



Institute for Democracy and Mediation
Instituti për Demokraci dhe Ndërmjetësim



Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

CIVIL SOCIETY REPORT

on the implementation of

Chapter II (Prevention) & Chapter V (Asset Recovery) of the

UNITED NATIONS CONVENTION AGAINST CORRUPTION

IN ALBANIA

by Institute for Democracy and Mediation

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The findings in this report are those of the authors but do not necessarily reflect the views of the UNCAC Coalition and the donors who have made this report possible.

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 31 January 2023.

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The Institute for Democracy and Mediation (IDM) was established in November 1999 as a non-governmental organisation dedicated to the advancement of societal capacities, skills and knowhow. IDM generates knowledge and expertise for inclusive policy making, evidence-based alternatives to bolster democracy and sustainable development.

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Abbreviations

AASCA	Agency for the Administration of Seized and Confiscated Assets
AMA	Audiovisual Media Authority
AMI	Agency for Media and Information
AML	Anti-Money Laundering
ALL	Albanian Lek
APO	Agency for Police Oversight
ASPA	Albanian School of Public Administration
ATRAKO	Agency for Processing of Concessions
BIRN	Balkan Investigative Reporting Network
CEC	Central Election Commission
CoM	Council of Ministers
CSO	Civil Society Organisation
CTF	Countering Terrorism Financing
DoPA	Department of Public Administration
ERNPC	Electronic Register for Notification and Public Consultation
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FOI	Freedom of Information
GBP	British pound
GDPML	General Directorate for the Prevention of Money Laundering
GRECO	Group of States against Corruption
HIDAACI	High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest
HRD	Human Rights Defenders
ICRG	International Cooperation Review Group
IDM	Institute for Democracy and Mediation
IDP	Information and Data Protection
ISAC	Intersectoral Strategy against Corruption
LPP	Law on Political Parties
MoJ	Ministry of Justice
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
NFBP	Non-financial Businesses and Professions
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organisation for Security and Cooperation in Europe
PEP	Politically Exposed Persons
PMO	Prime Minister's Office
PPA	Public Procurement Agency
PPC	Public Procurement Commission
SIGMA	Support for Improvement in Governance and Management
SLAPP	Strategic Lawsuits against Public Participation
SPAK	Special Prosecution against Corruption and Organized Crime
SSAI	Supreme State Audit Institution
STR	Suspicious Transaction Report
TMC	Top-management Corps
UNCAC	United Nations Convention against Corruption

UNODC	United Nations Office on Drugs and Crime
USD	United States Dollar

List of Persons Consulted

Name	Job title	Affiliation	Date of interview
Viola Keta	Editor in Chief	Faktoje.al	23/08/2022
Lorin Kadiu	Journalist/Executive Director	Citizens Channel	28/07/2022
Irena Dule	Lawyer	Res Publica	25/07/2022
Rovena Pregja	Director	Ministry of Justice	15/09/2022
Arbër Basholli	Secretary General	HIDAACI	18/07/2022
Anonymous	Public administration expert	Independent	22/09/2022
Anonymous	Former senior civil servant	Albanian public administration	07/09/2022

The research team sent freedom of information (FOI) requests to the Albanian Assembly, Prime Minister's Office, HIDAACI, Ministry of Justice, Ministry of Education and Sports, General Prosecutor's Office, GDPML, Albanian State Police, Bank of Albania, ASPA, AASCA, General Directorate of Customs, University of Tirana. Except for the Albanian State Police, General Directorate of Customs, and the Ministry for Education and Sports, all other institutions responded to the FOIs albeit not always in a satisfactory manner.

I. Introduction

Albania signed the United Nations Convention against Corruption (UNCAC) on 31 October 2003 and ratified it on 13 March 2006.

This parallel report reviews Albania's implementation of selected UNCAC articles from Chapter II (Preventive measures) and Chapter V (Asset recovery). The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. Albania was selected by the UNCAC Implementation Review Group by a drawing of lots for review in the first year of the second cycle. A draft of this parallel report was provided to the Albanian Ministry of Justice to review and share with other state institutions as appropriate.

1.1 Scope. The UNCAC articles and topics that receive particular attention in this report are those covering preventive anti-corruption bodies (Article 6), public sector employment (Article 7.1), political financing (Article 7.3), codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12), public procurement (Article 9.1), the management of public finances (Article 9), access to information and the participation of society (Articles 10 and 13.1), and measures to prevent money laundering (Art. 14) under Chapter II. Under Chapter V, the UNCAC articles and topics that receive particular attention in this report are those covering anti-money laundering (Articles 52 and 58), international cooperation for the purpose of confiscation (Articles 51, 54, 55, 56 and 59) and the return and disposal of confiscated property (Article 57).

1.2 Structure. The report begins with an executive summary, including the condensed findings, conclusions and recommendations about the review process, the availability of information, as well as the implementation and enforcement of selected UNCAC articles. The following part covers the findings of the review process in Albania as well as access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. Then, recent developments are discussed and lastly, recommendations for priority actions to improve the implementation of the UNCAC are given.

1.3 Methodology. The report was prepared by the Institute for Democracy and Mediation with technical and financial support from the UNCAC Coalition. The group made efforts to obtain information for the reports from government offices and to engage in dialogue with government officials. As part of this dialogue, a draft of the report was shared with the Country Focal Point.

The report was prepared using guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by civil society organizations (CSOs). These tools reflected but simplified the United Nations Office on Drugs and Crime (UNODC)'s checklist and called for relatively short assessments as compared to the detailed official self-assessment checklist. The report template included a set of questions about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement in articles of UNCAC Chapter II on prevention and Chapter V on asset recovery.

In preparing this report, the authors took into account the recent reviews of Albania carried out by GRECO and FATF.

II. Executive Summary

This parallel report reviews Albania's implementation of selected articles of Chapter II (Preventive measures) and Chapter V (Asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters.

2.1 Description of the Official Review Process

As the research for this parallel report was starting in the summer of 2022, there was little information on the official review process. It was known only that a team with representatives from Azerbaijan and Liberia would be involved. We have subsequently found out from our Country Focal Point that a draft report had been submitted to the Albanian Ministry of Justice in December 2022, which was shared with other state institutions. According to the Focal Point, the in-country visit is expected in spring of 2023, but no date has been communicated to Albanian authorities as of 8 February 2023.¹

2.2 Availability of Information

The research team conducted a preliminary review of the UNCAC articles reviewed in this report to determine the data, documents, information, responsible institutions, and potential interlocutors in public institutions and civil society with whom they needed to engage to gather information on relevant policies covered by the articles under review. Subsequently, the research team sent freedom of information (FOI) requests to relevant public institutions and scheduled semi-structured and in-person interviews with interlocutors from public institutions and civil society. Although most of the information was publically available, the research team encountered some challenges in acquiring statistical data on money laundering cases and investigations.

2.3 Implementation in Law and in Practice

Chapter II (Preventive measures)

Anti-corruption policy in Albania is coordinated at the executive level. The Ministry of Justice, as the national anti-corruption coordinator, is responsible for convening representatives from other line ministries, law enforcement agencies, and independent oversight institutions to draft the national anti-corruption policy. The two main independent bodies whose mandate is to foster integrity in public institutions and prevent corruption are the Supreme State Audit Institution (SSAI) and the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest (HIDAACI). SSAI is a constitutional institution mandated to audit the consolidated state budget, the central and local government public entities, including public funds provided by the European Union or other international organisations, legal entities, in which the State has 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.² The mandate of HIDAACI spans three important corruption-related laws: (i)

¹ Communication via email with Ms. Rovena Pregja, Country Focal Point, 8 February 2023.

² Law No. 154, date 27.11.2014 On the Organisation and Functioning of SSAI, article 10, https://drive.google.com/file/d/1suJ-xQ1UxiQm51vHvNwzPbu2elXcHaT_/view.

the declaration of assets and other financial disclosures, (ii) the prevention of conflicts of interests, and (iii) monitoring the appropriate functioning of the internal whistleblowing mechanism from the public and private responsible units, and serving as the external unit for whistleblowing if there is no internal unit in an organization or if there are reasonable doubts that the investigations of such unit may be compromised. Other important institutions include the Ombudsperson, the Information and Data Protection Commissioner (IDP), Commissioner for Protection against Discrimination, the Commissioner for Public Procurement. Collectively, these independent oversight institutions have a mandate to protect the fundamental constitutional rights and freedoms – such as freedom of speech, freedom of assembly, the right to work, the right to privacy, and the right not to be discriminated against – which can be severely undermined and threatened due to institutional corruption, arbitrary decision-making, and fraud.

Despite some progress in building up the capacities of these institutions, it is becoming more challenging to meet the objectives of their mandates in line with international standards and rigorously implement them, as international standards of public participation, transparency, data protection, and public procurement continue to increase.

The civil service and political financing legal frameworks and implementation in practice dynamics follow similar trends. Although the civil service and political party financing regulatory framework have been gradually improving, a lack of institutional proactivity and capacities coupled with regulatory loopholes undermine the establishment of a professional, apolitical, and competent civil service, as well as the establishment of a rigorous political party financing regime.

Despite some progress on the establishment of the legal and regulatory framework in access to information and public consultations, public participation in decision-making and institutional transparency continue to face significant legal and institutional obstacles. In 2021, the government established the Agency for Media and Information (AMI) to manage relations and communication between governmental bodies and the media, and ensure transparency on the activities of the government.³ However, local and international organizations have deemed the establishment of the AMI as an effort to consolidate government control and limit access to information.⁴

There is no public body overseeing the media to ensure that the provisions of the Law on Right to Information cannot be used for political or partisan purposes to restrain the investigation and publication of stories on corruption, whilst legislation addressing strategic lawsuits against public participation (SLAPPs) is lacking. The latter would strengthen the guarantees to freedom of expression by ensuring protection from lawsuits that attempt to restrain public participation by intimidating defendants with legal action.

³ Decision of the Council of Ministers no. 519, date 18.09.2021 “On the establishment, organization and functioning of the Agency for Media and Information”, <https://bit.ly/3JGZkLW>.

⁴ ARTICLE19 (October 2021), “Albania: Government must scrap new Media and Information Agency”, <https://www.article19.org/resources/albania-government-must-scrap-new-media-and-information-agency/>, accessed on 08 September 2022.

Law no. 146/2014 on Notification and Public Consultation⁵ enables citizens' participation in decision-making when laws, national and local strategies, and policies of high public interest are being drafted. The publication of draft laws and policies in an electronic register for notifications and public consultations (ERNPC)⁶ is mandatory, however, the use of other (more accessible) methods of consultation, such as public meetings and hearings, electronic mail, or social media channels, is optional. Even though the available data suggest that the ERNPC is not an effective consultation tool, as it is barely known or used by the public (only 16.6 percent of citizens used it during 2021)⁷, most public bodies limit their public consultation efforts to the publication of consultation documents in this register. The current legal and institutional infrastructure in place has often failed to provide accountability when consultations were unduly circumvented. According to CSOs, among the enabling factors of such circumvention of public consultation processes, are the loopholes in the legal framework which allow misinterpretation and ineffective oversight and complaint mechanisms.⁸

A positive example of cooperation between public bodies and CSOs is the involvement of the latter in providing expertise on the corruption risk assessment process through the drafting of the risk assessment methodology and contributing to the drafting of institutional anti-corruption policies of central and local government bodies (Integrity Plans).⁹ Furthermore, CSOs have reported on citizens' perceptions of corruption and provided research and policy analysis to support evidence-based decision-making and institutional accountability seeking.

A new Law on Public Procurement was adopted in December 2020, and began to be implemented from 31 March 2021. Bidding procedures are open, except for the negotiating procedure without prior notification.¹⁰ Public procurement suffers from a number of issues ranging from fictitious bidding to lack of effective oversight.¹¹ A law on the beneficial owners' registry was approved in 2020, but it does not provide sufficient guarantees for disclosure, as it allows economic operators that cannot identify their beneficial owners to submit the name of the individual who exercises control over the decision-making and/or executive bodies of the company.¹²

⁵ Article 1(1), Law no. 146/2014 "On public notification and consultation", https://www.idp.al/wp-content/uploads/2016/11/liqi_nr_146_per_njoftim_konsultim_public_dt_30_10_2014_19918_1-2.pdf.

⁶ Electronic register for notifications and public consultations: <https://konsultimipublik.gov.al/>, accessed on 14 November 2022.

⁷ Irma Semini and Iliada Korçari (2022), *Trust in Governance 2021*, Institute for Democracy and Mediation, Tirana, <https://idmalbania.org/public-opinion-poll-trust-in-governance-2021/>, accessed on 14 November 2022, p.67.

⁸ Irma Semini and Iliada Korçari (2022), *Trust in Governance 2021*, p.4.

⁹ Institute for Democracy and Mediation (October 2020), *The Integrity Plan: A new perspective in the fight against corruption*, <https://idmalbania.org/the-integrity-plan-a-new-perspective-in-the-fight-against-corruption-october-2020/>, accessed on 8 September 2022.

¹⁰ Article 47, Law no. 162/2020 "On public procurement", <https://www.app.gov.al/legjislacioni/prokurimi-publik/liqji/>.

¹¹ Alban Dafa (April 2022), "Elusive Standards: Governance and Oversight of the Security Sector Procurement in Albania", https://cess.org/wp-content/uploads/2022/05/CESS-Policy-Brief_7-2022_EN.pdf, accessed on 2 February 2023, pp. 10-11.

¹² Section III, Paragraph 1 (d), Decision of Council of Ministers no. 1088, date 24.12.2020 "On the establishment of the procedures for the registration and publication of beneficial owner data and on the notifications from the competent authorities and the required subjects", <https://qbz.gov.al/eli/vendim/2020/12/24/1088>.

Albania is still listed in the jurisdictions under increased monitoring, but it has undertaken a high-level political commitment to improve the national anti-money laundering regime by implementing the action plan agreed with the International Cooperation Review Group of the Financial Action Task Force (ICRG/FATF) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).¹³

The most recent follow-up report, published in 2022, states that Albania had addressed most technical compliance deficiencies within three years after the adoption of the mutual evaluation report.¹⁴ Nevertheless, the report identifies four areas which remain vulnerable:

- (i) targeted financial sanctions on proliferation (R. 7) due to partly meeting the requirements for publicly known de-listing and un-freezing procedures;
- (ii) new technologies (R. 15) due to the fact that the risk analysis of virtual assets activities and virtual asset service providers is not comprehensive and is general in nature;
- (iii) the transparency and beneficial ownership of legal arrangements (R. 25) due to legal deficiencies in requiring trustees to hold information on all relevant trust parties; and
- (iv) the supervision of designated non-financial businesses and professions (DNFBPs) due to a lack of risk-based supervision (R. 28).

Good practices

- In 2021, the SSAI carried out 18 performed audits, which constituted more than 11 percent of the total audits performed.¹⁵
- In January 2022, HIDAACI introduced the Electronic System of Asset and Conflict of Interest Declaration EACIDS which became fully operational for all declaring subjects from October 2022.
- The Public Procurement Commission has also introduced e-filings for complaints.
- Civil service competition procedures allow for appeals to be made in the preliminary selection phase. This is an important practice to ensure that candidates are not automatically disqualified, but are offered the opportunity to provide explanations and supporting documentation that would help them argue that they meet the basic criteria.
- The Law on Decriminalization includes broad provisions that prevent potential candidates with criminal records from running for public office. It has led to the prevention of such candidates from running, and to the dismissal of unlawfully-elected public officials.
- The Electoral Code sets clear minimum and maximum thresholds for monetary and in-kind contributions, forbids donations from non-Albanian public and private entities, and aims to curtail spending in political campaigns.

¹³ Financial Action Task Force (June 2022), "Jurisdictions under Increased Monitoring - June 2022", <http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2022.html>, accessed on 12 September 2022.

¹⁴ MONEYVAL (May 2022), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): 3rd Enhanced Follow-up Report*, <https://rm.coe.int/fur-albania-3rd/1680a6cea3>, accessed on 14 September 2022.

¹⁵ SSAI, *Performance Report 2021*, p. 5, https://www.klsh.org.al/content_pdf/247.

- The national legislation on anti-money laundering and financing of terrorism has been harmonised with Directive (EU) 2018/843 (5th Anti-Money Laundering Directive, 5AMLD).

Deficiencies

- There is some lack of human resources and technical capacities that prevent key independent oversight institutions from effectively fulfilling their mandates.
- Key independent oversight institutions do not sufficiently use their powers to proactively file lawsuits for criminal acts based on their investigations and their work remains mostly reactive to prosecutors' investigations.
- Measures to build integrity in the public sector are insufficient and ineffective. The legislation lacks clear provisions to address the 'revolving door', whilst the procedures and institutional framework to prevent conflicts of interest are in practice ineffective.
- Tailor-made specifications on technical criteria are used as a way for companies that have been predetermined to come out as the winners of the public procurement bid.
- Albanian institutions have not addressed strategic deficiencies in the national AML regime within the deadlines set by FATF.

Chapter V (Asset recovery)

The obligations under UNCAC Article 52 are largely addressed and transposed through the provisions of the anti-money laundering/countering the financing of terrorism (AML/CFT) law. The AML/CFT law provides the regulatory regime and the measures that state authorities, reporting entities, and other individuals must undertake to increase their safeguard and resilience to money laundering threats, as well as supervisory provisions (Chapter V) which stipulate the oversight structures for monitoring compliance with the law, tasks, duties, and functions of the competent authorities and oversight authorities, and applicable sanctions in cases of noncompliance. According to the latest MONEYVAL follow-up report on Albania, the domestic AML regime is largely compliant (LC) with most FATF recommendations (29 out of 40), compliant (C) with six FATF Recommendations, and partially compliant (PC) with four recommendations.¹⁶

Albania is a party to the European Convention on Mutual Assistance in Criminal Matters¹⁷, Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism¹⁸ and has also a bilateral agreement with Kosovo¹⁹. The exchange of requests for assets seizure or confiscation has been rather low. Albanian authorities had executed two requests in 2020 and two in 2021, whilst foreign authorities had executed only one in 2021. The

¹⁶ MONEYVAL (2022), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): 3rd Enhanced Follow-up Report*.

¹⁷ Council of Europe, "Details of Treaty No. 030", <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=030>, accessed on 26 January 2023.

¹⁸ Council of Europe, "Details of Treaty No. 198", <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=198>, accessed on 26 January 2023.

¹⁹ Law no. 3/2013 "On the ratification of the agreement between the Council of Ministers of the Republic of Albania and the Government of Kosovo on mutual legal assistance on penal matters", <https://qbz.gov.al/eli/liqj/2013/01/31/3-2013>.

Ministry of Justice did not provide information regarding the reasons for refusal to execute the requests by Albanian authorities and their foreign counterparts.

Return and disposal of assets is regulated by the same two laws as in the case of international cooperation for confiscation of assets – namely, the Law on the Administration of Seized and Confiscated Assets and the Law on Juridical Relations with Foreign Authorities in Criminal Cases.

Good practice

- The General Directorate for the Prevention of Money Laundering has established a good ongoing training, capacity and awareness building program for reporting entities, as it has trained over 4248 reporting entities in the 2020-2022 period to help raise compliance.
- Albania has become party to relevant international conventions on prevention of money laundering and the financing of terrorism. Simultaneously, it has amended its regulatory framework on mutual assistance on criminal matters also to clarify the procedures for the return and division of confiscated assets.
- The legal framework for the return and disposal of assets provides a good framework for the administration of assets seized and confiscated. A functioning Agency for the Administration of Seized and Confiscated Assets is in place, and it performs basic functions.

Deficiencies

- There are no provisions regulating the issuance of advisories to financial institutions on when and how to apply enhanced due diligence recordkeeping. In practice, some instructions are issued, but they do not specifically address enhanced due diligence recordkeeping.
- The mandate of the Agency for the Administration of Seized and Confiscated Assets regarding the seizure confiscation, and return of assets in international criminal cases does not clearly outline its responsibilities in cases of international requests.
- The legal framework on the return and disposal of assets does not include provisions for compensation of victims of corruption.

Table 1. Implementation and enforcement summary

UNCAC articles	Status of implementation in law	Status of implementation and enforcement in practice
Art. 6 – Preventive anti-corruption body or bodies	Largely implemented	Moderate
Art. 7.1 – Public sector employment	Largely implemented	Moderate
Art. 7.3 – Political financing	Partially implemented	Moderate
Art. 8 Codes of Conduct	Largely implemented	Moderate
Art 8.4 , Reporting by public officials of acts of corruption	Largely implemented	Poor
Art. 8.5 – Preventing conflicts of interest and gifts	Largely implemented	Poor

or other benefits due to the public function		
Art. 9.1 – Public procurement	Largely implemented	Moderate
Art. 10 and 13.1 – Access to information and the participation of society	Largely implemented	Moderate
Art. 14 – Measures to prevent money-laundering	Partially implemented	Poor
Art. 52 and 58 – Anti-money laundering	Largely implemented	Poor
Art. 51, 54, 55, 56 and 59 – International cooperation for the purpose of confiscation	Partially implemented	Poor
Art. 57 – The return and disposal of confiscated property	Partially implemented	Moderate

Table 2. Performance of selected key institutions

Name of institution	Performance in relation to responsibilities covered by the report	Brief comment on performance (for example, inadequate resources, lack of independence, strong expertise)
HIDAACI	Moderate	Lack in legal independence. Active in education and prevention against corruptive acts, but mixed results of its efforts and mostly reactive for criminal investigations.
SSAI	Moderate	Lack of human resources.
Information and Data Protection Commissioner	Moderate	Lack of sufficient resources and proactive administrative investigations.
Agency for Police Oversight	Poor	Lack of independence, resources, and expertise.
Public Procurement Agency	Moderate	Limited technical capacities in monitoring the implementation of the new law on public procurement.
GDPML	Moderate	Lack of transparency and cooperation with civil society actors.
Agency for the Administration of Seized and Confiscated Assets	Moderate	Mandate is unclear regarding international cooperation and compensation of victims.
Ministry of Justice	Moderate	Some anti-corruption efforts overlap with the mandate of

		HIDAACI on whistleblowing policy.
Commissioner for Protection against Discrimination	Moderate	Lack of proactivity in pursuing anti-discrimination policies.
Ombudsperson	Moderate	Lack of resources and proactivity in pursuing its mandate.
Public Procurement Commission	Moderate	Limited capacities to follow high numbers of appeals.
Department of Public Administration	Moderate	Insufficient efforts to ensure that senior civil servants are properly trained, remuneration is fair, and performance management is not comprehensive and interlinked to policy expertise and remuneration.
Central Election Commission	Moderate	Lack of independence and insufficient proactivity in enforcing Electoral Code provisions on political financing.

2.4 Recommendations for Priority Actions

1. Independent oversight institutions – **evaluate the needs and take actions for increasing their human resources, expertise and technical capacities** in view of improving their performance in line with the increased international standards in the field of the respective functional activity.
2. Agency for Police Oversight – **pursue proactive investigations** that target corruption amongst the top leadership of the ASP to **ensure** that the police are led by officers of high integrity and professionalism.
3. **Revise the recruitment and promotion system** to prioritise policy expertise for members of the TMC and provide the decisions taken by the selection committees to the public upon request. This will ensure a professional and competent civil service.
4. Albanian Assembly – **adopt the new draft-law on preventing conflicts of interest in line with international standards.** Approve a dedicated law which will provide for the HIDAACI's functioning and organisation and for enforcing the election and dismissals of the General Inspector.
5. HIDAACI – **ensure that there are appropriate mechanisms to address in practice conflicts of interest in the public administration and whistleblowing investigations** in the public and private sector.

6. **Align the provisions on political party financing in the Electoral Code and in the Law on Political Parties** to ensure that legal loopholes regarding the level of contributions and contributions from foreign sources are closed.
7. Albanian Assembly – **adopt legislation to regulate third-party financing and the financing of national referenda.**
8. Public Procurement Agency – **publish analysis of public procurement data and assessments of the implementation of public procurement policy to ensure** transparency of public procurement policy.
9. Albanian Assembly – **adopt legislation on the return and disposal of assets** that include clear provisions for the compensation of victims of corruption and for the mandate of the Agency for the Administration of Seized and Confiscated Assets on international cooperation for the seizure, confiscation, return, and disposal of assets.
10. IDP Commissioner – **ensure that legal exemptions from disclosure of information are not misused** by public institutions to deny access to information.
11. Law enforcement agencies – **investigate job-related threats against journalists and activists thoroughly** to ensure a conducive environment for professional journalism.
12. Oversight authorities set forth in the national AML law (Bank of Albania, Financial Oversight Authority, Public Oversight Board, Albanian Chamber of Advocacy, Ministry of Justice) – **identify and assess the money laundering risks of each sector** under their mandate and design regulations to ensure that they effectively prevent money laundering.
13. Albanian Assembly – revise the legal framework governing the anti-Money Laundering Coordinating Committee to add clarity and specify the functions of the Committee as the national AML policy coordinator. Moreover, the Committee must guarantee enhanced transparency in order to allow for public oversight, accountability, and scrutiny.

III. Assessment of Review Process for Albania

The government has been cooperative, but has not provided much information on the review process. According to the Country Focal Point, the Ministry of Justice has not had any clear information on the conduct of the review process since the schedule for the Second Review Cycle changed.

3.1 Report on the Review Process

Table 3. Transparency of the government and CSO participation in the UNCAC review process

Did the government disclose information about the country focal point?	Yes	The Country Focal Point has been Ms. Rovena Prega from the Ministry of Justice.
Was the review schedule published somewhere/publicly known?	No	The County Focal Point was unaware of the review schedule as of 15 September 2022. UNODC forwarded the draft report of the review to the Ministry of Justice, and notified the Country Focal Point that the in-country visit would take place during Spring 2023, without specifying a date.
Was civil society consulted in the preparation of the self-assessment checklist?	Yes	The following groups were consulted: <input checked="" type="checkbox"/> Anti-corruption and access to information CSOs <input checked="" type="checkbox"/> CSOs working on other issues
Was the self-assessment checklist published online or provided to civil society?	Yes	It was not published online, but provided to the research team upon request.
Did the government agree to a country visit?	Yes	
Was a country visit undertaken?	Not yet	
Was civil society invited to provide input to the official reviewers?	Not available	The plan of the in-country visit of the official reviewers has not been shared with the Country Focal Point as of 8 February 2023.
Was the private sector invited to provide input to the official reviewers?	Not available	
Has the government committed to publishing the full country report?	Not yet ²⁰	In April 2023, Albania signed the UNCAC Coalition's Transparency Pledge, committing to publishing the self-assessment checklist and full country report once finalized. ²¹

²⁰ The draft report is under review from the MoJ.

