutions and of those established by law must be completed by June.⁸³⁵ There are no specific legal requirements for the content of CEC reports to the Assembly. In accordance with the Law on Financial Management and Control, an annual internal audit report must be submitted by February of the next year,⁸³⁶ which must also be published (see 7.2.2). The CEC has also an internal auditing unit.⁸³⁷

CEAZs and VCCs do not have mechanisms to address complaints. Political parties and independent candidates may appeal the decisions of the Commissions of the Electoral Administration Zones with the CEC; complaints must be filed within three days of the decision.⁸³⁸ Decisions issued by the State Election Commissioner may be appealed with the Complaints and Sanctions Committee, while the decisions of the CSC may be appealed with the Electoral College, which is an ad hoc court staffed with eight judges selected at random by the High Judicial Council from basic courts, appeals courts, basic administrative courts and the Administrative Court of Appeals for a four-year mandate.⁸³⁹

Complaints related to decisions issued by the CEC and CEAZs on the election results may be filed with the CEC within five days of the decision. Refusals to register electoral subjects by the CEC may be appealed with the Electoral College,⁸⁴⁰ a body of five judges that adjudicates the complaints.⁸⁴¹

Third parties – domestic and international observers, media and citizens with a justified interest in the decisions taken by the CEC – may also file complaints.⁸⁴² If they are filed during the election period, they must be filed within three days of the decision; if they are filed after the election period, they must be filed within 30 days of the decision.⁸⁴³

After the CEC has accepted a complaint, its assessment must start no earlier than 24 hours and no later than 48 hours after it has taken the decision to accept it.⁸⁴⁴ Complaints on the election results must be decided within 10 days from the day the

complaint was registered; in all other cases, complaints must be decided within two days.⁸⁴⁵ The Electoral College has to adjudicate the complaints within 10 days from the day they were submitted.⁸⁴⁶ National and international reports have not highlighted any issues regarding the adequacy of these deadlines, thus they are appropriate to ensure timely redress of the complaints of political parties as well as media and election observers.

INDICATOR 7.2.4 ACCOUNTABILITY (PRACTICE)

To what extent does the EMB have to report and be answerable for its actions in practice?



While the CEC does report on its actions, the reports tend to be superficial in nature and do not provide a comprehensive and detailed assessment of the work of the CEC to ensure free and fair elections.

CEC annual reports to the Assembly are made publicly available on the CEC website.⁸⁴⁷ They provide a summary of the CEC's internal organisation and structure and on its activities to organise elections. The Assembly of Albania reviews and accepts these reports annually as a part of its oversight function and issues a Resolution for the Evaluation of the Performance of CEC including recommendations.⁸⁴⁸ These documents are made publicly available on both the CEC and Assembly websites, allowing for public access and scrutiny.

Most of the information included in the report pertaining to elections is focused on technical or administrative details. Although this information is critically important, it tends to be descriptive. For example, while it notes that ballot counting had been interrupted during the 2021 parliamentary elections due to personnel fatigue, it does not further elaborate on the causes or whether this outcome has been due to lack of personnel and funding for ballot counting teams.⁸⁴⁹ On the other hand, the 2021 report does provide comprehensive

statistics on the composition of the CEAZs, VCCs and the counting teams.

The report does not provide information on the qualifications of the commissioners. This would be important since the CEC appoints the commissioners proposed by the political parties and has no control over them. However, the report does provide gender-sensitive data to assess whether the legal criteria for gender representation is met by political parties.⁸⁵⁰

Due to the breadth of the scope of the reports, they sometimes lack important data and information on the CEC's work on campaign finance, media monitoring and the monitoring of political campaigns. The 2021 annual report provides a rather simple description of the monitoring of campaign expenditure, media reporting (which is compiled by the Audiovisual Media Authority) and auditing of campaign financing, without examining the content and highlighting issues and needs to improve the monitoring processes.⁸⁵¹

Statistics on sanctions are scattered throughout the report, which suggests that they are imposed mainly on flagrant violations of the Electoral Code, such as failure to administer or complete documents by the VCCs or CEAZs,⁸⁵² or failure to meet legal deadlines for the submission of financial reports by political parties.⁸⁵³ Nevertheless, the CSC decided to overturn the sanctions on the VCCs and the relevant political parties after they were appealed.⁸⁵⁴

The CEC does hold regular meetings with representatives of political parties, media and observers to discuss regulations, sanctions and disputes. Despite the proactivity and openness of the CEC in organising such meetings, there are indications that sometimes they may be used to delay action by furthering debate without seeking a resolution.⁸⁵⁵

INDICATOR 7.2.5 INTEGRITY (LAW)

To what extent are there mechanisms in place to ensure the integrity of the electoral management body?



While there are some provisions in place to establish ethical standards, they lack specifics on sexual harassment, data protection, and third-party cooperation. Moreover, the current provisions do not require staff to formally commit to these standards nor does it establish an internal enforcement mechanism.

The Code of Ethics of the Central Election Commission (for commissioners and staff) was approved on 23 February 2022.⁸⁵⁶ It features general provisions on objectivity, impartiality, non-discrimination, transparency, professionalism, the prevention of conflicts of interest, and non-partisanship and fairness towards political parties and other stakeholders while implementing their official duties. The Code prohibits CEC staff and commissioners from accepting monetary or in-kind gifts, favours or promises thereof, scholarships or any type of financial insurance for themselves, their family members or close associates.⁸⁵⁷ The Code further includes provisions on harassment in the workplace, the use of business hours, secondary employment, post-employment restrictions, the use of official resources and prevention of conflicts of interest.⁸⁵⁸ These provisions are rather general and largely based on the Law on Ethics in the Public Administration (see also 5.2.5). In 2021, the CEC issued a specific order for the approval of the regulation for administrative investigation of reporting, for the protection of confidentiality and for protection against retaliation in the Central Election Commission.⁸⁵⁹ However, these provisions do not specifically address sexual harassment, the safeguarding of data and information, or cooperation with third parties. The only post-employment restriction for CEC officials is that of representation of private entities in a conflict or in a contractual relationship with the CEC, which may be

related to the official's former duties and responsibilities in the CEC.⁸⁶⁰

The human resources unit is required to notify the CEC staff on the content of the Code of Ethics,⁸⁶¹ but the employees do not need to swear an oath to uphold the principles and provisions of the Code, nor do they have to sign it. Furthermore, the Code does not provide for an enforcement mechanism within the CEC.

INDICATOR 7.2.6 INTEGRITY (PRACTICE)

To what extent is the integrity of the electoral management body ensured in practice?



There is little action to ensure the integrity of the members of the CEC. It is limited to establishing basic guidelines, but there is no evidence to suggest that the CEC is taking action to ensure that its members conduct their duties in a professional and impartial manner.

There are two key issues regarding the implementation of integrity policy in the CEC: one is structural and the other institutional. Since the CEC and the lower levels of the election administration are partisan in nature, some of the decision-making at the CEC level and – most significantly – at the lower election administration levels is tainted by political partisanship (see also 7.1.2 and 7.1.3). Therefore, it is structurally impossible for the CEC and particularly the lower election administration levels to uphold the principle of non-partisanship. This is clearly manifested in the decision-making of the CSC (see 7.1.3) as examined by the Albanian Helsinki Committee and the Institute of Political Studies.

Institutionally, the CEC – just like other public institutions – tasks the human resources unit with the main responsibilities for registering, tracking and investigating conflicts of interest in accordance with the relevant legal provisions.⁸⁶² Nevertheless, neither HIDAACI – which is the key regulatory institution – nor the CEC provide any reports on the

implementation of the legislation on the prevention of conflicts of interest.⁸⁶³ Therefore, there is no evidence to suggest that any investigations or hearing processes related to conflicts of interest have led to any disciplinary or penal action.

The CEC staff are not legally required to take an oath of office and do not do so in practice.

ROLE

INDICATOR 7.3.1 CAMPAIGN REGULATION

Does the electoral management body effectively regulate candidate and political party finance?



The regulatory framework for political party financing has notable loopholes and the CEC's lack of a proactive approach further hampers effective implementation of the existing provisions, leading to challenges in oversight and enforcement. Key gaps include inadequate training for campaign expenditure monitors, inefficient processing of audit reports and discrepancies between the Electoral Code and Law on Political Parties, leading to delayed enforcement and oversight challenges.

Political party financing is regulated by the Electoral Code for financing during campaigns for local and general elections and the Law on Political Parties (LPP)⁸⁶⁴ for general party financing. The Electoral Code includes more stringent provisions than the LPP. The Electoral Code stipulates that all donations – include those in kind – need to be registered, and third parties must have access to the donor identity for donations equal to or greater than 50,000 ALL (approx. € 430).⁸⁶⁵ Donations greater than 50,000 ALL must be made through a bank transfer,⁸⁶⁶ but they cannot be greater than 1 million ALL (approx. €8700).⁸⁶⁷ There are also restrictions on donations by entities that have benefited from public contracts or are engaged in media enterprises. Political parties may not receive donations from media enterprises, businesses that have been awarded government contracts in the last three years of at

least 10 million ALL (approx. € 87,000), have been partners through publicly-funded projects or that are indebted to public institutions and the state budget.⁸⁶⁸ Campaign spending cannot be greater than three times the highest amount of public funds allocated to a political party, while funding from foreign sources is prohibited.⁸⁶⁹

However, the LPP does not prohibit funding from foreign political foundations⁸⁷⁰ and has a higher value for the minimum threshold for donations for bank transfers – 100,000 ALL⁸⁷¹ (approx. €860) – and no upper limit. Similarly, there are no limits for in-kind donations in the LPP, while disclosure of funding from campaigns in favour of a political party by third actors are not regulated either by the Electoral Code or by the LPP.

The CEC is legally obligated to oversee and audit political party financing sources and their expenditures (see also 11.2.4). Although the CEC is responsible for auditing the annual and campaign finances of Albanian political parties, it does so indirectly by outsourcing this process to independent certified auditors; however, it is required to publish both the audit⁸⁷² and the financial⁸⁷³ reports of the political parties on its website.

The CEC is required to deploy monitors who are supposed to oversee the campaign expenditures of political parties to compare the reported expenditures with the actual expenditures on the ground and may impose sanctions if political parties violate the provisions on campaign financing. The CEC found irregularities⁸⁷⁴ during the April 2021 parliamentary elections but issued the sanctions only in December 2022 for 14 electoral subjects (political parties and independent candidates).⁸⁷⁵ This was largely due to the time needed to examine audit and financial reports, identify violations and allow political parties and independent candidates to provide evidence to counter the CEC's findings.⁸⁷⁶ The process is particularly inefficient due to a paper-based system for the collection and assessment of audit reports and the lack of sufficient staff to process the reports submitted by external auditors.⁸⁷⁷ To mitigate these shortcomings, CEC

launched a digital financial reporting platform⁸⁷⁸ for publishing election campaign monitoring reports, financial reports of political parties and audit reports in April 2023.⁸⁷⁹ According to the CEC, this platform has been developed with the aim of strengthening the supervisory capacities of the CEC and increasing the transparency and accountability of political parties and will provide more transparency and ease of use for civil society organisations, the media and other relevant actors.⁸⁸⁰ However, the effectiveness of this platform in enhancing transparency and accountability remains to be evaluated based on its practical application and utilisation by political parties and other stakeholders.

According to the OSCE/ODIHR report on the 2021 parliamentary elections, the observers deployed by the CEC to monitor campaign expenditures did not have the right training nor the methodology to effectively do their job since the CEC was hard pressed for time to organise the 2021 elections in April after the new amendments to the Electoral Code were approved in July 2020.⁸⁸¹ This did not provide sufficient time to properly plan and deliver the training modules in accordance with the amendments to the monitoring of campaign expenditures and recruit the most capable monitors.⁸⁸² Furthermore, there have been several media reports suggesting that violations of campaign finance provisions go beyond the activities for which the CEC has issued sanctions. They include failure to declare spending⁸⁸³ and spending more than the limit imposed by the Electoral Code.⁸⁸⁴

INDICATOR 7.3.2 ELECTION ADMINISTRATION

Does the EMB ensure the integrity of the electoral process?



While the CEC seeks to ensure the organisation of free and fair elections, it has limited control over the lower administration levels, which makes it difficult to monitor the implementation of the process and ensure its effectiveness.

The right to vote for citizens who are 18 years old and older is guaranteed by the Constitution.⁸⁸⁵ Furthermore, the latest administrative and territorial division of the country has established three municipalities/electoral administration zones for minorities: two for the Greek minority and one for the Macedonian minority.⁸⁸⁶ Nevertheless, there are certain minorities who do not have full access to voting. The Roma minority, for example, are the most affected because many of them do not have ID cards.⁸⁸⁷ The CEC is required to publish voters' lists on its website,⁸⁸⁸ but it does not do so. It does provide, however, a link to e-Albania, the country's e-government portal, through which voters may verify their registration status.⁸⁸⁹ The CEAZs must also publish the voters' lists in freely accessible public areas in close proximity to the voting centres.⁸⁹⁰ The lists are usually posted outside of voting centres, which are typically public school buildings, but election observers have found cases in which access to the list is restricted to working hours because the buildings may be fenced off.⁸⁹¹

The CEC is responsible for voter education. It features information on voting under the "Këndi I votuesit" (voter's corner) rubric on its website, which is shared through social media.⁸⁹² Information campaigns for minority groups during the 2021 elections have been running in partnership with international organisations.⁸⁹³ According to the ODIHR's election observation mission, the information campaigns started late in the process, particularly with regard to the electronic voter

identification – which was new – and familiarisation with the ballot papers.⁸⁹⁴

Physical access to voting centres has not been generally an issue, even in rural areas, but there are some difficulties for persons with disabilities because some voting centres do not have the required infrastructure for wheelchair access and braille ballots.⁸⁹⁵ There is also no mechanism to vote from their places of residence for 1.2 million Albanian citizens living abroad.⁸⁹⁶ Article 25 of the Electoral Code provides for out-of-country voting,⁸⁹⁷ but it fails to outline the clear steps to establish the institutional infrastructure and procedures to achieve it.

Voting materials are sealed and have a serial number. They are distributed from the CEC to the CEAZs.⁸⁹⁸ The CEAZs then distribute the materials to the voting centres within their area of responsibility.⁸⁹⁹ All voting centres are equipped with electronic voter identification systems.⁹⁰⁰ The State Police is responsible for securing the buildings in which voting materials are kept, ensuring that the voting process is not obstructed, escorting the voting materials to the counting centres and enforcing – together with the municipal police – the provisions on the placement of campaign materials in the designated places.⁹⁰¹ The CEAZs are responsible for compiling the vote tally and sending the results, the voting list, log and other relevant materials to the CEC, which verifies and confirms the results. According to civil society observers, there have been several issues during vote counting. There are usually delays in the counting process because members of the ballot counting teams get tired,⁹⁰² which suggests that not their numbers are not sufficient.

Political party observers, media and other domestic and international accredited observers may be present at the counting centres.⁹⁰³

INDICATOR 7.3.3 GENDER

To what extent does the electoral body promote the political participation of women?



While a number of legal provisions are in place to foster the participation of women in the electoral process, the CEC does not always ensure that they are effectively implemented. The CEC does not conduct strict monitoring of the implementation of the provisions and its sanctioning policy lacks consistency.

The Constitution guarantees women's right to vote⁹⁰⁴ and run for election. The Electoral Code stipulates that at least one in three candidates for members of the Assembly for each electoral zone must belong to the underrepresented gender, while one in two consecutive candidates for municipal councils must be of a different gender.⁹⁰⁵ There are no provisions regarding the share of candidates for mayor. If these provisions are not implemented by political parties, the CEC may impose sanctions under Article 175 of the Electoral Code.⁹⁰⁶

In the 2021 parliamentary elections, 40 per cent of the candidates nationwide were women,⁹⁰⁷ while 50 per cent of municipal council candidates have been women.⁹⁰⁸ Nevertheless, the CEC imposed sanctions of 1 million ALL (€9700) against the Socialist Movement for Integration and the Socialist Party for not respecting the gender quota in the counties of Tirana and Berat respectively, but it failed to sanction the Democratic Party for failing to respect the quota in all 12 counties of the country.⁹⁰⁹

The Law on Gender Equality provides for the participation of more than 30 per cent of each gender in the administrative bodies of parliamentary and local elections.⁹¹⁰ However, this is not always implemented in practice. For instance, the OSCE/ODIHR Report on Parliamentary Elections 2021 found that women are underrepresented throughout the election administration with about 30 per cent of members of CEAZs being women, but only 15 per cent holding the position of chairperson.⁹¹¹ The Electoral Code further requires

that the largest majority and minority parties propose at least 30 per cent of their commissioners for the Election Administration Zone from each gender. No provisions are in place for the composition of the commissioners in the voting centres or the ballot counting teams. The CEC recruited 214 women and 171 men to train members of the CEAZs, VCCs and ballot counting teams.⁹¹² However, CEC⁹¹³ and OSCE/ODIHR⁹¹⁴ reports show that women have been underrepresented throughout the election administration chain, but particularly in the VCCs and ballot counting teams.

Media coverage has been biased towards men, while women have not been adequately represented.⁹¹⁵ This is largely because the spotlight of the campaign is mainly focused on the chairpersons of political parties, who are men.⁹¹⁶

INTERACTIONS

The work of the CEC is essentially defined through its relationship with following pillars: political parties, the legislature and the executive. The relationship with the political parties – particularly the two largest ones – is critically important. It influences the CEC's work, and – through inter-party deals to change the Electoral Code – it may change the CEC's entire structure as demonstrated in the latest amendments approved by the Albanian Assembly. Article 81 of the Constitution requires that the two most important pieces of legislation that profoundly affect election results – the Electoral Code and the Law on Territorial and Administrative Divisions – must be approved by three-fifths of the Albanian Assembly (84 out of 140 members of the Assembly). Despite the hostile⁹¹⁷ relation between the two main political parties – the governing Socialist Party and the Democratic Party in opposition – they are united in keeping the CEC politically controlled and relatively weak institutionally, so that it is able to organise elections, but under the political terms of the two main political parties.⁹¹⁸ In practical terms, this means that the strong polarisation between SP and DP

contributes to a mutual interest in maintaining control over electoral processes without genuine interest for effective enforcement mechanisms to monitor and investigate political party financing and expenditure.⁹¹⁹ For example, the CEC underwent restructuring as part of the 2020 electoral reforms. These reforms, initiated by the parliament where the major parties hold significant influence, aimed to depoliticise election administration and introduce new voting technologies. However, the haste with which these amendments were adopted by the parliament, controlled by these main parties, raises questions about their commitment to genuinely strengthening the CEC's independence.⁹²⁰

Additionally, the relationship between the CEC and the executive is critically important to ensure the integrity of the elections. The CEC relies on the General Directorate for Civil Status and the Albanian State Police,⁹²¹ which are subordinate to the Ministry of Interior, to prepare and publish the voters' lists and to ensure the secure transfer of voting materials respectively. These relationships are regulated through the Electoral Code⁹²² and relevant agreements between the CEC and each of the two institutions.⁹²³

PILLAR RECOMMENDATIONS

+ The CEC should review its internal structure and processes pertaining to its role in monitoring and investigating political party financing. The purpose of the review should be to assess its current performance regarding the implementation of those tasks and outline the necessary regulatory changes and resources needed to ensure the effective implementation of the legal provision on political party financing. More specifically:

- The CEC should improve the efficiency of audit report processing by ensuring further development and integration of the digital financial reporting platform needed to ensure that it will effectively enhance transparency and accountability. This platform should be expanded to include comprehensive functionalities like real-time monitoring, alerts for anomalies or potential violations, and an integrated database for cross-referencing information about donations and expenditure reports by political parties.
 - The CEC should increase human resources dedicated to monitoring campaign expenditures and improve the training provided to these personnel. This would enable a more effective comparison of reported expenditures with actual expenditures on the ground and more timely issuance of sanctions for violations.
 - The CEC should recommend that the Albanian Assembly amend the Electoral Code and the Law on Political Parties to include regulations for the financing of political campaigns by third parties that are not electoral subjects. This change would address a significant loophole that allows political parties to bypass transparency requirements.
- + The CEC should recommend that the Albanian Assembly make the necessary legal changes to align the discrepancies between the Electoral

Code and the Law on Political Parties (LPP) to ensure consistency in enforcing and overseeing political party financing. The Electoral Code is currently more stringent than the LPP, and harmonising these laws would eliminate any ambiguity and ensure that all types of donations are regulated uniformly. To achieve this, specific changes could include standardising donation thresholds and limits across both laws, ensuring consistent reporting of in-kind donations, harmonising audit requirements and introducing regulations for third-party campaign financing in the LPP. Additionally, aligning sanctions for violations, standardising requirements for transparent reporting and public access, mandating bank transfers for large donations and providing clarity on expenditure reporting are crucial steps. These changes would ensure uniformity in campaign financing rules, enhance transparency and strengthen the integrity of the electoral process.

- + The CEC should recommend specific reforms to address political bias in the appointment and dismissal processes of members of the Commissions of the Electoral Administration Zones (CEAZs), Voting Centre Commissions (VCCs) and Ballot Counting Centres. This might include establishing a more rigorous and less politically influenced selection process with longer tenure to avoid last-minute replacements; making the appointment process transparent; implementing a mandatory training program well ahead of elections to ensure preparedness; clearly defining the grounds for dismissal of members and focusing on objective criteria such as performance, ethical violations, or incapacity to perform duties rather than political considerations.
- + The CEC should take a more proactive and decisive role in sanctioning violations of the Electoral Code by political parties, an approach that would incentivise political parties to align their internal policies with the Code's provisions. To make this approach more concrete and less discretionary, the following specific legal provisions and operational changes should be

implemented: the CEC should develop a specific framework for identifying, investigating and sanctioning violations of political parties; set clear timelines for the issuance of sanctions once violations are detected, to avoid delays; initiate investigations ex-officio, without waiting for external complaints in order to address violations of the Electoral Code by political parties more swiftly and efficiently; and further strengthen the availability of report findings from audits and investigations, including details of any sanctions imposed, to the general public and relevant stakeholders.

- + The CEC should publish internal audit reports and provide comprehensive reporting on the main issues regarding the organisation of elections as well as its actions to ensure the integrity of the electoral process and the effective implementation of provisions governing elections and political party financing.
- + The CEC needs to implement more effective mechanisms for women's participation in the electoral process. Initiatives might include enforcement of fines for political parties that do not adhere to the gender quota, introducing recommendations for gender equality for candidates for mayors, outreach programmes to encourage female candidates, training workshops and public awareness campaigns to address societal barriers, and strengthening further cooperation with civil society.
- + The CEC should implement more effective measures to ensure that minorities and voters with disabilities have equal access to the electoral process. This might include providing more accessible voting locations, offering voting assistance and ensuring that election materials are available in minority languages, and strengthening further cooperation with civil society.

ENDNOTES

- ⁷⁷⁷ Law no. 101/2020 “On some amendments to Law no. 10019, dated 29.12.2008 ‘Electoral Code of the Republic of Albania’ as amended”, <https://qbz.gov.al/eli/ligi/2020/07/23/101>.
- ⁷⁷⁸ See for example Decision of Council of Ministers no. 73, dated 5.2.2021 “On an additional fund allocation to the 2021 annual budget approved for the Central Election Commission for the organisation of the elections for the Assembly on 25 April 2021”, <https://qbz.gov.al/eli/vendim/2021/02/05/73>.
- ⁷⁷⁹ Approximately €1.57 million. See the 2021 annual budget at: <https://financa.gov.al/buxheti-2021/>.
- ⁷⁸⁰ Approximately €2.37 million. See the 2022 annual budget at: <https://financa.gov.al/buxheti-2022/>.
- ⁷⁸¹ Approximately €2.00 million. See the 2023 annual budget at: <https://financa.gov.al/per-buxhetin-e-vitit-2023/>.
- ⁷⁸² Interview with Legal Department representative at the Central Election Commission with author, Tirana, 24 January 2023.
- ⁷⁸³ Decision of Council of Ministers no. 73, dated 5.2.2021.
- ⁷⁸⁴ Decision of Council of Ministers no. 37, dated 27.1.2023 “On an additional fund allocation to the 2023 annual budget approved for the Central Election Commission for the organisation of the elections for the local self-governing bodies on 14 May 2023”.
- ⁷⁸⁵ Ministry of Finance, “Buxheti 2020”, <https://financa.gov.al/buxheti-2020/>.
- ⁷⁸⁶ Ministry of Finance, “Buxheti 2021”, <https://financa.gov.al/buxheti-2021/>.
- ⁷⁸⁷ Ministry of Finance, “Buxheti 2023”, <https://financa.gov.al/per-buxhetin-e-vitit-2023/>.
- ⁷⁸⁸ Information provided by the CEC in response to a freedom of information request sent on 15 November 2022.
- ⁷⁸⁹ Decision no. 75/2022 of the Assembly of the Republic of Albania “On the approval of the structure, organigram, and pay scale for temporary personnel recruited for the implementation by the Central Election Commission of the electoral process for the local governance institutions in 2023”, <https://qbz.gov.al/eli/vendim/2022/09/22/75>.
- ⁷⁹⁰ Central Election Commission, *Raport i Veprimtarisë Vjetore 2021*, (Tirana: Central Election Commission, 2022), p. 17, https://kqz.gov.al/wp-content/uploads/2023/02/kqz_raport_kuvend_2021.pdf.
- ⁷⁹¹ Interview with election expert, Tirana, 25 January 2023.
- ⁷⁹² Information provided by the CEC in response to a freedom of information request sent on 15 November 2022.
- ⁷⁹³ See for example Central Election Commission, “Njoftim për vende të lira pune <https://kqz.gov.al/category/vende-te-lira-pune-sq/>”.
- ⁷⁹⁴ Information provided by the CEC in response to a freedom of information request sent on 15 November 2022.
- ⁷⁹⁵ Central Election Commission, *Raport i Veprimtarisë Vjetore 2021*, p. 18.
- ⁷⁹⁶ See for example International IDEA, “BRIDGE Workshops in Albania”, accessed on 15 February 2023, <https://www.idea.int/news-media/events/bridge-workshops-albania>.
- ⁷⁹⁷ Article 17 (1) of the Electoral Code.
- ⁷⁹⁸ See Articles 13-16 of the Electoral Code.
- ⁷⁹⁹ See Article 183 of the Electoral Code.
- ⁸⁰⁰ Article 29 of the Electoral Code.
- ⁸⁰¹ Article 36 of the Electoral Code.
- ⁸⁰² Article 95 of the Electoral Code.
- ⁸⁰³ Chapters IX and XI, Law on the Civil Servant.
- ⁸⁰⁴ Albanian Helsinki Committee, *Raport Përfundimtar mbi Gjetjet dhe Konkluzionet e Monitorimit të Zgjedhjeve Parlamentare për Kuvendin e Republikës së Shqipërisë 25 prill 2021*, (Tirana: Albanian Helsinki Committee, 2021), <https://ahc.org.al/wp-content/uploads/2021/06/Raport-Monitorimi-Zgjedhje-per-Kuvendin-Prill-2021--5-Bashki.pdf>.
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- ⁸⁰⁷ See Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, (Warsaw: OSCE, 2021), p.8, <https://www.osce.org/files/f/documents/5/1/493687.pdf>.
- ⁸⁰⁸ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p. 2-3, 15; Institute of Political Studies, *Raport mbi Monitorim dhe Analizën e Vendimeve të KAS*.

- ⁸⁰⁹ Law no. 8580, date 17.2.2000 “On political parties”, <https://kqz.gov.al/wp-content/uploads/2021/03/ligji-per-partite-politike-2020.pdf>.
- ⁸¹⁰ Article 7 of the Law on the Right to Information.
- ⁸¹¹ Article 48 (2/ç) of the Electoral Code.
- ⁸¹² Article 119 (2) of the Electoral Code.
- ⁸¹³ Article 92/6 (4) of the Electoral Code.
- ⁸¹⁴ Article 23 (5) of the Law on Political Parties.
- ⁸¹⁵ Article 12 of the Electoral Code.
- ⁸¹⁶ Article 35 (1) of the Electoral Code.
- ⁸¹⁷ Article 42 (1) of the Electoral Code.
- ⁸¹⁸ Articles 91/2 (5) and 92/2 (2) of the Electoral Code.
- ⁸¹⁹ Article 92/3 (2) of the Electoral Code.
- ⁸²⁰ See Central Election Commission, “Struktura”, accessed on 13 February 2023, <https://kqz.gov.al/struktura/>.
- ⁸²¹ See Central Election Commission, “Raporte”, accessed on 13 February 2023, <https://kqz.gov.al/raporte/>.
- ⁸²² Central Election Commission, “Programi i transparencës”, accessed on 28 December 2022, <https://kqz.gov.al/programi/>.
- ⁸²³ Central Election Commission, “Raporte KQZ”, accessed on 28 December 2022, <https://kqz.gov.al/raporte-kqz/>.
- ⁸²⁴ Central Election Commission, “Rezultate”, accessed on 28 December 2022, <https://kqz.gov.al/zgjedhje-per-kuvendin/>.
- ⁸²⁵ See, for example, Central Election Commission, “Akte të Komisionerit”, accessed on 28 December 2022, <https://kqz.gov.al/akte-te-komisionerit/>; Central Election Commission, “Vendime të Rregullatorit”, accessed on 28 December 2022, <https://kqz.gov.al/udhezime/>.
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- ⁸²⁷ <https://www.facebook.com/KQZShqiperi>.
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- ⁸³⁰ <https://www.instagram.com/kqzshqiperi/>.
- ⁸³¹ <https://www.youtube.com/@KQZShqiperi/streams>.
- ⁸³² Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, pp. 54-55.
- ⁸³³ Central Election Commission, “Denonco parregullsitë zgjedhore”, accessed on 13 February 2023, <https://kqz.gov.al/denonco/>.
- ⁸³⁴ Article 19 (1/II) of the Electoral Code.
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- ⁸³⁶ Article 18 (1) of Law no. 10296, date 8.7.2010 “On financial management and control”, <https://qbz.gov.al/eli/ligj/2010/07/08/10296>.
- ⁸³⁷ <https://qbz.gov.al/eli/vendim/2022/09/22/74>.
- ⁸³⁸ Article 124 (1) of the Electoral Code.
- ⁸³⁹ Article 146 of the Electoral Code.
- ⁸⁴⁰ Article 124 (1) of the Electoral Code.
- ⁸⁴¹ Article 155 (2) of the Electoral Code.
- ⁸⁴² Article 124/1 (1) of the Electoral Code.
- ⁸⁴³ Article 124/1 (2) of the Electoral Code.
- ⁸⁴⁴ Article 131 (2) of the Electoral Code.
- ⁸⁴⁵ Article 143 (3) of the Electoral Code.
- ⁸⁴⁶ Article 157 (2) of the Electoral Code.
- ⁸⁴⁷ Central Election Commission, “Raporte”.
- ⁸⁴⁸ The most recent resolution issued by the Assembly for the evaluation of the CEC’s performance was on 24.07.2023, available at https://kqz.gov.al/wp-content/uploads/2023/07/230724_Rezoluta-e-Kuvendit_2023.pdf.
- ⁸⁴⁹ Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, p. 72.
- ⁸⁵⁰ Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, pp. 41-44.
- ⁸⁵¹ Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, pp. 66-67, 81-82, 90.

⁸⁵² Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, p. 89.

⁸⁵³ Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, p. 97.

⁸⁵⁴ Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, pp. 89, 97.

⁸⁵⁵ A prominent example has been the discussion on the right to vote of Albanian citizens living abroad, which the CEC is legally required to ensure as per the Electoral Code provisions. The organisation of roundtables to address this issue has served mainly for the prolongation of the debate between the CEC and political parties in an attempt to place blame on each other for the failure to implement the provisions on out-of-country voting rather than solve the issue. See for example Esiona Konomi, "Vota e emigrantëve, Celibashi kundër Pandeli Majkos" (Vote of emigrants, Celibashi against Majko), *ABC News*, 28 December 2022, <https://abcnews.al/vota-e-emigranteve-celibashi-kunder-pandeli-majkos/>; "Vota e emigrantëve, Celibashi: Palët treguan pasiguri dhe mosbesim, synojmë të realizohet në vjeshtën tjetër" (Vote of emigrants, Celibashi: The parties were unsure and showed lack of trust; we seek to implement it the fall), *ABC News*, 24 May 2022, <https://abcnews.al/vota-e-emigranteve-celibashi-duhet-te-konsiderohet-nga-te-gjithe-faktoret-synojme-te-realizohet-ne-vjeshten-tjeter/>.

⁸⁵⁶ Central Election Commission, *Code of Ethics of the Central Election Commission*, https://kqz.gov.al/wp-content/uploads/2023/01/kqz_220222_KODI_ETIKES-1.pdf.

⁸⁵⁷ Article 14 of the Code of Ethics.

⁸⁵⁸ Articles 7, 10, 12-15 of the Code of Ethics.

⁸⁵⁹ See https://kqz.gov.al/wp-content/uploads/Akte-komisioneri/2021/03/DKFAB_210316_Urdher-nr.139-date-210316.pdf.

⁸⁶⁰ Article 15 of the Code of Ethics.

⁸⁶¹ Article 16 (1) of the Code of Ethics.

⁸⁶² See Law on the Prevention of Conflicts of Interest in the Exercise of Public Functions, <https://www.ildkpi.al/legjislacioni-section2-en/?lang=en> and HIDAACI Instruction no. 1, dated 27.6.2014 "On the establishment, functioning, and responsibilities of the responsible authorities for the prevention of conflict of interest in public institutions", <https://www.ildkpi.al/gloolsys/2018/11/UDH%C3%8BZUES-P%C3%8BR-AUTORITETET-P%C3%8BRGJEGJ%C3%8BSE-2014.pdf>.

⁸⁶³ HIDAACI annual reports provide data on the implementation of legislation on the declaration and audit of assets and on whistleblowing. Their annual reports can be accessed at: <https://www.ildkpi.al/raporte-vjetore/>.

⁸⁶⁴ Law no. 8580, dated 17.02.2020 on Political Parties, <https://qbz.gov.al/eli/ligj/2000/02/17/8580>.

⁸⁶⁵ Articles 91/2 (5) and 92/2 (2) of the Electoral Code.

⁸⁶⁶ Article 92/2 (2) of the Electoral Code.

⁸⁶⁷ Article 92/1 (2) of the Electoral Code.

⁸⁶⁸ Article 92/1 of the Electoral Code.

⁸⁶⁹ Article 92/2 (4) of the Electoral Code.

⁸⁷⁰ Article 21 of the Law on Political Parties.

⁸⁷¹ Article 23/1 of the Law on Political Parties.

⁸⁷² Article 92 (6) of the Electoral Code.

⁸⁷³ Article 23 (5) of the Law on Political Parties.

⁸⁷⁴ They include failure to submit financial reports in the correct format, accepting donations above the 50,000 (EUR 480) Albanian lek through means other than bank transfers, violation of campaign finance provisions by the person responsible for the electoral subject's finances and obstruction of the CEC's verification process.

⁸⁷⁵ Central Election Commission, "Zgjedhjet për Kuvend të vitit 2021 – Gjobiten 14 subjekte zgjedhore", 7 December 2022, <https://kqz.gov.al/2022/12/07/zgjedhjet-per-kuvend-te-viti-2021-sanksione-administrative-per-14-subjekte-zgjedhore-dhe-49-oshma/>, accessed on 7 December 2022.

⁸⁷⁶ Central Electoral Commission, "Mbledhja e Komisionerit Shtetëror të Zgjedhjeve", 7 December 2022, CEC Facebook Page, <https://www.facebook.com/KQZShqiperi/videos/668300301403290/>, accessed on 7 December 2022.

⁸⁷⁷ Interview of election expert with author, Tirana, 25 January 2023.

⁸⁷⁸ Central Election Commission, Digital Reporting Platform, available at <https://fpp.kqz.gov.al/kreu/reports>.

⁸⁷⁹ Central Election Commission, "Prezantohet Platforma Elektronike për Raportimin Financiar të Partive Politike", 5 April 2023, <https://kqz.gov.al/2023/04/05/prezantohet-platforma-elektronike-per-raportimin-financiar-te-partive-politike/> accessed on 18.11.2023.

⁸⁸⁰ Central Election Commission, “Platforma Elektronike e Raportimit Financiar (PERF) – Trajnohen financiarët e subjekteve zgjedhore”, 6 May 2023, <https://kqz.gov.al/2023/05/06/platforma-elektronike-e-raportimit-financiar-perf-trajnohen-financieret-e-subjekteve-zgjedhore/> accessed on 18.11.2023.

⁸⁸¹ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, (Warsaw: OSCE, 2021), p. 18.

⁸⁸² Interview of Legal Department representative at the Central Election Commission with author, Tirana, 24 January 2023. Interview of election expert with author, Tirana, 25 January 2023.

⁸⁸³ Klementina Cenkolari, “Fushata zgjedhore, partitë “fshehën” shpenzimet e mitingjeve dhe kandidatëve”, *Faktoje.al*, 2 November 2021, <https://faktoje.al/fushata-zgjedhore-partite-fshehen-shpenzimet-e-mitingjeve-dhe-kandidateve/>.

⁸⁸⁴ Besar Likmeta, “Partitë fshehën miliona euro shpenzime për propagandë elektorale në zgjedhje”, *Reporter.al*, 23 November 2021, <https://www.reporter.al/2021/11/23/partite-fshehen-miliona-euro-shpenzime-per-propagande-elektorale-ne-zgjedhje/>.

⁸⁸⁵ Article 45, Constitution of the Republic of Albania, <https://qbz.gov.al/preview/635d44bd-96ee-4bc5-8d93-d928cf6f2abd>.

⁸⁸⁶ The Greek-majority municipalities are Dropull and Finiq. The Macedonian-majority municipality is Pustec. See also Law no. 115/2014 “On the administrative and territorial divisions of the local government units in the Republic of Albania”, <http://qbz.gov.al/eli/ligj/2014/07/31/115>.

⁸⁸⁷ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p. 22.

⁸⁸⁸ Article 48 (2/ç), Electoral Code.

⁸⁸⁹ Central Election Commission, “Ku është QV ime?”, accessed on 15 February 2023, <https://kqz.gov.al/ku-eshte-qv-ime/>.

⁸⁹⁰ Article 56 (3), Electoral Code.

⁸⁹¹ Albanian Helsinki Committee, *Raport Përfundimtar mbi Gjetjet dhe Konkluzionet e Monitorimit të Zgjedhjeve Parlamentare për Kuvendin e Republikës së Shqipërisë 25 prill 2021*, pp. 11-12.

⁸⁹² Se, for example, Central Election Commission, “Si votohet”, accessed on 27 December 2022, <https://kqz.gov.al/si-votohet/>.

⁸⁹³ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p.21.

⁸⁹⁴ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p.8.

⁸⁹⁵ KRIIK, *Statement of Preliminary Findings and Conclusions*, (Tirana: KRIIK, 2021), p. 9, <https://kriik.al/home/wp-content/uploads/2021/04/KRIIK-StatementPreliminaryFindingsConclusionsParliamentElection21-210426.pdf>.

⁸⁹⁶ INSTAT, *Diaspora e Shqipërisë në Shifra*, (Tirana: INSTAT, 2020), <http://www.instat.gov.al/media/7848/diaspora-ne-shifra-2020.pdf>.

⁸⁹⁷ Article 25 of the Electoral Code, available at <https://qbz.gov.al/preview/75122d2e-9ebc-45de-b0ea-b5efde2f6836>.

⁸⁹⁸ Article 34 of the Electoral Code.

⁸⁹⁹ Article 41 of the Electoral Code.

⁹⁰⁰ Article 179 of the Electoral Code.

⁹⁰¹ See Central Election Commission, “Rregullat e veprimtarisë së Policisë së Shtetit në shërbim të zgjedhjeve” (Regulations on the activities of the State Police on duty during elections), https://kqz.gov.al/wp-content/uploads/Vendime-Regullatori/2021/02/Vendim_Nr.012_201230_Per-miratimin-e-rregullave-te-veprimtarise-se-Policise-se-Shtetit-ne-sherbim-te-zgjedhjeve..pdf.

⁹⁰² Interview of a CSO representative engaged in election monitoring, Tirana, 26 January 2023.

⁹⁰³ Article 94 of the Electoral Code.

⁹⁰⁴ Women’s votes are violated in rare cases of family voting. Interview of CSO representative engaged in election monitoring, Tirana, January 2023.

⁹⁰⁵ Article 67 (6) of the Electoral Code.

⁹⁰⁶ Article 29 (1/ç) of the Electoral Code.

⁹⁰⁷ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p. 2.

- ⁹⁰⁸ Office for Democratic Institutions and Human Rights, *Republic of Albania Local Elections 21 June 2015*, (Warsaw: OSCE, 2015), p. 2, <https://www.osce.org/files/f/documents/f/2/180731.pdf>.
- ⁹⁰⁹ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p. 11.
- ⁹¹⁰ Article 15 (1/d) of Law no. 9970, date 24.7.2008 "On gender equality", <https://qbz.gov.al/eli/ligj/2008/07/24/9970>.
- ⁹¹¹ OSCE – ODIHR Statement of Preliminary Findings and Conclusions, Parliamentary Elections, 25 April 2021, pp.5-6, <https://www.oscepa.org/en/documents/election-observation/election-observation-statements/albania/statements/4191-2021-parliamentary-3/file accessed 18 November 2023>.
- ⁹¹² Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, p. 17.
- ⁹¹³ Central Election Commission, *Raporti për Veprimtarinë Vjetore 2021*, pp. 41-44.
- ⁹¹⁴ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p.7; Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 June 2017*, (Warsaw: OSCE, 2017), p. 6, <https://www.osce.org/files/f/documents/4/d/346661.pdf>.
- ⁹¹⁵ See the media monitoring reports submitted by the Audio-visual Media Authority to the Central Election Commission at: <https://kqz.gov.al/raporte/>. See also Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p.21.
- ⁹¹⁶ Office for Democratic Institutions and Human Rights, *Republic of Albania Parliamentary Elections 25 April 2021*, p. 12.
- ⁹¹⁷ "Albania votes amid opposition boycott", *BBC*, 30 June 2019, <https://www.bbc.com/news/world-europe-48763803>; "Albanian opposition threatens to boycott elections", *Euractiv*, 5 April 2017, <https://www.euractiv.com/section/enlargement/news/albanian-opposition-threatens-to-boycott-elections/>.
- ⁹¹⁸ "Zgjedhjet e reja me problemet e vjetra! Kodi përfundoi, por çfarë "frutash" do të vjelim?", *A2CNN*, 2 October 2020, available at https://a2news.com/video/zgjedhjet-e-reja-me-problemet-e-vjetra-kodi-perfundoi-por-çfare-frutash-do-te-vjelim/?fbclid=IwAR3oq2_5xia2wGho3eBxYGQRKXYFx3SJZU2fTsfoa3KcU6TVBtigxQoaWAW accessed 18 November 2023.
- ⁹¹⁹ Freedom House, *Freedom in the World Report 2022: Albania*, available at <https://freedomhouse.org/country/albania/freedom-world/2023#:~:text=Albania%20has%20a%20record%20of,address%20corruption%20in%20the%20judiciary> accessed 18 November 2023.
- ⁹²⁰ "Reformat zgjedhore në vendnumëro, 15 ndërhyrje në ligj dhe ende nevojiten ndryshime", *Faktoje.al*, 07 July 2022, available at <https://faktoje.al/reformat-zgjedhore-ne-vendnumero-15-nderhyrje-ne-ligj-dhe-ende-nevojiten-ndryshime/>, accessed 18 November 2023.
- ⁹²¹ Law No. 10 019, dated 29.12.2008, amended by laws no. 74/2012, dated 19.07.2012, no. 31/2015, dated 02.04.2015, no. 101/2020, dated 23.7.2020, no. 118/2020, dated 5.10.2020; one point repealed by the decision of the Constitutional Court no. 28, dated 30.6.2021, one sentence repealed by the decision of the Constitutional Court no. 31, dated 4.10.2021, available at https://kqz.gov.al/wp-content/uploads/2023/02/Kodi-Zgjedhor-2020_perditesuar1.pdf, accessed 18 November 2023.
- ⁹²² *Ibid.*
- ⁹²³ Central Election Commission, "Zgjedhjet vendore – Nis trajnimi i Policisë së Shtetit mbi detyrat dhe rolin e saj gjatë procesit zgjedhor", 6 March 2023, available at <https://kqz.gov.al/2023/03/06/zgjedhjet-vendore-nis-trajnimi-i-policise-se-shtetit-mbi-detyrat-dhe-rolin-e-saj-gjate-procesit-zgjedhor/>, accessed 18 November 2023.

OMBUDSPERSON

OVERVIEW

The office of the Ombudsperson is enshrined in the Constitution and is designated as the promoter of the highest standards of human rights and freedoms in accordance with the Constitution, national laws and international human rights instruments.⁹²⁴ The Ombudsperson handles cases of violations of rights by the public administration, although its scope does not cover the entire executive.⁹²⁵ The Ombudsperson reports directly to the Assembly.⁹²⁶ The Ombudsperson is elected by a three-fifths majority of the Assembly for a renewable five-year term,⁹²⁷ with the Ombudsperson's Office divided into five specialised sections, each led by a Commissioner elected by the Assembly from candidates proposed by the Ombudsperson.⁹²⁸ Local representatives can be appointed as needed, and local government institutions provide necessary facilities and conditions.⁹²⁹

The Ombudsperson enjoys an adequate constitutional mandate to both promote human rights and prevent violations and unjustifiable restrictions.⁹³⁰ Although there is an enabling legal framework, the Ombudsperson's work is obstructed by insufficient financial and human resources (section 8.1.1), unresponsiveness of public administration bodies and low implementation rate of its recommendations (section 8.3.1). The Ombudsperson has regularly asked for more support from the executive and the Assembly to carry out its functions, but its requests are often dismissed.⁹³¹ The well-functioning of the institutions is occasionally impeded by political deadlocks, particularly concerning the appointment of the Ombudsperson.⁹³² While not widely recognised by the citizens, the Ombudsperson enjoys a high level of public trust.⁹³³

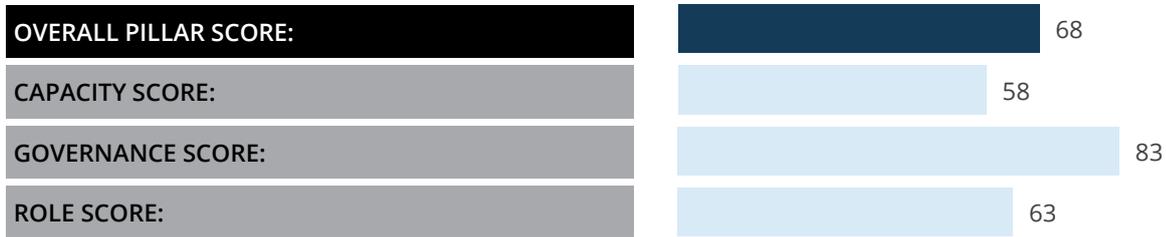
A constant weak point is the poor implementation of its recommendations by the public administration, despite frequent calls for it to be made more systematic. As a result, the Ombudsperson struggles to ensure public institutional accountability (section 8.3.1).

OMBUDSPERSON



	Indicator	Law	Practice
Capacity	Resources	n/a	50
	Independence	75	50
Governance	Transparency	100	75
	Accountability	100	50
	Integrity mechanisms	100	75
Role	Investigation		50
	Promoting good practice		75

SUMMARY



CAPACITY

INDICATOR 8.1.1 RESOURCES (PRACTICE)

To what extent does an ombudsman or its equivalent have adequate resources to achieve its goals in practice?



