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Monitoring Report:

# The Principles of Public Administration

ALBANIA

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List of Abbreviations and Acronyms

## **LIST OF ABBREVIATIONS AND ACRONYMS**

ADISA	Agency for Delivery of Integrated Services
AGFIS	Albanian Government Financial Information System
ASPA	Albanian School of Public Administration
ATRAKO	the Concessions Treatment Unit of the Ministry of Economic Development, Tourism, Trade and Entrepreneurship
CAP	Code of Administrative Procedure
CFCU	Central Finance and Contracting Unit
CHU	Central Harmonisation Unit
CISA	Certified Information Systems Auditor
CLGCC	Central and Local Government Consultative Council
COCS	Commissioner for the Oversight of the Civil Service
CoG	centre of government
CoM	Council of Ministers
COSO	Committee of Sponsoring Organizations of the Treadway Commission
CPB	Central Purchasing Body
CPPPL	Concessions and Public-Private Partnerships Law
CSC	citizen service centre
CSI	Citizen Satisfaction Index
CSL	Civil Service Law
DCM	Decision of the Council of Ministers
DCRC	Department of Communication and Relations with Citizens
DLPMA	Department of Legislation, Programme Monitoring and Anti-corruption
DoPA	Department of Public Administration
DPS	Dynamic Purchasing System
EI	European integration
ESA	European System of Accounts
EU	European Union
FMC	financial management and control
GDP	gross domestic product
GDT	General Directorate of Taxation
HIDAACI	High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest
HR	human resources
HRM	human resource management
HRMIS	Human Resource Management Information System
IA	internal audit

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ICCEI	Inter-institutional Co-ordinating Committee for European Integration
ICEI	Interministerial Committee on European Integration
ICT	information and communication technology
IDRA	Institute for Development, Research and Alternatives
IIA	Institute of Internal Auditors
IMF	International Monetary Fund
IPA	Instrument for Pre-accession Assistance
IPMG	integrated policy management group
IPMG-PAR	Integrated Policy Management Group on Good Governance and Public Administration Reform
IPS	Integrated Planning System
IPSYS	Integrated Planning System Information System
ISSAIs	International Standards of Supreme Audit Institutions
IT	information technology
IWG	Inter-institutional Working Group for European Integration
LPMU	Legislation and Programme Monitoring Unit
LTPD	Long-Term Policy Document on the Delivery of Citizen-Centric Services by Central Government Institutions in Albania
MBS	Management of Budget Systems
MEI	Ministry of European Integration
MIPA	Minister of State for Innovation and Public Administration
MoF	Ministry of Finance
MoJ	Ministry of Justice
MoSLG	Minister of State for Local Government
MoSRP	Minister of State for Relations with the Parliament
MTBF	medium-term budgetary framework
MTBP	Medium-term Budget Programme
MTDS	Medium-Term Debt Strategy
NAIS	National Agency for Information Society
NCAC	National Co-ordinator for Anti-corruption
NCCS	National Council for Civil Society
NEC	National Economic Council
NGO	non-governmental organisation
NPEI	National Plan for European Integration
NSC	National Selection Committee
NSDI II	National Strategy for Development and Integration 2015-2020
OECD	Organisation for Economic Co-operation and Development

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OPM	Office of the Prime Minister
OSI	Online Service Index
PAR	public administration reform
PDSPU	Policy Development and Strategic Planning Unit
PFM	public financial management
PIFC	public internal financial control
PM	Prime Minister
PPA	Public Procurement Agency
PPC	Public Procurement Commission
PPL	Public Procurement Law
PPP	public-private partnership
RIA	Regulatory Impact Assessment
RoP	rules of procedure
SAI	Supreme Audit Institution
SDP	Strategic Development Plan
SOE	state-owned enterprise
SSAI	State Supreme Audit Institution
TMC	Top Management Corps
TSA	Treasury Single Account
UK	United Kingdom
UN	United Nations
UNPAN	United Nations Public Administration Network
WCAG	Web Content Accessibility Guidelines

## INTRODUCTION

SIGMA developed the Principles of Public Administration in 2014 to support the European Commission's reinforced approach to public administration reform (PAR) in the European Union (EU) Enlargement process. In 2017, the Principles<sup>1</sup> were updated and a new methodological framework developed to improve clarity, without changing the substance of the conceptual framework. The Principles define what good public governance entails in practice and outline the main requirements to be followed by countries during EU integration. The monitoring framework enables regular analysis of progress made in applying the Principles and setting country benchmarks.

In 2015 SIGMA undertook comprehensive Baseline Measurement assessments for the seven EU Enlargement candidate countries and potential candidates against the Principles and has continued to monitor subsequently the progress of PAR. Monitoring reports were also published in 2016 for assessments in selected priority areas of PAR.

This 2017 Monitoring Report, for the period May 2015 to June 2017, covers the six key areas of reform: strategic framework for public administration reform, policy development and co-ordination, public service and human resource development, accountability, service delivery and public financial management, including public procurement and external audit.

The first part of the Report sets out major developments and progress made since 2015, based on the indicators and methodology used in the Baseline Measurement Reports. The analysis against individual Principles is further enhanced through the introduction of a new set of monitoring indicators and sub-indicators, described in the *Methodological Framework for the Principles of Public Administration*<sup>2</sup>. The indicator values, based on the points allocated to each sub-indicator, are indicative and should not be used nor interpreted on their own without the context of the full qualitative analysis provided under each Principle.

The Report also contains short- and medium-term recommendations to help the administration take concrete actions for tackling some of the most important challenges. These include recommendations from the 2015 SIGMA Baseline Measurement Report<sup>3</sup> which have not been implemented yet and are still relevant.

The analytical findings and recommendations in this Monitoring Report are also designed to inform the policy dialogue and discussions between the EC and the administration about priority areas for reform and potential support.

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<sup>1</sup> OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris: [http://www.sigmaweb.org/publications/Principles-of-Public-Administration\\_Edition-2017\\_ENG.pdf](http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf)

<sup>2</sup> OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>3</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

## OVERVIEW

Albania has been an EU candidate country since 2014 and EU integration remains a top priority for the country. To support this, the Government has initiated public administration reforms in recent years across several priority areas.

In 2016, a package of reform measures in the justice sector were adopted which, if implemented, would create safeguards for judicial independence and the rule of law. In November 2016, the European Commission recommended to the Council of the EU to start accession negotiations with Albania, subject to credible and tangible progress in the implementation of these judicial reforms. The parliamentary elections of June 2017 have given the Government a new mandate to continue the implementation of these reforms, as well as in other key areas.

Albania has a comprehensive strategic framework for public administration reform which covers all six areas of PAR. Overall, Albania has made steady progress in some areas since SIGMA's 2015 Baseline Measurement Report, but there are still significant challenges remaining and the implementation of reforms in many areas has been slow.

The new Government now needs to give additional impetus to initiating, implementing and embedding reforms across all areas of the public administration more purposefully, to enable meaningful preparation for the next phase of the EU integration process.

The three key PAR-related priorities for Albania are:

- The low implementation rate and effectiveness of public administration reforms. Reforms need to be implemented more purposefully and in a more co-ordinated manner across all five PAR strategies.
- The quality of policy making and related analysis is weak and improvements in this area are critical, for example by ensuring that the Law on Public Notification and Consultation is consistently implemented and Regulatory Impact Assessment is fully introduced.
- The financial management and control system is weak, particularly within the budget users of public administration institutions. Fundamental reforms to address these issues need to be driven forward as a priority.

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# Strategic Framework of Public Administration Reform

## STRATEGIC FRAMEWOK OF PUBLIC ADMINISTRATION REFORM

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

#### 1.1. State of play

The Government of Albania has established a comprehensive framework of public administration reform (PAR) comprised of five strategic planning documents. The existing PAR framework covers all priority areas identified by the Government. However, the various PAR strategic documents and key Government planning documents are not clearly and fully aligned with each other.

The monitoring and reporting framework for the implementation of PAR is now fully operational. In 2015-2016, the monitoring systems for the Cross-cutting Public Administration Reform Strategy 2015-2020 (PAR Strategy)<sup>4</sup> and the Albania Public Finance Management (PFM) Strategy 2014-2020 (PFM Strategy)<sup>5</sup> were strengthened by the development of detailed methodology and guidance on performance indicators (“indicator passports”). Cost estimates are available for most of the activities included in the PAR strategic documents, but those figures are not complete and reliable<sup>6</sup>. Significant discrepancies exist between the estimated costs and the actual funding allocations in the state budget. Additionally, there is still a large financial gap in funding of the activities planned in the PAR Strategy, which raises concerns about the overall financial sustainability of PAR. The implementation rate of PAR is low: review of the PAR strategic documents shows that less than half of all planned PAR measures were implemented in 2016<sup>7</sup>.

PAR co-ordination and governance structures are established at both the political and administrative levels. The responsibility for overall co-ordination and management of PAR is assigned to the Minister of State for Innovation and Public Administration (MIPA). Co-ordination of activities of the political-level bodies responsible for PAR and PFM reforms is limited.

#### 1.2. Main developments

The following section describes key changes in the public administration for each key requirement<sup>8</sup> and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

**Key requirement: The leadership of public administration reform and accountability for its implementation is established, and the strategic framework provides the basis for implementing prioritised and sequenced reform activities aligned with the government’s financial circumstances.**

With adoption of the National Cross-cutting Strategy for Decentralization and Local Governance 2015-2020 in July 2015 (Decentralisation Strategy), the Government completed the scope of the PAR strategic framework, which includes five strategic documents. There have been no further changes in

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<sup>4</sup> Cross-cutting PAR Strategy 2015-2020, approved by the Decision of the Council of Ministers (DCM) No. 319, April 2015. [http://dap.gov.al/images/DokumentaStrategjik/PAR\\_Strategy\\_2015-2020\\_English.pdf](http://dap.gov.al/images/DokumentaStrategjik/PAR_Strategy_2015-2020_English.pdf)

<sup>5</sup> Albania Public Finance Management Strategy 2014-2020, Ministry of Finance (MoF), December 2014. [http://www.financa.gov.al/files/userfiles/Raportimet/Albanian\\_PFM\\_strategy\\_2014-2020.pdf](http://www.financa.gov.al/files/userfiles/Raportimet/Albanian_PFM_strategy_2014-2020.pdf)

<sup>6</sup> In all five strategies, 97% of all activities have cost estimates, based on the information provided in the relevant PAR planning documents. The issue of how complete and reliable the estimates are is discussed in subsequent sections of this report.

<sup>7</sup> It is estimated that only 44% of the planned measures were implemented in 2016. The calculation is based on the review of the measures included in all five PAR strategic documents.

<sup>8</sup> OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Principles-of-Public-Administration\\_Edition-2017\\_ENG.pdf](http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf)

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the scope of PAR during the monitoring period, and the Government has been implementing reform measures in many of the areas laid out in the PAR planning documents, albeit at different rates.

The implementation of PAR is managed through the monitoring and reporting framework, which was finalised and became fully operational in 2015-2016. Annual implementation reports for 2015 and 2016 have been prepared for all five strategies. The PAR monitoring system was strengthened by the development and introduction of indicator passports for the PAR Strategy and the PFM Strategy 2014-2020<sup>9</sup>.

In 2015, the Government established four integrated policy management groups (IPMGs) aimed at improving the co-ordination of reforms across the Government's top priority areas<sup>10</sup>. The IPMG for Good Governance and Public Administration Reform (IPMG-PAR), together with its thematic groups<sup>11</sup>, has become the main structure responsible for co-ordinating and managing PAR (except PFM), both at the political and administrative levels. The new IPMG-PAR has effectively replaced the Inter-institutional Working Group, which was created in 2014 to develop the PAR Strategy.

As the monitoring framework for PAR is now fully established and operational, the value of the relevant indicator assessing the comprehensiveness of the monitoring and reporting framework for PAR has been increased from 1 to 4. Although performance indicators are established for all strategies, not all are linked with the objectives, and they often have no baseline and/or target values established.

In May 2016, the Government approved the National Strategy for Development and Integration 2015-2020<sup>12</sup> (NSDI II). The NSDI II acknowledges the importance of "consolidating good governance" and promoting public administration reforms as key elements of the foundation supporting Albania's future development across four priority pillars<sup>13</sup>. However, it primarily focuses on civil service and PFM reforms. Based on the analysis of the NSDI II and two other recently adopted Government planning documents<sup>14</sup>, the relevant indicator assessing the alignment between the PAR strategic documents and the Government central planning documents is estimated to have a value of 60%, compared with the value of 40% in 2015<sup>15</sup>.

Most of the activities (90%) included in the five strategic PAR documents are assessed as being "reform-oriented". This is an improvement from 2015 when the similar indicator value was estimated to be 79%. The level of the annual implementation rate of PAR activities is estimated to be 44%, which is lower than the similar value in 2015 (64%)<sup>16</sup>.

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<sup>9</sup> The indicator passports lay out the detailed methodology and description of the indicators used to monitor implementation of the strategies.

<sup>10</sup> Prime Minister's Order No. 129/2015 of 21 September 2015 on Undertaking Institutional and Operational Measures for Implementation of the Sector-Wide Approach and Establishment of Integrated Policy Management Groups. IPMGs were created to improve co-ordination of reforms in four priority areas: Good Governance and Public Administration Reform (IPMG-PAR), Integrated Water Management, Employment and Social Sector and Innovation.