²¹ <https://uncaccoalition.org/albania-signs-the-uncac-review-transparency-pledge/>.

3.2 Access to Information

The research team engaged with officials in some institutions, for example from the HIDAACI and the Ministry of Justice, as well as with independent experts and civil society and media representatives. The research team also sent freedom of information (FOI) requests to the University of Tirana, Ministry of Justice, Ministry of Education and Sports, ASP, GDPML, General Prosecutor's Office, HIDAACI, Bank of Albania, General Directorate of Customs, ASPA, PMO, Albanian Assembly, Agency for the Administration of Seized and Confiscated Assets. The purpose of these FOI requests was to acquire information and official documents, as well as statistics related to money laundering cases and investigations.

As indicated in the table on FOI requests in the annex of this report, most of the requests were addressed; however, some institutions either did not reply or provided only partial information.

Except for some statistics on international cooperation to seize and confiscate assets, most of the data and information on anti-corruption policy, asset declarations, whistleblowing policy, civil service, public procurement, anti-money laundering policy, and civil society participation were publicly available in reports published by the HIDAACI, Agency for the Administration of Seized and Confiscated Assets, APO, GDPML, Bank of Albania, and ASPA. Furthermore, the research team consulted reports from Albanian civil society organizations such as ResPublica, Albanian Helsinki Committee, and the Institute for Political Studies, as well as from international organizations such as MONEYVAL and SIGMA.

Except for the Albanian State Police and the General Directorate of Customs, all other institutions replied to the FOI requests. However, the replies were not always satisfactory. The prosecution did not provide data on the investigation of money laundering cases, instead suggesting that the research team consult the published reports. Although published reports provide some cumulative data on money laundering cases, no data on the judicial phase could be found in such reports as required in the statistics section of this parallel report. Similarly, no data could be found or provided by law enforcement authorities on their investigations of money laundering cases based on suspicious transaction report (STRs).

IV. Assessment of Implementation of Chapter II and Chapter V Provisions

This chapter analyzes the implementation of the provisions of UNCAC Chapter II on preventive measures and Chapter V on asset recovery in Albania through the application of laws, regulations and practices and highlights both good practices and areas for improvement.

4.1 Chapter II

4.1.1 Art. 6 – Preventive Anti-Corruption Body or Bodies

Anti-corruption policy in Albania is coordinated at the executive level. The Ministry of Justice, as the national anti-corruption coordinator, 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 education – which are outlined in the Inter-Sectoral Strategy against Corruption 2015-2020.²² 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 USD 3,403,144) and international donors (438 million ALL – approximately USD 4,006,928) with a finance gap of 176 million ALL (approximately USD 1,610,089). 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.²³

In addition to the role of the executive in coordinating the planning, implementation, and monitoring of anti-corruption policies, there are two main independent bodies whose mandate is to foster integrity in public institutions and prevent corruption: the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest (HIDAACI) and the Supreme State Audit Institution (SSAI). The heads of both institutions are elected by the Albanian Assembly for a seven-year term. The General Inspector of HIDAACI is elected in the first round by 3/5 of the members of the Assembly and with an absolute majority in a second round, if the first round resulted unsuccessful, whereas the Chair of SSAI is nominated by the President of the Republic and confirmed by the Assembly.²⁴ They are both relieved of duty through a vote in the Assembly – in the case of the Chair of SSAI, after a proposal has been made by the President of the Republic – when the heads of the institutions have violated the law, the Constitution, and/or have been deemed unfit due to health

²² The duration of the strategy was extended to 2023 in order to implement outstanding activities. The strategy can be found at: <https://bit.ly/3B9cYmQ>. A new strategy for 2023-2030 is in the process of being consulted and approved. An outline of the draft can be found at: <https://bit.ly/3B8gLAN>. Accessed 2 October 2022.

²³ Council of Ministers, *Inter-sectoral Strategy against Corruption 2015-2020*, pp. 15-17, <https://qbz.gov.al/eli/vendim/2015/03/20/247>, accessed on 2 October 2022.

²⁴ See Article 11, Law no. 9049, date 10.4.2003 “On the declaration of assets and financial obligations of elected officials and of certain public officials”, <https://www.ildkpi.al/legjislacioni-3/>; Article 19, Law no. 154/2014 “On the organization and functioning of the Supreme State Audit institution”, https://www.klsh.org.al/content_text/3714.

reasons.²⁵ They are both independent oversight institutions with their own budgets, which are approved by the Assembly.

HIDAACI

The mandate of HIDAACI spans three important corruption-related laws: (i) the declaration of assets and other financial disclosures, (ii) the prevention of conflicts of interests, and (iii) monitoring the appropriate functioning of the internal whistleblowing mechanism from the public and private responsible units, and serving as the external unit for whistleblowing if there is no internal unit in an organisation or if there are reasonable doubts that the investigations of such units may be compromised.

- i. HIDAACI is responsible for the collection, administration, verification, and investigation of the declarations of assets and other financial disclosures for all public officials within the scope of Law no. 9049, 10.04.2003. They include, amongst others, the President of the Republic, the Prime Minister, ministers, members of the Assembly, judges, prosecutors, high-ranking officers in the military and the police, as well as mid- and senior-level civil servants.²⁶ In cases of violations of the legal provisions requiring the filing of asset declarations, HIDAACI has the authority to issue fines in accordance with Article 40 provisions. It is worth noting that due to the reform package on the justice reform – which entails the overhaul of the judiciary through the re-evaluation of judges and prosecutors and the establishment of new institutions to implement such processes and govern the judiciary – HIDAACI has been faced with the monumental task of verifying and investigating the declarations of more than 800 judges and prosecutors. The vetting process has been ongoing since July 2016 and HIDAACI completed the submission of the evaluations at the end of 2020.²⁷
- ii. Regarding conflicts of interest legislation, HIDAACI is responsible for monitoring the implementation of Law no. 9367, 07.04.2005 On the Prevention of Conflicts of Interest of Public Officials, and providing training and advice to public institutions on the internal processes and procedures to prevent or address conflicts of interest when they arise. The law 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. Restrictions with regard to private interests can also apply to the spouse, cohabitant, adult children, parents of the official and those of the spouse and cohabitant. Data collected in the declarations are legally required to be made available to the public, while respecting the legislation on personal data protection. Private interest declarations must be published on the website of HIDAACI. Although each institution is responsible for establishing the necessary mechanisms for the effective implementation of the law, HIDAACI has a significant mandate to ensure that the law is effectively implemented.²⁸ In addition to monitoring the implementation of the law by other public institutions, HIDAACI

²⁵ This is to be certified by a court order.

²⁶ Article 3/1, Law no. 9049, date 10.4.2003.

²⁷ For more information, see Albanian Helsinki Committee (April 2018), *Raport Vettingu në Vëzhgimin e Komitetit Shqiptar të Helsinkit: Gjetje dhe të Dhëna Statistikore Shtator 2017 – Prill 2018*, <https://bit.ly/3qwG1f0>, accessed on 07 October 2022.

²⁸ For more information, see Article 42, Law 9367, date 07.04.2005 “On the prevention of conflicts of interest of public officials”, <https://www.ildkpkj.al/legjislacioni-section2/>.

may conduct its own administrative investigations on a case-by-case basis, produce comprehensive reports, provide recommendations to public institutions, and issue administrative sanctions.

iii. Similarly, HIDAACI is the responsible institution for the implementation of whistleblower law, which covers both the private and the public sectors. Public institutions and entities with more than 80 employees and private entities with more than 100 employees need to establish a whistleblower unit responsible for processing and investigating claims. In addition to the establishment of regulations for and the monitoring of the implementation of whistleblower mechanisms in the public and private sector, HIDAACI serves as the external unit for whistleblowing if there is no internal unit in an organization or if there are reasonable doubts that the investigations of such existing units may be compromised. Also, if an employee decides to report a case to the unit within his/her organization, and reprisals do ensue as a result of the reporting, the employee may seek redress and protection through HIDAACI.²⁹ In such cases, HIDAACI investigates the claims of reprisal made by the whistleblower, and it orders the public or the private entity to reverse its course of action. If the public or private entity fails to implement the order, HIDAACI or any other interested person may sue the relevant entity to enforce the order.³⁰ In cases where the whistleblower has been damaged, he/she can sue in a court and ask for reparations. Furthermore, HIDAACI may issue fines to public and private entities that fail to establish their whistleblower units, investigate cases reported to them, undermine the privacy of the whistleblower, or engage in retaliatory actions due to his/her reporting.

To implement its full mandate, HIDAACI has a total of 40 inspectors – 12 of which are assistant inspectors. The rest of the 70-person team deals mainly with support tasks: archival duties, legal assistance, and administration and finance. While HIDAACI lacks an internal audit unit in its structure,³¹ its internal audit is carried out through a signed agreement by the Directorate of Internal Audit, Ministry of Finance and it is also audited periodically from SSAI.³²

Below is a summary of the main results of HIDAACI’s work on the implementation of these three policy areas, based on the data compiled from its annual reports during 2019-2021.³³

Table 4. Main statistics on HIDAACI’s actions by policy area (2019-2021)

Policy area	Indicators	2019	2020	2021
Whistleblower protection	Whistleblower units established	- 168 public sector units - 444 private sector units	- 168 public sector units - 444 private sector units	- 362 public sector units - 527 private sector units

²⁹ Article 11, Law no. 60/2016 “On whistleblowing and whistleblower protection”, <https://www.ildkpci.al/legjislacioni-section3/>.

³⁰ Article 18, Law no. 60/2016 “On whistleblowing and whistleblower protection”.

³¹ The structure and organization of HIDAACI can be found at: <https://www.ildkpci.al/rreth-nesh/>, accessed on 10 October 2022.

³² SSAI reports on HIDAACI are published in <https://www.ildkpci.al/auditimi/>.

³³ Annual reports can be found at: <https://www.ildkpci.al/raporte-vjetore/>, accessed on 10 October 2022.

	Reports received from public and private units	- 147 annual reports submitted by public sector units - 244 annual reports submitted by private sector units	- 149 annual reports submitted by public sector units - 237 annual reports submitted by private sector units	- 199 annual reports submitted by public sector units - 321 annual reports submitted by private sector units
	Cases processed by units	- 2 cases (public) - 1 case (private)	- 6 cases (public) - 1 case (private)	- 9 cases (public; one of the cases was later retracted and not investigated) - no cases in the private sector.
	Cases processed by HIDAACI	- 14 cases of whistleblower reports - 1 case for protection from reprisal (all public)	- 9 cases of whistleblower claims (7 public and 2 private) - 1 case for protection from reprisal	- 11 cases of whistleblower claims (10 public and 1 private) - 1 case for protection from reprisal
	Measure taken by HIDAACI on cases processed	administrative and penal referrals	1 fine and administrative and penal referrals	administrative and penal referrals
Declaration and audit of assets	Declarations of assets processed and audited	Administered and arithmetically checked: 3,868, of which 1,417 were fully controlled	Administered and arithmetically checked: 3,769, of which 762 were fully controlled	Administered and arithmetically checked: 4,032, of which 802 were fully controlled
	Measures taken for cases found in breach of the law	- 54 officials fined - 115 penal and administrative referrals (e.g., to be relieved of duty)	- 33 officials fined - 72 penal and administrative referrals	- 132 officials fined - 16 penal and administrative referrals
Preventing Conflict of interest	Measures taken for cases found in breach of the law	n/a	n/a	n/a

Source: HIDAACI annual reports

Out of the three laws, HIDAACI has provided no clear statistical data on the implementation of the legislation on preventing the conflict of interest,³⁴ thus suggesting fundamental problems in the implementation of the law in Albania. With

³⁴ HIDAACI gives a comprehensive number of fines for cases found in breach of the law on preventing conflicts of interest and the law on declaration and audit of assets without making a clear statistical distinction. Therefore, the total number of fines are included in the cell dedicated to Declaration and audit of assets.

regard to the implementation of conflict-of-interest measures, declarations, and audit of assets legislation, GRECO (Group of States against Corruption) assessed in its compliance report of the Fifth Evaluation Round that the legislation on conflicts of interest was not effectively being implemented. This assessment was based on the examination of the Council of Ministers register on conflicts of interest. It found that since 2005, one minister had abstained from the decision-making process due to a conflict of interest.³⁵ However, HIDAACI has supported since 2021 a new draft-law on preventing conflicts of interest, which has still to be approved by the Assembly.

Apart from the data provided by HIDAACI on the implementation of the legislation on the declaration and audit of assets, there is little independent research to inform about its implementation. On the declaration of assets and private interests, HIDAACI reports that it has fined 130 officials in 2021 and a total of 939 officials since 2016 for refusal to declare, for cases of non-declaration in time and/or for issues of conflict of interest, and that in only few cases the administrative court has overturned its decisions. However, it reports as a total the number of referrals to the prosecution or to the other law enforcement agencies since 2019, not making a distinction between these two categories or providing data on the results of such referrals. Since the adoption in 2016 of the law on whistleblowing and whistleblower protection, 188 fines have been issued by HIDAACI for the failure to establish whistleblower units. However, in its annual activity reports since 2017, HIDAACI provides data on the cases of reported misconducts, but no clear information on the results of the investigations on them.³⁶

A 2020 report by the Albanian Helsinki Committee (AHC) on the implementation of whistleblower legislation found that there are complex issues underpinning the difficulties for the effective implementation of the Law on Whistleblowing and Whistleblower Protection. Internal audit units or human resource management units – in cases where public institutions and entities lack internal auditing – are the responsible whistleblower units. Firstly, the processing of whistleblower reports is a secondary task to the primary tasks of these units. Secondly, the employees working in these units are not financially compensated for these additional duties. And lastly, the employees themselves do not trust the units that have been established and the employees responsible to process and investigate their claims.³⁷ The AHC report also found that two cases that had been forwarded to the prosecution of the first instance of the Tirana District Court were not investigated.³⁸

³⁵ GRECO (March 2023), Compliance Report, *Fifth Evaluation Round: Evaluation Report: Albania*, p.11, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680aa6125>, accessed on 15 March 2023.

³⁶ 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; 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 on 30 September 2022.

³⁷ Roven Vuksani (February 2020), *Sinjalizimi i Korrupsionit në Shqipëri: Sfidat e Zbatimit të Kuadrit të ri Ligjor*, Albanian Helsinki Committee, Tirana, <https://bit.ly/3L9KvIc>, accessed on 14 November 2022, p. 23.

³⁸ Roven Vuksani (2020), *Sinjalizimi i Korrupsionit në Shqipëri: Sfidat e Zbatimit të Kuadrit të ri Ligjor*, p. 25.

In October 2021, a Network of Anti-Corruption Coordinators was established under the authority of the Ministry of Justice, and entails the appointment of anti-corruption coordinators in 44 agencies, directorates (e.g., customs and taxation), state-owned enterprises, and hospitals. It includes also four regional anti-corruption coordinators.³⁹ The Ministry of Justice recommends the appointment and dismissal of anti-corruption coordinators, but the heads of the institutions in which the coordinators exercise their duties take the final decision to appoint or dismiss them. The Network is part of the Responsible Structure against Corruption, which is the General Directorate of Anticorruption at the Ministry of Justice. The Structure forwards the investigative reports to the justice minister, who decides whether to recommend further administrative sanctions for the head of one of the 44 entities or to forward the report to the prosecution for further investigations in cases where there are indications of penal violations.

There can be some overlapping competencies between the Network and HIDAACI, since the Network – through the anti-corruption coordinators – is also responsible for collecting and investigating claims from public officials on corruption activities or misuse of public resources, and arbitrary decision-making that violate the rights of citizens or prevent their access to public services. However there are some key differences between the Network and HIDAACI, such as that the former can also process complaints filed by citizens,⁴⁰ while the whistleblowing mechanism regulates the whistleblowing only from people who work for or have a working relation with the organization; the Network can investigate possible cases of corruption on its initiative, while the whistleblower mechanism relies on the whistleblowers reporting; the Network functions in a limited number of public organisations while there are internal whistleblowing units in public organisations with more than 80 employees or in private organisations with more than 100 employees.

Given the breadth and depth of the mandate of HIDAACI, it is extremely challenging for this institution to effectively fulfill its mandate in line with international standards. Although it is important to note that there have been technical improvements through the submission of the asset declaration electronically, which had been one of the GRECO recommendations, the low implementation in practice of the law on whistleblower protection and of the law on preventing conflicts of interests, which required a completely new, yet to be approved, legal initiative, suggests that HIDAACI is still in need of increased resources or efforts to provide for the full implementation of the laws in practice.

SSAI

SSAI is the supreme national audit institution. Its mandate is to improve the financial management and use of resources in the public sector through financial, compliance, performance, information technology (IT), and thematic auditing. The total number of SSAI's personnel is 233, with approximately 170 auditors.⁴¹ Its auditing work is

³⁹ 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>.

⁴⁰ Decision of Council of Ministers no. 618, date 20.10.2021 "On the establishment and organization of the network of anti-corruption coordinators".

⁴¹ Supreme State Audit Institution, "Analiza Vjetore e KLSH-së për Vitin 2021", <https://panel.klsh.org.al/storage/phpJlmQUUp.pdf>, accessed on 12 October 2022.

organized in seven departments, which cover (i) central government institutions, (ii) local government institutions, (iii) assets and environment, (iv) state budget, (v) performance auditing, (vi) IT auditing, and (vii) public companies and foreign investments.⁴² It also includes a directorate for internal auditing.

SSAI has a wide range of competencies: from providing recommendations through its audit reports to filing penal lawsuits. Based on its audits, it may provide recommendations to public institutions on their internal organization, regulations, their compliance with relevant legislation; it may propose legislative amendments to the Assembly; it may recommend to the head of institutions to take appropriate administrative sanctions; it may forward the key findings of the report to the prosecution when it assesses that there are indications of penal violations that need to be further investigated, and it may also initiate penal lawsuits when it assesses that there is clear evidence of wrongdoing.⁴³ Public communication and engagement is an important component of the mandate of SSAI, and the institution may communicate to the public by publishing audit reports and periodic bulletins, collaborating with civil society organizations, press conferences and press releases.⁴⁴

SSAI reports regularly to the Albanian Assembly and to the Committee on Economy and Finance. The annual reports on its work, as well as the audit reports, are published on its website. SSAI's annual performance reports include general statistics on the number of audits by institution and type, key findings of the audits performed, and the status of its recommendations and lawsuits or submission of findings to the prosecution for further investigation.⁴⁵

The annual performance reports provide data on the implementation of SSAI's recommendations by the auditees and the progress of lawsuits/penal referrals. According to the data provided by the reports, public institutions implement less than half of the recommendations made in audit reports (see Table 5). Another issue is the lack of information with regards to the audit of classified procurement procedures.⁴⁶

Table 5. Statistics on audits conducted and their main outcomes (2019-2021)

		2019	2020	2021
Audit type	Financial	23	5	21
	Compliance	42	28	56
	Regulatory	41	16	41
	Performance	16	9	18
	IT	7	4	5

⁴² Supreme State Audit Institution, <https://panel.klsh.org.al/storage/phpP0Euxj.pdf>, accessed on 12 October 2022.

⁴³ Article 15, Law no. 154/2014 "On the organization and functioning of the Supreme State Audit institution", https://www.klsh.org.al/content_text/3714.

⁴⁴ Articles 33-34, Law no. 154/2014 "On the organization and functioning of the Supreme State Audit institution".

⁴⁵ Annual performance reports can be found at: https://www.klsh.org.al/cat_list/13, accessed on 12 October 2022.

⁴⁶ For more detailed examination of security and defense procurement governance, see Alban Dafa (April 2022), "Elusive standards: Governance and oversight of security sector procurement in Albania", Center for European Security Studies, <https://CESS-Policy-Brief-7-2022-EN.pdf>, accessed on 2 February 2023.

	Thematic	11	11	17
Recommendation status	Recommendations	3,004	2,910	1,376
	Accepted	2,855	2,745	1,292
	Implemented	1,492	1,386	720
Lawsuit/penal referral status	Under investigation	28	7	14
	Trial	0	1	0

Source: SSAI annual performance reports

Despite these issues, Support for Improvement in Governance and Management (SIGMA) has commended SSAI for producing and updating manuals on public procurement, detecting corruption, and financial fraud, which are undoubtedly important. SIGMA, also recognised that increasing resources are being diverted towards performance and financial audits, although the balance of work of SSAI remains in favor of compliance audits.⁴⁷

Other corruption prevention bodies

In addition to HIDAACI and SSAI, there are also other independent bodies that play a role in countering corruption. They include both independent oversight institutions – the Ombudsperson, the Information and Data Protection Commissioner (IDP), Commissioner for the Protection against Discrimination, the Commissioner for Public Procurement – and various agencies at the central government level.

Independent oversight institutions

Collectively, these independent oversight institutions have a mandate to protect the fundamental constitutional rights and freedoms – such as freedom of speech, freedom of assembly, the right to work, the right to privacy, and the right not to be discriminated against – which can be severely undermined and threatened due to institutional corruption, arbitrary decision-making, and fraud. The heads of these institutions are all appointed by the Assembly. The IDP Commissioner is voted by the majority of the Assembly, after being nominated by the Council of Ministers, for a five-year mandate⁴⁸; the Commissioner for Protection against Discrimination is voted by the majority of the Assembly, after being nominated by a group of Assembly members, for a five-year term⁴⁹; the Ombudsperson is voted by 3/5 of the members of the Assembly for a five-year term.⁵⁰ The key personnel of these institutions are civil servants, but it is important to emphasize that none of them have an internal audit unit.

⁴⁷ OECD (November 2021), *Monitoring Report: The Principles of Public Administration. Albania*, OECD Publishing, Paris, <https://www.sigmaweb.org/publications/Monitoring-Report-2021-Albania.pdf>, accessed on 13 October 2022, p. 180-181.

⁴⁸ Article 33, Law no. 9887, date 10.03.2008 “On the protection of personal data”, <https://bit.ly/3BFXoAy>.

⁴⁹ Articles 23, 25, Law no. 10 221, date 04.02.2010 “On the protection against discrimination”, <https://www.kmd.al/wp-content/uploads/2021/05/2.pdf>.

⁵⁰ Articles 4-5, Law no. 8454, date 04.02.1999 “On the Ombudsperson”, <https://www.avokatipopullit.gov.al/sq/article/legislation>.

Despite the policy differences of their mandates, these institutions share some common competencies. They all process and investigate citizen complaints, recommend administrative measures to public institutions within the scope of the legislation governing their work, propose legislative amendments, and refer cases to the prosecution when they assess that a penal violation has been committed. The IDP Commissioner ensures that the Transparency Program – a set of documents that public authorities must publish, as well as procedures to enable access to information to the public – is being effectively implemented. It mediates between the public authority and the requester of the information in cases when there are disagreements between the two parties.⁵¹ It may fine public authorities if they fail to implement the Transparency Program or other provisions of the Law on the Right to Information and the Law on Personal Data Protection.

Although there has been some progress with regards to the legislative and institutional framework on the right to information and personal data protection as evidenced by domestic⁵² and international reports⁵³, significant shortcomings in the implementation of the legislation still persists. Public institutions lack transparency and publish only basic information about their structure, organization, and activities, whilst information on public procurement, budget reporting, or internal audit reports is minimal or non-existent.⁵⁴ Despite these shortcomings, the IDP Commissioner's administrative sanctions (fines) are slim. In the last three years they have varied between three to five sanctions per year.⁵⁵ Similar trends are prevalent also with regard to the personal data protection policy. Although the number of administrative sanctions recorded is higher compared to those related to institutional transparency⁵⁶, the IDP Commissioner has taken a rather soft stance towards public institutions in response to several personal data breaches and subsequent public data leaks of more than 910,000 citizens by issuing only one administrative sanction despite the scale and impact of the breach.⁵⁷

⁵¹ Article 24, Law no. 119/2014 "On the right to information", <https://qbz.gov.al/eli/ligj/2014/09/18/119>.

⁵² See for example, Alban Dafa (July 2021), *National PAR Monitor: Albania 2019/2020*, Institute for Democracy and Mediation, <https://idmalbania.org/national-par-monitor-albania-2019-2020/>, accessed on 13 October 2022.

⁵³ See for example, European Commission (October 2021), *Albania Report 2021*, https://neighbourhood-enlargement.ec.europa.eu/albania-report-2021_en, accessed on 13 October 2022.

⁵⁴ See Dorian Matlija and Irena Dule (January 2020), *E Drejta e Informimit (2019): Kur Komisioneri për të Drejtën e Informimit reduktohet në monitorues...*, Res Publica Center, Tirana, <https://bit.ly/3RPQYEy>, accessed on 13 October 2022 and Alban Dafa, *National PAR Monitor: Albania 2019/2020*, pp. 90-91, 117-118.

⁵⁵ 2019: five administrative sanctions; 2020: three administrative sanctions; 2021: four administrative sanctions. The annual reports can be found at: <https://www.idp.al/raporte-vjetore/>, accessed on 14 October 2022.

⁵⁶ 2019: 56 administrative sanctions; 2020: 37 administrative sanctions; 2021: 30 administrative sanctions.

⁵⁷ For more information on the most prominent case, see Gjergj Erebara, "Police, Soldiers among Albanian Ruling Party's Voter Tracking 'Army'", *Balkan Insight*, 21 April 2021, <https://bit.ly/3LleZRh>, accessed on 14 October 2022. For the IDP Commissioner's response see Information and Data Protection Commissioner, *Raporti Vjetor 2021*, <https://www.idp.al/wp-content/uploads/2016/10/RAPORTI-VJETOR-2021.pdf>, accessed on 14 October 2022, pp. 24-25.