The ombudsman has moderate financial and human resources. However, the institution's budget and the number of its staff members are currently inadequate to fully fulfil its mandated responsibilities.

The Ombudsman's budget has increased incrementally since 2014.⁹³⁴ However, it decreased in 2020⁹³⁵ due to the COVID-19 crisis before returning to its upward trajectory in 2021 (Table 2). During the Ombudsman's reaccreditation in 2020, the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions noted that the level of funding is insufficient for the institution to carry out its functions, both in terms of retaining staff and sustaining its seven regional offices.⁹³⁶ This impacts its ability to appropriately handle all cases of human rights violations.⁹³⁷

Table 2: Budget allocation to the Ombudsman for the period from 2014 to 2023

Year	Amount in ALL	Amount in € (approx.)
2023	138,000,000	1,314,285
2022	129,200,000	1,230,476
2021	119,000,000	1,133,333
2020	116,500,000	1,109,523
2019	125,100,000	1,191,428
2018	116,000,000	1,104,761
2017	106,500,000	1,014,285
2016	105,578,000	1,005,504
2015	95,500,000	909,523
2014	95,500,000	909,523

The Ombudsman contributes its budget drafting requests but often its demands remain unaddressed. On several occasions, the Ombudsman's request to increase the institution's human resources were dismissed by the Assembly.⁹³⁸ During the discussion on the budget request for 2022, the parliamentary Committee on Public Administration maintained that it is impossible to provide funds for three new assistant commissioners, despite the Ombudsman arguing that no additional human resources had been approved since 2016.⁹³⁹ Its staff size grew from 56 in 2016 to 59 in 2023, with incremental increases of one additional staff member in 2022 and two in 2023.⁹⁴⁰ The Ombudsman recognised in 2023 that the effectiveness of exercising their mandate has been compromised due to the limited number

of staff members relative to the tasks they are required to carry out.⁹⁴¹ The Ombudsperson benefits from foreign donor support, mainly through capacity-building programs rather than direct contributions to its budget.⁹⁴² Under agreements with the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF), the Ombudsperson is aided by four external experts working on, respectively, monitoring emigrant operations at border crossings and assisting the section for the protection and promotion of children's rights.⁹⁴³ As of 2022, the Ombudsperson is a beneficiary of an EU-funded project focused on improving internal processes, identifying training requirements and conducting complaint-handling training seminars.⁹⁴⁴ However, funding from foreign donors should not compensate for the lack of adequate operational funds from the state budget.

The internal regulation of the Ombudsperson includes a provision for staff training,⁹⁴⁵ but the training programme and indicators are further elaborated in its Strategic Plan.⁹⁴⁶ The Ombudsperson's office regularly benefits from international partners and networks that offer training opportunities to its staff. In the past year, staff members participated in training sessions focusing on gender indicators for human rights monitoring, communication skills, children's rights, utilising software for managing complaints and training for observers involved in migrant forced-return operations. Additionally, the staff receives training by the School of Public Administration and through various cooperations with civil society and international organisations. While the Ombudsperson's staff employment adheres to civil service regulations which facilitate career progression and intra-service transfers, this process places pressure on their human resources. It results in vacancies due to staff departures in other public administration roles, necessitating the lengthy recruitment process stipulated by the law for their replacements.

INDICATOR 8.1.2 INDEPENDENCE (LAW)

To what extent is the ombudsperson independent by law?



There is a robust legal framework which guarantees the Ombudsperson's independence. However, minor gaps remain, like the absence of explicit provisions preventing government directives which may create room for unwarranted external influence.

The Ombudsperson's independence is enshrined in the Constitution⁹⁴⁷ and in its own Law on the People's Advocate.⁹⁴⁸ Pursuant to the constitutional provisions,⁹⁴⁹ the Ombudsperson is independent in carrying out its functions, whereas its organic law states that the Ombudsperson is guided, among other things, by the principle of independence.⁹⁵⁰

The Ombudsperson is appointed by a qualified majority of all members of the Assembly.⁹⁵¹ The criteria for election are precise and require significant expertise on human rights issues in order for the candidate to be considered.⁹⁵² The fact that the term of office allows the Ombudsperson to hold their position longer than the duration of the Assembly which administers the appointment process helps to alleviate any potential tension between the institutions.

Regarding impermissible activity, the Ombudsperson cannot be part of any political party, cannot perform other political or professional activity and cannot hold another public office nor participate in governing bodies of social, economic and commercial organisations.⁹⁵³ While it reflects the same standard, the organic law stipulates that the Ombudsperson can engage in activities as an author or professor.⁹⁵⁴ Similar restrictions apply to the commissioners, but they are appointed by a simple majority after consultation with civil society.⁹⁵⁵

The Ombudsperson is elected for a five-year term and has the right to be re-elected.⁹⁵⁶ Their salary is equal to the salary of the Chairperson of the Supreme Court⁹⁵⁷ and they enjoy immunity equivalent to that of a judge of the Supreme Court.⁹⁵⁸ The Ombudsperson is dismissed by a qualified majority based on a motivated request of at least a third of the Assembly, and the organic law provides the grounds for dismissal.⁹⁵⁹ As an additional safeguard, upon ending their mandate, the Ombudsperson has the right to resume the public office they held prior to appointment, or a similar position.⁹⁶⁰

The legislative safeguards for the Ombudsperson's independence are rated highly in the OECD's monitoring report for Albania.⁹⁶¹ However, other studies argue that the fact that the law does not directly and explicitly prohibit instruction from the government may create potential loopholes for interference.⁹⁶²

The organisational and institutional structure is set up independently by the Ombudsperson.⁹⁶³ This allows the institution to retain flexibility and adapt the structure according to its priorities. The vacancies are filled according to the provisions of Law on Civil Servants, which delegates the recruitment procedures to the independent institutions themselves. However, the Ombudsperson's office, as outlined in its Strategic Plan, acknowledges the potential risk that technical staff can be appointed based on political affinity.⁹⁶⁴

INDICATOR 8.1.3 INDEPENDENCE (PRACTICE)

To what extent is the ombudsperson independent in practice?



The Ombudsperson does not face severe government interference during their term and refrains from engaging in prohibited political activities, but the constant politicisation of the appointment process by political parties poses a continuous threat to the institution's non-partisan nature.

The incumbent Ombudsperson was elected in 2017 as part of a bipartisan political agreement⁹⁶⁵ which addressed a longstanding political deadlock.⁹⁶⁶ One of the provisions of the agreement specified that the main opposition party would nominate the Ombudsperson and the head of the Central Election Commission. In doing so, it bypassed steps foreseen in the consultation process which typically involve eligible citizens submitting their candidacy through a public invitation, followed by the Assembly's legal affairs committee conducting candidate evaluations and presenting nominations.⁹⁶⁷ This deviation from the standard procedure highlights how daily politics can often interfere with the appointment process of an independent institution, thus impacting its independence and non-partisanship.⁹⁶⁸

There are no publicly known cases of government influence in the activity of the Ombudsperson to impose a certain action or omission or involvement of the Ombudsperson in any impermissible political activity that could affect their independence. Civil society representatives often argue that this may be the case because the executive branch does not feel threatened by the actions of the Ombudsperson, reflected in the low implementation rate of the Ombudsperson's recommendations.⁹⁶⁹ Moreover, there have been no reported cases of confidentiality breaches or complaints being leaked.

Only the first Ombudsperson has had their mandate renewed (2000-2010), while renewing the commissioners' mandate is more frequent.⁹⁷⁰ While the process for dismissing the Ombudsperson is relatively straightforward, there have been no instances of early termination of the Ombudsperson by the Assembly, indicating a stable tenure for this office.

GOVERNANCE

INDICATOR 8.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ombudsperson?



Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the ombudsperson on decisions that concern them and how these decisions were made.

According to the law, the Ombudsperson publishes the annual and special reports, the Assembly's resolution and any other reaction of the Assembly to the annual report.⁹⁷¹ The annual reports are published after being discussed in the Assembly or, at the latest, three months after submitting them. The information provided in the annual report must adhere to the standard provided in the Assembly's monitoring manual for the independent constitutional institutions.⁹⁷² Information on the Ombudsperson's activity is also accessible through the Law on the Right to Information.⁹⁷³

Confidentiality is a guiding principle of the Ombudsperson.⁹⁷⁴ In cases of complaints, confidentiality must be maintained if deemed necessary by the Ombudsperson or if requested by the complainant.⁹⁷⁵ Confidentiality clauses are further elaborated in the internal regulation.

The Ombudsperson and senior staff must submit periodic asset declarations to HIDAACI. The platform

in which the declarations must be published is not yet functional. However, the asset declarations can be disclosed upon request and the Ombudsperson does not voluntarily publish their asset declarations. The Ombudsperson closely cooperates with civil society organisations (CSOs) and is required to obtain their opinion on human rights issues.⁹⁷⁶ Moreover, in cooperation with civil society, the Ombudsperson organises an annual national conference on the situation of human rights and citizen freedoms. CSOs must be consulted as part of the recruitment process of the commissioners.⁹⁷⁷

INDICATOR 8.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the activities and decision-making processes of the ombudsperson in practice?



While the Ombudsperson does offer accessible information on the organisation and functioning of the institution, the information and statistics are not consistently updated.

The transparency section of the Ombudsperson's website provides considerable information on, among other things, its budget, including salary and staff, public procurement and recruitment procedures, monitoring reports, complaints register, recommendations register, general information on the institution and other information deemed relevant for publication.⁹⁷⁸ However, the transparency section is not regularly updated with information from recent years. Most of the information is also provided in English. The Ombudsperson generally adheres to legal deadlines by publishing its annual and special reports on its website, where they are well-organised in a dedicated section for easy access. The Ombudsperson began publishing statistics on cases handled, including geographical distribution, section-specific case number, and recommendations issued to public administration

bodies in 2017 and 2020, but this practice was not consistently maintained in other years.⁹⁷⁹

The Ombudsperson has approved a transparency programme specifying what information should be publicly available without the need for a request and how it should be shared with the public, but the programme is not published. A coordinator on the right to information has been appointed and their contact information is easily accessible.

Cooperation with civil society is generally constructive. During the interview, the Ombudsperson stated that they regularly consult experts and civil society representatives during the drafting process of the annual/special reports and other publications.⁹⁸⁰ Cooperation is observed also in implementing joint projects, delivering legal initiatives, coordinating on advocacy and awareness-raising campaigns and maintaining communication on cross-cutting issues. The Ombudsperson has finalised several memorandum of understanding with CSOs. However, there are concerns that the cooperation between the Ombudsperson and civil society is not systematic or well-structured.⁹⁸¹ It is worth noting that informal groups and movements are consistently supported by the office of the Ombudsperson, whether be it by offering expertise or opening cases on its own initiative.⁹⁸²

INDICATOR 8.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the ombudsperson has to report and be answerable for its actions?



Extensive provisions are in place to ensure that the Ombudsperson has to report and be answerable for their actions.

The Ombudsperson has to be accountable to the Assembly. The Assembly has to review and approve the Ombudsperson’s mandate, budget and management structure.⁹⁸³ The Ombudsperson is

legally required to report at least annually to the Parliament, providing a report that outlines the institution’s activities for the year.⁹⁸⁴ The annual reports are subject to parliamentary scrutiny, either appearing on the agenda of the Assembly’s plenary sessions or the Parliamentary Committee on Legal Issues, Public Administration and Human Rights.⁹⁸⁵

The annual report must be submitted no later than April 30 of the following year and a copy also has to be sent to the President of the Republic and the Council of Ministers.⁹⁸⁶ After debating the report, the Assembly has to adopt a resolution containing recommendations on the main areas for further improvement.⁹⁸⁷ The Ombudsperson can also submit special reports on various issues within its competence if requested through a written request of the Speaker of the Parliament or a group of MPs or at their own initiative.⁹⁸⁸ The debate on the annual report must take place within three months of its submission, but the timeline for the special reports is two months.⁹⁸⁹ If the Assembly does not comply with the timeline, the Ombudsperson can publish the annual report at their own initiative.⁹⁹⁰

Other oversight instruments of the Assembly include plenary interpellations, oral and written questions, and establishing inquiry committees on specific matters related to the Ombudsperson’s work. In terms of financial and performance audits, the Ombudsperson is accountable to the SAI⁹⁹¹ and is required to submit the records⁹⁹² of income and payments originating from donation to the SAI and the Parliamentary Commission on Economy and Finance.

Courts have the authority to examine and assess all aspects pertaining to the institution’s employment relationships. The provisions of the Law on Whistleblowing are applicable to the Ombudsperson’s staff.⁹⁹³

INDICATOR 8.2.4 ACCOUNTABILITY (PRACTICE)

To what extent does the ombudsperson report and is answerable for its actions in practice?



While the Ombudsperson has to report and be answerable for certain actions via their annual report, the review mechanism by the Assembly often remains superficial and fails to analyse the financial and human resources needs of the Ombudsperson.

The Ombudsperson mainly engages with the Assembly through discussions in the parliamentary legislative committee on the annual report, with the Ombudsperson not presenting the reports in plenary sessions. The annual report covers the Ombudsperson’s handling of complaints, recommendations sent to public administration bodies and their implementation rate, progress on the Assembly’s resolutions and internal management matters.⁹⁹⁴ The 2021 annual report was delivered punctually,⁹⁹⁵ but the 2022 report was submitted two days past the deadline.⁹⁹⁶

However, the discussion on the annual report is merely superficial and fails to conduct a deep analysis on the challenges, needs and priorities of the institution.⁹⁹⁷ In particular, it lacks a proper assessment of the gaps and deficiencies in the necessary financial and human resources of the Ombudsperson to carry out their mandate. The Assembly carries out a performance evaluation of the Ombudsperson following the review of the annual report by its legislative committee, but its recommendations lack a clear plan for regular monitoring of their enforcement.⁹⁹⁸

The track record shows that the Assembly does not make full use of the wide range of oversight instruments at its disposal and that MPs rely exclusively on the annual reporting.⁹⁹⁹ According to a survey by the Institute for Democracy and Mediation (IDM) Albania, MPs rarely participate in sessions where independent institutions present legal recommendations, leadership appointment

sessions or financial planning sessions. However, the Ombudsperson engages more in annual activity reporting, in activities of monitoring the implementation of the Assembly resolutions and the recommendations made by the latter.¹⁰⁰⁰ However, MPs state that they perceive the communication between the Assembly and independent institutions, including the Ombudsperson, to be transparent and supportive.¹⁰⁰¹

On the whistleblowing policy, the Ombudsperson’s responsibility to safeguard whistleblowers is firmly established in both the principles of confidentiality outlined in the organic law and the rules within the institution’s internal regulations.¹⁰⁰²

INDICATOR 8.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there provisions in place to ensure the integrity of the ombudsperson?



Extensive measures have been implemented to safeguard the integrity of the Ombudsperson, including the establishment of an internal code that guarantees both independence and impartiality, along with provisions regarding gifts, conflicts of interest and the confidentiality of communication. Moreover, the Ombudsperson is subject to restrictions on political engagement.

The Code of Good Administrative Conduct, approved and made public by the Ombudsperson, outlines standards for ethical conduct and professional behaviour for all employees, experts and external partners of the institution to follow.¹⁰⁰³

The code emphasises principles such as non-discrimination, proportionality, avoiding misuse of power, independence, impartiality, objectivity, legal expectation, sustainability and fairness. The Code’s provisions regulate the protection of personal information, confidentiality obligations, potential conflicts of interest and internal communication. Any violation results in disciplinary action as defined

by the Law on the Status of Civil Servants, the institution's internal regulations or the employment contract. The Code requires staff to promptly disclose any conflicts of interest that could impact their impartiality.

The Ombudsperson may accept donations as long as they do not affect their independence, impartiality and proper function.¹⁰⁰⁴ The details of the donations are recorded in a dedicated register, which includes information on the type of donation, amount, date, donor identity and signature, and delivery method.¹⁰⁰⁵ The Ombudsperson must send a copy of the register to the SAI and the Parliamentary Commission on Economy and Finance at the end of each year.¹⁰⁰⁶

The Code does not explicitly provide restrictions on political engagement, but such provisions are provided in the organic law which states that the Ombudsperson is not allowed to be part of political parties or any social, economic or business groups. The staff is not allowed to have any other job, paid or unpaid, in any public, private or non-profit entities.¹⁰⁰⁷ However, they can be a professor, earn money from copyrights or participate as a speaker at events. The staff must keep information confidential, but they still have to follow the provisions of the Law on the Right to Information.¹⁰⁰⁸

INDICATOR 8.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of the ombudsperson ensured in practice?



The Ombudsperson has put in place a suitable internal code of conduct to uphold the integrity of its staff, with evidence of enforcement in cases of misconduct. It also provides regular ethics training. However, there are no official reports available regarding the implementation of the legislation on conflict of interest prevention.

The Ombudsperson's organisational structure lacks a dedicated department for handling ethical matters and the responsibility for handling potential cases of conflict of interest is largely assigned to the human resources unit. The Ombudsperson reported that there have been no instances of conflict of interest reported and that the donation register is kept up to date.¹⁰⁰⁹ Ethical standards are observed through the implementation of the internal code of conduct. The Ombudsperson indicated that in 2021 there had been two cases of violation of the Code of Good Administrative Conduct. Two staff members participated in electoral activity contrary to the Code's provisions and the instructions of the Central Elections Commission. In both cases, the staff received a formal caution.¹⁰¹⁰

In 2019, the Ombudsperson approved a new Risk Management Strategy with the goal of embedding a risk-aware culture throughout the organisation. The strategy provides a structured approach for identifying, assessing and managing risks, and encourages regular reviews and assessments to drive development.¹⁰¹¹ The Ombudsperson's staff underwent capacity-building training with a focus on enhancing service quality for citizens.¹⁰¹² This training included topics on integrity and ethics, as mentioned during the interview.¹⁰¹³

INDICATOR 8.2.7 GENDER

To what extent are the ombudsperson's mechanisms gender-sensitive?



Gender-sensitive protocols and guidelines are predominantly present in the budget drafting process, and while the Ombudsperson does collect gender-disaggregated data on complaints received, they do not conduct analyses, and only a limited amount of gender-disaggregated statistics are published.

The Ombudsperson's complaint and investigation mechanisms do not have explicit gender-sensitive protocols and guidelines. The Ombudsperson

collects data on complaints of rights violations, categorizing them by gender and the type of right.¹⁰¹⁴ However, it does not perform gender analyses on their database or processing times by gender.¹⁰¹⁵ Moreover, the institution’s website provides gender disaggregated statistics on its recommendations.¹⁰¹⁶

The staff received training on gender equality principles and gender budgeting.¹⁰¹⁷ The Ombudsperson conducted training in cooperation with the national institution on statistics (INSTAT) on utilising gender indicators for human rights monitoring.¹⁰¹⁸

The Ombudsperson incorporates gender budgeting principles into the budget drafting process,¹⁰¹⁹ with a focus on monitoring and auditing gender-based policies throughout budget implementation.¹⁰²⁰ To monitor and encourage other central and local institutions to follow gender budgeting principles, the Ombudsperson is working on developing a report on budgeting for addressing domestic and gender-based violence in Albania.¹⁰²¹

ROLE

INDICATOR 8.3.1 INVESTIGATION

To what extent is the ombudsperson active and effective in dealing with complaints from the public?



The Ombudsperson aims to address public complaints, initiate cases independently, conduct inspections, collaborate with informal groups, make legislative suggestions and enhance its visibility. However, its effectiveness is hampered by the public administration’s consistent failure to follow its recommendations and a lack of public awareness about its role.

The Ombudsperson receives complaints from individuals or CSOs, takes up cases at its own

initiative and carries out inspections in public institutions. The complaints require no specific format¹⁰²² and can be submitted at the reception and services office in Tirana and in the seven regional offices.¹⁰²³ To facilitate the procedure, the Ombudsperson has issued a manual¹⁰²⁴ on the complaint-handling mechanism which aims to standardise internal procedures.¹⁰²⁵ During 2020 and 2021, the pandemic disrupted the normal functioning of the system. However, the Ombudsperson reports that despite the partial suspension of direct service to citizens, complaints could be sent through regular mail, email or the institution’s mobile app.¹⁰²⁶ In 2021, 9.6 per cent of the complaints were submitted through the app.¹⁰²⁷

Citizens’ demand for more intervention from the Ombudsperson is constantly on the rise. In 2021, a total of 5,837 requests were submitted, which marks the highest number of cases ever.¹⁰²⁸ Out of the total, 1,170 requests were within the jurisdiction of the Ombudsperson, 460 cases were reviewed *ex officio* based on indications from the media and 19 cases were outside its jurisdiction. The Ombudsperson provided advice and guidance on further legal steps on the other 4,188 cases.¹⁰²⁹ Administrative investigations were completed for 1,933 cases, although more than half were cases carried over from previous years.¹⁰³⁰

The Ombudsperson can make non-mandatory legislative recommendations and can influence government policy through its recommendations and publications. In this regard, the Ombudsperson can submit special reports to the Assembly but in practice they are rarely discussed in plenary sessions (see 8.2.4).¹⁰³¹ The European Commission reports constantly emphasise that the administration fails to implement the Ombudsperson’s recommendations systematically. The implementation rate is still poor and has fallen in recent years, reaching just 50 per cent in 2021.¹⁰³² The Assembly fails to promote higher implementation rate by the executive, despite establishing an Inter-Institutional Online Platform to observe the public administration’s implementation

of the recommendations of independent oversight institutions, including the Ombudsperson.¹⁰³³

The Ombudsperson proactively monitors protests and pushes for greater safeguards regarding the freedom of assembly.¹⁰³⁴ In recent years, it has intervened to ensure that the state authorities maintain proportionality and has often criticised the state police for the indiscriminate use of tear gas and obstructing journalists from covering the protests.¹⁰³⁵

Generally, the Ombudsperson is rated as one of the most trusted and effective oversight bodies of the executive, largely unaffected by political influence.¹⁰³⁶ However, assessments from civil society organisations show that there are concerns about the citizens' lack of understanding of the work of the institution.¹⁰³⁷

Through an EU-funded project, the Ombudsperson was able to develop a public communication strategy, but has yet to implement its activities and programmes.¹⁰³⁸ The mobile app also serves as an informative tool on the activity, functions and success stories of the Ombudsperson. The seven regional offices also facilitate regional outreach and promote the Ombudsperson's work.¹⁰³⁹

INDICATOR 8.3.2 PROMOTING GOOD PRACTICE

To what extent is the ombudsperson active and effective in raising awareness within government and the public about standards of ethical behaviour?



The Ombudsperson actively promotes good practices and ethical standards in the public administration and government institutions, particularly during the COVID-19 pandemic. However, its impact is restricted by its limited mandate and the infrequent adoption of its recommendations.

The Ombudsperson constantly engages with the public administration to promote a democratic

culture of upholding citizen freedoms and human rights. It often does so through joint projects with CSOs, the Commissioner for Protection from Discrimination and other stakeholders. The Ombudsperson's awareness campaigns, particularly regarding hate speech and promoting diversity, receive wide public attention and media coverage.¹⁰⁴⁰

In terms of oversight, the Ombudsperson's mandate covers the public sector, except the office of the President, Prime Minister and military orders of an operational nature. This exemption is not compliant with the standards enshrined in the documents of the Council of Europe and Venice Commission, which state that the Ombudsperson should cover all bodies of the executive branch and public administration at all levels.¹⁰⁴¹ Moreover, the mandate does not include acts or omissions of private entities. However, the Ombudsperson interprets its mandate as including public functions exercised by private entities. This broad interpretation is supported by the Global Alliance of National Human Rights Institutions (GANHRI)'s Sub-Committee on Accreditation, which argues that the Ombudsperson's mandate should extend to acts and omissions of both the public and private sectors.¹⁰⁴²

During the COVID-19 pandemic in 2021, the Ombudsperson demonstrated commitment to uphold democratic participation, freedom of movement and assembly, and proportional and reasonable restrictions of rights.¹⁰⁴³ However, the Ombudsperson's recommendation to allow protests to take place during the pandemic, in accordance with health measures, was disregarded by public authorities.¹⁰⁴⁴ During this period, the Ombudsperson adopted a proactive approach and handled a significant number of cases *ex officio* in order to protect the rights of vulnerable groups.¹⁰⁴⁵

Although the organic law recognizes the Ombudsperson's right to submit legislative recommendations, the GANHRI Sub-Committee on Accreditation's report notes that the law does not explicitly mandate the institution to encourage

ratification or accession to international human rights instruments.¹⁰⁴⁶ In practice, the Ombudsperson often does promote legislation with international standards.

In 2021, the Ombudsperson issued 267 recommendations to central and local government bodies. Of the total, 51 per cent were accepted and fully or partially implemented, whereas 28 per cent were either not implemented or rejected.¹⁰⁴⁷ Almost a quarter of the recommendations did not receive a response. The Ombudsperson maintains and updates a database¹⁰⁴⁸ regarding the implementation track record in addition to preparing updated information which is included in the periodic or annual reports.¹⁰⁴⁹ The Ombudsperson's work is often hindered by non-cooperative attitudes of institutions, which is further exacerbated by the fact that it does not have the authority to enforce its recommendations. Hence, the role of the Assembly in monitoring the level of implementation is crucial.

INTERACTIONS

The Ombudsperson's main interactions are with the Assembly, public sector and civil society.

The Ombudsperson submits annual reports to the Assembly and can also provide special reports upon request, which the Assembly uses to make informed decisions and evaluate the work of the Ombudsperson.¹⁰⁵⁰ The Ombudsperson's relationship with the Assembly is generally positive, but the support from the Assembly is often insufficient in terms of budget requests and appropriate human resources (section 8.1.1).

The Ombudsperson and the public sector interact in the context of the Ombudsperson's mandate to investigate and address complaints against public administration bodies. Although the public administration is obliged to cooperate with the Ombudsperson in their investigations and provide relevant information as requested, the Ombudsperson's access to information is often limited, as public institutions are largely

unresponsive to requests or fail to comply with recommendations (section 8.3.1).

Certain aspects of the relationship between the Ombudsperson and civil society organisations are regulated by the organic law.¹⁰⁵¹ In practice, they often interact to promote human rights and to hold the government accountable. CSOs bring issues to the attention of the Ombudsperson and the Ombudsperson uses their findings and recommendations to raise awareness and advocate for change. The Ombudsperson also works with CSOs to build public support for human rights initiatives.

PILLAR RECOMMENDATIONS

- + The Assembly needs to strengthen the collaboration with the Ombudsperson for tackling the issues of unresponsiveness within public administration by improving the inter-institutional mechanism and methodology for monitoring implementation of recommendations, ensuring its timely and systematic operation. Additionally, it should consider granting enforceable status to the recommendations.
- + The Assembly needs to increase the financial resources and hire more personnel to enhance the Ombudsperson's ability to handle complaints and undertake awareness-raising activities.
- + The Assembly needs to enhance its technical expertise for assessing the annual reports of the Ombudsperson and for monitoring the execution of recommendations, including through effectively consulting relevant civil society organisations and independent experts.
- + The Ombudsperson needs to improve the tracking of the implementation of its recommendations by establishing a user-friendly online platform that provides regular updates, detailed information and transparent reporting to increase public trust. Moreover, in cooperation with stakeholders, it should develop tailor-made tools to measure impact.

- + The Ombudsperson needs to establish a comprehensive and targeted communication strategy with clear indicators to enhance visibility and promote their role in protecting human rights.
- + The Ombudsperson needs to develop gender-sensitive protocols and guidelines for the complaints and investigative mechanisms.

ENDNOTES

- ⁹²⁴ Article 60, Constitution of Albania.
- ⁹²⁵ Article 25, Law. no. 8454, dated 4.2.1999 on "People's Advocate".
- ⁹²⁶ Article 63, Constitution of Albania.
- ⁹²⁷ Article 61, Constitution of Albania.
- ⁹²⁸ Article 31, Law on the People's Advocate.
- ⁹²⁹ Article 32, Law on the People's Advocate.
- ⁹³⁰ Article 2, Law on the People's Advocate.
- ⁹³¹ People's Advocate, *Annual Report on the Activity of People's Advocate 2021*, pg. 181.
- ⁹³² European Commission, *Albania 2018 Report*, 2018, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2018:0151:FIN:EN:PDE>, pg.26.
- ⁹³³ OECD, *Monitoring Report of the Principles of Public Administration in Albania*, 2021, pg. 98.
- ⁹³⁴ Global Alliance of National Human Rights Institutions (GANHRI), *Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA)*, December 2020, pg. 15.
- ⁹³⁵ European Commission, *Albania 2020 Report*, 2020, https://neighbourhood-enlargement.ec.europa.eu/system/files/2020-10/albania_report_2020.pdf pg.28.
- ⁹³⁶ GANHRI, *SCA Report*, December 2020, pg. 15.
- ⁹³⁷ United Nations Human Rights Council, Working Group on the Universal Periodic Review, *National Report – Albania*, 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/048/74/PDF/G1904874.pdf?OpenElement>, pg. 5.
- ⁹³⁸ Civil Rights Defenders (CRD), *What is Behind and Beyond the Average – Effectiveness of National Human Rights Institutions*, November 2020, <https://crd.org/wp-content/uploads/2021/03/Effectiveness-of-NHRIs-in-the-WB-What-is-behind-and-beyond-the-average.pdf>, pg. 60.
- ⁹³⁹ People's Advocate, *Annual Report on the Activity of People's Advocate 2021*, pg. 181.
- ⁹⁴⁰ People's Advocate, *Annual Report on the Activity of People's Advocate 2022*, pg. 189.
- ⁹⁴¹ People's Advocate, *Annual Report on the Activity of People's Advocate 2022*, pg. 188.
- ⁹⁴² *Inter alia*, USAID, UN Office in Albania, SIDA, GIZ.
- ⁹⁴³ People's Advocate, *Annual Report on the Activity of People's Advocate 2021*, pg. 182.
- ⁹⁴⁴ <https://gmr.lbg.ac.at/albanien-unterstuetzung-der-volksanwaltschaft-und-foerderung-der-menschenrechte/?lang=en>.
- ⁹⁴⁵ Article 72, Internal Regulation for the Organization and Functioning of the Office of the People's Advocate, <https://www.publeaks.al/wp-content/uploads/2016/12/RREGULLORE-AVP-1.1-7.1.pdf>.
- ⁹⁴⁶ People's Advocate, *Strategic Plan of the People's Advocate of the Republic of Albania 2019-2022*, pg. 31.
- ⁹⁴⁷ Article 60, Constitution of the Republic of Albania.
- ⁹⁴⁸ Law. no. 8454, date 4.2.1999 on "People's Advocate".
- ⁹⁴⁹ Article 60/2, Constitution of Albania.
- ⁹⁵⁰ Article 2, Law on the People's Advocate.
- ⁹⁵¹ Article 61/1, Constitution of Albania.
- ⁹⁵² Article 61/2, Constitution of Albania. The organic law reflects the same standard, while adding that the candidate for Ombudsperson must stand out for their professional skills and clean ethical and moral figure.
- ⁹⁵³ Article 61/4, Constitution of Albania.
- ⁹⁵⁴ Article 10, Law on the People's Advocate.
- ⁹⁵⁵ Article 33/1, Law on the People's Advocate.
- ⁹⁵⁶ Article 61/1, Constitution of Albania.
- ⁹⁵⁷ Article 6, Law on the People's Advocate.
- ⁹⁵⁸ Article 61/3, Constitution of Albania, Article 6, Law on the People's Advocate.
- ⁹⁵⁹ Convicted by a final court decision, mentally or physically incapable of exercising his functions, performs incompatible activities or does not show up for duty for more than 3 months.
- ⁹⁶⁰ Article 11, Law on the People's Advocate.
- ⁹⁶¹ OECD, *Monitoring Report of the Principles of Public Administration in Albania*, 2021, pg. 107.
- ⁹⁶² CRD, *Effectiveness of National Human Rights Institutions*, Pg. 60.
- ⁹⁶³ Article 35/3, Law on the People's Advocate.

- ⁹⁶⁴ Strategic Plan of the People's Advocate of the Republic of Albania 2019-2022, pg. 13.
- ⁹⁶⁵ Balkanweb, *Implementation of the SP-DP agreement, Erinda Ballanca is elected Ombudsperson*, 2017, <https://www.balkanweb.com/ndryshimet-pas-marreveshjes-ps-pd-erinda-ballanca-zgjidhet-avokate-e-popullit/>.
- ⁹⁶⁶ In 2017, opposition parties refrained from engaging in parliamentary activities for three months and expressed their intent to abstain from the forthcoming general elections due to concerns of misuse of power by the government for electoral gains. A political agreement was eventually achieved, outlining a set of actions that included the dismissal of six ministers, the deputy prime minister, and various state directors.
- ⁹⁶⁷ European Commission, *Albania 2018 Report*, 2018, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2018:0151:FIN:EN:PDE>, pg.26.
- ⁹⁶⁸ CRD, *Effectiveness of National Human Rights Institutions*, Pg. 57.
- ⁹⁶⁹ CRD, *Effectiveness of National Human Rights Institutions*, Pg. 60.
- ⁹⁷⁰ Ombudsperson's website, <https://www.avokatipopullit.gov.al/sq/about-us/about-us-details>.
- ⁹⁷¹ Article 28, Law on the People's Advocate.
- ⁹⁷² Parliament Decision No. 134/2018 "On the approval of the Annual and Periodic Monitoring Manual of the independent constitutional institutions or those established by law".
- ⁹⁷³ Article 7, Law No. 119/2014 on the "Right to Information".
- ⁹⁷⁴ Article 2, Law on the People's Advocate.
- ⁹⁷⁵ Article 12, Law on the People's Advocate.
- ⁹⁷⁶ Article 30, Law on the People's Advocate.
- ⁹⁷⁷ Article 33/1, Law on the People's Advocate.
- ⁹⁷⁸ See Ombudsperson's official website: <https://www.avokatipopullit.gov.al/>.
- ⁹⁷⁹ Statistic section of the Ombudsperson's website. <https://www.avokatipopullit.gov.al/sq/statistics/statistics/2020>.
- ⁹⁸⁰ Interview with Ms. Erinda Ballanca, Ombudsperson, 23 January 2023.
- ⁹⁸¹ CRD, *Effectiveness of National Human Rights Institutions*, Pg. 63.
- ⁹⁸² The Ombudsperson advocated for the revision of a Criminal Code provision, deeming it incompatible with the right to assembly, as it had been used to prosecute peaceful protesters. <https://www.avokatipopullit.gov.al/media/manager/website/reports/Liria%20e%20tubimit%20dhe%20vendimi%20i%20Gjykat%C3%ABs%20Kushtetuese.pdf>.
- ⁹⁸³ Article 36, Law on the People's Advocate.
- ⁹⁸⁴ Article 26, Law on the People's Advocate.
- ⁹⁸⁵ *Ibid.*
- ⁹⁸⁶ *Ibid.*
- ⁹⁸⁷ Article 28, Law on the People's Advocate.
- ⁹⁸⁸ Article 27, Law on the People's Advocate.
- ⁹⁸⁹ Article 28, Law on the People's Advocate.
- ⁹⁹⁰ *Ibid.*
- ⁹⁹¹ Article 10-14, Law No. 154/2014 on "Organisation and Functioning of the Supreme Audit Institution".
- ⁹⁹² Article 3, Law on the People's Advocate.
- ⁹⁹³ Law No.60/2016 on "Whistleblowing and the Protection of Whistleblowers".
- ⁹⁹⁴ People's Advocate, *Annual Report on the Activity of People's Advocate 2022*, <https://www.avokatipopullit.gov.al/media/manager/website/reports/Raporti%20vjetor%20i%20veprimtarise%20s%20institucionit%20te%20Avokati%20te%20Popullit%20per%20vite%202022.pdf>.
- ⁹⁹⁵ Parliament's previous database of reports, <https://staging.parlament.al/Kerkese?page=1&tipId=3>.
- ⁹⁹⁶ Parliament's current database of reports, <https://www.parlament.al/dokumentacioni/aktet/17f53d7d-ee0d-415b-8457-96cf1007d263>.
- ⁹⁹⁷ CRD, *Effectiveness of National Human Rights Institutions*, Pg. 62.
- ⁹⁹⁸ IDM, *Guarding the Guardians*, pg. 18.
- ⁹⁹⁹ IDM, *Guarding the Guardians*, pg. 22.
- ¹⁰⁰⁰ *Ibid*, pg. 7.
- ¹⁰⁰¹ Institute for Democracy and Mediation, *Guarding the Guardians: Parliamentary Oversight of Independent Institutions in Albania*, 2020, <https://idmalbania.org/wp-content/uploads/2021/11/parliamentary-oversight-English-final-1.pdf>, pg. 11.

- ¹⁰⁰² Article 12, Law on the People's Advocate.
- ¹⁰⁰³ People's Advocate, *Code of Good Administrative Conduct*, <https://www.avokatipopullit.gov.al/sq/article/legislation>.
- ¹⁰⁰⁴ Article 37, Law on the People's Advocate.
- ¹⁰⁰⁵ *Ibid.*
- ¹⁰⁰⁶ *Ibid.*
- ¹⁰⁰⁷ Article 29, Code of Good Administrative Conduct of the People's Advocate.
- ¹⁰⁰⁸ Article 18, Code of Good Administrative Conduct of the People's Advocate.
- ¹⁰⁰⁹ Interview with Ms. Erinda Ballanca, Ombudsperson, 23 January 2023.
- ¹⁰¹⁰ *Ibid.*
- ¹⁰¹¹ People's Advocate Report 2019, pg. 164.
- ¹⁰¹² People's Advocate Report 2021, pg. 13.
- ¹⁰¹³ Interview with Ms. Erinda Ballanca, Ombudsperson, 23 January 2023.
- ¹⁰¹⁴ People's Advocate Report 2021, pg. 15.
- ¹⁰¹⁵ OSCE, *The gendered impact of corruption in the Albanian health care and tertiary education sectors*, 2021, https://www.osce.org/files/f/documents/5/4/513448_0.pdf, pg. 22.
- ¹⁰¹⁶ Statistics. People's Advocate website, <https://www.avokatipopullit.gov.al/sq/statistics/statistics>.
- ¹⁰¹⁷ Interview with Ms Erinda Ballanca, Ombudsperson, 23 January 2023.
- ¹⁰¹⁸ People's Advocate Report 2021, pg. 15.
- ¹⁰¹⁹ People's Advocate Report 2019, pg. 14
- ¹⁰²⁰ *Ibid.*
- ¹⁰²¹ People's Advocate Report 2019, pg. 14
- ¹⁰²² Article 15, Law on the People's Advocate
- ¹⁰²³ UPR National Report on Albania, 2019, pg. 11
- ¹⁰²⁴ Order of the Ombudsperson No. 222, dated 31.08.2019 on the "Manual on the Complaint Handling Mechanism"
- ¹⁰²⁵ People's Advocate Report 2021, pg. 163
- ¹⁰²⁶ People's Advocate Report 2020, pg. 167
- ¹⁰²⁷ People's Advocate Annual Report 2021, pg. 10
- ¹⁰²⁸ People's Advocate Report 2021, pg. 192
- ¹⁰²⁹ *Ibid*, pg. 191
- ¹⁰³⁰ *Ibid*, pg. 196
- ¹⁰³¹ CRD, *Effectiveness of National Human Rights Institutions*, Pg. 62
- ¹⁰³² European Commission Report 2022, pg. 16
- ¹⁰³³ OECD, *Monitoring Report of the Principles of Public Administration in Albania*, 2021, pg. 108.
- ¹⁰³⁴ The Ombudsperson monitored the Astir area residents protest against the destruction of their properties to make way for road construction and the protests against the demolition of the National Theatre building.
- ¹⁰³⁵ European Commission Report on Albania 2020, pg. 28.
- ¹⁰³⁶ OECD, *Monitoring Report of the Principles of Public Administration in Albania*, 2021, pg. 98.
- ¹⁰³⁷ CRD, *Effectiveness of National Human Rights Institutions*, Pg. 65.
- ¹⁰³⁸ People's Advocate Annual Report 2020, pg. 11.
- ¹⁰³⁹ People's Advocate Annual Report 2021, pg. 10.
- ¹⁰⁴⁰ The National Plan for European Integration (NPEI) 2021-2023, https://integrimi-ne-be.punetejashtme.gov.al/wp-content/uploads/2022/02/PLANI-KOMB%C3%8BTAR-P%C3%8BR-INTEGRIMIN-EVROPIAN_Final.pdf pg. 293.
- ¹⁰⁴¹ Parliamentary Assembly of the Council of Europe, Resolution 1959 (2013): Strengthening the institution of the Ombudsman in Europe, 4 October 2013. Report; European Commission for Democracy Through Law (Venice Commission), Principles on the protection and promotion of the Ombudsman Institutions ("The Venice Principles"), 15-16 March 2019, Opinion No. 897/2017.
- ¹⁰⁴² SCA Report on People's Advocate Office, pg. 15.
- ¹⁰⁴³ European Commission Report on Albania 2022, pg. 27; Ombudsperson's recommendation towards the Committee on Civil Emergencies, General Prosecution, Ministry of Health and Social Protection, and State Police, 2022,

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20marrjen%20e%20masave%20t%C3%AB%20nevojshme%20p%C3%ABr%20respektimin%20e%20liris%C3%AB%20kushtetuese%20t%C3%AB%20tubimit%20edhe%20gjat%C3%AB%20gjendjes%20s%C3%AB%20jasht%C3%ABzakonshme.%20.pdf>.

¹⁰⁴⁴ People's Advocate 2020 Report, pg. 118.

¹⁰⁴⁵ People's Advocate 2020 Report, pg. 105.

¹⁰⁴⁶ SCA Report on People's Advocate Office, pg. 16.

¹⁰⁴⁷ People's Advocate 2021 Report, pg. 168.

¹⁰⁴⁸ <https://www.avokatipopullit.gov.al/sq/article-ildp-layout/transparency>.

¹⁰⁴⁹ People's Advocate 2021 Report, pg. 167.

¹⁰⁵⁰ Article 26, 27, 28, Law on the People's Advocate.

¹⁰⁵¹ Article 30, Law on the People's Advocate.

SUPREME AUDIT INSTITUTION

OVERVIEW

Albania's Supreme State Audit Institution (ALSAI)¹⁰⁵² is the supreme audit institution of the Republic of Albania. ALSAI is a constitutional institution mandated to audit the consolidated state budget and central and local government public entities, including public funds provided by the European Union or other international organisations, legal entities in which the state holds more than half of the shares, or when loans, credits and their obligations are guaranteed by the state, activities or sectors with concession contracts and political parties.

ALSAI is organised in directorates and departments. The eight directorates and departments related to audit activity, such as the department of audit of central institutions, the department of audit of local units, the department of audit of the state budget, the department of performance audit, the directorate of quality management and standards, etc., and are grouped in a General Directorate under the authority of the Chair. Directly under the authority of the Chair are also the ALSAI internal audit and legal departments. Meanwhile, directorates dedicated to the administrative functioning of ALSAI, like human resources, communication and administrative services, are under the authority of the ALSAI Secretary General.

ALSAI's Chair is elected from the Assembly after being nominated by the President of the Republic. While the legislative safeguards on ALSAI are considered adequate and in line with international standards, there are loopholes in terms of the election of the Chair with only a simple majority, undefined criteria related to "adequate financial experience" and unclear processes in cases where the Chair resigns before the end of his or her term.

The ALSAI budget and approved staff have increased over years. However, significant human resource gaps in the audit staff lead to a certain degree of ineffectiveness in carrying out its audits.

ALSAI lacks some transparency in its decision-making from the preliminary audit reports to the final reports and also does not comply fully with the law on the right to information which requires the information required by law to be made publicly available on a dedicated section of its website.

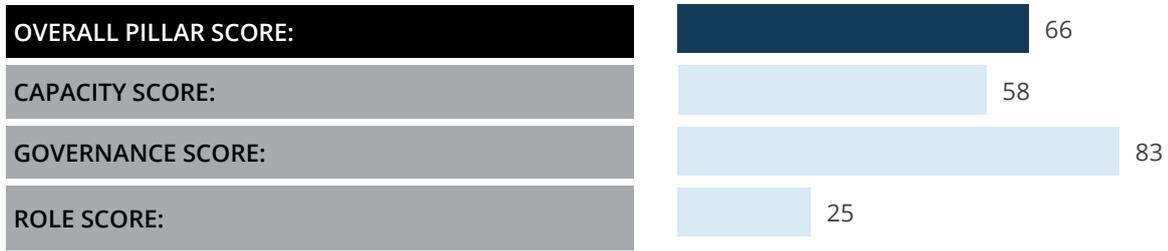
While ALSAI has to report and is answerable to the Assembly, the Assembly has failed to discuss audit findings and select external auditors to audit ALSAI's finances. ALSAI is still not effective at improving public financial management due to the failure of the Assembly to keep the executive and other public bodies accountable for implementing recommendations. Many of ALSAI's findings in the last five years are recurring, which suggests that its practical effectiveness in improving the financial management of the government is rather marginal. In 2018, the Assembly recognised the necessity of a parliamentary subcommittee on ALSAI activity. While ALSAI has persisted in its willingness for this dedicated parliamentary subcommittee, in which its findings would be debated by all interested parties and therefore create greater support for implementing the audit recommendations, this subcommittee has not yet been established by the Assembly.

SUPREME AUDIT INSTITUTION



	Indicator	Law	Practice
Capacity	Resources	n/a	50
	Independence	75	50
Governance	Transparency	100	50
	Accountability	100	50
	Integrity mechanisms	100	100
Role	Effective financial audits		75
	Detecting and sanctioning misbehaviour		50
	Improving financial management		50

SUMMARY



CAPACITY

INDICATOR 9.1.1 RESOURCES (PRACTICE)

To what extent does the audit institution have adequate resources to achieve its goals in practice?



The ALSAI budget and approved staff has increased over years. However, significant human resources gaps lead to a certain degree of ineffectiveness in carrying out its audits.

There have been regular increases in ALSAI's budget, from around €3.4 million in 2020 to around €3.5 million in 2021 and around €3.8 million in 2022. In 2022, ALSAI's freedom to manage its own budget was restricted through a normative act which re-allocated funds from ALSAI because of rising energy prices without consulting ALSAI first.¹⁰⁵⁴ However, ALSAI considers its budget sufficient for performing its activity.¹⁰⁵⁵

The most common academic backgrounds for ALSAI staff are in the fields of economics, law and engineering (152 out of 176 employees hold a university degree), corresponding with ALSAI's activity.¹⁰⁵⁶ The ALSAI audit teams have adequate training opportunities within the country or through international expertise with an total of 25 days of training per year for each auditor.¹⁰⁵⁷ However, while the number of ALSAI's approved total staff has increased since 2017, this has not been reflected in an increased number of the existing total staff or of existing audit staff, which has remained stable since 2019 (Table 3).

Since 2020, there have also been high staff turnover rates (more than 35 per cent of the total staff) mostly due to resignations after the change in ALSAI's leadership (see 9.1.3).¹⁰⁵⁸ This turnover of qualified and experienced staff can jeopardise ALSAI's ability to carry out effective financial controls (see 9.3.1).¹⁰⁵⁹

Table 3, ALSAI approved staff structure and number of audit staff¹⁰⁵³

Staff/year	2017	2018	2019	2020	2021	2022
Total nr. of staff approved in the ALSAI structure	181	191	196	203	218	233
Total existing staff	175	201	204	190	196	209
Nr. of existing audit staff	130	144	149	146	148	145

INDICATOR 9.1.2 INDEPENDENCE (LAW)

To what extent is there formal operational independence of the audit institution?