<sup>11</sup> There are six thematic groups under the IPMG-PAR: policy making, civil service reform and human resource management (HRM), public service delivery, e-government and digitalisation, anti-corruption and decentralisation.

<sup>12</sup> DCM No. 348 of 11 May 2016 on the Approval of the National Strategy for Development and Integration 2015-2020 (NSDI II).

<sup>13</sup> NSDI II, p. 33. The four pillars are: ensuring economic growth through macroeconomic and fiscal stability; ensuring growth through increased competitiveness and innovation; investing in human capital and social cohesion; and ensuring growth through connectivity, the sustainable use of resources and territorial development.

<sup>14</sup> Consistent with the methodology and approach used during the 2015 Baseline Measurement, the following documents were used to calculate the ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently: the Government Programme, the Government Priorities, the Medium-Term Budget Programme for 2017-2019, the NSDI II and the National Plan for European Integration (NPEI) 2017-2020.

<sup>15</sup> The indicator is calculated based on the ratio of central planning documents featuring the PAR objectives and priorities uniformly and coherently.

<sup>16</sup> The 2015 figure was calculated based on the measures that were assessed to be targeted on development or describing reforms; ongoing daily activities were not included in the calculation.

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The share of resourced and costed PAR activities has increased since 2015. The overwhelming majority (98%) of activities planned in the PAR strategic documents do have some cost estimates. This represents an improvement from 2015, when the same indicator was estimated to be 81%. The reliability and completeness of those estimates, however, cannot be confirmed<sup>17</sup>.

The Government has implemented several SIGMA recommendations from the 2015 Baseline Measurement Report<sup>18</sup>. In particular, a monitoring and reporting framework for the PAR Strategy is now fully established and functional. However, some of the short-term recommendations, particularly concerning increased interministerial co-ordination and data sharing on PFM reforms between the MIPA and the Ministry of Finance (MoF), have not yet been implemented.

**Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports<sup>19</sup>**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which the scope of PAR central planning document(s) is complete.	4	4
	Extent to which a comprehensive PAR reporting and monitoring system is in place.	1	4
<b>Quantitative</b>	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	40%	60%
	Share of public administration development activities and reforms from all activities in PAR planning documents.	79%	90%
	Annual implementation backlog <sup>20</sup> of public administration development activities and reforms.	64%	44%
	Percentage of fulfilled PAR objectives <sup>21</sup> .	Not available	Not available
	Share of resourced and costed PAR measures.	81%	98%

<sup>17</sup> This is discussed in further detail under Principle 3 of this section.

<sup>18</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, pp. 12, 13, 15, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

<sup>19</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

<sup>20</sup> Note that the indicator considers the implementation rate of public administration development activities and reforms within the given year. For 2015, the rate is calculated based on only those activities that were assessed to be targeted to development or describing reforms; ongoing and daily activities were not included.

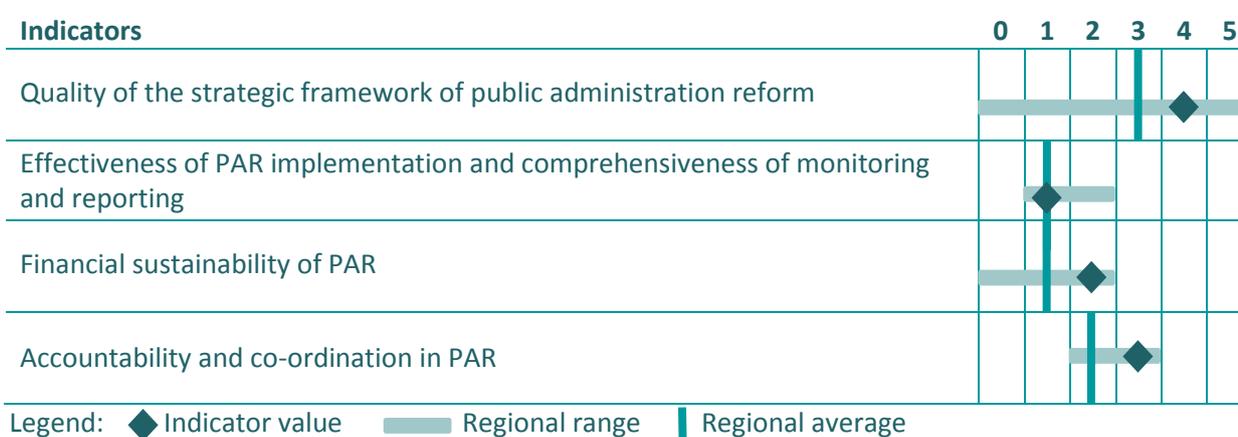
<sup>21</sup> The value of the indicator could not be set for 2014, as national-level documents in the area of PAR that have clear performance indicators and targets aligned with the policy objectives have only recently been adopted, and no monitoring data on the implementation of policy objectives exist. It was also not possible to calculate the 2017 value because the information was not available for many of the PAR objectives included in the PAR strategic documents.

## 2. ANALYSIS

This analysis covers four Principles for the strategic framework of public administration reform area, grouped under one key requirement. It includes a summary analysis of the indicator used to assess against each Principle, including sub-indicators<sup>22</sup>, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

**Key requirement: The leadership of public administration reform and accountability for its implementation is established, and the strategic framework provides the basis for implementing prioritised and sequenced reform activities aligned with the government's financial circumstances.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



### ***Analysis of Principles***

***Principle 1: The government has developed and enacted an effective public administration reform agenda which addresses key challenges.***

The Government has developed and enacted a comprehensive framework of PAR covering all substance areas defined by the Principles. Several strategic documents are included in the PAR framework. The PAR Strategy<sup>23</sup>, adopted in April 2015, is the main strategic document, covering four out of five PAR substance areas. PFM reforms are guided by a separate strategic document, the PFM Strategy. These two PAR strategic documents are complemented by three additional cross-cutting strategies focusing on reforms in decentralisation and local governance<sup>24</sup>, e-government and information and communication technologies<sup>25</sup>, and anti-corruption<sup>26</sup> areas. Together, these five planning documents form the PAR strategic framework, covering the main substance areas of PAR.

<sup>22</sup> OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>23</sup> Cross-cutting PAR Strategy 2015-2020, DCM No. 319, April 2015.

<sup>24</sup> National Cross-cutting Strategy for Decentralization and Local Governance 2015-2020, February 2015.

<sup>25</sup> Cross-cutting Strategy Digital Agenda of Albania 2015-2020, DCM No. 284, April 2015, Official Gazette No. 56.

<sup>26</sup> Intersectoral Strategy Against Corruption 2015-2020, DCM No. 247, March 2015.

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Overall, PAR is acknowledged as a priority in key Government planning documents, but the reforms are not discussed in sufficient detail across all substance areas of PAR<sup>27</sup>. The acknowledgement of reforms in the policy development and co-ordination area, in particular, does not feature clearly in any of the key Government planning documents, even though it is one of the core areas/elements included in the PAR Strategy. According to the PAR strategic documents, 11 draft laws were planned to be adopted in 2017; all of these laws were either included in the 2017 annual Analytical Programme of the Government (the legislative plan) or were approved earlier than planned<sup>28</sup>. The level of alignment between the PAR strategic documents and the annual Analytical Programme (the legislative plan) of the Government is thus 100%<sup>29</sup>.

All five documents included in the strategic framework of PAR are clearly structured and include sufficient analyses of the policy problems and reform challenges, and set out the reform ambitions and objectives. Each of the PAR strategic documents has its own performance-monitoring framework. Outcome-level indicators, with relevant baseline and target values, exist for most of the strategies except the Intersectoral Strategy Against Corruption 2015-2020 (Anti-corruption Strategy) and the Cross-cutting Strategy Digital Agenda of Albania 2015-2020 (Digital Agenda Strategy). This shortcoming has negatively affected the relevant indicator value calculated for the whole PAR strategic framework.

Civil society organisations, the private sector and donor community representatives were consulted during the development of the PAR Strategy, primarily through a series of meetings organised in March and April 2015. Consultations with civil society organisations were also held during the development of the other PAR strategic documents.

Most of the activities (90%) included in the PAR strategic documents are assessed as being “reform-oriented”<sup>30</sup>, as they are expected to generate long-term improvements in the existing regulatory framework, and in the functioning of or working practices across public administration.

Overall, the value for the indicator ‘Quality of the strategic framework of public administration reform’ is 4.

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<sup>27</sup> The assessment is based on review of the following key Government planning documents: the NSDI II, approved by DCM No. 348 of 11 May 2016; the Alliance for European Albania 2013-2017; the Government Work Programme for 2013-2017; and the NPEI 2017-2020, approved by DCM No. 42, January 2017.

<sup>28</sup> Three laws were approved in 2016, earlier than planned. They are the Law on Social Services; legal amendments regarding the monitoring of conflicts of interest (2016); and the Law on Political Parties and Electoral Code (2015).

<sup>29</sup> The value is calculated based on the review of specific legislative commitments in the PAR strategic documents, which were planned to be implemented in 2017 and were also included in the annual Analytical Programme for 2017.

<sup>30</sup> This is based on the assessment of measures included in all five PAR strategic documents.

### Quality of the strategic framework of public administration reform

This indicator measures the quality of the strategy for public administration reform (PAR) and related planning documents (i.e. to what extent the information provided is comprehensive, consistent and complete), including the relevance of planned reforms.

A separate indicator measures financial sustainability and cost estimates in detail.

Overall indicator value 0 1 2 3 **4** 5

Sub-indicators	Points
1. Coverage and scope of PAR planning documents	5/5
2. Prioritisation of PAR in key horizontal planning documents	0/2
3. Coherence of PAR planning documents	2/4
4. Presence of minimum content of PAR planning documents	5/7
5. Reform orientation of PAR planning documents	3/3
6. Quality of consultations related to PAR planning documents	2/2
<b>Total<sup>31</sup></b>	<b>17/23</b>

**Although the scope of PAR is finalised and complete, the alignment between various PAR strategic documents and Government planning documents in terms of PAR priorities and objectives is not clearly and fully ensured. PAR is acknowledged as a priority in the key Government planning documents, but the reforms are not discussed in detail across all PAR substance areas. Civil society organisations were involved during the development of the PAR planning documents.**

***Principle 2: Public administration reform is purposefully implemented; reform outcome targets are set and regularly monitored.***

The PAR monitoring and reporting system became fully operational in 2015-2016. The implementation of PAR across all strategies is monitored based on five distinct sets of performance indicators and different monitoring and reporting arrangements, as envisaged in the strategies. All PAR strategies cover the same five-year implementation period (2015-2020)<sup>32</sup>, but the action plans are prepared for 2015-2017<sup>33</sup>. The monitoring frameworks used for the PAR Strategy and the PFM Strategy were strengthened by the development and implementation of detailed methodology and guidance on key performance indicators<sup>34</sup>.

The indicators used for monitoring and reporting are linked with the objectives set within the respective PAR planning documents, with the exception of two strategies<sup>35</sup>. Separate procedures are in place to guide preparation of the progress reports for PAR strategies. Annual implementation reports for 2015 and 2016 have been prepared for all strategies; however, not all of these reports are publicly available. Having five separate PAR reports and processes creates additional complexity and challenges for effective co-ordination, monitoring and reporting, especially in terms of evaluating the overall impact of reforms across cross-cutting areas.

<sup>31</sup> Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

<sup>32</sup> Except for the Albania Public Finance Management Strategy 2014-2020, which was approved in December 2014, the other four strategies included in the PAR framework were approved in 2015. All strategies cover a five-year period, taking the reforms up to 2020.

<sup>33</sup> The MIPA has started preparations for developing a new, updated action plan for the PAR Strategy covering 2018-2020.

<sup>34</sup> Indicator passports, which provide detailed methodology and guidance on each performance indicator, were developed and introduced in 2015 (for the PAR Strategy) and 2016 (for the PFM Strategy).

<sup>35</sup> The Digital Agenda Strategy and the Anti-corruption Strategy.

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The implementation reports on PAR strategic documents give information on progress towards achieving the objectives, but this is not provided consistently across all strategies and areas<sup>36</sup>. This can be partially explained by the fact that some of the outcome targets are set for 2017, which means that they can only be evaluated and measured fully in 2018. In some cases, such as the Digital Agenda Strategy, however, there are no outcome or impact indicators established to measure progress against the objectives. These factors make it difficult to assess and report on the overall fulfilment of PAR objectives, which makes the overall value of the relevant sub-indicator 0.

Separate co-ordination structures are in place for monitoring and reporting on the implementation of PAR. The overall co-ordination of PAR monitoring is led by the IPMG-PAR and its six thematic groups, which cover all PAR substance areas except PFM. The Technical Secretariat, which sits under the MIPA<sup>37</sup>, provides the secretariat function for the IPMG-PAR. The MIPA leads monitoring and reporting on implementation of the PAR Strategy and the Digital Agenda Strategy<sup>38</sup>.

For the PFM Strategy, monitoring and reporting is led by the PFM Reform Secretariat, which reports to a ministerial-level Steering Committee<sup>39</sup>. The National Co-ordinator Against Corruption is the main inter-institutional structure used to monitor implementation of the Anti-corruption Strategy, and the Strategic Planning Committee<sup>40</sup> monitors the Decentralisation Strategy. The IPMG-PAR reviews the implementation of all PAR strategic documents except the PFM Strategy.