The Commissioner for Protection against Discrimination may file lawsuits and bring cases before the Constitutional Court⁵⁸ and stimulate the social dialogue on civil rights and anti-discrimination policies through information campaigns, public surveys, media engagements, and other types of cooperation with civil society.⁵⁹ During 2019-2020 the number of complaints submitted to the Commissioner has been more or less the same – 163 in 2019 and 165 in 2020 – but in 2021, they reached 242.⁶⁰ Despite the increase in the number of complaints, the number of administrative sanctions and court cases – i.e. cases in which private entities or public institutions have challenged the decisions of the Commissioner – have not changed markedly.⁶¹ The majority of the outcomes of the court cases are in favor of the Commissioner, and uphold the decisions made either wholly or partially.

The Ombudsperson, in addition to providing recommendations to the responsible institution for the action against which a complaint has been submitted, also provides recommendations for the institution to which it is directly accountable, i.e., reporting institutions.⁶² For serious violations, it proposes the dismissal of officials – typically high-ranking – to the institutions to which they are accountable⁶³, and it may also advise the injured party to file a lawsuit.⁶⁴ In the framework of the justice reform in Albania, the Ombudsperson oversees the process for the selection of the Judicial Appointment Council, which is responsible for the evaluation of the candidates for the Constitutional Court and leads the process for the evaluation of the civil society candidates for the High Judicial Council and the High Prosecutorial Council.⁶⁵

The annual reports of the Ombudsperson provide a thorough summary of its activities. It is worth highlighting the large number of complaints submitted by the public in the last three years, which range from 4,171 in 2019 to 5,837 in 2021.⁶⁶ This number is particularly large when compared to the small number of staff (56) of the institution.⁶⁷ According to the annual reports, a large portion of the complaints – ranging from 40 percent (2020) to 61 percent (2019) – are “unfounded or outside the institution’s jurisdiction”. Furthermore, the rate of the implementation of the recommendations is unclear. Only the 2021 report includes a chart with statistics on the implementation of the recommendations – based on which the implementation rate for that year is 29 percent⁶⁸; the 2020 and 2019 reports do not include such statistics. In 2019, the Ombudsperson signed a cooperation agreement with UNICEF, whose purpose is also to cooperate with regards to the evaluation of the implementation of the

⁵⁸ Article 32 (i/1), Law no. 10 221, date 04.02.2010 “On the protection against discrimination”.

⁵⁹ Article 32 (d, e, g, k, l), Law no. 10 221, date 04.02.2010 “On the protection against discrimination”.

⁶⁰ The annual reports can be found at: <https://www.kmd.al/raporte-vietore/>, accessed on 14 October 2022.

⁶¹ 2019: 52 court cases and 14 administrative sanctions; 2020: 50 court cases and 10 administrative sanctions; 2021: 53 court cases and 12 administrative sanctions.

⁶² Article 21 (c), Law no. 8454, date 4.2.1999 “On the Ombudsperson”.

⁶³ Article 21 (d), Law no. 8454, date 4.2.1999 “On the Ombudsperson”.

⁶⁴ Article 21 (e), Law no. 8454, date 4.2.1999 “On the Ombudsperson”.

⁶⁵ Law no. 115/2016 “On the governing institutions of the justice system”, <https://bit.ly/3BLizRx>.

⁶⁶ Annual reports are found at: <https://www.avokatipopullit.gov.al/sq/list/publications/rraporte-vjetore-2/>, accessed on 15 October 2022.

⁶⁷ The Ombudsperson’s structure and organization can be found at: <https://www.avokatipopullit.gov.al/sq/about-us/about-us-details>, accessed on 15 October 2022.

⁶⁸ Ombudsperson, *Raport Vjetor për Veprimtarinë e Institucionit të Avokatit të Popullit 2021*, <https://bit.ly/3Li6kiN>, accessed on 15 October 2022, p. 203

recommendations on children's rights.⁶⁹ However, the nature of the cooperation between the Ombudsperson and UNICEF on this specific point of the agreement is unclear, as is whether this agreement has led to an improved approach/methodology to evaluate the implementation of the recommendations of the Ombudsperson.

Public Procurement Commission (PPC)

The PPC is an independent collegial body that is appointed by the Assembly. The commissioners – the chair and four members – are nominated by the Council of Ministers and voted by the Assembly for a five-year mandate, with the possibility to renew it once more. The main task of the PPC is to examine complaints related to the public procurement, concessions/public private partnerships, auctions, and mining permits. Its personnel – except for those engaged in support roles – are civil servants, and the institution does not include an internal audit unit in its organizational structure.⁷⁰ The commissioners can be relieved of duty by the Assembly if they decide to resign; are medically incapable of continuing to discharge their duties; are found guilty for a penal offence; engage in actions that present conflict of interest or otherwise violate the legal or sub-legal provisions.⁷¹

The Public Procurement Commission takes decisions on appeals submitted by economic operators, which can be further challenged in the Administrative Court of Appeals both by the economic operators and the contracting authorities. Appeals of procedures valued at less than the lower monetary limits (8 million ALL – approx. 76,600 euros) are examined by three commissioners. Decisions on appeals that are either partially or fully accepted must be taken by three commissioners for procurement procedures valued at less than the lower monetary value, whereas five commissioners must take decisions for other types of procurement procedures.⁷²

The PPC reports annually and periodically (quarterly), as required by the Albanian Assembly. It provides a comprehensive summary of its activities and key statistics. Between 2019 and 2021 the number of complaints filed range from 741 (2020) to 1,052 (2019). The number of final administrative decisions taken by the PPC ranges from 609 (2020) to 792 (2019), whilst the acceptance rate of the complaints ranges from 35.08 percent (2019) to 49.6 percent (2020). The number of court appeals ranges from 47 (2019) to 61 (2020).⁷³

The latest SIGMA report on public administration for Albania commended the progress made by the PPC on establishing an e-appeals platform and by decreasing the review time for the complaints.⁷⁴ The PPC must publish the decisions on the appeals online, on its website, but it has not done so for part of 2021 and for 2022.

⁶⁹ Ombudsperson, *Raport Vjetor për Veprimtarinë e Institucionit të Avokatit të Popullit 2019*, <https://bit.ly/3eY1M4L>, accessed on 15 October 2022, p. 168.

⁷⁰ See Articles 24-25, 29, Law no.162, date 23.12.2020 "On public procurement", <https://www.app.gov.al/legjislacioni/prokurimi-publik/liqji/> and the organizational structure at: <https://kpp.al/Organigrama>, accessed on 15 October 2022.

⁷¹ Article 28, Law no.162, date 23.12.2020 "On public procurement".

⁷² See Articles 30 and 115, Law no.162, date 23.12.2020 "On public procurement" and Article 8 (1/b), Decision of Council of Ministers no. 914, date 29.12.2014 "On the approval of public procurement regulations" (amended), <http://www.app.gov.al/legjislacioni/prokurimi-publik/vkm/>.

⁷³ Annual reports can be found at: <https://kpp.al/Raporte>, accessed on 17 October 2022.

⁷⁴ OECD, *Monitoring Report: The Principles of Public Administration. Albania*, pp. 135, 164-165.

The PPC had four commissioners, instead of five, as of 4 April 2023.⁷⁵ The provisions of the Public Procurement Law stipulate that under these conditions, the PPC may issue decisions only on procurement procedures below the lower monetary limit. Since the PPC has not published any of its decisions made during 2021 and 2022, it is rather unclear whether these legal provisions have been fully implemented and have improved the decision-making process of this important body.

Agency for Police Oversight

An important agency with a mandate to promote integrity and prevent corruption amongst the ranks of law enforcement personnel is the Agency for Police Oversight (APO). The APO is subordinate to the Ministry of Interior. The Minister of Interior exerts significant influence over the Agency. The minister appoints and dismisses the deputy director general, and nominates the director general, who is appointed by the Prime Minister for a five-year term. The interior minister also proposes the structure and organization of the Agency; approves the program, strategic direction and the institutional development objectives, in accordance with the government priorities; issues orders and instructions for the organization and functioning of the Agency; and determines the main focus/directions of the activities of the Agency and oversees its work to ensure its integrity.⁷⁶

The main mandate of the Agency is to oversee the actions of the Albanian State Police, the Guard of the Republic, and the Fire Protection Services, and to ensure that their actions comply with relevant statutory provisions and respect constitutional guarantees on civil rights and freedoms. To fulfill its legal mandate, the Agency processes and investigates complaints submitted by the public, public or private entities, and employees from the three institutions the Agency is tasked to oversee⁷⁷, and conducts inspections.⁷⁸ Furthermore, the Agency – more specifically the general directorate and regional directorates⁷⁹ – may conduct proactive investigations and research and analysis, amongst other tasks.⁸⁰ The secondary mandate of the APO has been to contribute to the process of re-evaluation of the judges and prosecutors, in the framework of Albania's justice reform process, by sharing information with the National Security Authority, which is responsible for conducting the background checks for the magistrates⁸¹.

⁷⁵ See the organizational structure at: <https://kpp.al/Organigrama>, accessed on 04 April 2023.

⁷⁶ Article 14, Law no. 128, date 20.12.2022 “On the Agency for Police Oversight”.
<https://amp.gov.al/wp-content/uploads/2022/04/Liqi-nr.-128-dt.-20.12.2021.pdf>.

⁷⁷ Article 24, Law no. 128, date 20.12.2022 “On the Agency for Police Oversight”.

⁷⁸ Article 23 of Law no. 128, date 20.12.2022.

⁷⁹ The two main structures of the organization of the Agency are the general directorate – which leads its work – and the regional directorates, which are responsible for processing of complaints and inspections at the regional level.

⁸⁰ See Articles 12,13 and 29.

⁸¹ Article 36, Law no. 84/2016 “On the transitory evaluation of the judges and prosecutors in the Republic of Albania”, <https://qbz.gov.al/eli/liqi/2016/08/30/84-2016>.

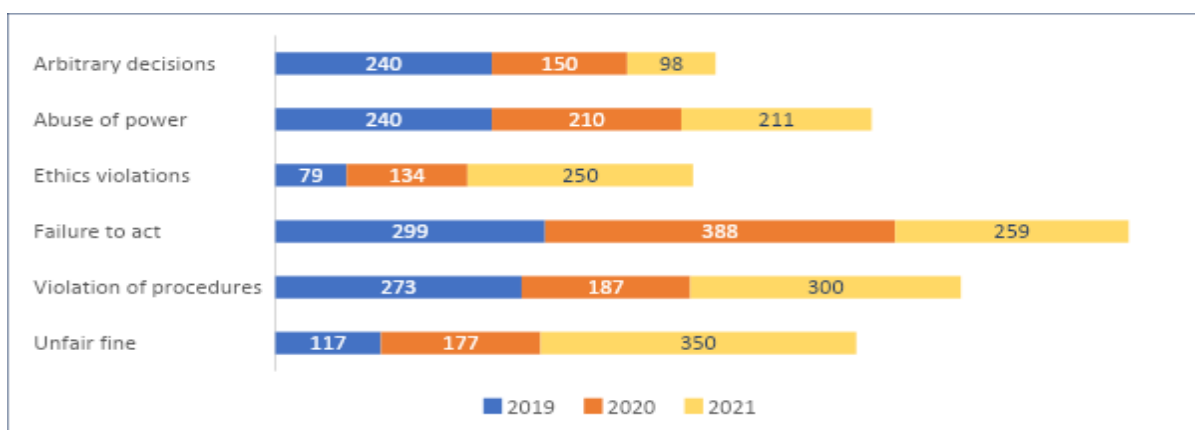
The Agency has been also conducting the re-evaluation of the officials in the State Police and the Guard of the Republic.⁸² After the Agency has processed the complaints and conducted its inspections and investigations, it prepares reports, which it shares with the subject of the inspection. The report’s findings may be challenged by the subject of the inspection, in which case the arguments presented against the findings are included in the final report. In any case, the final report is forwarded to the subject under investigation with the recommendations to be implemented. A summary of the inspection report must be published online. The actions taken by the Agency upon completion of the inspection are as follows:

- a. For cases of disciplinary violations that are not serious, the Agency recommends to the subject under inspection to start disciplinary investigation.
- b. For cases of serious disciplinary violations, the Agency starts disciplinary investigations.
- c. For cases where penal violations have been identified, the case is forwarded to the prosecution and other measures in line with the Code of Penal Procedure are taken, e.g., arrest, detainment.⁸³

The Law on the Agency for Police Oversight provides to the Minister of Interior significant powers to influence the work, activities, and priorities of the APO. Consequently, the APO does not have the necessary independence to pursue priorities to strengthen the integrity of the Police, the Guard of the Republic, and the Fire Protection Services.

In the last three years, the levels of complaints processing and proactive investigations have not been constant. There are cases of high disciplinary investigations and low penal referrals – as in 2019 – and low penal referrals and low disciplinary investigations as in 2021 (see Table 6). The number of planned inspections and recommendations has increased, while the number of penal referrals after inspections has decreased. Similarly, the number of penal referrals from proactive investigations ranges from 214 (in 2020) to 250 (in 2019).

Chart 1. Types of violations reported by the public



Source: APO 2021 Annual Report, p. 9.

⁸² See Law no. 112/2018 “On the transitory and periodic evaluation of the members of the Albanian State Police, Guard of the Republic, and the Internal Affairs and Complaints Service”, <https://bit.ly/3ShnNdX>.

⁸³ See Article 26 of Law no. 112/2018.

Table 6. Action taken from complaints submitted

	2019	2020	2021
Penal referrals	3	10 (29 police officers)	6 (14 police officers)
Disciplinary investigations	118 (215 police officers)	97 (191 police officers)	59 (105 police officers)

Source: APO 2021 Annual Report, p. 10.

Table 7. Actions taken upon inspections

	Inspections		Penal referrals	Recommendations	Investigations
	Planned	Unplanned			
2019	10	63	9	181	265
2020	29	59	2	282	89
2021	43	64	1	439	288

Source: APO 2021 Annual Report, p. 11.

Table 8. Actions taken after proactive penal investigations

	Total number of referrals	Total number of officials	Officials arrested/detained
2019	250	474	93
2020	214	317	74
2021	224	329	99

Source: APO 2021 Annual Report, p. 12.

It is worth noting that most of the criminal referrals target police officers of lower ranks who merely execute orders (executive role) and some who are in junior leadership positions (first-line leadership roles).⁸⁴ The APO, however, does not report on the implementation of the recommendations it issues or the outcomes of the investigations or trials for its penal referrals. Aside from providing statistics on its activities, the APO does not discuss or reflect upon the integrity issues within the structures it oversees, or discuss the needs of the Agency to improve its efficacy and impact. It includes a section on the priorities for the next year, but those priorities frequently express a continuation of previous activities or improvements of an administrative or regulatory nature, but which are not well connected to specific objectives and outcomes.

Inspection reports could not be found on the APO website, except for two reports produced in 2011.⁸⁵

⁸⁴ Agency for Police Oversight, *Raport Vjetor 2021*, <https://amp.gov.al/wp-content/uploads/2022/05/RAPORTI-VJETOR-2021.pdf>, accessed on 17 October 2022, p. 15.

⁸⁵ Inspection reports produced in 2011 can be found at: <https://amp.gov.al/category/raporte-inspektimi/>, accessed on 17 October 2022.

Good practices

- For 2021, the SSAI carried out 18 performed audits, which constituted more than 11 percent of the total audits performed.⁸⁶
- SSAI collaborates frequently with CSOs and has been engaging civil society through conferences in Albanian universities, press releases summarizing audit findings, and periodic bulletins on the activities of the institution.
- SSAI has established a follow-up mechanism for its recommendations, and it reports annually on the impact of its decisions and recommendations.
- HIDAACI has transitioned towards e-filings for asset declarations. This is likely to improve the performance of the institution in terms processing and publishing asset declarations.
- The PPC has established an e-appeals platform that is likely to improve the performance of the institution.

Deficiencies

- There is some lack of human resources and technical capacities that prevent key independent oversight institutions from effectively fulfilling their mandates in line with the increased international standards.
- The Assembly has not approved the new law on preventing conflicts of interest, which according to GRECO was due in December 2022, thus a lack of clear procedures and institutional mechanisms to effectively implement the legislation on conflicts of interest still persists. Key independent oversight institutions do not sufficiently use their powers to proactively file lawsuits for criminal acts based on their investigations and their work remains mostly reactive to prosecutors' investigation or they do not sufficiently use their power to influence public policy.
- The Agency for Police Oversight does not sufficiently address the need for integrity amongst the senior leadership of the Albanian State Police and the Guard of the Republic, since most of their penal referrals concern police officers at the junior leadership level.

4.1.2 Art. 7.1 – Public Sector Employment

Civil service recruitment and promotion

The civil service legislation in Albania includes comprehensive provisions to regulate the recruitment and promotion of civil servants. The regulatory framework on the civil service differentiates between the recruitment and promotion of civil servants at the executive, low- and mid-level – on the one hand – and the recruitment and promotion of senior civil servants (i.e., top-management corps (TMC)) on the other.

The Law on the Civil Servant establishes the basic legal standards to regulate the competition process: qualification requirements; verification processes; establishment of selection committees; selection criteria; and the appointment to the civil service or the promotion of civil servants into higher positions. Detailed regulations are outlined in the following bylaws: (i) Decision of Council of Ministers no. 242, 18.03.2015 on Filling Vacancies at the Low- and Mid-Level Categories; (ii) Decision of Council of

⁸⁶ SSAI, *Performance Report 2021*, p. 5, https://www.klsh.org.al/content_pdf/247.

Ministers no. 243, 18.03.2015 on the Entry, Probation Period, Appointment, and Lateral Transfer into the Executive Category; (iii) Decision of Council of Ministers no. 118, 05.03.2014 on the Recruitment, Appointment, Management, and the Termination of Relations of Senior Civil Servants and TMC Members.⁸⁷

The competition process for all categories except for senior civil servants is similar. Institutions that have executive-level vacancies publish their announcements through the Department of Public Administration's (DoPA) portal, which serves as a central point for vacancy announcements. Vacancy announcements include the following sections: a) deadlines for application; b) job description; c) professional qualifications; d) required documents to be submitted; e) information regarding the selection process: short-listing (preliminary verification), written test, interview; f) evaluation criteria.

The competition for entry into the civil service at the executive level for the state administration institutions is conducted by DoPA, whereas independent institutions and local government units (LGUs) manage the selection process themselves, and their vacancy announcements must be published on the National Employment Service portal, their own website (if they have one), or on notification stands outside their institution, 35 days before the day of the competition. DoPA establishes the Permanent Admission Committee for the executive level, which is renewed every year. Since executive-level positions are divided into two groups – specific administration and general administration⁸⁸ – the admission committees are established accordingly in each responsible unit. The Committee includes five members: (i) one representative from the responsible unit of the relevant institution, who serves as the chair of the Committee; (ii) two mid-level civil servants from state administration institutions appointed by the DoPA based on the purpose of the Committee⁸⁹ – and in the case of independent institutions and LGUs, two mid-level civil servants (if possible) appointed by the head of the institution; (iii) two external experts with the expertise required based on the purpose of the Committee. The external experts are chosen by the responsible institution based on a list that is managed and updated by the DoPA every year.

The evaluation of the candidates proceeds in two phases. During the first phase, the Committee assesses whether the candidates meet the general and specific criteria for the vacancy. If any of them do not meet any of the criteria, they are notified and given five days to make an appeal, while the responsible unit of the relevant institution has five days to reply to the candidate. During the second phase, the Committee conducts the final assessment and ranks the candidates. The final assessment is based on the CV, written examination, and an oral examination. After the Committee completes the final assessment, it ranks the candidates who have scored more than 70 percent, and publishes the list on the DoPA's portal and the National Employment Service portal.

⁸⁷ These documents can be found on the website of the Department of Public Administration at: <https://www.dap.gov.al/legislacioni/per-sherbimin-civil>, accessed on 1 November 2022.

⁸⁸ Annex 3 of Decision of Council of Ministers no. 142, date 12.3.2014 "On the description and classification of job positions in the institutions of state administration and independent institutions" includes a comprehensive list of positions of specific administration. These are positions that require specific expertise and skills, e.g., information technology, medicine, anthropology. <https://bit.ly/3EW8MKI>.

⁸⁹ Based on the expertise required for the vacancies.

For lateral transfers (appointments) at the executive level, each institution establishes their own internal selection committee, which includes (i) representatives from the institution's human resources department, (ii) the direct superior for the vacancy, and (iii) a representative from the DoPA. In the case of independent institutions, the head of the institution appoints the third member of the committee. Another difference between the competition for lateral transfers within the executive category and entry in the same category is that candidates have three – not five days – to appeal if they have been notified that they do not meet the required criteria.

Low- and mid-level civil servant vacancies are filled through lateral transfers that are the result of open competitive procedures. In such procedures, only civil servants in the same category of the announced vacancy may compete. If the competitions for lateral appointments fail to fill the vacancies, then the competition is open to candidates from lower ranks of the civil service, who compete to be promoted to a higher civil service category. In the first case, each institution convenes a committee that has the same composition as in the case of lateral transfers at the executive category. In the second case, which involves competitions for promotions to a higher civil service category, each institution convenes the Committee on Admissions for Promotion, which serves for both categories of low- and mid-level civil servants. The Committee includes the following members: (i) one representative from the responsible unit of the relevant institution, who serves as the chair of the Committee; (ii) one mid-level civil servant from the relevant institution appointed by the DoPA⁹⁰; (iii) the civil servant that holds the position of the direct superior over the vacancy position; (iv) two external experts appointed by the relevant institution. After the preliminary verification phase, candidates who do not meet the criteria are notified individually. Those applying for lateral transfers have three days to appeal the decision whilst those applying for promotion have five days.⁹¹

The competition for TMC positions is held once per year as a rule, through a pooled recruitment in accordance with the annual plan for the recruitment of senior civil servants. The Council of Ministers issues a decision to open the competition process for a specific number of vacancies. The competition process is wholly managed by DoPA, which makes the announcement, convenes the selection committee, and processes the application. The competition for TMC positions is open to candidates outside the civil service. The Decision of Council of Ministers no. 118/2014 stipulates that 80 percent of the candidates accepted into the TMC must be civil servants and 20 percent may come outside of the civil service.⁹² In the case of TMC vacancies in independent institutions and LGUs, the respective institutions convene a selection committee in accordance with the provisions of the decision of Council of Ministers regulating the selection procedures for civil servants at the executive, low- and mid-level civil servants.⁹³

⁹⁰ In the case of independent institutions and local government units, the head of the institution appoints the second member of the Committee, who should be a mid-level civil servant.

⁹¹ See Decision of Council of Ministers no. 242, date 18.03.2015 "On filling vacancies at the low- and mid-level categories".

⁹² Chapter IV, Decision of Council of Ministers no. 118, date 05.03.2014 "On the recruitment, appointment, management, and the termination of relations of senior civil servants and tmc members".

⁹³ Chapter VIII, Paragraph 12, Decision of Council of Ministers no. 118, date 05.03.2014.

The National Selection Committee for TMC Positions is a nine-member committee chaired by the DoPA director. Its members include the director of the Albanian School of Public Administration (ASPA), an expert selected by ASPA through an open and competitive procedure, a civil servant who is a member of TMC chosen at random by the DoPA, and five other experts selected by the Council of Ministers through an open and competitive procedure.⁹⁴

Legally, candidates for TMC positions may be members of political parties; however, political party membership is forbidden once they are appointed to a TMC position.⁹⁵ The criteria on the professional experience and competencies are the same for all candidates, regardless of the institution to which they are eventually appointed. The competition for TMC goes through the same two-phase competition process. Candidates who are disqualified for not meeting basic requirements after the preliminary verification phase may appeal the decision within five days of the notification. The candidates are evaluated based on their personal CV, a written examination, and an interview. The list of successful candidates must be published on the National Employment Service portal and in the DoPA's premises.⁹⁶ The successful candidates must then attend the in-depth training programme delivered by ASPA, and are appointed to a TMC position if they successfully complete the programme – that is if they score at least 70 points.⁹⁷ Until the first cohort has graduated from ASPA, however, TMC positions can be filled directly, without the need to go through the in-depth programme. Nevertheless, after having been appointed to their TMC positions, the candidates must complete the in-depth training programme delivered by ASPA.⁹⁸

Despite these provisions there are several issues with the implementation of recruitment and promotion policy of civil servants. These issues are particularly serious in the case of senior civil servants. Although the Civil Servant Law requires that successful TMC candidates appointed to their positions must undergo the in-depth training programme delivered by ASPA, they have not done so since the entry into force of the CSL.⁹⁹ The civil service legislation includes no provisions to ensure that TMC candidates have not been members of a political party in the last three years as required by the CSL.¹⁰⁰ Additionally, the pooled recruitment system for TMC positions fails to take into account policy-relevant expertise.¹⁰¹

Transparency of the recruitment and promotion system is also an issue. The legal framework does not include provisions to require that public institutions and the DoPA publish the relevant records that would reveal the decision-making process of the

⁹⁴ Chapter II, Decision of Council of Ministers no. 118, date 05.03.2014.

⁹⁵ Article 37 (2), Civil Servant Law.

⁹⁶ Chapter IV, Paragraph 17, Decision of Council of Ministers no. 118, date 05.03.2014.

⁹⁷ Article 28, Law no. 152/2013 on The Civil Servant; Chapter VI, Paragraph 2, Decision of Council of Ministers no. 118, date 05.03.2014.

⁹⁸ Chapter VI, Paragraph 4, Decision of Council of Ministers no. 118, date 05.03.2014.

⁹⁹ ASPA introduced a pilot programme for TMC training, but a formal in-depth programme is yet to be approved. See OECD, *Monitoring Report: Principles of Public Administration: Albania*, p. 83.

¹⁰⁰ Alban Dafa (December 2021), "Politization risks in the Albanian Civil Service: Exclusion from the scope of the civil service law and the integrity of senior civil service recruitment system", https://www.thinkforeurope.org/wp-content/uploads/2022/02/WeBER2.0_Dafa_Politization-risks-in-Albania-civil-service_brief.pdf, accessed on 1 November 2022.