The legislative safeguards via the Constitution and the Law on the Organisation and Functioning of the ALSAI (“ALSAI law”) for ALSAI’s independence and mandate are mostly adequate and in line with international standards.¹⁰⁶⁰ However, there are loopholes in terms of the election of the Chair with only a simple majority, undefined criteria regarding “adequate financial experience” and unclear processes if the Chair resigns before the end of his or her term.

ALSAI is established by the Constitution,¹⁰⁶¹ which defines the principles for its mandate, its organisation and functioning, and limits its relations with the legislature to necessary accountability mechanisms (see 9.2.3).¹⁰⁶² The ALSAI law ensures its independence in planning and approving its own policies, carrying out its audits in accordance with a self-determined programme and method, and self-administering its own human resources.¹⁰⁶³ ALSAI may consider proposals made by the government when determining its audit plans, but is not obliged to act on them.¹⁰⁶⁴ It is, however, obliged by the Law on Local Self-Government Finances to audit all local units annually which affects its audit plan for a transitory period.¹⁰⁶⁵

The Chair must be impartial and cannot be a member of any body of a political party or political organisation.¹⁰⁶⁶ However, the Chair of ALSAI may be elected and dismissed by only a simple parliamentary majority, which creates a risk for politicised appointments.¹⁰⁶⁷ Additionally, the professional criteria for appointing the Chair are vague in terms of, for example, “adequate financial experience”,¹⁰⁶⁸ giving the Assembly vast discretion. Likewise, the proposal of the President of the Republic for the ALSAI Chair is not a guarantee for limiting the discretion of the Assembly¹⁰⁶⁹ since the Constitution facilitates the appointment of a

politicised President by an absolute majority (see also 2.1.3).¹⁰⁷⁰

Once elected, the ALSAI Chair has a seven-year mandate with the right of re-election.¹⁰⁷¹ The mandate is considered automatically extended until a successor is appointed.¹⁰⁷² Nevertheless, the ALSAI law does not include provisions to ensure institutional continuity if the Chair resigns or does not want to stay on duty until his or her successor is appointed. This has created uncertainties on the legitimacy of decision-making in 2018 when the former ALSAI Chair declared his will to not run again as a candidate and delegated his competences for five months to his deputy, who was not elected by the Assembly.¹⁰⁷³ Additionally, the provisions in the ALSAI law that the Chair’s mandate ends automatically in case of his or her “absence from duty without reason” is lacking specification on the duration of such an absence and the procedure for its implementation.¹⁰⁷⁴

INDICATOR 9.1.3 INDEPENDENCE (PRACTICE)

To what extent is the audit institution free from external interference in the performance of its work in practice?



While ALSAI operates mostly freely from other actors’ influence and its activities are non-partisan, the provisions of the Law on Local Self-Government Finances, which for a transitory period oblige ALSAI to audit all local units annually, has in practice limited ALSAI’s self-determination in planning its audits based in risk assessment.

ALSAI’s ability to carry out its work independently is limited in practice by gaps. For example, while ALSAI maintains the same average of audits performed per year, in 2022, the audits for local self-government units made up almost 40 per cent of its overall auditing plan, affecting its ability to carry out effective financial audits (see 9.3.1).¹⁰⁷⁵

There are no cases of the ALSAI Chair being dismissed before the end of his or her mandate nor any cases of their re-election. Nevertheless, all former ALSAI Chairs came from a high-level political career or followed a political career once their mandate ended.¹⁰⁷⁶ For example, the past ALSAI Chairman, Bujar Leskaj, returned to his political carrier and is now an MP of the main opposition party, the DP.¹⁰⁷⁷ However, the current ALSAI Chair, appointed in July 2020, has no political background and the Assembly disqualified a prior candidate proposed by the President due to his membership in a political party.¹⁰⁷⁸ The election of the current ALSAI Chair was based on a compromise between the governing majority and the extra parliamentary and parliamentary opposition after they were not able to agree on a candidate for 18 months (see 1.3.1).¹⁰⁷⁹

GOVERNANCE

INDICATOR 9.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the relevant activities and decisions by the SAI?



Comprehensive provisions are in place which allow MPs and the public to obtain information on the organisation and functioning of ALSAI, on decisions that concern them and how these decisions were made.

ALSAI's activity must be transparent in accordance with the Constitution, the ALSAI law and the Law on the Right of Information. ALSAI's auditing regulations and methodologies include also provisions on transparency.¹⁰⁸⁰

According to the Constitution, ALSAI must submit the following documents to the Assembly: the report on the implementation of the state budget, its opinion on the report of the Council of Ministers concerning the expenses of the previous financial year, information about the results of audits at any

time when requested by the Assembly and a yearly report on its activities.¹⁰⁸¹ The ALSAI law foresees the deadline for submitting its annual activity report to the Assembly within the first trimester of the consecutive year, while the law on the management of the budgetary system in the Republic of Albania provides the deadline for submitting the ALSAI report on the implementation of the state budget within October.¹⁰⁸² According to ALSAI, these reports are published in their website once discussed in the Parliamentary Commissions and rely on the Assembly agenda.¹⁰⁸³ Meanwhile, ALSAI final audit reports and related decisions of the ALSAI Chair must be published one to four weeks after forwarding them to the audited entity.¹⁰⁸⁴ The publication excludes information and materials which are confidential or constitute a state or commercial secret.¹⁰⁸⁵

ALSAI is also subject to the Law on the Right to Information and a vast set of information like its internal organisation, institutional regulatory acts, its budget and the budget monitoring reports, its procurements and related contracts, its services and internal audit reports, etc., must be made publicly available on its institutional website in a dedicated section. Other information must be provided upon request with some limitation with respect to privacy protection or commercial or state secrets.¹⁰⁸⁶

INDICATOR 9.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the activities and decisions of the audit institution in practice?



MPs and the public are able to obtain most of relevant information on ALSAI performance and decision-making, but data on auditing results or on the follow-up of criminal referrals still lack details and the auditing reports are not published within the foreseen time of one to four weeks after forwarding them to the audited entity.

ALSAI prepared and submitted its annual activity report on time. In 2021, it submitted the audit reports it considered important (58 out of 158) to the Assembly.¹⁰⁸⁷ In April 2022, the Parliamentary Committee on Economy and Finance noted that some of the data provided by ALSAI was rather generic and lacked details. This included missing information on cases and reasons for the dismissal of ALSAI employees for the past years, including court decisions on such cases; only partially providing the report of the ALSAI internal audit office on ALSAI's performance; and not specifying the institutions that, according to ALSAI, did not collaborate with ALSAI and therefore made an audit not possible. The ALSAI annual report did not provide sufficient information on the follow-up of ALSAI referrals to the Prosecutor's Office.¹⁰⁸⁸ On ALSAI audit reports, the MPs noted that there was also a lack of transparency on ALSAI's decision-making from the preliminary audit reports to the final reports. For example, there was no information on how they decided which recommendations from the preliminary report would be included in the final report.¹⁰⁸⁹ Subsequently, the Assembly passed a resolution demanding that ALSAI also improve its transparency on auditing results and limit the delays in publishing the audit reports on its website.¹⁰⁹⁰ However, looking at six recent ALSAI audit reports, the recommendations were fully or partially included in the final reports.¹⁰⁹¹

ALSAI does also not comply fully with the Law on the Right to Information. For example, the information on ALSAI procurements or contracts and on type of documentation is not published in the dedicated transparency section of its website.¹⁰⁹² However, most of this information can be found in other sections of the institutional website or in ALSAI reports.

INDICATOR 9.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the SAI has to report and be answerable for its actions?

100

Score

Extensive provisions are in place to ensure that ALSAI has to report and be answerable for its actions to the Assembly and to be transparent on its audit decision-making.

ALSAI is accountable to the Assembly and has to report on its activity annually within the first quarter of the consecutive year.¹⁰⁹³ Since 2018, the Assembly has required that the annual report has to follow some basic requirements like the level of compliance with the recommendations of the EU Progress Report; the level of implementation of the resolutions of the Assembly, listing approved acts or institutional actions undertaken in line with it; the changes made to the regulatory framework in the year for which the report is drawn up as well as their effects; and the status of the implementation of the recommendations of ALSAI by other institutions, etc.¹⁰⁹⁴

ALSAI's financial accounts have to be audited every year by a group of independent auditors. The Assembly selects and approves the auditors. The auditors then have to report the results of the audit to the Assembly.¹⁰⁹⁵ ALSAI also has to provide information about the preliminary results of audits and final audit reports to the Assembly upon request.¹⁰⁹⁶

ALSAI must provide the audited entity with the opportunity to comment on and challenge the findings of the preliminary report before finalising it. The ALSAI auditors then have to write a reaction to the comments by the audited entity and include both in the final report.¹⁰⁹⁷ While ALSAI's *Regulation on auditing procedures* has misleading requirements for when it is mandatory to include all the audited entity's comments and observations made on the preliminary findings in the main part of the final report or just in the annex,¹⁰⁹⁸ the new manuals on

auditing compliance and performance provide clear rules for including the comments and observations made by audited entities integrally or as an annex.¹⁰⁹⁹

INDICATOR 9.2.4 ACCOUNTABILITY (PRACTICE)

To what extent does the SAI have to report and be answerable for its actions in practice?



While ALSAI has to report and be answerable in front of the Assembly, the Assembly has failed to discuss audit findings and select external auditors to audit ALSAI's finances.

There were no discussions in the Parliamentary Committee on Economy and Finance or in the Assembly plenary session on the ALSAI activity report in 2019-2020.¹¹⁰⁰ ALSAI's financial accounts have never been audited by external auditors although the institution has been repeatedly willing since 2013, because the Assembly did not proceed to hire independent auditors for this purpose.¹¹⁰¹ Instead, ALSAI self-audited its finances and included the findings in its performance report.

In 2022, ALSAI delivered its activity report of the previous year on time. The Parliamentary Committee on Economy and Finance examined ALSAI's annual activity report and asked ALSAI to be more transparent on its activity and decision making regarding the received comments from the audited entities (see 9.2.2.). There has also been a slight increase in parliamentary debate on ALSAI's auditing reports.¹¹⁰² However, their usage by the Assembly remains low (see 9.3.3).¹¹⁰³

The audited entities make comments and observations on ALSAI's preliminary findings, which, together with the auditors' final recommendations, are fully or partially included in the final audit reports (see also 9.2.2).¹¹⁰⁴ ALSAI's final auditing recommendations can be appealed to the relevant court. In 2021, ALSAI reported that it was part of 111 court cases, of which 12 were penal cases due to

ALSAI's criminal referrals, 98 were administrative and/or civil cases and one case went before the Constitutional Court. It emphasised that many court decisions confirmed the recommendations of ALSAI in collecting financial damages and preventing negative financial effects, while out of 12 requests for the suspension of criminal proceedings, four have been accepted by the courts, while two have been returned to the Prosecutor's Office for further investigation.¹¹⁰⁵

INDICATOR 9.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms in place to ensure the integrity of the audit institution?



There are comprehensive integrity provisions in place in Albanian legislation.

These provisions also apply to ALSAI (see 10.2.5),¹¹⁰⁶ as well as the integrity provisions in the ALSAI's Code of Ethics, which espouse values of independence, impartiality and objectivity for the auditors and covers rules for preventing all forms of conflict of interest, including cases of apparent conflict of interest, prohibitions on receiving gifts, favours or preferential treatment related to the functional activity and prohibitions on performing other external activities which can interfere with ALSAI's activity.¹¹⁰⁷ ALSAI's Code of Ethics also prohibits ALSAI auditors from using or disclosing reserved information obtained during their function, also during the post-employment phase.¹¹⁰⁸ The ALSAI Code does not include a specific regulation for a "cooling-off period", but it does include a general provision referring to the legislative framework in the Republic of Albania and international auditing standards or documents on ethics and integrity.¹¹⁰⁹ Therefore, ALSAI auditors are also subject to the Ethics Rules in the Public Administration, which foresee a two year cooling-off period post-employment, during which they cannot represent any person or organisation in a conflict or

commercial relationship with the Albanian public administration for the task that he or she had performed.¹¹¹⁰

ALSAI's Chair and the senior-level management,¹¹¹¹ which include the Secretary General, General Directors and Directors of ALSAI's Departments, have to further comply with the Ethics Code of the Chair and Senior Executives of ALSAI.¹¹¹² The Chair has to inform the President of the Republic and the Assembly four months prior to the end of their mandate term as to whether he or she wants to run for re-election.¹¹¹³ The law and international standards provide for political independence of the ALSAI Chair only during their period in office. The Chair must also comply with the two-year cooling-off period post-employment, during which they must keep confidential the information gained during their mandate and they cannot represent any person or organisation in a conflict or commercial relationship as provided by the Ethics Rules in the Public Administration.¹¹¹⁴ However, the Code of Ethics of the Chair of ALSAI further provides that after the end of his or her mandate, the Chair is not allowed to engage in political activities for a period of four months.¹¹¹⁵

INDICATOR 9.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of the audit institution ensured in practice?



There is a comprehensive approach at ALSAI for ensuring the integrity of its officials in practice, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour and regular training of staff on integrity issues.

ALSAI has a dedicated department on ethics in its organisational structure.¹¹¹⁶ The auditors, as soon as they are appointed, sign a declaration acknowledging the Code of Ethics and declare that

they are not a member of a political party. These declarations get included in their personnel file.¹¹¹⁷ If in the planning phase a member of an audit team declares a conflict of interest, he or she is replaced. Gifts of important value received throughout the years by the Chair are part of ALSAI's museum.¹¹¹⁸ ALSAI staff was trained in 2021 in collaboration with the Albanian School of Public Administration on ethics and anti-corruption.¹¹¹⁹ Each year, the staff is trained on the internal regulations.¹¹²⁰ According to statistical data provided by ALSAI, since 2020, four employees have been fired as a result of disciplinary measures for serious ethics violations, like non-fulfilment of functional tasks, violation of ethics and discipline at work and the existence of an undeclared conflict of interest.¹¹²¹ The case of the undeclared conflict of interest had been administered in 2020 by the ALSAI unit for whistleblowing and by HIDAACI, as the external unit for whistleblowing in the Republic of Albania and the highest authority for preventing conflicts of interest.¹¹²²

INDICATOR 9.2.7 GENDER

To what extent are the audit institution's mechanisms gender-sensitive?



ALSAI has some gender-sensitive mechanisms in relation to staff training, but is missing gender-sensitive complaint mechanisms that produce gender-disaggregated data.

ALSAI provides data on the gender composition of its staff and considers the gender equality of its staff a strategic objective.¹¹²³ However, the implementation of other mechanisms like gender budgeting of its resources has had inconsistent progress since 2019. In 2019, the ALSAI performed gender budgeting for its own resources and implemented policies for equal gender representation in staff training and other activities.¹¹²⁴ Such policies were not applied in the following years.¹¹²⁵

ALSAI's complaint and investigation mechanisms do not have explicit gender-sensitive protocols and guidelines, nor front-facing female staff. ALSAI also does not produce gender-disaggregated data on complaints filed, processing times and complaints resolved.¹¹²⁶

In 2021, ALSAI signed a memorandum of cooperation with UN Women with a focus on supporting the development of ALSAI's capacities to implement the gender perspective in monitoring and audits in order to increase the accountability of public institutions,¹¹²⁷ and in 2022, its staff was trained on gender budgeting and gender auditing.¹¹²⁸

ROLE

INDICATOR 9.3.1 EFFECTIVE FINANCIAL AUDITS

To what extent does the audit institution provide effective audits of public expenditure?



ALSAI has the authority to oversee public financial operations and reports the results of the audit to the Assembly, but several audit reports are lacking full compliance with ALSAI standard documents or approved protocols and procedures.

Since 2019, ALSAI has performed 150 to 160 audits each year, with the exception of a lower number in 2020 due to the COVID-19 pandemic.¹¹²⁹ ALSAI's annual audit plan is based mainly on risk assessments, taking into consideration its resources,¹¹³⁰ "but it remains unclear what this represents in terms of the planned coverage of the state budget".¹¹³¹ Also, regardless of risk assessments, due to the Law on Local Finances, ALSAI has to audit the local government units each year, which for 2023 represented more than 35 per cent of ALSAI's total audit plan.¹¹³² For high-risk public bodies or public activities like customs, taxes or public procurements, the audits are up-to-date, but they still remain highly problematic in terms of financial breaches and economic damage.¹¹³³

Table 4. ALSAI Audit results in terms of economic damage and negative effects due to irregularities for 2019, 2020 and 2021²

	2019		2020		2021	
Audit results ³	Economic Damage	Negative effects due to Irregularities	Economic Damage	Negative effects due to Irregularities	Economic Damage	Negative effects due to Irregularities
In the field of incomes (thousand ALL)	25,111,620	46,632,192	1,718,117	11,376,401	17,409,452	10,948,006
In the field of expenses (thousand ALL)	2,193,158	83,879,401	475,575	74,490,878	1,749,533	44,496,908
Total (thousand ALL)	27,304,777	130,511,594	2,193,692	85,867,279	19,158,985	55,444,914
Million Euro	223.8	1,069	17.7	694.1	155	448.9

² ALSAI, *Performance Report 2019*, pp. 7-9; ALSAI, *Performance Report 2020*, pp. 8-10; ALSAI, *Performance Report 2021*, pp. 7-8. For 2020, the ALSAI audit number was lower due to the COVID-19 pandemic.

³ According to ALSAI, economic damage refers to the monetary compensation obligation of an individual or entity that is owed to the state entity audited in relation to actions or omissions in violation of financial discipline and the relevant regulatory framework. The negative effect on the performance of the entities under audit refers to the negative effects found in the administration of public funds and management with economy, efficiency and effectiveness of public funds. See ALSAI, *Performance Report 2021*, pp.6-7.

In 2021, the ALSAI carried out 18 performance audits, which constituted more than 11 per cent of the total audits performed.¹¹³⁴ For 2022, the performance audits planned by ALSAI constituted around 10 per cent of the overall plan.¹¹³⁵ Some of ALSAI's audits were focused on environmental issues, but not climate issues. For example, there have been performance audits on plastic waste, acoustic pollution, energy efficiency and maritime pollution.¹¹³⁶

ALSAI also evaluates the effectiveness of internal audit structures within government departments.¹¹³⁷ In 2021, ALSAI's findings showed problems in the setup, function and lack of independence of internal audits in the public sector.¹¹³⁸

Each year, ALSAI presents a report on the implementation of the state budget to the Assembly. In the report, it includes irregularities in the management of public finances, which covers the processes of drafting, executing and reporting of consolidated fiscal indicators, including the public debt and the use of the reserve and contingency fund.¹¹³⁹ In 2021, it submitted the audit reports it considered important (58 out of 158) to the Assembly,¹¹⁴⁰ and in 2022, it submitted to the Assembly all audit reports (see also 9.2.2).¹¹⁴¹ ALSAI's audit evidence, conclusions and reporting have slightly improved; however, according to ALSAI's internal quality assurance, several ALSAI audit reports do not comply with standard documents or approved protocols or procedures and several audit reports lack general conclusions and an audit opinion.¹¹⁴² In 2021, according to ALSAI's quality control activities, for 44 audit files, 50 per cent of the reviewed files were rated "good" and 50 per cent met all the criteria, and the quality of auditing activity and audit reports was self-evaluated at three out of four.¹¹⁴³

INDICATOR 9.3.2 DETECTING AND SANCTIONING MISBEHAVIOUR

Does the audit institution detect and investigate misbehaviour of public officeholders?



ALSAI's track record in detecting, investigating and sanctioning misbehaviour is mixed, since several public bodies have questioned its mandate, ALSAI recommendations to audited bodies as part of the audit report have been rather generic and leave too much discretion to the audited public institution and there is poor follow-up on ALSAI criminal referrals.

ALSAI has the legal authority to investigate misbehaviour in the administration of public funds resulting in material damage, irregularities and financial damages. It can file lawsuits or refer audit findings which can constitute a criminal act to the prosecution.¹¹⁴⁴ All bodies under ALSAI's auditing are obliged to provide to it with full access to their documents and other requested information, but there have been interpretations and disputes as to whether some public bodies fall legally under ALSAI's mandate or others that did not provide all the requested information, thus limiting the assurance of auditors to later support their opinions. Since 2018, ALSAI has reported that such cases happened with the Ministry of Health and Social Protection, the Energy Regulatory Authority, the Food National Agency, the Audit Unit of EU Projects and the Public Oversight Board.¹¹⁴⁵ A senior ALSAI official emphasised that such cases have been referred to the public bodies' highest organs or to the Prosecutor's Office for further proceedings.¹¹⁴⁶

In 2021, the sanctions and disciplinary measures that ALSAI recommended to audited bodies as part of the audit report have been rather generic and leave too much discretion to the audited public institution. This discretion was used in the implementation of more than 38 per cent of disciplinary recommendations.¹¹⁴⁷

Another problem is the measurement of the implementation rate for recommendations (see 9.3.3), which may count a recommendation on disciplinary measures as “implemented” if the disciplinary commission has acted on it, but not necessarily in line with the sanction recommended by ALSAI. ALSAI did not provide information on whether they track the rate of sanctions granted as recommended.¹¹⁴⁸

Some concerns were raised in the past as well as to the grounding and follow-up of ALSAI’s criminal referrals for public officials to the Prosecutor’s Office. In 2017, a study by the Open Society Foundation in Albania showed that for 78 per cent of the cases reported to the prosecution by ALSAI, the prosecution decided to suspend investigation or not to investigate. However, the study also showed that the decisions of the prosecution were fair for only 58 per cent. ALSAI did not follow up by appealing most of these cases.¹¹⁴⁹ In 2021, ALSAI followed 12 criminal court proceedings initiated by its criminal referrals, four of which were suspended by the courts, while for another two, the courts decided to return the acts to the Prosecutor’s Office for further investigation.¹¹⁵⁰ In the same year, ALSAI filed 14 criminal charges for a total of 62 officials, six of which were high-ranking officials.¹¹⁵¹

INDICATOR 9.3.3 IMPROVING FINANCIAL MANAGEMENT

To what extent is the SAI effective in improving the financial management of government?



While it has established mechanisms for follow-up, ALSAI is still not effective in improving public financial management due to its partial verification of the implementation of recommendations and due to the failure of the Assembly to keep the executive and other public bodies accountable for implementing recommendations.

Although ALSAI has put more effort into making more comprehensive, well-grounded and realistic recommendations, its self-assessment shows no improvement to the quality of this indicator since 2019.¹¹⁵²

Many of ALSAI’s findings in the last five years are recurring, which suggests that its practical effectiveness in improving the financial management of the government is rather marginal.

The implementation of ALSAI’s recommendations is low. In 2020, ALSAI made a total of 4,251 recommendations, of which 90 were proposals for legal improvements, 3,074 were organisational recommendations and 1,087 were disciplinary and administrative.¹¹⁵³ However, in 2021, it conducted special audits on the level of implementation of recommendations in only 62 entities, and verified the implementation of 1,376 recommendations, constituting around 32 per cent of the total,¹¹⁵⁴ and thus making the rate of implementation for the overall number of recommendations unclear. However, from the 1,376 verified measures, 93 per cent were accepted by the audited bodies, but only 55 per cent have been fully implemented and 24 per cent are reported as being “in process”.¹¹⁵⁵ The rate of un-implemented recommendations for reimbursing economic damage is 77 per cent, for disciplinary measures 30 per cent, and for improving legal acts 21 per cent.¹¹⁵⁶ ALSAI records and administers an electronic register on recommendations by type and subject, including their implementation deadline.¹¹⁵⁷

The implementation of recommendations is also reported to the Assembly, which has created a mechanism since 2017 for their follow-up.¹¹⁵⁸ However, the Assembly has failed to make use of the ALSAI reports in its debates and did not support the implementation of ALSAI recommendations by the executive or other public bodies by holding the executive or those public bodies which report to the Assembly accountable.¹¹⁵⁹ The Assembly’s reports on the implementation of recommendations of independent institutions, including ALSAI, provide generic data without suggesting any further action.¹¹⁶⁰ In 2018, the Assembly recognised the

necessity of a parliamentary subcommittee on ALSAI's activity.¹¹⁶¹ ALSAI has persisted in its willingness for this dedicated parliamentary subcommittee, in which its findings would be debated by all interested parties to create greater support for implementing the audit recommendations; however, this subcommittee has not yet been established.¹¹⁶²

INTERACTIONS

ALSAI's main interaction, as provided in the Constitution and the ALSAI law, is with the Assembly, to which it reports on annual performance and submits the annual report on the state budget as well as the auditing reports.¹¹⁶³ Since ALSAI recommendations are still applied poorly by the government or other public bodies,¹¹⁶⁴ further support from the Assembly is needed for keeping such institutions accountable by increasing parliamentary debate and making use of ALSAI's findings in the existing parliamentary committees or by creating a dedicated sub-committee on ALSAI's work.¹¹⁶⁵

In the framework of legal enforcement and the fight against corruption, ALSAI has increased its collaboration with the National Bureau of Investigation for identifying and referring the criminal charges of high-ranking officials.¹¹⁶⁶

ALSAI also collaborates with international organisations like INTOSAI, EUROSAI, the EU, OSCE, SIGMA, UN Women, etc., in the framework of its functional activities or for increasing its capabilities in line with international auditing standards.¹¹⁶⁷

PILLAR RECOMMENDATIONS

Recommendations for the Assembly:

- + Uphold the Law on ALSAI by commissioning an external audit of the ALSAI every year.
- + Uphold the Law on ALSAI providing ALSAI with financial independence by putting a limit on unilateral mid-term budget cuts by the government through normative acts.
- + Amend the Law on ALSAI by:
 - Including provisions for the election and dismissal of the ALSAI Chair by a qualified majority and defining clear and specific professional criteria for their election and the continuity of their mandate.
 - Establishing a common memoranda of understanding and a dedicated parliamentary sub-committee on ALSAI's work and devoting more time and resources to using ALSAI audit reports in the existing parliamentary committees in order to keep the executive and other public bodies that report to the Assembly accountable for implementing ALSAI recommendations.

Recommendations for ALSAI:

- + Create financial incentive mechanisms based on performance to reduce turnover rates of experienced auditing staff.
- + Review its structure in favour of increasing the number of the effective staff with audit functions.
- + Provide training to its auditors on how to make more comprehensive, well-grounded and realistic recommendations.
- + Fully reflect the comments and observations from the audited entities and the decision of the auditors regarding these comments in final audit reports.
- + Keep track of all the recommendations issued in a year and also make the rate of actions and sanctions implemented in practice as recommended by ALSAI transparent in the performance reports.
- + Provide statistical data in its annual reports on the results of ALSAI's criminal referrals to the Prosecutor's Office.

- + Fully comply with the Law on the Right to Information with respect to the information that must be voluntarily made publicly available in the dedicated transparency section of its website, i.e. ALSAI procurements or contracts and the system of keeping documentation including their form and type.

ENDNOTES

¹⁰⁵² Albanian: Kontrolli i Lartë i Shtetit.

¹⁰⁵³ ALSAI, *Performance Report 2017*, p. 103-104, https://www.klsh.org.al/content_pdf/112; ALSAI, *Performance Report 2018*, pp.112-113, https://www.klsh.org.al/content_pdf/113; ALSAI, *Performance Report 2019*, p. 151, <https://panel.klsh.org.al/storage/php9UZLwu.pdf>, [accessed 29.08.2022]; ALSAI, *Performance Report 2020*, pp. 130-133, https://www.klsh.org.al/content_pdf/172; ALSAI, *Performance Report 2021*, p. 183; ALSAI, information provided on the 2022 staff by mail on 28 February 2022.

¹⁰⁵⁴ According to the Secretary General of ALSAI, the ALSAI is willing to demonstrate solidarity in terms of budget cuts in emergency situations as shown in 2020, when ALSAI voluntarily agreed to transfer some of its funds to the state budget for coping with COVID-19 pandemic. See: ALSAI, *Annual Performance Report 2020*, p. 165, <https://panel.klsh.org.al/storage/php9UWgZd.pdf> [accessed 01 September 2022]. Decision of ALSAI Chairman No. 21, Date 31.03.2020 "On the cut of Budget Funds of ALSAI on Operational and Investments Expenses for 2020 and their Transfer to the State Budget for Coping with the Natural Disaster of COVID-19", <https://panel.klsh.org.al/storage/phpfXzLMF.pdf>, [accessed 12 September 2022]; Parliamentary Commission on Economy and Finances (PCEF), *Minutes of Meeting 20.04.2022*, p. 31, <https://www.parlament.al/Files/Procesverbale/20220503133332Procesverbal%20KEF%20-%20%2020.4.2022.pdf> [accessed 03.09.2022]; Interview with ALSAI Secretary General, Tirana, 21 September 2022.

¹⁰⁵⁵ Interview with an ALSAI senior official on 15 September 2022.

¹⁰⁵⁶ ALSAI, *Performance Report 2021*, p. 184. <https://panel.klsh.org.al/storage/phpY6y1k5.pdf>.

¹⁰⁵⁷ Ibid, p. 193.

¹⁰⁵⁸ ALSAI statistical data provided by mail on 22 September 2022: Since 2020, 81 people have resigned, were fired or asked for temporary suspension of their function. In these figures, 35 people, or more than 15 per cent of the overall ALSAI staff, have voluntarily resigned or decided to be transferred to other institutions.

¹⁰⁵⁹ ALSAI, *Performance Report 2021*, p. 178.

¹⁰⁶⁰ INTOSAI, ACA & the Court of Accounts of Moldova, "Vlerësimi i pavarësisë së Kontrollit të Lartë të Shtetit nga kolegët e institucioneve homologe (Peer- Review)", in ALSAI, *Auditimi Publik*, No. 16, 2017, pp. 61-89; SIGMA, *Monitoring Report: The Principles of Public Administration, Albania*. November 2021, p. 107, <https://www.sigmaweb.org/publications/Monitoring-Report-2021-Albania.pdf>, [accessed 05.09.2022]; European Commission, *Albania Report 2021*, October 2021, p. 66, https://neighbourhood-enlargement.ec.europa.eu/albania-report-2021_en, [accessed, 09.09.2022].

¹⁰⁶¹ Articles 81 & 162-165, Constitution of the Republic of Albania with Amendments through 2016, https://www.constituteproject.org/constitution/Albania_2016.pdf?lang=en.

¹⁰⁶² Article 164, Constitution of the Republic of Albania with Amendments through 2016.

¹⁰⁶³ Articles 7, 9, 25, 35, 37, Law 154/2014 "For the Organisation and Functioning Of The High Control Of State", (ALSAI Law), https://www.klsh.org.al/content_text/3714.

¹⁰⁶⁴ Article 9 (2), Law 154/2014 "For the Organisation and Functioning Of The High Control Of State"; for example, the Assembly with resolution in 2018 and 2022 has encouraged ALSAI to quicken audits or to undertake audits on specific issues. See Assembly of the Republic of Albania, *Resolution for the Evaluation of the Activity of the High State Control for 2017*, 19 July 2018, <https://panel.klsh.org.al/storage/phpdkySSu.pdf>, [accessed 20.08.2022].

¹⁰⁶⁵ Article 50, Law 68/2017 "On the finances of self-government units"; Decision of the Constitutional Court No. 9, dated 01.03.2021, which decided against the request of ALSAI to repeal article 50 (1) and 50 (2), Law 68/2017 "On the finances of self-government units" as incompatible with the Constitution.

¹⁰⁶⁶ Article 21, Law 154/2014; According to article 36, Law 154/2014 "For the Organisation and Functioning Of The High Control Of State", similar provisions are included for ensuring the political neutrality of all auditing staff.

¹⁰⁶⁷ With the amendments of the Constitution in 2016, the judges of the High Court are now dismissed by the judiciary organs and not by the Parliament, thus there cannot be an analogy for a further guarantee of the ALSAI's Chair mandate, which has the same immunity as a judge of the High Court, as interpreted in the Decision of the Assembly for overturning the Decree of the President of the Republic which returned to the Assembly the law on ALSAI specifically for the article on the Chair dismissal. See President of the Republic of Albania, Decree No. 8851, dated 19.12.2014 "For Returning the Law No.154/2014 for the organisation and functioning of the High Control of State"; Article 140, Constitution, as amended in 2012; PCEF, *Report for the Decree No. 8851, date 19.12.2014 of the President of the Republic, for the return of law No. 154/2014 "On Organisation and Functioning of the High State*

Control”, <https://www.parlament.al/Files/LigjeRishqyrtim/rkom14.pdf>, [accessed 12.09.2022]; Articles 139, 140, 162 (2), 165 (2), Constitution, amended; Articles 19 (2), 22, 23, Law 154/2014 “For the Organisation and Functioning Of The High Control Of State”.

¹⁰⁶⁸Article 20, Law 154/2014 “For the Organisation and Functioning Of The High Control Of State”, defines the criteria to be met in order to be elected as ALSAI Chair. For example, in 2020, the Parliamentary Committee on Economy and Finances highlighted that for the same criteria, like “expertise in the financial or auditing field”, previous candidates proposed by the President were disqualified, while the new Chair was considered adequate with similar financial experience. Several MPs of the governing majority declared during the Committee meeting that an amendment on the law of ALSAI to clarify the criteria for electing the ALSAI chair was necessary. See PCEF, *Minutes of Meeting 18.12.2018*, p 17,

<https://www.parlament.al/Files/Procesverbale/20190227094644Komisioni%20i%20Ekonomise%20dat%C3%AB%2018.12.2018%20pj%201.pdf>, [accessed 20.09.2022]; PCEF, *Minutes of Meeting 29.01.2019*, p. 22, <https://www.parlament.al/Files/Procesverbale/20190227095317Komisioni%20i%20Ekonomise%20dat%C3%AB%2029.01.2019.pdf>, [accessed 20.09.2022]; PCEF, *Minutes of Meeting 23.06.2020*, pp. 31-40, <https://www.parlament.al/Files/Procesverbale/20200730133706Komisioni%20i%20Ekonomise%20dt%2023.06.2020.pdf>, [accessed 20.09.2022].

¹⁰⁶⁹ Transparency International, *National Integrity System Assessment Albania 2016*, p. 155,

<https://www.transparency.org/en/publications/national-integrity-system-assessment-albania-2016>.

¹⁰⁷⁰ Article 87 (3), Constitution, amended.

¹⁰⁷¹ Article 162 (2), Constitution, amended; Article 19 (2), Law 154/2014 “For the Organisation and Functioning Of The High Control Of State”.

¹⁰⁷² Article 24, Law 154/2014 “For the Organisation and Functioning Of The High Control Of State”.

¹⁰⁷³ Senior ALSAI official interviewed on 06 September 2022 .

¹⁰⁷⁴ Article 23 (1), Law 154/2014 “For the Organisation and Functioning Of The High Control Of State”; see also INTOSAI, ACA & the Court of Accounts of Moldova, 2017, p. 233.

¹⁰⁷⁵ ALSAI, *The auditing program for 2022*, <https://panel.klsh.org.al/storage/phpWDE2P7.pdf>, [accessed 01.10.2022].

¹⁰⁷⁶ See Transparency International *National Integrity System Assessment Albania 2016*, p. 155.

¹⁰⁷⁷ Democratic Party Albania (Partia Demokratike e Shqipërisë).

¹⁰⁷⁸ PCEF, *Minutes of Meeting 04.09.2019*, pp. 1-13,

<https://parlament.al/Files/Procesverbale/20191008130000Komisioni%20i%20Ekonomise%20dat%C3%AB%20%204.9.2019.pdf>, [accessed 20.09.2022].

¹⁰⁷⁹ Institute for Political Studies, *The Assembly of Albania during Covid-19*, pp. 16-17, <http://isp.com.al/wp-content/uploads/2020/09/ISP-PARLAMENTI-GJATE-PERIUDHES-SE-COVID-19.pdf>, [accessed on 30.09.2022].

¹⁰⁸⁰ Constitution of the Republic of Albania, amended; Law 154/2014; Law No. 119/2014 “On the Right of Information”; ALSAI, *Regulation on the auditing procedures*, 2020, <https://panel.klsh.org.al/storage/phpWtIGLB.pdf>.

¹⁰⁸¹ Article 164, Constitution of the Republic of Albania, amended.

¹⁰⁸² Article 31 (3), Law 154/2014 “For the Organisation and Functioning Of The High Control Of State”; Article 63, Law no. 9936, dated 26.06.2018 “For the management of the budgetary system in the Republic of Albania”, amended.

¹⁰⁸³ Information provided by ALSAI on 21.07.2023.

¹⁰⁸⁴ Article 42, ALSAI, “Regulation on the auditing procedures”, 2020,

<https://panel.klsh.org.al/storage/phpWtIGLB.pdf>.

¹⁰⁸⁵ Article 34, Law 154/2014 “For the Organisation and Functioning Of The High Control Of State”.

¹⁰⁸⁶ Law No. 119/2014 “On the Right of Information”, <https://qbz.gov.al/eli/ligj/2014/09/18/119>.

¹⁰⁸⁷ PCEF, *Minutes of Meeting 20.04.2022*, p. 21.

¹⁰⁸⁸ PCEF, *Minutes of Meeting 20.04.2022*, p. 18; ALSAI, *Performance Report 2021*, p. 145; ALSAI website checked on 20.09.2022, https://www.klsh.org.al/cat_list/236.

¹⁰⁸⁹ For example, the MPs asked whether ALSAI keeps a database on the gap between the recommendations in the preliminary report and those in the final one, and therefore on its decision-making vis-a-vis the comments and observations from the audited entities. Ibidem.

¹⁰⁹⁰ Assembly of the Republic of Albania, *Resolution for Assessing the Performance of the High State Control for the Year 2021*, 07.07.2022,

<https://www.parlament.al/Files/Akte/20220713222109rezoluta%20e%20KLSH-se%20dt.%207.7.2022.pdf>, [accessed 21.09.2022].

¹⁰⁹¹ ALSAI audit reports are published at https://www.klsh.org.al/content_pdf/163, [accessed on 15.09.2022].

¹⁰⁹² Assessment of ALSAI website on 20.09.2022 at <https://www.klsh.org.al/transparency>.

¹⁰⁹³ Article 31 (2), Law 154/2014, "For the Organisation and Functioning Of The High Control Of State".

¹⁰⁹⁴ Assembly of the Republic of Albania, Decision No. 134/2018 "On the Approval of the Manual of the Periodic Annual Assessment".

¹⁰⁹⁵ Article 7 (4), Law 154/2014 "For the Organisation and Functioning Of The High Control Of State".

¹⁰⁹⁶ Article 164, Constitution, amended; Articles 15 (l) and Article 31 (c) and (ç), Law 154/2014 "For the Organisation and Functioning Of The High Control Of State".

¹⁰⁹⁷ Article 29, Law 154/2014 "For the Organisation and Functioning Of The High Control Of State".

¹⁰⁹⁸ Article 33 (1) and 33 (2) of ALSAI's "Regulation on auditing procedures" state that the written comments from audited entities must be included in a separate section or as an annex of the final report. Article 33 (3) provides that if the auditors do not agree with the comments they should explain their reasons for not accepting them in the main part of the report. Auditors, on the other hand, must change their report if needed when they assess the comments to be acceptable and supported by sufficient evidence.

¹⁰⁹⁹ ALSAI, "Manual of the Compliance Audit", June 2020, p. 98 and 103,

<https://drive.google.com/file/d/10bwWBtjctY84IN8KbhFSWMqpaCsR0c56/view>, [accessed 10.09.2022]; ALSAI, "Manual on Performance Audits", November 2021, p. 73, <https://panel.klsh.org.al/storage/phpNa2BT8.pdf>, [accessed 10.09.2022].

¹¹⁰⁰ Assembly of the Republic of Albania, *Report on the Fulfilment of Recommendations from the 2019 Assembly Resolutions*, July 2020, p.1, <http://platforma.parlament.al:5000/public/publikime>, [accessed 22.09.2022]; Assembly of the Republic of Albania, *Report on the Work with the Independent Institutions created by the Constitution or the Law for 2020*, February 2021, p. 6, <http://platforma.parlament.al:5000/public/publikime>, [accessed 22.09.2022]; PCFE, *Minutes of Meetings 29.04.2021*, pp.15-16, provided by mail from the PCEF on 08.09.2022.

¹¹⁰¹ ALSAI, *Performance Report 2017*, p. 234; Sotiraq Hroni, "Curbing Political Influence on Anti-Corruption Agencies: The Case of Albania", pp.38-43, *Curbing Political Influence on Independent Institutions in the Western Balkans*, 2018, Skopje: Aspen Institute Germany.

¹¹⁰² For example see Assembly of the Republic of Albania, *Press Release on the Meeting of the Investigative Commission for Urban Waste Treatment Plants*, 16.02.2022, <https://www.parlament.al/News/Index/15396>, [accessed 12.09.2022]; Assembly of the Republic of Albania, *Press Release on The meeting of the Special Parliamentary Committee "On Administrative-Territorial Reform in the Republic of Albania"*, 20.07.2022, <https://www.parlament.al/News/Index/15834>, [accessed 12.09.2022].

¹¹⁰³ See also European Commission, *Albania Report 2022*, p. 66, at https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en, [accessed 01.11.2022].

¹¹⁰⁴ ALSAI's audit reports are published at https://www.klsh.org.al/content_pdf/163, [accessed on 15.09.2022].

¹¹⁰⁵ ALSAI, *Performance Report 2021*, p. 8.

¹¹⁰⁶ Some of the legal acts related to the integrity in the Albanian legislation which apply also to the ALSAI are Law No.9131, dated 8.9.2003, "On Ethics Rules in the Public Administration", <https://qbz.gov.al/preview/f2b91a5c-52e9-4e29-b367-4b9c6e294dc8/cons/20220422>; Law, No. 9049, dated 10.4.2003 "On the Declaration and Control of the Assets and of the Financial Obligations of the Elected and Some Public Officials", amended; Law No. 9367, dated 07.04.2005, "On Preventing Conflicts of Interest", amended; Law 60/2016, "On Whistleblowing and whistleblower protection", amended, assessed at <https://www.ildkpkj.al/#>.

¹¹⁰⁷ Articles 5, 6.3, 7, 13, 15, 16, ALSAI, "Kodi Etik" (Code of Conduct), https://www.klsh.org.al/content_pdf/10.

¹¹⁰⁸ Article 26, ALSAI, "Code of Conduct".

¹¹⁰⁹ Article 3 (2), Ibid.

¹¹¹⁰ Article 17, Law No.9131, dated 8.9.2003, "On Ethic Rules in the Public Administration".

¹¹¹¹ For the ALSAI job classifications see Article 19, Law 152/2013 'On Civil Servant', amended, <https://www.dap.gov.al/images/Legjislacionishc/Ligji%20152%20perditesuar.pdf>, and the ALSAI job classifications in <https://panel.klsh.org.al/storage/php6TxXre.pdf>.

¹¹¹² Article 1, Decision of the ALSAI's Chairman no. 27, dated 20.04.2018 "On the approval of the Ethic Code of the Chairman and Senior Executives of the Supreme Control of State", <https://panel.klsh.org.al/storage/phprWdQxl.pdf>, [accessed 10.09.2022].

- ¹¹¹³ Article 4, Ibid.
- ¹¹¹⁴ Article 17, Law No.9131, dated 8.9.2003, "On Ethics Rules in the Public Administration".
- ¹¹¹⁵ Article 1, Decision of the ALSAI's Chairman No.28, date 23.04.2018 "On an Addition to the Ethic Code of the Chairman and Senior Executives of the Supreme Control of State", <https://panel.klsh.org.al/storage/phpXwWy6o.pdf>, [accessed 10.09.2022].
- ¹¹¹⁶ ALSAI, *Organisation Structure 2022*, <https://panel.klsh.org.al/storage/phpvsUpHN.pdf>, [accessed 01.09.2022].
- ¹¹¹⁷ Meeting at the ALSAI premises on 15 September 2022 and visit to ALSAI museum.
- ¹¹¹⁸ Meeting at the ALSAI premises on 15 September 2022 and visit to ALSAI museum.
- ¹¹¹⁹ ALSAI, *Performance Report 2021*, pp. 197-198.
- ¹¹²⁰ ALSAI, *Performance Report 2020*, p.134; ALSAI, *Performance Report 2021*, p. 189.
- ¹¹²¹ ALSAI performance reports do not provide data on ethic breaches and relevant measures on them since 2017. See ALSAI, *Performance Report 2017*, p. 100; Data for this assessment were provided by mail from ALSAI on 22 September 2022 and 15 November 2022.
- ¹¹²² HIDAACI, *Annual Report of the High Inspectorate for the Declaration and Controlling of Assets and Conflicts of Interests 2020*, p. 10; Information provided by ALSAI on 15 November 2022.
- ¹¹²³ ALSAI, *Performance Report 2020*, p.134; ALSAI, *Performance Report 2021*, p. 189.
- ¹¹²⁴ ALSAI, *Report of the Performance Audit on Effectiveness of Policies for promoting gender equality and strengthening the role of women*, <https://panel.klsh.org.al/storage/phpOaufy9.PDF>, [accessed 14.09.2022] and ALSAI, *Performance Report 2019*, p. 156-157.
- ¹¹²⁵ Interview with Secretary-General and another senior ALSAI official on 21 September 2022.
- ¹¹²⁶ Interview with Secretary-General and another senior ALSAI official on 21 September 2022.
- ¹¹²⁷ ALSAI website, *Collaboration with Other Institutions*, https://www.klsh.org.al/file_content/545, [accessed 14.09.2022].
- ¹¹²⁸ ALSAI, *Press Release*, <https://panel.klsh.org.al/storage/phpND7LaO.pdf>, [accessed 14.09.2022].
- ¹¹²⁹ ALSAI, *Performance Report 2019*, p. 7; ALSAI, *Performance Report 2020*, p. 8; ALSAI, *Performance Report 2021*, p.5.
- ¹¹³⁰ Article 8 (2), ALSAI, "Regulation on Auditing Procedures"; ALSAI, *Performance Report 2019*, p. 7; ALSAI, *Performance Report 2020*, p. 8; ALSAI, *Performance Report 2021*, p.5.
- ¹¹³¹ Sigma, 2021, p. 180.
- ¹¹³² See ALSAI audit plan for 2023 at <https://panel.klsh.org.al/storage/phpchQaU7.pdf>.
- ¹¹³³ ALSAI, *Performance Report 2021*, p. 7.
- ¹¹³⁴ ALSAI, *Performance Report 2021*, p. 5
- ¹¹³⁵ ALSA, *Audit plan 2022*, <https://panel.klsh.org.al/storage/phpWDE2P7.pdf>.
- ¹¹³⁶ ALSAI, *Final Performance Report "On Plastic Waste Management"*, 21.9.2021, <https://panel.klsh.org.al/storage/phph3Oow7.pdf>, [accessed 10.09.2022]; ALSAI, *Final Performance Report "On Acoustic Pollution"*, 30.6.2019, <https://panel.klsh.org.al/storage/phpM4tYFo.pdf>, [accessed 10.09.2022]; ALSAI, *Final Performance Report "On Energetic Efficiency"* 30.10.2020, <https://panel.klsh.org.al/storage/phpz5pz0E.pdf>, [accessed 10.09.2022]; ALSAI, *Final Performance Report "On the Immediate Pollution of Ionian and Adriatic Sea"* 30.10.2020, <https://panel.klsh.org.al/storage/phpKqVkp4.pdf>, [accessed 10.09.2022].
- ¹¹³⁷ Article 10 (16), Law 154/2014 "For the Organisation and Functioning Of The High Control Of State".
- ¹¹³⁸ ALSAI, *Annual Report 2020*, pp.12-13; ALSAI, *Annual Report 2021*, p. 9.
- ¹¹³⁹ Ibid, p. 9.
- ¹¹⁴⁰ PCEF, *Minutes of Meeting 20.04.2022*, p. 21.
- ¹¹⁴¹ Interview with the ALSAI General Secretary on 21 September 2022.
- ¹¹⁴² ALSAI, *Performance Report 2021*, p. 190.
- ¹¹⁴³ ALSAI, *Performance Report 2021*, pp. 164, 173.
- ¹¹⁴⁴ Articles 15 and 26, Law 154/2014 "For the Organisation and Functioning Of The High Control Of State".
- ¹¹⁴⁵ ALSAI, *Annual Performance Report 2018*, p. 105; ALSAI, *Performance Report 2019*, p. 127; ALSAI, *Performance Report 2020*, p. 116; ALSAI, *Performance Report 2020*, p. 116; ALSAI, *Performance Report 2021*, p. 170; Sigma, 2021, p. 178; PCEF, *Minutes of Meeting 20.04.2022*, p. 24.
- ¹¹⁴⁶ Interview with an ALSAI senior official on 15 September 2022.
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¹¹⁵⁰ ALSAI, *Performance Report 2021*, p. 8.