Civil society organisations and donor community representatives are involved in monitoring PAR, but not regularly and frequently enough across all PAR strategies. Representatives of non-governmental organisations (NGOs) participate in monitoring the Anti-corruption Strategy more regularly. Representatives of civil society organisations and the donor community attended the fifth meeting of the IPMG-PAR in March 2017, which discussed and approved the 2016 annual implementation report on the PAR Strategy.

The overall implementation rate of PAR in Albania is low. It is estimated that only 44% of all measures planned for 2016 were actually implemented<sup>41</sup>.

Overall, because of the weaknesses in the monitoring framework of selected PAR strategic documents, the slow implementation rate and lack of information and reporting on the fulfilment of PAR objectives, the value for the indicator assessing the “Effectiveness of PAR implementation and the comprehensiveness of monitoring and reporting” for the whole PAR strategic framework is 1.

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<sup>36</sup> The implementation reports on the Digital Agenda and Anti-corruption Strategies do not provide full information about the outcome/impact indicators and their linkages with the objectives.

<sup>37</sup> The Technical Secretariat (three staff members) is formally based in the Department for Innovation and Good Governance in the Office of the Prime Minister (OPM), but it reports directly to the MIPA on PAR and IPMG-related issues, as confirmed in interviews.

<sup>38</sup> The Department for Innovation and Good Governance of the OPM is responsible for monitoring the Digital Albania Strategy on a semi-annual basis. The Department of Public Administration (DoPA) monitors and reports on implementation of the Cross-cutting PAR Strategy on a quarterly basis. The reports of both strategies are approved by IPMG-PAR.

<sup>39</sup> Albania PFM Strategy 2014-2020, MoF, December 2014, pp. 76-77.

<sup>40</sup> Order of the Prime Minister No. 18 of 22 January 2014 on the Establishment of the Strategic Planning Committee.

<sup>41</sup> Based on the review of all measures planned for implementation in 2016 within all five strategic documents. The annual reporting cycles for the Decentralisation and Anti-corruption Strategies do not cover the full calendar year. Therefore, the information about the implementation of measures included in these strategies could not be fully used in the calculation.

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Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting						
This indicator measures the track record of implementation of PAR and the degree to which the goals were reached. It also assesses the systems for monitoring and reporting of PAR.						
Overall indicator value	0	<b>1</b>	2	3	4	5

Sub-indicators	Points
1. Comprehensiveness of PAR reporting and monitoring systems	3/8
2. Implementation rate of PAR activities (%)	1/4
3. Fulfilment of PAR objectives (%)	0/4
<b>Total<sup>42</sup></b>	<b>4/16</b>

**A comprehensive monitoring and reporting framework for most of the strategies included in the PAR framework has been established and is fully operational. However, the actual implementation rate of the reforms is low. There are weaknesses and shortcomings in the performance indicator frameworks of selected strategies, which affect the quality and effectiveness of PAR monitoring and reporting. Civil society organisations and external stakeholders participate in monitoring PAR, but not regularly and consistently across all PAR strategic documents.**

***Principle 3: The financial sustainability of public administration reform is ensured.***

Although 97%<sup>43</sup> of the activities planned within the PAR strategies have cost estimates, those figures cannot be considered complete and reliable. Apart from the PAR Strategy, for which a detailed costing model is available<sup>44</sup>, information about cost estimates included in the other PAR planning documents is very limited<sup>45</sup>.

The review of a sample of reform measures shows that significant discrepancies exist between the cost estimates reported in the PAR planning documents and those in the state Budget. Analysis of the five most expensive measures planned for 2017 shows that, although the reform initiatives are included in the state Budget, the actual allocated funds are less than required. Only one activity from the top five measures reviewed was found to be fully covered by the state Budget allocation<sup>46</sup>. In 2016, the Government approved two new PAR-related spending programmes<sup>47</sup> that aim to support PAR

<sup>42</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

<sup>43</sup> Based on information included in the PAR planning documents. This does not confirm the completeness and reliability of the estimates provided in these documents.

<sup>44</sup> Although the costing model of the PAR Strategy is comprehensive, it does not provide information about the full costs of the reforms (including regular budgetary allocations), and no clear categorisation of recurrent and one-off costs is provided.

<sup>45</sup> For example, many planned measures included in the PFM Strategy estimate the costs of implementation to be "0".

<sup>46</sup> The following most expensive reform activities were reviewed: Activity 1: use of electronic monitoring systems by government institutions (Cross-cutting PAR Strategy); Activity 2: technical evaluation of the academic integrity system in higher education and assessment of the application of an electronic system to prevent plagiarism (Anti-corruption Strategy); Activity 3: "The programme for infrastructure support of 61 new municipalities" (National Strategy for Decentralization and Local Governance); Activity 4: "National programme for support of the decentralised services of fire-protection" (National Strategy for Decentralization and Local Governance); Activity 5: E-prescriptions for patients (Digital Agenda Strategy).

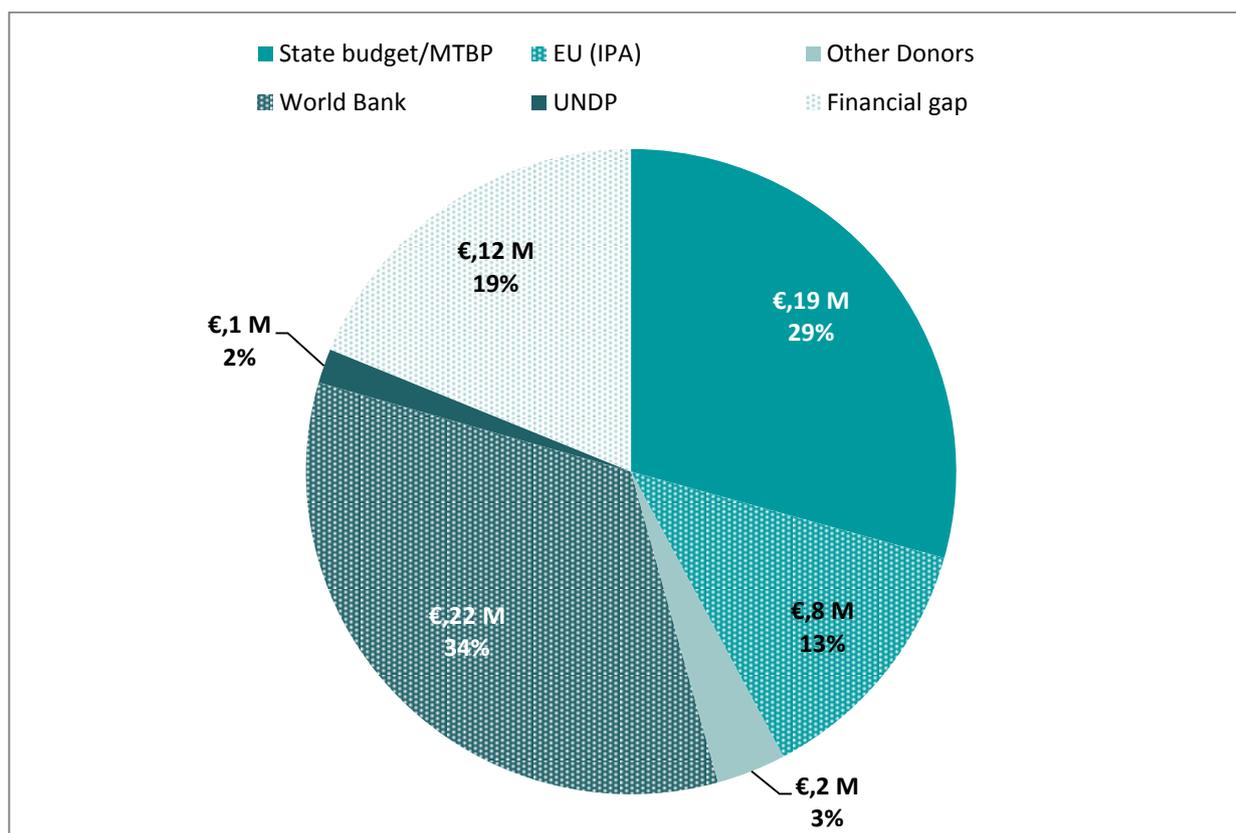
The planned activity for introducing e-prescriptions for patients under the Digital Agenda Strategy was found to have adequate funding, secured through the 2017 state Budget. Funds allocated in the state Budget for the remaining four most expensive reform measures were found to be significantly below the estimates provided in the PAR strategic documents.

<sup>47</sup> E-Governance, and Development and Management of Public Administration.

implementation and strengthen alignment between the Medium-Term Budget Programme (MTBP) and the PAR planning documents.

All PAR planning documents provide information about sources of funding, including that anticipated from the European Union and other external sources. However, full information about specific donor-funded projects in the PAR planning documents is limited in many cases<sup>48</sup>. The analysis of PAR Strategy funding sources shows there is still a significant financial gap (19%), although this has fallen from 29% in 2015<sup>49</sup>.

**Figure 1. Funding sources for implementation of the PAR Strategy (EUR millions, share of total)**



Source: SIGMA calculations, based on the information and data provided during the assessment (May 2017).

The weaknesses and shortcomings in the implementation plans and costing question the overall financial sustainability of PAR. Because of poor financial planning and monitoring, the lead institution responsible for the reforms may have to face additional financial burdens during implementation. There is no systematic process for reviewing and updating the original financial estimates made in 2015.

Overall, because of the weaknesses and shortcomings in the financial plans and costing of PAR measures, the value for the indicator 'Financial sustainability of PAR' is 2.

<sup>48</sup> For example, several measures in the Anti-corruption Strategy refer to "donors" as a source of funding. It is therefore not possible to clearly establish either the amount of donor support or the link to the specific donor project to verify and confirm that the funding has actually been secured for the reform measures.

<sup>49</sup> SIIGMA estimates, based on information and data provided during the assessment.

Financial sustainability of PAR						
This indicator measures to what extent financial sustainability has been ensured in PAR as a result of good financial planning.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
1. Costed PAR activities (%)	3/3
2. Completeness of financial information in PAR planning documents	1/4
3. Actual funding of the PAR agenda	0/3
<b>Total<sup>50</sup></b>	<b>4/10</b>

**PAR strategic documents contain information about estimated costs for most of the planned activities. However, those estimates cannot be considered complete and reliable. There are discrepancies between the cost estimates of planned PAR measures and the actual funding allocated for those reforms in the state Budget. PAR strategic documents contain information about foreign donors supporting reforms, but they do not provide full details about specific projects and/or the extent of the planned financial assistance.**

*Principle 4: Public administration reform has robust and functioning management and co-ordination structures at both the political and administrative levels to steer the reform design and implementation process.*

The responsibility for overall co-ordination and management of PAR is assigned to the MIPA. The MIPA implements this role with the support of the Department of Public Administration (DoPA) and the Department for Innovation and Good Governance. The Minister utilises the existing interministerial co-ordination structures, particularly the IPMG-PAR, to guide the reform process in all areas covered by the PAR strategic framework (with the exception of PFM).

The IPMG-PAR, which is co-chaired by the MIPA and the Minister of State for Local Government (MoSLG), is the main political-level body responsible for co-ordination of PAR<sup>51</sup>. The political-level leadership and co-ordination of PFM reform is provided by a separate interministerial steering committee led by the Minister of Finance<sup>52</sup>. The MoSLG, through the National Co-ordinator Against Corruption and Strategic Planning Committee, leads and co-ordinates reforms in the anti-corruption and decentralisation areas.

At the administrative level, six thematic groups have been established under the IPMG-PAR to co-ordinate and lead implementation of reforms across the main pillars of the PAR strategic framework. The IPMG-PAR and its thematic groups are supported by a Technical Secretariat, which reports directly

<sup>50</sup> Point conversion ranges: 0=0, 1-3=1, 4-5=2, 6-7=3, 8-9=4, 10=5.

<sup>51</sup> Full membership of the IPMG for Good Governance and PAR: the MIPA, the MoSLG; the Minister of State for Relations with Parliament; representatives from the Ministry of Internal Affairs; the Ministry of European Integration; the MoF; the Ministry of Justice (MoJ); the Ministry of Social Welfare and Youth; the Prime Minister's Advisor for Public Law; the Director of DoPA and Director of DAETIK; the Head of the National Agency for Information Society (NAIS); the OPM, the Department for Development Financing and Foreign Aid and the Delivery Unit of the OPM; and Chairs of the interministerial working group on European integration in related sectors.

<sup>52</sup> Steering Committee for PFM Reform.

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to the MIPA on PAR<sup>53</sup>. Three officials work in the Technical Secretariat, and its Head has clear responsibility for co-ordination, monitoring and reporting on PAR.

The current organisational structure and working arrangements thus ensure organisational and individual responsibility for co-ordinating PAR in all areas, at both the political and the administrative levels. However, there is limited co-ordination between the PAR structures of PFM and PAR, especially at the political level.

In terms of accountability for implementation of specific reform measures, individual/managerial responsibility is not clearly assigned for most of the activities included in the strategic documents, especially those in the three horizontal PAR planning documents and partly in the PAR Strategy as well.

**Table 2. Number of meetings of the Integrated Policy Management Group for Good Governance and Public Administration Reform and thematic groups (September 2015 - June 2017)**

IPMGPAR	IPMG-PAR thematic groups					
	Policy Making	Civil Service Reform & HR Management	Public Service Delivery	e-Governance & Digitalisation	Anti-corruption	Decentralisation
5	2	4	3	4	2	2

Source: Technical Secretariat of the IPMG-PAR.