¹⁰¹ For example, a civil servant who might have a background in education policy may fill a position that would technically – albeit not legally – require expertise in health policy.

selection and promotion committees. These records are not shared even if requested in accordance with the provisions of the Law on the Right to Information.¹⁰² The results of competitions for TMC positions are also rather unclear, since the DoPA is not legally required to, and does not publish the scores of the candidates; it publishes only the names of the successful candidates.¹⁰³

Retention

In addition to the integrity and fairness of the promotion processes, salaries (and other forms of compensations such as bonuses or hardship pay) and training for further professional development are key retention incentives. The Law on Salaries includes bonus provisions for the members of boards and councils, who exercise their functions part-time.¹⁰⁴ The decision of the Council of Ministers on the salary structure in the civil service does not foresee bonuses. The salary of civil servants depends on their educational attainment, academic titles, and institutional affiliation.¹⁰⁵ Article 34 of the Law on the Civil Servant outlines the right to remuneration for the duties performed in the civil service based on position, seniority, workplace conditions, performance evaluations, and professional development. DCM no. 187, dated 8 March 2017 outlines the salary structure and supplements for each civil service category; it sets rules for calculating salary supplements according to: a) seniority (Paragraph 2 (b)): 2 percent increase each year until 25 years of experience are reached, b) educational/professional qualifications (Paragraph 2 (c)), and c) supplement based on civil service position (Paragraph 2 (ç)).

The criteria to benefit from this supplement include: (i) if the qualification or academic title of the civil servant is in compliance with the job description – this is awarded after the approval by the DoPA on a case-by-case basis; (ii) if the qualification or academic title of the civil servant is higher than the one defined in the job description, he/she may profit only from the supplement specified for the job position; (iii) if the employee has a qualification or academic title lower than the one defined in the job description, he/she can only profit from the supplement in compliance with the qualification or academic title that he/she already has. In any case, the civil servant only benefits from the supplement of their highest qualification/academic title.

Additional supplements are outlined based on:

- a) institutional affiliation (Paragraphs 3, 8-12),
- b) specific nature of the work to be performed (Paragraph 4): e.g 1) civil servants managing government databases or who work in ICT (but employees working in the National Agency for Information Society are exempt) or 2) civil servants in the Prime Minister's Office in specific departments,

¹⁰² See for example Eldisa Zhebo and Entela Kalessi (July 2022), *Public Service and Human Resource Management in the Agriculture and Rural Development*, Institute for Democracy and Mediation and Institute for Change and Leadership, Tirana, <https://bit.ly/3H70wbw>, accessed on 17 November 2022, p. 13.

¹⁰³ See for example the 2021 TMC recruitment cycle documents at: <https://www.dap.gov.al/vende-vakante/shpallje-tnd>, accessed on 17 November 2022.

¹⁰⁴ Law no.9584, date 17.07.2006 "On salaries, compensations and structure of independent constitutional institutions and other institutions established by law" (amended), <https://qbz.gov.al/eli/liqj/2006/07/17/9584>.

¹⁰⁵ Decision of Council of Ministers no. 187, date 08.07.2017, <https://www.dap.gov.al/legjislacioni/per-administraten-publike/144-vkm-187-pagat-e-nepunesve-civile>.

c) workplace hardship (Paragraph 5).

With regards to training, civil servants attend training sessions at ASPA. These are short-term training sessions that may focus on EU law, procurement, gender budgeting, regional market, strategic planning and other topics.¹⁰⁶

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.¹⁰⁷ SIGMA has also noted the lack of sufficient performance evaluations for senior civil servants¹⁰⁸, and a lack of data on the remuneration of civil servants, e.g., the average monthly salary per civil service category.¹⁰⁹

Non-elected public officials

The procedures for hiring, retaining and promoting non-elected public officials are not regulated by law. The Decision of the Council of Ministers no. 109/2019 on the Standards for the Completion of Activities with Employees on Temporary Contract for Central Administration Units limits temporary engagements to six months and no more than six hours per day if the engagement is to last up to one year. The government also issues an annual decision that outlines the allocation of positions that are not part of the civil service¹¹⁰, but it does not include criteria for their hiring and career progress.

Measures to ensure integrity

As it is mentioned in the review of the implementation of Article 6 of the UNCAC, the primary institution to ensure the integrity of the public sector is the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest. HIDAACI issues relevant regulations pertaining to the declaration of assets and conflict of interest, ensures the standards are met by public institutions, conducts periodic reviews and investigations of the declarations, and issues sanctions when legal provisions are violated.

The Law on the Rules of Ethics in the Public Administration provides the ethical guidelines for the conduct of civil servants. The law contains provisions on conflict of interests, external activities, gifts and benefits, secondary employment, and post-employment restrictions¹¹¹, but offers limited provisions on 'revolving door' situations. The provisions of the law, however, 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. For example, with regards to secondary

¹⁰⁶ Some of the modules offered by ASPA may be found at: <https://aspa.gov.al/aplikimi/>, accessed on 19 November 2022.

¹⁰⁷ OECD, *Monitoring Report: Principles of Public Administration: Albania*, p. 69.

¹⁰⁸ OECD, *Monitoring Report: Principles of Public Administration: Albania*, p. 85.

¹⁰⁹ OECD, *Monitoring Report: Principles of Public Administration: Albania*, p. 87.

¹¹⁰ See for example, Decision of Council of Ministers no. 35, date 19.01.2022 "On the distribution of contracts on temporary engagement for 2022 in central government units", <https://qbz.gov.al/eli/vendim/2022/01/19/35>.

¹¹¹ Law no. 9131, dated 08.09.2003 "On the rules of ethics in the public administration", https://www.idp.al/wp-content/uploads/2016/11/liqi_9131_2003_rregullat_etike_ne_administraten_publike.pdf.

employment, the law forbids public officials from being engaged in secondary profit-making activities during official working hours; however, they may be allowed to engage in such activities if allowed by their superior.¹¹² Conversely, 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 organization “engaged in a conflict or trade relation with the Albanian public administration”, related to actions performed by the official while in office.¹¹³

The Ministerial Code of Ethics¹¹⁴, which applies to the members of the cabinet and the deputy ministers, was amended in 2021 to include, among others, some additional restrictions regarding the acceptance of gifts in exchange for favours, the misuse of state property or resources by the public officials or their family members, or engagement in private activities. These provisions forbid public officials from misusing state resources for their personal benefit or for the benefit of their relatives; they are forbidden from accepting gifts in exchange for favours; and they may not engage in private enterprises or actively own company stocks.¹¹⁵

The Code also includes a provision on post-employment restrictions, whereby public officials are forebidden for a year from holding leadership positions in a public or private enterprise if they have been directly involved in the business affairs of the enterprise in the last two years before they discontinued their public functions. The Code, however, does not clearly define what it is meant by being ‘directly involved in the business affairs’. Furthermore, it includes an additional provision to waive this restriction, but it does not outline the specific conditions under which it may be waived.¹¹⁶ Those conditions are to be determined by the Ethics Committee, which is chaired by the State Minister for Services Standards; its members include the Secretary General of the Council of Ministers and the Deputy Secretary General/Director of the Regulatory and Compliance Department.¹¹⁷

The Inter-sectoral Strategy against Corruption 2015- 2020 (extended to 2023 through its Action Plan) includes a specific objective to address the integrity of public sector employees. It identifies some areas that are considered more prone to corruption – police, procurement, taxation, judiciary – and prioritizes (1) the recruitment of public officials with high integrity, (2) strengthening the integrity of law enforcement officials and reduction of corruption, and (3) building institutional capacities for integrity testing.¹¹⁸ The main activity to meet these specific objectives, however, is the drafting and implementation of integrity plans by line ministries and their subordinate institutions.¹¹⁹

The Albanian School of Public Administration (ASPA) has drafted two curricula on anti-corruption and the prevention of conflict of interest, which are supported by an EU technical assistance program, and has delivered training sessions on developing

¹¹² Articles 7-8, Law no. 9131, date 08.09.2003.

¹¹³ Article 17, Law no. 9131, date 08.09.2003.

¹¹⁴ Decision of Council of Ministers no. 830, date 15.9.2013.

¹¹⁵ See Articles 12, 26, 29 of Decision of Council of Ministers no. 830, date 15.9.2013.

¹¹⁶ Article 37, Decision of Council of Ministers no. 830, date 15.9.2013.

¹¹⁷ Order of the Prime Minister no. 90, date 20.5.2022 “On the establishment, composition, and organisation of the Ethics Committee”.

¹¹⁸ Council of Ministers, *Inter-sectoral Strategy against Corruption 2015-2023*, p. 10.

¹¹⁹ Council of Ministers, *Inter-sectoral Strategy against Corruption 2015-2023*, pp. 22-23.

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.¹²⁰

Integrity-related criteria for holding elected office

Elected officials are subject to relevant legislation on prevention of conflict of interest and declaration and audit of assets covered under the review for Article 6. In 2015 the Albanian Assembly approved Law no. 138/2015 on Guaranteeing the Integrity of Persons who are Elected, Appointed, or Exercise Public Functions (hereinafter Law on Decriminalisation). The provisions of the Law on Decriminalisation prevent individuals who have received a final prison sentence in the Republic of Albania or abroad from running for elected office.¹²¹ Furthermore, individuals who have been convicted in a criminal case – even if the conviction has not been final – by a court in an EU member state, the United States, Canada, or Australia¹²² cannot run for office if an arrest warrant has been issued for them by the authorities of the same countries, or they have been deported by them.¹²³

The Central Election Commission (CEC), the Assembly of the Republic of Albania, and the county heads are the key institutions responsible for the implementation of this law. Nevertheless, the CEC is the only institution that provides data on the implementation of this policy. Its 2021 annual report¹²⁴ suggests that the CEC has been fully implementing the provisions of the law, and does not mention any cooperation issues with the General Prosecution, which is the responsible institution tasked with in-depth investigations of the self-declarations submitted by potential candidates.¹²⁵

Despite the work done by the CEC, there have been cases in which the current institutional framework has failed. In two cases during the local elections of June 2019, the CEC and law enforcement institutions failed to detect that two candidates from the governing Socialist Party had previous convictions in Italy¹²⁶ and Greece¹²⁷, respectively. Both candidates had not disclosed their previous convictions in their decriminalisation forms, and the matter was brought to the attention of Albanian authorities after the Democratic Party – in opposition – published the documents that attested to the conviction of the two candidates.

¹²⁰ ASPA has provided this information in response to an FOI 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.

¹²¹ Article 2 (1) of Law no. 138/2015 “On guaranteeing the integrity of persons who are elected, appointed, or exercise public functions”, <https://qbz.gov.al/eli/liqj/2015/12/17/138>.

¹²² Article 2 (2/a), Law no. 138/2015.

¹²³ Article 2 (2/b), Law no. 138/2015.

¹²⁴ Central Election Commission (March 2022), *Raport për Veprimtarinë Vjetore 2021*, https://kqz.gov.al/wp-content/uploads/2023/02/kqz_raport_kuvend_2021.pdf, accessed on 25 November 2022, pp. 90-96

¹²⁵ Article 8, Law no. 138/2015.

¹²⁶ “Dorëhiqet Valdrin Pjetri, fitues i mandatit për bashkinë e Shkodrës”, Voice of America, 15 August 2019, <https://www.zeriamerikes.com/a/dor%C3%ABhiqet-valdrin-pjetri-fitues-i-mandatit-p%C3%ABr-bashkin%C3%AB-e-shkodr%C3%ABs/5043359.html>, accessed on 25 November 2022.

¹²⁷ “Lëshohet urdhër-arresti për Agim Kajmakun, policia i shkon në banesë por...”, Balkanweb, 11 November 2019, <https://www.balkanweb.com/firmoset-urdher-arrest-per-kreun-e-shkarkuar-te-bashkise-vore-policia-i-shkon-ne-banese-por/>, accessed on 25 November 2022.

Good practices

- Civil service competition procedures allow for appeals to be made in the preliminary selection phase. This is an important practice to ensure that candidates are not automatically disqualified, but are offered the opportunity to provide explanations and supporting documentation that would help them argue that they meet the basic criteria.
- ASPA has drafted a curriculum on anti-corruption and the prevention of conflict of interest. Training and education of public sector personnel on these issues is critically important in Albania's efforts to address and counter corruption in the public sector.
- The Law on Decriminalisation includes broad provisions that prevent potential candidates with criminal records from running for public office. It has led to the prevention of such candidates from running, and to the dismissal of unlawfully-elected public officials.

Deficiencies

- The civil service recruitment and promotion decision-making is not sufficiently transparent. The decision-making process of the selection and promotion committees is not made available upon request, and the recruitment for TMC positions does not prioritize policy expertise.
- ASPA still does not have a TMC training programme in place. This is not only a necessity for preparing senior civil servants for their duties, but it is also a legal requirement.
- The performance management and remuneration systems are not interlinked and comprehensive.
- Measures to build integrity in the public sector are insufficient and ineffective. The legislation has limited provisions to address 'revolving door' and other conflict of interest situations, whilst the procedures and institutional framework to prevent conflict of interest are either missing or are ineffective.

4.1.3 Art. 7.3 – Political Financing

Political party financing is regulated by the Electoral Code¹²⁸ – for financing during campaigns for local and general elections – and the Law on Political Parties (LPP)¹²⁹ – for general party financing. Below is a table that compares the relevant political party financing provisions of the two documents.

Table 9. Political party financing (values in US dollars are approximate)

Provision	Electoral Code	Law on Political Parties
Mandatory minimum threshold for bank transfers	50,000 ALL (USD 500)	100,000 ALL (USD 1000)
Maximum contribution allowed	1 million ALL (USD 10,000)	None
Disclosure of the donor identity	Political parties must allow full access to third parties of	Political parties must have a register to document the

¹²⁸ Electoral Code of the Republic of Albania, <https://qbz.gov.al/preview/75122d2e-9ebc-45de-b0ea-b5efde2f6836>.

¹²⁹ Law no. 8580, dated 17.02.2020 "On political parties", <https://qbz.gov.al/eli/ligji/2000/02/17/8580>.

	its database for all financial contributions of value equal to or greater than 50,000 ALL (USD 500) (Articles 91/2 (5) and 92/2 (2)).	source and value of the donations received (Article 23/1).
Restrictions from donations	<p>Only Albanian individuals and legal entities are permitted to make donations.</p> <p>The following Albanian private entities or shareholders are prohibited from campaign donations:</p> <ol style="list-style-type: none"> Have received public funding through any contracting arrangement or concessions in the last three years of at least 10 million ALL (USD 100,000) Are engaged in media Have been partners through publicly funded projects Are indebted to public institutions or the State Budget (Article 92/1 (3)) 	Foreign governments and private and public entities, as well as Albanian public entities and those where the state is a shareholder are prohibited from making donations (Article 21).
Foreign in-kind donations	Prohibited by the provisions of Article 92/1	Political parties, association of political parties, political organisations and foundations are allowed to provide donations and assistance (Article 21).
National referenda	None	None
Sanctions	<p>Items that are fined:</p> <ol style="list-style-type: none"> Violations of provisions on campaign finance by the person responsible for managing the finances of the political party Lack of cooperation with auditors Not meeting the filing deadline for campaign finance reporting Accepting funds over 50,000 ALL (USD 500) not through bank transfers Accepting funds from forbidden donors Refusal by the donor to abide by the provisions of Article 92/2 on the self-declaration of the identity 	<p>Items that are fined:</p> <ol style="list-style-type: none"> Violation of provisions by the person responsible for managing the finances of the political party Lack of cooperation with auditors Failure to fully disclose the source and value of the donations Donations from donors whose identity is either not known or unclear are transferred to the CEC account Donations of over 100,000 ALL (USD 1000) not made through bank transfer Not meeting the filing deadline for campaign

	and legal permission to donate g. Refusal to cooperate or obstruction of the work of the CEC during the financial review process h. Spending more than the legal limit (three times the allocated public funding) (Article 173)	finance reporting (Article 23/4)
Limits of in-kind contributions	1 million ALL (USD 10,000) in value	None
Campaigning of third-party actors	None	None
Audit and oversight	The Central Electoral Commission appoints certified independent auditors to audit political parties and/or independent candidates. (Article 92/6) Political parties and/or independent candidates submit their campaign financial report to the CEC. (Article 92/3).	Political parties submit annual financial and audit reports, to the Central Electoral Commission. (Article 23).

Source: Electoral Code and the Law on Political Parties

While the Electoral Code contains more detailed and clear provisions compared to the Law on Political Parties, both documents feature no provisions on third party financing and the financing of national referenda campaigns. The weaker provisions in the LPP may enable Albanian political parties to channel an unlimited amount of foreign money, which can then be used for election campaigns. The LPP does not include any provisions on the vetting of the source of financing of the external sources – i.e., the sources from which the foreign political party or foundation are funded – that may finance Albanian political parties. Furthermore, neither the Electoral Code nor the LPP include anti-money laundering provisions.

The CEC is legally obligated to oversee and audit political party expenditure. 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.¹³⁰ It is also required to deploy monitors who are supposed to oversee the campaign expenditures of political parties to compare the reported expenditures with the actual ones on the ground.¹³¹

The CEC found irregularities¹³² during the April 2021 parliamentary elections, but issued the sanctions only in December 2022 for 14 electoral subjects – political parties

¹³⁰ Article 92/7 of the Electoral Code.

¹³¹ Article 92/4 of the Electoral Code.

¹³² They include failure to submit financial reports in the correct format, accepting donations above the 50,000 Albanian leks 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.

and independent candidates.¹³³ 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.¹³⁴

Reporting from OSCE/ODIHR and the Albanian media suggest that the current legal and institutional framework to oversee political party financing is inadequate. The OSCE/ODIHR report on the 2021 parliamentary elections maintains that the observers deployed by the CEC to monitor campaign expenditures did not have the right training or the methodology to effectively do their job.¹³⁵ Furthermore, there have been several media reports that suggest the violations of campaign finance provisions go beyond those that the CEC has sanctioned. They include failure to declare spending¹³⁶ and spending more than the imposed limit by the Electoral Code¹³⁷.

Good practices

- The Electoral Code sets clear minimum and maximum thresholds for monetary and in-kind contributions, forbids donations from non-Albanian public and private entities, and aims to curtail spending in political campaigns.
- The Central Election Commission has sanctioned electoral subjects for violations of the campaign finance provision of the Electoral Code.

Deficiencies

- The provisions on political party financing in the Electoral Code and those in the Law on Political Parties are not fully aligned. The misalignment may provide opportunities for political parties to circumvent the stronger campaign finance provision of the Electoral Code by receiving funds from foreign political parties or foundations, which may be unlimited in the case of in-kind donations.
- The CEC does not have the right means and methodology to track political party spending and verify that all expenditures have been declared. This becomes an even more difficult endeavour given that both the Electoral Code and the Law on Political Parties do not include provisions on third-party financing.
- The Electoral Code and the Law on Political Parties do not include provisions for the financing of national referenda.

4.1.4 Art. 9.1 – Public Procurement

¹³³ Central Election Commission (December 2022), "Zgjedhjet për Kuvend të vitit 2021 – Gjobiten 14 subjekte zgjedhore", <https://kqz.gov.al/2022/12/07/zgjedhjet-per-kuvend-te-viti-2021-sanksione-administrative-per-14-subjekte-zgjedhore-dhe-49-oshma/>, accessed on 07 December 2022.

¹³⁴ Central Electoral Commission (December 2022), "Mbledhja e Komisionerit Shtetëror të Zgjedhjeve", CEC Facebook Page, <https://www.facebook.com/KQZShqiperi/videos/668300301403290/>, accessed on 07 December 2022.

¹³⁵ Office for Democratic Institutions and Human Rights (July 2021), *Republic of Albania Parliamentary Elections 25 April 2021*, OSCE, Warsaw, <https://www.osce.org/files/f/documents/5/1/493687.pdf>, accessed on 25 November 2022, p. 18.

¹³⁶ Klementina Cenkollari, "Fushata zgjedhore, partitë "fshehën" shpenzimet e mitingjeve dhe kandidatëve", Fakte.al, 2 November 2021, <https://fakte.al/fushata-zgjedhore-partite-fshehen-shpenzimet-e-mitingjeve-dhe-kandidateve/>, accessed on 04 December 2022.

¹³⁷ 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/>, accessed on 04 December 2022.

A new Law on Public Procurement was adopted in December 2020 (no.162/2020), that entered into force in 31st of March 2021, and became fully applicable upon DCM no. 285, dated 19th of May 2021 'On the adoption of public procurement rules and regulations. The new law is oriented towards the establishment of a more efficient system ensuring that the procurement contracts are implemented for the benefit of the public, balancing both the public interest and the interest of the private sector entities. Bidding procedures are public except for the negotiating procedure without prior publication of a contract notice which is used only in special circumstances as provided by Art 47 of the abovementioned law.¹³⁸ The new law removed the provision for requests for proposals. A request for proposal allows the contracting authority to pre-select the economic operators that will be asked to bid.¹³⁹ Although proposal requests have been effectively outlawed since 31 March 2021, for 2021 there were 1340 proposal requests conducted for the first three months of the year compared to 1452 open procedures for the entire year.¹⁴⁰

Public procurement notices must be published in the electronic procurement system and in an abbreviated form in the Bulletin of Public Notices.¹⁴¹ For procurement procedures above the upper monetary threshold, notices are also published in the Official Journal of the European Union. which is not yet applicable, due to some technical factors that need to be further considered.¹⁴²

Articles 76 and 77 of Law on Public Procurement specify the criteria for disqualification as well as the selection criteria that an economic operator must meet in order to participate in a procurement procedure. Economic operators shall be disqualified if they have been convicted by a final court decision for the commission of any of the criminal offences foreseen in article 76 of the Law no.162/2020' such as: According to the provisions of Article 77, the contracting authorities determine the qualification requirements for economic operators based on three main criteria: (1) the suitability to pursue the professional activity; (2) economic and financial situation; (3) and technical and professional capacity. Economic operators are also obligated to disclose their beneficial owners in accordance with the provisions of Law no. 112/2020 on the Beneficial Owners' Registry.¹⁴³

The Public Procurement Agency serves as the national procurement regulatory and oversight body, which is responsible *inter alia* for: (i) submitting legal proposals to the prime minister; (ii) adopt instructions, decisions and Standard tendering documents; (iii) manage the database of the electronic procurement system, elaborate data and prepare and issue an Annual Report; (iv) verify the lawful conduction of public procurement procedures after they have been finalized with the signing of a contract; (v) exclude economic operators from the right to receive public contracts.¹⁴⁴

¹³⁸ Article 47, Law no. 162/2020 "On public procurement".

¹³⁹ See Article 34, Law no. 9643, dated 20.11.2006 (replaced by Law no. 162/2020), <https://www.app.gov.al/legjislacioni/prokurimi-publik/liqji/>.

¹⁴⁰ Public Procurement Agency, *Annual Report 2021*, <https://bit.ly/3F2ZcW2>, accessed on 04 December 2022, p. 16.

¹⁴¹ Article 56 (1), Law on Public Procurement.

¹⁴² Article 56 (2), Law on Public Procurement: fraud, corruption, money laundering, human trafficking, or child exploitation

¹⁴³ <https://qbz.gov.al/eli/liqi/2020/07/29/112>.

¹⁴⁴ Article 23, Law no.162/2020 on Public Procurement

Economic operators may submit requests for clarifications during the procurement process, whose responses by the contracting authority must be shared with the rest of the bidders. Additionally, economic operators may file complaints simultaneously to the contracting authorities and the Public Procurement Commission (PPC).¹⁴⁵ Upon confirmation by the contracting authority that the complaint has been filed to PPC during the tendering process, the complaint is processed and the procurement procedure is suspended until the PPC issues a decision, which takes into account also the decision issued by the contracting authority on the merits of the complaints and subsequent actions to address it.¹⁴⁶

The PPC is the highest administrative appeal body for public procurement. It is an independent body and is composed of five members appointed through a simple majority vote by the Albanian Assembly. The selective procedure of the members and their ranking, is conducted by the Council of Ministers.¹⁴⁷ During the selection of the chairman and/or members of the PPC, the Assembly is not obliged to follow the ranking presented by the Council of Ministers.

The State Agency for Centralized Procurement is a subordinated body to the Ministry of Interior in charge of conducting public procurement procedures in the name and on behalf of the prime minister's office, ministries and their subordinated institutions for specific categories of products as detailed in the DCM 393 of 09.06.2022. This Agency has its own budget within the budget of the Ministry of Interior.¹⁴⁸

Additional laws govern defense and security procurement¹⁴⁹ and concessions and public-private partnerships (PPPs).¹⁵⁰ While the competencies of the Public Procurement Commission for defense and security procurement processes are the same¹⁵¹ as those of regular procurement processes, the governance principles of concessions and PPPs differ from the rest of public procurement procedures. Meanwhile, the Public Procurement Agency is the institution responsible for verifying the implementation of procurement procedures in the field of defense and security after the stage of signing the procurement contract, in accordance with the provisions of the law on defense and security procurement and relevant legislation in the field of defense and security.¹⁵²

Proposals for concessions/PPPs by contracting authorities are submitted to the Ministry of Finance and Economy, which is the main approval and oversight authority.¹⁵³ The Public Procurement Agency is the competent authority for concessions and partnerships public private and in this regard, among others it

¹⁴⁵ 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.

¹⁴⁶ Articles 112-115 of the Law on Public Procurement.

¹⁴⁷ Article 25, Law on Public Procurement.

¹⁴⁸ DCM 393, dated 09.06.2022 "On the establishment, organization and functioning of the State Agency for Centralised Procurement and its designation for the conduction of the public procurement procedures in the name and on behalf of the prime minister's office, ministries and their subordinated institutions".

¹⁴⁹ Law no. 36/2020 "On defence and security procurement", <https://qbz.gov.al/eli/liqi/2020/04/16/36>.

¹⁵⁰ Law no. 125/2013 "On concessions and public-private partnerships", <https://qbz.gov.al/eli/liqi/2013/04/25/125-2013>.

¹⁵¹ See Article 15 of the Law on Defence and Security Procurement.

¹⁵² See article 14 of the Law on defence and Security Procurement.