¹¹⁵¹ Ibid, p. 217-223.

¹¹⁵² ALSAI, *Performance Report 2021*, pp.170-175.

¹¹⁵³ ALSAI, *Performance Report 2021*, p. 8.

¹¹⁵⁴ ALSAI, *Performance Report 2021*, p. 142.

¹¹⁵⁵ Ibidem.

¹¹⁵⁶ Ibid.

¹¹⁵⁷ ALSAI, "The Manual for follow-up of the implementation of the recommendations as well as the institutional register of implementation of recommendations", 23.06.2020, pp. 28-30.

¹¹⁵⁸ ALSAI reports the implementation of recommendations in the framework of the Decision of the Assembly of the Republic of Albania 49/2017, dated 20.04.2017 "On the creation of the mechanism for systematic monitoring of following the implementation of the recommendations of independent institutions" and the Decision of the Assembly of the Republic of Albania no. 134/2018 "On the approval of the Annual and Periodic Monitoring Manual".

¹¹⁵⁹ Sigma, 2021, pp. 180-181. Sigma, 2021, p. 185; Rovena Sulstarova& Jetnor Kasmi, *Guarding the Guardians: Parliamentary Oversight of Independent Institutions in Albania*, December 2020, p. 13, <https://idmalbania.org/wp-content/uploads/2021/11/parliamentary-oversight-English-final.pdf> [accessed 15.08.2022].

¹¹⁶⁰ Assembly of the Republic of Albania, *Information on the Implementation of the Recommendations of the Independent Institutions to the Institutions of the State Administration for the Year 2020*, <http://platforma.parlament.al:5000/public/publikime>, [accessed 22.09.2022].

¹¹⁶¹ Gramoz Ruçi, "The discussion of the President of the Assembly of Albania, Mr. Gramoz Ruçi, at the round table "Development of Effective Relations of work between the ALSAI and the Parliament"", on 04.06.2018, published in ALSAI, *ALSAI and the Assembly*, p. 13, retrived from <https://panel.klsh.org.al/storage/phpMZQfsw.pdf>.

¹¹⁶² ALSAI, *Performance Report 2021*, p. 175; Interview with ALSAI General Secretary on 21 September 2022.

¹¹⁶³ Constitution of the Republic of Albania, amended; Law 154/2014 "For the Organisation and Functioning of The High Control Of State", (ALSAI Law); ALSAI, *Performance Report 2021*, pp.156-158.

¹¹⁶⁴ ALSAI, *Performance Report 2021*, p. 142.

¹¹⁶⁵ ALSAI, *Performance Report 2021*, p. 175.

¹¹⁶⁶ ALSAI, *Performance Report 2021*, p. 148.

¹¹⁶⁷ ALSAI, *Performance Report 2021*, pp. 148-156.

ANTI-CORRUPTION AGENCIES

OVERVIEW

There are several entities in charge of fighting corruption in Albania. The legislature, the executive, the judiciary and several independent bodies have functions and responsibilities in the area of fighting corruption. The legislature approves anti-corruption laws and is responsible for their ex-post evaluation (see *Pillar 1 Legislature*). The Minister of Justice serves as the National Coordinator for fighting corruption and is responsible for drafting and coordinating the implementation of anti-corruption policies as well as directing the Network of Anti-Corruption Coordinators established in 2021 (see *Pillar 2 Executive*).¹¹⁶⁸ In the framework of the justice reform, the Special Prosecution Against Corruption and Organised Crime (SPAK), which comprises the National Bureau of Investigation as well as the Special Courts of first instance and of appeal against corruption and organised crime, were established in 2016 (see *Pillar 4 Public Prosecutor and Pillar 3 Judiciary*). There are also several independent bodies which are in charge of preventing and fighting corruption. The most important are the Albanian Supreme Audit Institution (See *Pillar 9 SAI*) and the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI).¹¹⁶⁹ As there are several bodies involved in anti-corruption activities in Albania, this pillar will focus on HIDAACI, which, although it cannot be considered a multi-purpose anti-corruption agency, has a mandate which spans three important anti-corruption laws: (i) the declaration of assets and other financial disclosures, (ii) the prevention of conflicts of interests in the public sector, and (iii) monitoring the appropriate functioning of the internal whistleblower mechanism from responsible units in the public and private sectors, and serving as the external unit for whistleblowers if there is no internal unit in an organisation or if there are reasonable doubts that the investigations of such a unit may be compromised.¹¹⁷⁰

HIDAACI is an independent body accountable to the Assembly. However, the legislative safeguards for HIDAACI's independence are weak in terms of the lack of a dedicated law to be approved by a qualified

majority providing for its organisation and functioning. The organisation and functioning of HIDAACI is provided for in the law on declaration and audit of assets, which can be amended with a simple majority. There have been several amendments of the law in practice, which have included the Assembly majority necessary for electing the chair of HIDAACI, the General Inspector, upon whom the institution's independence essentially relies. Since the three laws covered by HIDAACI's mandate aim to prevent and fight corruption of high-level officials as well, including MPs, ensuring its political independence is a prerequisite for properly fulfilling its mission.

HIDAACI has 70 employees in total under the direct authority of the General Inspector, of which 28 are inspectors and 12 are assistant inspectors, who enjoy the status of civil servants. The General Inspector is supported by a cabinet with two advisers and by a General Secretary who directs the administrative staff. The administrative staff are divided into two directorates, the Legal and Institutional Relations Directorate and the Finance and Administration Directorate.¹¹⁷¹ While the financial and technical resources of HIDAACI have increased notably since 2016, its human resources still remain insufficient for complying with HIDAACI's vast role in educating about, preventing and investigating corruption. Apart from modest results in the implementation of the law on the audit of assets, the implementation of the laws on preventing conflicts of interests and on whistleblower protection remain poor in practice. The Assembly has failed to approve the new law on preventing conflicts of interest, which was supposed to be enacted in December 2022 and which, according to HIDAACI, would have introduced proper mechanisms for enabling the prevention of conflicts of interest of public officials in practice.

HIDAACI also lacks some transparency. While the public is able to obtain relevant information on the organisation and functioning of the HIDAACI pursuant to the law on the right to information,

information on its decision-making regarding the implementation of the law on preventing conflicts of interest, the number of referrals to the prosecutor's office and their follow-up, and the results of its decision-making in the framework of the law on whistleblowing and whistleblower protection lack clear statistical data and details, and the Assembly has failed to hold the HIDAACI accountable for this. Such lack of transparency, especially with respect to HIDAACI's actions and decision-making with respect to protecting whistleblowers, can impact the further solicitation of whistleblowers in the public and private sector.

ANTI-CORRUPTION AGENCIES



	Indicator	Law	Practice
Capacity	Resources	50	50
	Independence	50	75
Governance	Transparency	75	50
	Accountability	75	50
	Integrity mechanisms	100	75
Role	Prevention		50
	Education		50
	Investigation		25

SUMMARY



CAPACITY

INDICATOR 10.1.1 RESOURCES (LAW)

To what extent are there provisions in place that provide the ACA with adequate resources to effectively carry out its duties?



While legislative provisions exist, mid-term budget cuts introduced by the government may weaken the formal guarantee for HIDAACI's financial independence and there is no leeway for HIDAACI to acquire further funding from its revenues.

HIDAACI's budget and overall number of staff and their salaries are proposed by the General Inspector and approved by the Assembly of the Republic of Albania.¹¹⁷² According to HIDAACI, there are objective indicators for determining its budget based on its financial performance in the previous year and the financial support necessary for properly fulfilling the institution's mission.¹¹⁷³ HIDAACI uses its budget independently.¹¹⁷⁴ However, it is a frequent practice for the government to introduce mid-term budget cuts through normative acts, which may also restrict the freedom of HIDAACI to manage its own budget. HIDAACI collects revenues from fines imposed in accordance with its activity, but these must be transferred to the state budget and cannot be used for institutional needs.¹¹⁷⁵ HIDAACI employees are civil servants who are recruited and promoted

independently from HIDAACI in accordance with the provisions of the law on civil servants.¹¹⁷⁶

INDICATOR 10.1.2 RESOURCES (PRACTICE)

To what extent does the ACA have adequate resources to achieve its goals in practice?



The HIDAACI has sufficient financial resources, but insufficient human resources led to ineffectiveness in carrying out its preventive and investigative role in fighting corruption.

HIDAACI has been fully supported by the Assembly with respect to its financial demands and its budget has increased by 42 per cent from 2019 to 2023.¹¹⁷⁷

According to HIDAACI, its staff has been stable over time and 85 per cent of inspectors and assistant inspectors have ten to 15 years experience within the institution.¹¹⁷⁸ However, HIDAACI does not provide clear statistical data on the stability of its human resources either in its annual reports or in the framework of this research.¹¹⁷⁹ Between 2016 and 2021, HIDAACI has reported each year that there have been recruitment procedures, but it provided numbers only for ten new inspectors and assistant inspectors recruited in 2016 and 2017 in the framework of its new responsibility for the law on whistleblower protection, as well as five recruitments in 2018 and eight recruitments in 2021, which suggests that 23 employees, or 40 per cent of its overall staff, underwent a recruitment

Year	Amount in ALL	Amount in EUR ¹¹⁸⁰	% increase/decrease
2023	204,300,000	1,951,289	+4.3
2022	195,944,000	1,682,352	+24.7
2021	157,099,520	1,277,232	+10.1
2020	142,650,000	1,168,018	-0.16
2019	142,880,000	1,165,000	

procedure in the six years between 2016 and 2021.¹¹⁸¹ This makes it unlikely that 85 per cent of inspectors and assistant inspectors have experience of more than ten years as reported by HIDAACI, keeping also in consideration that ten out of 40 inspectors and assistant inspectors, or 25 per cent, have been recruited between 2016 and 2017.

HIDAACI inspectors and assistant inspectors are appointed through an open competition according to the law on civil servants and they go through a year of probation in which they receive training from the School of Public Administration and from HIDAACI itself.¹¹⁸²

INDICATOR 10.1.3 INDEPENDENCE (LAW)

To what extent is the ACA independent by law?



*HIDAACI has an independent statutory mandate based on the law on the declaration and audit of assets and financial obligations of elected and public officials (law on declaration of assets), which may be amended by a simple majority. Frequent amendments to the law, which includes the election of the General Inspector, suggest HIDAACI's vulnerability to politicisation.*¹¹⁸³

The institutional independence of HIDAACI lies in the political independence of the General Inspector, who is responsible for managing the staff and institutional activity. However, there is no dedicated organic law providing for the stability of HIDAACI's organisation and functioning with protection through the need to be approved by a qualified majority of all members of the Assembly. HIDAACI

organisation's and functioning is provided for in the law on declaration of assets, which is approved and may be amended through a simple majority.¹¹⁸⁴

There have been frequent amendments of the law, some also relating to the election and mandate of the General Inspector, which indicate HIDAACI's vulnerability to politicisation.¹¹⁸⁵ According to the law, the HIDAACI General Inspector is elected for a seven-year term by the Assembly through an open competition.¹¹⁸⁶

The recruitment of the General Inspector is based on clear professional criteria – a degree in law or economics and at least 15 years of professional experience. The function is incompatible with being a member of any political party.¹¹⁸⁷ There is a hearing on the candidates for the position of HIDAACI's General Inspector by the Parliamentary Commission on Legal Affairs and a shortlist of at least two candidates is submitted to the Assembly for the final voting.¹¹⁸⁸ The Assembly elects the General Inspector in the first round with a qualified majority of three-fifths of its members. If the Assembly fails to elect the General Inspector in the first round, it may do so in a second round through an absolute majority.¹¹⁸⁹ This provision enables the election of a General Inspector without the need for political consensus, since the parliamentary majority may disregard any objections submitted by the opposition. This provision was introduced in the 2018 amendments to the law, almost a year after the 2017 amendments provided that the General Inspector was to be elected only through a three-fifths majority without a subsequent round.¹¹⁹⁰

Once elected, the law ensures the stability of the General Inspector. He or she can be dismissed by

the Assembly before the end of the term with a motivated request of no less than on-third of the MPs and by a qualified majority of three-fifth of all its members only for violating the law, being involved in a conflict of interest situation, or if cases of incompatibility with his or her function are discovered.¹¹⁹¹ However, there is no provision for immunity from persecution for the General Inspector or HIDAACI staff resulting from the normal discharge of their duties.¹¹⁹²

The inspectors and assistant inspectors of HIDAACI enjoy the status of civil servants. According to the institution’s internal regulations, they must be completely independent in their work, must have an educational background in law or economics and a minimum work experience of five years for the inspectors and three years for the assistant inspectors.¹¹⁹³ Once appointed, according to the law of civil servants, they go through a year of probation in which are trained by the School of Public Administration and HIDAACI itself.¹¹⁹⁴

INDICATOR 10.1.4 INDEPENDENCE (PRACTICE)

To what extent is the ACA independent in practice?



While HIDAACI operates mostly free from any interference, the procedure for the assessment of the candidates for General Inspector is not transparent.

In 2021. the Parliamentary Committee on Legal Affairs gave each candidate only five minutes to present their expertise and their platform, and did not provide any reasoning that would indicate how the assessment criteria were employed to decide on the two short-listed candidates.¹¹⁹⁵ For example, the current General Inspector was considered adequate by the Parliamentary Commission on Legal Affairs since she had four years of experience working within HIDAACI and could provide institutional continuity, but another candidate, with more than 16 years’ experience within HIDAACI as an inspector, received only one vote in favour and was not

qualified.¹¹⁹⁶ The process for the election of the current General Inspector through a transparent and rigorous process was further undermined due to the dysfunction of the Albanian Assembly after the opposition had resigned en masse in February 2019 (see Legislative Pillar).¹¹⁹⁷

HIDAACI was created in 2003 and there has been only one case in 2013 in which the General Inspector had been dismissed by the Assembly before the end of their mandate term.¹¹⁹⁸ Since then, there has been stability in HIDAACI’s General Inspectors.¹¹⁹⁹ The former and current General Inspectors have not been politically affiliated. HIDAACI reports that 85 per cent of inspectors and assistant inspectors have extensive experience of ten to 15 years within the institution. However, reports from HIDAACI on overall staff stability, including inspectors and assistant inspectors, are rather generic without clear statistical data (see 10.1.2).¹²⁰⁰

HIDAACI collaborates with other agencies in the field of economic crime, like the Albania’s SAI, the General Directorate of Taxation, the Directorate on Preventing Money Laundering and the prosecution offices by referring legal infringements regarding declarations of assets, private interests and whistleblowers, or by providing them information upon request within their functional scope. However, the institution has lacked pro-activity in its investigations, and in the past year, the number of HIDAACI’s criminal referrals has been the lowest since 2016 (see 10.3.3.).¹²⁰¹

GOVERNANCE

INDICATOR 10.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ACA?



While provisions are in place to ensure the public can obtain information on the organisation and functioning of HIDAACI, there are no deadlines for making this information publicly available.

HIDAACI prepares and submits its annual performance report from the previous year to the Assembly within the month of May.¹²⁰² However, there is no provision on the deadline for making this report publicly available.

HIDAACI is subject to the law on the right to information and the law on the protection of personal data. In the framework of the law on the right to information, it has to proactively publish information on its organisational structure, legal framework, activity, budget, procurement and contracts in a dedicated section on transparency in its official website and to provide other information on request within a maximum of ten working days.¹²⁰³

Regarding HIDAACI's activity, the three main laws vis-à-vis its functions have provisions on transparency. The law on the declaration of assets, since the amendments in 2017, provides that the data collected from the declarations of private interests and assets can be published only in accordance with the legislation on the right to information and on the protection of personal data,¹²⁰⁴ which means that personal data must be redacted. The access of public to the declarations of private interests and assets submitted through the Electronic Asset and Conflict of Interest Declaration System (EACIDS) has been regulated through a Decision of the Council of Ministers.^{1205,1206} Data obtained by HIDAACI in the course of its investigations may not be distributed or published without proper authorisation.¹²⁰⁷

In accordance with the Law on Whistleblowing and Whistleblower Protection, HIDAACI has to publish a report on its implementation each year, in which it must include the number of reported cases and the results of their investigation, the degree of public awareness and trust in the whistleblowing mechanisms, the time set for reviewing cases and

the implementation of protection mechanisms against revenge.¹²⁰⁸

INDICATOR 10.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the activities and decision-making processes of ACA in practice?



The public is able to obtain relevant information on the organisation and functioning of HIDAACI according to the law on the right to information. However, information on its decision-making on the implementation of the law on preventing conflicts of interest, the number of referrals to the prosecutor's office and their follow-up, as well as the results of its decision-making in the framework of the law on whistleblowing and whistleblower protection lack clear statistical data and details.

HIDAACI is proactive in making public the information required by the law on the right to information, including its financial management and the monitoring mechanisms like the auditing reports on HIDAACI from the SAI.¹²⁰⁹ The declarations of private interests and assets are provided upon request in accordance with the law on the right to information. In 2021, HIDAACI reports that it replied to 3,553 requests for information on declarations of private interests and assets.¹²¹⁰

Regarding HIDAACI's functional activity and decision-making, it publishes annual reports, but it does not provide clear statistical data on its human resources, on its decision-making on the implementation of the law on preventing conflicts of interest, or on the number of referrals to the prosecutor's office and their follow-up.¹²¹¹

There is also a lack of transparency with respect to HIDAACI's decision-making as the central authority for monitoring the law on whistleblowing and whistleblower protection and as the external unit for reporting misconduct. In its annual activity

reports since 2017, HIDAACI provides generic data on cases of reported misconduct, but no clear information on the results of investigations.¹²¹²

INDICATOR 10.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the ACA has to report and be answerable for its actions?



While provisions are in place to ensure that the HIDAACI has to report and be accountable to the Assembly, there are no provisions to protect whistleblowers who report on misconduct within HIDAACI.

HIDAACI has to submit its annual activity report to the Assembly no later than May 31, while the Assembly may request that the General Inspector report whenever considered necessary.¹²¹³ Similarly, the HIDAACI's General Inspector may request to address the Assembly when important to do so.¹²¹⁴ The General Inspector makes their first declaration of assets within 30 days of their election and every year thereafter to the Assembly,¹²¹⁵ while HIDAACI's budget expenditures and performance are subject to the external auditing from the SAI.¹²¹⁶

Regarding institutional functions, the law on the declaration of assets provides that HIDAACI must notify, on a case by case basis, relevant public institutions of irregularities found in the asset declarations of their employees, and forward them the necessary information for further investigations.¹²¹⁷ HIDAACI's decision on fines in the framework of its functions can be appealed to the administrative court.

One of the key tasks of HIDAACI is to coordinate and oversee whistleblowing policy and to function as an external whistleblower unit. Nevertheless, HIDAACI is not legally required to have a whistleblowing unit itself because it has fewer than 80 employees, which is the required minimum for public institutions

required to have such a unit.¹²¹⁸ The Albanian legislation does not provide for citizen oversight committees.

INDICATOR 10.2.4 ACCOUNTABILITY (PRACTICE)

To what extent does the ACA have to report and be answerable for its actions in practice?



While HIDAACI must report and be accountable to the Assembly, its reports lack an appropriate level of details on its decision-making on the three laws covered by its mandate, and the Assembly has failed to hold HIDAACI accountable for this.

HIDAACI has fulfilled its obligation to submit its annual activity reports to the Assembly and make such report publicly available on its institutional website.¹²¹⁹ However, the annual reports lack details on HIDAACI decision-making on asset declaration, conflict of interest and whistleblower policy (see also indicator 10.2.2). While the Assembly has asked HIDAACI to provide detailed statistical data regarding the categories of officials whose assets were fully audited as well as statistical data on the number of whistleblower cases and the outcomes of relevant investigations in its annual activity reports, the Parliamentary Committee on Legal Affairs has overlooked HIDAACI's non-compliance and not followed up.¹²²⁰ In 2022, once the Assembly was functioning normally after the return of MPs from the main opposition, two opposition MPs raised concerns during HIDAACI's reporting to the Parliamentary Committee on Legal Affairs regarding the necessity to have some balance of control and accountability between the two institutions, since the Assembly controls HIDAACI and HIDAACI controls the declarations of assets and private interests of the MPs.¹²²¹

With regard to internal and external financial auditing, while HIDAACI do not have an internal audit, the SAI audited HIDAACI's budget in 2016 and

2018 and found that HIDAACI's financial resources were used and managed properly.¹²²²

INDICATOR 10.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms in place to ensure the integrity of members of the ACA(s)?



There are comprehensive provisions in place to ensure the integrity of HIDAACI staff in its Code of Conduct, Internal Regulations and the regulation for preventing conflicts of interest within HIDAACI.

HIDAACI has several internal regulations which cover rules on ethics and integrity. They include HIDAACI's Code of Conduct, HIDAACI's regulations on internal functioning and HIDAACI's regulations on the prevention of conflicts of interest.¹²²³ These acts provide for the prevention of conflicts of interest, gifts, hospitality and post-employment restrictions on the use of personal data obtained due to their public function.

There is an integrity screening for the election of the General Inspector. To be elected as HIDAACI's General Inspector, the candidates must have high moral integrity, which includes, among other things, complete and documented transparency of all incomes and assets, payment of all taxes, being in compliance with other legal obligations and not being convicted for a criminal act.¹²²⁴ Moreover, the General Inspector submits their first and periodic declaration of assets to the Assembly.¹²²⁵

Pursuant to the law on civil servants, HIDAACI is independent in recruiting and dismissing its employees, including for their ethics and integrity in performing the assigned duties. HIDAACI's recruitment procedures are based on screening candidates for their knowledge on the legislation on ethics and integrity in the Republic of Albania.¹²²⁶ A supervisory structure on ethics was established within HIDAACI with the authorisation of the General Inspector, and its members are the

Secretary General and the Human Resources Director. This structure periodically, or case by case, reports to the General Inspector on cases of violations of the Code of Conduct.¹²²⁷

INDICATOR 10.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of members of the ACA(s) ensured in practice?



There is a comprehensive approach to ensuring the integrity of HIDAACI's staff, which are regularly trained on integrity issues by the Albanian School of Public Administration, HIDAACI itself and international programmes or organisations. However, some lack of transparency with respect to institutional decision-making has undermined the credibility of the institutional integrity.

HIDAACI staff is trained periodically by ASPA on ethics and integrity in Albanian legislation.¹²²⁸ Additionally, HIDAACI staff is trained by international organisations or in the framework of international projects on best practices or specific issues related to ethics and integrity in a comparative perspective. For example, in 2021, HIDAACI representatives were trained on anti-money laundering, the assessment and investigation of declaration of assets based in international best practices, and on the EU directive on whistleblowing.¹²²⁹

HIDAACI reports no breaches of its Code of Conduct or the legislation on ethics and integrity by the staff.¹²³⁰

However, some lack of transparency with respect to institutional decision-making and on the results of its investigations has undermined the credibility of institutional integrity among the public or civil society organisations (see 10.2.2.).

INDICATOR 10.2.7 GENDER

To what extent are the ACA mechanisms gender-sensitive?



No explicit gender-sensitive protocols and guidelines exist.

The HIDAACI complaint and investigation mechanisms have no explicit gender-sensitive protocols and guidelines.¹²³¹ This means the HIDAACI complaint and investigation mechanisms lack front-facing female staff and HIDAACI does not produce gender-disaggregated data (e.g., complaints filed by women or men, processing times of complaints filed by women).

However, it is foreseen that in the near future, according to the HIDAACI General Secretary, the HIDAACI will have to report some data aggregated by gender in the framework of the monitoring of the National Strategy Against Corruption by the Albanian Ministry of Justice.¹²³²

ROLE

INDICATOR 10.3.1 PREVENTION

To what extent does the ACA engage in preventive activities regarding fighting corruption?



HIDAACI is active in its preventive anti-corruption activities in the framework of the three laws covered by its functional activity, but its efforts have provided results mostly for the implementation of the law on declaration and audit of assets. Meanwhile, the implementation in practice of the law for preventing conflicts of interest and the law on whistleblowing and whistleblower protection is poor due to legal loopholes as well as poor understanding by the decentralised units of the law's implementation.

HIDAACI's preventive role against corruption is related to the audit of assets and private interests of elected and high public officials and their close relatives.¹²³³ Simultaneously, HIDAACI is responsible for the effective implementation of the law on preventing conflicts of interest in the public sector and for whistleblower policy in both the public and private sectors.¹²³⁴

In 2021, HIDAACI administered 4,032 declarations of assets and private interests, 68.4 per cent of which were periodic annual declarations, 12.4 per cent were declarations prior to the start of duty, 12.5 per cent were declarations after leaving duty and 6.7 per cent were declarations of candidates for judiciary institutions.¹²³⁵ The refusal to make a declaration or to provide a special authorisation to HIDAACI to enable it to verify the provided data entails the loss of function and may be also punished in conformity with the Criminal Code,¹²³⁶ while the failure to submit declarations within the foreseen time is punished with fines.¹²³⁷ HIDAACI reports that it fined 130 officials in 2021 and a total of 939 officials since 2016 for refusal to declare, for cases of non-declaration in the relevant time period, and/or for issues of conflict of interest, and that the administrative court has overturned its decisions in

only a few cases.¹²³⁸ Nevertheless, significant concerns have been raised about HIDAACI's capability to perform full and accurate audits or administrative investigations on private interest and asset declarations (see 10.3.3). Despite HIDAACI's efforts in preventing corruption, according to US Department of State, in 2021, corruption in all branches of government and local level remained persistent (see 1.3.2).¹²³⁹

HIDAACI's efforts in preventing conflicts of interest have produced poor results. While the law on preventing conflicts of interest decentralise the responsibility for its implementation to each official, their direct superior and to a responsible authority which must be established in each public institution, it provides HIDAACI with the ultimate authority to direct and improve policies and mechanisms for preventing and avoiding conflicts of interest and for monitoring and controlling the implementation of the law by public institutions.¹²⁴⁰ In this framework, HIDAACI has approved instructions for the creation and functioning of the responsible authorities for preventing conflicts of interest in each institution, as well as a regulation, and it has also provided the responsible authorities with several guidelines and manuals.¹²⁴¹ However, according to GRECO, there is only one case recorded of a minister abstaining from the decision-making process of the Council of Ministers due to a possible conflict of interest.¹²⁴² Additionally, a study from the Institute for Democracy and Mediation in 21 municipalities found that there is a lack of knowledge and a lack of internal rules or regulations at the local level in the framework of the law for preventing conflicts of interest.¹²⁴³ Since 2021, HIDAACI the approval by the Assembly of a new law for preventing conflicts of interest which will introduce clear procedures and mechanisms for enforcing the prevention of conflicts of interest in practice. While the Assembly was expected to approve this law according to GRECO in December 2022, the law has yet to be approved as of July 2023.¹²⁴⁴

HIDAACI's efforts in preventing corruption through the whistleblower protection mechanism has provided modest results. Since the adoption of the

law on whistleblowing and whistleblower protection in 2016, there have been in total 67 cases of whistleblower claims and seven whistleblower protection requests submitted to HIDAACI.¹²⁴⁵ From the overall reported whistleblower claims, only seven were at the local level – all in the Municipality of Tirana – while there were only three reported cases in the private sector.¹²⁴⁶ In 2021, HIDAACI issued fines to 48 organisations that had not established a whistleblower unit, and a total of 188 fines have been issued since 2016 for the failure to establish whistleblower units.¹²⁴⁷ However, according to a review conducted by an independent expert contracted by the OSCE and the findings of a monitoring report published by the Albanian Helsinki Committee, the law does not clearly provide for anonymous reporting, does not clearly ensure the confidentiality of whistleblowers and does not provide protection if they decide to publicly report misconduct.¹²⁴⁸

HIDAACI's internal regulations provide that the inspectors, the adviser and the Head of Cabinet can conduct research or draft materials,¹²⁴⁹ but it does not have a research unit. However, HIDAACI does not have the right to submit initiatives to amend laws, but it may provide technical assistance and recommendations to public institutions or to the Assembly for laws and bylaws on the prevention of conflicts of interest.¹²⁵⁰ Nevertheless, in practice, HIDAACI has been part of the working groups not only for drafting a new draft law on the prevention of conflicts of interest,¹²⁵¹ but has also provided comments and recommendations for the amendments to the law on the declaration of assets and the law on whistleblowing and whistleblower protection.¹²⁵² It has also cooperated systematically with other public institutions by providing training and technical advice on the relevant policy areas for which it is responsible.¹²⁵³

INDICATOR 10.3.2 EDUCATION

To what extent does the ACA engage in educational activities regarding fighting corruption?



While HIDAACI is generally active in educating the responsible authorities and public officials on the implementation of the legislation on the declaration of assets, conflicts of interest and whistleblowing,¹²⁵⁴ the results of its efforts have been generally modest in enforcing the laws' implementation in practice and HIDAACI does not conduct impact evaluations of its training activities.

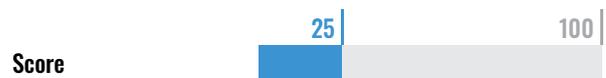
Several training workshops were provided by HIDAACI alone, in collaboration with ASPA, civil society or international organisations, for the responsible authorities and units, as well as to public officials, for the three main laws under HIDAACI's institutional functions, but the impact of these training workshops has been limited. For example, HIDAACI reported that most of the responsible authorities have been trained during 2021 on the new electronic system for the declaration of assets and private interests, but it had to postpone the deadline for the electronic declarations from March to October 2022 since the declaring subjects, including MPs and other senior officials, stated that they were not sufficiently clear on how to submit declarations through the new system.¹²⁵⁵ In collaboration with the Albanian Helsinki Committee, HIDAACI trained the responsible units for whistleblower protection in the local government units in 2020. In July 2021, it trained the responsible units for whistleblowing in the private sector in collaboration with the OSCE.¹²⁵⁶ Nevertheless, HIDAACI does not conduct any impact evaluations of its training activities, and the implementation of the law at the local level and in the private sector remains poor. Additionally, all the efforts and training activities of HIDAACI, alone or in collaboration with civil society, international organisations or ASPA on the implementation of the law on preventing conflicts of interest produced

poor results with respect to its implementation in practice (see 10.3.1).¹²⁵⁷

Only in the framework of the law on whistleblower protection is there a provision that HIDAACI can perform activities directed towards the broader public, specifically for increasing public awareness and the cultural acceptance of whistleblower mechanisms in Albania.¹²⁵⁸ In 2016, after the adoption of the law on whistleblower protection, in collaboration with the Minister of State for local government and international partners, HIDAACI printed posters and a spot was broadcast on public television and social media.¹²⁵⁹ However, there are no further reported public activities in the framework of the law on whistleblower protection in the following years.

INDICATOR 10.3.3 INVESTIGATION

To what extent does the ACA engage in investigation regarding alleged corruption?



The HIDAACI track record in detecting, investigating and sanctioning misbehaviour remains poor and mostly reactive due to HIDAACI's lack of capabilities in performing a full audit of assets as well as its lack of proactiveness in referrals to the prosecutor's offices.

HIDAACI may perform administrative investigations in accordance with the legislation on asset declarations, prevention of conflicts of interest and whistleblowing. Additionally, HIDAACI's investigations have been particularly focused on the re-evaluation of the assets of judges and prosecutors due to the ongoing justice reform in Albania.¹²⁶⁰

Nevertheless, significant concerns have been raised about HIDAACI's capability to perform full and accurate audits or administrative investigations on asset declarations. For example, the Albanian Helsinki Committee has found that between February and October 2018 and between November 2019 and July 2020, the Independent Qualification

Commission, which is the responsible body for the re-evaluation of judges and prosecutors at the first instance level, overturned a considerable number of cases that HIDAACI's audits had found compliant with legal provisions on asset declarations. These were cases in which the annual declarations and vetting declarations of judges and prosecutors were not filled out correctly while HIDAACI's reports had found no issues, or even cases when the subject did not prove sufficient legal sources to justify their wealth.¹²⁶¹

HIDAACI reports a total of 157 criminal referrals to the prosecution from 2016 to 2018 and a total of 203 referrals to the prosecution or to the other law enforcement agencies during between 2019 and 2021.¹²⁶² However, the number of criminal referrals has decreased over time. According to the European Commission, HIDAACI referred only 37 cases to the prosecution in the two years of 2019 and 2020 – 19 cases in 2019 and 18 cases in 2020. Of these cases, 19 were senior officials and resulted in one conviction and one dismissal, and 18 were low- or mid-ranking officials, which resulted in 12 final convictions.¹²⁶³ In 2021, there were 15 referrals to the prosecution and there “were no final convictions on cases referred by HIDAACI”.¹²⁶⁴ GRECO has also raised some concerns regarding the lack of proper follow-up from HIDAACI on cases forwarded to the prosecution.¹²⁶⁵ Asked in 2022 if there have been recent cases of referrals for high officials to the Special Prosecution Office, HIDAACI's General Secretary reported no such cases, but indicated that the institution has been responsive in supporting the prosecution office when information was requested from them.¹²⁶⁶

INTERACTIONS

HIDAACI is accountable to the Assembly, to which it reports its activity and forwards demands for its budget and human resources. Meanwhile, HIDAACI keeps and controls the declarations of assets and private interests of the MPs, and is responsible for supporting the authority on the prevention of conflicts of interest and the unit on whistleblower protection within the Assembly. The relationship between HIDAACI and the Assembly is regulated by the law on declaration of assets, by the regulation of functioning of the Assembly, and by the Assembly decision on the reporting of independent institutions (*see Pillar 1 Legislature*). However, some mechanism of balance and control between the two institutions must be ensured in order to enforce HIDAACI's independence (*see also 10.1.3*).

HIDAACI collaborates with other institutions and has signed several agreements aimed at strengthening inter-institutional cooperation, as well as at increasing information exchange on matters concerning the fight against corruption, prevention of money laundering and organised crime. For example, HIDAACI has signed agreements with the General Directorate of Taxation in 2014, the Directorate of Preventing Money Laundering in 2015, the Commissioner for the Right of Information and Data Protection in 2015, the Directorate of the State Police in 2015, the General Directorate of Customs in 2015, and the Ministry of Finance in 2016 for preventing corruption in the EU funds administration and again in 2022 for exchanging information and providing assistance in fighting corruption. It also refreshed the agreement with the Albanian Supreme Audit Institution in 2018. HIDAACI has increased collaboration with the Special Prosecutor's Office against Corruption and Organised Crime, with which it signed a Memoranda of Understanding in March 2022 within the framework of common investigations and support for fighting corruption of high officials. HIDAACI considers the flow of information and collaborations resulted from these agreements to be good.¹²⁶⁷

Beyond the actors covered in the pillars of this National Integrity System Assessment, HIDAACI also cooperates with the Delegation of the European Union in Albania, the Council of Europe and the OSCE office in Tirana, among others, for increasing its capacities. It also participates in meetings, round tables, conferences and seminars for issues related to the fight against corruption.

PILLAR RECOMMENDATIONS

The Assembly needs to increase the HIDAACI's independence through:

- + Approving a specific organic law on the HIDAACI's functioning and organisation by a qualified majority.
- + Removing the provision for the second round of voting for the General Inspector through an absolute majority, and leave in place only the requirement that the General Inspector should be elected by three-fifths of the MPs.
- + Developing transparency standards for their review of activity reports of independent institutions and standards for keeping the institution accountable if they fail to comply with the transparency standards.
- + Introducing, instead of the parliamentary committee, an apolitical board for HIDAACI made up of former judges, as for example in the case of the High Authority for Transparency in Public Life in France, which will provide for the preselection of candidates for the HIDAACI General Inspector,¹²⁶⁸ and investigate reports from HIDAACI's staff on misconduct within the institution.
- + HIDAACI should increase the transparency of its decision-making and provide clear statistical data on its decision-making for the three important anti-corruption laws under its mandate, such as: clear statistics on its decision-making on preventing corruption through the law on preventing conflicts of interest; the number of referrals to the prosecutor's office for legal infringements on declarations of assets and their follow-up; and the results of its decision-making in the framework of the law on whistleblowing and whistleblower protection.
- + HIDAACI should comprehensively assess whether its human resources are adequate for complying quantitatively and qualitatively with the law requirements for its preventive, educational and investigative activities.

ENDNOTES

- ¹¹⁶⁸ Decision of Council of Ministers no. 618, date 20.10.2021 “On the establishment and organisation of the network of anti-corruption coordinators”, <https://qbz.gov.al/eli/vendim/2021/10/20/618>, [Accessed 15 June 2023].
- ¹¹⁶⁹ In Albanian: Inspektorati i Lartë i Deklarimit dhe Kontrollit të Pasurive dhe Konfliktit të Interesave (ILDKPKI).
- ¹¹⁷⁰ Law no. 9049 dated 10.04.2003 “On the Declaration and Audit of Assets, Financial Obligations of the Elected and certain Public Officials”, amended; Law no. 9367, dated 7.4.2005 “On the Prevention of Conflict of Interest in the Exercise of Public Functions”, amended; Law No. 60/2016 “On whistleblowing and whistleblower protection”, amended, accessed at <https://www.ildkpkj.al>.
- ¹¹⁷¹ The assembly of Albania decision no. 48/2016 “On additions and changes of the decision no. 55/2014”, “on the approval of the structure, and categorisation of work positions at the high inspectorate of declaration and audit of assets and conflict of interests”, at <https://www.ildkpkj.al/organika-en/?lang=en>.
- ¹¹⁷² The Assembly of Albania Decision No. 48/2016 “On additions and changes of the decision no. 55/2014” “On the approval of the structure, and categorisation of work positions at the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests”, in <https://www.ildkpkj.al/organika-en/?lang=en>.
- ¹¹⁷³ Information provided from HIDAACI by email on 21 July 2023.
- ¹¹⁷⁴ Article 16 (4), Law, No. 9049, date 10.4.2003 “On the Declaration and Audit of Assets”, amended, <https://www.ildkpkj.al/legjislacioni-3/>.
- ¹¹⁷⁵ Article 41, Law, No. 9049, date 10.4.2003 “On the Declaration and Audit of Assets”; Law 44 (1), Law No. 9367, date 7.4.2005 “On the Prevention of Conflict of Interest in the Exercise of Public Functions”, amended; Article 23, Law No. 60/2016 “On whistleblowing and whistleblower Protection”, amended.
- ¹¹⁷⁶ Articles 16 (3), 16 (4), Law, No. 9049, date 10.4.2003 “On the Declaration and Audit of Assets”, amended. Law 152/2013 On Civil Servants, amended, <https://www.dap.gov.al/legjislacioni/per-sherbimin-civil>, [Accessed 10 October 2022].
- ¹¹⁷⁷ See HIDAACI, *Annual Report 2021*, p.32; HIDAACI, *Annual Report 2020*, p.26; HIDAACI, *Annual Report 2019*, p. 25, <https://www.ildkpkj.al/raporte-vjetore/>, [Accessed 10.10.2022], The budget plan for 2022 and 2023 have been accessed on the webpage of the Albanian Ministry of Finance at <https://finansca.gov.al/per-buxhetin-e-vitit-2022/> and <https://finansca.gov.al/buxheti-fillestar-2023/>.
- ¹¹⁷⁸ Information provided by HIDAACI by mail on 21 July 2023.
- ¹¹⁷⁹ HIDAACI provided no clear statistical data on its staff stability by mail on 7 April 2023 and on 21 July 2023.
- ¹¹⁸⁰ The amount in Euro has been calculated based in the exchange rate of the Bank of Albanian for the respective year in https://www.bankofalbania.org/Tregjet/Kursi_zyrtar_i_kembimit/Arkiva_e_kursit_te_kembimit/. The % increase/decrease budget is calculated based on the amount in Albanian lek (ALL).
- ¹¹⁸¹ HIDAACI, *Annual Report 2021*, p. 33; HIDAACI, *Annual Report 2020*, p. 22; HIDAACI, *Annual Report 2019*, p. 26; HIDAACI, *Annual Report 2018*, p. 31; HIDAACI, *Annual Report 2017*, 27; HIDAACI, *Annual Report 2016*, p.27. Accessed at <https://www.ildkpkj.al/raporte-vjetore/>.
- ¹¹⁸² Law 152/2013 On Civil Servants, amended, <https://www.dap.gov.al/legjislacioni/per-sherbimin-civil>.
- ¹¹⁸³ Articles 11-17, Law No. 9049, dated 10.04.2003, “On Declaration of Assets”, amended.
- ¹¹⁸⁴ Law No. 9049, date 10.04.2003, “On Declaration of Assets”, amended.
- ¹¹⁸⁵ Law No. 42/2017 “On Some Changes and Amendments to the Law No. 9049, dated 10.04.2003, amended”, Article 8; Law No. 105/2018 “On Some Changes and Amendments to the Law No. 9049, dated 10.04.2003, amended”.
- ¹¹⁸⁶ Article 11, Law No. 9049, Date 10.04.2003, “On the Declaration of Assets”, amended; Article 111, Assembly of the Republic of Albania, “Regulation of the Assembly of the Republic of Albania”, <https://www.parlament.al/Files/sKuvendi/rregullorja.pdf>, [accessed 18.08.2022].
- ¹¹⁸⁷ Articles 12 and 13, Law No. 9049, Date 10.04.2003 “On the Declaration of Assets...”.
- ¹¹⁸⁸ Article 11, Law No. 9049, dated 10.04.2003, “On the Declaration of Assets”, amended; Article 111, Assembly of the Republic of Albania, “Regulation of the Assembly of the Republic of Albania”.
- ¹¹⁸⁹ Article 11 (7), Ibid.
- ¹¹⁹⁰ Law No. 42/2017 “On Some Changes and Amendments to the Law No. 9049, date 10.04.2003..., amended”, Article 8; Law No. 105/2018 “On Some Changes and Amendments to the Law No. 9049, date 10.04.2003..., amended”; Sotiraq Hroni, “Curbing Political Influence on Anti-Corruption Agencies: The Case of Albania”, pp.38-43, *Curbing Political Influence on Independent Institutions in the Western Balkans*, 2018, Skopje: Aspen Institute Germany.

¹¹⁹¹ Article 14 (2), Law No. 9049, Date 10.04.2003, "On Declaration of Assets", amended.

¹¹⁹² The law provide that the mandate of the General Inspector terminates automatically if he/she is convicted with a final court decision for committing a crime, Article 14 (1), Ibid.

¹¹⁹³ Articles 11 and 12, HIDAACI, "Internal Regulation of Functioning", <https://www.ildkpkj.al/gloosys/2020/12/Rregullore-e-brendshme.pdf>, [accessed 20.08.2022].

¹¹⁹⁴ Ibidem; Law 152/2013 "On Civil Servants", amended, <https://qbz.gov.al/eli/ligj/2013/05/30/152-2013>

¹¹⁹⁵ Parliamentary Commission on Legal Matters, Public Administration, and Human Rights, *Minutes of Meeting* 21.12.2020, pp. 16-38,

<https://www.parlament.al/Files/Procesverbale/20210122102240Komisioni%20i%20Ligjeve%2021.12.2020.pdf> [accessed 08.09.2022]; Institute for Political Studies (ISP), *Press Release*, published at <https://m.facebook.com/isp.com.al/photos/kuvendi-po-zgjedh-k%C3%ABt%C3%AB-jav%C3%AB-inspektorin-e-p%C3%ABrgjithsh%C3%ABm-t%C3%AB-ildkpkj-ky-%C3%ABsht%C3%AB-nj%C3%AB-p/3622724561103870/>.

¹¹⁹⁶ Ibid.

¹¹⁹⁷ OSCE/ODIHR, *Republic of Albania Parliamentary Elections 25 April 2021: ODIHR Limited Election Observation Mission Final Report*, p. 5, <https://www.osce.org/odihr/elections/albania/493687>, [Accessed 01.10.2022].

¹¹⁹⁸ Transparency International, *National Integrity System Assessment Albania 2016*, p. 167, https://images.transparencycdn.org/images/2016_NISAlbania_EN.pdf, [accessed 08.08.2022].

¹¹⁹⁹ Ibidem.

¹²⁰⁰ No clear statistical data on staff stability or staff turnover are provided by HIDAACI either in its annual reports or in the framework of this research by mail on 7 April 2022 and 21 July 2023.

¹²⁰¹ See HIDAACI annual reports available at: <https://www.ildkpkj.al/raporte-vjetore/>.

¹²⁰² Article 39, Law No. 9049, dated 10.04.2003, "On Declaration of Assets", amended.

¹²⁰³ Law No. 119/2014 "On the Right of Information", <https://qbz.gov.al/eli/ligj/2014/09/18/119>

¹²⁰⁴ Articles 34 (1) and 34 (2), Law No. 9049, Date 10.04.2003, "On Declaration of Assets", amended.

¹²⁰⁵ Decision of the Council of Ministers No. 300, date 22.4.2020 "On the creation of state data base on the System of declaration of assets and private interests – EACIDS", amended, <https://qbz.gov.al/eli/vendim/2020/04/22/330/049151cc-6270-4b4f-8929-88602f2e3e9e;q=vkm%20330,%20date%202020> [Accessed on 21 July 2023].

¹²⁰⁶ Article 42/1 (5), Law No. 9049, Date 10.04.2003, "On Declaration of Assets", amended.

¹²⁰⁷ Article 34 (3), Law No. 9049, Date 10.04.2003, "On Declaration of Assets", amended.

¹²⁰⁸ Article 22 (2), Law 60/2016, "On Whistleblowing", amended.

¹²⁰⁹ HIDAACI's budget is published at <https://www.ildkpkj.al/buxheti-i-inspektoratit-te-larte-2/>; SAI reports on HIDAACI are published at <https://www.ildkpkj.al/auditimi/>; HIDAACI's programme of transparency can be accessed at <https://www.ildkpkj.al/program-transparence/> [Accessed on 21.07.2023].

¹²¹⁰ HIDAACI, Annual Report 2021, p. 28.