The IPMG-PAR has met five times since its establishment in 2015 (on average, two or three times a year), but meetings of the thematic groups take place less frequently. The IPMG-PAR thematic groups, which are important administrative-level co-ordination bodies within the existing PAR framework, do not make decisions.

Civil society representatives regularly participate in the monitoring of the Anti-corruption Strategy, but their participation in the discussions across the other PAR areas occurs less frequently<sup>54</sup>.

Overall, the value for the indicator 'Assessing the accountability and co-ordination in PAR' receives a value of 3.

<sup>53</sup> As the MIPA is a minister without portfolio, the staff members of the Technical Secretariat are formally part of the Department of Innovation and Good Governance of the OPM. However, they report directly to the MIPA on all PAR and IPMG-related issues.

<sup>54</sup> Information provided during interviews.

Accountability and co-ordination in PAR						
This indicator measures the extent to which leadership and accountability in PAR are established, the regularity and quality of co-ordination mechanisms at both the political and administrative levels, and the performance of the leading institution.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Establishment of organisational and managerial accountability for PAR	4/6
2. Co-ordination mechanisms for PAR	5/10
Total <sup>55</sup>	9/16

**The organisational and individual/managerial responsibility for co-ordinating and steering PAR is established. The MIPA, through the IPMG-PAR structures, provides overall political leadership and co-ordination for PAR (except for PFM reforms). Six IPMG-PAR thematic groups, supported by the Technical Secretariat, are the main administrative-level structures for co-ordination of PAR. However, the thematic groups do not meet regularly and they do not have any decision-making authority. The organisational responsibility for PFM reforms is led through a separate interministerial steering committee led by the MoF.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) The Government should closely monitor the implementation rate of PAR across all areas, and if necessary, mobilise and allocate additional resources to support the implementation of reform measures. The quality of new action plans of PAR strategic documents, particularly the time frame for implementation, should also be reviewed carefully to ensure more realistic deadlines are established that take into consideration financial circumstances and administrative capacity constraints.
- 2) The Government should ensure a high-quality monitoring and reporting framework is in place for all PAR planning documents, and that civil society representatives are involved in monitoring implementation more actively. All PAR planning documents should have outcome-level indicators in place, and implementation reports should provide information about progress towards achievement of those objectives.
- 3) The Government should review and strengthen the costing of all PAR planning documents to provide full and accurate information about the total costs of planned measures, including indicating whether the costs are one-off or recurring. Planning documents should also specify the sources of funding for all measures, including those anticipated from external donors and partner organisations. The MoF, in co-operation with the relevant lead institutions, should strengthen the linkage of PAR strategies with the annual budget and the MTBP, to ensure alignment of budget allocations with reform measures and priorities.
- 4) The overall co-ordination and management of PAR should be strengthened by enlarging the role and decision-making authority of the administrative-level co-ordination bodies for PAR. In addition, co-ordination between the PAR and PFM reform structures should be enhanced by ensuring regular participation of senior-level officials from the MoF at the IPMG-PAR meetings.

<sup>55</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

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Accountability for PAR should be strengthened by assigning the responsibility for monitoring implementation of PAR activities to individual structural units within responsible institutions.

**Medium-term (3-5 years)**

- 5) The Government should carry out a comprehensive evaluation of the whole PAR agenda to inform the discussions and future design of reforms after all of the PAR strategic documents expire in 2020. The Government should evaluate the effectiveness of existing PAR co-ordination structures at both the political and administrative levels, and consider strengthening these mechanisms by providing a greater role and authority to these structures to support the implementation of specific reforms.



## POLICY DEVELOPMENT AND CO-ORDINATION

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

#### 1.1. State of play

The legal and regulatory framework necessary for fulfilling most of the key centre of government (CoG) functions, including those required for co-ordination of the European integration (EI) process, is established. The Office of the Prime Minister (OPM) has a clear mandate to implement critical CoG functions, but the specific roles and responsibilities of its internal departments and units are not defined clearly in the existing regulatory framework. The current system of government strategic planning, monitoring and reporting remains fragmented.

Comprehensive EI co-ordination mechanisms are in place at both the political and administrative levels. The national EI plan is regularly updated and published by the Government. However, the EI plan is not fully aligned with the Government's annual legislative plan, and its implementation is relatively slow.

The quality of analyses supporting new policy proposals remains a major issue. Albania does not have any systematic process or methodology for carrying out proper analyses of the impacts of new policies and laws. In June 2017, the Prime Minister (PM) approved a methodology for piloting Regulatory Impact Assessment (RIA) in selected ministries. However, there is neither plan nor timetable for full institutionalisation of RIA within the current policy-making system after the pilots. Despite the adoption of a new law on public consultation and the creation of an electronic platform in 2016, consultation with external stakeholders on new policies has not yet become an integral part of the overall policy-making process.

#### 1.2. Main developments

The following sections describe key changes in the public administration for each key requirement<sup>56</sup> and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

The Government of Albania amended the rules of procedure (RoP)<sup>57</sup> of the Government in 2015, which have strengthened certain elements of the policy-planning and policy-development system. These changes in the RoP aim to ensure better harmonisation and alignment between the National Plan for European Integration (NPEI) and the Government's annual Analytical Programme<sup>58</sup>, and strengthen the role of the Ministry of European Integration (MEI) during the policy development process. The changes in the RoP<sup>59</sup> have also enhanced the interministerial consultation and co-ordination processes by assigning to the General Secretary of the Council of Ministers (CoM) the additional formal role of discussing draft policy proposals and resolving any outstanding issues during the weekly meetings of the general secretaries of all ministries. Finally, amendments to the RoP of March 2015<sup>60</sup> strengthened the regulatory framework for public consultation by requiring the ministries to summarise and report on the process and outcome of public consultations.

<sup>56</sup> OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Principles-of-Public-Administration\\_Edition-2017\\_ENG.pdf](http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf)

<sup>57</sup> Decision of the Council of Ministers (DCM) No. 584 of 28 August 2003 (DCM No. 584/2003) on the Rules of the CoM, with all subsequent amendments: DCM No. 201 of 29 March 2006 (DCM No. 201/2006), DCM No. 4 of 7 January 2009 (DCM No. 4/2009), and DCM No. 233 of 18 March 2015 (DCM No. 233/2015).

<sup>58</sup> The annual Analytical Programme of Acts of the Government (Analytical Programme), which is also often referred to as "the legislative plan".

<sup>59</sup> RoP of the CoM, Article 48/1. Changes were made in 2015 through DCM No. 233/2015.

<sup>60</sup> Through DCM No. 233 of 18 March 2015.

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In 2016, the Government of Albania approved the second National Strategy for Development and Integration 2015-2020 (NSDI II). This new Strategy has refreshed the policy priorities and reform ambitions of the Government for the medium term.

An Order of the PM<sup>61</sup> has established a new high-level political structure to implement the five priorities set out in the 2013 EU Enlargement Strategy<sup>62</sup>.

The Law on Public Notification and Consultation (Law on Consultation)<sup>63</sup>, approved in 2014, came into force in May 2015. The following October, the CoM adopted a decision<sup>64</sup> to support implementation of the law through the creation of an electronic register of public consultation. The Government launched the online platform in late 2016, but it became operational only in spring 2017.

**Key requirement: Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.**

No major changes or developments have occurred since 2015 affecting this particular key requirement, and the values of the relevant indicators set out in the 2015 SIGMA Baseline Measurement Report on Albania<sup>65</sup> remain the same.

The co-ordination and scrutiny of the content of proposals in the OPM against the requirements of evidence-based policy development and against the Government priorities have not been strengthened, despite it being one of the key recommendations of the Baseline Measurement Report.

The structures and process for co-ordinating and managing EI across the Government, at both the administrative and political levels, are fully established. The costing of EI plans has improved since 2015, as the plans now contain estimates of the costs of the measures envisaged. The reliability of the cost estimates provided, however, is not strong.

**Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports<sup>66</sup>**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Proportion of critical CoG functions that are fulfilled by the institutions.	4	4
	EI functions are fulfilled by the institutions.	3	3

<sup>61</sup> Order of the Prime Minister No. 154 of 21 September 2015 (PM Order 154/2015) on the Establishment of the EU Integration Board.

<sup>62</sup> European Commission (EC) (2013), "Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2013-2014", Brussels, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2013/package/strategy\\_paper\\_2013\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2013/package/strategy_paper_2013_en.pdf)

<sup>63</sup> Law No. 146 of 30 October 2014 (Law No. 146/2014) on Public Notification and Consultation.

<sup>64</sup> DCM No. 828 of 7 October 2015 (DCM No. 828/2015) on the Approval of Rules for the Creation and Administration of the Electronic Register for Notices and Public Consultation.

<sup>65</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, p. 19, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

<sup>66</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

**Key requirement: Policy planning is harmonised, aligned with the government’s financial circumstances and ensures that the government is able to achieve its objectives.**

Many of the shortcomings identified in the 2015 SIGMA Baseline Measurement Report have not been addressed and remain relevant for this monitoring period.

The Government has not yet rationalised and streamlined the planning, monitoring and reporting system, and the overall system remains fragmented. The Government produces various central planning documents and monitoring reports, but not all of them are available publicly and different standards and approaches are used during the preparation of these reports.

Improvements have been made in monitoring and reporting on the NPEI, as regular quarterly reports are produced and published. The NPEI now contains information on the potential costs of most of the measures envisaged, although the methodology used in estimating the costs is not clearly presented.

Since 2015, the costing and financial planning provided in the reports that are produced on the implementation of sector and cross-sector strategies have also improved. As a result, the value of the relevant indicator has increased from 2 to 3.

Annual backlogs in the implementation of planned commitments, as indicated in the central planning documents and in the development of sectoral strategies, are estimated to be 34% and 21% respectively. The implementation backlog concerning EI commitments is estimated to be 47%.

The level of alignment between the financial estimates provided in sector strategies and the funds allocated in the Medium-term Budget Programme (MTBP) is estimated to be 56%. This is a slight improvement compared with the ratio estimates from 2015 (42%) and 2016 (53%).

**Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Completeness of financial estimates in sector strategies <sup>67</sup> .	2	3
	Extent to which reporting provides information on the outcomes achieved.	3	3
<b>Quantitative</b>	Annual implementation backlog of planned commitments in the central planning document(s).	Not available <sup>68</sup>	34%
	Annual backlog in developing sectoral strategies.	Not available <sup>69</sup>	21%
	Ratio between total funds estimated in the sectoral strategies and total funding identified for corresponding sectors within the MTBF <sup>70</sup> .	42%	56%
	Annual implementation backlog of EI-related commitments.	Not available <sup>71</sup>	47%

<sup>67</sup> A sample of five recently adopted sector strategies was used in the assessment.

<sup>68</sup> In 2015, this indicator value was not possible to calculate. The 2017 value is calculated based on a new methodology, using the information about draft laws included in the annual Analytical Programme.

<sup>69</sup> In 2015, this indicator value was not possible to calculate. The 2017 value is calculated based on a new methodology.

<sup>70</sup> The ratio is calculated as a percentage (0% being the minimum and 100% the maximum), illustrating the differences in planned funding in the last five strategies adopted and the MTBF. The outcome value of the indicator is the average of the five cases.

**Key requirement: Government decisions and legislation are transparent, legally compliant and accessible to the public; the work of the government is scrutinised by the parliament.**

During the monitoring period, there were no major developments under this key requirement and the recommendations in the 2015 Baseline Measurement Report remain relevant.

The Government does not send its annual legislative plan to the Parliament before the start of the new legislative year to allow sufficient time for co-ordination and planning of the work in the Parliament. This delay is largely due to the Government approving its annual legislative plan late in the calendar year, and there is no formal requirement for the Government to submit its plan to Parliament.

While in 2015 all Government-sponsored laws were approved within a year after their submission to the Parliament, in 2016 the approval of a very small number of laws took longer than one year (3% of the total number).

The Government does not proactively involve the Parliament in the discussion of evaluation reports on major laws. Information about the number of law implementation reports discussed in the Parliament in 2016 was not provided.

**Table 3. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Quantitative</b>	Ratio of regular agenda items submitted on time <sup>72</sup> by ministries to the government session.	Not available <sup>73</sup>	28%
	Ratio of laws initiated by the government and approved by the parliament no later than one year after submission.	100%	97%
	Number of law implementation reports discussed in the parliament.	13	Not available <sup>74</sup>

**Key requirement: Inclusive, evidence-based policy and legislative development enables the achievement of intended policy objectives.**

Despite several positive steps and changes initiated by the Albanian administration, overall no major improvement has been made in the policy development area during the 2015-2017 period. The values of most of the relevant indicators used in the 2015 assessment therefore remain unchanged.

The orientation of line ministries towards policy development, in terms of the proportion of staff involved in policy-making tasks, has remained the same. SIGMA's recommendation in 2015 to establish internal ministerial rules for policy development has not been implemented and remains relevant.

The quality of the policy-development process remains low. The recommendation to develop an *ex ante* system of impact assessment has not been implemented. Moreover, guidance on costing, public consultation, and policy analysis by line ministries has not been elaborated. The approach to regular training of ministry staff on policy development has also not improved. The Law on Consultation has

<sup>71</sup> As the nature of the plan that could serve to calculate the backlog changed in 2014, it was not possible in 2015 to compare it with previous plans to calculate the backlog.