¹⁵³ Article 10, Law on Concessions and Public-private Partnerships.

performs: i) implementing measures and activities in order to achieve and maintain a fully transparent system and efficient concessions/public-private partnerships, including monitoring the concession procedures after the negotiating of the contract; ii) publishes standard tendering documents, and iii) may exclude economic operators in accordance with the relevant provisions outlined in the Law on Public Procurement.¹⁵⁴

ATRAKO – the Concessions Treatment Agency (*Agjencia për Trajtimin e Konçesioneve* in Albanian) – assists contracting authorities *inter alia* in the preparation of documents for feasibility studies, the assessment of offers by economic operators, and monitoring the implementation of concession agreements.¹⁵⁵ ATRAKO also submits the requests for approval of external expertise, which are proposed by the contracting authority, to the Committee for the Selection of Concessions/PPPs.¹⁵⁶ The Committee is chaired by the Minister of Economy, and its members include the Ministers of Finance, Infrastructure, Energy and Industry, Urban Development, and Environment.¹⁵⁷

The Public Procurement Agency publishes annual data on public procurement data through its annual reports¹⁵⁸ and through open data¹⁵⁹. The list of economic operators excluded from the right to bid for public contracts is public and is published in the Bulletin of Public Notices.¹⁶⁰

Economic operators have the right to submit their complaints on the public procurement procedure to the Public Procurement Commission. In response to the request for information addressed to this institution, the authors of this report were informed that during the year 2020, 741 complaints were submitted, of which 329 complaints were accepted, which were related to the assessment of economic operators participating in the procedure or the cancellation of the procedure in cases where the contracting authority had found violations.¹⁶¹ In 2021, a total of 768 complaints were submitted to this institution, of which 327 complaints were accepted.¹⁶² An annual report is drafted and published by the PPC which includes the number of complaints submitted and other relevant data in this regard.¹⁶³

Until the approval of Law no. 162/2020, economic operators had the right to appeal the decision of the Public Procurement Commission at the Administrative Court of First

¹⁵⁴ Article 11, Law on Concessions and Public-private Partnerships.

¹⁵⁵ Article 12, Law on Concessions and Public-private Partnerships.

¹⁵⁶ Articles 12 and 12/1, Law on Concessions and Public-private Partnerships.

¹⁵⁷ Article 12/1, Law on Concessions and Public-private Partnerships.

¹⁵⁸ Public Procurement Agency, “Analizat vjetore”, <https://www.app.gov.al/rreth-nesh/analizat-vjetore/>, accessed on 12 December 2022.

¹⁵⁹ Public Procurement Agency, “Eksportimi i të dhënave mbi procedurat e prokurimi”, <https://www.app.gov.al/eksportimi-i-procedurave-te-publikuara/>, accessed on 12 December 2022.

¹⁶⁰ Public Procurement Agency, “Vendime për përjashtimet e operatorëve ekonomikë”, <http://www.app.gov.al/transparenca/vendime-t%C3%AB-app/vendime-p%C3%ABr-p%C3%ABrjashtime-t%C3%AB-operator%C3%ABve-ekonomik%C3%AB/>, accessed on 12 December 2022.

¹⁶¹ Information provided by the Public Procurement Commission in response to an FOI request sent to on 07 June 2022.

¹⁶² Information provided by the Public Procurement Commission in response to an FOI request sent to on 07 June 2022.

¹⁶³ Public Procurement Commission, Institution, Reports, <https://kpp.al/Raporte>.

Instance¹⁶⁴, which was changed to the Administrative Court of Appeal¹⁶⁵ after the approval of the new law. In 2020, 59 decisions were appealed. In 2021, 53 decisions of the Public Procurement Commission were appealed in the Administrative Court of First Instance and 15 decisions in the Administrative Court of Appeal.¹⁶⁶

The Public Procurement Agency publishes annual reports on the implementation of public procurements, but it provides mainly statistics, whereas its weekly bulletins include public procurement notices and a list of excluded economic operators.¹⁶⁷ The section on monitoring the implementation of the procurement contracts in its annual reports includes some basic statistics on the implementation reports submitted by contracting authorities, which fail to always provide the required data; however, the section does not discuss any other issues.¹⁶⁸ ATRAKO and the Ministry of Finance and Economy do not publish concession/PPP implementation reports either.

Good practices

- One of the best practices in the field of public procurement in Albania is the reduction of negotiated procedures without prior publication of contract notice. In 2021, only 143 procedures, or 3.4 percent of all realized procurements were conducted through such procedures.¹⁶⁹ This is a significant improvement compared to 2017, where 2234 procurements, or 31.8 percent of all public procurements carried out by the contracting authorities. During that year (2017), the public procurement were carried out using the method of negotiation without prior publication of contract notice.¹⁷⁰
- Albania has a central electronic public procurement portal where tender and contract notices are published, as well as other tender information and instructions. The electronic system contains information related to the subject of procurement, the funding limit, the rules and conditions for participating in tenders, as well as the deadlines for questions and submission of offers.
- The Public Procurement Agency publishes data on public procurement procedures through its open data portal. The Agency has added the portal in 2021 as it had not previously been a practice to publish procurement data in an open data format.

Deficiencies

- One of the main issues in the public procurement system in Albania is the low number of economic operators participating in the competition. In 2020, the average number of bids per tender was 2.57, compared to 2.37 in 2019 and 3.05 in 2018.¹⁷¹

¹⁶⁴ Article 64/3 (1), Law no. 9643, date 20.11.2006 “On public procurement” (amended).

¹⁶⁵ Article 121, Law on Public Procurement.

¹⁶⁶ Information provided by the Public Procurement Commission in response to an FOI request sent to on 07 June 2022.

¹⁶⁷ Public Procurement Agency, “Buletini i njoftimeve publike”, <https://www.app.gov.al/t%C3%AB-tjera/arkiva/arkiva-e-buletinit-t%C3%AB-prokurimit-publik/>, accessed on 1 February 2023.

¹⁶⁸ See for example, Public Procurement Agency, “Analiza Vjetore 2021”, pp. 113-114.

¹⁶⁹ Public Procurement Agency, *Analiza Vjetore 2021*, p. 45.

¹⁷⁰ Public Procurement Agency, *Analiza Vjetore 2017*, p. 19 <https://www.app.gov.al/GetData/DownloadDoc?documentId=0ef1ede8-8486-4114-8c58-e835fca3ed0e>, accessed on 10 December 2022.

¹⁷¹ European Commission, *Albanian Report 2021*, p. 61.

- High number of cancelled public procurement procedures. In 2021, 1042 of the public procurements published in the Public Procurement Electronic System were cancelled¹⁷², while in 2017, 2428 procedures were cancelled.¹⁷³
- High number of public procurements with one or two bidders participating in the competition.

4.1.4 Art. 10 and 13.1 – Access to Information and the Participation of Society

Access to information and public participation in decision-making are essential tools in the fight against corruption and allow for accountability, scrutiny of governmental activity, and uncovering corrupt practices. The Constitution of Albania guarantees the right to receive information about the activity of public bodies, and persons exercising state functions and guarantees freedom of expression, freedom of the press, and prohibition of censure. Furthermore, Albania recently ratified the Council of Europe Convention on access to official documents (the Tromsø Convention).¹⁷⁴ Law on the Right to Information¹⁷⁵ enables citizens to access information by submitting requests (reactive transparency), but also obliges public bodies to proactively disclose certain categories of information (proactive transparency). Public bodies are obliged to publish information on their organizational structure, functions, and duties as well as information on education, qualifications, and salaries of officials, without receiving formal requests for information. Additionally, it is mandatory for other categories of information relevant to enabling accountability on potential cases of corruption, such as audit reports, information on budget and expenses, public procurement procedures and contracts, etc., to be published in the Institutional Transparency Program - a website rubric where all the mandatory categories of information should be published in a pre-structured way.¹⁷⁶

The law applies to all branches of governance, as well as to private entities that carry out public functions or for which the state owns the majority of the shares. It does not apply to the private sector or political parties. Public information is broadly defined and includes any data recorded in any form and format, during the exercise of public functions, regardless of whether or not it was compiled by the respective public body. The means and procedures for access to information, the format of the request, and deadlines for the provision of information are clearly defined.

Access to information can be restricted when it interferes with the right to private life, trade secret, copyrights, or patents. Other matters among which national security, criminal investigation, state secret, international relations, can also be a reason for restricting access to information.¹⁷⁷ Nevertheless, the law requires for these restrictions to be proportionally balanced with the public interest on the information required. Despite the conflict, information can be provided if public interest prevails.

¹⁷² Public Procurement Agency, *Analiza Vjetore 2021*, p. 15.

¹⁷³ Public Procurement Agency, *Analiza Vjetore 2017*, p. 17.

¹⁷⁴ Council of Europe (July 2022), "Albania ratified the Council of Europe Convention on Access to Official Documents and Convention 108+ on data protection", <https://www.coe.int/en/web/human-rights-rule-of-law/-/albania-ratified-the-council-of-europe-convention-on-access-to-official-documents-and-convention-108-on-data-protection>, accessed on 11 November 2022.

¹⁷⁵ Law no.119/2014 "On the right to information", <https://www.idp.al/wp-content/uploads/2016/11/160-2014-DI.pdf>.

¹⁷⁶ Articles 4 and 7, Law no.119/2014 "On the right to information".

¹⁷⁷ Article 17, Law no.119/2014 "On the right to information".

The vast majority of public bodies¹⁷⁸ have assigned a right to information coordinator – a focal point responsible for the institutional coordination of responses to requests for information. In addition, courts of appeal have assigned dedicated judges for handling public relations and providing responses to journalists’ requests for information. The Information and Data Protection Commissioner (IDP Commissioner) is the independent body serving as an appeal mechanism when requests for information are delayed or denied.¹⁷⁹ The IDP Commissioner can issue recommendations and administrative sanctions and is also assigned to monitor the implementation of obligations for proactive transparency (transparency programs) by public bodies. Further, the administrative courts are another appeal mechanism that can be utilized e.g., to challenge the decisions of the IDP Commissioner.¹⁸⁰

In 2021 the government established the Agency for Media and Information to manage relations and communication between governmental bodies and the media, and ensure transparency on the activities of the government.¹⁸¹ Local and international organizations have deemed AMI as an effort to consolidate government control and limit access to information¹⁸², while experts raised concerns about the potential confusion and overlap that could be created with the current institutional structure on the right to information.¹⁸³

Furthermore, the Audiovisual Media Authority (AMA) is an independent regulatory body, overseeing audiovisual media, based on the Law on Audiovisual Media.¹⁸⁴ The Authority is in charge of guaranteeing and promoting freedom of speech, freedom of media, the right to information, licensing and authorisation, countering potential violations of copyrighted audiovisual content, reviewing complaints, and issuing administrative sanctions in cases of violations during broadcasting of audiovisual content. AMA’s regulatory activity covers audiovisual media, but not online media.

Currently, there is no public body overseeing the media to ensure that the provisions of the Law on Right to Information cannot be used for political or partisan purposes to restrain the investigation and publication of stories on corruption, whilst legislation addressing strategic lawsuits against public participation (SLAPPs) is lacking. The

¹⁷⁸ Information and Data Protection Commissioner (December 2021), *Indeksi i Transparencës Proaktive të Institucioneve Qëndrore dhe të Varësisë*, <https://www.idp.al/wp-content/uploads/2022/01/Indeksi-2021-Monitorimi-i-institucioneve-qendrore-dhe-te-varesise-2021-me-kopertine.pdf>, accessed on 09 September 2022, p. 21; Information and Data Protection Commissioner (December 2021), *Indeksi i Transparencës së 61 Njësive të Vetëqeverisjes Vendore*, <https://www.idp.al/wp-content/uploads/2022/01/Indeksi-i-transparences-monitorim-bashkite.pdf>, accessed on 9 September 2022, p. 10.

¹⁷⁹ Article 31(1), Law no.9887/2008 “On the protection of personal data”; Articles 24 and 25, Law no.119/2014 “On the Right to Information”.

¹⁸⁰ Ibid.

¹⁸¹ Decision of the Council of Ministers no. 519, date 18.09.2021 “On the establishment, organization and functioning of the Agency for Media and Information”, <https://bit.ly/3JGZkLW>.

¹⁸² ARTICLE19 (October 2021), “Albania: Government must scrap new Media and Information Agency”, <https://www.article19.org/resources/albania-government-must-scrap-new-media-and-information-agency/>, accessed on 08 September 2022.

¹⁸³ Dorian Matlija and Irena Dule (March 2022), *E Drejta e Informimit 2021*, Res Publica Center, Tirana, pp. 25-27.

¹⁸⁴ Article 6, Law no 97/2013 “On audiovisual media in the Republic of Albania”, as amended, <https://qbz.gov.al/eli/liqj/2013/03/04/97-2013>

latter would strengthen the guarantees to freedom of expression by ensuring protection from lawsuits that attempt to restrain public participation by intimidating defendants with legal action.

There are no dedicated regulations in place on public participation in anti-corruption efforts; nevertheless, Law on Public Notification and Consultation¹⁸⁵ enables citizens' participation in decision-making when laws, national and local strategies, and policies of high public interest are being drafted. The decisions of the Council of Ministers (CoM), as secondary legislation, are not explicitly included in the scope of this law and the cases when they are considered subject to this law are open to interpretation. A broad list of exceptions from the application of the law includes, among others, matters of national security, international relations, and civil emergencies.

The publication of draft laws and policies in an electronic register for notifications and public consultations (ERNPC)¹⁸⁶ is mandatory, however, the use of other (more accessible) methods of consultation, such as public meetings and hearings, electronic mail, or social media channels, is optional. Even though the available data suggest that the ERNPC is not an effective consultation tool, as it is barely known or used by the public (only 16.6 percent of citizens used it during 2021)¹⁸⁷, most public bodies limit their public consultation efforts to the publication of consultation documents in this register. To enable interaction with citizens, the government has introduced several other online platforms¹⁸⁸ which allow the submission of requests or complaints related to the activity of public administration including opportunities to report corruption and receive public services.

Coordinators for public consultation have not been appointed by all public bodies, as required by law.¹⁸⁹ The coordination and oversight of the consultation process at the central government level is currently led by the Prime Minister's Office, whilst the law assigns the IDP Commissioner with the authority of addressing complaints for violations of public consultations. However, the competencies of the IDP Commissioner are limited in this regard, as it cannot issue administrative sanctions or prevent the approval of a non-consulted document. As a result, the IDP Commissioner has not been deemed an effective mechanism for public consultation and has received an insignificant number of complaints over the years.¹⁹⁰

¹⁸⁵ Article 1(1), Law no. 146/2014 "On public notification and consultation", https://www.idp.al/wp-content/uploads/2016/11/liqi_nr_146_per_njoftim_konsultim_publik_dt_30_10_2014_19918_1-2.pdf.

¹⁸⁶ Electronic register for notifications and public consultations: <https://konsultimipublik.gov.al/>, accessed on 14 November 2022.

¹⁸⁷ Irma Semini and Iliada Korçari (2022), *Trust in Governance 2021*, Institute for Democracy and Mediation, Tirana, <https://idmalbania.org/public-opinion-poll-trust-in-governance-2021/>, accessed on 14 November 2022, p.67.

¹⁸⁸ Governmental online platforms: www.shqipериageduam.al; www.pyetshtetin.al; www.e-albania.al, accessed on 8 September 2022.

¹⁸⁹ Information and Data Protection Commissioner (December 2021), *Indeksi i Transparencës Proaktive të Institucioneve Qëndrore dhe të Varësisë*, p. 21.

Information and Data Protection Commissioner (December 2021), *Indeksi i Transparencës së 61 Njësive të Vetëqeverisjes Vendore*, p. 10.

¹⁹⁰ Megi Reçi and Diori Angjeli (December 2021), "Ticking the box on public consultations: enablers, repercussions, solutions?", <https://idmalbania.org/policy-briefs-civil-service-and-policy-making-integrity/>, accessed on 08 September 2022, p.3.

The current legal and institutional infrastructure in place has often failed to provide accountability when consultations were unduly circumvented. According to CSOs, among the enabling factors of such circumvention of public consultation processes, are the loopholes in the legal framework which allow for misinterpretation and ineffective oversight and complaint mechanisms.¹⁹¹ Nevertheless, some positive efforts to improve public consultation processes are noticeable, including the live-streaming of parliamentary sessions and some municipal council meetings, and the approval of a guideline on public consultation processes at the central government level.¹⁹²

Concerning the applicable policy framework on transparency and public participation, the Albanian government has approved the 2020-2022 Open Government Partnership Action Plan¹⁹³, which amongst other commitments, addresses the strengthening of the transparency and accountability of the MoJ, the increase of budgetary and public revenue transparency as well as expanding the government's open data portal. Further, the National Intersectoral Strategy Against Corruption 2015-2023 (ISAC) and its Action Plan¹⁹⁴, tackle the need to increase transparency regarding state activity, improve citizens' access to information, as well as increase transparency regarding budgetary funds. The ISAC also envisages public awareness measures on the consequences of corruption, to encourage the public to actively utilize the available mechanisms to report corruption and foster cooperation with civil society. In this framework, the MoJ has conducted awareness-raising activities including the publication of informative materials and videos, promotion of platforms and mechanisms where corruption can be reported, organization of public events and forums, etc.¹⁹⁵

Concerning public education on anti-corruption, schools and universities do not offer any dedicated subjects on the matter; nevertheless, courses of public administration are offered by faculties of economy, law, and social sciences, whilst courses of ethics are available in the majority of faculties within the public university, as an optional or mandatory course.¹⁹⁶ There have been cases when awareness-raising activities with students on anti-corruption have been organized as a result of the cooperation of the MoJ with public education institutions. Another positive step taken to improve citizens' engagement and awareness was the approval of a national strategy for the legal education of the public.¹⁹⁷

¹⁹¹ Megi Reçi and Diori Angjeli (December 2021), "Ticking the box on public consultations: enablers, repercussions, solutions?", p.4.

¹⁹² Prime Minister's Office (January 2021), *Guidelines on Public Consultation*, <https://www.adisa.gov.al/wp-content/uploads/2021/03/URDHER-Nr.-3-Dt.-29.01.2021-compressed.pdf>, accessed on 08 September 2022.

¹⁹³ Council of Ministers, *The Open Government Partnership National Action Plan for Albania 2020-2022*, https://www.opengovpartnership.org/wp-content/uploads/2021/01/Albania_Action-Plan_2020-2022_EN.pdf, accessed on 14 November 2022.

¹⁹⁴ Council of Ministers, *National Intersectoral Strategy against Corruption 2015-2023 (ISAC) and its Action Plan*, https://www.drejtesia.gov.al/wp-content/uploads/2021/04/1.-PLANI-I-VEPRIMIT-ANTIKORRUPSION-2020-2023_AL.pdf, accessed on 14 November 2022.

¹⁹⁵ Council of Ministers, *National Intersectoral Strategy against Corruption 2015-2023 (ISAC) and its Action Plan*.

¹⁹⁶ Information provided by the University of Tirana on 22 July 2022 in response to an FOI request.

¹⁹⁷ Council of Ministers, *Strategy for Legal Education of the Public 2019 – 2023*, https://www.idp.al/wp-content/uploads/2020/01/Vendimi_nr_47_dt_18_4_2019.pdf, accessed on 08 September 2022.

With regards to providing support to CSOs, as a key non-public actor in the fight against corruption, the Agency for Support to Civil Society – a public entity created to support the sustainable development of civil society - has provided public funding to some CSOs, even though such support has been minimal and not sustainable.¹⁹⁸ Additionally, the implementation of a roadmap adopted by the government aiming to create an enabling environment for civil society remains scarce.¹⁹⁹ This roadmap does not address CSOs' role in anti-corruption efforts, whilst inclusion of CSOs in policymaking is amongst its priorities. A 2019 parliamentary resolution on Human Rights Defenders (HRDs)²⁰⁰ recognizes their role in reporting corruption (among other areas of HRDs' engagement), as well as the challenges and risks related to their work. Through the resolution, the Assembly commits to strengthening parliamentary oversight on cases of violation of rights of HRDs, and to encourage the government, independent bodies and law enforcement agencies to duly support and protect HRDs. The resolution itself is not a legally binding document, and it envisages that the Assembly, within 9 months after its approval, should draft a report on the situation of HRDs in Albania and an action plan for the implementation of the resolution. Nevertheless, the latter have not yet been approved, leaving the resolution unimplemented to date.²⁰¹

Despite the good quality of the law on right to information, placed 6th best in the Global Rights to Information rating,²⁰² the overall compliance of public consultation law with international standards, and the policy attention provided to these matters, many shortcomings have been identified concerning their implementation. Whilst there is currently no initiative aiming to improve the public consultation law, the Law on the Right to Information was being amended at the time of writing this report. It is of crucial importance for both laws to be properly amended through inclusive consultation processes, taking into account the contribution of CSOs, journalists, and other groups of interest that are the main stakeholders utilizing these laws.

In 2021, more than half of Albanians perceived their local and central governments as not transparent, while public perceptions of corruption in the country remain high.²⁰³ Public awareness-raising activities on the right to information are continuously organized by the IDP Commissioner and CSOs, and 62.2 percent of citizens are aware that the right to information is guaranteed by law.²⁰⁴ A considerate level of public engagement in transparency matters is noticed in the number of complaints submitted to the IDP Commissioner during 2021 (a total of 992 complaints), which was the

¹⁹⁸ Megi Reçi and Daniel Prroni (October 2022), *2021 Civil Society Organization Sustainability Index Albania*, US Agency for International Development, Washington DC, <https://storage.googleapis.com/cso-si-dashboard.appspot.com/Reports/CSOSI-Albania-2021.pdf>, accessed on 06 December 2022, p. 5.

¹⁹⁹ European Commission (October 2021), *Albania Report 2021*, p.13.

²⁰⁰ Resolution of the Albania Assembly no. 368, date 03 March 2019, "on the recognition and support of the activity of the human rights defenders in promoting, encouraging and protecting human rights and fundamental freedoms, strengthening of the rule of law and the consolidation of democracy", <https://qbz.gov.al/eli/rezolute/2019/03/05/368>.

²⁰¹ Information provided by the Assembly in response to an FOI request on 20 April 2022.

²⁰² Access Info Europe and Center for Law and Democracy, "Global Right to Information Rating" <https://www.rti-rating.org/>, accessed on 08 September 2022.

²⁰³ Irma Semini and Iliada Korçari (2022), *Trust in Governance 2021*, pp. 40, 51.

²⁰⁴ Irma Semini and Iliada Korçari (2022), *Trust in Governance 2021*, p.42.

highest on record.²⁰⁵ The vast majority (64 percent) of these complaints were submitted by journalists and activists, whilst the remaining 36 percent were submitted by citizens.²⁰⁶

The monitoring conducted by various actors shows that the shortcomings identified and the progress made in the implementation of the right to information, differ between proactive and reactive transparency. The monitoring of transparency programs conducted by the IDP Commissioner on central and local government institutions reveals there have been improvements in proactive transparency during 2021.²⁰⁷ Nevertheless, more thorough monitoring reports of civil society organizations (CSOs) indicate that sensitive information such as that on public procurement contracts, management of public property and assets, audit reports, budget monitoring reports, and donations, are generally lacking in the transparency programs of central²⁰⁸ and local government institutions.²⁰⁹ Corruption risk assessments, institutional anti-corruption policies, and the respective monitoring reports are not published consistently.

Despite the lack of an explicit obligation to publish these policies, some public bodies have published the complete documents of their internal anti-corruption policies (Integrity Plans), while others have published them partly (e.g. excluding the integrity risk matrix and the prescribed action plan measures), or have not published them at all.²¹⁰ Overall, it seems that public bodies are reluctant to proactively publish the above-mentioned categories of information, despite the high public interest and corruption risks the given activities carry. Less sensitive categories of information have been published by the majority of public bodies, including information on the means, procedures for access to information, and contacts of right to information coordinators.

Regarding reactive transparency, the average timeframe within which public bodies responded to requests for information during 2021 was the worst on record.²¹¹ Only 60 percent of freedom of information requests were fully addressed after the initial request, 17 percent received partial responses, while 23 percent received no response.²¹² In this context, a proposed amendment to the Law on the Right to Information allowing public bodies to deny responses to repetitive requests for information deemed as ‘abusive requests’²¹³, if enacted into law, has the potential to

²⁰⁵ Dorian Matlija and Irena Dule (2022), *E Drejta e Informimit 2021*, p.10.

²⁰⁶ Ibid.

²⁰⁷ Information and Data Protection Commissioner (December 2021), *Indeksi i Transparencës Proaktive të Institucioneve Qëndrore dhe të Varësisë*, p. 21.

Information and Data Protection Commissioner (December 2021), *Indeksi i Transparencës së 61 Njësive të Vetëqeverisjes Vendore*, p. 10.

²⁰⁸ Dorian Matlija and Irena Dule (2022), *E Drejta e Informimit 2021*, p. 22.

²⁰⁹ Megi Reçi and Armela Xhaho (March 2021), *Transparency and Accountability at the Local Self-Government Level*, Institute for Democracy and Mediation, Tirana,

<https://idmalbania.org/transparency-accountability-local-level-monitoring/>, accessed on 08 September 2022, pp.29-33.

²¹⁰ Information obtained through the verification of the websites of central and local institutions which have approved Integrity Plans (internal anti-corruption policies).

²¹¹ Dorian Matlija and Irena Dule (2022), *E Drejta e Informimit 2021*, p.19.

²¹² Dorian Matlija and Irena Dule (2022), *E Drejta e Informimit 2021*, p.18.

²¹³ Article 15, Draft law “On some additions and changes to Law no. 119/2014 ‘On the right to information’”, <https://konsultimipublik.gov.al/Konsultime/Detaje/528>

be misused in the cases when requests are legitimately repeated due to the receipt of partial/insufficient responses.²¹⁴

Information via electronic communication is provided for free while for physical documents, citizens should pay only for the cost of reproduction and shipment. Such fees are fixed and must be publicly available; however, in practice, there have been few cases when they were not applied in a unified way by all public bodies. For instance, unreasonably high fees that exceed the cost of reproduction have been applied when voluminous documents were provided in hard copy, instead of providing their scanned (electronic) versions.²¹⁵ The implementation of this aspect of the law needs to be properly monitored to enable unification, as it can be discouraging and harmful to citizens' access to information.