¹²¹¹ HIDAACI provides an overall number of fines for both laws on declaration of assets and for preventing conflicts on interest without a clear distinction of its decision-making between the two laws implementation. It also provides an overall number of referrals to the prosecutor office and other institutions. See HIDAACI, *Annual Report 2018*; HIDAACI, *Annual Report of the High Inspectorate for Declaring and Auditing the Assets and Conflicts of Interests for the Year 2019*, <https://www.ildkpkj.al/gloosys/2020/12/Raporti-Vjetor-Viti-2019.pdf>, [Accessed 26.08.2022]; HIDAACI, *Annual Report of the High Inspectorate for Declaring and Auditing the Assets and Conflicts of Interests for the Year 2020*, <https://www.ildkpkj.al/gloosys/2021/07/RAPORT-VJETOR-PER-VITIN-2020.pdf>, [Accessed 28.08.2022]; HIDAACI, *Annual Report 2021*; HIDAACI website at <https://www.ildkpkj.al/eksporti/>; HIDAACI has prepared and made public the manuals and ordinances on the functioning of the e-system at https://www.ildkpkj.al/manuale_dhe_udhezime/ EACIDIS, [Accessed on 26.09.2022]; GRECO, *Fifth Evaluation Report Albania*, p.26.

¹²¹² HIDAACI, *Annual Report 2017*, p. 13; HIDAACI, *Annual Report 2018*, p. 9; HIDAACI, *Annual Report 2019*, p. 10; HIDAACI, *Annual Report 2020*, p. 11; HIDAACI, *Annual Report 2021*, p. 13; Assembly of the Republic of Albania, *Resolution for the Evaluation of the Activity of the High Inspectorate for the Declaration and Auditing of Assets and Private Interests for the Year 2019*, approved on 28.05.2020, <https://www.ildkpkj.al/gloosys/2020/12/Rezoluta-e-Kuvendit-Viti-2019.pdf> [Accessed 18.09.2022]. Albanian Helsinki Committee, *Opinion on the Annual Report of the High Inspectorate for Declaring and Audit of Assets and Private Interests for the Year 2021*, p.1-3, https://ahc.org.al/wp-content/uploads/2022/05/Opinion_Raporti-vjetor-i-ILDKPKI-se_Komiteti-i-Helsinki-1.pdf, [Accessed 30.09.2022].

- ¹²¹³ Article 39, Law No. 9049, dated 10.04.2003, "On Declaration of Assets", amended.
- ¹²¹⁴ Ibid.
- ¹²¹⁵ Article 11 (8), Law No. 9049, dated 10.04.2003, "On Declaration of Assets", amended.
- ¹²¹⁶ ALSAI auditing reports to HIDAACI are published at <https://www.ildkpkj.al/auditimi/>,
- ¹²¹⁷ Article 15, Ibid.
- ¹²¹⁸ Article 10 (1), Law "on Whistleblowing and Whistleblower Protection", <https://www.ildkpkj.al/legjislacioni-section3-2/>.
- ¹²¹⁹ HIDAACI's annual reports can be consulted at <https://www.ildkpkj.al/raporte-vjetore/>
- ¹²²⁰ Assembly of the Republic of Albania, *Resolution for the Evaluation of the Activity of the High Inspectorate for the Declaration and Auditing of Assets and Private Interests for the Year 2018*, Approved on 17.06.2019, <https://www.ildkpkj.al/gloosys/2020/12/Rezoluta-e-Kuvendit-Viti-2018.pdf>, [Accessed on 27.08.2022]; PCLAPHR, *Minutes of Meeting 13.05.2020*, p.4, <https://www.parlament.al/Files/Procesverbale/20200521162404Komisioni%20i%20Ligjeve%2013.05.2020.pdf>, [Accessed 18.09.2022]; Assembly of the Republic of Albania, *Resolution for the Evaluation of the Activity of the High Inspectorate for the Declaration and Auditing of Assets and Private Interests for the Year 2019*, Approved on 28.05.2020, <https://www.ildkpkj.al/gloosys/2020/12/Rezoluta-e-Kuvendit-Viti-2019.pdf>, [Accessed 18.09.2022]. Parliamentary Commission on Legal Matters, Public Administration, and Human Rights, *Minutes of Meeting 28.05.2021*, p. 6, <https://www.parlament.al/Files/Procesverbale/20210609125413Komisioni%20i%20Ligjeve%20%2028.5.2021.pdf>, [Accessed 27.09.2022]; Assembly of the Republic of Albania, *Report on the Activity of Constitutional or Created by Law Institution for 2020*, No. 548, Date 17.02.2021, p. 6, <http://134.0.63.165:5000/public/publikime>, [Accessed 30.09.2022]; Assembly of the Republic of Albania, *Resolution for the Evaluation of HIDAACI for the year 2020*, Approved on 24.06.2021; Assembly of the Republic of Albania, *Resolution for the Evaluation of HIDAACI for the year 2021*, Approved on 21.07.2022.
- ¹²²¹ Parliamentary Commission on Legal Matters, Public Administration, and Human Rights, *Minutes of Meeting 1.6.2022*, pp. 49-68.
- ¹²²² ALSAI's auditing reports on HIDAACI for 2016 and 2018 in <https://www.ildkpkj.al/auditimi/>, [Accessed on 14.09.2022].
- ¹²²³ Articles 5 and 8, HIDAACI, "Ethic Code of the High Inspectorate for the Declaration and Auditing of Assets and Conflicts of Interests", Tirana 02.09.2014, https://www.ildkpkj.al/gloosys/2018/12/Kodi_Etikes.pdf; HIDAACI, "Regulation on the Prevention of Conflicts of Interest in the exercise of public functions in HIDAACI", 2014, https://www.ildkpkj.al/gloosys/2018/11/Rregullore_PKI.pdf; HIDAACI, "Internal Regulation of functioning of HIDAACI", 2016, <https://www.ildkpkj.al/gloosys/2020/12/Rregullore-e-brendshme.pdf> [Accessed 12.03.2023].
- ¹²²⁴ Article 12, Law No. 9049, Date 10.04.2003, "On Declaration of Assets", Amended.
- ¹²²⁵ Article 11 (8), Ibid.
- ¹²²⁶ From an interview with HIDAACI General Secretary and from data provided by HIDAACI by mail on 11 October 2022.
- ¹²²⁷ Ibid.
- ¹²²⁸ The Albanian School of Public Administration provides an introductory training for all civil servants in the Republic of Albania in their first year of work as well as subsequent periodic trainings. See <https://aspa.gov.al/>.
- ¹²²⁹ HIDAACI, *Annual Report 2021*, p. 19.
- ¹²³⁰ HIDAACI, information provided by mail on 11 October 2022 and on 21 July 2023.
- ¹²³¹ From HIDAACI reports and the interview with the General Secretary on 15 September 2022.
- ¹²³² Interview with HIDAACI General Secretary on 15 September 2022.
- ¹²³³ Articles 22, 23, Law No. 9049, Date 10.04.2003, "On Declaration of Assets", amended.
- ¹²³⁴ Law No. 9367, Date 7.4.2005, "On Preventing Conflict of Interest", amended.; Law 60/2026 On whistleblowing and whistleblower protection, amended.
- ¹²³⁵ HIDAACI, *Annual Report 2021*, p. 14.
- ¹²³⁶ Article 5, 9/1, Ibid.
- ¹²³⁷ Article 40, Ibid.
- ¹²³⁸ HIDAACI, *Annual Report 2016*, pp.6-8; HIDAACI, *Annual Report 2017*, p.19; HIDAACI, *Annual Report 2018*, pp.14-15; HIDAACI, *Annual Report 2019*, p. 21; HIDAACI, *Annual Report 2020*, pp. 16-17; HIDAACI, *Annual Report 2021*, p. 16.

¹²³⁹ See US Department of State, *2021 Country Reports on Human Rights Practices: Albania*, <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/albania>, [Accessed 20 December 2022].

¹²⁴⁰ Articles 7-11, and 42, Law No. 9367, dated 07.04.2005, "On Preventing the Conflict of Interests", amended.

¹²⁴¹ See HIDAACI, Ordinance no. 1, dated 27.06.2014 "For the creation, functioning and responsibilities of the structures of responsible authorities for preventing the conflict of interest in public institutions" <https://www.ildkpkj.al/gloosys/2018/11/UDH%C3%8BZUES-P%C3%8BR-AUTORITETET-P%C3%8BRGJEGJ%C3%8BSE-2014.pdf>; HIDAACI, "Regulation for preventing conflict of interest in public functions in HIDAACI", 2014, in https://www.ildkpkj.al/gloosys/2018/11/Rregullore_PKI.pdf, <https://www.ildkpkj.al/guida-dhe-manuale/>.

¹²⁴² GRECO, *Fifth Evaluation Round. Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies. Compliance Report Albania*, published on March 2023, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680aa6125>, [accessed 10 May 2023].

¹²⁴³ Nadia Rusi, *Challenges that hamper the promotion of integrity culture in local governance*, 2022, at <https://idmalbania.org/sq/tre-dokumente-politikash-per-zhvillimin-e-instrumenteve-te-integritetit-ne-sektorin-e-administrates-publike-dhjetor-2022/>.

¹²⁴⁴ Up to July 2023 the Assembly has not approved the new law on preventing conflicts of interests. See also GRECO, Compliance Report, *Fifth Evaluation Round: Evaluation Report: Albania*. March 2023.

¹²⁴⁵ See HIDAACI, *Annual Report 2017*, p. 13; HIDAACI, *Annual Report 2018*, p. 9; HIDAACI, *Annual Report 2020*, p. 11; HIDAACI, *Annual Report 2021*, p. 13.

¹²⁴⁶ Ibid.

¹²⁴⁷ HIDAACI, *Annual Report 2021*, p.10.

¹²⁴⁸ HIDAACI, *Annual Report 2019*, pp. 12-13. Albanian Helsinki Committee, *Opinion on the HIDAACI's Annual Report of 2021*, p. 1; Albanian Helsinki Committee, *Monitoring Report "Whistleblowing of the Corruption in Albania: Challenges of Law Implementation"*, 2020, p. 32, https://ahc.org.al/wp-content/uploads/2020/03/Raport-Monitorimi_Sinjalizimi-i-korrupsionit-n%C3%AB-Shqip%C3%ABri_Sfidat-e-zbatimit-t%C3%AB-kuadrit-t%C3%AB-ri-ligjor.pdf, [accessed on 1.10.2022]; Albanian Helsinki Committee, *"Whistleblowing in Municipalities: The Challenges and Difficulties in law Implementation in 10 Municipalities of the Country"*, February 2021, pp. 20-21.

¹²⁴⁹ Articles 7, 8, 11, HIDAACI, "Internal Regulation of Functioning".

¹²⁵⁰ Article 42, Law No. 9367, dated 7.4.2005, "On Preventing Conflict of Interest".

¹²⁵¹ HIDAACI reported in 2022 that a new draft law on preventing conflicts of interest has been drafted and submitted to the Assembly and asked for its support for the approval. PCLAPHR, *Minutes of Meeting 01.6.2022*.

¹²⁵² Assembly of the Republic of Albania, *Resolution for the Evaluation of the Activity of the High Inspectorate for Declaring and Auditing of the Assets and Conflicts of Interests for the Year 2018*, approved on 17.06.2019, <https://www.ildkpkj.al/gloosys/2020/12/Rezoluta-e-Kuvendit-Viti-2018.pdf>, [accessed on 18.08.2022].

¹²⁵³ Article 17, Law No. 9049, dated 10.04.2003, "On Declaration of Assets", amended; Article 42, Law No. 9367, dated 07.04.2005, "On Preventing the Conflict of Interests", amended; Article 21, Law 60/2016, "On Whistleblowing", amended; GRECO, *Fifth Evaluation Report Albania*, p. 23. HIDAACI, *Annual Report 2016*, p. 17; HIDAACI, *Annual Report 2017*, p. 21; HIDAACI, *Annual Report 2018*, p. 16; HIDAACI, *Annual Report 2019*, p. 21; HIDAACI, *Annual Report 2020*, p. 12; HIDAACI, *Annual Report 2021*, p.17.

¹²⁵⁴ Article 17, Law No. 9049, dated 10.04.2003, "On Declaration of Assets", amended; Article 42, Law No. 9367, dated 7.4.2005, "On Preventing Conflict of Interest", amended.

¹²⁵⁵ See HIDAACI, *Annual Report 2018*, p. 13; HIDAACI, *Annual Report 2019*, p. 10; HIDAACI, *Annual Report 2020*, p. 12; HIDAACI, *Annual Report 2021*, pp. 9-12.

¹²⁵⁶ See HIDAACI, *Annual Report 2020*, p. 12; HIDAACI, *Annual Report 2021*, pp. 16-18.

¹²⁵⁷ See HIDAACI, *Annual Report 2018*, p. 13; HIDAACI, *Annual Report 2019*, p. 10; HIDAACI, *Annual Report 2020*, p. 12; HIDAACI, *Annual Report 2021*, pp. 9-12; Albanian Helsinki Committee, *Whistleblowing in Municipalities*, 2021.

¹²⁵⁸ Article 21, Law 60/2016, "On Whistleblowing", amended.

¹²⁵⁹ HIDAACI, *Annual Report 2016*, p.12.

¹²⁶⁰ Articles 25/1 and 25/2, Law No. 9049, dated 10.04.2003, "On Declaration of Assets", amended; Article 42, Law No. 9367, dated 7.4.2005, "On Preventing Conflict of Interest"; Articles 12-14 and 19, Law 60/2016, "On Whistleblowing", amended.

¹²⁶¹ See Albanian Helsinki Committee, *Study Report on the Judges and Prosecutor's Vetting November 2019-July 2020*, Tirana, September 2020, pp. 20-21, https://ahc.org.al/wp-content/uploads/2020/09/KShH_Raport-studimor--Vettingu-dhe-dinamikat-e-tij--Nentor-2019-Korrik-2020.pdf, [Accessed on 02.10.2022]; Albanian Helsinki Committee, *Study Report on the Judges and Prosecutor's Vetting February-October 2018*, Tirana, November 2018, pp. 14-15, <https://ahc.org.al/wp-content/uploads/2019/03/RAPORT-STUDIMOR-P%C3%8BR-VENDIMMARRJEN-E-INSTITUCIONEVE-T%C3%8BR-RIVLER%C3%8BSIMIT-KALIMTAR-T%C3%8B-GJYOTAR%C3%8BVE-DHE-PROKUROR%C3%8BVE-VETTING.pdf>, [Accessed on 02.10.2022].

¹²⁶² HIDAACI, *Annual Report 2016*, pp. 6-8; HIDAACI, *Annual Report 2017*, p. 19; HIDAACI, *Annual Report 2018*, pp. 14-15; HIDAACI, *Annual Report 2019*, p. 21; HIDAACI, *Annual Report 2020*, pp. 16-17; HIDAACI, *Annual Report 2021*, p. 16

¹²⁶³ European Commission, *Albania 2021 Report*, p. 24, https://neighbourhood-enlargement.ec.europa.eu/albania-report-2021_en, [accessed on 12.08.2022].

¹²⁶⁴ European Commission, *Albania 2022 Report*, https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en, [Accessed on 01.11.2022]; See HIDAACI, *Annual Report 2016*, pp. 6-8; HIDAACI, *Annual Report 2017*, p. 19; HIDAACI, *Annual Report 2018*, pp. 14-15; HIDAACI, *Annual Report 2019*, p. 21; HIDAACI, *Annual Report 2020*, pp. 16-17; HIDAACI, *Annual Report 2021*, p. 16.

¹²⁶⁵ GRECO, *Fifth Evaluation Report Albania*, p. 27.

¹²⁶⁶ Interview with the HIDAACI's General Secretary on 15 September 2022.

¹²⁶⁷ Information provided from HIDAACI by mail on 21 July 2023.

¹²⁶⁸ For more details on the organisation of the High Authority in France for providing for its independence, see <https://www.hatvp.fr/en/high-authority/institution/list/#an-independent-administrative-authority>, [accessed on 12 July 2023].

POLITICAL PARTIES

OVERVIEW

Political parties are civil society organisms, formed by free-willed citizens, which share the same political ideals and organise themselves through democratic principles to influence decision-making and win elections.¹²⁶⁹ There were 132 registered political parties in Albania in 2022, out of which only 10 have elected members of parliament.¹²⁷⁰ The major parties are the Socialist Party of Albania (SP) and the Democratic Party of Albania (DP), who have the highest number of members and elected representatives. The Freedom Party, formerly the Socialist Movement for Integration (FP), is a medium-sized party that has formed part of the governing coalitions. Small political parties like the Social Democratic Party, the Party for Justice, Integration and Unity, the Republican Party, etc., have one to three elected members of parliament.

The Central Elections Committee (CEC) is the monitoring and oversight body for political parties' finances.¹²⁷¹ The CEC standardised central electoral financial reporting in 2021 and fully standardised annual reporting and local election templates in 2023.¹²⁷² To facilitate the analysis, this pillar includes data on the three leading political parties in the country: the SP, the DP and the FP, and a few smaller parliamentary parties, unless indicated otherwise.

Political parties register and deregister at the District Court of Tirana and can appeal decisions. The existence of "ghost parties" that are registered but have no declared activity is a continuous problem. Only one-third of registered political parties reported their annual finances for 2021. The state facilitates the operation and the electoral campaign of political parties based on their results in general elections, favouring the financial sustainability of already-established political parties. Delayed court decisions have interfered with political parties' activities, while political parties have allegedly interfered in state resources and data. Despite issuing fines for political parties and media outlets that breached campaign regulations in 2021, oversight institutions have not applied the law effectively regarding the use of state resources, favouring the ruling SP against other competing parties. Under-reporting of electoral expenditures have been signalled by the media and CSOs. The impartiality of investigations into electoral crime is in doubt.

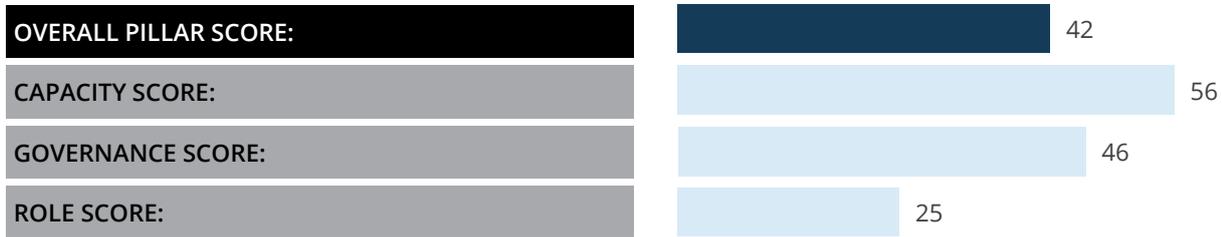
In practice, intra-party democracy involves non-contested party leadership, consultation farces and strategies to align members' opinion with that of the leadership. Although gender quotas are established, women maintain that political parties are the main perpetrators of political violence against them. Ideological and political differences between the SP (left) and DP (right) have been fading away, while political parties have embraced clientelism, providing benefits in exchange for electoral and financial support, increasing suspicions of criminal groups as another beneficiary-supporter of the clientelistic scheme. Anti-corruption is a daily narrative in political parties' rhetoric, but public accountability has remained an individual responsibility so far.

POLITICAL PARTIES



	Indicator	Law	Practice
Capacity	Resources	75	50
	Independence	75	25
Governance	Transparency	75	25
	Accountability	75	25
	Integrity	50	25
Role	Interest aggregation and representation		25
	Anti-corruption commitment		25

SUMMARY



CAPACITY

INDICATOR 11.1.1 RESOURCES (LAW)

To what extent does the legal framework provide an environment conducive to the formation and operations of political parties?



While political parties are free to establish and organise democratically, the system legally favours the financial sustainability of already-established political parties.

Freedom of association is granted by the Constitution.¹²⁷³ Political parties can be freely established¹²⁷⁴ if they organise through democratic principles, methods and instruments,¹²⁷⁵ acknowledging intra-party democracy in their statute.¹²⁷⁶ The Constitution bans the establishment of political parties that are based on racism or support religious, provincial or ethnic hatred. Using totalitarian or violent methods for power is unconstitutional.¹²⁷⁷ Military or paramilitary organisations affiliated with political parties are legally banned.¹²⁷⁸ The Constitutional Court solely decides on the constitutionality of political parties and their activity.¹²⁷⁹

Political parties must be registered at the District Court of Tirana. The founding members of the party – no fewer than 3000 – are required to call and hold the founding meeting of the party, where they approve the programme and the statute and set up

the governing symbols and organs of the party. Registration is completed within 30 days. In case of irregularity, the court sends the application for revision within 20 days.¹²⁸⁰ The same procedure is applied for statute amendments and de-registration of the political party. Court decisions can be appealed at the Court of Appeals of Tirana.¹²⁸¹

The state facilitates the operation of political parties mostly based on their results in the last general elections. Public funding is available for political parties that have gained parliamentary seats and those that won more than 10,000 votes or 1 per cent of votes at the state level.¹²⁸² Parliamentary parties are entitled to more than 70 per cent of the state fund.¹²⁸³ The state subsidises headquarters and local offices for parliamentary parties and parties that received 1 per cent of votes at the last three general elections.¹²⁸⁴ Access to public mass media during electoral campaigns or referendums is free of charge¹²⁸⁵ and political parties can use their premises for social-economic activity.¹²⁸⁶ Subsidies facilitate the operation of well-established political parties, but scarcely enable new parties and especially independent candidates to establish themselves, therefore not guaranteeing equal opportunity for the full spectrum.

INDICATOR 11.1.2 RESOURCES (PRACTICE)

To what extent do the financial resources available to political parties allow for effective political competition?



State subsidies and airtime are distributed following electoral results, benefiting the already well-established parties. New parties can manage to obtain state financing, but have fewer opportunities in the electoral race.

Funding for political parties is allocated annually by the state budget. Over the period of 2022-26, the state budget is going to fund 11 political parties for their regular activities, out of which only one is a new and extra-parliamentary party.¹²⁸⁷ This fund has not been smaller than the previous years during the period of 2020-23.¹²⁸⁸ However, the bigger the party, the more state funds they receive. Following data retrieved from 2020 (non-electoral year) and 2021 (electoral year) annual party financial reports, political parties heavily rely on state funds during non-electoral years and tend to mobilise more private funds during electoral years.¹²⁸⁹ In a curious case, the Social Democratic Party declares considerable amounts of unspent budgets during both electoral and non-electoral years.¹²⁹⁰

Complementary funding sources for political parties are diverse. They include membership fees, monthly contributions from party representatives holding public office,¹²⁹¹ donations in-kind or money from local citizens and national and international political organisations,¹²⁹² funds from party social-economic activity,¹²⁹³ bank loans, financial guarantees¹²⁹⁴ and state subsidies for their offices.¹²⁹⁵

Big parliamentary political parties get twice the amount of airtime coverage than small parliamentary ones, while airtime for non-parliamentary parties and new ones is still less¹²⁹⁶ and left up to the “the discretion of the editors.”¹²⁹⁷ The ratio of advertisement airtime between parliamentary parties and extra-parliamentary and independent candidates is 90 minutes to 10 minutes

per electoral campaign.¹²⁹⁸ The Audiovisual Media Authority (AMA) reports that media systematically covered the ruling Socialist Party campaign more than other competing parties.¹²⁹⁹ Media reported that the Socialist Party aired 149 minutes of TV ads, out of the 90 minutes allowed during the electoral campaign,¹³⁰⁰ followed by the Democratic Party with 125 minutes, leaving the rest of the parties far behind¹³⁰¹ and limiting equitable access to airtime during campaigns. As a result, international monitoring missions have observed narrow opportunities and a discriminatory approach towards smaller political parties.¹³⁰²

INDICATOR 11.1.3 INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?



The state’s oversight of political parties is limited to verifying the constitutionality of their activities and overseeing their finances. Legal attempts to allow mass surveillance of citizens were dismissed by the Constitutional Court in 2021.

The Constitutional Court verifies the constitutionality of the activity of a political party,¹³⁰³ following the request of the President, the Prime Minister, one-fifth of the members of the Assembly, the Ombudsperson or the head of the SAI.¹³⁰⁴ If found unconstitutional, as mentioned in indicator 11.1.1, the Constitutional Court can order the suspension of activity or the dissolution of the party.¹³⁰⁵ The continuation of unconstitutional activities or membership in re-founded unconstitutional parties operating illegally is punishable by up to five years in prison.¹³⁰⁶ In 2021, the parliament amended the Law on State Police, allowing police mass surveillance of citizens without prior court authorisation. In July 2021, the Constitutional Court invalidated the amendments, arguing for the protection of the right to privacy¹³⁰⁷

and dismissing grounds for intimidating political activists in Albania.

In general, state oversight is limited in its interference in the activity of political parties. Independent institutions like the CEC and the SAI are empowered to oversee the finances of political parties, but the SAI's oversight is limited only to funds from the state budget.¹³⁰⁸ The CEC's decisions can be appealed internally through the Complaints and Sanctions Commission¹³⁰⁹ and externally through the Electoral College Court at the Tirana Appeal Court.¹³¹⁰ Disputes within political parties that are not solved internally are settled in court.¹³¹¹

There are no regulations for mandatory state attendance of political party meetings.

INDICATOR 11.1.4 INDEPENDENCE (PRACTICE)

To what extent are political parties free from unwarranted external interference in their activities in practice?



Political parties experience interference in their activities, but also use state resources for their gain. Oversight institutions have not managed to treat them equally, and there are continued doubts regarding the impartiality of investigations into electoral crime.

The Constitutional Court has not dissolved any political party so far. However, the CEC finds the existence of “ghost parties” that are registered but have no public activity and have undeclared finances¹³¹² and no members to be problematic.¹³¹³

Political parties have been experiencing state interference in their activity. For example, diplomats warned against the election of the DP's former leader as party leader,¹³¹⁴ as they were designated *persona non grata* by the United States in May 2021.¹³¹⁵ Delayed court decisions have impeded the normal operation and electoral race of the biggest opposition party in the country,¹³¹⁶ as the legal

statute dispute of the DP has been in court since December 2021.¹³¹⁷

On the other hand, there are allegations of political parties interfering deeply in state resources and data. For instance, in April 2021, the leaked list of the SP containing political affiliations and personal data of 910,000 citizens¹³¹⁸ showed evidence of potential voter intimidation.¹³¹⁹ Open Data found that 15 per cent of the earthquake reconstruction fund (2.75 billion ALL, circa €24 million) was transferred to affected citizens during the electoral campaign of the 2021 and 2023 elections.¹³²⁰ Furthermore, the SP online application Activ1st used in the 2023 local electoral campaign was allegedly pressuring the public administration to endorse the SP in the online electoral campaign.¹³²¹ The OSCE/ODIHR mission noted that use of state resources especially during the electoral campaign “provided the SP with a significant advantage”¹³²² in the race of 2021. Meanwhile, oversight institutions have not managed to apply the law effectively regarding use of state resources during the campaign,¹³²³ favouring the ruling party.

The period of 2019-22 has seen a rising number of people detained by the State Police, especially in protests organised by political parties, civil society organisations and social groups.¹³²⁴ Opposition political party members were detained and prosecuted during the protests against the demolition of the National Theatre in 2020,¹³²⁵ while many more citizens have been detained for participation in illegal gatherings and violent protests.¹³²⁶ There are continuing doubts regarding the impartiality of investigations when attacks on political party members or electoral crimes occur.¹³²⁷ The media informed that the police did not report evidence of electoral crime (vote-buying) found at the scene after armed clashes between reported supporters of the DP and SP left one person killed and several wounded.¹³²⁸ The media also report that the majority of electoral crime charges in 2021 were not investigated. Notoriously, SPAK dismissed the SP citizens' data list file for lack of evidence for electoral corruption, to the surprise

of public opinion and civil society,¹³²⁹ which alleged whitewashing and preferential treatment for the ruling party.

GOVERNANCE

INDICATOR 11.2.1 TRANSPARENCY (LAW)

To what extent are there regulations in place that require parties to make their financial information publicly available?



Even though financial reporting is quite regulated and standardised, online campaign reporting is a legal loophole.

Political parties are required to report annually on their finances to the CEC¹³³⁰ by March 31 of the following year.¹³³¹ If not, they do not receive public funding for the year ahead.¹³³² The financial reporting requires the declaration of all financial resources and expenses, as well as donations for transfers higher than €870 (100,000 ALL).¹³³³ The financial report is submitted together with the audit report,¹³³⁴ compiled by a licensed accounting expert randomly selected by the CEC.¹³³⁵ In case of a lack of transparency, the CEC can fine the responsible authority at the political party up to €43,478 (5 million ALL), while the party risks suspension of public funding for a maximum of five years.¹³³⁶ The CEC fully standardised financial reporting from 2021 to 2023, compiling templates for annual and electoral reporting.¹³³⁷

Political parties report on their electoral campaign finances after the publication of the final results of the elections, while independent candidates do so after the election date, following reporting templates.¹³³⁸ They keep a register for all received donations, stating the name, address and amount of all contributors. Only Albanian citizens can donate in electoral campaigns.¹³³⁹ All donors are required to sign a declaration for their donation. Donations

higher than €435 (50,000 ALL) up to the maximum allowed value of €8,696 (1 million ALL) are transferred to a special bank account dedicated to donations and run by the political party.¹³⁴⁰ Legal entities that have received public funds of €86,957 (10 million ALL) within the three years before the election, are affiliated with the media, or have debts to the state¹³⁴¹ cannot donate to political parties. Donors cannot profit from public funds in the same amount within three years after their donation.¹³⁴² There are no legal provisions for reporting on online campaigning specifically. It is reported as any other expense of the electoral campaign.

Annual financial reports, audit reports and electoral reports must be published on the CEC website within 30 days of their receipt.¹³⁴³ Meanwhile, political parties have to publish their election financial report on their own website within three days of its delivery to the CEC.¹³⁴⁴

INDICATOR 11.2.2 TRANSPARENCY (PRACTICE)

To what extent can the public obtain relevant financial information from political parties?



Only one-third of political parties report their annual finances, but they do not proactively publish their reports online. Under-reporting of media advertisements and lobbying expenses is a growing issue.

Out of 132 registered political parties in Albania, only 46 of them reported their annual finances for the electoral year 2021, while only 25 reported in the non-electoral year 2020.¹³⁴⁵ In 2021, the main political parties' reports included broad information on public funding, donations, the party's resources and expenditures. None of the parties convey this information in a citizen-friendly manner.¹³⁴⁶ The CEC standardised campaign financial report templates during the 2021 elections,¹³⁴⁷ simplifying reporting and the public's understanding of financial information. All 32 parties competing reported their

finances within the extended deadline for reporting.¹³⁴⁸ However, media investigation found considerable under-reporting of expenditures for TV election advertisements.¹³⁴⁹ Civil society monitoring sounded the alarm for unreported expenditures of political parties' social media campaigns that were made through third parties.¹³⁵⁰ Meanwhile, media allegations for political parties' undeclared lobbying expenses in the USA during 2017-2023 have been constant, but none of these have been confirmed so far by a state court decision.¹³⁵¹

Political parties do not proactively publish their financial information on their website or through any other channel managed by them.¹³⁵² Annual financial reports and electoral campaigns reports can only be found on the CEC website, but only for a very limited timeframe of four years from 2020 to 2023. There are no alternative channels to get the verified information, making it hard for the public to access financial information from political parties at any time, as foreseen by the Constitution.¹³⁵³ In April 2023, the CEC introduced the application of the Electronic Platform for Political Parties' Financial Reporting that aims to increase transparency in political parties' finances, but the platform is not yet available for public scrutiny.¹³⁵⁴

INDICATOR 11.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions governing financial oversight of political parties by a designated state body?



Regulations for financial reporting are in place, except for online campaigning, which is not regulated separately. Legislation on in-kind donations has conflicting interpretations regarding free airtime for television campaigning.

The Central Election Commission is the monitoring and oversight body for political parties' finances.¹³⁵⁵ The Supreme Audit Institution is entitled to audit only state budget funds allocated to political

parties.¹³⁵⁶ However, the SAI has not engaged in such a task so far, despite the recommendation of the International Organization of Supreme Audit Institutions to fully comply with its auditing competences.¹³⁵⁷ As indicated previously, regulations for financial reporting are in place. They include the declaration of donations and expenditures based on standard templates for electoral reports since 2021 and annual reports since 2023. Reporting is done annually and following each election. Intermediate reports during electoral campaigns are not legally required. The CEC engages external accounting experts to audit the information provided by political parties at the latter's expense. In case of noncompliance with deadlines or financial reporting transparency, the CEC issues fines, which can be appealed at the Complaints and Sanctions Commission.¹³⁵⁸

As per renewed regulations in 2021,¹³⁵⁹ the accuracy of the campaign reports includes *prima facie* checks from the CEC and external auditing from certified accounting experts. The CEC has the right to verify financial reports submitted by political parties within 45 days with its own resources. In case of inconsistencies between party reports and audit reports, the CEC engages a new auditor from the list of certified accounting experts to re-audit the political party's finances in-depth and compile a final auditing report. The Commissioner for Elections decides whether to approve or reject the report. Political parties can appeal at the Complaints and Sanctions Commission. However, in-kind donation legislation leaves space for interpretation, as media outlets find that airtime electoral campaign advertisement and news coverage airtime can be donated as in-kind donations for political parties, a standpoint opposed by the CEC.¹³⁶⁰ Meanwhile, online campaigning and monitoring of both online and social media electoral campaigns are also unregulated, despite their growing role in electoral campaigning.¹³⁶¹

INDICATOR 11.2.4 ACCOUNTABILITY (PRACTICE)

To what extent is there effective financial oversight of political parties in practice?



While the majority of registered political parties do not report their annual finances, many out of those that do breach campaign regulations. Though enforced, CEC fines remain symbolic.

As indicated in 11.2.2, 46 political parties submitted their annual financial reports for 2021 to the CEC. However, there is no detailed information in the 2022 annual CEC report on their auditing process, shortcomings and potential administrative measures.¹³⁶² Its 2021 annual report has more information on this process, during which only 19 per cent of registered parties reported their finances for 2020. Reporting templates varied. The CEC selected 17 accounting experts to audit 131 parties for 2020.¹³⁶³ The audit reports showed an array of problems, starting from a lack of party offices' locations, unresponsive political parties, parties with zero expenses, zero membership fees and even zero members.¹³⁶⁴ Experts used the reporting template in general, but adjusted it to their liking. Based on their findings, the CEC fined 106 parties with €870 (100,000 ALL) for not declaring their finances or with €435 (50,000 ALL) for violating the reporting deadline. Some fines were subsequently reduced following an appeal at the Complaints and Sanctions Commission.¹³⁶⁵

The CEC shortlisted 19 accounting experts to audit financial reports for the April 2021 parliamentary electoral campaign. As two of them resigned, 17 accounting experts audited 32 parties,¹³⁶⁶ less than the minimum of 20 experts required by law.¹³⁶⁷ The auditing and oversight process was ultimately finalised in December 2022. The findings showed that 14 political parties breached campaign regulations and reporting standard templates. The CEC issued 81 fines in total. The ruling Socialist Party was fined with €43,478 (5 million ALL) for infringing the campaign expenditures limit. Several parties

were fined up to €5,217 (600,000 ALL) for failure to declare their expenses, including the newly founded Nisma Thurje. Many media outlets got fined up to €870 (100,000 ALL) for breaching political advertisement duration limits.¹³⁶⁸ Although they signal some level of enforcement, these fines are symbolic compared to the effects that breaking the rules of the game might have had on the distortion of public opinion and voters' will in the parliamentary election.

INDICATOR 11.2.5 INTEGRITY (LAW)

To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?



Despite embedding intra-party democracy in parties' statutes, the provisions leave party members with little to say regarding the selection of candidates, the executive committees or programmatic issues.

The statutes of the three main political parties (SP, DP and FP) are public and include intra-party democracy provisions.¹³⁶⁹ The SP and the DP¹³⁷⁰ have frequently changed their statutes since their creation, indicating the importance of the document in organising the party.¹³⁷¹ All three party leaders are elected by all party members once every four years, except for the DP leader, whose mandate duration is not specified in the statute.¹³⁷² However, since 2017, the mandate of the SP party leader is automatically renewed if the SP party leader wins the parliamentary elections and is re-elected Prime Minister, unless the majority of the annual Congress votes for party leadership elections.¹³⁷³ In case of just one contestant for the FP leadership, the leader is elected by vote of the National Convent.¹³⁷⁴

The SP Executive Committee approves central election candidates,¹³⁷⁵ and the party can hold referendums or consultations for the list of candidates.¹³⁷⁶ The National Executive Committee of the FP approves the list of candidates for both

parliamentary and local elections.¹³⁷⁷ As for the DP, after consulting DP members, the party leader proposes the list of candidates, which is approved by either the Executive Committee or the National Council¹³⁷⁸ as well as referenda.¹³⁷⁹ Despite these provisions, the selection of candidates is assessed as a weakness for all three parties' statutes.¹³⁸⁰

Statutes pay little information to policymaking within parties. Selected members of the DP National Council draft party platforms which are approved either by the National Congress or the National Council.¹³⁸¹ Each SP and FP party member is entitled to contribute to the party programme, without specifying who drafts it. Approval of policies is divided between the Congress and the National Executive Committee.¹³⁸² Overall, weaknesses in the statutes regarding the executive's accountability to the assembly or wider members, the selection of candidates in elections, the selection of the executive committees, the role of factions and members' roles in programmatic issues¹³⁸³ are an obstacle to cementing intra-party democracy as the modus operandi of their political life.

INDICATOR 11.2.6 INTEGRITY (PRACTICE)

To what extent is there effective internal democratic governance of political parties in practice?



In practice, the panorama of intra-party democracy includes non-contested party leadership, consultation farces regarding candidate lists and strategies to align members' opinions with those of the leadership. However, local candidate primaries were held for the first time in 2022-23.

According to a 2022 study, general members' rights are mostly guaranteed in the SP, less guaranteed in the DP and fully granted in the FP statutes.¹³⁸⁴ However, the SP ruling party has not contested its party leadership since 2009, as the leader has been re-elected Prime Minister.¹³⁸⁵ Local branch party

leaders were selected by the SP's Executive Committee in 2022 after livestream consultation activities with party members.¹³⁸⁶ Despite asking SP members to evaluate MPs and opening the party for 20 new entries for MP candidates in the 2021 elections,¹³⁸⁷ the list was decided upon by the party leaders.¹³⁸⁸

The process for candidate proposals by DP members in 2021 elections was claimed to be a farce by its party members and proposals were not taken into account by the party leadership.¹³⁸⁹ The DP re-elected their leader based on the "one member, one vote" principle in 2021, following a race with three other candidates who complained about irregularities.¹³⁹⁰ The wide round of consultations with party members (Foltorja – the Refoundation) resulted in the call for a new party Congress which amended the statute of the party,¹³⁹¹ which was then countered by the Congress called by the party leadership which annulled the changes and made amendments in return.¹³⁹² Nevertheless, the Refoundation DP party held primaries for the 2023 local elections, giving their party members and supporters the right to decide for the first time about the candidates' list.¹³⁹³

Finally, the FP elected its leaders by Convent vote during 2017 and 2022 due to a lack of candidates.¹³⁹⁴ The party has consolidated its use of the "one member, one vote" principle throughout the years.¹³⁹⁵ Members maintain that their proposals for the candidate lists are taken into consideration, although not fully.¹³⁹⁶

Regarding the members' role to determine policies in practice, a study found that party leadership uses consultation as a means for "steering strategies to convince party members to align with the leadership strategy."¹³⁹⁷ On the other hand, there is increasing concern that the leadership policies are determined by private gains and clientelism rather than ideology and political platforms.¹³⁹⁸

INDICATOR 11.2.7 GENDER REPRESENTATION

To what extent are women part of political parties leadership?



Gender quotas are in place, but female participation in the parties' leadership is not balanced. Women face political violence and discrimination within their political party, and also in media and on social media.

The Electoral Code guarantees the direct and active participation of the underrepresented gender in politics as a fundamental instrument for consolidating democracy.¹³⁹⁹ At least 30 per cent of the Assembly of Albania, local governance central organs and all levels of electoral administration are reserved for the underrepresented gender.¹⁴⁰⁰ At least one in three candidates listed for central elections and one in two candidates for municipality councils must be a woman.¹⁴⁰¹ Candidate lists that do not implement this ranking are not registered by the CEC¹⁴⁰² and therefore are not allowed to compete.

In practice, female and male participation in the main political parties' leadership is not balanced. Women make up 45 per cent of the SP Executive Committee¹⁴⁰³ and 52 per cent of the FP Executive Committee.¹⁴⁰⁴ The DP has struggled to meet its statute quota; however, women made up 36 per cent of the 2021 Executive Committee¹⁴⁰⁵ and 30 per cent of the Refoundation DP in 2022.¹⁴⁰⁶ Around 44 per cent of SP local branches are led by women or have co-leaders of both genders,¹⁴⁰⁷ while most parties' local leadership is not updated online. All competing political parties implemented gender quotas in the 2021 elections. Party leaders increased the participation of female candidates in central campaign meetings.¹⁴⁰⁸

However, women active in politics maintain that political parties themselves are the main perpetrators of political violence.¹⁴⁰⁹ They share stories of exclusionary and discriminatory practices such as questioning women's abilities in decision-

making, within the party and outside, removing them from candidates' lists, cutting the party's financial support during electoral campaigns¹⁴¹⁰ and using hate speech.¹⁴¹¹ On the other hand, media and social media "perpetuate a cycle of violence that reinforces hegemonic masculinity"¹⁴¹² by excluding women from political discussion panels, diminishing their role in politics, making sexual allegations for their political career advancement and objectifying women in terms of fashion and beauty.¹⁴¹³ Independent institutions have denounced the sexist and discriminatory rhetoric by party leaders as a practice that transforms hatred and violence against women in politics, into a behavioural model for society.¹⁴¹⁴

ROLE

INDICATOR 11.3.1 INTEREST AGGREGATION AND REPRESENTATION

To what extent do political parties aggregate and represent relevant social interests in the political sphere?



While ideological and political differences between political parties are fading away, clientelism is on the rise. Trust in political parties is very low, and feeling unrepresented is the top reason for low voter turnout.

The three main political parties in Albania (SP, DP and FP) are mass parties, relying on their vast membership and hierarchical structure, but they also display features of other party typologies.¹⁴¹⁵ Among them, the SP has cultivated characteristics of electoral parties¹⁴¹⁶ that fully focus the agenda on the next election. Ideological and political differences between the SP (left) and DP (right) have been fading away,¹⁴¹⁷ at times even crossing the spectrum. For instance, the left SP government firmly sustains public-private partnerships (PPP)¹⁴¹⁸ and sees the state as a potential development hindrance.¹⁴¹⁹ Occasionally, Albanian workers suffer

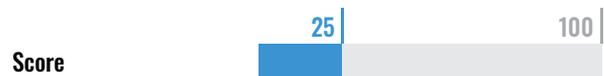
from the same narrative.¹⁴²⁰ The FP advocates for a flat tax,¹⁴²¹ while the DP advocates for more social policies for underprivileged and marginalised groups.¹⁴²² Nevertheless, there are ideologically grounded members in each party who are well-recognised for their integrity and idealism and supported within the party membership.¹⁴²³

In practice, scholars see main political parties as “organised clientelistic structures that provide benefits to their supporters”¹⁴²⁴ in exchange for their electoral and financial support. These benefits vary from public sector employment to PPP contracts¹⁴²⁵ to tailor-made laws for individuals or specific narrow groups.¹⁴²⁶ Although funding for the party in power is greater, businesses sponsor all parties and the latter are dependent on businesses, transforming the multi-party democratic system into a political clientelist one.¹⁴²⁷ On the other hand, civil society notes that political parties are not interested in applying decriminalisation practices by verifying their candidates’ relationship with crime,¹⁴²⁸ increasing suspicions of criminal groups as another beneficiary-supporter of the clientelistic scheme.

Such an environment leaves little space for social and public interests to inhabit the political sphere. Trust in political parties is very low. 30 per cent of survey respondents basically trust or have great trust in political parties,¹⁴²⁹ while political parties are ranked as the least-trusted institution by Albanians.¹⁴³⁰ The politically active population is also low: up to 32 per cent of citizens attended a demonstration or signed a petition in 2022.¹⁴³¹ Feeling unrepresented by political parties is the top reason for the low turnout in elections¹⁴³² while personal benefits top public engagement drivers.¹⁴³³ As a rule, opposition parties are more open to collaboration with civil society than the ruling party.¹⁴³⁴

INDICATOR 11.3.2 ANTI-CORRUPTION COMMITMENT

To what extent do political parties give due attention to public accountability and the fight against corruption?



Although part of the daily rhetoric, anti-corruption is scarcely mentioned in political platforms. Political parties report various corruption cases to SPAK, but so far, public accountability has remained an individual responsibility.

Anti-corruption is scarcely mentioned and addressed in the main parties’ political programmes, reflecting the policy-making deficiencies noted in the indicators 11.2.5 and 11.2.6. The SP manifesto 2017-2021 mentions corruption almost exclusively as a consequence of the pre-2013 previous DP government to be solved by the justice reform and online public services.¹⁴³⁵ In contrast, the DP 2021 electoral platform relates it exclusively to the ruling government policies and counters it with the anti-Mafia law on public procurement and PPPs’ internal auditing.¹⁴³⁶ The FP’s platform briefly mentions the effects of crime and oligarchs on the economy and public services.¹⁴³⁷

On the other hand, anti-corruption is a daily narrative in the main political parties’ rhetoric. The SP party leader contends that corruption pertains almost exclusively to the public sector. The state is its principal perpetrator, while the private sector and citizens are the state’s victims.¹⁴³⁸ The opposition focuses more on clientelistic policies and state capture by powerful individuals or companies and organised crime.¹⁴³⁹ However, opposition party leaders did not make anti-corruption the dominant message of the 2021 electoral campaign, possibly fearing for its repercussions on themselves.¹⁴⁴⁰ The US public designation of the DP former leader Berisha for involvement in significant corruption¹⁴⁴¹ fuelled the anti-corruption narrative within the DP itself.¹⁴⁴² Nevertheless, opposition political parties

have voiced corruption scandals very frequently, reporting various notorious cases to SPAK.¹⁴⁴³ Replying to each scandal, the SP leader has declared that public accountability is an individual responsibility.¹⁴⁴⁴ Some of the cases have resulted in the arrests of top officials, including an ex-minister,¹⁴⁴⁵ but leaving the top political chain of command untouched.

INTERACTIONS

Political parties interact with the Assembly, the Central Election Commission and the media. Interactions with the Assembly are intrinsic. Political parties aim to enter the Assembly and subsequently control parliamentary life. Interactions with the CEC are mainly regulated through the law on political parties and the Electoral Code. The CEC issues various regulations to perform its monitoring and oversight responsibilities which are linked to financial reporting and electoral participation. On the other hand, the Commissioner and the CEC Regulators Committee are all proposed and voted on in the Assembly¹⁴⁴⁶ by parliamentary parties' MPs. Interactions with the media are both formalised and informal. The Electoral Code and regulations issued by both the CEC and the AMA manage the media's role in informing the public on political parties, while informally, parties share information, expertise, cooperation on joint causes and clientelistic interests. The media positively affects the anti-corruption work of political parties by amplifying their agenda or by investigating corruption, but also hides or distorts corruption by using different communication strategies. The Assembly and CEC's role is to regulate the prevention of political parties' corruption, but in practice, relations need to be strengthened to improve political parties' anti-corruption efforts.