<sup>72</sup> Submission "on time" is understood to mean submission within the procedural time frame set by the regulation(s).

<sup>73</sup> The administration did not provide data to SIGMA in 2015, as this information was not collected in a systematic way. The ratio for 2017 is based on the number of items submitted during the last quarter of 2016, according to information provided by the OPM.

<sup>74</sup> Information on the number of law implementation reports discussed in the Parliament in 2016 was not provided.

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not been implemented fully, and the impact and benefits of the new processes and standards introduced by the Law have not yet been realised.

The process of interministerial consultation is well established, but ministries often miss the deadlines set in the RoP for providing their opinions. The weekly meeting of general secretaries has been officially designated as a consultative mechanism to discuss and resolve issues around specific policy proposals. The departments and units of the OPM do not participate in the interministerial consultation process consistently and systematically.

Apart from a few old laws, all legislation is available online, which is an improvement compared with the situation recorded in 2015. The publication process is adequately regulated. Consolidated versions of primary laws have been developed, which marks a major improvement from 2015. However, the value of the indicator assessing the extent to which primary and secondary legislation is made publicly available in a centralised manner remains at 2 because the central electronic database does not include some of the old laws.

**Table 4. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which ministries are oriented towards policy development.	4	4
	Extent to which the policy development process makes the best use of analytical tools.	2	2
	Extent to which public consultation is used in developing policies and legislation.	2	2
	Extent to which the interministerial consultation process occurs.	4	4
	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	2	2

## 2. ANALYSIS

This analysis covers 12 Principles for the policy development and co-ordination area grouped under 4 key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>75</sup>, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

### Policy planning and co-ordination

**Key requirement: Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



#### Analysis of Principles

**Principle 1: Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.**

Almost all critical CoG functions<sup>76</sup> required for a well-organised, consistent and competent policy-making system, except for the co-ordination of government communication activities to ensure coherent government messages<sup>77</sup>, are established and assigned to the relevant CoG institutions. The regulatory framework includes the Law on Organisation and Functioning of the CoM<sup>78</sup> and the RoP of the CoM<sup>79</sup>. The institutions fulfilling the CoG functions are the OPM, the Ministry of Justice (MoJ), the Ministry of Finance (MoF), and the MEI.

Many CoG functions are assigned to the General Secretary of the CoM, who performs these functions with the assistance of various departments and structural units of the OPM<sup>80</sup>. The CoG functions of ensuring the affordability of policies and co-ordinating public sector resource planning are primarily

<sup>75</sup> OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>76</sup> The critical functions of CoG as defined in OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Principles-of-Public-Administration\\_Edition-2017\\_ENG.pdf](http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf)

<sup>77</sup> Despite the absence of a clear regulatory basis, this CoG function is carried out in practice by the OPM's Department of Communication and Regulations with Citizens.

<sup>78</sup> Law No. 9000 of 30 January 2003 (Law No. 9000/2003) on the Organisation and Functioning of the CoM.

<sup>79</sup> DCM No. 584 of 28 August 2003 on the Approval of Rules of the CoM, with subsequent amendments by DCM No. 201 of 29 March 2006, DCM No. 4 of 7 January 2009, and DCM No.233 of 18 March 2015.

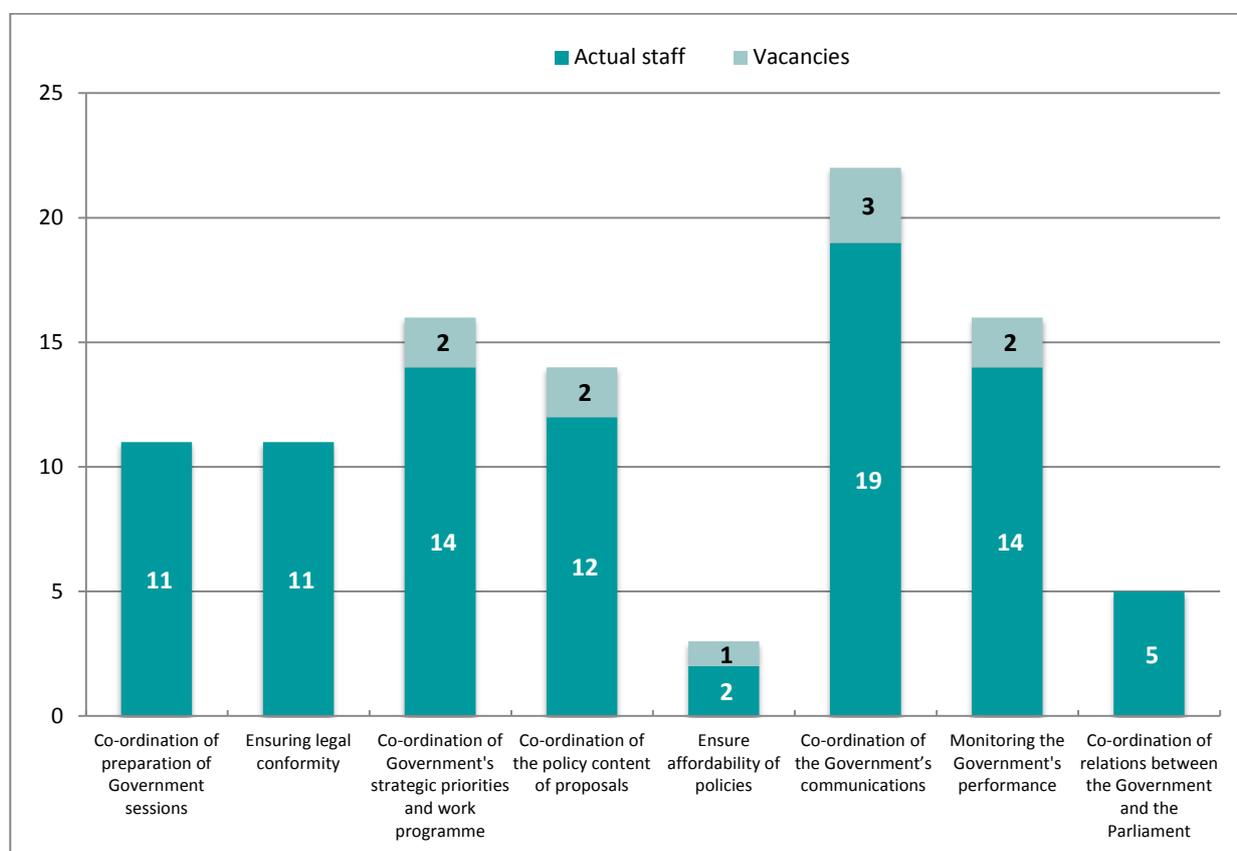
<sup>80</sup> The General Secretary of the CoM, who is the most senior civil servant in the country, heads the staff of the OPM. He/She is the lead official formally designated by legislation as being responsible for the relevant CoG functions. The internal organisational structure of the OPM was established by Order of the Prime Minister No. 163 of 2 November 2016 (PM Order No. 163/2016).

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assigned to the MoF, while the functions requiring the co-ordination of EI affairs are assigned to the MEI. The MoJ and the Department of Legislation, Programme Monitoring and Anti-corruption (DLPMA) of the OPM jointly perform checks on the legal compliance and conformity of policy proposals. The Minister of State for Relations with the Parliament (MoSRP) leads and manages the relationship between the Government and the Assembly of the Republic of Albania (the Parliament)<sup>81</sup>.

Although the OPM, through the General Secretary of the CoM, has a clear mandate and authority to fulfil essential CoG functions, the specific mandate, roles and responsibilities of its internal departments and units are not clearly defined by the existing regulatory framework<sup>82</sup>. The OPM has not been established by means of a specific order of the PM, and no detailed “rulebook” has been elaborated for the OPM<sup>83</sup>. Although information on each individual OPM unit can be derived from its job descriptions, the absence of a formal “rulebook” for the OPM and the lack of clarity with regard to the role and function of each of its organisational units do not ensure the full co-ordination and coherence of all activities performed by the OPM.

**Figure 1. Staff allocation to critical CoG Functions in the Office of the Prime Minister\***



\* In addition to the OPM staff, there were 17 planned (13 actual) staff working in the Ministry of Justice on ensuring legal conformity of proposals, and 10 planned (5 actual) staff working in the Ministry of Finance on ensuring affordability of policies. Source: Office of the Prime Minister.

<sup>81</sup> As a minister without portfolio, the MoSRP is supported by a small cabinet which is formally part of the OPM.

<sup>82</sup> PM Order of the PM No. 163 of 2 November 2016 established only the internal organisational structure and staff numbers. It was mentioned during SIGMA interviews with the Albanian administration that there is a constitutional debate on whether the OPM, not being a ministry, was entitled to have its own systematisation (i.e. “rulebook”).

<sup>83</sup> The PM approves the Individual rulebooks, which define the roles, responsibilities and functions of each structural unit in the ministries.

The existing regulatory framework<sup>84</sup> provides limited guidance to line ministries to support implementation of some of the important CoG functions<sup>85</sup>, and no detailed guidance is available for developing policy proposals and public consultations. Although the RoP contain some general guidance on the legal drafting process, it does not cover the whole policy development cycle in sufficient detail.

Discussions between the various CoG institutions and units and co-ordination of their activities during the preparation of the Government’s annual Analytical Programme are not fully ensured by the current regulatory framework and working arrangements. Since 2015 the MEI has been co-ordinating preparation of the NPEI with the DLPMA to ensure it is better aligned with the annual Analytical Programme. Overall, discussion between various CoG units on line ministries’ proposed measures for inclusion in the annual Analytical Programme is limited<sup>86</sup>.

The DLPMA of the OPM reviews and consolidates opinions on individual policy proposals by using an electronic platform (the “e-Acts” system). Overall, this process is organised and managed well, and other OPM units are consulted. However, the decision to consult other CoG institutions and bodies at the final stage of the policy approval process is made by the relevant DLPMA lead officer reviewing the case. Therefore, there is a risk that not all policy proposals are checked against other Government priorities and programmes, as well as against the previously announced policies.

The value for the indicator ‘Fulfilment of critical functions by centre-of-government institutions’ is 3.

Fulfilment of critical functions by the centre-of-government institutions					
This indicator measures to what extent the minimum requirements for functions critical to a well-organised, consistent and competent policy-making system are fulfilled by the centre-of-government institutions.					
As this indicator is used to assess the fulfilment of the minimum requirements, it does not measure outcomes or include quantitative sub-indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.					
Overall indicator value	0	1	2	3	4

Sub-indicators	Points
1. Critical functions are assigned to CoG institutions by legislation	7/8
2. Availability of guidelines to line ministries and other government bodies	2/4
3. Institutionalisation of co-ordination arrangements between the CoG institutions	2/4
<b>Total<sup>87</sup></b>	<b>11/16</b>

**Although the regulatory framework establishes key requirements for policy development and public consultation, there is no detailed guidance available to facilitate strong, evidence-based policy development. Co-ordination and consultation among various CoG institutions on line ministries’ proposals on the Government’s annual work plan is limited.**

<sup>84</sup> Law on Organisation and Functioning of the Council of Ministers No. 9000/2003; DCM No. 584/2003; Order of the Prime Minister No. 93 of 7 August 2012 (PM Order No. 93/2012) on Drafting of Sector and Cross-Sector Strategies; DCM No. 692 of 11 May 2005 on the Integrated Planning System (DCM No. 692/2005); Law No. 146/2014 on Public Consultation; specific guidance provided by different OPM units.

<sup>85</sup> Specific areas in which the availability of detailed guidance was checked include: preparation of the annual work plan of the Government; monitoring of Government performance and preparation of regular reports; how to draft legal acts and ensure legal conformity; how to develop policy proposals (except sector strategies); how to carry out public consultations; and how to develop sector strategies.

<sup>86</sup> This particularly relates to the discussions and co-ordination between the MoF and the OPM, and co-ordination and consolidation of opinions of different units of the OPM on the draft Analytical Programme.

<sup>87</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-12=3, 13-14=4, 15-16=5.

**Principle 2: Clear horizontal procedures for governing the national European integration process are established and enforced under the co-ordination of the responsible body.**

The existing regulatory framework<sup>88</sup> establishes all critical functions<sup>89</sup> and procedures required for the effective co-ordination and management of the EI process. The function of co-ordinating accession negotiations has not been established, as it is not yet relevant in view of the current stage of the country's integration into the European Union (EU).

Sufficient guidance<sup>90</sup> is available to line ministries to support the implementation of EI functions in all relevant areas, including the preparation of EI planning documents, monitoring and reporting on EI plans, approximation of national legislation with the EU *acquis*, and translation of the relevant EU legislation. Some of the guidelines and reporting tools of the European Commission are also being used in the harmonisation process, where relevant<sup>91</sup>.

Well-functioning co-ordination mechanisms for managing the EI process have been established at both the political and administrative levels. At the political level, the co-ordination structure includes the Interministerial Committee for EI (ICEI), the Inter-institutional Co-ordination Committee for EI (ICCEI)<sup>92</sup> and the MEI. In addition, a new high-level political structure, chaired by the PM, was established in 2015 to follow up and monitor implementation of the five key EU reform priorities for Albania<sup>93</sup>.