Concerning the accessibility of appeal mechanisms, it is easier to submit a complaint to the IDP Commissioner, than address the court. Complaints to the IDP Commissioner can be submitted either electronically or by mail, free of charge and without hiring a lawyer. With regard to the efficiency of the available mechanisms, the public perception varies. An IDM survey, aiming to identify the perceptions of service users on the integrity of the institution of the IDP Commissioner, found that 59.1 percent of the respondents trusted they would be provided effective services by this institution without offering favors or gifts to any of its employees.²¹⁶

Another IDM survey found that 43.1 percent of the citizens perceive the IDP Commissioner as an effective mechanism for enabling governmental accountability²¹⁷, while in a regional evaluation of the effectiveness of national human rights institutions in the Western Balkans, the Albanian IDP Commissioner scored 4.6/8 points.²¹⁸ According to SIGMA's monitoring report for 2021²¹⁹, their 'accessibility of public information' indicator for Albania is assessed with 4/5 points. While the 'adequacy of legislation' sub-indicator scores 10/10, the rest of the sub-indicators – which are related to institutional proactivity in disclosure of information, public perceptions of accessibility, and coverage of basic functions for implementing access to public information – score significantly lower. The available evidence shows that in 88 percent of the cases, public bodies respond to freedom of information requests after a complaint has been filed with the IDP Commissioner.²²⁰ On the other hand, courts, seem to be one of the least trusted institutions by Albanian citizens.²²¹ Lengthy court procedures followed by appeals often last for several years until a final verdict is reached, and are discouraging particularly for journalists for whom timely provision of

²¹⁴ European Centre for Press and Media Freedom (2022) *Government proposes FOI changes that could further limit watchdog journalism* <https://www.mapmf.org/alert/25285>

²¹⁵ Dorian Matlija and Irena Dule (2022), *E Drejta e Informimit 2021*, p. 29.

²¹⁶ The survey was administered in 2022 by IDM in the framework of the Sida-supported project "Strengthening integrity for improved public services" and received 46 responses.

²¹⁷ Irma Semini and Iliada Korçari (2022), *Trust in Governance 2021*, p. 45.

²¹⁸ Armela Xhaho (November 2020), *Country Report Albania: What is behind and beyond the average?*, Civil Rights Defenders, <https://crd.org/wp-content/uploads/2021/03/Effectiveness-of-NHRIs-in-the-WB-What-is-behind-and-beyond-the-average.pdf>, accessed on 08 September 2022, p. 59.

²¹⁹ SIGMA/OECD (2021) *Monitoring Report Principles of Public Administration Albania* <https://www.sigmaweb.org/publications/Monitoring-Report-2021-Albania.pdf>, accessed on 18 May 2023, p. 104.

²²⁰ Dorian Matlija and Irena Dule (2022), *E Drejta e Informimit 2021*, p. 20.

²²¹ Dorian Matlija and Irena Dule (2022), *E Drejta e Informimit 2021*, p. 28.

information is crucial, as otherwise, it loses value.²²² Delayed provision of information prevents them from conducting proper fact-checking and can become an obstacle to publishing.

Nevertheless, despite the delays faced, some lawyers deem the courts as a more effective mechanism when requiring access to politically sensitive information.²²³ There have been some positive cases when the administrative courts addressed the malpractice of appealing every decision of the court of the first instance with the sole purpose of delaying the provision of information. In the given cases, the courts ordered the temporary execution of the decision, obliging public bodies to provide immediate access to the required information, without requiring the pre-exhaustion of all judicial remedies. On some occasions, these requests for information were successful in informing and shaping the public debate around the lack of accountability on public spending – as was the case of eight public bodies that were ordered by the court to provide invoices related to their business trips.²²⁴

When the information required is politically sensitive or could expose cases of corruption, it is practice for the government to delay its release to the point of losing its value, or to deny it even after the intervention of the IDP Commissioner. Such information usually concerns public procurement contracts or construction projects deemed harmful to the environment or cultural heritage. By way of illustration, the information required from the Municipality of Tirana regarding the (widely contested) procedure followed for the demolition of the National Theatre, has not been provided to Res Publica Center even though two years have passed since the building was demolished.²²⁵ The Ministry of Finance and Economy did not submit to the Parliament or publish the 2021 report on the implementation of concession contracts and public-private partnerships, as per its legal obligation.²²⁶ An overall lack of transparency on public procurement contracts is stressed by the International Monetary Fund (IMF).²²⁷ Furthermore, regarding matters of public spending, the fact-checking media outlet *Faktoje* has continuously raised concerns over the lack of transparency around matters of high public interest, particularly regarding the Covid-19 vaccination campaign and the reconstruction process following the 2019 earthquake²²⁸. Regarding the latter, several journalists and CSOs filed lawsuits with the administrative courts after being denied transparency by local and central government institutions on the

²²² Interview with Lorin Kadiu, Journalist and Executive Director at Citizens Channel, 28 July 2022.

²²³ Interview with Irena Dule, Lawyer, Res Publica Center, 25 July 2022.

²²⁴ Viola Keta, “Faktoje fiton betejën ligjore me shumicën e institucioneve shtetërore për ‘Faturat’”, *Faktoje.al*, 11 January 2021, <https://faktoje.al/faktoje-fiton-betejen-ligjore-me-shumicen-e-institucioneve-shteterore-per-faturat/>, accessed on 08 September 2022.

²²⁵ Erisa Kryeziu, “725 ditë pa përgjigje; Teatri Kombëtar si dëshmi e mohimit të së drejtës për informim”, *Citizens Channel*, 17 May 2022, <https://citizens-channel.com/2022/05/17/725-dite-pa-pergjigje-teatri-kombetar-si-deshmi-e-mohimit-te-se-drejtës-per-informim/>, accessed on 08 September 2022.

²²⁶ Gjergj Erebara, “Ministria e Financave dështon të publikojë raportin e performancës së koncesioneve”, *Reporter.al*, 19 August 2022, <https://www.reporter.al/2022/08/19/ministria-e-financave-deshton-te-publikoje-raportin-e-performances-se-koncesioneve/>, accessed on 08 September 2022.

²²⁷ International Monetary Fund (December 2021), *Albania Staff Report for the 2021 Article IV Consultation* <https://www.imf.org/en/Publications/CR/Issues/2021/12/07/Albania-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-510834>, accessed on 08 September 2022, p.13.

²²⁸ Interview with Viola Keta, Editor in Chief, *Faktoje.al* 23 August 2022.

projects, tenders and signed contracts for the reconstruction of buildings damaged by the 2019 earthquake.²²⁹

The usual obstacles to obtaining information faced by journalists and CSOs include receiving vague responses or interpretations that do not address the question; receiving voluminous time-consuming documents the content of which does not provide an answer to the request for information; receiving links to certain documents instead of being provided the required information; being unnecessarily directed to other institutions as the ones supposedly responsible for the given freedom of information request, etc.²³⁰ Such malpractices are at the cost of freedom of expression and democratic debate, since due to a lack of officially confirmed information, journalists, activists, and researchers may refrain from publishing on matters of public interest.

In other cases, public bodies have misused the legal exemptions from disclosure to deny access to information. State secret and national security clauses were unduly used by institutions overseeing the judiciary, to deny information required by the Balkan Investigative Reporting Network (BIRN). In one of the cases, the High Judicial Council released the information after a lawsuit was filed by BIRN, and published the required information previously classified as a state secret.²³¹ In another case, the Independent Qualification Commission – the entity responsible for the assessment and reevaluation of the members of the judicial system – appealed the decision of the IDP Commissioner requiring the publication of the private donor to one of its events, claiming such publication would constitute a threat to national security. The Administrative Court of Tirana upheld such claims and abolished the decision of the IDP Commissioner.²³² In two other cases identified, decisions of the Council of Ministers (CoM) - by nature, sub-legal acts that must be public to enter into force - were classified as a state secret.²³³ According to the SSAI, these two decisions of the CoM authorized the Ministry for Europe and Foreign Affairs and the Ministry of Finance and Economy to sign consultancy contracts with APC Worldwide and Ernst and Young.²³⁴ A journalist of Organized Crime and Corruption Reporting Project (OCCRP) filed a lawsuit against the CoM and IDP Commissioner, after being denied access to one of the above-mentioned decisions of the CoM and the case is ongoing in court.²³⁵

Copyright and trade secret clauses have also been used to deny information to journalists on public contracts and documents related to construction projects deemed

²²⁹ Res Publica Center, “Mungesa e transparencës për projektet, tenderat dhe kontratat e nënshkuara për rindërtimin e objekteve të dëmtuara nga tërmeti i nëntorit 2019”, 10 December 2022, <https://bit.ly/3z9DKUo>, accessed on 12 December 2022.

²³⁰ Interview with Lorin Kadiu, Journalist and Executive Director at Citizens Channel, 28 July 2022; Interview with Viola Keta, Editor in Chief, Fakte.al 23 August 2023.

²³¹ Vladimir Karaj, “E drejta e informimit dhe ‘sekreti shtetëror’; KLGJ dorëzohet pasi u padit në gjykatë”, Reporter.al, 08 October 2021, <https://www.reporter.al/2021/10/08/e-drejta-e-informimit-dhe-sekreti-shtetror-klgj-dorezohet-pasi-u-padit-ne-gjykate/>, accessed on 08 September 2022.

²³² Edmond Hoxhaj, “Gjykata i del në krah KPK: Mbajtja sekret e sponsorit privat është ‘interes public’”, Reporter.al, 29 September 2022, <https://www.reporter.al/2022/09/29/gjykata-i-del-ne-krah-kpk-mbajtja-sekret-e-sponsorit-privat-eshte-interes-publik/>, accessed on 15 November 2022.

²³³ Interview with Irena Dule, Lawyer, Res Publica Center, 25 July 2022.

²³⁴ Supreme State Audit Institution (2019), *Raport mbi Zbatimin e Buxhetit të Shtetit 2018 (Përmbledhje)*, Tirana, <https://www.parlament.al/Files/Kerkese/RZB2018PDFKLSH.pdf>, accessed on 08 September 2022, p. 38.

²³⁵ Interview with Irena Dule, Lawyer, Res Publica, 25 July 2022.

as harmful to national heritage monuments, whilst in other cases, the confidentiality clause of the meetings of the CoM has become an obstacle for accessing information.²³⁶ Additionally, access to information was denied by non-public entities that exercise public functions, such as the Albanian Development Fund (ADF), on the ground of not being a public body subject to the law on the right to information.²³⁷ Such a claim was reversed by the IDP Commissioner requiring the ADF to provide the information in question.²³⁸ Other measures aiming to increase the protection of personal data, such as the anonymization of court decisions, sometimes have created obstacles to accessing information, particularly for journalists investigating crimes of corruption and lawyers. The misuse of legal exemptions for disclosure without providing a fair balance in cases when the right to information conflicts with other rights or important affairs, is another widely applied malpractice, often preventing accountability seeking on matters of public interest.

Another obstacle identified concerns the data collection systems that public bodies have in place. These systems are rarely comprehensive or duly disaggregated hindering the identification of the information required from public bodies and preventing them from fully addressing requests for information. It is crucial, particularly for public bodies processing high numbers of cases/requests (such as courts, law enforcements agencies, independent bodies etc.), to identify the right level of disaggregation when producing data, while balancing confidentiality and other legal obligations, with the need to facilitate effective transparency.

While violations of the right to information negatively affect the space for democratic debate and active participation of non-public actors, decision-makers do not provide many opportunities for engagement in public consultations either. With regard to the overall picture of public consultation processes, lack of political will and a culture of ticking the box²³⁹ are evident. As a result, consultations are widely seen as artificial exercises and participation remains at unsatisfactory levels.²⁴⁰ Nevertheless, when it comes to the participation of society in the government's anti-corruption efforts, there have been cases when citizens and CSOs have been involved and contributed. According to the MoJ, the majority of corruption reports/complaints received by the network of anti-corruption focal points are submitted by citizens.²⁴¹

Another form of involving non-public actors in the anti-corruption efforts of the government has been the inclusion of CSOs and other interest groups in the consultation process of the ISAC, its Action Plan, and monitoring reports.²⁴² CSOs are also part of a thematic working group on anti-corruption policies, acting as a consultative body to the MoJ, which carries out the role of the national anti-corruption

²³⁶ Interview with Lorin Kadiu, Journalist and Executive Director at Citizens Channel, 28 July 2022.

²³⁷ Interview with Viola Keta, Editor in Chief, Faktaje.al 23 August 2022.

²³⁸ Decision no.41/2020 of the Information and Data Protection Commissioner, https://www.idp.al/wp-content/uploads/2020/10/Vendim_nr_41_FSHZH_MFE.pdf, accessed on 07 August 2022.

²³⁹ Blerjana Bino, Redion Qirjazi, and Alban Dafa (2020), *Civil Society Participation in Decision Making in Albania*, Institute for Democracy and Mediation, Tirana, <https://idmalbania.org/wp-content/uploads/2021/11/CSO-Participation-in-Decision-Making-in-Albania.pdf>, accessed on 08 September 2022, p. 37.

²⁴⁰ Irma Semini and Iliada Korçari (2022), *Trust in Governance 2021*, p.63.

²⁴¹ Information provided by the Ministry of Justice on 05 August 2022 in response to an FOI request.

²⁴² Ibid.

coordinator.²⁴³ A positive example of cooperation between public bodies and CSOs is the involvement of the latter in providing expertise on the corruption risk assessment process through the drafting of the risk assessment methodology and contributing to the drafting of institutional anti-corruption policies of central and local government bodies (Integrity Plans).²⁴⁴ Furthermore, CSOs have reported on citizens' perceptions of corruption and provided research and policy analysis to support evidence-based decision-making and institutional accountability seeking.

Some of the identified obstacles to public participation concern political pressure and attempts to control information, which increased during 2021, particularly during the Covid-19 pandemic and the parliamentary elections. As a consequence, Albania dropped 20 places in the World Press Freedom Index, compared to the previous year.²⁴⁵ Independent journalists and civil society activists who report on cases of corruption, often face or are threatened with SLAPPs²⁴⁶, are subjected to smear campaigns aiming to attack their credibility²⁴⁷, receive luring offers in exchange for withdrawing from reporting, or other threatening messages.²⁴⁸

According to the Media Freedom Barometer for Albania, threats against journalists increased in 2021 as 34.5 percent of the journalists confirmed they had faced physical threats related to their work, while 52.5 percent had received verbal threats.²⁴⁹ Regarding censorship and self-censorship, 45.5 percent reported to have been asked by their superiors (media owners or editors) to refrain from publishing a story, while 45 percent had themselves avoided reporting on a certain matter because they thought their superior would dislike it. On the other hand, 31.5 percent had withdrawn from reporting on a story after they had already started investigating, while 32.5 percent confirmed to have been self-censored due to fear of losing their job.²⁵⁰ Among the censored stories they mentioned articles on concessions, public finances and affairs, matters concerning investigations on the energy sector or affecting the business interests of their employers, high profile arrests, the reconstruction process following the 2019 earthquake etc.²⁵¹ The pressure against journalists comes mainly from

²⁴³ UNODC, "Self-assessment on the implementation of chapters II and V of the United Nations Convention against Corruption" (Albania), p. 7.

²⁴⁴ Institute for Democracy and Mediation (October 2020), "The Integrity Plan: A new perspective in the fight against corruption", <https://idmalbania.org/the-integrity-plan-a-new-perspective-in-the-fight-against-corruption-october-2020/>, accessed on 08 September 2022.

²⁴⁵ Reporters without Borders (2022), "Albania - Press Freedom Index", <https://rsf.org/en/country/albania>, accessed on 08 September 2022.

²⁴⁶ Interview with Irena Dule, Lawyer, Res Publica, 25 July 2022; Interview with Viola Keta, Editor in Chief, Faktaje.al 23 August 2022.

²⁴⁷ Freedom House (2022), "Albania – Nations in Transit 2022", https://freedomhouse.org/country/albania/nations-transit/2022#footnote1_1w8ctq5, accessed on 08 September 2022.

²⁴⁸ Armela Xhaho (2020), *Human Rights Defenders in Albania*, Civil Rights Defenders, https://crd.org/wp-content/uploads/2020/06/200611_HRD-REPORTS-ALL_ENGa_Web_Redused.pdf, accessed on 08 September 2022, p.6.

²⁴⁹ Vladimir Karaj and Ola Mitre (October 2022), *Barometri Kombëtar i Lirisë së Medias në Shqipëri për Vitin 2021*, Albanian Helsinki Committee, Tirana, https://ahc.org.al/wp-content/uploads/2022/10/Barometri-Kombetar-per-Lirine-e-Medias-ne-Shqiperi_Tetor-2022-KShH.pdf, accessed on 07 December 2022, pp. 19-21.

²⁵⁰ Vladimir Karaj and Ola Mitre (October 2022), *Barometri Kombëtar i Lirisë së Medias në Shqipëri për Vitin 2021*, pp. 21-25.

²⁵¹ Vladimir Karaj and Ola Mitre (October 2022), pp. 21-25.

private but also state actors or their representatives, and these incidents are rarely reported or investigated.²⁵²

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. By way of illustration, in 2021, the Special Prosecution against Corruption and Organized Crime (SPAK) ordered the seizure of computer servers of a media outlet after they refused to reveal their sources²⁵³. The case concerned a voters' data leak scandal with high political sensitivity. Even though SPAK was ordered by the European Court of Human Rights to halt the seizure²⁵⁴ and the Albanian Supreme Court upheld the decision in favor of the protection of journalistic sources, the move was widely seen as a negative precedent of intimidation.

Additionally, the perceived impunity in cases of corruption is high, as more than half of Albanian citizens do not trust an effective criminal investigation will be conducted in reported cases of high or even petty corruption.²⁵⁵ Albanian citizens also hesitate to report corruption due to fear of revenge, while politically motivated discrimination is the most common form of discrimination reported in the country.²⁵⁶ The reluctance to report corruption and overall distrust in its effective investigation is evident among public officials too and reflected in the very low number of whistleblowing cases over the years.²⁵⁷

Government control over politically sensitive information that could lead to exposure of corruption is harmful to media freedom, public participation in democratic debate, and accountability seeking. On the other hand, different forms of pressure combined with fear of repercussion and prevailing impunity, discourage engagement in the fight against corruption. To increase public participation, there is need for genuine political will to increase transparency and citizens' trust in those who represent them.

Good practices

- Efforts are being made to improve the legal framework on the right to information, such as the inclusive consultation process held by the IDP Commissioner on the proposed legal amendments to the Law on the Right to Information and the ratification of the Tromsø Convention.
- In the framework of increasing transparency in the judiciary system, dedicated judges have been appointed in the appeal courts for handling public relations and providing responses to journalists' requests for information.

²⁵² Interview with Irena Dule, Lawyer, Res Publica Center, 25 July 2022; Interview with Lorin Kadiu, Journalist and Executive Director of Citizens Channel, 28 July /2022.

²⁵³ Vladimir Karaj, "Vendimi për sekuestro ndaj Lapsi.al, kërcënim serioz për lirinë e medias", Reporter.al, 20 April 2021, <https://www.reporter.al/2021/04/20/vendimi-per-te-sekuestro-ndaj-lapsi-al-kercenim-serioz-per-lirine-e-medias/>, accessed on 15 November 2022.

²⁵⁴ European Court of Human Rights, Communication with Dorian Matlija, 22 April 2021, https://www.reporter.al/wp-content/uploads/COURT-7003525-v2-20204_21_LE2_2a_R39_Granted_Only.pdf, accessed on 15 November 2022.

²⁵⁵ Irma Semini and Iliada Korçari (2022), *Trust in Governance 2021*, p. 51.

²⁵⁶ Commissioner for Protection against Discrimination (2021), *Raport Vjetor 2021*, <https://www.kmd.al/wp-content/uploads/2022/05/Raporti-KMD-2021.-OK-1.pdf>, accessed on 08 September 2022, p. 36.

²⁵⁷ Rovena Vuksani (February 2020), *Sinjalizimi i Korrupsionit në Shqipëri: Sfidat e Zbatimit të Kuadrit të ri Ligjor*, pp. 31-33.

- Some efforts to increase transparency of consultation processes and enable public participation include the live streaming of Parliamentary sessions and some Municipal Council meetings, as well as the approval of detailed guidelines on public consultation processes at the central government.
- A precedent set by the administrative courts that ordered the temporary execution of decisions has enabled effective access to information in some politically sensitive matters. In these cases, the court ordered public bodies to provide immediate access to the required information, without the claimant having to exhaust all judicial remedies as a precondition to receiving such access.
- Positive examples of involvement of non-public actors in anti-corruption efforts include the involvement of CSOs in the drafting of institutional Integrity Plans (anti-corruption policies) of several public bodies; provision of research findings to support evidence-based decision-making; contribution to the consultation process of the ISAC, its Action Plan and monitoring reports; engagement in the thematic working group on anti-corruption policies.

Deficiencies

- Public bodies are reluctant to proactively publish sensitive information such as that on public procurement contracts, management of public property and assets, audit reports, budget monitoring reports, donations, and corruption risk assessments, despite the high public interest and corruption risks the given activities carry. Even appeal mechanisms are often not effective in providing timely access to such politically sensitive information.
- Unified institutional practice and interpretations allowing a proportional balance of the restrictions to the right to information in relation to the public interest are lacking. The malpractice of misusing legal exemptions from disclosure to deny access to information and that of providing incomplete/irrelevant responses, prevent accountability seeking on matters of public interest.
- Unreasonable and ununified fees are applied for the provision of hard copy documents as a response to requests for information, hampering access.
- Public bodies lack comprehensive and disaggregated data collection systems, which hinders their ability to duly address requests for information on specific data.
- There is no anti-SLAPP legislation in force in Albania, to ensure protection from harmful lawsuits aiming to silence public participation.
- Job-related threats against journalists and activists are not effectively investigated.
- The public consultation law does not cover decisions of the CoM and does not provide for effective oversight and complaint mechanisms. Despite shortcomings, there are currently no efforts to improve this legislation.
- There is a lack of political will to organize genuine and effective public consultation processes. Public participation, awareness, and trust in such processes are low.
- Public consultation coordinators and anti-corruption focal points are not assigned by all public bodies.
- Anti-corruption efforts and public consultation oversight are conducted by governmental bodies and not independent institutions

- Mandatory curricula and training on anti-corruption matters are overall lacking in public education institutions.
- Negative public perceptions of corruption, fear of revenge or politically motivated discrimination, and prevailing impunity, negatively affect citizens' engagement in reporting corruption.
- The policy framework in place dedicated to enhancing citizens' engagement and supporting or cooperating with CSOs is mainly donor-driven and not effectively implemented in practice.

4.1.5 Art. 14 – Measures to Prevent Money-Laundering

The main legal framework regulating the policies and measures to prevent and tackle money laundering and financing of terrorism in Albania is Law no. 9917, dated 10.06.2008 on Preventing Money Laundering and Financing of Terrorism (hereinafter AML/CFT law).²⁵⁸ It aims to establish rules and procedures to prevent the laundering of money and products stemming from criminal activity, as well as financing of terrorism. However, Albania is listed as a jurisdiction with strategic deficiencies by the Financial Action Task Force (FATF).²⁵⁹ According to the FATF, Albania should address deficiencies by ensuring an adequate legal framework for violations of company and non-profit organizations registration obligations; by implementing proportionate and dissuasive sanctions; and by increasing the number of prosecutions for money laundering, especially in cases involving predicate offences. Since being listed in the jurisdictions under increased monitoring, Albania has made a high-level political commitment to improve the national regime by implementing the action plan agreed with the International Cooperation Review Group of the FATF (ICRG/FATF) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).²⁶⁰

MONEYVAL's fifth-round evaluation report, which was published in 2018, found that although Albania had made considerable progress in tackling money laundering and terrorism financing, the risks continued to remain high.²⁶¹ The most recent follow-up report, published in 2022, states that Albania had addressed most technical compliance deficiencies within three years after the adoption of the mutual evaluation report.²⁶² Nevertheless, the report identifies four areas which remain vulnerable:

- (v) targeted financial sanctions on proliferation (R. 7) due to partly meeting the requirements for publicly known de-listing and un-freezing procedures;
- (vi) new technologies (R. 15) due to the fact that the risk analysis of virtual assets activities and virtual asset service providers is not comprehensive and is general in nature;

²⁵⁸ Law no. 9917, date 18.05.2008 "On the prevention of money laundering and financing of terrorism" <https://qbz.gov.al/eli/liqj/2008/05/19/9917>.

²⁵⁹ Financial Action Task Force (June 2022), "Jurisdictions under Increased Monitoring - June 2022", <http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2022.html>, accessed on 12 September 2022.

²⁶⁰ Financial Action Task Force (2022), "Jurisdictions under Increased Monitoring - June 2022".

²⁶¹ MONEYVAL (May 2022), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): 3rd Enhanced Follow-up Report*, <https://rm.coe.int/fur-albania-3rd/1680a6cea3>, accessed on 14 September 2022.

²⁶² MONEYVAL (2022), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): 3rd Enhanced Follow-up Report*.

- (vii) the transparency and beneficial ownership of legal arrangements (R. 25) due to legal deficiencies in requiring trustees to hold information on all relevant trust parties; and
- (viii) the supervision of designated non-financial businesses and professions (DNFBPs) due to a lack of risk-based supervision (R. 28).

Albania remains under the enhanced follow-up procedure due to a 'partially compliant' rating on R.7, R.15, R.25, and R.28. Although Albania's action plan to address strategic deficiencies is not published, the deadlines to address them have expired.²⁶³

Pursuant to the AML/CFT law, the General Directorate for the Prevention of Money Laundering (GDPML) acts as the national Financial Intelligence Unit (FIU), tasked with analyzing, supervising, and applying administrative sanctions in cases of money laundering and financing of terrorism. The GDPML operates as a body within the Ministry of Finance and is in charge of collecting, analyzing, and distributing to law enforcement agencies data on possible money laundering and terrorist financing activities. To this end, the establishment and functioning of the GDPML is largely compliant with the international obligation to have in place a specialized unit leading the fight against money laundering.

The AML/CFT law regulates and determines the competences of the GDPML, *inter alia*, collecting, administering, and analyzing reports and information from reporting entities and other institutions, requesting financial information from the reporting entities about the transactions carried out, supervising the implementation of reporting obligations by the entities, including on-site and off-site inspections, and ordering the temporary freezing of a transaction or financial actions when concrete facts and circumstances point to money laundering activity. In carrying out its duties and competences, the GDPML cooperates with other national institutions, prosecution authorities, and foreign agencies.