PILLAR RECOMMENDATIONS

- + The Assembly should amend Article 90 of the Electoral Code by clearly excluding subjects that are not entitled to donate in-kind donations to political parties. As in Article 92/1 point 3 regulating the donation of funds, media outlets must be excluded from in-kind donations to prevent them from offering airtime for electoral campaign advertisements and news coverage as in-kind donations to political parties. Article 84 of the Electoral Code should include sanctions for surpassing the airtime limits in media outlets. Article 85 point 4 should be amended so that the content monitoring applied by the Audiovisual Media Authority can be published online in a real-time public database which should contain the duration of political advertisements, hidden political ads and campaign airtime for the monitored TV outlets in the country for public scrutiny.
- + The Assembly should amend the Electoral Code by regulating online campaigning performed by political parties or individuals running in elections. To determine how this should be regulated, the legislators should engage in a consultative process with scholars, civil society and independent media experts in this field, including representatives of non-parliamentary parties.
- + The Assembly should amend the Electoral Code by codifying third-party campaigning for political subjects running in elections. To determine the codification, the legislators should engage in a consultative process with scholars, civil society, media and non-parliamentary parties' representatives, finding a suitable model to be applied in Albania among the best practices in different states.
- + The Assembly should amend the Article 171 of the Electoral Code by increasing administrative sanctions for the misuse of state resources during the electoral campaign.

- + The Central Elections Commission should engage in a thorough consultation with civic actors on finding and applying an effective monitoring system that can systematically identify and report violations on misuse of state resources during electoral and non-electoral years.
- + The Central Elections Commission and political parties should proactively publish all financial reports on their websites, starting from 2001 to the current period. All registered political parties must report their political and financial activity to the Central Elections Commission. The Parliament should amend Article 23/4 of the Law on Political Parties by increasing fines for active or passive (ghost) political parties that refuse to declare their activity as a mechanism to protect the political landscape from criminal activity.
- + In compliance with Article 9 point 3 of the Constitution, the Central Elections Commission should make the Electronic Platform for Political Parties' Financial Reporting available to the public and update it accordingly so that financial expenses of political parties are always available for scrutiny.
- + All political parties should strengthen their intra-party democracy through statutory changes and by increasing the accountability of their executive structures to their party members and electorate.

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MEDIA

OVERVIEW

Albania has a vibrant media landscape¹⁴⁴⁷ which includes 42 audiovisual broadcasters, 55 radio broadcasters, 22 broadcasters authorised to transmit audiovisual broadcasts, 63 cable operators, 15 over-the-top/internet protocol television providers (OTT/IPTV)¹⁴⁴⁸ and around 800 online media outlets. The number of printed daily journals is estimated to range from 7 to 13, plus a handful of magazines. TV is the most popular outlet¹⁴⁴⁹ and national licences are held by the public service broadcaster Albanian Radio Television (RTSh); private outlets TV Klan, Top Channel and Media Vision; and two digital platforms, DigitAlb and Tring. Despite the high number of outlets, national TV outlets have not managed yet to expand their signal to the entire state population,¹⁴⁵⁰ while the internet penetration rate of Albanian families is reported to be 77 per cent in 2022, with a significant gap between urban and rural areas.¹⁴⁵¹

The Institute for Development, Research and Alternatives (IDRA)'s data show that 87 per cent of the television audience is divided between TV Klan, Top Channel, News 24 and Report TV.¹⁴⁵² Referring to the Alexa assessment of 2021, the ten most clicked online websites consist of news portals connected to traditional media (like Balkanweb, Panorama.com.al, Syri.net, etc.) and a few lifestyle online magazines.¹⁴⁵³

The legal framework guaranteeing media operation is favourable. However, it favours the right of ownership over the freedom of mass media and media plurality, allowing for market ownership concentration and a restricted plurality of perspectives. Allegations on media outlets promoting the agendas of the government, businesses and criminal groups in return for advancing their own business interests and profits in lucrative markets like construction, banking, gambling, etc., are reported. Media owners' business interests, state funding, state pressure, verbal and physical attacks, journalists' dismissals, lawsuits and organised crime are recognised as threats to its independence.

Ownership data are available for most media outlets, except for non-profit online media. However, the transparency of media financial resources is a pressing issue. Research data on advertisements, hidden ads, public discourse, etc. are limited, but when available, they are not in open data formats. Audiovisual media outlets often do not answer for their activities to supervisory bodies, partly due to restricted supervisory resources and a low collection of fines. Even though self-regulatory mechanisms to ensure the integrity of media employees are in place, the biggest media groups in the country have not joined them, resulting in mostly unsanctioned misbehaviour.

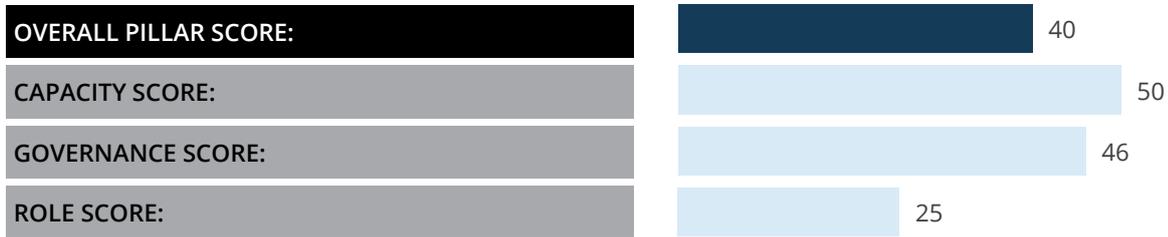
Government is broadly televised, but business interests of media owners, the quality of reporting, sensational news and the government's ready-made materials hinder the informing of the public on its regular activities. Investigative journalism has been strengthening its role, but it is limited to single media outlets and individual journalists.

MEDIA



	Indicator	Law	Practice
Capacity	Resources	75	50
	Independence	50	25
Governance	Transparency	50	25
	Accountability	75	25
	Integrity mechanisms	75	25
Role	Investigate and expose cases of corruption practice		25
	Inform public on corruption and its impact		25
	Inform public on governance issues		25

SUMMARY



CAPACITY

INDICATOR 12.1.1 RESOURCES (LAW)

To what extent does the legal framework provide an environment conducive to a diverse independent media?



The legal framework pertaining to the existence and operations of independent media is favourable. However, market plurality and ownership diversity are not legally enshrined.

The Constitution guarantees freedom of expression, freedom of mass media and freedom of information,¹⁴⁵⁴ which lays the grounds for the operation of mass media in the country. Broadcast media entities are freely established, following an application¹⁴⁵⁵ or competition for obtaining a broadcast licence.¹⁴⁵⁶ The Audiovisual Media Authority (AMA) provides licences for the temporary use of frequency bands¹⁴⁵⁷ whose reach is categorised into national, regional and local frequencies.¹⁴⁵⁸ The licence application includes relevant information on the owner, administrator, the executive board, media programme content and broadcast technicalities, guaranteeing qualitative broadcast provisions.¹⁴⁵⁹ AMA reviews applications and in case of refusal, it is obliged to provide to the applicant the rationale of its decision within 60 days of the application date.¹⁴⁶⁰ Complaints and court appeals are acknowledged in cases of refused licences,¹⁴⁶¹ fees and licence withdrawals.¹⁴⁶²

National, local and regional transmission licences are exclusive to audiovisual companies only.¹⁴⁶³ Obtaining a licence requires registered capital of 3,500,000 ALL (€30,435).¹⁴⁶⁴ In an attempt to enforce media market plurality and diversity, legislation foresaw that ownership of a national broadcaster must be limited to 40 per cent of its shares. This requirement was removed by a controversial decision of the Constitutional Court in 2016, ruling in favour of the demand of the association of media representatives,¹⁴⁶⁵ thus favouring the right of ownership over the freedom of mass media and media plurality. Nevertheless, ownership in another national audiovisual media outlet remains restricted to a minimum percentage of shares.¹⁴⁶⁶ European programmes are required to dominate the majority of transmission time,¹⁴⁶⁷ while ads cannot make up more than 30 per cent of the total ads market in the broadcasters' content.¹⁴⁶⁸

Online community broadcasting is not legally regulated.¹⁴⁶⁹ Audiovisual community media broadcasting relates to audio non-profit broadcasting serving community needs.¹⁴⁷⁰ Licences for community radio stations are free of charge¹⁴⁷¹ and cover a limited geographical area.¹⁴⁷² Community broadcasting is based on its community members' voluntary work. It can be supported financially, but not from advertisement profits.¹⁴⁷³

Freedom of press is protected by law,¹⁴⁷⁴ but deemed free of any regulations in current legislation. Entering journalism school is not restricted by any legislation and no licence is required to become a journalist.¹⁴⁷⁵

INDICATOR 12.1.2 RESOURCES (PRACTICE)

To what extent is there a diverse independent media providing a variety of perspectives?



While there is a plurality of media (in terms of type and number), they do not cover the entire political and social spectrum.

There are 42 audiovisual broadcasters, 55 radio broadcasters, 22 broadcasters authorised to transmit audiovisual broadcasts, 63 cable operators, 15 OTT/IPTV providers¹⁴⁷⁶ and around 800 online media outlets operating in Albania according to the Albanian Journalists Union.¹⁴⁷⁷ Out of 42 audiovisual outlets, six have national coverage, while all others have regional or local coverage. Southern regions count more local broadcasts than northern ones.¹⁴⁷⁸ Based on AMA's evaluation, national TV broadcasters have not yet managed to reach the entire state population with their signal, ranging from 2.8 per cent of the population for the public broadcast service to 11 per cent for private national television broadcasters.¹⁴⁷⁹ There are no updated data on the number of printed journals and their spread, but the number is limited to about 7 to 13 national printed journals,¹⁴⁸⁰ and local journals, both operating outside the capital, and a handful of magazines.¹⁴⁸¹ Community media outlets are becoming numerous. There are four religious community radio stations, 27 ethnic communities' online media outlets¹⁴⁸² and various local level centred media such as *Nyje, Zani, Bulqizaime, Amfora, Historiaime*, etc.¹⁴⁸³

Despite the existence of many outlets, media content diversity is limited.¹⁴⁸⁴ The public media broadcast RTSh has steadily improved its service, increased the number of specialised channels (kids, music, agriculture, etc.) and diversified its programmes, covering perspectives of various social and cultural groups.¹⁴⁸⁵ Even though RTSh raised less ad revenue than planned in 2021,¹⁴⁸⁶ it reduced technological investments instead of content production.¹⁴⁸⁷ According to the 2022 Nations in

Transit report, Albanian public discourse contains political gaslighting – using manipulative information to disorient public opinion.¹⁴⁸⁸ Media fact-checking of information remains very limited and qualitative and independent reporting is not widespread.¹⁴⁸⁹

The diversity of perspectives is linked to the financial sustainability and affordability of media outlets. In 2021, RTSh was financed dominantly by public tariffs (61 per cent) and fees (6 per cent), the state budget (26 per cent) and a small share from advertisement transmission (6 per cent).¹⁴⁹⁰ Although obliged to maintain impartiality during all its transmission periods,¹⁴⁹¹ in practice RTSh has tended to favour the political party in power.¹⁴⁹² The situation is different in private media, which relies significantly on advertisement. There is a lack of data on media advertisement and hidden ads,¹⁴⁹³ but commercial and owner influence over editorial content is deemed as a high risk for media content.¹⁴⁹⁴ A 2020 study found that journalists perceive the commercial interests of private businesses and their own media owners business as a violation of freedom of the press.¹⁴⁹⁵ Experts note that state advertisements and announcements have been declining, but media owners profit from other public benefits such as licences and construction permits, which are regarded as intrusive methods in the media's editorial policies.¹⁴⁹⁶

INDICATOR 12.1.3 INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?



While a number of laws to ensure media independence exist, the executive has made several attempts to regulate online media and defamation, which are seen to limit media independence by interfering in its activity.

Freedom of expression and freedom of press are enshrined in the Constitution¹⁴⁹⁷ as well as copyright, artistic and scientific freedom.¹⁴⁹⁸

The law bestows free transmission activity to audiovisual media service providers¹⁴⁹⁹ which have editorial responsibility for the content of their programmes.¹⁵⁰⁰ To that matter, they have to apply principles of freedom of expression, sound information, acknowledge copyright and privacy, and promote the constitutional order and cultural tolerance¹⁵⁰¹ in their editorial activity. Direct advertisement and sponsorships are not allowed to influence editorial independence.¹⁵⁰² Sponsoring political news and informative programmes is not allowed.¹⁵⁰³ The public broadcaster cannot engage in political and religious propaganda.¹⁵⁰⁴ Audiovisual broadcasts can report on political parties' activity, applying principles of equity and impartiality during their coverage.¹⁵⁰⁵

Freedom of information is a constitutional right¹⁵⁰⁶ and is regulated separately by law. Providing information is restricted in cases where it endangers national security, in criminal investigations, etc. None of the restrictions are applied when the release of the information is imperative for the greater public interest.¹⁵⁰⁷

In 2019, the ruling majority approved the anti-defamation package law, aiming to regulate online media and defamation, by adding state control and imposing high fines against violations.¹⁵⁰⁸ Media representatives, civil society organisations and

international actors opposed the draft, while the Venice Commission considered its effect to be "suppressing free discussion and political speech" in the country.¹⁵⁰⁹ The ruling majority kept the draft in the parliament's agenda¹⁵¹⁰ and allegedly dropped it in 2022.¹⁵¹¹ Defamation is a criminal offence and is fined with up to 3 million lek (€26,087).¹⁵¹² In 2020, the government tried to categorise social media memes and satirical online posts as defamation practices,¹⁵¹³ but swiftly withdrew.

The Constitution prohibits prior censorship in communication platforms.¹⁵¹⁴ Source protection is legally accepted¹⁵¹⁵ and journalists are exempted from giving testimony and disclosing their sources,¹⁵¹⁶ unless ordered by the court under specific circumstances.¹⁵¹⁷

Legally, broadcast media licencing is apolitical and they are awarded following an open procedure launched by the AMA.¹⁵¹⁸ Transmission and programme licences are separate licences which can make up a single application. The application includes both technical broadcast aspects and very broad programme principles based on the licence type.¹⁵¹⁹ For instance, both local and national private audiovisual broadcasts must include in their programmes at least one dedicated programme in Albanian, one for minors, sports, movies, etc.¹⁵²⁰

INDICATOR 12.1.4 INDEPENDENCE (PRACTICE)

To what extent is the media free from unwarranted external interference in its work in practice?



Media owners' business interests, state pressure, verbal and physical attacks, legal actions to silence critical reports via Strategic Lawsuits against Public Participation (SLAPP) suits, and organised crime are threats to media's independence.

There is little independent media in the country¹⁵²¹ and media owners' interests highly condition editorial independence.¹⁵²² Around four families and the public broadcaster own 72 to 84 per cent of the total TV media market (free on air and pay per view) in the country, while four families control most of the TV audience, up to 87 per cent,¹⁵²³ and therefore hold significant leverage over public opinion making. There are allegations that media outlets are part of a cycle of influence and private gains in which media are influenced by the government, businesses and criminal groups to publicly promote their agendas. By doing so, media advance their business interests and profits,¹⁵²⁴ in lucrative markets like construction, banking, gambling, etc.¹⁵²⁵ Public funds channelled to media through state advertisement have decreased and are estimated to be inconsiderable compared to the yearly income of the big outlets. However, public funding has increased for businesses affiliated with media owners, who profit from various tenders and are exempt from paying taxes.¹⁵²⁶ A report backed by national media statements,¹⁵²⁷ mention media blackmailing businesses with unfavourable coverage,¹⁵²⁸ while there are allegations about media groups and journalists who have profited from payments for silencing corruption scandals.¹⁵²⁹ In a contested case, the former general director of RTSh was convicted for abuse of office in 2021.¹⁵³⁰

Pressure against the media has been evidenced during 2020-2022. Direct or indirect forms of state pressure towards media include intimidation of journalists,¹⁵³¹ content control,¹⁵³² influencing the

dismissal of journalists,¹⁵³³ blacklisting journalists for advancement in the labour market,¹⁵³⁴ putting high fines on both media and media groups businesses,¹⁵³⁵ court orders for seizure of media devices,¹⁵³⁶ prosecutor's orders banning media coverage on the 2022 cyberattack on state institutions,¹⁵³⁷ demolishing media group property,¹⁵³⁸ confiscating broadcasts,¹⁵³⁹ etc. On the other hand, young inexperienced journalists, massive informality, lack of labour contracts, low and delayed wages, non-declared or underpaid social benefits, etc.¹⁵⁴⁰ increase pressure on journalists. They make them more susceptible to self-censorship, which is broadly acknowledged to be widespread, along with censorship.¹⁵⁴¹ A report noted that 49.5 per cent of interviewed journalists admitted witnessing censorship in 2021, while 52 per cent practiced self-censorship.¹⁵⁴² During 2020 there were 12 lawsuits against journalists, including three SLAPP suits, which have been reported as a mechanism to silence independent media.¹⁵⁴³ There were 17 registered attacks on journalists in 2020, including threats, harassment, physical attacks and the killing of one local media owner, allegedly linked to organised crime.¹⁵⁴⁴ The Safety Journalists Platform reported about ten attacks in 2021 and 9 in 2022.¹⁵⁴⁵ As one media worker was killed in the unprecedented attack at the Top Channel headquarters in 2023, Reporters Without Borders reports that "organised crime represents one of the biggest threats to journalists' safety" in Albania. The climate created by the impunity of these attacks, the police attacks on journalists reporting on demonstrations and police operations, as well as the political discreditation attempts against journalists, can encourage further attacks against them.¹⁵⁴⁶

Media actors and reports share a common perception that the AMA is dependent upon politics and corporate pressure.¹⁵⁴⁷ The appointment of the former Socialist Party spokesperson as the head of AMA concerned observers about the dubious non-partisanship nature of the institution.¹⁵⁴⁸ The political ties of AMA's executive board members are also questionable.¹⁵⁴⁹ There have been allegations that the government uses licences to control the

media landscape.¹⁵⁵⁰ However, such politically influenced decisions by AMA have not been noticed so far.¹⁵⁵¹

GOVERNANCE

INDICATOR 12.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure transparency in the activities of the media?



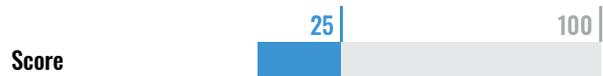
While a number of laws exist to ensure transparency in media ownership, there is no obligation to disclose editorial policies or internal staff information.

The AMA and the National Business Centre (NBC) keep records of the registered companies or licence holders and proactively publish them online. The AMA is legally required to regulate the content of the register,¹⁵⁵² while the NBC register discloses data on the administrators, shareholders and share amount if applicable, establishment data, type of activity and deregistration of registered entities.¹⁵⁵³ Furthermore, owners of registered enterprises are required to register in the register of beneficial owners administered by NBC.¹⁵⁵⁴ In this regard, media outlets have the same obligations as other enterprises in the country. However, online media is not required to register at the NBC if they do not run their activity as an enterprise, i.e. without selling ads.¹⁵⁵⁵

During the application for a media licence, companies are required to include information on their ownership structure, stakeholders and board members.¹⁵⁵⁶ Transferring licence holders' rights or ownership to other subjects needs AMA's approval beforehand.¹⁵⁵⁷ Updated documents should be submitted to the NBC.¹⁵⁵⁸ Fines are applied in case of failure to meet the legal requirements by both the AMA and the NBC.¹⁵⁵⁹ There are no rules on disclosing information about internal staff and editorial policies of media in Albania.

INDICATOR 12.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the media in practice?



In general, ownership data are available for most media outlets, but data is limited about their financing sources and editorial lines.

Generally, media companies do not publicly disclose their ownership on their own initiative, "but indirectly their records are accessible to the public".¹⁵⁶⁰ Based on the type of company (limited company, limited by shares, etc.), NBC's register offers free and public information on the administrator, capital, contacts, shareholders if any, etc. of broadcast, print and online media.¹⁵⁶¹ The register of beneficial owners also displays ownership information.¹⁵⁶² The AMA's register filters the same NBC data for broadcast media only. The full list of audiovisual media owners is available online. Data are listed and grouped by the type of licence holders and are presented in a user-friendly format.¹⁵⁶³ Based on the AMA's latest data for 2022, 67 per cent of the TV outlets were owned by a group of shareholders, while 33 per cent is owned by one shareholder.¹⁵⁶⁴ The majority of shareholders are linked by family ties, making media a family business.¹⁵⁶⁵ Media ownership data remain limited for online media, which do not need to register as an enterprise.¹⁵⁶⁶ Transparency of media financial resources, on the other hand, is a pressing issue. A study from the Centre for the Study of Democracy and Governance found that media outlet owners were among the top 20 richest persons in the country and they had profited from public funding through several public-private partnerships (PPPs), strategic investments, the post-earthquake reconstruction programme and various public procurement contracts.¹⁵⁶⁷ Given the fact that "high-profile business groups have increased their economic penetration in the media market"¹⁵⁶⁸ and that criminal groups have also tried to influence it,¹⁵⁶⁹ the lack of transparency in media funding is

concerning for freedom of expression in the country.¹⁵⁷⁰

Generally, media companies do not make information on their internal staff publicly available on their websites. Unattributed articles are a common practice in print and especially online media articles, according to the IDRA report.¹⁵⁷¹ Media NPOs such as the Balkans Investigative Regional Network (BIRN) Albania, Albanian Centre for Quality Journalism and Faktoje are more organised and include general information on their staff and board members.¹⁵⁷² Editorial principles are only vaguely mentioned in media websites, or ignored.¹⁵⁷³

INDICATOR 12.2.3 ACCOUNTABILITY (LAW)

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?



General mechanisms to ensure that audiovisual media outlets are answerable for their activities are in place, while they are generally lacking for print and online media.

The AMA, an independent institution, is the broadcasting regulatory authority that regulates and oversees the operation of broadcast media in the country.¹⁵⁷⁴ Its responsibilities include maintaining plurality, diversity and fair competition in the broadcasting market, managing public broadcast transmission infrastructure and frequency bands, collecting financial obligations of media outlets, monitoring broadcast content programmes, etc.¹⁵⁷⁵ To this aim, it inspects the programme, technical, financial and organisational activity of licensed broadcasts, without affecting their operation.¹⁵⁷⁶ Content monitoring is based on annual specific themes,¹⁵⁷⁷ while the monitoring of information disseminated by national broadcasts is to be reported on a monthly basis.¹⁵⁷⁸ Monitoring information during electoral campaigns is regulated

separately¹⁵⁷⁹ and in collaboration with the Central Election Committee. In case of breaches, fees are applied and they can be appealed administratively and in court.¹⁵⁸⁰

The AMA is composed by a board of six members. The head of the authority and all five members are elected by the Assembly. Members' mandates last for five years, although the duration of the head's mandate is not clearly stipulated in the law.¹⁵⁸¹ The AMA's decisions are taken on a majority principle, within a minimal quorum of four members out of six.¹⁵⁸² The AMA reports to the Assembly about its annual performance.¹⁵⁸³

The public broadcast service reports twice a year to the AMA about its programme and signal transmission.¹⁵⁸⁴ Its annual financial report is published online proactively.¹⁵⁸⁵ The steering committee of the service reports to the Assembly about the annual performance of the public broadcast service.¹⁵⁸⁶ Private media broadcasts do not submit reports on their programmes to either state regulated or self-regulated organisms. As businesses, they are required to report their annual financial statements to the AMA¹⁵⁸⁷ and to the National Business Centre.¹⁵⁸⁸ Both institutions apply fines for failure to meet reporting requirements.¹⁵⁸⁹ This is the same for broadcast media, print media and online media that operate as a business activity, who have to report their annual financial statements to the NBC like all other registered enterprises.

INDICATOR 12.2.4 ACCOUNTABILITY (PRACTICE)

To what extent can media outlets be held accountable in practice?



Audiovisual media outlets often do not answer for their activities to supervisory bodies. This is partly due to the AMA's restricted supervisory resources and its low application and collection of fines.

The US State Department's Albania Human Rights Report reported on the media's unaccountability, especially in online media.¹⁵⁹⁰ The AMA operated under limited human resources during 2019-2021, as its steering board positions remained vacant.¹⁵⁹¹ This impacted the media landscape, especially regarding awarding and renewing licences which were left unresolved¹⁵⁹² until the AMA became fully operational in 2022. Its new organigram was approved by the Assembly, as the institution admitted they had not been able to fully meet their tasks.¹⁵⁹³ During its inspections, the AMA has issued several fines for non-notification of data changes in the registered licence, non-compliance with transmission rights for broadcasting international movies, etc.¹⁵⁹⁴ The unpaid financial obligations of licence holders has increased to 100,444,123 lek (€873,427) in 2022.¹⁵⁹⁵ Despite noting a decline in the number of illegal audiovisual activities in its annual 2021 report,¹⁵⁹⁶ the AMA reports on the rising challenge of tackling online TV broadcasting piracy, as it requested the Electronic and Postal Communications Authority to shut down 86 online websites that transmitted unauthorised broadcasting in 2022.¹⁵⁹⁷

In terms of monitoring content transmitted by media broadcasts, the AMA has given warnings to several TV outlets for infringing legal obligations regarding ethical violations and transmitting banned commercials, hidden commercials, political commercials, sponsored commercials and exceeding the allowed transmission duration of commercials.¹⁵⁹⁸ The AMA publishes a periodic

bulletin containing general data on broadcast media assets, ownership, staff and technical indicators.¹⁵⁹⁹ However, reports find a consistent lack of data on audience concentration and markets of all media outlets in the country.¹⁶⁰⁰ Despite the signing of the memorandum of collaboration between the AMA and the State Labour Inspectorate on the protection of journalists' labour rights, there are no data on the inspections of the inspectorate in media outlets and their results.¹⁶⁰¹

Due to legal changes in the Electoral Code, the AMA monitored the 2021 electoral campaign for the first time, based on monitoring a selected number of TV outlets. It delivered weekly non-open data monitoring reports to the Central Electoral Commission, and received a low number of complaints from monitored TV outlets.¹⁶⁰² Despite the AMA's recommendation for the application of administrative measures and fines, the Central Electoral Commission turned a blind eye and did not apply most of them.¹⁶⁰³

INDICATOR 12.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there provisions in place to ensure the integrity of media employees?



Comprehensive mechanisms are in place to ensure the integrity of media employees, but the biggest media groups in the country have not joined self-regulatory mechanisms.

Efforts for self-regulating journalism have successfully materialised during the recent years. In 2018, the Albanian Media Institute redrafted the Code of Ethics for Journalists¹⁶⁰⁴ and a group of experts drafted the Ethical Guidelines for Online Journalism.¹⁶⁰⁵ The voluntary code aims to improve the quality of journalism and increase self-regulation, especially in the online sector. As previous codes lacked implementation mechanisms, journalists and media that have embraced the Code

of Ethics of Journalists established the voluntary group of the Alliance for Ethical Media in 2020. The Alliance has set up an Ethics Board in charge of assessing violations.¹⁶⁰⁶ The Albanian Media Council promotes the Code and acts as a secretary organisation for managing complaints.¹⁶⁰⁷ The Alliance has currently 32 members, mainly online media.¹⁶⁰⁸ It has not been endorsed by the majority of media outlets,¹⁶⁰⁹ and none of the biggest media groups has joined the initiative.

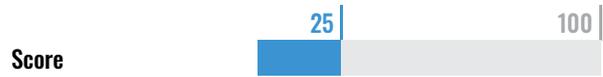
Individual codes of ethics are not common in the country's landscape.¹⁶¹⁰ However, the 2019 IDRA report shows that when asked about their existence, the majority of journalists think that media outlets have ethics codes, which they believe are partially implemented by the media outlets.¹⁶¹¹ In 2016, the AMA mentioned the need for the operation of Ethical Councils in every media newsroom, but this has not been practiced so far.¹⁶¹²

On the other hand, the Appeal Council, a structure within the AMA, is entitled to monitor the application of the Code of Transmission by media broadcasters.¹⁶¹³ This Code generally covers the moral compass of broadcasting and focuses on the conveying of information, data privacy, children's and marginalised groups' rights and limitations on advertisement.¹⁶¹⁴ The Appeal Council has a three year mandate and is required to publish its conclusions every six months.¹⁶¹⁵

Anyone affected by the publication of false and fake information has the right to reply.¹⁶¹⁶ Broadcasts must make the procedure for treating complaints by viewers available on their website. They should keep a record of all complaints and their replies for a period of two years.¹⁶¹⁷ The separate regulation on the application modalities of this right has been enacted and published by the AMA.¹⁶¹⁸ There are no legal provisions for enabling the right to reply and news correction in print and online media outlets, apart from self-regulatory measures foreseen in the Code of Ethics for Journalists.¹⁶¹⁹

INDICATOR 12.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of media employees ensured in practice?



Despite the presence of a few actions which would aim to ensure the integrity of media employees, misbehaviour goes mostly unsanctioned.

The integrity of media employees is severely compromised and constantly constrained by media owners who determine the editorial line as well as a lack of trade unions and precarious labour conditions.¹⁶²⁰ Based on a monitoring report in 2020 by the Albanian Media Council with the 30 most-visited websites in the country, ethical violations are numerous and can be grouped into voluntary and negligent violations. The most common violations are related to a lack of distinguishing fact from opinion, editorial dependence against public interest, lack of accuracy and fairness of information and misreporting of court proceedings and presumption of innocence.¹⁶²¹ Online media holds 62 per cent of the violations, followed by press and TV websites. However, it should be noted that online media mostly reproduces TV video transcripts that were not part of the monitoring.¹⁶²² Journalists tend to use their own free time and resources for training.¹⁶²³ Media NPOs' training on ethics claim promising effects on decreasing ethical violations.¹⁶²⁴

Although there is no journalists' trade union, the majority of journalists are members of the Albanian Journalists Union.¹⁶²⁵ Several other associations like the League of Albanian Journalists and media-focused NPOs advocate for sound journalism.¹⁶²⁶ The Alliance for Ethical Media is particularly focused on addressing ethical violations within the media.¹⁶²⁷

The Code of Ethics does not explicitly regulate the procedure for accepting gifts and hospitality, but stipulates that media shall avoid conflicts of interest and "undue influence arising from personal

benefits” that can affect editorial independence.¹⁶²⁸ However, data leaks on journalists’ salaries in 2021 showed that some journalists had received payments from private companies under investigation for alleged corruption.¹⁶²⁹

Based on IDRA’s report, nowadays journalism has turned into reporting.¹⁶³⁰ Media professionals find widespread disinformation, no fact checking and unbalanced coverage in news reports, resulting in poor journalism quality.¹⁶³¹ Reporting about ready-made materials prepared by the central and local government and hidden advertisements¹⁶³² continuously put the integrity of journalism in question and jeopardise the media’s public role. Nevertheless, regardless of the harsh environment, journalists, and particularly media NPOs, “have set high standards for journalism reporting” in the country.¹⁶³³

During 2022, the Appeal Council at the AMA received 310 complaints from citizens, institutions, civil society organisations and media outlets. The majority of complaints were related to human rights, children’s privacy and ethics. Only two per cent of complaints referred to the right to reply, while 15 per cent were out of scope as they related to social media. Out of these, the Appeal Council issued only two fines and several warnings for the majority of complaints.¹⁶³⁴

The Albanian Journalists Union has reported “a sharp increase in the number of complaints of disinformation and personal attacks by online outlets.”¹⁶³⁵ Watchdog organisations consider state mechanisms not very effective in addressing complaints, while self-regulatory bodies lack the trust and tradition to assume this role.¹⁶³⁶ Online media outlets have communication channels with their readers. There are no reports and data on the validity, usage and effectivity of such forums. There is a broad understanding that online media faces no consequences for its actions¹⁶³⁷ and lacks accountability for holding unethical standards.¹⁶³⁸ There are no data on print media.

ROLE

INDICATOR 12.3.1 INVESTIGATE AND EXPOSE CASES OF CORRUPTION PRACTICE

To what extent is the media active and successful in investigating and exposing cases of corruption?



In general, the task of investigating and exposing cases of grand corruption is mostly neglected by traditional media, which invests in satirical investigative programmes. Investigative journalism is limited to single media outlets and individual journalists.

Investigative journalism has strengthened its role, but has not yet managed to become a key part of the media’s work in the country. Its quality of reporting has improved, especially in media NPOs, due to donors’ increased support for investigative and independent journalism.¹⁶³⁹ A very small number of media outlets focus specifically on investigative journalism. BIRN Albania has consolidated its work since its foundation in 2014. The Albanian Centre for Qualitative Journalism has set up the Investigative Journalism Lab for journalism students.¹⁶⁴⁰ The Albanian Media Institute has provided training on qualitative and investigative journalism.¹⁶⁴¹ Usage of new media and fact-checking have also benefited media investigations.¹⁶⁴²

There is lack of comprehensive data on the number of investigative journalists or media programmes invested in investigation. However, various national TV outlets have included investigative journalism in their dedicated programmes or specific episodes. The range of content varies from organised crime to petty and grand corruption investigations.¹⁶⁴³ Satirical investigative programmes¹⁶⁴⁴ which deal with petty corruption and news have had a much higher transmission longevity than investigative programmes focused on grand corruption. The TV programmes “Publicus” (2016) and “The Unexposed” (2019) were allegedly closed by TV outlets after exposing grand corruption scandals.¹⁶⁴⁵ Notorious

investigations for high-profile cases of corruption include the waste incinerator case¹⁶⁴⁶ which was exposed separately by Artan Rama and BIRN journalists, both subjected to SLAPP suits in court.¹⁶⁴⁷ Other prominent investigations list personal data exposure by the Socialist Party in 2021, PPPs, the reconstruction programme after the 2019 earthquake in Albania, the demolition and construction of the National Theatre, etc.¹⁶⁴⁸ There have also been allegations that investigative journalism has been used to blackmail business and politicians in exchange for journalists' personal gain.¹⁶⁴⁹

Accessing information from state institutions remains extremely difficult.¹⁶⁵⁰ Institutions refuse to provide sensitive information related to concessions, public procurements, natural resources, etc. and court procedures for issuing the information may last up to four years,¹⁶⁵¹ side-lining critical and investigative journalism. There have been cases of banning journalists from attending press conferences.¹⁶⁵² In 2021, the government formally centralised control on the information it releases, ringing alarm bells for the control of the flow of public information and influencing public opinion.¹⁶⁵³

INDICATOR 12.3.2 INFORM PUBLIC ON CORRUPTION AND ITS IMPACT

To what extent is the media active and successful in informing the public on corruption and its impact on the country?



In general, the task of informing the public on corruption and its impact is done within the “entertainment, infotainment, edutainment” media device, following media editorial lines and the pressing agenda set by the current newsroom.

Corruption and anti-corruption are an intrinsic part of public discourse¹⁶⁵⁴ which generally mirrors main political parties' discourse, however the latest data

from monitoring it in practice in the media relate to 2014-2015 and have not been updated.¹⁶⁵⁵ TV outlets do not run any specific programmes dedicated to educating the public as to how to detect and fight corruption. As a matter of fact, the educative role of media is cast aside in the country's media landscape, which has been overwhelmed by entertainment.¹⁶⁵⁶ However, within the trinomial media device of “entertainment, infotainment, edutainment”,¹⁶⁵⁷ the satirical investigative programmes mentioned above have proven a steady continuation in national private television programming. Their investigations, mostly related to petty corruption, have also given a chance to authorities to react, but also reinforce the government's narrative of “treating corruption as an individualised crime, rather than a phenomenon”.¹⁶⁵⁸ Even though prime-time programmes overwhelmingly discuss politics,¹⁶⁵⁹ corruption enters their agenda following each media's editorial line and the pressing agenda set by current affairs.¹⁶⁶⁰

Overall, experts acknowledge that the increase of quality in investigative journalism has not impacted the scale of corruption. Knowledge produced is rather used by civil society than the government.¹⁶⁶¹ When reacting, authorities apply double standards in their response against media-exposed corruption cases. They tend to mobilise in petty corruption cases, but minimise or ridicule media when grand corruption is exposed.¹⁶⁶² Following a journalist statement, freedom of expression is useful when it legitimises the existence of democracy, but becomes problematic when demonstrating corruption and the dysfunctionality of the system.¹⁶⁶³

INDICATOR 12.3.3 INFORM PUBLIC ON GOVERNANCE ISSUES

To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?



Despite broadly televised government activities, the task of informing the public on the regular activities of governance are neglected due to the business interests of media owners, the quality of reporting, sensational news and the government's ready-made materials.

Although government and governance activities are broadly televised, the quality of reporting on the news is precarious. Based on the AMA's monthly monitoring data for 2021, the Prime Minister, the government and the Socialist Party held the lion's share of news reporting in private national TV outlets prior to the 2021 election.¹⁶⁶⁴ As an illustration, during February 2021, the government had 74 per cent of news time coverage in Top Channel, 57 per cent at Klan TV, 53.5 per cent at RTSh and 48 per cent at Vizion Plus.¹⁶⁶⁵ Once the elections were concluded, events in the Democratic Party took the lead, but the majority's share did not dip below 40 per cent in the main TV outlets.¹⁶⁶⁶ There is no data on governance coverage in online media, but a report says that TV outlets' video news feed the majority of online media news, which mostly use desk-reporting in their daily activity.¹⁶⁶⁷

The media's objectivity is constrained by the editorial line based on business interests of media owners.¹⁶⁶⁸ The suddenly inflated media landscape¹⁶⁶⁹ has engaged many non-professional workers, who have low wages and are not organised in trade unions.¹⁶⁷⁰ Despite the qualitative infrastructure, news reporting has been overwhelmed by ready-made materials prepared by government newsrooms, unbalanced and biased coverage, and descriptive and short reports.¹⁶⁷¹ According to a simple monitoring exercise done in 2018 by Medialook, the similarity of published articles with the ready-made news sent from the

Municipality of Tirana ranged from 93 per cent (Balkanweb) to 48 per cent (Syri) in the ten most important media outlets in the country.¹⁶⁷² As a result, broadcast information on governance is mostly incomplete and often questionable, focusing more on sensational news and the race for more clicks than on informing and educating the public.¹⁶⁷³

INDICATOR 12.3.4 GENDER

To what extent does the media include women's voices?



Despite the engagement of women professionals, broadcast media is a man's job in the country, whose public discourse favours dominant gender relations, but lacks systematic monitoring.

Based on data provided by the AMA for 2022, broadcast media is a man's job in the country. Almost one-third of employees are women.¹⁶⁷⁴ Women experience derogatory language in the workplace, internet trolls, sexual harassment, lower wages and are excluded from senior positions.¹⁶⁷⁵

The AMA's monitoring of 12 TV programmes shows a more balanced, but gender-biased representation. Monitoring indicates that in general, TV outlets engage more women moderators than men in their programmes, especially due to the variety of social and family format programmes they transmit. National TV outlets tend to favour male panellists in their programme, with the exception of TV Klan, for whom 64 per cent of panellists are female. The same applies for the rate of female moderators in news TV outlets, which goes from 37 per cent (Report TV) to 84 per cent (News 24). News TV outlets strikingly favour men as their panellists, reaching up from 64 per cent (ABC News) to 84 per cent (Syri TV) of programme panellists.¹⁶⁷⁶ The COVID-19 pandemic reinforced the patterns according to a report of the Friedrich Ebert Foundation. A six-month monitoring of three prime-

time TV programmes and three online media outlets during 2020 showed that 73 per cent of their panellists were men. Women panellists mostly engaged online, while men were present in the studio.¹⁶⁷⁷

The same report finds that 68.9 per cent of monitored programmes and online content contained hate speech and misogyny.¹⁶⁷⁸ Human rights activists have signalled the great number of online trolls they receive after their work is published.¹⁶⁷⁹ A study by the Geneva Centre for Security Sector Governance (DCAF) found that 63 per cent of surveyed activists identified Facebook as the platform where these violations occur most often. Report campaigns in social media have succeeded in, for example, shutting down accounts of feminist and LGBT+ activists on TikTok.¹⁶⁸⁰

Human rights defenders report that the media can entirely ignore news stories about human rights publications of civil society activists. They can also engage in the debate by publishing alternative data and facts against that publication, while not referring to the publication, or by transforming its arguments and misinforming the public.¹⁶⁸¹ The media's stereotypical portrayals of women have been pointed out by activists.¹⁶⁸² They have also voiced criticism of the media's practice of reinforcing discriminatory discourse through sensational reporting in the cases of violence against women,¹⁶⁸³ sextortion, corruption,¹⁶⁸⁴ etc. However, there is a lack of systematic monitoring and data on the inclusion of women's perspectives in broadcast media in the country.¹⁶⁸⁵

INTERACTIONS

In practicing its mission, media interacts mainly with the executive, political parties represented in the Assembly and civil society. As mentioned in the previous section, journalists find it very difficult to access information from state institutions.¹⁶⁸⁶ They do not provide sensitive information particularly related to concessions, public procurements, natural resources, etc.¹⁶⁸⁷ The distribution of ready-made video materials and very limited contacts with journalists through press conferences leaves watchdog journalism operating in a restricted environment.

As reported in the Political Parties pillar, the media's role is to inform the public on political parties' alternatives. Informally, media and political parties share information, expertise and clientelistic interests which affect the anti-corruption work of political parties by amplifying their agenda or silencing it. The Assembly, where political parties are represented, has been traditionally seen as the most transparent institution towards the media. New regulations introduced in 2021 reduced the presence of journalists and cameramen in its premises by allowing only limited reporting by journalists from a designated room. The new website of the Assembly is nevertheless attempting to improve its publication of free access information.¹⁶⁸⁸

As mentioned in the Civil Society pillar, the media advocates for civil society's causes and its findings, but also serves as a defamer against civil society findings critical of the government, particularly when media editorial lines follow the government. Non-profit media outlets which have registered as NPOs link both sectors, and share their expertise and knowledge particularly in the fields of investigative journalism and anti-corruption.

PILLAR RECOMMENDATIONS

- + Self-regulatory mechanisms and supervisory institutions should engage in a thorough discussion for developing recommendations for the legislation and application of transparency and accountability mechanisms of media outlets, especially regarding qualitative reporting and funding transparency.
- + The Assembly should amend the law on public procurement and the law on strategic investments so that media owners that own businesses in other economic sectors such as construction, tourism, etc. are not allowed to receive public funding or obtain the status of strategic investor as an attempt to reduce state's interference and strengthen the media's independence.
- + The Assembly should amend the Electoral Code by clearly excluding electoral campaign advertisement airtime and news coverage airtime from in-kind donations accepted by political parties during the electoral campaign. Article 84 of the Electoral Code should include clear sanctions for exceeding the limits of aired ads transmitted by media outlets. Article 85, point 4 should be amended so that the AMA can create an online real-time public database of the duration of political advertisements, hidden political ads and air-time campaigns of the most-watched TV outlets in the country.
- + The State Labour Inspectorate should produce separate data on inspections in media outlets and their results in order to ensure the enforcement of the Labour Code for the protection of journalists' labour rights.
- + The AMA's monitoring data (regular monitoring and electoral monitoring) should be published in open data formats to enable researchers and journalists to use the data and keep track of the media environment in the country.
- + Political parties should refrain from using derogatory language against journalists and the prosecution should investigate attacks against them.

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CIVIL SOCIETY

OVERVIEW

Civil society entails a narrow field of organised civic engagement of members of society, which focuses on the development of the social realm. It includes non-profit organisations (NPOs) such as civil society organisations (CSOs), associations, foundations and centres whose activity is independent from the state,¹⁶⁸⁹ as well as unregistered civic initiatives. Civic organisations such as political parties and the media are analysed separately, while academia, religious organisations, labour unions, business chambers, sports federations and arts organisations are not included in the analysis.

There were 12,515 NPOs registered in Albania in 2022, out of which only 2,497 NPOs had an active status at the General Directorate of Taxation.¹⁶⁹⁰ The sector counted 11,927 employees.¹⁶⁹¹ The civil society environment appears to be vibrant on paper.¹⁶⁹² However, the overall sustainability of the sector is still evolving and their financial sustainability in particular is on the margins of impeded sustainability.¹⁶⁹³

To address these evolving issues, the government of Albania uses the Road Map for Government Policy Towards an Enabling Environment for the Development of Civil Society 2019-2023. In that spirit, the Agency for Civil Society Support is a state funding body which offers grants to NPOs and civic initiatives to enable their sustainable development.¹⁶⁹⁴ The National Resource Centre for Civil Society is a civil society-run platform for information and service provision for strengthening NPOs.¹⁶⁹⁵ The National Council for Civil Society and the National Council for European Integration, both founded in 2015, are consultation mechanisms for facilitating dialogue between the government and the civil society sector,¹⁶⁹⁶ in order to meet goals for the sector's development and the accession process of Albania in the European Union.

NPOs are subject to oversight by various state institutions which inspect their activity related to taxes, anti-money laundering, customs, social insurance, economic and social activity, and

whenever they use state funds for the implementation of their activities.¹⁶⁹⁷

NPOs in Albania are free to establish. Their registration or deregistration is centralised in the Tirana Court District and takes up to 83 days to be completed. Based on NPOs' estimations, the government has implemented only 20 per cent of the actions of the roadmap for Enabling Environment for the Development of Civil Society 2019-2023. Systematic data on NPOs' employment are missing. Most NPOs have insufficient financial and human resources, putting their sustainability into question. However, the number of NPOs taking advantage of alternative state funding opportunities such as tax refunds, participation in public procurement tenders, etc. is low.

NPOs' independence is legally affirmed, but amendments to the anti-money laundering legislation have created a risk of state interference. Tax authorities' fines to the sector have tripled in 2022. The amendment of the Criminal Code in 2021 deems exercising freedom of assembly a criminal act, sanctioned by up to a year of imprisonment. The government, political parties and the media have pressured, intimidated and harassed civil society activists, while police detentions of activists increased during the COVID-19 pandemic.

In general, NPOs are not accountable to their board structures and members, or constituencies. Relevant information on NPOs' annual activity and financial reports are not generally published. Despite efforts for developing their Code of Conduct and other self-regulatory initiatives, staff and board integrity remain to be ensured in many NPOs.

Despite proving their capacity to produce evidence in the fight against corruption, in general, NPOs are inactive and unsuccessful in engaging with the government on anti-corruption policies and in holding the government accountable. In rare cases, NPOs have proven successful in using strategic litigations and filing criminal reports against irregular government decisions.

CIVIL SOCIETY



	Indicator	Law	Practice
Capacity	Resources	50	25
	Independence	50	25
Governance	Transparency	n/a	25
	Accountability	n/a	25
	Integrity	n/a	25
Role	Hold government accountable		50
	Policy reform		25

SUMMARY



CAPACITY

INDICATOR 13.1.1 RESOURCES (LAW)

To what extent does the legal framework provide an environment conducive to civil society?



While the legal framework permits the establishment and operation of NPOs, registration is a time-consuming and costly process. Small and local NPOs in particular are financially burdened by taxes on environment, property and signboards, and NPO donations are not promoted.