At the administrative level, Inter-institutional Working Groups for EI (IWGs)<sup>94</sup> are established for all of the 33 relevant chapters<sup>95</sup> of the *acquis*. Each of the IWGs is supported by a secretariat, which is provided by the relevant lead institution responsible for the specific area/chapter. EI units have been established and are fully functioning in all line ministries. They provide an additional layer of administrative support for the implementation of EI-related activities and programmes across all ministries.

The regulation on interministerial co-ordination bodies requires regular meetings of political-level structures (once every quarter for ICEI and twice a month for ICCEI), but these structures are not meeting frequently. The ICEI met once in 2016, while the ICCEI met only twice in the year<sup>96</sup>. However, five meetings of the newly established EU Integration Board were held in 2016. Discussions of EI-related issues can also take place during the regular weekly meetings of the general secretaries of all ministries.

Overall, administrative support to the EI process is fully ensured through the functioning of the IWGs, the MEI and the EI units within ministries. There were 238 meetings of different IWGs in 2016<sup>97</sup>, and the MEI has the mandate and capacity to lead and manage the EI process. It prepares and publishes

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<sup>88</sup> DCM No. 580/2004 on the scope of the MEI; DCM No. 946/2013 on Establishing the Responsibilities and Functioning of the MEI; PM Order No. 174/2016 on the MEI; DCM No. 584/2003 on Approval of the Rules of the CoM (RoP).

<sup>89</sup> According to *The Principles of Public Administration*, p. 22, the main EI functions are: overall daily co-ordination of EI; planning of EI, including costing of reforms; monitoring country preparations for the EI process, including preparation of reports on EI policies; co-ordinating the alignment of national legislation with the EU *acquis*; co-ordinating the planning and overall monitoring of EU assistance; and co-ordinating accession negotiations.

<sup>90</sup> DCM No. 438/2014 on NPEI and Monitoring; DCM No. 584/2003 on Approval of the Rules of the CoM; and DCM No. 119/2007 on Translation of EU Legislation.

<sup>91</sup> For example, the EU guidelines and templates necessary for planning, monitoring and reporting are used.

<sup>92</sup> The ICEI and the ICCEI were established by Order of the Prime Minister No. 46 of 1 April 2009 (PM Order No. 46/2009) on the Establishment, Composition and Functions of Interministerial Co-ordination Bodies Addressing the Commitments Taken on Under the Stabilisation and Association Agreement. The ICEI is chaired by the Prime Minister, while the ICCEI is chaired by the Minister of EI.

<sup>93</sup> Order of the Prime Minister No. 154 of 21 September 2015 on the Establishment of the EU Integration Board.

<sup>94</sup> IWGs were established by Order of the Prime Minister No. 107 of 28 February 2014 on the Establishment, Composition and Functions of the Inter-institutional Working Groups for EI.

<sup>95</sup> Chapter 34 (institutions) and Chapter 35 (other issues) are not yet relevant.

<sup>96</sup> Information provided by the MEI.

<sup>97</sup> Information provided by the MEI after the assessment interviews.

the NPEI plans, and monitors and reports on their implementation on a regular basis. Since 2016, the quality of NPEI plans has improved, as they now contain information on the estimated costs of the measures envisaged. However, the robustness and reliability of the cost estimates reported in the NPEI plans cannot be confirmed<sup>98</sup>.

Key EI-related checks and processes are fully embedded within the existing policy-making system through the required provisions of the RoP. This ensures, for example, that the MEI is fully consulted during the policy development process, and its formal opinion on draft policy proposals is required and checked at the final stage of the policy approval process.

Owing to the strong EI co-ordination and management structures and capacity, the overall value for the indicator 'Fulfilment of European integration functions by the centre-of-government institutions' is 4.

Fulfilment of European integration functions by the centre-of-government institutions						
This indicator measures to what extent the minimum criteria for European integration functions are fulfilled by the CoG institutions.						
As this indicator is used to assess the fulfilment of the minimum criteria, it does not measure outcomes or include quantitative indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Proportion of the EI functions that are assigned to the CoG institutions by law	5/6
2. Availability of guidelines to line ministries and other government bodies	3/4
3. Government's capacity for co-ordination of EI	6/8
<b>Total<sup>99</sup></b>	<b>14/18</b>

**Existing regulations establish and assign all of the relevant EI functions to the responsible CoG institutions. Comprehensive EI co-ordination mechanisms are in place at both the political and administrative levels; however, these co-ordination structures, especially at the political level, do not meet regularly. Establishment of the EU Integration Board could potentially undermine the mandate and status of the ICEI as the main political-level EI co-ordination mechanism. The MEI has a clear mandate and the capacity to co-ordinate and manage the EI process.**

### Key recommendations

#### Short-term (1-2 years)

- 1) The Government should formally establish the roles and responsibilities of the various OPM structural units, and strengthen their internal co-ordination arrangements.
- 2) All relevant CoG institutions, including the various units of the OPM, should be fully and regularly consulted during preparation of the Government's annual Analytical Programme to ensure full coherence and alignment of the planning document with political commitments and priorities, as well as with previously announced Government policies.

<sup>98</sup> It is not clear how the cost estimates in the NPEI have been calculated and whether they cover the full costs of the planned measures.

<sup>99</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-13=3, 14-16=4, 17-18=5.

- 3) The Government should ensure that the relevant structures for EI co-ordination, particularly those at the political level, meet regularly. The Government should also ensure that clear and consistent political co-ordination and direction for the EI process are provided through the ICEI and the EI Implementation Board.
- 4) The MoF, in co-operation with the OPM, should prepare a detailed methodology and guidance on costing of policy proposals, including for EI-related measures. Line ministries should provide accurate costing estimates for planned EI measures.

**Medium-term (3-5 years)**

- 5) The Government should consider clarifying the roles and responsibilities of the MoJ and the OPM in the process of legal scrutiny and compliance checks of draft policy proposals. The Government should consider amending the existing regulatory framework to formally establish the function of co-ordination of government communication.

**Key requirement: Policy planning is harmonised, aligned with the government’s financial circumstances and ensures that the government is able to achieve its objectives.**

The values of the indicators assessing Albania’s performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



**Analysis of Principles**

**Principle 3: Harmonised medium-term policy planning is in place, with clear whole-of-government objectives, and is aligned with the financial circumstances of the government; sector policies meet the government objectives and are consistent with the medium-term budgetary framework.**

The medium-term policy-planning system is built on the Integrated Planning System (IPS), which was developed in 2005<sup>100</sup>. Through the IPS, the Government aimed to establish a harmonised policy-planning system that would link the Government’s strategic policy priorities with mid-term financial planning and with sector and cross-sector strategies. Together with several other regulations adopted in recent years<sup>101</sup>, the IPS still provides the underlying regulatory framework for the Government’s strategic planning. It also establishes, in general terms, the role and status of each of the various strategic planning documents. However, some elements and processes envisaged in the IPS have not

<sup>100</sup> DCM No. 692 of 10 November 2005.

<sup>101</sup> Law No. 9000/2003 on Organisation and Functioning of the Council of Ministers; PM Order No. 93/2012; Organic Budget Law No. 9936 of 26 June 2008; PM Order No. 183/2014 on the Preparation of the NSDI; and PM Order No. 850/2014 on the Drafting of the NSDI 2014-2020.

been fully implemented and/or are no longer relevant<sup>102</sup>. Therefore, the current framework for medium-term planning based on the IPS is outdated and needs to be revised and streamlined<sup>103</sup>.

The following documents are included in the current medium-term strategic framework for policy planning in Albania: the Government Programme<sup>104</sup>, which confirms the political priorities and objectives of the Government for the period 2013-2017; the NSDI II, which sets out the vision and direction of reforms over a medium-term period; the MTBP; and the NPEI. In addition, 37 sectoral and cross-sectoral strategies complement and complete the current strategic framework for medium-term policy planning<sup>105</sup>. The 6 priorities stemming from the Government Programme and the 56 related ministerial priorities are reflected in the NSDI II and in the sectoral strategies. The annual Analytical Programme and the state Budget are the two main short-term (annual) policy planning documents of the Government.

In addition, the operational plans of ministries, which are co-ordinated and led by the OPM, aim to operationalise the Government Programme 2013-2017 and increase the alignment with other strategic planning documents. The Legislation and Programme Monitoring Unit (LPMU) of the OPM leads preparation and reporting on the ministries' operational plans, using an electronic system for managing the monitoring and reporting process. However, these plans are not established by the existing regulatory framework and the annual operational plans of individual ministries are not formally approved by the Government.

The regulations<sup>106</sup> establish a clear process for elaborating the Government's annual Analytical Programme, which is the formal government annual work plan<sup>107</sup>. The Programme is prepared through a bottom-up approach that consolidates proposals received from individual ministries. While the process of preparing the Analytical Programme has been established and is well managed by the DLPMA, no systematic process is in place for discussing the final consolidated draft of the Programme with other CoG institutions and OPM units so as to ensure coherence and consistency across all priority areas and with all strategic plans of the Government.

Alignment between different central planning documents varies significantly. Since 2016, the OPM and the MEI have intensified their co-ordination of Analytical Programme preparation activities to ensure its alignment with the NPEI. However, these additional efforts have not yet produced tangible results, as full alignment of these two central planning documents is not yet ensured<sup>108</sup>. Similarly, the level of alignment between the Analytical Programme and sector strategies<sup>109</sup> is estimated to be 21%; only 15 out of 19 legislative commitments envisaged in the five sample strategies reviewed have been included

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<sup>102</sup> For example, the IPS envisages the preparation of annual government action plans, which have not been elaborated. Instead, the Government has initiated and introduced operational plans in ministries.

<sup>103</sup> Since 2010, the Government has been trying to improve the planning system through creation of an Integrated Planning System Information System (IPSIS). This process, however, has not yet been completed.

<sup>104</sup> Alliance for European Albania, Government Programme 2013-2017, 2013.

<sup>105</sup> The list of strategies is provided in Annex 1 of the NSDI II.

<sup>106</sup> Law No. 9000/2003; DCM No. 584/2003; Order of the Prime Minister No. 93 of 7 August 2012 (PM Order No. 93/2012) on Drafting of Sector and Cross-Sector Strategies; DCM No. 692 of 11 May 2005 on the Integrated Planning System (DCM No. 692/2005); Law No. 146/2014; and guidance provided by the OPM.

<sup>107</sup> Includes draft laws and decisions of the CoM.

<sup>108</sup> Alignment between the NPEI and the Government's Analytical Programme is 77% (based on draft laws). This issue is discussed in greater detail in the following section.

<sup>109</sup> The following strategies were reviewed: the Transport Sector Strategy and Action Plan 2016-2020, approved 16 November 2016 (DCM No. 811/2016, Official Gazette No. 230); the National Strategy on Gender Equality, Reduction of Gender-Based Violence and Domestic Violence and Action Plan 2016-2020, approved 20 October 2016 (DCM No. 733/2016, Official Gazette No. 201); the Strategy for Land Consolidation, approved 12 October 2016 (DCM No. 700/2016, Official Gazette No. 218); the National Strategy for Fishing 2016-2021, approved 12 October 2016 (DCM No. 701/2016, Official Gazette No. 203); and the National Strategy for Intellectual Property 2016-2020, approved 20 July 2016 (DCM No. 527/2016, Official Gazette No. 140). The legislative commitments planned to be initiated in 2017 were identified and compared with the legislative measures included in the 2017 Analytical Programme.

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in the annual Analytical Programme<sup>110</sup>. Overall, it is estimated that 34% of the planned legislative commitments in the 2016 Analytical Programme were carried forward to the next year.

The existing regulatory framework<sup>111</sup> establishes a clear process for the development of sector and cross-sector strategies. It also provides guidance to ministries on the structure and drafting of the strategies. Line ministries are required<sup>112</sup> to submit draft sector and cross-sector strategic documents to the Department of Development and Foreign Aid of the OPM for preliminary review and initial approval before submitting them to the CoM for final approval. The strategies are expected to contain information on their financial resources and their cost of implementation<sup>113</sup>. Since 2015, the quality of the costing of sector strategies and their alignment with the MTBP have improved slightly, however, information on financing sources is still often lacking. The alignment between the planned costs in sector strategies and the costs envisaged in the MTBP is estimated at 56%.

The Government develops and approves most of the sector strategies on time, in accordance with its original plan. It is estimated that 21% of all strategies that were to be developed in 2016 were postponed.

Overall, in view of the weaknesses of the various central policy-planning documents in terms of quality and alignment, the value for the indicator 'Quality of policy planning' is 3.

Quality of policy planning						
This indicator measures the legislative, procedural and organisational set-up established for harmonised policy planning and the quality and alignment of planning documents. It also assesses the outcomes of the planning process (specifically the number of planned legislative commitments and sector strategies carried forward from one year to the next) and the extent to which the financial implications of sectoral strategies are adequately estimated.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Adequacy of the legal framework for policy planning	7/7
2. Availability of guidance to line ministries during the policy-planning process	4/4
3. Alignment between central policy-planning documents	0/6
4. Planned commitments carried forward in the legislative plan of the government (%)	2/4
5. Planned sectoral strategies carried forward (%)	3/4
6. Completeness of financial estimates in sector strategies	3/5
7. Alignment between planned costs in sector policy plans and medium-term budget (%)	2/3
<b>Total<sup>114</sup></b>	<b>21/33</b>

<sup>110</sup> It should be noted, however, that many of the legislative commitments in the sector strategies reviewed do not clearly specify the actual draft legislation that would be initiated. Therefore, the analysis is limited to only those legislative commitments which were possible to identify and confirm based on the information provided in the strategy documents.