The AML/CFT law has established the Anti-Money Laundering Coordinating Committee whose mandate is to determine the general course of the national policy on prevention and fight against money laundering and terrorist financing. This Committee is chaired by the Prime Minister and includes the ministers of Finance, Foreign Affairs, Defence, and Internal Affairs, the Public Prosecutor, Head of the Special Prosecution, Governor of the National Bank, Executive Director of the Financial Oversight Authority, Director of the Intelligence Service, the General Inspector of HIDAACI, General Director of the State Police and the Head of the National Bureau of Investigation. The Committee meets at least once a year to review and analyze reports on activities carried out by the GDPML, as well as reports issued by international institutions or organizations. However, the Committee holds no controlling powers over the GDPML.

The current legal provisions that regulate the Committee are general and insufficient, leading to a lack of clarity on its precise powers and functions. A more comprehensive legal framework which outlines the functions as the national AML policy coordinator would contribute to the effective fulfillment of its role. The availability of public

²⁶³ Financial Action Task Force, "Jurisdictions under Increased Monitoring - June 2022".

information concerning the Committee's work is limited. Any reporting on the Committee's meetings in the last years is absent and critical information on its agenda, findings, conclusions, and recommendations is largely missing from the public domain. Moreover, there is no publically available evidence to suggest that the Committee has exercised its authority to establish working groups tasked with studying money laundering typologies or techniques, and there is no indication that the Committee has engaged AML experts during its yearly meetings.

MONEYVAL has found that there are no legal provisions preventing the GDPML from carrying out its functions freely.²⁶⁴ GDPML has its own budget, database, archives and premises. Although it is under the umbrella of the Ministry of Finance, the GDPML's own competencies are clearly stated in the AML/CFT law. The MONEYVAL report argues that the budgetary resources allocated to GDPML from 2014 - 2017 have been sufficient to meet the needs for a normal functioning of the institution. However, several issues remain: (i) there is no explicit reference in the legislation to the GDPML's competences in relation to associated predicate offences; (ii) there is no explicit legislative requirement to conduct analysis of information related to ML predicate offences.²⁶⁵

The GDPML is able to freely exchange information and enter into agreements with any foreign counterpart agencies, subject to confidentiality obligations. During 2022, the GDPML exchanged information with its counterparts on 209 occasions, 108 of which were requests for information and 100 are responses returned by GDPML.²⁶⁶ Since 23 July 2003, the GDPML is a member of the Egmont Group on Financial Intelligence Units²⁶⁷ and signed Memoranda of Understanding with 45 foreign FIUs.²⁶⁸

Reporting entities must undertake thorough measures and actions to prevent money laundering and financing of terrorism such as internal regulations and guidelines that take into account the risk of money laundering that may arise from customers or businesses and to report such activity to the GDPML. In case of noncompliance, the GDPML can request the licensing authorities to suspend or revoke the licence of a reporting entity, if it confirms that the subject is involved in money laundering activities. If the subject repeats the offence, administrative sanctions apply, whereas, if the wrongdoing is of a criminal nature, the sanctions of the Criminal Code apply. Article 287 of the Criminal Code²⁶⁹ on the laundering of the proceeds of the criminal offense or activity provides for sanctions of imprisonment of five to ten years. If the criminal offense is committed during the exercise of a professional activity or is of a repetitive nature, the Criminal Code provides for sanctions of imprisonment of seven to fifteen

²⁶⁴ MONEYVAL (July 2018), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): Fifth Round Mutual Evaluation Report*, <https://rm.coe.int/committee-of-experts-on-the-evaluation-of-anti-money-laundering-measur/1680931f70>, accessed on 14 September 2022, p. 197.

²⁶⁵ MONEYVAL (2018), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): Fifth Round Mutual Evaluation Report*, p. 196.

²⁶⁶ Albanian Financial Intelligence Unit (2023), *Raporti Vjetor 2022*, <https://fiu.gov.al/wp-content/uploads/2023/03/Raporti-Vjetor-2022.pdf>, Tirana, accessed on 29 May 2023, p. 28.

²⁶⁷ Egmont Group on Financial Intelligence Units, "Members by Region", <https://egmontgroup.org/members-by-region/>, accessed on 14 September 2022.

²⁶⁸ Information provided by GDPML in response to an FOI request sent on 01 July 2022.

²⁶⁹ Criminal Code of the Republic of Albania, <https://qbz.gov.al/eli/liqj/1995/01/27/7895/49876337-8143-4c8e-bba8-a8620022f231>.

years. If the same offense has produced serious consequences, it is punishable by no less than fifteen years in prison.

Reporting entities must undertake thorough measures and actions to prevent money laundering and financing of terrorism such as follow internal regulations and guidelines that take into account the risk of money laundering that may arise from customers or businesses and to report such activity to the GDPML. In case of noncompliance, the GDPML can request the licensing authorities to suspend or revoke the licence of a reporting entity, if it confirms that the subject is involved in money laundering activities. If the subject repeats the offence, administrative sanctions apply, whereas, if the wrongdoing is of a criminal nature, the sanctions of the Criminal Code apply. Article 287 of the Criminal Code²⁷⁰ on the laundering of the proceeds of the criminal offense or activity provides for sanctions of imprisonment of five to ten years. If the criminal offense is committed during the exercise of a professional activity or is of a repetitive nature, the Criminal Code provides for sanctions of imprisonment of seven to fifteen years. If the same offense has produced serious consequences, it is punishable by no less than fifteen years in prison.

In cases when the GDPML has evidence-based suspicions of money laundering or financing of terrorism activities, it blocks or temporarily freezes the concerned financial action for up to 72 hours. Within this deadline, if it establishes that a criminal act has been committed, it reports to the prosecution/court to decide on confiscation. In practice, the State Police is notified as well.

During 2022, the GDPML issued three freezing orders amounting to approximately 2,400,000 EUR, all of which were confiscated through decisions of the prosecutor or the courts.²⁷¹ This marks a significant increase from the previous two years. In comparison, in 2021 the GDPML issued three orders for a total of 250,240 EUR, and in 2020 it issued seven orders for a total of 1,172,291 EUR.²⁷² The GDPML also issued 8 warnings and 10 administrative fines during 2022: three to notaries, construction companies, and currency exchange offices each, and one to a non-bank financial institution.²⁷³ The administrative fines ranged from 200,000 ALL (approx. 1,800 USD) to 1,000,000 ALL (approx. 9,680 USD), for a total of 4,200,000 ALL (approx. 40,658 USD), which amounts to approximately half of the total amount of fines collected during 2022.²⁷⁴

In terms of cross-border cash declaration requirements, Article 17/1 of the AML/CFT law²⁷⁵ requires every person to declare cash amounts, negotiable instruments, precious metals or stones, valuables or antique objects, equal to or greater than 10,000 EUR (approx. 10,648 USD), or the equivalent amount in foreign currency, explain the purpose for carrying them, and produce supporting documents. If the customs authorities establish any reasonable suspicion to obtain any credible

²⁷⁰ Criminal Code of the Republic of Albania, <https://qbz.gov.al/eli/liqj/1995/01/27/7895/49876337-8143-4c8e-bba8-a8620022f231>.

²⁷¹ Albanian Financial Intelligence Unit (2023), *Raporti Vjetor 2022*, p. 10.

²⁷² *Ibid.*

²⁷³ Albanian Financial Intelligence Unit (2023), *Raporti Vjetor 2022*, p. 24.

²⁷⁴ The total value for 2021 was 8.2 million ALL and for 2020 it was 7.4 million ALL. See Albanian Financial Intelligence Unit (2023), *Raporti Vjetor 2022*, p. 25.

²⁷⁵ Law no. 9917 “On the prevention of money laundering and financing of terrorism”.

information which relates to money laundering or financing of terrorism activities, they must report it immediately to the GDPML. MONEYVAL reports state that Albania's geographical position and the money laundering risk profile makes the country vulnerable to cross-border illicit flows of currency or non-cash forms of money such as cheques or bills of exchange.²⁷⁶

In case of false declaration or non-declarations, the custom authorities cooperate with the police authorities, usually through undergoing joint passenger checks.²⁷⁷ The Directorate of Investigation within the General Directorate of Customs is the structure that deals with the investigation of customs administrative violations and the conduct of investigations into criminal offenses in the field of customs, while the ASP's Department of Border and Migration is responsible for undertaking preliminary investigations of suspected cases of non-declarations of cross-border cash transportation. The Criminal Code stipulates that failure to declare constitutes a criminal offense and is punishable by a fine or imprisonment of up to two years.²⁷⁸

The annual report of the General Directorate of Customs indicates that during 2021, the customs administration identified 36 cases of failure to declare (11 at airports, five at maritime border control points and 20 through land border control points), for a total of 391,780 GBP (approx. 441,132 USD), 1,218,695 EUR, 33,100 USD and 424,500 ALL (approx. 3541 USD).²⁷⁹ This marks a decrease from 2020 due to restrictions on free movement in the context of the Covid-19 measures. Data from the General Prosecutor's Office indicate that there have been 36 criminal proceedings during 2021 for failure to declare cross-border cash transfers, marking a decrease from 40 proceedings during 2020.²⁸⁰ Out of the total proceedings, 34 resulted in convictions (74.5 percent of cases led to imprisonment). However, a Global Initiative against Transnational Organized Crime report suggests that the cross-border cash smuggling may be larger and more frequent.²⁸¹

Good practices

- The national legislation on anti-money laundering and financing of terrorism has been harmonised with Directive (EU) 2018/843 (5th Anti-Money Laundering Directive, 5AMLD).
- The national FIU has been properly established, enjoys the necessary competences, and has the mandate to assess money laundering cases independently.

²⁷⁶ MONEYVAL (2018), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): Fifth Round Mutual Evaluation Report*, p. 73.

²⁷⁷ Cooperation Agreement between the General Directorate of Customs and Albanian State Police, 21 January 2021.

²⁷⁸ Article 179 (a) of the Criminal Code.

²⁷⁹ General Directorate of Customs (2022), *Customs 2021/Priorities 2022*, <https://dogana.gov.al/dokument/3916/raporti-vjetor-2021-alb>, accessed on 14 September 2022, p. 45.

²⁸⁰ General Prosecutor's Office (March 2022), *Raport i Prokurorit të Përgjithshëm për Gjendjen e Kriminalitetit in 2021*, https://www.pp.gov.al/rc/doc/Raporti_Vjetor_Kuvendit_per_Kriminalitetin_2021_31_03_22_PP_6411.pdf, accessed on 14 September 2022, p. 126.

²⁸¹ Global Initiative against Transnational Organized Crime (August 2020), *Illicit Financial Flows in Albania, Kosovo and North Macedonia*, <https://globalinitiative.net/wp-content/uploads/2020/08/Illicit-Financial-Flows-in-Albania-Kosovo-and-North-Macedonia-Key-drivers-and-current-trends.pdf>, accessed on 14 September 2022, p. 3.

- The most recent amendments have introduced stricter and more dissuasive sanctions for non-compliance with AML/CFT regulation.

Deficiencies

- The annual reports of national authorities do not contain comprehensive and disaggregated data and statistics on money laundering cases throughout the reporting/intelligence, investigation and judicial phases.
- Although there appears to be considerable cooperation between the General Directorate of Customs and State Police on cash declarations, studies suggest that inter-institutional cooperation to prevent and prosecute cross-border cash smuggling is not sufficient.
- MONEYVAL follow-up reports for Albania show that oversight authorities are yet to implement a risk-based supervision of the reporting entities.
- Albanian institutions have not addressed strategic deficiencies in the national AML regime within the deadlines set by FATF.

4.2 Chapter V

4.2.1 Art. 52 and 58 – Anti-Money Laundering

The obligations under UNCAC Article 52 are largely addressed and transposed through the provisions of the AML/CFT law.²⁸² Other laws are also of relevance in terms of achieving comprehensive compliance with the provisions of the convention.²⁸³ FATF and MONEYVAL reports indicate that Albania must take measures to improve its anti-money laundering regime. To this end, based on publicly available information, Albania has conducted money laundering risk assessments to identify vulnerabilities on three occasions, in 2012, 2015, and 2019²⁸⁴, but the risk assessments are not published.

According to the latest MONEYVAL follow-up report on Albania, the domestic AML regime is largely compliant (LC) with most FATF recommendations (29 out of 40), compliant (C) with six FATF Recommendations, and partially compliant (PC) with four recommendations. Albania is partially compliant with recommendation 28 on the regulation and supervision of DNFBPs, and compliant with recommendation 21 on tipping-off and confidentiality.²⁸⁵ The GDPML is the national FIU, and Decision of Council of Ministers no. 457, 10.06.2020 regulates its organization and functioning, while its structure has been approved by Order of the Prime Minister no.111, 30.8.2019.

Article 22 of the AML/CFT law tasks the GDPML to collect, process, and analyze reports, and exchange information with relevant law enforcement and financial

²⁸² Law no. 9917, date 18.5.2008 “On the prevention of money laundering and financing of terrorism”

²⁸³ Law no. 112/2020 “On the beneficial owners’ registry”; Law no. 157, date 10.10.2013 “On the measures against financing of terrorism”; Law no. 34/2019 “On the administration of seized and confiscated assets”; <https://qbz.gov.al/eli/liqj/2019/06/17/34>.

Law no. 72/2019 “On international sanctioning measures in the Republic of Albania”, <https://qbz.gov.al/eli/liqj/2019/10/17/72>,

²⁸⁴ Albanian Financial Intelligence Unit, “Vështrim historik”, <https://fiu.gov.al/sq/veshtrim-historik/>, accessed on 15 September 2022.

²⁸⁵ MONEYVAL (2022), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): 3rd Enhanced Follow-up Report*.

institutions. The GDMPL collects, processes and analyzes suspicion transaction reports (STRs). According to the 2022 annual report of the GDPML, 1,790 STRs were submitted by reporting entities. By comparison, 1,581 STRs were submitted in 2021 and 1,409 STRs were submitted in 2020.²⁸⁶ Most STRs (41 percent) are submitted by notaries, followed by banking institutions (37 percent) and money-transferring financial institutions (16 percent).²⁸⁷ GDPML reports that most STRs concern purchases of real estate with funds from unknown origin, suspicious transfers, actions from persons suspected to be involved in criminal activity, fictitious lending, sponsoring or donations, unjustified cash deposits or suspicious transactions by politically exposed persons (PEP).

The GDPML follows up on STRs by analyzing and cross-checking information in order to identify suspicious cases of potential money laundering and, eventually, inform law enforcement agencies (i.e., State Police, General Prosecution) or other relevant institutions (e.g., General Directorate of Taxation). During 2022, GDPML has referred 23 cases to the Prosecution (43 percent to the Special Prosecution against Corruption and Organized Crime), 201 cases to the State Police, 19 cases of suspected tax evasion to the General Directorate of Taxation and 95 cases concerning information to the State Intelligence Service.²⁸⁸ Of the 208 cases referred to the State Police, 78 have served as evidence to begin criminal proceedings.

The AML/CFT law provides the regulatory regime and the measures that state authorities, reporting entities, and other individuals must undertake to increase their safeguard and resilience to money laundering threats, as well as supervisory provisions (Chapter V) which stipulate the oversight structures for monitoring compliance with the law, tasks, duties, and functions of the competent authorities and oversight authorities, and applicable sanctions in cases of noncompliance. In accordance with the AML/CFT law, subject to due diligence requirements are banks or other financial entities that are licenced by the Bank of Albania, non-bank financial institutions, currency exchange offices, savings and loan associations, postal services that undertake payment of services, stock exchanges and other similar entities (agents, brokers, brokerage companies) related to the trading of securities, life insurance companies (incl. pension funds) and their agents/intermediaries, lawyers, notaries, accountants, auditors, real estate agents and management companies of collective investment undertakings.

In line with Directive (EU) 2018/843 (5th Anti-Money Laundering Directive, 5AMLD)²⁸⁹, the Albanian Assembly amended the AML/CFT law in December 2021 to broaden the scope of entities subject to the law, and has decoupled lawyers/notaries from accountants/legal auditors, who now have their own specific provisions.

Cases in which real estate agents act as intermediaries in the leasing of real estate for which the monthly rent reaches the value of 500,000 ALL (approx. 4170 USD) are

²⁸⁶ Albanian Financial Intelligence Unit (2023), *Raporti Vjetor 2022*, p. 5

²⁸⁷ *Ibid.*

²⁸⁸ Albanian Financial Intelligence Unit (2023), *Raporti Vjetor 2022*, pp. 7

²⁸⁹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849>, accessed on 12 December 2022.

subject to the law. Furthermore, the storage and purchasing of art works, whose transaction value is greater than 1,000,000 ALL (approx. 8341 USD) are subject to the law.

These entities are required, in the context of customer due diligence, to identify the beneficial owner of a transaction or business, and to take reasonable steps to verify their identity based on information or data provided by reliable sources.²⁹⁰ Such records must be kept for at least five years, with a maximum retention period of 40 years, in accordance with the national law on data protection and data processing.²⁹¹ Customer due diligence provisions must apply in various phases such as: (i) before the establishment of a business relationship; (ii) when the client intends to undertake transfers within or outside the country above a certain threshold (100.000 ALL, approx. 855 USD) to certain subjects of the law (e.g. banks, non-banking financial institutions, currency exchange offices), or any transaction over 1,000,000 ALL (approx. 8,555 USD); (iii) when it has concerns on the accuracy of the provided identification information; and (iv) on any other case when it suspects activity of money laundering or financing of terrorism. Due diligence requirements extend also to foreign and domestic PEPs, including family members (spouse, cohabitant, children or their spouses/cohabitants, and parents) and close associates.²⁹²

There are no specific legal provisions governing the issuance of advisories on enhanced due diligence (EDD) record keeping to financial institutions in terms of their frequency, content, or the responsible institutions. Nevertheless, in practice, there are some regulations issued by the Ministry of Finance and Economy as well as the Bank of Albania. It must be noted, however, that they are of a general nature and do not address specifically EDD record keeping.

For example, the Bank of Albania monitors the compliance of the subjects it licences through on-site inspections. If any problem or deficiency is identified during the inspection, the Bank of Albania issues individual instructions to the inspected subjects on how to improve them.²⁹³ Moreover, Regulation no. 44/2019 of the Bank of Albania “On the Prevention of Money Laundering and Financing of Terrorism” provides for some additional indicators to help subjects identify any suspicious client or transaction.²⁹⁴ The purpose of the regulation is to provide instruction on the procedures and documentation for customer identification, the rules for registration, data storage and reporting to the responsible authority, for the purposes of managing the risk of money laundering and terrorism financing. Furthermore, the Ministry of Finance and Economy, based on a GDPML proposal, has issued Instruction no. 28 “On the reporting methods and procedures and implementing preventive measures by the subjects of Law no. 9917, date 19.5.2008 ‘On the prevention of money laundering and the financing of terrorism’ përdorim i parimit të parave dhe financimit të terrorizmit’ (amended)”.²⁹⁵ The content of this regulation is rather general, although it does provide some instructions on acquiring beneficial ownership information.

²⁹⁰ Article 4/1 (a) of the AML/CFT law.

²⁹¹ Article 16/1 of the AML/CFT law.

²⁹² Article 2 (10) of the AML/CFT law.

²⁹³ Information provided by the Bank of Albania in response to an FOI request sent on 01 July 2022.

²⁹⁴ Regulation of the Bank of Albania no. 44/2009 “On the prevention of money laundering and financing of terrorism”, <https://bit.ly/3TMYEJE>, accessed on 12 December 2022.

²⁹⁵ http://fiu.gov.al/wp-content/uploads/2019/05/Udhezimi_nr_28_date_31.12.2012.pdf

Additionally, the GDPML regularly carries out training sessions to reporting entities on how to exercise enhanced scrutiny. GDPML reports that during , it conducted trainings on a regular basis, on topics such as: addressing the recommendations of MONEYVAL, risk-assessment and categorizing clients based on the assessment, the effective application of due diligence (incl. enhanced due diligence) measures, amendments to the AML/CFT Law and other relevant topics. During 2021, 362 persons received training, including (i) accountants; (ii) notaries; (iii) money-transfer agents; (iv) construction companies. While 153 accountants participated in online trainings, 209 received on-site training.²⁹⁶

The AML/CFT law regulates the actions of reporting entities in case the customer due diligence process yields unsatisfactory results. When the reporting entities are unable to meet the due diligence obligations, they are not allowed to open accounts, conduct transactions or to begin a business relationship with a client (if it has begun, they must terminate it). Additionally, the reporting entities must send a suspicious activity report (SAR) to the GDPML. Lastly, reporting entities must not open or hold anonymous accounts, with fictitious names or identified only through a number or code. If such accounts exist, the identity of the holder must be verified or otherwise the account must be closed and a SAR must be sent to GDPML. In terms of protecting reporting entities from criminal and/or civil liability for breaching confidentiality, Article 14 of the AML/CFT law states that reporting entities that make reports in good faith are exempt from criminal, civil, or administrative liability for disclosing a professional or banking secret.

In case of noncompliance by the reporting entities with obligations set forth in the national AML/CFT law, GDPML can request the oversight authorities²⁹⁷ to revoke or suspend the licence of a reporting entity, if it confirms that the subject is involved in money laundering or financing of terrorism activities. If the subject repeats the same offence, administrative sanctions apply. If the wrongdoing is of a criminal nature, the sanctions of the Criminal Code apply. During 2021, GDPML assessed 54 cases of wrongdoing and issued administrative fines for 23 of them (10 of them resulted in warnings and 21 were terminated). Of the 23 fines issued in 2021, 16 have been paid. Out of 9 judicial proceedings initiated concerning the fines, GDPML has won seven cases.²⁹⁸

Reporting entities are prohibited from establishing or continuing a banking or financial relationship with shell banks.²⁹⁹ Moreover, according to the provisions of the national AML/CFT law, reporting entities must take appropriate measures in order to determine that foreign banks or correspondent financial institutions do not allow their accounts to be used by shell banks. These entities must terminate business relations and report

²⁹⁶ Albanian Financial Intelligence Unit (2023), *Raporti Vjetor 2022*, p. 20.

²⁹⁷ Oversight authorities include Bank of Albania, Financial Oversight Authority, Albanian Chamber of Advocacy, MoJ, Public Oversight Board.

²⁹⁸ Albanian Financial Intelligence Unit (2022), *Raporti Vjetor 2021*, p. 36.

²⁹⁹ The AML/CFT law provides the following definition of "shell banks": a financial institution or an institution that performs activities similar to those performed by banks or bank savings, which, despite being established in the territory of a country, has no physical presence in it, and is not part of a regulated financial group.

to the GDMPL in case it concludes that correspondent bank accounts are used by shell banks.

Concerning the transposition of Articles 52.5 and 52.6 of UNCAC, the Law on Declaration of Assets³⁰⁰ serves to regulate the disclosure of assets of public officials (including family members) and the legitimacy of the source. Public officials must disclose private interests, within and outside the country and their source. However, it does not explicitly mention financial accounts in a foreign country.

The provisions of the Law on Declaration of Assets require that the information be submitted annually (until 31 March of the subsequent year) and that all the disclosed information must be accessible to the public in accordance with the Law on the Right to Information. Furthermore, it states that the declarations must be published on the official website of the responsible institution but confidential and personal information shall be redacted. Nevertheless, they are not published proactively. The only way to access the declarations is by submitting a freedom of information request.

HIDAACI is tasked with the administration and verification of the declarations. HIDAACI has its own budget and reports to the Assembly periodically. The institution is headed by the General Inspector, who is proposed by the President and chosen by the Assembly for a 5-year mandate.

HIDAACI administered the submission of 3,769 declarations of private interests during 2020.³⁰¹ It conducted the preliminary verification and the arithmetic and logical assessment for all 3,769 declarations received during 2020, in accordance with Article 24 of the Law on Declaration of Assets.³⁰² Regarding the full control and administrative investigation on the accuracy of the information, HIDAACI conducted 762 such controls, out of a total of 3,769 declarations (approx. 20 percent).³⁰³

Several sanctions are applied in case of noncompliance with the provisions of the law on declaration of assets. Article 5 on the Refusal of Declaration provides for the loss of function and sanctions based on the Criminal Code (fine or imprisonment for up to 6 months). Whereas in case of false declaration, Article 38 states that such action is a criminal offense (*fine or imprisonment for up to 3 years*). Lastly, Article 40 provides for administrative sanctions whenever the action is not a criminal offense.

During 2020, HIDAACI issued 33 administrative fines for refusal to disclose, failure to disclose or cases of conflict of interest. Furthermore, it submitted 72 referrals to the law enforcement agencies.³⁰⁴ However, the annual report of the General Prosecution

³⁰⁰ Law no. 9049, date 10.4.2003 “On the declaration and audit of assets, financial obligations of elected persons and certain public officials”.

³⁰¹ HIDAACI (2021), *Annual Report of the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest 2020*, <https://www.ildkpkj.al/gloolsys/2021/07/RAPORT-VJETOR-PER-VITIN-2020.pdf>, accessed on 15 September 2022, p. 14.

³⁰² HIDAACI (2021), *Annual Report of the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest 2020*, p. 15.

³⁰³ HIDAACI (2021), *Annual Report of the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest 2020*, p. 16.

³⁰⁴ HIDAACI (2021), *Annual Report of the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest 2020*, p. 17.

shows that only 4 criminal proceedings were registered in 2020 and only 1 criminal proceeding in 2021.³⁰⁵

Good practices

- The GDPML has established a good ongoing training and capacity and awareness building program for reporting entities, as it has trained over 4500 reporting entities in the last three years to help raise compliance.
- The temporary freezes of transactions/assets and the fines imposed by the GDPML are largely held up by Court, thus indicating a good track record. Moreover, the collection of fines by the GDPML has steadily increased.

Deficiencies

- There are no provisions regulating the issuance of advisories to financial institutions on when and how to apply enhanced due diligence recordkeeping. In practice, some instructions are issued, but they do not specifically address enhanced due diligence recordkeeping.
- Country risk assessments for money laundering are not public, making analysis difficult for non-state actors such as civil society or media and, ultimately, can erode trust in the institutions.
- The legal framework requires asset declarations of public officials to be published on the official website of the institution, but confidential and personal information shall be redacted. However, at the moment, the online system is not functional.
- Data from the office of the Public Prosecutor show a very low number of criminal proceedings/convictions for money laundering offenses or failure to declare assets.