Freedom of association is granted by the Constitution¹⁶⁹⁸ and regulated through various acts of legislation including the registration and functioning of NPOs.¹⁶⁹⁹ Individuals have the right to collectively associate without the need to register the association.¹⁷⁰⁰ A range of constitutional rights ensure the operation of NPOs, such as freedom of expression, freedom of information and freedom of assembly. However, the latter was fundamentally restricted from 2020 to 2021 due to normative acts related to COVID-19 pandemic.¹⁷⁰¹

The current Road Map for a more Enabling Environment for Civil Society Development 2019-2023 outlines 42 actions to be taken by the government for enabling better operation of NPOs,¹⁷⁰² but little progress has been shown towards its implementation.¹⁷⁰³ Despite the government’s claims of 60 per cent completion, the National Resource Centre for Civil Society estimates

that only 20 per cent of the roadmap actions have been implemented as of 2022.¹⁷⁰⁴

Registration of NPOs is centralised and time-consuming.¹⁷⁰⁵ Registration costs have been reduced from 70,000 lek (€608) in 2020¹⁷⁰⁶ to €300 in 2022, while the average time for registration increased significantly from 67.3 days in 2020¹⁷⁰⁷ to 83 days in 2022.¹⁷⁰⁸ All NPOs, regardless of their operation area, submit their registration and deregistration application at the Tirana District Court within 30 days from their foundation or de-foundation.¹⁷⁰⁹ The 2021 law on the registration of NPOs foresees facilitated online procedures through the electronic register and simultaneous registration for tax administration, social/health contributions and the labour inspectorate.¹⁷¹⁰ However, the electronic register has not been operationalised yet¹⁷¹¹ but it is expected to active from 30 December 2023.¹⁷¹² Therefore, the registration and deregistration of NPOs, as well as the update of mandatory documents including statute, board members, etc. are all performed in person, by a judge, based on the 2001 law on the registration of NPOs.¹⁷¹³ If NPOs do not comply with registration deadlines, they may be fined up to 1 per cent of their total revenue.¹⁷¹⁴ NPOs consider the fines to be high and against the principle of proportionality.¹⁷¹⁵ Nevertheless, all court decisions can be appealed at the Tirana Appeal Court.¹⁷¹⁶

Tax authorities treat NPOs “similarly like any other taxable body”¹⁷¹⁷ with a few narrow exemptions. NPOs are eligible to profit from value-added tax (VAT) reimbursement for purchasing goods and services in donor-funded projects.¹⁷¹⁸ NPOs

providing social services are allowed to generate income from their activities up to 20 per cent of their annual budget.¹⁷¹⁹ Since 2021, NPOs can participate in public procurement procedures and obtain reserved contracts for providing medical, social and cultural services. They get exempted from applying in public procurement procedures while offering civil defence, emergency and risk prevention services.¹⁷²⁰ However, local taxes on environment, property and signboards are a continuous burden, especially for small and local NPOs,¹⁷²¹ while existent tax incentives do not promote NPO donations.¹⁷²² In 2021, tax authorities applied the new invoicing and monitoring system for trade activities, including the fiscalisation of transactions of all registered taxpayers, NPOs included.¹⁷²³

INDICATOR 13.1.2 RESOURCES (PRACTICE)

To what extent do CSOs have adequate financial and human resources to function and operate effectively?



In general, most NPOs have insufficient financial and human resources due to limited funding, organisational capacities and the overall labour environment, putting their sustainability and effective operation into question.

NPOs are free to seek funding locally and internationally.¹⁷²⁴ Small and local NPOs are less financially sustainable than larger ones, due to their limited organisational capacities to absorb and administer funds.¹⁷²⁵ International donors hold the lion's share of funding, while state institutions are the third most significant donor.¹⁷²⁶ In NPOs' view, public funding is limited and lacks transparency.¹⁷²⁷ The COVID-19 pandemic made things worse, as the budget of the Agency for the Support of Civil Society was reduced by 40 per cent.¹⁷²⁸ It has not yet returned to the pre-COVID-19 budget level,¹⁷²⁹ despite the fact that NPOs are the main private provider of social services in the country.¹⁷³⁰

Alternative funding opportunities are diversified and include crowdfunding initiatives, VAT refunds, VAT exemption, social activity revenues, etc. Their contribution to annual NPO budgets varies. NPOs declared that donations from corporations and individuals made up 34 per cent of their annual financial resources in 2020.¹⁷³¹

Since its initial approval in 2015, the VAT refund scheme started to function in 2021, when tax authorities successfully refunded VAT expenses of the first four NPOs, out of only 34 registered in the scheme.¹⁷³² NPOs note that procedures for refunds still need to be standardised and tax authorities' personnel need training to comply with the scheme.¹⁷³³ Similarly, only seven NPOs applied for public procurement calls in 2021, with half of them having successful results and being contracted to offer their services.¹⁷³⁴ The low number of NPOs taking advantage of these opportunities is a symptom of the low trust of both partners in each other's activity,¹⁷³⁵ due to assumptions of irregularities on both sides.

Finally, the 2019 earthquake boosted philanthropic activity in Albania, but it could not keep pace afterwards.¹⁷³⁶ However, NPOs were ranked the second most-used channel for donations after direct donors in both 2020¹⁷³⁷ and 2021.¹⁷³⁸

The literature lacks studies focused on NPOs' work organisation in practice. Systematic data on employment by NPOs are missing.¹⁷³⁹ The sector counted 11,927 employees in 2022.¹⁷⁴⁰ The vast majority of NPOs employ very small staffs, ranging from one to four persons, while only seven per cent have more than 15 employees and collaborators.¹⁷⁴¹ Voluntary work is also limited and hampered by centralised registration procedures.¹⁷⁴² As a result, 42 per cent of NPOs engaged one to ten volunteers in their activity in 2020, while only two per cent worked with more than 300 volunteers.¹⁷⁴³

NPOs in general operate on a project basis, allowing for limited specialised human resource capacities. Staff turnover is very frequent¹⁷⁴⁴ and the sector's skilled professionals are subject to brain-drain.¹⁷⁴⁵ As part of a broader spectrum of labour issues, the

sector also experiences high workload, lack of labour division, unhealthy work life-balance, wage informality and violations of labour rights.¹⁷⁴⁶ Such an environment puts NPOs' ability to deliver their missions and impact their communities into question.¹⁷⁴⁷

INDICATOR 13.1.3 INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?



While a number of laws exist to ensure NPO independence, recent amendments to anti-money laundering legislation have created a risk of state interference. The amendment of the Criminal Code in 2021, following the decision of the Constitutional Court, deems exercising freedom of assembly a criminal act, sanctioned by up to a year of imprisonment.

The law stipulates that NPOs operate independently from state institutions and interests. There are no legal requirements to have state representatives in NPO boards or allowing for mandatory state attendance in their internal meetings. Restriction of their activity is limited to the cases foreseen by the law.¹⁷⁴⁸

NPOs activity have been affected by the 2019 legislation against money laundering and terrorist financing, following recommendations by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). Laws on the registration of NPOs, on accounting and financial statements, on the central register of bank accounts and beneficiary owners have all been criticised by NPOs. They maintain that despite the laws' importance for the sector, they were not consulted adequately in the drafting period of these laws and that their proposals have not been taken into consideration.¹⁷⁴⁹ NPOs assert that the laws require additional reporting and sanctions that are

disproportional to the nature and size of NPOs and increase administrative and financial costs;¹⁷⁵⁰ they "do not submit to constitutional guarantees of private and juridical persons"¹⁷⁵¹ and pose high risks for state intervention in their internal operation.¹⁷⁵² The government justifies legal developments as instruments to ensure the sector's long overdue transparency and prevent money laundering.¹⁷⁵³

The 2020 draft law on NPO registration sparked a heated debate, as conflicting legislation required the registration of all informal and grassroots associations, to ensure their operation.¹⁷⁵⁴ Due to the sector's opposition, this requirement was not passed in the final draft that was approved by the parliament in 2021.¹⁷⁵⁵

On the other hand, legislation on freedom of assembly has suffered greatly, not least due to the pandemic regulations. Prior to 2021, article 262 of the Criminal Code criminalised the organisation of protests if they did not have a permit from the State Police.¹⁷⁵⁶ In 2021, the Constitutional Court ruled the article to be unconstitutional and demanded its amendment.¹⁷⁵⁷ However, the court decision was not fully complete and parliament executed it *ad verbatim*. Therefore, the amended Criminal Code that was mistakenly praised by the media and civil society¹⁷⁵⁸ has currently criminalised completely exercising freedom of assembly in Albania. All kinds of protests are now considered criminal acts, sanctioned with a fine or imprisonment up to a year.¹⁷⁵⁹

Regarding the right of privacy, NPOs maintain that thanks to their advocacy efforts, the 2021 law on NPOs registration offers more guarantees for the protection of NPOs' personal data.¹⁷⁶⁰ They are allowed to collect and process sensitive data for their activities. However, they cannot share them with third parties without the prior consent of private citizens.¹⁷⁶¹

INDICATOR 13.1.4 INDEPENDENCE (PRACTICE)

To what extent can civil society exist and function without undue external interference?



The government, political parties and the media interfere in the activities of NPOs by pressuring, intimidating and harassing civil society activists. Police detentions of activists increased during the COVID-19 pandemic, while fines from state authorities tripled in 2022.

The Civicus Monitor indicates that civic space in Albania has narrowed. Based on findings from the Monitoring Matrix country brief, fines for the sector have tripled in 2022. Tax authorities issued 14 fines to NPOs in 2021 and 48 in 2022. Top reasons for issuing fines in 2022 were no information provision by NPOs, non-declaration of employees and fiscal evasion. 69 other fines were issued by the Business National Centre for the procedural infringement of the registration of beneficiary owners, with a financial cost of €40,000. NPOs find these fines to be high and disproportionate.

A survey conducted by MRB and Data Centrum in 2022 found that 76.2 per cent of the surveyed citizens perceive NPOs as extensions of political parties. This does not just reflect the perception from the outside. The study notes the existence of a shadow civil society which includes some NPOs affiliated to the government, although no examples are made public. These NPOs support the government’s agenda and profit from its clientelism. On the other hand, non-aligned NPOs experience pressure during their activity, especially when they are “critical towards political, business and media players”, which is particularly noted for NPOs at the local level.

Intimidation, harassment and attacks on civil society activists have been ongoing during 2020-2022. NPOs experience smear campaigns by the media, the government and political parties which discredit their work. For instance, researchers of think tanks whose work was critical of the government

experienced derogatory campaigns by the government and the pro-government media. The more ground-breaking the findings, the more bitter the campaign to shift the attention from findings to ad hominem attacks. Lesbian, Gay, Bisexual and Transgender (LGBT+) activists who advocated for legal solutions for recognising gay couples parenting were the target of media disinformation and hate speech. NPOs providing services also faced media criticism for not producing results. The Commission for Protection from Discrimination has issued some decisions in favour of CSO complaints for vulnerable communities. However, the AMA has failed to take action against TV stations that used derogative language against LGBT+ community activists, as discussed in the media pillar (see 12.2.4). Furthermore, the number of activists detained by the police increased particularly during and after the COVID-19 lockdown including during 2022, peaking at the demolition of the National Theatre and protests against the killing of a citizen by a police officer in 2020.

GOVERNANCE

INDICATOR 13.2.1 TRANSPARENCY (PRACTICE)

To what extent is there transparency in CSOs?



In general, many NPOs do not make relevant information on their activities publicly available on their websites, through other communication channels or via annual activity and financial reports.

NPOs are very vocal about the transparency of public institutions, but show little progress in making themselves more transparent. NPOs use social media, digital tools and media representations to divulge their activities. However, they do not pay adequate attention to updating relevant information about their organisation on their websites. Information about staff and their governing bodies is unsatisfactory for both NPOs and networks.

Recent data is lacking, but a 2020 survey showed that only 39 per cent NPOs published their annual reports online, out of which only 25 per cent included financial information, and only in very broad figures. Furthermore, very few NPOs publish their annual audited financial reports separately. The discrepancy between words and deeds weakens NPOs' cause and allows grounds for mistrust towards their activity.

INDICATOR 13.2.2 ACCOUNTABILITY (PRACTICE)

To what extent are CSOs answerable to their constituencies?



In general, NPOs are not answerable to their board structures and constituencies and largely disregard the requirement to publish their annual financial statements.

NPO board structures are existent on paper and include members outside the organisation. However, they are considered largely formal and without any substantive oversight power on the operation of NPOs, with very few exceptions.¹⁷⁶²

Various reports¹⁷⁶³ indicate that membership-based organisations have weak linkages with their constituencies, making it very difficult to collect membership fees,¹⁷⁶⁴ while local NPOs' linkages with their beneficiaries are slightly more sustainable and have recently been facilitated by IT tools.¹⁷⁶⁵

According to the 2022 opinion poll "Trust in governance", trust in civil society organisations has been stable during 2020-2022. The 2022 findings show that 53.6 per cent of citizens have great trust and generally trust NPOs, while 44 per cent do not trust and have no trust at all in them.¹⁷⁶⁶ Bino et al claim that project-based operation and discontinuation of services due to limited financial viability prevents NPOs from fostering sustainable connections and trust with their beneficiaries.¹⁷⁶⁷

To enhance accountability to their beneficiaries and donors, in 2020, the National Accounting Council issued the NPO Performance Report Template which requires large NPOs with assets over 30 million lek (€260,870) to publish their performance reports, together with their annual financial statements.¹⁷⁶⁸ To this report's knowledge, NPOs have largely disregarded these requirements, but have included very broad performance information in their annual reports.

INDICATOR 13.2.3 INTEGRITY (PRACTICE)

To what extent is the integrity of CSOs ensured in practice?



In general, many NPOs are still inactive in ensuring the integrity of their staff and board. However, more NPOs are increasing efforts to develop their Codes of Conduct and are joining self-regulatory initiatives.

Countering state intervention to regulate the sector, NPOs have intensified self-regulatory initiatives to increase their legitimacy and credibility, although results are not yet visible. Data show that 76 per cent of NPOs reported having Codes of Conducts in 2020, however their implementation is quite bleak. On a positive note, after two years of international teamwork, in 2021, 16 NPOs approved and became part of the Code of Standards. This Code is an internal self-regulatory tool to better the implementation of good governance, human resources and financial management, transparency and accountability within NPOs and has its own implementing structures. Membership in the Code is acquired voluntarily by filling in the Self-Assessment Framework of the Standards Code of NPOs. The Code Committee is entitled to assess the fulfilment of the Code's basic obligations and requirements for the NPOs willing to join it, or those that want to retain their membership.

In parallel, since 2020, NPOs started working on a dedicated online platform for Code members to

enable beneficiaries and donors to check their activity. The platform was launched in 2021. Membership in the Code has increased minimally to 24 members since 2021, making it extremely narrow compared to the number of active NPOs. Members have also not fully implemented the Code in practice, especially regarding financial transparency. Additionally, in 2021, NPOs started preparing the NPO Risk Assessment Methodology on Terrorist Financing as a civil society international response to avoid state over-regulation and strengthen civic space. The methodology was published in 2022 and rated the sector at “low risk” for terrorist financing. NPOs expect state authorities to endorse the methodology and remove the classification of the NPO sector as being “high risk” for money laundering. In late 2022, the Balkan Civil Society Development Network (BCSDN) launched the Regional Accountability Community of Practice, which aims at experience sharing and joint enhancement of NPOs’ accountability in the Western Balkans.

ROLE

INDICATOR 13.3.1 HOLD GOVERNMENT ACCOUNTABLE

To what extent is civil society active and successful in holding government accountable for its actions?



While NPOs are somewhat active in seeking to hold the government to account via investigations, monitoring, research, lawsuits and filing criminal reports, the effectiveness of their actions is limited to very few success stories.

According to a Global Initiative assessment, there are 49 NPOs engaged in organised crime and anti-corruption in Albania in 2021, while very few of them have engaged solely in anti-corruption. Civil society’s public watchdog role has been growing in quality and consistency, but its impact on holding the government accountable is still narrow.

Furthermore, they experience government pressure and a dismissive attitude towards their policy recommendations.

Watchdog activity is limited to few consolidated NPOs and dependant on donor funds. The most important watchdog activities include investigation, research and monitoring. Media-focused NPOs have been particularly valuable in investigating a number of high-profile corruption scandals. The most significant one was the waste incinerators scandal, for which BIRN was sued in court. BIRN considered the lawsuit a Strategic Lawsuit against Public Participation (SLAPP). Other prominent investigations include public procurement procedures (PPPs), the reconstruction programme after the 2019 earthquake in Albania, etc. Among the few continuous monitoring programmes, ResPublica has become a trusted source on the monitoring of the freedom of information legislation’s application. The Albanian Helsinki Committee has monitored justice reform. The Institute for Democracy and Mediation (IDM) monitors the implementation of public administration reform and Open Data Albania tracks public budget expenditures, signalling red flags for suspicious corruption cases. Research quality has been improving, especially due to increased collaboration with international research groups. The most important publication in the field was the report about deconstructing state capture in Albania which examined grand corruption cases through tailor-made laws applied during 2008-2020. The Southeast Europe Leadership for Development and Integrity (SELDI) initiative has extended research on anti-corruption and state capture at the regional level.

On the other hand, NPOs have proven successful in using strategic ligations and filing criminal reports against irregular government decisions. However, success stories are rare. For example, the Eco Albania litigation against the concessionary contract signed by the state for building a hydropower plant in the Vjosa river proved both the illegality of the contract, as well as the fabricated citizens’ consultations held to back the contract. Another

rewarded effort was the legal struggle of the community of Zall-Gjoçaj, backed by the Kujria Centre and the Open Society Foundation Albania (OSFA) legal clinics against the decision to build hydropower plants in a national protected area. ResPublica has established itself as a defender of freedom of information in various litigations as well as in cases related to the 2019 earthquake reconstruction programme. Furthermore, in 2019 and 2020, Nisma Thurje filed criminal reports at the Special Prosecution Against Corruption and Organised Crime for the investigation of prominent public-private procurements on the sterilisation of surgical equipment and the incinerators affair.

INDICATOR 13.3.2 POLICY REFORM

To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?



NPOs engage in policymaking advocacy with the government, mostly by providing their expertise during public consultations and by initiating legal or policy initiatives. According to the United Nations Convention Against Corruption (UNCAC) coalition report, there are no specific regulations dedicated to public participation in anti-corruption efforts. These initiatives are foreseen in the broad scope of the law for public consultations, which includes consultations for policies of high public interest.¹⁷⁶⁹ In 2019, the Assembly of Albania issued a resolution acknowledging the role of human rights defenders in the fight against corruption, but the resolution is not legally binding and has not been implemented so far.¹⁷⁷⁰

In general, NPOs' impact in public consultations and policymaking is limited.¹⁷⁷¹ Consultations are legally limited only to draft laws and they are widely recognised as "artificial exercises".¹⁷⁷² The lack of transparency from public institutions, inconsistent consultations and restrictions because of the COVID-19 pandemic have deteriorated NPOs' advocacy efforts.¹⁷⁷³ Both the public and NPOs

consider consultation mechanisms to be ineffective,¹⁷⁷⁴ largely formal¹⁷⁷⁵ and without impact on legislation or policymaking.¹⁷⁷⁶

Despite challenges, civil society has proved its capacity to produce evidence in the fight against corruption and engage in anti-corruption interventions.¹⁷⁷⁷ However, "evidence-based policy making has been difficult to be achieved in practice in a meaningful way" due to the resistance of policy makers and the mistrust and hesitance of think tanks to engage with state authorities.¹⁷⁷⁸ Despite the low number, there have been cases where advocacy efforts have been partly successful. The justice reform, for instance, was an aid-funded anti-corruption initiative, which is considered "the pinnacle of civil society-government cooperation",¹⁷⁷⁹ although its implementation has raised concerns by NPOs.¹⁷⁸⁰ Regardless of the numerous corruption scandals and critics against PPPs, the government persisted in its policy,¹⁷⁸¹ but it legally restricted the areas for accepting unrequested proposals for public-private procurements, following recommendations of the International Monetary Foundation (IMF) and World Bank.¹⁷⁸² Recently, NPOs have focused on targeted interventions against corruption to enhance their projects' feasibility. For instance, the National Coordinator against Corruption at the Ministry of Justice approved the application of the integrity plan drafted by the Institute for Democracy and Mediation in collaboration with the ministry,¹⁷⁸³ extending the practice in several local and central public institutions.¹⁷⁸⁴

INDICATOR 13.2.4 GENDER

To what extent are CSO programmes gender-sensitive?



NPO programmes take into account gender considerations, but not consistently, while the collection of gender-disaggregated data are mainly donor-driven.

Although there are no disaggregated data for the civil society sector in particular, according to Institute of Statistics (INSTAT), the public services, community and social services sector is predominantly dominated by women.¹⁷⁸⁵ Technical Assistance to Civil Society Organisations in the Western Balkans and Turkey (TACSO) reports that the public perceives civil society in particular as the most sensitive sector for gender equality and an advocate for more gender mainstreaming activities.¹⁷⁸⁶ The MRB and Data Centrum opinion poll in 2022 found that 47.9 per cent of respondents acknowledged civil society's work on women's and children's rights in the country, which was the highest rate of acknowledgement, compared to their contributions in different fields spanning from accountability of state institutions to human rights.¹⁷⁸⁷ Nevertheless, when violence against women reaches the media spotlight, the general public blames NPOs working with women for their lack of effectiveness.¹⁷⁸⁸

According to a 2021 UN Women report, international NPOs in Albania continue to work on strengthening programmatic and operational capacities of NPOs, mainstreaming gender across their various thematic areas and programmes.¹⁷⁸⁹ Partly donor-driven, NPOs tend to favour the participation of women over men in their capacity-building workshops and try to ensure mixed gender participation in their activities.¹⁷⁹⁰ Collecting gender-disaggregated data on the reach and impact of NPOs' events and projects is also mainly donor-driven and the data are largely kept for internal use.¹⁷⁹¹

INTERACTIONS

Civil society mostly interacts with the media, the executive and the judiciary. Interaction with the executive is facilitated through dialogue platform mechanisms such as the National Council for Civil Society and the National Council for European Integration. However, these platforms have not managed to serve their purposes for increasing civil society's involvement in the EU accession process.¹⁷⁹² They have neither advanced cooperation nor dialogue on the development of civic space in the country, as no council meetings were held in 2021¹⁷⁹³ and only two meetings were held in 2022.¹⁷⁹⁴ As already mentioned, NPOs' impact in public consultations and policymaking is limited¹⁷⁹⁵ due to the decreased transparency of the government's decision-making process¹⁷⁹⁶ and the decreased use of evidence produced by NPOs in policymaking.¹⁷⁹⁷ Media serves both as an advocate for civil society's causes as well as a defamer while fuelling attacks on civil society, particularly visible in government-influenced media.¹⁷⁹⁸ Interaction has increased due to the increased role of visual and other media in NPOs' activity, to the development of new media CSOs, and to the increased presence of NPOs' expertise in media studios. Lately, the judiciary's interaction with NPOs has also been growing. NPOs have been using lawsuits in court and submitting criminal files at prosecutors' offices, addressing potential corrupt practices of the central and local governments.

Relations between NPOs and the civil service need to be transformed into constant cooperation based on sharing information, experience and knowledge, as civil society and civil service both share civic space. Interactions with the Assembly and local government need to be strengthened to improve the sector's contribution to legislation and service delivery at the local level.

PILLAR RECOMMENDATIONS

- + NGOs should increase advocacy efforts for the implementation of the activities foreseen in the Road Map for a More Enabling Environment for Civil Society Development 2019-2023 and engage proactively in the consultation of a potential roadmap for 2024-2028.
- + Self-regulatory organisms should increase the amount of training with NGOs so they can increase capacities to use alternative funding opportunities including crowdfunding initiatives, public procurement calls, VAT refunds, VAT exemption, social activity revenues, etc.
- + Self-regulatory organisms should increase NGOs' membership in the Code of Conduct and increase efforts for the full application of the Code of Conduct by its NGOs members, especially regarding financial transparency and accountability and human resource management.
- + The Assembly must amend the Criminal Code, article 262 on organisation and participation on illegal gatherings and manifestations, which criminalises the right of peaceful assembly with a fine or imprisonment up to a year. The whole article must be reconceptualised and possibly deleted as it is built on the unconstitutional requirement for obtaining permission by the State Police for organising demonstrations.

ENDNOTES

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- ¹⁷¹⁰ Law 80/2021 on Registration of Non-Profit Organisations, Article 36.
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BUSINESS

OVERVIEW

The private sector is primarily regulated by the Law on Merchants and Commercial Enterprises, the Law on Business Registration and legislation on accounting, statutory auditing, tax and customs, as well as the Code of Administrative Procedure.

The Ministry of Finance and Economy sets economic policy, whereas the Minister of State for the Protection of Entrepreneurship is established to support and safeguard private entrepreneurship, enhance cooperation among different institutions to improve public services for businesses and create a conducive environment and favourable conditions for entrepreneurship to thrive.

In 2022, there were 125,222 economically active companies, and 15,700 new companies were registered that year.¹⁷⁹⁹ The majority of businesses operate in the trade sector, followed by accommodation and food services, as well as the industrial sector. Most businesses in Albania are small and medium-sized enterprises that provide services or trade and manufacturing. The National Business Centre (NBC) is the competent authority that handles the registration and licensing of businesses as well as administering the beneficial ownership register. There are more than a dozen industry and trade chambers, and two councils serve as mediators between public and non-public institutions.

Regulatory reform has streamlined the opening and closing of businesses, but difficulties remain regarding bankruptcy procedures, property rights, construction permits, authorisations and access to finance. Oversight authorities need stronger capacity and independence. However, there are challenges in categorising enterprises as small, medium or large in Albania, as different laws employ different definitions. This inconsistency creates legal gaps and overlaps with the tax law, law for small and medium-sized enterprises, and the law on accounting offering distinct classifications for businesses of different sizes.

Transparency provisions are comprehensive, with laws on beneficial ownership registers and financial

reporting standards. However, ownership of less than 25% of shares for beneficiaries is not mandated to be disclosed in the beneficial ownership register. Audited financial reports of larger companies are submitted to tax authorities and made publicly accessible through the NBC online database. In contrast, small and medium-sized businesses are only obligated to have their balance sheets signed by an accountant and publication is not mandatory for them. Delays in publishing annual reports and imprecise reporting are observed. Some large companies fail to submit financial statements after receiving state contracts. Progress has been made in the market of legal auditors, but challenges persist in sanctioning non-compliance.

Efforts to establish codes of conduct and anti-corruption measures exist, with sector-wide codes in industries like banking. Implementation of Codes of Ethics and integrity standards is limited, with challenges in confidentiality and independent investigation mechanisms. Transparency in punishing companies for corruption is limited, with reports often anonymised and infrequently updated.

While women's representation in management positions of large companies slightly exceeds the EU average, significant gender gaps persist in both political and economic power. Initiatives like the National Action Plan for Women Entrepreneurs have had limited impact.

Anti-corruption is on the business sector's agenda, but it is not a top priority. Additionally, cooperation between the private sector and civil society is underdeveloped.

Albania's business environment is prone to corruption due to challenges such as informality, low capacity and ineffective public administration, and low trust in the justice system. The level of corruption in Albania is assessed as one of the biggest problems, even by the American Chamber of Commerce. In the 2021-2022 Business Index, this component was ranked the fifth most worrying in

the business climate among 27 indicators in total. “The main drivers of business climate performance - fair, equal and transparent practices - are still far from the expectations of companies and investors. During 2021, the respondents’ perception has declined on ‘Monopoly and Unfair Competition’ (-2.95 points), ‘Corruption Level’ (-0.79 points), ‘Government Bureaucracy’ (-1.64 points) and ‘Application of Laws and Regulations’ (-1.32 points).”¹⁸⁰⁰

The online registration system faced initial issues but contributed to reducing corruption at lower administration levels. The government established the Ministry of State for the Protection of Entrepreneurship to handle administrative complaints.

However, there is an absence of a blacklist identifying firms engaged in corrupt practices and money laundering. The only available public list pertains to individuals or companies associated with financing terrorism, mandated by legal obligation. In many instances, information about companies involved in corruption is only revealed during police investigations or court hearings. The lack of a comprehensive database hinders the assessment of progress and implementation of anti-corruption standards by businesses.

BUSINESS



	Indicator	Law	Practice
Capacity	Resources	75	75
	Independence	75	50
Governance	Transparency	75	50
	Accountability	75	25
	Integrity mechanisms	50	25
Role	Anti-Corruption policy engagement		50
	Support for/engagement with civil society		25

SUMMARY



CAPACITY

INDICATOR 14.1.1 RESOURCES (LAW)

To what extent does the legal framework offer an enabling environment for the formation and operations of individual businesses?



The laws pertaining to the opening, operation and closing down of individual businesses are clear, straightforward and easy to apply and include only reasonable requirements for applicants. However, the enforcement of property rights remain a concern among the business community

To start a business, citizens need to register with the National Business Centre and obtain a unique identification number, reserve a unique name, prepare incorporation documents, register for taxes, obtain necessary permits and register for value-added tax (VAT) if exceeding certain thresholds.¹⁸⁰¹ In practical terms, to register a business through the electronic counter of the NBC, the applicant should be electronically identified through the e-Albania portal, select the desired registration type, fill out the electronic form, upload required documents, electronically confirm the application with a legally recognised electronic signature, receive automatic confirmation from the NBC and have the application and documents reviewed by authorised officials.¹⁸⁰² Overall, the process is fairly uncomplicated, following a “one-stop shop” system, and involves minimal costs for citizens.

The implementation of a new bankruptcy law in 2017 aimed to streamline market exit procedures, prevent abuse, facilitate collateral recovery and strengthen the insolvency regime.¹⁸⁰³

Businesses have repeatedly expressed concerns about uncertain property rights, which remains a major issue.¹⁸⁰⁴ However, the government has undertaken various legal initiatives to remedy the situation, mostly driven by the EU harmonisation agenda. These efforts include amending the Criminal Code¹⁸⁰⁵ in 2017 to better address copyright infringements and amending the Law on Industrial Property¹⁸⁰⁶ in 2017 to create a solid basis for the protection of intellectual property. The National Intellectual Property Strategy 2022-2025 aims to establish a well-functioning internal market by striking a balance between the interests of intellectual property rights owners and users while strengthening the registration and protection system. The strategy outlines improvements in the regulatory framework, enhanced administrative capacities, increased public awareness, strengthened cooperation among institutions and the facilitation of the commercialisation of intellectual property facilities and technology transfer.^{1807,1808} The scope of the law on industrial property was broadened to regulate the trade secret protection system against illegal acquisition, use and disclosure.¹⁸⁰⁹

INDICATOR 14.1.2 RESOURCES (PRACTICE)

To what extent are individual businesses able in practice, to form and operate effectively?



In general, to start a business is very straightforward and does not involve significant investment in terms of time and money. However, the opposite is the case for bankruptcy procedures and the protection of intellectual property rights, exacerbated through slow court procedures due to the slow vetting process of judges.

For years, the business registration process has been fast, and for the last two years, registering a business has been free.¹⁸¹⁰ Depending on the type of company, it takes from one to three days (for foreign-owned enterprises) to register it. There are only a few¹⁸¹¹ documents required (see 14.1.1) and the entire application is made in the integrated centre of the NBC. In 2020, the NBC also offered the possibility of registering companies online, while from 2022 this service is only offered online through the e-Albania portal.¹⁸¹² According to an administrator of the General Confederation of Industry, this decision brought problems with delays in the system¹⁸¹³ and cases have been reported where the system does not work properly,¹⁸¹⁴ but the decision to provide state documents only online has influenced the reduction of corruption at the lower levels of the administration.¹⁸¹⁵

The National Bankruptcy Agency only became fully operational in 2020.¹⁸¹⁶ Due to ongoing discussions on the regulation for bankruptcy procedures (see 14.1.1), the current practice still remains difficult, taking months and causing financial costs to businesses. Businesses constantly complain that it is difficult to complete a bankruptcy procedure,¹⁸¹⁷ and according to an administrator from the Confindustria business association, this is because various tax issuing institutions (e.g. municipal institutions, the tax office and customs) are lagging behind in issuing the dues, therefore complicating the procedure to formally wind up a business.¹⁸¹⁸

The business system appeal, apart from the court appeals, is addressed through the establishment of a tax appeal structure, which has been transferred from the dependency of the General Directorate of Taxes to the Ministry of Finance and Economy. This facility serves as a chamber to resolve administrative complaints with businesses before they go to court.¹⁸¹⁹ However, according to the former director of the Tax Appeal Directory, businesses think that the penalty imposed on them should be left as a bank guarantee and often block their liquidity. The ratio of decisions of the Directorate of Tax Appeals has remained the same during the last years, only five to six per cent of the decisions are in business's favour and the rest goes to court.¹⁸²⁰ Lately, with the low number of judges due to the vetting process (see 3.2.6), the process takes years.¹⁸²¹

Regarding the respect of intellectual property rights, there is a directory for intellectual property that maintains the basic registration of trademarks and patents. The process is not widely used by businesses and there are only 21,990 registered trademarks in total and 11,441 patents.¹⁸²² This is mainly due to a lack of information provided to the business community regarding this service and a lack of information exchange between institutions to better protect intellectual property rights.¹⁸²³ According to business associations, the need to go through the courts would be eliminated if the Market Protection Inspectorate and the Intellectual Property Directorate would cooperate with each other.¹⁸²⁴

INDICATOR 14.1.3 INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of private businesses?



Comprehensive legal safeguards to prevent unwarranted external interference in the activities of private businesses exist. However, frequent regulatory changes in business registration, licensing, taxation procedures and public procurement lead to instances of undue influence in practice.

The Constitution recognises and protects the independence of businesses as a fundamental right. State authorities are prohibited from arbitrarily limiting or interfering with the exercise of this right, except in cases where there is a compelling public interest that is sanctioned by law.¹⁸²⁵

Government bureaucracy and inconsistent application of laws remain significant concerns of the business community, which hinder legal certainty by introducing ad hoc changes in regulatory and taxation measures.¹⁸²⁶ The licensing law has been amended five times since 2015, with two revisions in the last two years, the registration law has seen two amendments since 2019, and the public procurement law has undergone changes every two years since its adoption. The taxation procedures law has been amended 22 times since its adoption in 2018, including six changes since 2019.

With the aim of protecting free private enterprise, the government established the Ministry of State for the Protection of Entrepreneurship, which is responsible for handling administrative complaints of businesses against public institutions and officials as well as assisting businesses in protecting their legal rights. The Ministry has soft power competencies and can issue recommendations. In 2020, the Ministry proposed the revision of the law on inspection aiming to establish online inspection in all areas.¹⁸²⁷

Businesses in Albania also have other options for seeking redress if they believe they have been subjected to undue external interference. Businesses can file a complaint with the NBC if there has been abuse during the registration process.¹⁸²⁸ The National Chamber of Commerce provides support to businesses and can help mediate disputes or conflicts that arise between businesses and the government.¹⁸²⁹ In addition, businesses can file a complaint with the Competition Authority if they believe they have been subjected to unfair or anti-competitive practices.¹⁸³⁰ Finally, the court system provides a legal remedy for businesses that have been harmed by illegal or improper actions.

INDICATOR 14.1.4 INDEPENDENCE (PRACTICE)

To what extent is the business sector free from unwarranted external interference in its work in practice?



The use of businesses by officials to obtain favours is widespread at both levels: in the abuse of their funds for political interests, and in corruption for personal monetary gain. However, many businesses are more concerned with the restriction of economic freedoms through special laws than with the widespread corruption at the lower levels of the administration.

The accusations of justice bodies,¹⁸³¹ surveys of businesses and reports on the perception of corruption in Albania¹⁸³² show that abuse in this area extends to all levels of the administration, from simple employees and specialists to the management level, including MPs and former ministers.

According to the transition report for the years 2022-23 published by the European Bank for Reconstruction and Development, Albania has regressed in terms of good governance, scoring 4.62 points, down from 5.26 in 2016 and 4.71 in 2020. Albania leaves behind only Bosnia and Herzegovina in the group of Southeastern European countries as

far as the low level of good governance is a concern. Governance scores have deteriorated significantly in a number of economies over the last six years, primarily reflecting increases in perceived informality and corruption (as seen, for instance, in Albania and Bosnia and Herzegovina) and a decline in the perceived effectiveness of courts.¹⁸³³

Cases of public officials receiving payments from the private sector are widespread, although there have been initiatives to reduce contact between businesses and public officials. In May 2022, the government decided that all public administration documents be issued online to eliminate citizens' contact with administration employees. All the document inquiries are made online and the administration is obliged to issue them within the deadline. Previous initiatives have also been undertaken with the creation of several government portals to denounce corrupt actions or solve the problems of businesses and citizens on a "shqipëriaqeduam.al" platform. On 11 April 2023, five important chambers, the American, German, French, Italian and the Albanian Confindustria requested in a joint statement for the government and Assembly to implement a package in the fight against corruption and to reduce bribery by establishing the OECD standards.¹⁸³⁴

Although legal initiatives and campaigns in this area have been undertaken over the years, the level of corruption in the tax administration and customs is widespread. Investigative media report that businesses make payments to the employees of these agencies.¹⁸³⁵ Another area that has a high level of corruption and blackmail among businesses is public procurement.¹⁸³⁶ Procurement processes are often not undertaken according to standard of open contracting data, transparency, and avoiding conflicts of interest not only for the administration but also for companies, and lack the creation of a performance system for the contractors.¹⁸³⁷

Currently, some types of public funding entirely bypass standard public procurement processes due to the misuse of discretion by public officials, who exploit the exemption related to "essential state interest" in the law.¹⁸³⁸

The level of corruption between the government and businesses has been evident since the launch of the work of the Special Prosecution for Corruption and Organised Crime in 2019. Large corrupt schemes such as the "incinerators" case¹⁸³⁹ or in the field of public procurement, where in 2021, the director of the largest agency was handcuffed and convicted "for violations of equality at public bids", suggest the spread of corruption even at high levels.¹⁸⁴⁰

As a concrete case, Gjergj Buxhuku of Confindustria mentions the tailor-made law granting the status of "strategic investor", where state land is donated and tax exemptions are obtained. This distorts the competition in market.¹⁸⁴¹ Similar cases are the concessionary and PPP contracts approved by a special law in the Assembly, which avoid the public procurement process by giving companies millions of euros from the budget or exclusive services that create monopolies in the market and destroy competition.¹⁸⁴² During last eight years, the government has awarded five concession contracts on roads, four in the field of health, three in the field of urban waste (incinerators) and some others in the control of fuels, such as marking or measuring the amount of fuels, and has approved a special law granting the land of the largest port in the country (Durrës Port)¹⁸⁴³ and is in the process of granting a monopoly to a company in the field of issuing electronic certificates for business. In many of these PPP contracts, such as incinerators or the sterilisation of surgical sets, the prosecution has opened investigations, and senior officials, a former minister and a member of the Albanian parliament have been arrested in 2021 and 2022.¹⁸⁴⁴

In 2021, the foreign affairs minister's husband won the status of "strategic investor" for constructing a hotel on the south coast of Albania and was awarded the exclusive right to use the coastline for 30 years. The opposition MP, Agron Shehaj, who denounced this affair, was then faced with the blocking of his business premises by the State Police.¹⁸⁴⁵ In face of the wave of protests that started after the inflation crisis, on March 2022, the government decided to set up two boards to

determine the pricing of food and fuel.¹⁸⁴⁶ Business associations have been against this decision and have counted cases of bankruptcy of small enterprises while it reduces economic freedom.

GOVERNANCE

INDICATOR 14.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure transparency in the activities of the business sector?



Transparency provisions are comprehensive and several laws to improve transparency were passed. However, ownership of less than 25% of shares for beneficiaries is not mandated to be disclosed in the beneficial ownership register and low penalties for submitting annual financial reports lead to non-compliance.

2020 saw the approval of the Law on the Register of Beneficial Owners, with businesses and NGOs providing data to populate the register. Entities holding 25% or more shares directly or indirectly in a company must be identified as the Ultimate Beneficial Owners (UBO).¹⁸⁴⁷ The National Business Centre holds the UBO register, and businesses failing to register their UBOS may face monetary fines.¹⁸⁴⁸ Amendments to the UBO law were adopted in January 2022, extending the registration deadline and increasing penalties for non-compliance.¹⁸⁴⁹ The publicly accessible information in the register includes the beneficial owner's name, citizenship, birth details, and ownership type and percentage. Competent state authorities have unrestricted electronic access for the purpose of fulfilling their legal obligations, while non-public data can be obtained by individuals demonstrating a legitimate interest by submitting a request.¹⁸⁵⁰

Companies must prepare annual financial statements,¹⁸⁵¹ and those exceeding certain thresholds must have their statements audited by

an external auditor. The criteria are based on total assets, total revenues and average number of employees during the year.¹⁸⁵² Audited financial statements must be submitted to tax authorities and are publicly available through the NBC online database.¹⁸⁵³ Big businesses have to publish annual financial statements, progress reports on activities and consolidated progress reports along with the audit report on their official websites within 7 months of the reporting date.¹⁸⁵⁴

For small and medium-sized businesses, the obligation is for the balance sheets to be signed by an accountant, but their publication is not mandatory.¹⁸⁵⁵ There are problems with the way different laws categorise enterprises into small, medium and large. Different laws classify them differently, creating a legal gap or overlap.¹⁸⁵⁶ The tax law classifies big business as a different type of business, the law for small and medium-sized enterprises has a different definition and the law on accounting has another.¹⁸⁵⁷

In general, even though the deadline to submit annual balances is July 31 of the following year, according to the Head of the Public Oversight Board, the submission of financial statements is late and is finalized in the second half of the year. The penalty imposed in the case of late filing a financial statement is 15,000 lek (approx. €145) so the large and important companies avoid this obligation by choosing to pay the penalty. International Financial Reporting Standards (IFRS) are applied by public interest entities meeting specific criteria and are regulated by the Bank of Albania and Financial Supervising Authority. National Accounting Standards (NAS) are applied by all other businesses.¹⁸⁵⁸ They have the option to voluntarily adopt IFRS even though the revised NAS are mostly modelled on the IFRS for small and medium-sized enterprises.¹⁸⁵⁹

The Bank of Albania is responsible for supervising and regulating banks and other financial institutions.¹⁸⁶⁰ It conducts regular and special on-site inspections. Regular inspections are conducted annually and cover a range of areas, including risk

management, corporate governance, financial reporting and compliance with laws and regulations,¹⁸⁶¹ whereas special inspections are conducted in response to specific concerns or risks identified by the Bank of Albania.¹⁸⁶²

Despite the problems in the field of business transparency, improvements have been made in recent years, such as the obligation of companies that have contracts with public institutions to submit the list of payments they have received from state funds.¹⁸⁶³

INDICATOR 14.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the business sector in practice?



Companies' ownership structure is public and as of recently, businesses are obliged to file a beneficial ownership structure as well as publish their yearly financial statements and payments from state contracts, but the not all enterprises fulfil this obligation.

The portal of the National Business Centre provides detailed information on companies, ownership and their accounting balances.¹⁸⁶⁴

Many large companies are obliged to publish an annual report including financial statements (see 14.2.1). There are delays in the publication of annual reports and it is noted that they are not as precise as in the publication of the change of shareholders.¹⁸⁶⁵

There are many cases when firms that have contracts with the state for significant values file their balance sheets late, or other cases where after the contract has been awarded, they no longer submit financial statements. Another problem among these companies is the signing of the financial statements only by the administrator and not by the financier or an external auditor who serves as a third party. The law obliges companies

that are classified as large businesses to apply international financial reporting standards and have their balance sheets audited by a chartered financial analyst, but this does not happen in all cases.¹⁸⁶⁶

There are about 3,100 businesses that meet the criteria to have external auditors.¹⁸⁶⁷

Over the last years, there has been an improvement in the market of legal auditors (equivalent to a certified public accountant), since until 2018 there was no control of the implementation of standards by their part. According to the head of the Public Oversight Board, the standards have not been properly implemented by a large part of the auditors. There are too many issues such that the Oversight Board faces problems to sanction accountants, but they have made many recommendations and issued warnings.¹⁸⁶⁸

According to the Head of the Oversight Board, the market has had problems in the implementation of international standards, but the situation is improving recently, since they (legal auditors) know that they are under stricter oversight. The Oversight Board also is working with the Tax Office and the National Business Centre so that the system accepts only the financial audit and no other financial statements that are filed by the big businesses.¹⁸⁶⁹

The business's structure of shareholders has to be published in the NBC register, and in 2021, the official register of beneficial owners was created and is public. As of December 2023, about 77 per cent of businesses have filed their ultimate beneficiaries along with the shareholder structure according to legal obligations.¹⁸⁷⁰

Only a limited number of large enterprises report on their corporate responsibility and sustainability. Companies that report on these standards belong to the financial and industrial sectors. In general, the business and competition climate in Albania is not focused on social responsibility and the implementation of this concept is not widespread.¹⁸⁷¹ Corruption within private companies is less widespread than in state enterprises; there are such cases, but there are not

accurate reports with concrete data on this matter.¹⁸⁷²

The lack of a stock exchange market in Albania¹⁸⁷³ has not helped companies to compete on the level of transparency, social responsibility, vision and sustainability of their activity.

INDICATOR 14.2.3 ACCOUNTABILITY (LAW)

To what extent are there rules and laws governing oversight of the business sector and governing corporate Governance of individual companies?



Corporate governance law provisions are relatively comprehensive. However, there is inadequate regulation of non-financial reporting and corporate sustainability reporting.

The country has adopted several laws and regulations to improve accountability and shareholder rights in corporate governance.

The general assembly of a company is responsible for making important decisions regarding the commercial policies of the company, changes to the statute, appointment and dismissal of administrators and liquidators, and determining their compensation.¹⁸⁷⁴ The general assembly has to supervise the implementation of commercial policies as reported by the administrators¹⁸⁷⁵ as well as approve annual financial statements and activity progress reports.

The Financial Supervisory Authority (FSA) is the primary regulator responsible for supervising and regulating the financial sector in Albania, including insurance companies and securities firms.¹⁸⁷⁶ The FSA is an independent government agency that is funded through fees, investments and the fines imposed, and has a staff of professionals with expertise in finance, law and economics.¹⁸⁷⁷ Additionally, the Bank of Albania also plays a role in regulating and supervising the financial sector, with

a focus on ensuring the safety and soundness of the banking system.¹⁸⁷⁸

The FSA is the licensing authority and oversees the stock market in Albania.¹⁸⁷⁹

Recent amendments to the law on accounting and financial statements which partially aligned it with the EU Accounting Directive require activity management reports for medium-sized businesses, and exempt small entities from detailed disclosures.¹⁸⁸⁰ The amendments also empower the National Accounting Council to monitor the enforcement of financial reporting and accounting standards. However, the capacity of the National Accounting Council is still limited.¹⁸⁸¹

In June 2020, guidelines on non-financial reporting were published by the National Accounting Council.¹⁸⁸² Despite this, the legal framework in this area remains insufficient and regulations for corporate sustainability reporting are still absent.¹⁸⁸³

INDICATOR 14.2.4 ACCOUNTABILITY (PRACTICE)

To what extent is there effective corporate Governance in companies in practice?



In general, corporate management rarely has to answer for its decisions to the board and shareholders and too many companies do not implement the national and international financial reporting standards.

There are not accurate data and statistics on how many firms apply good governance standards, but in recent years some large enterprises have started to adopt them.