<sup>111</sup> Order of the PM No. 93 of 7 August 2012 on the Preparation of the National Sector and Cross-Sector Strategies for the Period 2013-2020.

<sup>112</sup> *Idem*, part 4.

<sup>113</sup> Order of the PM No. 93/2012.

<sup>114</sup> Point conversion ranges: 0-5=0, 6-11=1, 12-17=2, 18-23=3, 24-29=4, 30-33=5.

The medium-term policy-planning system of Albania, which is built on the IPS adopted in 2005, has not been completed and remains fragmented. The central planning documents and various processes used during planning are not fully aligned, and operational plans used to monitor the Government's performance are not formally approved and published. Since 2015, the quality of costing of sector strategies and their alignment with the MTBP have improved slightly.

*Principle 4: A harmonised medium-term planning system is in place for all processes relevant to European integration and is integrated into domestic policy planning.*

The main components of the EI planning and monitoring system, as well as the methodology of the EI plan, were established by DCM No. 946 of 2013 (DCM No. 946/2013)<sup>115</sup> and Order of the PM No. 108 on Drafting and Reviewing the National Plan for European Integration, 2014 – 2020 (PM Order No. 108/2014)<sup>116</sup>. According to this regulatory framework, the NPEI is recognised and confirmed as the main central planning document for EU integration processes in Albania. The Government has also approved a roadmap for co-ordinating implementation of the five key EI priorities<sup>117</sup>.

Strong co-ordination structures and mechanisms have been established at both the political and administrative levels for leading and managing the overall EI process. Preparation of the NPEI and subsequent monitoring and reporting activities are led and managed by the MEI, in co-ordination with the IWGs that have been established and function under the various government institutions responsible for the relevant negotiating chapters of the *acquis*. The existing regulatory framework<sup>118</sup> provides guidance for lead ministries and other government institutions to assist them in preparing and monitoring the NPEI.

The NPEI, in its current format and structure, was prepared and approved in 2014<sup>119</sup>. The NPEI initially covered a seven-year period, from 2014 until 2020. The Government has since prepared and published regular revisions of the plan, with the most recent version approved and published in January 2017<sup>120</sup>.

The NPEI 2017-2020 is a comprehensive document, providing detailed information on the existing and envisaged policy and legal framework across the 33 main negotiating chapters of the *acquis*. Lead institutions and deadlines are clearly assigned for all measures. Since 2016, the NPEI provides information on the estimated costs of about 70% of the measures planned; it also provides information about sources of funding, including those provided by the EU and other external donors. However, it is not possible to confirm the reliability and accuracy of these cost estimates, as it is not clear how they have been calculated and whether they capture the full costs associated with implementation of the planned measures. Additionally, the plan only includes measures related to the development of new legislation and strategies; little information is provided about non-legislative activities related to the EI process.

Alignment of the NPEI with the Analytical Programme is weak. It is estimated that only 77% of all legislative measures (draft laws) of the NPEI were included in the Government's annual Analytical Programme (the legislative plan). This is partly because that not all legislative commitments from the NPEI are included in the Analytical Programme<sup>121</sup>.

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<sup>115</sup> DCM No. 946 of 9 October 2013 on the Scope of the Ministry of European Integration.

<sup>116</sup> PM Order No. 108 of 28 February 2014 on Drafting and Reviewing the National Plan for European Integration, 2014–2020.

<sup>117</sup> DCM No. 330 of 28 May 2014 on the Approval of the Roadmap for the Five Priorities Recommended by the European Commission 2013.

<sup>118</sup> Order of the PM No. 108/2014.

<sup>119</sup> The first EI plan for implementation of the Stabilisation and Association Agreement with the EU was approved by DCM No. 463 of 5 July 2006.

<sup>120</sup> DCM No. 42 of 25 January 2017.

<sup>121</sup> The percentage (77%) is calculated by comparing the number of draft laws included in the 2017 annual Analytical Programme of the Government and the 2017 NPEI.

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The MEI regularly monitors implementation of the NPEI and publishes reports on its findings. The implementation rate of the EI plan, measured by the number of items planned and approved during a reporting year, is 56%<sup>122</sup>. The backlog of planned EI measures, based on review of the 2016 and 2017 plans, is estimated to be 47%, indicating weaknesses in the quality and reliability of current EI planning by relevant lead institutions.

In view of the weaknesses and shortcomings of EI plans and their low implementation rate, the value for the indicator ‘Quality of policy planning for European integration’ is 1.

Quality of policy planning for European integration						
This indicator analyses the legislative set-up established for policy planning of the European integration (EI) process and the quality and alignment of planning documents for EI. It also assesses the outcomes of the planning process (specifically the number of planned legislative EI-related commitments carried forward from one year to the next) and the implementation rate of planned EI-related commitments.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. The legal framework enables harmonised planning of EI	2/2
2. Quality of planning documents for EI	2/6
3. EI-related commitments carried forward	1/4
4. Implementation rate of the government’s plans for EI-related legislative commitments (%)	0/4
<b>Total<sup>123</sup></b>	<b>5/16</b>

**Albania has a comprehensive framework for medium-term EI planning, led and managed by the Ministry for EI. The NPEI, as the Government’s central planning document for EU integration, provides detailed information on planned measures, including estimated costs and sources of funding for many of them. The actual implementation rate of measures included in the EI plan is low, and a significant proportion of the measures envisaged are being postponed to the following year. Alignment between the NPEI and the Government’s Analytical Programme is also low.**

***Principle 5: Regular monitoring of the government’s performance enables public scrutiny and supports the government in achieving its objectives.***

A fragmented regulatory framework<sup>124</sup>, comprised of several legal instruments, stipulates that the Government is to monitor and report on its performance through various central planning documents as well as sector and cross-sectoral strategies. Several CoG institutions are involved in monitoring and reporting activities, using various reporting tools, templates and standards. The roles of all the institutions and units involved in monitoring and reporting activities are not clearly established.

<sup>122</sup> This implementation rate is calculated based on review of the NPEI plans of 2016 and 2017.

<sup>123</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

<sup>124</sup> The legal framework for monitoring key planning documents consists of: 1) for the annual Analytical Programme of the Government, Law No. 9000/2003 on Organisation and Functioning of the CoM; 2) for the NPEI, Order of the Prime Minister No. 108/2014 on the Drafting of the NPEI 2014-2020; 3) for the state budget, Organic Budget Law No. 9936/2008 and Guidelines of the Minister of Finance No. 22 of 18 November 2016 on Standard Procedures for Budget Monitoring; and 4) for sector strategies, PM Order No. 93/2012 on the Preparation of Sector and Cross-Sector Strategies. Monitoring reports based on the operational plans do not have a clear regulatory basis.

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The Law on the Organisation and Functioning of the CoM<sup>125</sup> requires all members of the CoM to provide regular reports (at least once a year) to the PM and the General Secretary of the CoM on the implementation of legal acts adopted by the CoM. The law also requires ministries to report on activities they have undertaken to fulfil the Government's (political) Programme<sup>126</sup>. However, the existing regulation does not require preparation and publication of a consolidated report on implementation of the Analytical Programme or the Government's Programme.

The LPMU of the OPM monitors implementation of the Analytical Programme and the operational plans of ministries, but the monitoring reports are not published<sup>127</sup>. Furthermore, concerns<sup>128</sup> about the quality of information and data included in the operational plans undermine the reliability of the monitoring reports produced. The LPMU also monitors implementation of the "commitments and political promises" of the Government. In addition, the Delivery Unit of the OPM monitors and reports on the Government's performance against the six priorities set in its political programme.

PM Order No. 93/2012 establishes the standards and requirements for monitoring and reporting on sectoral and cross-sectoral strategies, including a requirement to consult with and involve external stakeholders in the monitoring process. The Policy Development and Strategic Planning Unit (PDSPU) of the OPM has a mandate to lead and co-ordinate monitoring and reporting on implementation of sectoral and cross-sectoral strategies. Sector strategy implementation reports, especially those included in the EU Sector Budget Support programme<sup>129</sup>, are published on the websites of the lead ministries concerned. The PDSPU also monitors implementation of the NSDI.

The MEI carries out regular monitoring and reporting on the NPEI, in line with the requirements established by DCM No. 946/2013<sup>130</sup>. The MEI monitoring reports provide detailed information on the outputs actually achieved, but little information is available about the actual outcomes and objectives.

The quality of reports prepared for the planning documents varies significantly. Reports on the Analytical Programme and on operational plans, for example, primarily provide statistical information on the actual number of measures completed, and offer limited information on the policy objectives of the implemented policies or laws. The implementation reports of sector strategies, however, provide information on progress achieved in meeting the objectives, using both output and outcome indicators.

Overall, because of fragmentation of the existing monitoring and reporting framework and the weaknesses and shortcomings identified in the actual reports analysed, the value for the indicator 'Quality of government monitoring and reporting' is 2.

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<sup>125</sup> Law No. 9000/2003, Article 28, part 4.

<sup>126</sup> Government Programme 2013-2017.

<sup>127</sup> The latest monitoring report, covering 2013-2017, was prepared in January 2017. However, the report is not available online and was not published in hard copy for the public.

<sup>128</sup> These concerns were voiced during interviews conducted by SIGMA with officials of the OPM and of selected line ministries.

<sup>129</sup> Strategies included in the Sector Budget Support programme are normally required to publish implementation reports on their website.

<sup>130</sup> DCM No. 946 of 9 October 2013 on the Scope of the Ministry of European Integration.

Quality of government monitoring and reporting						
This indicator measures the strength of the legal framework regulating reporting requirements, the quality of government reporting documents and the level of public availability of government reports.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
1. The legal framework enables good monitoring and reporting	3/8
2. Quality of reporting documents	6/12
3. Public availability of government reports	3/5
Total <sup>131</sup>	12/25

**The legal framework for monitoring and reporting on the central Government planning documents is fragmented, and the roles and responsibilities of the various CoG units involved in this process have not been clearly established. There is no requirement in the existing regulatory framework to prepare and publish regular reports on the Analytical Programme, and monitoring reports prepared on the operational plans are not published.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) The Government should streamline and rationalise the existing planning documents and ensure that the various plans, including the MTBP, are fully aligned with each other. It should also strengthen co-ordination among the different government units involved in planning, monitoring and reporting processes.
- 2) The Government should adopt and implement the new methodology for monitoring and reporting on cross-cutting and sector strategies. The OPM should provide necessary guidance to ministries to support implementation of the new methodology.
- 3) The Government should introduce a requirement and guidance for ministries to report on implementation of the Government's Analytical Programme. Annual reports on the Analytical Programme should be prepared and published on a regular basis.
- 4) The MEI should review and improve the methodology and process for preparing and updating the NPEI, and ensure that a more realistic and accurate time frame for implementation is provided. The NPEI should be fully aligned with other Government planning documents, such as the Analytical Programme and the MTBP. The methodology for costing EI measures should be strengthened to provide a more accurate picture of financial implications of the overall EI plan.

**Medium-term (3-5 years)**

- 5) The Government should carry out a comprehensive review of existing monitoring and reporting practices, including the various IT systems, methodologies and tools used in developing those plans, with a view to streamlining and strengthening the current system and procedures. Monitoring practices and systems should be unified and integrated into a single central system.

**Key requirement: Government decisions and legislation are transparent, legally compliant and accessible to the public; the work of the government is scrutinised by the parliament.**

<sup>131</sup> Point conversion ranges: 0-3=0, 4-7=1, 8-12=2, 13-17=3, 18-21=4, 22-25=5.

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The values of the indicators assessing Albania’s performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



**Analysis of Principles**

***Principle 6: Government decisions are prepared in a transparent manner and based on the administration’s professional judgement; the legal conformity of the decisions is ensured.***

The Law on Organisation and Functioning of the CoM<sup>132</sup> and the RoP of the CoM<sup>133</sup> establish the rules and procedures of the Government’s decision-making processes. The existing legal framework sets out clear rules and procedures for preparation, follow-up and communication concerning the sessions of the CoM, which is the highest decision-making body in the Government. It also confirms the roles and responsibilities of the various CoG institutions for ensuring legal compliance<sup>134</sup>, assessing the financial impacts and affordability of policies<sup>135</sup>, and checking the legal conformity of policy proposals with the *acquis*<sup>136</sup>. The opinions of the relevant institutions responsible for these and other similar checks (if necessary<sup>137</sup>) must be included in the final package of documentation when the policy proposal is submitted to the OPM for inclusion in the agenda of the Government session. In addition to the MoJ, the DLPMA of the OPM also checks the legal conformity of policy proposals, as required by the current regulatory framework.

The General Secretary of the OPM, acting through the DLPMA, is given sufficient authority<sup>138</sup> to ensure the coherence of a policy proposal with the Government’s priorities, as well as its compliance with the overall rules, requirements and standards set by legislation. Consistency and coherence checks, however, are not systematically carried out by the OPM<sup>139</sup>, which may be partly because the OPM’s checks and reviews at the final stage of the process focus primarily on ensuring the legal compliance and quality of legal techniques and drafting<sup>140</sup>. Moreover, involvement of other OPM units, such as the unit responsible for strategic planning, is not systematically ensured<sup>141</sup>.