4.2.2 Art. 51, 54, 55, 56 and 59 – International Cooperation for the Purpose of Confiscation

Albania has ratified the European Convention on Mutual Legal Assistance in the Criminal Field³⁰⁶ through Law no. 8498, dated 10 June 1999, and Law no. 100/2013 “On jurisdictional relations with foreign authorities in criminal cases”³⁰⁷ is the key legal document regulating international cooperation for purposes of confiscation. Articles 22 and 23 of this law define the procedures to be followed regarding the control, seizure and delivery of seized items upon request of foreign judicial authorities. Article 7 of the law defines the procedure to be followed for forwarding the letters rogatory of the foreign judicial authority to the local competent authority. The request is first submitted to the Ministry of Justice, which coordinates asset recovery cases by assesses whether the conditions defined in the internal legislation are met. The MoJ subsequently forwards the request to the General Prosecutor’s Office or to the Special Prosecution against Corruption and Organized Crime.

³⁰⁵ General Prosecutor’s Office (2022), *Raport i Prokurorit të Përgjithshëm për Gjendjen e Kriminalitetit in 2021*, p. 151.

³⁰⁶ Law no. 8498 date 10.06.1999 “On the ratification of the Council of Europe Convention on Mutual Legal Assistance in the Criminal Field and its Additional Protocol”, https://www.pp.gov.al/rc/doc/konventa_evropiane_per_ndihme_juridike_penale_803.pdf.

³⁰⁷ Law no. 10193, date 3.12.2009 “On jurisdictional relations with foreign authorities in criminal cases”, <https://qbz.gov.al/eli/liqj/2009/12/03/10193>.

A temporary measure to seize assets at an early stage is regulated through the provisions under Section II, Chapter VI, Title X of the Code of Penal Procedures of the Republic of Albania.³⁰⁸ Requests for seizure or confiscation of assets by foreign authorities are executed by Albanian authorities provided that there is a mutual legally-binding agreement for the foreign authorities to do the same upon receiving similar requests by Albanian authorities.³⁰⁹ An additional condition for the execution by Albanian authorities is whether confiscated assets or part thereof can be handed over to the foreign authorities based on a mutual agreement to that effect.³¹⁰ Their return can be delayed if they are part of ongoing domestic penal procedures.³¹¹ If the rights of a third party have been recognized over the documents, assets, or profits confiscated, they can be transferred to the requesting foreign authority only under guarantees that they will be returned at the end of the process.³¹²

The existing legal framework also contains provisions related to the administration and management of seized and confiscated assets. Law no. 34/2019 "On the administration of seized and confiscated assets"³¹³ has established the Agency for the Administration of Seized and Confiscated Assets. The Agency acts upon the execution order of the prosecution – after court approval of the seizure or confiscation request – in penal proceedings on organized crime, terrorism, and in other criminal cases whereby a preventative seizure has been requested in accordance with the provisions of the Code of Penal Procedures.³¹⁴ Nevertheless, there are no specific provisions in this law that clearly outline the responsibilities of the Agency in cases of requests from foreign authorities.

Nevertheless, the latest MONEYVAL enhanced follow-up report considers that Albania has an adequate legal framework for the execution of requests for sequestration or confiscation – including non-conviction based requests – by a foreign authority in line with the international conventions to which it is a party.³¹⁵ Albania is a party to the European Convention on Mutual Assistance in Criminal Matters³¹⁶, Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism³¹⁷ and has also a bilateral agreement with Kosovo.³¹⁸ As mentioned in the review of UNCAC Article 14, Albania is party to the Egmont Group, and it exchanges information on money laundering and the financing of terrorism with the rest of the 165 members of the organization.

³⁰⁸ Code of Penal Procedures of the Republic of Albania.

³⁰⁹ Article 518 (5), Code of Criminal Procedures. See also Article 9 (1) of the Law on Juridical Relations with Foreign Authorities on Criminal Cases.

³¹⁰ Article 59/1, Law on Juridical Relations with Foreign Authorities on Criminal Cases.

³¹¹ Article 22 (4), Law on Juridical Relations with Foreign Authorities on Criminal Cases.

³¹² Article 22 (3), Law on Juridical Relations with Foreign Authorities on Criminal Cases.

³¹³ Law no. 34/2019 "On the administration of seized and confiscated assets".

³¹⁴ Article 4, Law no. 34/2019 "On the administration of seized and confiscated assets".

³¹⁵ MONEYVAL (2022), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): 3rd Enhanced Follow-up Report*, p. 11.

³¹⁶ Council of Europe, "Details of Treaty No. 030", <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=030>, accessed on 26 January 2023.

³¹⁷ Council of Europe, "Details of Treaty No. 198", <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=198>, accessed on 26 January 2023.

³¹⁸ Law no. 3/2013 "On the ratification of the agreement between the Council of Ministers of the Republic of Albania and the Government of Kosovo on mutual legal assistance on penal matters", <https://qgz.gov.al/eli/liqj/2013/01/31/3-2013>.

Exchanges of requests for assets seizure or confiscation have been rather few. According to the Ministry of Justice, Albania has received three requests in 2020 and six requests in 2021, whilst it had sent one request in 2020 and three requests in 2021.³¹⁹ Albanian authorities had executed two requests in 2020 and two in 2021, whilst foreign authorities had executed only one request in 2021 from the ones received from the Albanian authorities. The Ministry of Justice did not provide information regarding the reasons for refusal to execute the requests by Albanian authorities and their foreign counterparts.

Table 10. Seizure and confiscation requests (2020-2021) by Albanian and foreign authorities

	To Albanian authorities		To foreign authorities	
	Seizure requests	Confiscation requests	Seizure requests	Confiscation requests
Received	4	5	3	1
Executed	4		1	

Source: Ministry of Justice

Good practices

- Albania has become party to relevant international conventions on prevention of money laundering and the financing of terrorism. Simultaneously, it has amended its regulatory framework on mutual assistance on criminal matters also to clarify the procedures for the return and division of confiscated assets.
- The number of requests for seizure and confiscation from foreign authorities to their Albanian counterparts and vice versa have increased.

Deficiencies

- The mandate of the Agency for the Administration of Seized and Confiscated Assets regarding the seizure and confiscation of assets in international criminal cases does not clearly outline its responsibilities in cases of international requests.
- Data and information on requests for seizure and confiscation of assets by Albanian authorities to their counterparts and vice versa are not published. The lack of publication impedes scrutiny by civil society and institutional accountability.

4.2.3 Art. 57 – The Return and Disposal of Confiscated Property

Return and disposal of assets is regulated by the same two laws as in the case of international cooperation for confiscation of assets – namely, the Law on the Administration of Seized and Confiscated Assets and the Law on Juridical Relations with Foreign Authorities in Criminal Cases. The Law on the Administration of Seized and Confiscated Assets provides for the administration, use, return, and disposal of assets that have been seized in domestic criminal cases.³²⁰ The return of assets – under Article 22 provisions – is done after a court order has been issued that revokes the previous seizure order, whereas Articles 30-32 outline the costs for the administration of assets (Article 30) and liability for payment obligations (Articles 31-

³¹⁹ Data provided by the Ministry of Justice on 28 December 2022 through an FOI request. No data on 2019 were provided.

³²⁰ See Articles 17-23, Law on the Administration of Seized and Confiscated Assets.

32). Article 22 regulates asset return cases in which the asset is returned to the owner who had been under investigation or on trial for a criminal offence; however, the law does not include explicit provisions to regulate the disposal or return of assets seized as part of a foreign criminal case. Except for the Article 22 provisions, the law does not outline the process for the return of assets to their rightful owners. Article 25, which refers to the use and disposal of assets, tasks the Inter- institutional Committee on the Measures against Organized Crime to decide on the use or disposal of the confiscated assets.

Article 59/1 of the Law on Juridical Relations with Foreign Authorities in Criminal Cases conditions the return of confiscated assets upon bilateral agreements with the requesting State Party. Furthermore, according to Paragraph 3 of this article, the agreement shall divide the share of the confiscated asset proportionately by taking into consideration the jurisdiction in which the offence had taken place and has produced the financial returns and the investigation conducted in each country, unless a ratified international agreement stipulates otherwise.

The current legal framework does not address how victims of corruption may be compensated in cases when assets are returned. The 2021 annual report³²¹ of the Agency for the Administration of Seized and Confiscated Assets provides a comprehensive picture of the assets seized and confiscated, the legal basis, as well as their use and/or transfer of ownership to public institutions. The data from the report indicate that most criminal cases that involve asset seizures and confiscations are related to organized crime and terrorism financing.³²² Although the legal framework and the report do not explicitly mention any compensations for victims of corruption, the report does include several monetary transfers from a special fund established from asset confiscations to finance to non-governmental organisations whose work is focused on the rehabilitation of victims of domestic violence, prostitution, and drug addiction.³²³ The report does not indicate any action taken by the Agency on requests for asset seizures or confiscations by foreign authorities. Through a FOI request, the Agency was able to confirm that from 2019 to 2021 it had not received any requests for asset seizure; it had only executed one request for confiscation on behalf of the Government of the United Kingdom.³²⁴

Good practices

- The legal framework for the return and disposal of assets provides a good framework for the administration of assets seized and confiscated. A functioning Agency for the Administration of Seized and Confiscated Assets is in place, and it performs basic functions.
- The Agency's work has not been limited only to the administration, return of assets in case of revocation of previous orders, and their confiscation and

³²¹ Annual reports may be found here: <https://aapsk.gov.al/publikime/>. Accessed on 13 December 2022.

³²² Agency for the Administration of Seized and Confiscated Assets, *Raporti i Aktivitetit për Vitin 2021*, p. 10.

³²³ Agency for the Administration of Seized and Confiscated Assets, *Raporti i Aktivitetit për Vitin 2021*, p.5.

³²⁴ The value of the asset was estimated to be 3,835,000 Albanian leks (approximately 36,000 USD). Information provided on 12 January 2023 by the Agency for the Administration of Seized and Confiscated Assets.

transfer of ownership to public authorities, but it has made an effort to transfer some of the assets to civil society organisations.

Deficiencies

- The legal framework on the return and disposal of assets does not include specific provisions for the return of assets to their rightful owner.
- The legal framework on the return and disposal of assets does not include provisions for compensation of victims of corruption.
- The Agency for the Administration of Seized and Confiscated Assets does not have a clear mandate with regards to its competencies and functions in cases of the administration of assets upon a request by foreign authorities, or to coordinate asset recovery with its counterpart of another State Party.

4.3 Statistics³²⁵

Money Laundering³²⁶

Reporting/Intelligence Phase	Year: 2019	Year: 2020	Year: 2021
Number of Suspicious Transaction Reports (STRs) filed by each category of obliged entities: - Banks and financial institutions - Non-financial businesses and professions (NFBPs)	976 (banks and financial institutions) 360 (NFBPs)	1031 (banks and financial institutions) 324 (NFBPs)	1036 (banks and financial institutions) 500 (NFBPs)
Number of postponement orders adopted on reported transactions	16	7	3
Number of money laundering investigations carried out independently by law enforcement agencies (without a prior STR)	n/a	n/a	n/a
Number of suspicious cash activities at the border reported to the FIU (including those based on declarations and smuggling)	43	44	33
Number of STRs sent to law enforcement and on which further analysis was made	266	268	258
Number of staff dedicated full-time (or full-time equivalent) to money laundering in the FIU ³²⁷	n/a	n/a	45

Investigation Phase	Year: 2019	Year: 2020	Year: 2021
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³²⁵ The tables below follow the format in this Eurostat report:

<http://ec.europa.eu/eurostat/documents/3888793/5856465/KS-TC-13-007-EN.PDF/69cde077-3bd9-4d0d-8c19-a6fe3608c2cd>.

³²⁶ <https://fiu.gov.al/wp-content/uploads/2022/07/Annual-Report-2021.pdf>.

³²⁷ Information provided by FIU on 01 July 2022 in response to an FOI request.

Number of cases initiated by law enforcement agencies on the basis of STRs sent by the FIU	n/a	n/a	n/a
Number of staff dedicated full-time (or full-time equivalent) to money laundering in law enforcement agencies	n/a	n/a	n/a
Number of cases brought to prosecution: originating from STRs, CTRs and independent law enforcement investigations			

The research team was not able to find data on the judicial phase for money laundering.

Asset Recovery³²⁸

Judicial Phase	Year: 2019	Year: 2020	Year: 2021
Number of freezing procedures (based on a court order)	42	207	327
Number of confiscation procedures	5	5	48
Number of requests received for freezing orders from another country	0	0	0
Value of frozen assets	216.3 million ALL (USD 2 million)	2.59 billion ALL (USD 24.1 million)	7.27 billion ALL (USD 67.7 million)
Number of requests received for confiscation orders from another country	0	0	1
Value of confiscated assets	48 million ALL (USD 447,436)	20.1 million ALL (USD 187,364)	508.7 million ALL (USD 4.74 million)
Amounts recovered from assets	69.1 million ALL (USD 644,122)	15.8 million ALL (USD 147,281)	84.8 million ALL (USD 790,470)
Amounts returned ³²⁹	n/a	n/a	n/a

4.4 Short analysis

The research team contacted the GDPML, Albanian State Police, General Prosecutor's Office, and the Agency for the Administration of Seized and Confiscated Assets to collect data on money laundering and asset recovery. Except for the Albanian State Police and the General Directorate of Taxation, all other institutions replied to the FOI requests. However, the replies were not always satisfactory. The

³²⁸ Instead of freezing and confiscation orders, the data provided in this table refer to the number of assets seized or confiscated. The reports of the Agency for the Administration of Seized and Confiscated Assets do not categorize data based on freezing orders. The data from the annual reports may be found here: <https://aapsk.gov.al/publikime/>

³²⁹ The values of returned assets have not been published.

prosecution did not provide data on the investigation of money laundering cases, instead suggesting that the research team consult the published reports. Although published reports provide some cumulative data on money laundering cases, no data on the judicial phase could be found in such reports as required in the “Statistics” section. Similarly, no data could be found or provided by law enforcement authorities on their investigations of money laundering cases based on STRs.

Despite the lack of information on the investigation and judicial phases, it is clear that there is a positive trend of reporting suspicious transactions by reporting entities. Nevertheless, this positive trend is not followed by an increased number of investigations and suspension of transactions.

The number of cases based on STRs sent to law enforcement agencies has slightly decreased, while the number of suspended transactions has significantly decreased. The reasons for these trends are unclear due to the lack of sufficient information that relevant institutions publish or provide upon request. However, the data, as well as reports on the state of corruption³³⁰ and the illicit inflow of money into the Albanian economy³³¹ suggest that they could vary from excessive caution exercised by banks and NFBPs to the need for greater inter-institutional cooperation amongst law enforcement authorities, the GDPML, and financial regulatory institutions.³³²

On the other hand, there is a noticeable increase in the freezing and confiscation procedures in 2020 and 2021. This is largely due to the implementation of Normative Act no. 1, dated 31.01.2020³³³ and its amendment through Normative Act no. 35, dated 16.12.2020³³⁴, which created a special task force to seize assets of individuals who for whom there was evidence of engagement in organized crime, were under investigation, or who had been convicted for being involved in organized crime.

³³⁰ Freedom House (2022), “Albania - Nations in Transit 2022”.

³³¹ Walter Kemp, Kristina Amerhauser, and Ruggero Scaturro (May 2021), *Spot Prices: Analysing the Flow of People, Drugs, and Money in the Western Balkans*, Global Initiative against Transnational Organised Crime, <https://globalinitiative.net/wp-content/uploads/2021/05/Spot-Prices-Analyzing-flows-of-people-drugs-and-money-in-the-Western-Balkans.pdf>.

³³² See also European Commission (2022), Albania Report 2022, p. 39, 41, 43, 76-77.

³³³ https://www.gjp.gov.al/rc/doc/020214_Akt_Normativ_Nr1_31012021_4691.pdf.

³³⁴ <https://qbz.gov.al/eli/akt-normativ/2020/12/16/35>.

V. Recent Developments

The key development regarding preventive measures and anti-corruption policy has been the extension of the current national anti-corruption strategy to 2023³³⁵, and the development of the new anti-corruption strategy. Some of the key objectives of the strategy include increased transparency, strengthening accountability and integrity mechanisms, and improving whistleblowing practices. The preventive part of this new anti-corruption strategy, however, does not build on a critical assessment of past policy measures as it proposes general objectives that are similar to those of the previous strategy.

Another important development has been the digitalization of the asset declaration filings and the establishment of the Network of Anti-Corruption Coordinators in 2021. There can be some overlapping competencies between the Network and HIDAACI, since the Network— through the anti-corruption coordinators – is responsible for collecting and investigating claims from public officials on corruption activities or misuse of public resources, and arbitrary decision-making that violate the rights of citizens or prevent their access to public services. However, there are some key differences between the Network and HIDAACI, such as the former can also process complaints filed by citizens,³³⁶ while the whistleblowing mechanism regulates the whistleblowing only from people who work for or have a working relation with the organization; the Network can investigate cases of corruption on its initiative possible, while the whistleblower mechanism relies on the whistleblowers reporting; the Network functions in a limited number of public organisations while there are internal whistleblowing units in public organisations with more than 80 employees or in private organisations with more than 100 employees.

In the 2021 Summit for Democracy, the Albanian government committed to fight corruption through the provision of digital services and by implementing its Open Government Partnership (OGP) commitments, which seek to improve transparency and accountability through e-government services and strengthened integrity mechanisms.³³⁷ Similarly, the Albanian government joined a political declaration on the *Regional Anti-Corruption and Illicit Finance Roadmap for the Western Balkans Jurisdictions*.³³⁸

The legal and institutional framework on transparency, protection of personal data, and public consultation has been strengthened, but the enforcement of the provisions to ensure transparency of public institutions, protection of personal data, and effective public participation in the decision-making process is lagging. The establishment of the Agency for Media and Information in 2021 has further centralized the control of the

³³⁵ https://www.dreitesia.gov.al/wp-content/uploads/2021/04/1.-PLANI-I-VEPRIMIT-ANTIKORRUPSION-2020-2023_AL.pdf.

³³⁶ Decision of Council of Ministers no. 618, date 20.10.2021 “On the establishment and organization of the network of anti-corruption coordinators”.

³³⁷ US Department of State, “Leaders’ Commitments”, <https://www.state.gov/leaders-commitments-the-summit-for-democracy/#Albania>.

³³⁸ UNODC and Regional Anti-Corruption Network (June 2021), *Regional Anti-Corruption and Illicit Finance Roadmap for the Western Balkans Jurisdictions*, <https://bit.ly/42Deiey>, accessed on 24 March 2023.

information content that is made public by government institutions, whereas the misuse of the secrecy clause is widespread.

Noticeable progress has been recorded towards improving the legal framework to address money laundering. According to the latest MONEYVAL enhanced follow-up report published in June 2022³³⁹, Albania had addressed most of the technical compliance deficiencies. Nevertheless, it is still under enhanced monitoring due to remaining strategic deficiencies.

In 2020, the Albanian Assembly also passed a law on the registration of beneficial owners and a new public procurement law, but their impact on increasing procurement integrity thus far has been marginal. Public procurement remains largely uncompetitive, whilst the current institutional infrastructure for the registration of beneficial owners is largely inadequate to ensure beneficial ownership transparency.

The July 2020 amendments to the Electoral Code introduced additional provisions to regulate campaign financing. The provisions address both public and private financing, in-kind donations, foreign donations, the use of state resources for electoral purposes and have improved the sanctions regime for violations of campaign finance provisions. Despite this comprehensive framework, the CEC has yet to establish effective monitoring mechanisms and sanction violations as a deterrent of future violations.

Regarding preventive measures in the police force, the Law on the Agency for Police Oversight, which was approved in December 2021, has brought some positive changes regarding police oversight. It explicitly included in the APO's organic law the responsibilities to conduct the re-evaluation of the members of the ASP and conduct background checks of the officers under review before being issued the appropriate security clearance. Before the approval of the law, these tasks were included in the relevant legislation on the re-evaluation of the members of the ASP and on security clearance procedures for the ASP personnel. Nevertheless, the new law has further centralized the control for the appointment of the director general, who is appointed by the Prime Minister whilst in the past that was the prerogative of the Minister of Interior. The required minimum professional experience has been lowered from 14 years to 10 years for the Director General, and from 14 years to seven years for the Deputy Director General.

³³⁹ MONEYVAL (May 2022), *Anti-money Laundering and Counter-terrorist Financing Measures (Albania): 3rd Enhanced Follow-up Report*.

VI. Recommendations

1. Independent oversight institutions – **evaluate the needs and take actions for increasing their human resources**, expertise and technical capacities to improve their performance in line with increased international standards in their respective fields of functional activity.
2. Ministry of Justice – **review the current tasks, responsibilities, and recruitment of anti-corruption coordinators to ensure** that the Responsible Structure against Corruption is professional, independent, and implements a clear anti-corruption policy.
3. Agency for Police Oversight – **pursue proactive investigations** that target corruption amongst the top leadership of the ASP to **ensure** that the police are led by officers of high integrity and professionalism.
4. **Revise the recruitment and promotion system** to prioritise policy expertise for members of the TMC and provide the decisions taken by the selection committees to the public upon request. This will ensure a professional and competent civil service.
5. Albanian Assembly – **adopt the new draft-law on preventing conflicts of interest in line with international standards**. Approve a dedicated law which will provide for the HIDAACI's functioning and organisation and for enforcing the election and dismissals of the General Inspector
6. HIDAACI – **ensure that there are appropriate mechanisms that address in practice conflicts of interest and whistleblowing** in the public administration.
7. **Align the provisions on political party financing in the Electoral Code and in the Law on Political Parties** to ensure that legal loopholes regarding the level of contributions and contributions from foreign sources are closed.
8. Albanian Assembly – **adopt legislation to regulate third-party financing and the financing of national referenda**.
9. Public Procurement Agency – **review public procurement policy to ensure** that contracting authorities seek competitive procurement procedures.
10. Public Procurement Agency – **publish analysis of public procurement data and assessments of the implementation of public procurement policy to ensure** transparency of public procurement policy.
11. Public Procurement Agency – **ensure the effective monitoring and assessment of defence and security procurement policy** by reporting separately on these procurement procedures or include a separate section in its annual report.
12. Albanian Assembly – **adopt legislation on the return and disposal of assets** that include clear provisions for the compensation of victims of corruption and for

the mandate of the Agency for the Administration of Seized and Confiscated Assets on international cooperation for the seizure, confiscation, return, and disposal of assets.

13. Public institutions – **ensure transparency, should proactively publish in their transparency programs all the categories of information required by law**, including information on activities that carry corruption risks, such as public procurement contracts, management of public property and assets, audit reports, budget monitoring reports, donations, and corruption risk assessments.
14. IDP Commissioner – **ensure that legal exemptions from disclosure of information are not misused** by public institutions to deny access to information.
15. Albanian Assembly – **adopt anti-SLAPP legislation** to protect freedom of expression.
16. Law enforcement agencies – **investigate job-related threats against journalists and activists thoroughly** to ensure a conducive environment for professional journalism.
17. Albanian Assembly – **amend the public consultation law** to include in its scope the decisions issued by the Council of Ministers thus ensuring effective public participation in the decision-making process.
18. The oversight authorities set forth in the national AML law (Bank of Albania, Financial Oversight Authority, Public Oversight Board, Albanian Chamber of Advocacy, Ministry of Justice) – **identify and assess the money laundering risks of each sector** under their mandate and design regulations to ensure that they effectively prevent money laundering.
19. Albanian Assembly – **revise the legal framework governing the anti-Money Laundering Coordinating Committee to add clarity and specify the functions of the Committee as the national AML policy coordinator**. Moreover, the Committee must guarantee enhanced transparency in order to allow for public oversight, accountability, and scrutiny.

VII. Annex

7.1 Table on Freedom of information requests

Nr.	Institution	Date of request	Date of answer	Information requested	Information provided
1.	Agency for the Administration of Seized and Confiscated Assets	19/12/2022	12/01/2023	Statistics on seized and confiscated assets	Request partially addressed
2.	University of Tirana	18/07/2022	22/07/2022	Information on curricula or activities covering anti-corruption, ethics, public administration matters	Request fully addressed
3.	Ministry of Justice	18/07/2022	05/08/2022	Data and information on corruption reports or complaints received by the Network of Anti-corruption Coordinators; awareness raising activities on anti-corruption in the last 3 years; civil society involvement in the government's anti-corruption efforts; and reports of civil society engagement in anti-corruption activities	Request fully addressed
4.	Ministry of Education and Sports	18/07/2022	On 09/08/2022, the Ministry informed that it had forwarded the request for information Quality Assurance Agency for Pre-university Education	Information on pre-university curricula/ subjects/ activities covering anti-corruption, ethics, public administration matters	No response
5.	ASP	27/06/2022		Data relevant to the money laundering investigations	No response
6.	GDPML	27/06/2022	01/07/2022	Money laundering data and copies of international	Request fully addressed

				agreements	
7.	General Prosecution	27/06/2022	29/06/2022	Data on money laundering cases	Request not addressed
8.	HIDAACI	27/06/2022	12/07/2022	Data on subjects who have refused to submit asset declarations	Request fully addressed
9.	Bank of Albania	27/06/2022	01/07/2022	Information on guidelines issued to financial institutions on suspicious accounts	Request fully addressed
10.	General Directorate of Customs	27/06/2022		Memorandum of cooperation between the General Directorate of Customs and the ASP	No response
11.	Ministry of Justice	09/06/2022	16/06/2022	Information and documents on the establishment and performance of the Network of Anti-Corruption Coordinators	Request partially addressed: performance reports were not provided.
12.	HIDAACI	09/06/2022	24/06/2022	Information on HIDAACI's role in the implementation of whistleblowing policy	Request fully addressed
13.	ASPA	09/06/2022	16/06/2022	Information on the curricula on integrity for position particularly exposed to integrity risks	Request fully addressed
14.	HIDAACI	21/10/2022	03/11/2022	Copies of asset declarations	Request fully addressed
15.	PMO	13/10/2022	19/01/2023	Copy of Code of Ethics of the CoM	Request fully addressed
16.	Albanian Assembly	04/04/2022	20/04/2022	Information on the measures taken by the Assembly on the implementation of the Resolution on Human Rights Defenders	Request fully addressed

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