The banking sector, insurance companies and telecommunications are the industries that are at the top of the ranking in the application of corporate governance standards, followed by consulting services, the energy sector and trade, according to an index published in 2021 by the International

Chamber of Commerce, which surveyed 50 businesses from the list of the largest corporations in the country.¹⁸⁸⁴

54 per cent of large corporations implement social responsibility standards, but the budget for this standard is less than one per cent of their annual expenses for 70 per cent of companies¹⁸⁸⁵. Half of the firms do not have an environmental policy document approved by the leadership, although they claim that they apply social and environmental principles.¹⁸⁸⁶

The structure of enterprises in Albania suggests an economy dominated by small and medium-sized businesses, while approx. 1% are companies with more than 50 employees.¹⁸⁸⁷ Boards of directors that have the power to monitor the activity of enterprises are more widespread in industries where this function comes as a legal obligation, such as banks, insurance companies and financial institutions.¹⁸⁸⁸ The decision of the boards is binding for management at these companies, which also have internal audit units. In other corporations, it is noted that management neglects the board and the power in financial and procurement matters is concentrated in the hands of the administrator or owner.¹⁸⁸⁹ 78 per cent of large firms have a management board in their structure, where 75 per cent indicate that it is functional and with full powers.¹⁸⁹⁰

In the government's agenda, there is no budget to help companies or incentivise them to fight against corruption. Despite this, meetings and programmes focusing on the fight against corruption have been developed over the years, but as of today there are no results on concrete achievements. The foreign business community has requested the establishment of a package with the implementation of several points in this field using the OECD standards as a model.¹⁸⁹¹

INDICATOR 14.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?



Business sector associations have made efforts to establish codes of conduct, but there is a lack of specific mandatory anti-corruption codes.

There are just a few sector-wide codes of conduct in Albania for certain industries, such as banking and insurance. These codes of conduct are typically developed by industry associations and approved by regulatory bodies. For example, the Albanian Association of Banks has developed a Code of Conduct for its members which sets out principles for ethical behaviour, transparency and consumer protection.¹⁸⁹² However, there are no specific mandatory anti-corruption codes for businesses. Although a voluntary corporate governance code exists, it is typically not put into practice.¹⁸⁹³ Based on the index of the International Chamber of Commerce, 60 per cent of corporations have claimed that they have a Code of Ethics and 38 per cent of them say that employees are required to make an annual statement based on this Code.¹⁸⁹⁴

Albanian law concerning bribery and corruption does not have extraterritorial application.¹⁸⁹⁵ However, Albania is a signatory to the United Nations Convention against Corruption, which requires member states to criminalise bribery of foreign public officials in international business transactions.¹⁸⁹⁶ The main legal references used by companies for anti-corruption policy and whistleblowing policy are the Criminal Code Law no. 9049, dated 10.04.2003, "On declaration and control of assets, financial obligations of elected officials and some public servants" and Law no. 60, dated 02.06.2016, "On whistleblowing and protection of whistleblowers".¹⁸⁹⁷

Since 2016, there is a special law for reporting and protection of whistleblowers of corrupt actions. The law protects whistleblowers of corrupt practices within the organisation or company and preserves anonymity. The law based on EU practices was another attempt to not only increase the monitoring of the forms of conducting business with integrity, but also to develop the role of staff in denouncing cases of corruption and abuse. This law seems to have been welcomed by businesses.¹⁸⁹⁸

The law covers both personal and corporate liability.¹⁸⁹⁹ Businesses are responsible for any criminal acts committed by their representatives or bodies, and any offenses committed in its name or for its benefit due to a lack of proper control and supervision by those who manage and direct the entity.¹⁹⁰⁰ If convicted, a business can be prohibited from engaging in transactions with public funds, its licences can be revoked or it can be banned from advertising its activities.¹⁹⁰¹ The court may order the judicial decision to be published.¹⁹⁰²

A bidder can be rejected by the Public Procurement Agency if there is a conflict of interest or if the bidder attempts to bribe an official.¹⁹⁰³ The Agency can also exclude bidders who have been convicted of certain crimes, such as corruption or fraud, and disqualify those who submit false data or documents.¹⁹⁰⁴

It is not clear whether large corporations in Albania generally have professional chief compliance officers.

INDICATOR 14.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of those working in the business sector ensured in practice?



Very few companies implement codes of ethics and integrity standards and there is no official data on their implementation. The dominance of small businesses in the economy has not helped to raise these standards; however, in recent years, the entry of multinational corporations into the market has had an effect in terms of increasing awareness in this regard.

Less than half of large corporations conduct training with employees on anti-corruption and whistleblowing and protection of whistleblowers.¹⁹⁰⁵

More than half of corporations have adopted a whistleblowing policy, but there are reports that in some cases the mechanism does not provide whistleblower confidentiality or conduct independent investigation of the reported cases.¹⁹⁰⁶

There is a lack of statistics on cases of corruption revealed by whistleblowing in the business sector, and the level of corruption in this area is measured through studies and surveys conducted by centres or business associations.¹⁹⁰⁷ There is a lack of data gathered even at the justice bodies on cases of corruption in companies, while the publication of such data is considered detrimental to the image of the corporation. According to the International Chamber of Commerce Index, the structures that supervise the implementation of anti-corruption policies in some large enterprises have been set up, but they do not have a telephone line to report violations related to corruption and conflicts of interest.¹⁹⁰⁸

There is no blacklist of firms involved in corrupt practices and money laundering. The only public list of persons or companies is that of the UN for the financing of terrorism, the publication of which is a legal obligation.¹⁹⁰⁹

In most cases, the names of companies involved in corrupt practices are learned during police investigations or court hearings. The lack of a database limits the analysis of the progress and implementation of anti-corruption standards by enterprises. Cases of punishing companies in the field of money laundering are announced with anonymisation, while the information is not updated and the data is made known only once per year through an annual report.

INDICATOR 14.2.7 GENDER REPRESENTATION

To what extent do women have a fair share of business sector leadership?



Despite even going further than the EU average, there is still a significant imbalance between women's and men's presence in business sector leadership and in holding economic power.

In Albania, the representation of women in management positions of the largest quoted companies is slightly higher than the EU average, with 26.4 per cent compared to 25.0 per cent.¹⁹¹⁰ Additionally, the representation of women on the board of the Central Bank is significantly higher, with 48.1 per cent compared to 20.3 per cent in the EU.¹⁹¹¹ While these statistics show some progress towards gender equality in economic power, there are still significant gender gaps that require further attention and action as men continue to hold the majority of positions in both political and economic power.

Despite the National Action Plan for Women Entrepreneurs 2014-2020 having the objective of creating more entrepreneurial opportunities for women, its impact was not noticeable. A poll conducted by Deloitte Albania shows that citizens support legislative initiatives for quotas in business.¹⁹¹²

In 2019, women wholly owned the capital (100 per cent) in 12.31 per cent of registered businesses and

men wholly owned 70.4 per cent of the registered companies.¹⁹¹³ The same pattern is observed for the ownership of a controlling stake in the capital (more than 50 per cent). Out of the 3,291 companies established in 2019, 18.38 per cent were managed by women.

The Public Procurement Authority has made changes to its standard bidding forms to support gender equality.¹⁹¹⁴ Under the new requirements, all bidders must now sign a declaration of non-discrimination in hiring and agree to provide equal pay for equal work. Bidders who are found to violate this declaration may be barred from participating in future tendering processes.

ROLE

INDICATOR 14.3.1 ANTI-CORRUPTION POLICY ENGAGEMENT

To what extent is the business sector active in engaging the domestic government on anticorruption?



In general, while anti-corruption features on the business sector's agenda of engagement with the government, it is generally not a priority. Only rarely are there public statements by senior businesspeople calling on the government to do more to fight corruption.

The Ministry of Justice, in the capacity of the National Anti-Corruption Coordinator, is responsible through the General Anti-Corruption Directorate for receiving reports and investigating cases initiated or forwarded by the anti-corruption coordinators.¹⁹¹⁵ Business associations have the anti-corruption policy and the reduction of informality on their agenda, as they consider these topics harmful in the climate of doing business. There have been joint meetings and conferences where the addressing of these practices has been requested and the business associations made an organised call in

2023 to undertake concrete initiatives in the fight against corruption.¹⁹¹⁶

The American Chamber of Commerce has started a discussion with the Ministry of Justice to build a programme for the fight against corruption that also takes into consideration the recommendations included in the Investment Agenda.¹⁹¹⁷

Cases of business associations calling on the government to fight corruption are frequent in Albania, but foreign business associations seem more interested in these appeals than local organisations. The phenomenon of corruption is a concern that is often raised in government-level meetings is at the top of the agenda, but the issue remains that concrete steps must be taken.¹⁹¹⁸

Business associations have also denounced specific cases of abuse of businesses by officials and cases where they seek the government's attention in the fight against corruption are common,¹⁹¹⁹ while corruption is counted as one of the main problems in the business climate at their annual reports.

In Albania, only one company, Intesa San Paolo Bank, has signed the UN Global Compact in 2007, as well as a business association, the International Chamber of Commerce, which signed it in 2020. Three other companies, Bacogas, Pro Credit Bank, Pespa Alumin, and the Professional Business Women's Association, appear to have signed the pact, but were expelled due to a failure to communicate progress.¹⁹²⁰

INDICATOR 14.3.2 SUPPORT FOR/ENGAGEMENT WITH CIVIL SOCIETY

To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?



Cooperation between the private sector and civil society remains underdeveloped.

One of the reasons for the underdevelopment of cooperation between the private sector and civil society is a lack of information on CSO activities, which makes it difficult for business associations to identify opportunities for collaboration and investment.¹⁹²¹

However, there is a growing trend in the private sector towards recognising the role that CSOs play in advancing various cross-cutting issues, including but not limited to the promotion of social entrepreneurship, philanthropy and anti-money laundering. The private sector has begun to understand the benefits of engaging with CSOs, including their unique expertise, networks and on-the-ground experience.¹⁹²² On this note, there are some areas where business associations and civil society organisations are working together. The joint efforts of a local think tank and associations representing the real estate and currency exchange sectors serve as a noteworthy example of cooperation in promoting anti-money laundering policies.¹⁹²³ Their collaborative initiatives aim at improving the capacity of non-state actors and raising awareness of the legal framework related to anti-money laundering policies.

INTERACTIONS

The main interactions of businesses are with the public sector, judiciary and the executive.

The public sector designs the legal, regulatory and policy framework in which businesses operate and plays a key role in enforcing laws and regulations related to corruption and ensuring that businesses comply with them. This interaction can also lead to conflicts of interest, corruption and regulatory capture (see 14.1.4). However, the business community believes that recent efforts to improve digitalisation in offering public services have played a considerable role in lessening the administrative burden on businesses and mitigating corrupt practices.¹⁹²⁴

Businesses seek legal remedies through the court system to protect their interests, such as enforcing contracts or seeking compensation for damages. The business community depends on the judiciary to handle misconduct by public administration towards business, yet administrative courts, particularly the Administrative Court of Appeal, are burdened with a large caseload, and their limited human capacity is a challenge. Business-related cases constitute only half of the workload, with tax administration cases being the most prevalent, followed by state inspectorates, customs administration and public procurement institutions.¹⁹²⁵ However, the relationship between businesses and the judiciary is oftentimes contentious, as businesses seek to influence the outcome of legal proceedings through various means, such as bribery, corruption or exerting political pressure.

The main interaction between businesses and the executive involves the implementation of laws and regulations that affect the operations of businesses and the consultations and feedback mechanisms to understand the impact of policies and regulations on the private sector. However, the effectiveness of the public consultation process and its influence on decision-making processes remains limited.¹⁹²⁶ Moreover, the executive may use its power to grant favours or preferential treatment to certain businesses in exchange for bribes or other forms of illegal benefits.¹⁹²⁷ Similarly, businesses may engage in bribery or other forms of corruption to obtain government contracts.

PILLAR RECOMMENDATIONS

- + The government should:
 - incentivise the adoption of anti-corruption codes by businesses through making them mandatory in public procurement processes;
 - have a concrete agenda and methodology to fight corruption in the private sector and consult the results of this agenda on an annual basis in cooperation with business associations;
 - should eliminate the practice of awarding contracts in the field of public procurement without competition and the deadline for the law “On Strategic Investment” should not be postponed, allowing businesses in these sectors to compete freely;
 - should develop programs to help businesses in the fight against corruption by providing financial support for anti-corruption initiatives, incentives for businesses adopting corporate governance practices, and funding for social responsibility projects.
- + The private sector and civil society need to foster greater collaboration in order to effectively address corruption and promote greater transparency and accountability. This may involve the implementation of joint initiatives or the establishment of multi-stakeholder forums for consultation to align their agendas.
- + The government and Assembly need to harmonise tax and accounting laws to treat the size and type of business based on the same standards.
- + The National Business Centre should cooperate with General Directorate of Taxes to automatically publish the annual balance sheets of the companies when they are deposited at tax administration offices in order to eliminate delays.
- + The Anti-Corruption Unit, Financial Intelligence Unit and the Bank of Albania need to publish and update every month a list of businesses involved in corrupt practices and money laundering, divided into lists of businesses investigated, convicted in the first instance and convicted by a final decision.
- + The government and Assembly need to amend the Law on Beneficial Ownership, lowering the threshold for owners who must declare ownership down to 1 per cent of the shares and not 25 per cent as it is currently.

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STATE OWNED ENTERPRISES

OVERVIEW

State-owned Enterprises (SOEs) are subject to regulation by three key laws, namely the Law on State-Owned Enterprises, the Law on the Transformation of State-Owned Enterprises into Commercial Companies, and the Law on Entrepreneurs and Commercial Companies. There is no public register of SOEs, contributing to a lack of transparency.

Most SOEs are overseen by the Ministry of Finance and Economy, with the remaining overseen by various sectoral line ministries or municipalities. Although the Ministry of Finance and Economy is legally responsible for state ownership rights in all SOEs, it delegates the administration of SOEs to line ministries. However, some ownership decisions, such as board nominations, require inter-ministerial coordination.

The governance structure of SOEs includes an oversight board and a director, with the oversight board comprised of members nominated by the Ministry of Economy and Finance and the ownership line ministry or local government unit responsible for appointing SOE management.

SOE board and management positions are often perceived to be filled based on personal and political affiliations rather than professional qualifications, leading to concerns about political influence and highlighting gaps in the appointment framework of board members. Board members often lack independence and decision-making authority, with many decisions being pre-determined by the government. Moreover, many of these entities are viewed as lacking financial viability. As a result, controversies often arise around SOEs and their relationship with the government.

Restrictions on donations to political parties are in place and certain criminal convictions disqualify individuals from management positions in SOEs. Asset declarations are required for SOE board members and directors.

The law treats SOEs and private companies equally in terms of market competition, but some competitive distortions persist, especially in sectors like energy, airports and ports, where public-private partnerships and unclear governance rules hinder fair competition.

STATE OWNED ENTERPRISES



	Indicator	Law	Practice
Capacity	Independence	50	25
Governance	Transparency	75	50
	Accountability	75	50
	Integrity mechanisms	50	25

SUMMARY



CAPACITY

INDICATOR 15.1.1 INDEPENDENCE (LAW)

To what extent does the legal and regulatory framework for SOEs protect the independent operation of SOEs and ensure a level-playing field between SOEs and private sector companies?



While there are certain provisions in place, they do not guarantee the autonomous functioning of SOEs. Moreover, the fair competition between SOEs and private sector companies is affected by relying on exemptions of regular procurement procedures and state subsidies.

The Ministry of Finance and Economy is primarily responsible for exercising the state's ownership rights in SOEs, whereas line ministries are granted administrative roles.¹⁹²⁸ However, the law does not sufficiently define the differences between ownership and administrative roles.¹⁹²⁹ In practice, state ownership responsibilities are dispersed across multiple ministries and government bodies. SOE's corporate governance has shortcomings,¹⁹³⁰ and there is no coordinating body to harmonise state ownership practices and introduce consistency across ownership ministries. However, ownership ministries have separate monitoring units from their sectoral policymaking units, therefore providing a clearer institutional division of functions.¹⁹³¹

A board nomination framework has been established, but there is risk of political influence in the appointment of board members due to a lack of transparent and merit-based criteria.¹⁹³²

The law on SOEs does not differentiate between public and private companies, and requires SOEs to operate under the same conditions of free competition regarding market share, products and services.¹⁹³³ The state generally does not cover the losses of SOEs¹⁹³⁴ and is not responsible for the obligations of SOEs to third parties.¹⁹³⁵ However, some competitive distortions still exist. The Albanian Investment Corporation was recently established to administer investment projects of public interest.¹⁹³⁶ However, its governance and oversight rules are unclear, and the large number of PPPs and partial exemption of regular procurement rules for PPPs in the energy sector, airports and ports hinder fair competition in those markets.¹⁹³⁷ Large SOEs, alongside their access to commercial debt financing like private firms, benefit from state subsidies, which creates an unfair advantage towards private companies in terms of operational funding advantages.¹⁹³⁸

The government does not produce a periodic report on the performance of the SOE in terms of its public interest activities.¹⁹³⁹

INDICATOR 15.1.2 INDEPENDENCE (PRACTICE)

To what extent are the day-to-day operations of SOEs performed independently of state interference in practice?



Although the state does not interfere in day-to-day operations of SOEs, their main control and directives are guided by the government or the municipality that owns the company.

The most important SOEs are part of a regulated market because of their monopoly position in the market for the product or the service that they provide. In that case, the price for their product or service as well as the financial report and investment plan is reviewed and approved by an independent entity. This structure is in place to protect the consumers from possible abuse with the dominant position in the market. However, the decisions of these entities in some cases have been controversial.¹⁹⁴⁰ In many cases, the independent entities have shown that some of their decisions on price and consumer protection are guided by the government and not by a clear examination of economic programmes, competition and sector progress.¹⁹⁴¹ Even though the authority in charge of the energy price for the consumers is the Energy Regulatory Authority (ERA), during autumn 2022, the increase in energy prices was previously communicated by the Minister of Infrastructure and Energy. Throughout recent years, the ERA has followed the government's policy to not reduce energy prices when companies in the sector had high profits.¹⁹⁴²

According to an interviewee, the SOE board members do not exercise their full functions, which are to analyse, monitor and decide in a professional manner, considering that almost all of the decisions are taken in advance by the ministry or the government and the board members serve more as their secretaries than as policy makers.¹⁹⁴³ The most important enterprises in Albania are those in the field of energy and water supply and in both cases

the sale price is decided by the independent entities.¹⁹⁴⁴ Almost 100 per cent¹⁹⁴⁵ of the energy in Albania is supplied by public enterprises, while private production is either sold to SOEs or exported abroad.¹⁹⁴⁶ There are only a few companies that produce and self-consume energy. Even in the case of water pricing, the rates are approved by the Water Regulatory Entity based on the companies' applications and economic programmes. There are 57 water supply companies in Albania owned by different municipalities.¹⁹⁴⁷

The independence of the decisions of the governing bodies of SOEs is questionable, as many decisions are communicated by a minister or the Prime Minister before being approved at a board meeting.¹⁹⁴⁸ The directors or managers of the companies are much more powerful than the boards in practice, and in most, the CEOs are often in a direct relationship with the line minister, which shows that they have more power than the board.¹⁹⁴⁹ The appointment of company administrator is made in most cases by the line minister and there are also cases when the approval is given from the Prime Minister's Office.¹⁹⁵⁰ In some enterprises, there are skilled administrators with a profile related to the company activity, but there are also cases where the CEO has no experience in the field at all, or has a conflict of interest as he or she has worked before in key private sector positions in the same field.¹⁹⁵¹ Regardless of managerial skills, most of the administrators have a political profile and actively participate in the electoral campaigns of the party that appointed them.¹⁹⁵² According to former General Director of Audit at the SAI, these points raise doubts as to whether their hiring, appointments and decisions are entirely dependent on the company's best interests.¹⁹⁵³

In most cases, board seats in public companies are seen as a way of remuneration to provide payment for meetings and increase the salary of a public servant. In the vast majority of companies, the board members are directors, advisers or persons close to the ministers and they are dismissed from duty when the minister changes or there is a

rotation of the political party in power.¹⁹⁵⁴ There is a lack of experts, civil society actors and academia among SOE boards. In some cases, board members find it difficult to get the information they need about the company and when they have objected to the decision-making, there have been cases when they have been dismissed.¹⁹⁵⁵ The former General Director of Audit stated that he does not have any expectations from this process because there is no non-political administration or a non-political board, most of them are clearly in campaigns and they are members of parties. The SOEs should be managed by experts and CEOs with significant experience in order to protect the rights of the citizens and national assets and not by active state officials who have administration as a way of collecting votes and getting party jobs. It is a very large volume of money that they manage and a very large number of employees at SOEs that directly affects an election.¹⁹⁵⁶

Most of the public companies provide exclusive services in their sector, such as companies in the energy, water, railway, air navigation or waste collection sectors in certain territories. It is not possible to compare whether they gain unfair access to private markets. The only aspect to be seen in how they use their privilege is to check if there is any abuse of their dominant position in the market in terms of pricing and quality. The Competition Authority of Albania has found abuse in some cases or SOEs concerning the price set by their boards or independent entities.¹⁹⁵⁷

The companies that face competition in the market are Albanian Post and Albpetrol. Albanian Post offers postal and payment services and has lower prices than other operators, which is related to the greater volume of its work and customers, since it is spread over the entire territory. Despite this, its market in recent years has been declining, being more occupied by competing private operators in the market. Albpetrol is a company that produces and sells oil and owns most of the wells onshore in Albania. Its production is sold in the private market, but it is not a determinant to the oil price since the formula refers to the stock market.¹⁹⁵⁸ Although the

largest oil producer is a private company Bankers Petroleum,¹⁹⁵⁹ most of its production is exported abroad and the demand for crude oil in the domestic market has fallen since the closure of the oil refinery Albania Refining and Marketing of Oil (ARMO). After ARMO's bankruptcy, the Competition Authority of Albania found that Bankers Petroleum had abused its position in the oil market and imposed a fine on the company.¹⁹⁶⁰

GOVERNANCE

INDICATOR 15.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure transparency in the activities of SOEs?



Adequate legal provisions regarding disclosure are in place for state-owned enterprises, particularly concerning financial accounts and the management framework. However, the law on SOEs does not provide specific deadlines for the submission of annual accounts and they are not required to report on their anti-corruption programme.

The transparency of SOEs is governed by the legal framework for commercial enterprises¹⁹⁶¹ and the public sector.¹⁹⁶² SOEs are required to keep accounts, prepare and present annual accounts, and report indicators and statistical data periodically.¹⁹⁶³ The director must submit a report on the economic and financial activity of the enterprise at the end of each year, which is then approved by the oversight board and sent to the ownership body, together with certified annual accounts.¹⁹⁶⁴ The annual report must also be made known to employees through the representatives of the trade unions.¹⁹⁶⁵ Financial statements are submitted to the National Registration Centre, which publishes them on the official website.¹⁹⁶⁶ Anyone can freely search the electronic database for any registered data.¹⁹⁶⁷

As for private enterprises, SOEs must submit and publish their statutes, ownership structures and

information on the identities of the members of the oversight board, annual financial statements, activity progress reports and audit reports.¹⁹⁶⁸ Commercial enterprises with majority state shareholding or those carrying out public functions are subject to the provisions of the Law on the Right to Information, which mandates Transparency Programmes and both proactive and request-based information publication.¹⁹⁶⁹ Additionally, procurement in state-owned enterprises where the government has a majority stake is required to adhere to the transparency provisions stipulated by the Law on Procurement, including online information and appeal procedures.¹⁹⁷⁰

SOEs are also not required to report on their anti-corruption programmes.

INDICATOR 15.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in SOEs in practice?



While SOEs disclose some relevant information on the services they offer, most of them have not properly implemented a “Transparency Programme”. There is a lack of updated financial data and public procurements register, and none of the companies publishes the board’s decisions.

Most SOEs have a website providing information about their public service and a good part have service offices for the citizen to inform themselves and address problems related to that service, but the lack of aggregate data on SOEs is still a concern. There is no public register of SOEs¹⁹⁷¹ owned by the state, and their financial reports have been stopped being published at the State Directory of Public Assets and Property since 2016.¹⁹⁷² The only available information can be found in the National Business Register, but the balance sheets and financial reports are published late and some important SOEs (Albanian Operator of Energy Supply [OSHEE], Albanian Power Corporation

[KESH], Albcontrol and Albanian Post) have not filed financial report during the last two years.¹⁹⁷³

According to a policy analyst and former director of Euronews Albania, the salary level of board leaders and administrators at SOEs has always been a problem and has often been raised as a concern by the SAI. In many SOEs, the administrator is remunerated two or three times more than the Prime Minister or the minister that oversees and represents the ownership of the enterprise.¹⁹⁷⁴

There is no transparent relationship between the aid given by the government to these enterprises and especially for those owned by local governments. Budget injections only become public during the state budget changes. In some cases, the guarantees for credit lines by state institutions for SOEs can be found only at the debt register of the Ministry of Finance and Economy,¹⁹⁷⁵ which is too technical for the public to understand.¹⁹⁷⁶ In many cases, payments from the state budget for SOE loans have not been transparent but have been uncovered by the SAI.¹⁹⁷⁷ Too many injections have been made to water supply companies, energy companies and some new corporations like the Investment Corporation¹⁹⁷⁸ and Illyrian Guard.¹⁹⁷⁹ Water supply enterprises, in most cases, have the biggest debt for energy bill payments to OSHEE, which has resulted in a debt crises where OSHEE owes money for the energy that has bought from KESH and the Albanian Transmission Operator (OST).¹⁹⁸⁰

During the past year, Albania has established a beneficial ownership register¹⁹⁸¹ after two years of postponement,¹⁹⁸² but half of the enterprises have not filed the declaration form of the beneficial owner, while some have filled it in incorrectly.¹⁹⁸³ Another problem with private-state joint venture companies is the limitation of the declaration of the ownership up to 25 per cent of the shares, which makes it impossible to discover other owners who have lower ownership stakes.¹⁹⁸⁴

INDICATOR 15.2.3 ACCOUNTABILITY (LAW)

To what extent are there rules and laws governing oversight of SOEs?



Comprehensive measures are in place to ensure adequate supervision of SOEs through internal governance structures, state oversight and varying degrees of auditing. However, there is no central coordinating unit and attempts to establish one have failed.

SOE governance structures consist of an oversight board and a director (i.e. administrator).¹⁹⁸⁵ The oversight board is composed of three to nine members, two-thirds of whom are nominated by the Ministry of Economy and Finance and one-third by the ownership line ministry or local government unit.¹⁹⁸⁶ The supervisory board is the highest decision-making authority and is responsible for setting objectives and for appointing SOE management through a two-thirds vote.

In 2019, the Ministry of Finance and Economy proposed the creation of an agency that would function as a central coordinating unit, but due to lack of consensus in the government, the Agency for Public Property Administration was not established.¹⁹⁸⁷ However, the Directorate for Administering State Property within the Ministry of Finance and Economy is responsible for managing SOEs and analysing the balance sheets of joint-stock companies, but it does not directly report to parliament.¹⁹⁸⁸ Authorities do not gather aggregate financial performance data on SOEs, which makes it difficult to draw general conclusions on their efficiency and introduces fiscal risks, with potential liabilities estimated by the IMF at about 18 per cent of Gross Domestic Product (GDP) in 2018.¹⁹⁸⁹

SOEs are subject to different types of audits at four levels, including internal audits, ministerial audits, audits by the SAI and independent audits by certified external auditors of their financial statements. Audit programmes, SOE selection and timing are decided upon independently by the SAI,

which primarily focuses on ensuring that the operations of SOEs comply with relevant laws,¹⁹⁹⁰ while external auditors concentrate on verifying that the financial statements are prepared in accordance with the International Standards of Audit. SOEs with majority state shares must undergo external audits of their financial statements, whereas for SOEs where the state is a minority shareholder, external audits are only mandated if they exceed a certain number of employees and asset value.¹⁹⁹¹ The state is responsible for appointing external auditors. Legislation requires all SOEs to establish an audit committee, but the bylaws of SOEs do not provide a clear definition of an audit committee.¹⁹⁹²

SOEs are subject to the same taxation levels and procedures and the same domestic accounting and international financial reporting standards as other commercial companies.¹⁹⁹³ The Competition Authority oversees the state aid policies, including those towards SOEs.¹⁹⁹⁴

INDICATOR 15.2.4 ACCOUNTABILITY (PRACTICE)

To what extent is there effective oversight of SOEs in practice?



In general, boards and the coordinating unit are only partially effective in providing oversight of the decisions of SOEs and in practice their power is fragile, dominated mostly by the CEO.

Boards have the legal authority to make decisions and monitor management, but in practice their decision-making and monitoring power is dictated in most cases by the executive director or administrator. The fragility of the boards, their power and the dependence of the appointments on politically connected persons (ministers or mayors) has often led to the dismissal of members who do not vote for the plan brought by the administrator or who had asked to set up a monitoring group on the company.¹⁹⁹⁵ According to an SAI former General Director of Audit, most of SOE management

council meetings take place in order to fulfil the law and procedure.¹⁹⁹⁶ In many cases, board members are influenced by political interests in exercising their functions, undermining impartiality in decision-making (see 15.1.2).

None of the SOEs have a performance evaluation manual for board members or management. Some of the companies (Albpetrol, Albanian Post, Albanian Railways) stated that there is no assessment of the management board's work performance and that in most cases their work is assessed by the owner, which is the respective line ministry.¹⁹⁹⁷ KESH admitted that there is a process of self-assessment of the work of the internal audit, but the report is not public on the official website. The SAI has found that in some procedures, the internal audit of KESH has failed to find violations that have caused economic damage.¹⁹⁹⁸ According to a former SAI General Director of Audit, SOEs do not file financial reports even though they have a legal obligation.¹⁹⁹⁹

The SAI periodically audits SOEs based on its annual programme and publishes the final report. A few of the SAI audits are not public, whereas the SOEs' internal audit structures do not publish any reports.²⁰⁰⁰

INDICATOR 15.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms in place to ensure the integrity of SOEs?



Although there are provisions addressing donations, asset declarations and conflicts of interest, the current regulatory framework does not encompass all elements of SOE integrity, such as anti-corruption measures or safeguards against money laundering.

There is no Code of Corporate Governance for SOEs. In 2011, the Ministry of Finance and Economy published a corporate governance code for unlisted joint-stock companies with the assistance of the International Finance Cooperation which briefly states that companies should outline policies and

procedures related to, among other things, anti-corruption, anti-money laundering, conflicts of interest and gifts or preferential treatment.²⁰⁰¹

However, the Code is not mandatory, and has not been prominent or been updated since its publication in 2011.

Restrictions on donations to political parties apply to SOEs. The Law on Political Parties states that financial and material assistance from domestic public entities or state capital clients is prohibited.²⁰⁰² In an effort to ensure the integrity of persons who exercise public functions, individuals who have been convicted for certain criminal offences are prohibited from being appointed in any management position of companies that are fully or majority-owned or administered by the state.²⁰⁰³

In terms of asset declarations, members of regulatory bodies, officials appointed by ministers (i.e. SOE board members) and administrators of SOEs where the government holds a majority stake and which count more than 50 employees are required to submit asset declarations which are later assessed and audited by HIDAACI.²⁰⁰⁴ The law requires the declarations to be published online, although the online database is not yet operational. They can be accessed through freedom of information requests. SOEs and commercial companies in which the state or local government holds a majority stake are subject to the Law on the Prevention of Conflict of Interest, which seeks to regulate cases of conflicts between the public and private interests of officials in the exercise of their functions.²⁰⁰⁵

INDICATOR 15.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of SOEs ensured in practice?



In general, there is an absence of actions which aim to ensure the integrity of SOEs, and misbehaviour goes mostly unsanctioned.

Albania lacks a coordination unit for monitoring SOEs. There is no official register of state enterprises, and their monitoring is done directly by the owner, which is a different institution depending on the type and model of enterprise. The implementation of a corporate governance code is missing in most public companies.

Some SOEs state that they do not consider themselves corporations and some others said that the regulations approved by their boards do not require the applications of these standards.²⁰⁰⁶ Two SOEs (KESH and Albanian Railways) admitted that they do not implement the corporate governance code. Other SOEs approached did not answer. Most of the principles of good corporate governance and integrity of SOEs rest on their ethics codes, but there is no public record of their effectiveness.²⁰⁰⁷

The conflict of interest of the board members is evident not only because of their political connections. Most board seats are occupied by members of the cabinet of the ministry and there is not a representation from the company's workers or civil society.²⁰⁰⁸ According to an interviewee, there are cases when members or CEOs of these enterprises are appointed, but they have worked at important companies or held political posts from which they have been dismissed for lack of integrity.²⁰⁰⁹ The CEO of the largest public company OSHEE, Ardian Cela, was the campaign leader in Durres County during the 2021 elections,²⁰¹⁰ and the director of the Albanian Post company, Laert Duraj, ran as an MP of the party that appointed him to this position in last electoral elections.²⁰¹¹ During

the SAI audits, according to the SAI's former General Director of Audit, some SOEs did not even have personnel files, and in cases where there were work files, they have found employment recommendations from the party.²⁰¹²

Public companies are widely used for the interests of ministerial staff by providing them with support staff that they cannot employ due to the approved structure of the administration.²⁰¹³ Public companies are also used to enter into contracts for political and economic interests that are assigned by government which in some cases harm their business interests.²⁰¹⁴ Bribery is widespread in the procurement sector of these companies, and low-level corruption is more common in the energy distribution company and the water supply companies,²⁰¹⁵ dealing with illegal energy or water network connections or invoicing.²⁰¹⁶ Cases of these abuses are often published by the police and media, but in the last five years, they have decreased. However, corruption and favouritism in state enterprises such as the main electricity utility company is widespread.²⁰¹⁷ In SAI reports, violations were found in the tendering and budget procedures,²⁰¹⁸ while some OSHEE and OST and other SOE employees were arrested for profiting through illegal procedures and for damaging the company's interests. According to a policy analyst and journalist with experience in reporting on SOEs, some of the state-owned enterprises have served the interests of entrepreneurs close to the government with the aim of making staggering profits and have not served the public interest.²⁰¹⁹

There are very few whistleblower cases from employees of SOEs denouncing illegal practices,²⁰²⁰ despite some SOEs having implemented whistleblower structures.²⁰²¹

INTERACTIONS

SOEs' main interactions are with the executive, SAI and business.

SOEs interact closely with the executive branch of government. The executive has the power to propose and/or appoint members of the oversight boards and administrators of SOEs, influence their strategic decision-making and planning, and oversee and monitor their operations. In some cases, political interference in SOE management has led to poor performance, corruption and financial losses (see indicator 15.1.1).

The interaction between SOEs and the SAI is essential for ensuring proper management of public assets and accountability and transparency in the operation of SOEs. SOEs are subject to audit by the SAI, which conducts financial and performance audits (see 15.2.3). Audits cover issues on regulatory compliance, financial management and internal governance. The recommendations given by the SAI play a crucial role in ensuring the efficient operation of SOEs. The SAI is responsible for detecting any misconduct and reporting any such findings to the Assembly.

SOEs compete directly with private businesses in the same markets and are subject to the same regulatory framework (see 15.1.1.). In certain areas, SOEs have a competitive advantage due to their government ownership and access to state funding. This leads to unfair competition and market distortion, which is detrimental to the private sector (see 15.1.2). In terms of anti-corruption efforts, SOEs can benefit from the implementation of codes of conduct, anti-bribery policies or whistleblower mechanisms that originate in the private sector.

PILLAR RECOMMENDATIONS

- + The government should establish a coordination agency in order to standardise SOE ownership practices. The agency should be directly accountable to the Assembly and report on SOE performance data.
- + The Assembly should amend the Law on State-Owned Enterprises to define the appointment of board members and managers of state-owned enterprises. The principles should reflect unified criteria of professionalism, education, experience and ethics and it must be determined that the board members must not be employed as political staff or to carry out political activity. Even their release from duty should be part of this regulation and be based on criteria related to their performance, effectiveness, integrity and decision-making in the company. The law needs also to reflect the right of company's workers and civil society representatives to have a seat on the company's board.
- + Payments made by state enterprises should be public and the Assembly should amend the law to integrate their spending into the Treasury system so that the public can access this data.
- + State enterprises must publish their board decisions on the website, and board meetings must be opened in cases where there are no confidential matters on the agenda.
- + The Assembly should amend the Laws on State-Owned Enterprises and Public Procurement to include all types of purchase procedures in public procurement regulations of state-owned companies, including the announcement of the winner of all bids and the progress of the entire procedure.
- + Employment procedures must be in accordance with the Labour Code and the recruitment method must be transparent through an open competition with the aim of selecting the most qualified employee for the position offered.

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POLICY RECOMMENDATIONS

Following the examination undertaken through the NIS assessment for Albania, the ensuing recommendations echo the key findings and insights drawn from each specific pillar. This section is designed to provide a strategic roadmap for tackling identified challenges and promoting improvements in each area. The list below is organized based on the institutions to which the recommendations are directed.

Legislation changes:

- + Adopt stronger legal protections for those employees hired on a temporary contract regulated by the Labour Code.
- + Amend the Law on Public Procurement to ensure there is no fictitious bidding by ensuring integration with the National Business Registry for periodic checks, including monitoring risks indicators, publish in open format regularly all contracts and concessions and ensure cross-checks reports are published.
- + Amend the Electoral Code and the Law on Political Parties to include regulations for the financing of political campaigns by third parties that are not electoral subjects.
- + Amend the Law on ALSAI by including provisions for the election and dismissal of the ALSAI Chair by a qualified majority.
- + Amend the Electoral Code by clearly excluding electoral campaign advertisement airtime and news coverage airtime from in-kind donations and by regulating online campaigning performed by political parties/subjects running in elections. Administrative sanctions fees for the misuse of state resources during the electoral campaign should be increased.
- + Amend the Law on Public Procurement and the Law on Strategic Investments so that media owners that own businesses in other economy sectors such as construction, tourism, etc. are
- + Revise the laws concerning 'state secrets' to define clearly what constitutes a state secret and establish a transparent review process for classified information.
- + Amend the law on the governing bodies of the justice system in order to abolish the requirement for the High Judicial Council to anonymise the information on appointing, transfer and removal of judges.
- + Amend the legal framework on whistleblowing protection to define clearly what constitutes protected disclosure, establish secure and confidential reporting channels, and explicitly prohibit retaliation.
- + Revise the legislation on the prevention of conflicts of interest in the public sector to ensure clarity and better implementation.

not allowed to receive public funding or obtain the status of strategic investor, as an attempt to reduce state's interference and strengthen media's independence.

- + Revise the Criminal Code to remove the article which criminalises the right of peaceful assembly with a fine or imprisonment up to a year.
- + Amend the Law on State-Owned Enterprise to define the appointment of board members and managers of state-owned enterprises.

Assembly:

- + Develop according to international standards and in consultation with experts and civil society organisations a methodology for assessing potential spaces for corruption in draft-laws and implement it in practice for legal proposals from the Council of Ministers, MPs or citizens.
- + Enforce in practice the ex-post legislative scrutiny in the framework of preventing and fighting corruption by supervising law and major policies practical implementation.
- + Evaluate six months before the end of a legislature the integrity standards provided by the Code of Conduct of MPs and monitor their practical effects in the MPs activity.
- + Sanction integrity breaches and ethical misbehaviours from MPs regardless their political affiliation.
- + Record, handle and make transparent the decision and its follow-up for petitions submitted to the Assembly from citizens.
- + Employ sufficient political and administrative staff to support and enable the wide-ranging activity of the parliamentary committees and of the Assembly up to high standards.
- + Ensure that the use of normative acts is minimized by strengthening its oversight mechanisms and enhancing its legislative procedure as well as requesting consistent and regular reporting on normative acts by the Executive.
- + Make full use of its constitutional mandate to scrutinize the Executive effectively. This includes accepting and acting upon parliamentary inquiries, having more frequent interpellations

to hold the Executive accountable, request ministers and high-level officials to report in relevant parliamentary commissions and invite civil society, media and other stakeholders in these meetings.

- + Strengthen the collaboration with the Ombudsperson by improving the inter-institutional mechanism and methodology for monitoring implementation of recommendations, ensuring its timely and systematic operation.
- + Increase the HIDAACI's independence through approving a specific organic law on the HIDAACI's functioning and organisation.

Executive:

- + Prioritize the fight against corruption with more consistent, sustainable, and well-coordinated efforts and adequate resources, targeting both petty and institutional corruption.
- + Establish and adhere to rigorous, merit-based recruitment processes to ensure that civil service positions, especially senior roles, are filled based on policy-related expertise and competencies rather than political appointments.
- + Finalize the comprehensive salary reform, make the system more straightforward, and communicate changes openly to the civil service.
- + Proactively publish key documents and reports that are of public interest, including cabinet meeting reports and the outcomes of the Transparency Program. It should also ensure that requests for information are responded promptly. Publish audit reports online in a timely manner and include in the Executive's Budget Proposal data on the financial position of the government and data on the macroeconomic forecast.
- + Revise the current integrity and ethics codes to be updated to address 'revolving door' scenarios and ensure that there are clear, enforceable rules regarding post-employment and conduct in office.

- + The Ministry of Justice and the Ministry of Finance and Economy should propose constitutional amendments to provide guarantees for the prosecution budget adding a provision that stipulates that the prosecution must be allocated a certain percentage of the general budget.
- + Incentivise the adoption of anti-corruption codes by businesses through making it mandatory in public procurement processes and put in place a concrete agenda and methodology to fight corruption in the private sector and consult the results on an annual basis in cooperation with business associations.
- + Establish a coordination agency in order to standardize SOE ownership practices. The agency should be directly accountable to Parliament and report on SOEs performance data.
- + The Albanian School of Public Administration should be adequately resourced to provide high-quality training. Professional development programs should be closely monitored and evaluated against clear indicators aligned with the strategic goals of the Executive.
- + The Agency for Dialogue and Co-governance should promptly initiate the regular publication of detailed reports concerning citizen complaints. These reports should include statistics on the number of complaints received, categorization of the issues, actions taken in response, and the final outcomes.

Independent institutions:

The Central Elections Commission

- + Review its internal structure and processes pertaining to its role in monitoring and investigating political party financing.
- + Recommend specific reforms to address the political bias in the appointment and dismissal processes of members of the Commissions of the Electoral Administration Zones (CEAZs), Voting Centre Commissions (VCCs), and Ballot Counting Centres.
- + Take a more proactive and decisive role in sanctioning violations of the Electoral Code by

political parties, an approach that would incentivize political parties to align their internal policies with the Code's provisions.

- + Publish internal audit reports and provide comprehensive reporting on the main issues regarding the organisation of elections, as well as its actions to ensure the integrity of the electoral process and the effective implementation of provisions governing elections and political party financing.
- + Implement more effective mechanisms for women participation in electoral process.

High Inspectorate of Declaration and Audit of Assets and Conflict of Interests

- + Intensify its scrutiny of asset declarations in the public sector by implementing a more robust and systematic approach to verifying the accuracy and completeness of these declarations.
- + Increase the transparency of its decision-making and provide clear statistical data on its decision-making on preventing corruption through the law on preventing conflicts of interest, the number of referrals to the prosecutor's office for law infringements on declarations of assets and their follow-up, as well as on the results of its decision-making in the framework of the law on whistleblowing and whistleblower protection.
- + Assess comprehensively if its human resources are adequate for complying quantitatively and qualitatively with the law requirements for its preventive, educational and investigative activities.

Ombudsperson

- + Improve the tracking of the implementation of its recommendations by establishing a user-friendly online platform that provides regular updates, detailed information, and transparent reporting to increase public trust.
- + Establish a comprehensive and targeted communication strategy with clear indicators to enhance visibility and promote their role in protecting human rights.

- + Develop gender-sensitive protocols and guidelines for the complaints and investigative mechanism, involving women.

Supreme State Audit

- + Create financial incentive mechanisms based on performance to reduce turnover rates of experienced auditing staff.
- + Review its structure in favour of increasing the number of the effective staff with audit functions. Provide training to its auditors on how to make more comprehensive, well-grounded and realistic recommendations.
- + Fully reflect in final audit reports the comments and observations from the audited entities and the decision of the auditors on them.
- + Keep track of all the recommendations issued in a year and make transparent in the performance reports also the rate of actions and sanctions implemented in practice as SAI recommended.
- + Provide statistical data in its annual reports on the results of criminal referrals to the prosecutor office.

Justice system institutions:

- + The High Judicial Council needs to establish the Judiciary-Media Relations Council, with representatives from both actors.
- + The High Judicial Council and the High Prosecutorial Council should amend the Code of Judicial Ethics and the Standards and Rules, respectively, to ban judges from receiving reimbursements, compensation and honoraria in connection with privately sponsored trips.
- + The High Judicial Council needs to adopt an act for the inclusion of the number of cases against the executive and their outcome, as well as gender disaggregated data, within the judiciary's statistics.
- + The School of Magistrates needs to include in the continuous training program topics on the implementation of gender-sensitive mechanisms.

- + The High Prosecutorial Council should adopt detailed rules regarding temporary secondments to fill the vacancies in the prosecution system, and act immediately to carry out performance evaluations of the prosecutors. The promotion of the prosecutors must be based on these performance evaluations.
- + The High Prosecutorial Council and the General Prosecution must carry out an assessment to determine the workload that a prosecutor can and must handle within working hours, i.e. establishing a maximum standard.

Law Enforcement Agency:

- + The ASP must review its criteria for appointment and career progression. A new system needs to be built that includes clear professional criteria for career progression, a maximum limit for time in rank, and a well-planned structure and organisation whereby attainment of rank is not conditional upon a vacancy.
- + The General Police Director and the Deputy should be confirmed through a presidential decree. This procedure would be similar to the one used for the confirmation of the Chief of General Staff of the Albanian Armed Forces and the commanders of the army, navy, and air force. This does not prevent politicisation, but it does add an independent check on the power of the Executive to appoint these two officials.
- + The return provision, which allows former members of the ASP to return to the force should be removed. As it currently stands, the provision has essentially no restrictions in rank or position that returnees may occupy – including that of the GPD – while its need and value to the ASP has not been outlined in any official policy documents.
- + The APO must publish the asset declarations of police officers, while the ASP must publish data on the donations received on their websites. This would improve transparency and strengthen the integrity of the police.

Public Sector:

- + The State Labour Inspectorate should produce separate data on the inspections of the inspectorate in media outlets and their results to ensure the enforcement of the Labour Code for the protection of journalists' labour rights.
- + AMA's monitoring data (regular monitoring and electoral monitoring) should be published in open data formats to enable researchers and journalists to use the data and keep track of the media environment in the country.
- + The National Business Centre should cooperate with General Directorate of Taxes to automatically publish the annual balance sheets of the companies when they are deposited at tax administration offices, in order to eliminate delays.

Non-state actors:

- + Self-regulatory mechanisms and supervisory institutions of the media should engage in a thorough discussion for developing recommendations for the legislation and application of transparency and accountability mechanisms of media outlets especially regarding qualitative reporting and funding transparency.
- + NGOs should increase advocacy efforts for the implementation of the Roadmap for an Enabling Environment for Civil Society Development 2019-2023 and engage in the consultation of the next roadmap for 2024-2028.
- + Self-regulatory organisms should increase the number of trainings with NGOs so they can increase capacities to use alternative funding opportunities including crowdfunding initiatives, public procurement calls, VAT refunds, VAT exemption, social activity revenues, etc.
- + Self-regulatory organisms should increase NGOs membership in the Code of Conducts and increase efforts for the full application of the Code of Conducts by its NGOs members, especially regarding financial transparency and accountability and human resources management.

State-Owned Enterprises:

- The employment procedures must be in accordance with the Labor Code and the recruitment method must be transparent through an open competition with the aim of selecting the most qualified employee for the position offered.
- State enterprises must publish their board decisions on the website, and board meetings must be opened in cases where there are no confidential matters on the agenda.

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