<sup>132</sup> Law No. 9000 of 30 January 2003 on the Organisation and Functioning of the Council of Ministers.  
<sup>133</sup> DCM No. 584 of 28 August 2003 on the Approval of the Rules of the CoM, and subsequent amendments.  
<sup>134</sup> The MoJ and the DLPMA carry out the legal conformity checks.  
<sup>135</sup> This role is assigned to the MoF.  
<sup>136</sup> This role is assigned to the MEI.  
<sup>137</sup> The regulations require that the Ministry of Economy, the Ministry of Foreign Affairs, the Ministry of Labour and Social Affairs, and the Department of Public Administration (DoPA) also be consulted in some cases.  
<sup>138</sup> Article 47(b) of DCM No. 584/2003 gives this authority to the General Secretary of the OPM. Article 12(b) requires that compliance of the draft act with the political programme, the Analytical Programme and the NPEI be checked during preparation of the draft act.  
<sup>139</sup> Information based on review of a sample of draft laws and on SIGMA interviews with officials.  
<sup>140</sup> Lawyers lead the process and also verify the quality of legal drafting.  
<sup>141</sup> The decision to consult other OPM units is made by the lead lawyer/case officer reviewing the final package on a case-by-case basis.

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The OPM has the legal authority to return a proposal to the lead ministry if major flaws or shortcomings are found in the documentation package submitted<sup>142</sup>. These issues are normally addressed through e-mails or telephone discussions between DLPMA case officials and the relevant line ministry staff. The legislation does not clearly specify whether a non-legislative compliance issue found in the documentation (such as an inconsistency with a previously announced Government policy) can result in the item being returned to the lead institution.

About 10% of all measures submitted by ministries in the last quarter of 2016 were returned by the OPM. Deadlines<sup>143</sup> for submitting draft proposals for inclusion in the agendas of Government sessions are not followed consistently by ministries. It is estimated that only 28% of all items<sup>144</sup> submitted to the CoM during the last quarter of 2016 were submitted on time.

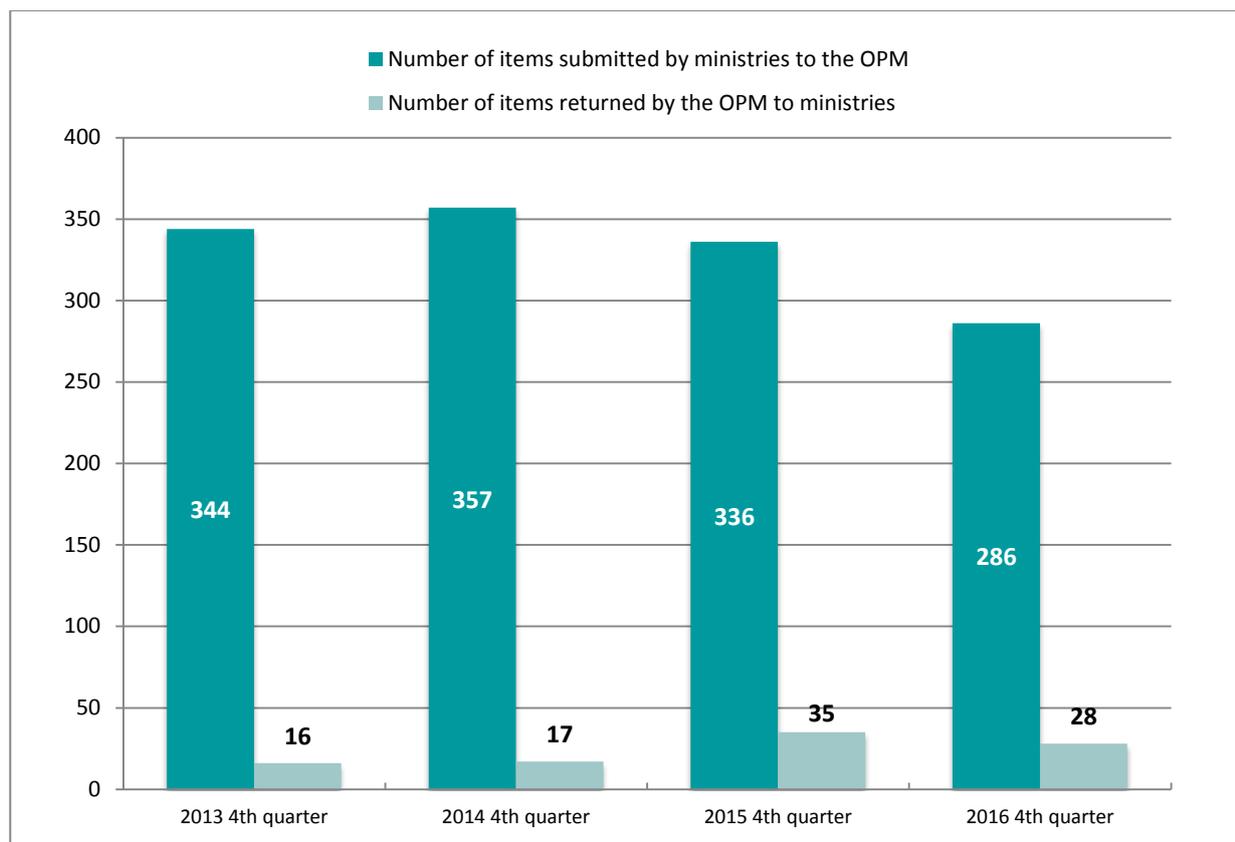
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<sup>142</sup> DCM No. 584 of 28 August 2003, Article 47(b).

<sup>143</sup> Regulations require that policy proposals and supporting materials be submitted to the OPM at least ten days before the CoM meeting (DCM No. 584 of 28 August 2003 on the Approval of the Rules of the CoM, Article 44, and subsequent amendments).

<sup>144</sup> Estimate based on statistics provided by the administration. 80 out of 286 measures considered by the OPM in the last quarter of 2016 were submitted on time.

**Figure 2. Number of items submitted by ministries during the last quarter (2013-2016)**



Source: Office of the Prime Minister. Data on 2013 and 2014 taken from the SIGMA Baseline Measurement Report.

Weekly meetings of the General Secretaries<sup>145</sup> provide a strong platform for consultation and co-ordination of activities between the CoG and line ministries, including for the preparation of Government sessions. The DLPMA organises and prepares Government sessions by using the e-Acts electronic document management system. This system connects all ministries and institutions involved in the Government decision-making process, but access is limited to a few designated officials in each ministry. The legislation also requires the submission of original signed copies of documents to the OPM.

The agendas of Government sessions are not publicly available beforehand. However, the decisions of the CoM are made public after the meetings, normally within one day<sup>146</sup>. Information about major policies and decisions of the Government is also announced during a media briefing attended by a CoM member. The minutes of the meetings are distributed to CoM members upon request<sup>147</sup>.

The transparency and openness of the Government decision-making process with regard to the public are supported by the activities of the Department of Communication and Relations with Citizens (DCRC) of the OPM. The DCRC, which employs 19 people, co-ordinates all external communications on major policy announcements of the Government. It also deals with citizens' letters and complaints on individual issues and policies.

<sup>145</sup> DCM No. 584 of 28 August 2003, Article 48/1.

<sup>146</sup> Decisions are published on the Government's website (<http://www.kryeministria.al/al/newsroom/vkm>). All decisions of the CoM are also published in the Official Gazette.

<sup>147</sup> According to Law No. 9000/2003, Article 17, "debates and reports [during the CoM meeting] remain confidential". Article 21 states, "The minutes are presented, before the next meeting, to the members of the Council of Ministers, if this is requested by them. They have the right to submit objections to its content when it has not accurately reflected their position at the meeting."

The level of perceived clarity and stability of government policy making by businesses, as measured by the 2017 Balkan Barometer survey<sup>148</sup>, is reported to be 47%<sup>149</sup>. This suggests that less than half of Albanian businesses consider that information on the laws and regulations affecting them are clearly written, not contradictory, and do not change frequently.

The value for the indicator ‘Transparency and legal compliance of the government decision-making’ is 3.

<b>Transparency and legal compliance of government decision making</b>						
This indicator measures the legal framework established for ensuring legally compliant decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision-making, and businesses’ perception of the transparency of government policy making.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. The legal framework establishes procedures for government sessions	5/5
2. Consistency of the centre of government in setting and enforcing the procedures	2/4
3. Timeliness of ministries’ submission of regular agenda items to the government session (%)	0/3
4. Openness of government decision-making process	3/4
5. Perceived clarity and stability of government policy making by businesses (%)	2/4
<b>Total<sup>150</sup></b>	<b>12/20</b>

**Clear procedures are in place for preparing and organising Government sessions. The regulations confirm the roles and responsibilities of the various CoG institutions in the decision-making process, including those required to carry out essential review and compliance checks on new policy proposals. Legal compliance checks are performed twice by different CoG institutions, whereas checks on consistency and coherence with the Government priorities and previously-announced policies are not being carried out systematically. Information on Government decisions is available to the public through Government websites, external communication activities and notices in the Official Gazette.**

***Principle 7: The parliament scrutinises government policy making.***

The regulatory framework enabling parliamentary scrutiny and oversight of Government policy making includes several articles of the Constitution<sup>151</sup>, the Law on Organisation and Functioning of the CoM<sup>152</sup>, and the RoP of the Parliament<sup>153</sup>. In addition, DCM No. 834 of 2013 (DCM 834/2013)<sup>154</sup>, which

<sup>148</sup> Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

<sup>149</sup> Businesses were asked if they agree with the statement “Laws and regulations affecting my company are clearly written, not contradictory and do not change too frequently”. The value of the sub-indicator is based on the percentage of responses “strongly agree” or “tend to agree”.

<sup>150</sup> Point conversion ranges: 0-1=0, 2-5=1, 6-9=2, 10-13=3, 14-17=4, 18-20=5.

<sup>151</sup> Constitution of Albania, as amended by Law No. 76/2016. The official name of the Parliament is the “Assembly”, and the main articles of the law regulating the relationships between the Parliament and the Government are Articles 80-83, 101 and 104-105.

<sup>152</sup> Law No. 9000 of 2003 on the Organisation and Functioning of the Council of Ministers.

<sup>153</sup> RoP of the Parliament adopted by Decision No. 166 of 16 December 2004.

<sup>154</sup> DCM No. 834 of 18 September 2013 on the Responsibilities of the Minister of State for Relations with the Parliament.

establishes the role and responsibility of the MoSRP, further clarifies and confirms the principles governing the relationship between the Government and the Parliament.

Overall, under the existing regulatory framework, the Parliament has the necessary authority to scrutinise and oversee the performance of the Government. The Parliament successfully carries out this function in practice, using various instruments and available co-ordination mechanisms, including regular discussions in parliamentary committees and question-and-answer sessions with CoM members.

Although there is no formal requirement prescribed in the regulation, the Government submits its annual legislative plan (Analytical Programme) to the Parliament after it has been approved<sup>155</sup>, which is normally before the end of a calendar year<sup>156</sup>. The Conference of Chairmen of the Parliament<sup>157</sup> discusses and decides on the work programme and schedule of proceedings for both the plenary session and the meetings of the parliamentary committees. The MoSRP participates in meetings of the Conference of Chairmen<sup>158</sup> in order to co-ordinate and ensure that the Government's priorities and its own timetable are fully considered before the schedule of proceedings of the Parliament has been approved. Overall, having a dedicated minister responsible for relations with the Parliament has helped in establishing an effective working relationship and co-ordination between the executive and legislative branches of the State.

Despite strong co-ordination mechanisms and close working arrangements with the Parliament, the Government does not fully follow its own legislative plan. Only 41% of the draft laws submitted to the Parliament by the Government in 2016 had been included in the approved legislative plan for that year<sup>159</sup>.

Government-sponsored draft laws submitted to the Parliament should be accompanied by explanatory memoranda, which provide additional information on the rationale and objectives of the new legislative proposal, the public-consultation process, and estimates of likely financial costs<sup>160</sup>. The requirement to provide cost estimates stems from the Constitution, which specifies that all draft laws must be accompanied by a report justifying the financial cost of its implementation<sup>161</sup>. Explanatory memoranda were included in the documentation sent to Parliament for all the draft laws reviewed during the assessment<sup>162</sup>.

The Government reviews the draft laws initiated by the Parliament, but its formal opinions are issued only for cases in which additional financial demands on the state Budget are foreseen. This procedure

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<sup>155</sup> Exceptionally, in 2016 it was sent to the Parliament in draft form before its adoption. In 2017, it was sent after its approval in mid-February.

<sup>156</sup> Law No. 9000 of 2003 stipulates that the Analytical Programme is to be approved before the end of December. However, in recent years it has been approved by the CoM in January/February of the following year.

<sup>157</sup> RoP of the Parliament, Article 12. The Conference of Chairmen is comprised of the Speaker, the vice-speakers and the heads of the parliamentary groups and parliamentary committees.

<sup>158</sup> *Idem*, Article 12/2.

<sup>159</sup> Based on statistics provided by the Albanian administration.

<sup>160</sup> In practice, the quality of cost estimates of new legislation is low due to the lack of a solid methodology for assessing the impacts of new policies during the policy development phase. The Government is considering the introduction of an RIA, with a view to improving the quality of financial estimates.

<sup>161</sup> Constitution, Article 82/1.

<sup>162</sup> The following draft laws were reviewed: Ratification of the Memorandum of Understanding between the Republic of Albania and the European Union for the Participation of Albania in the Justice Programme of the EU; Ratification of the Financing Agreement between the Council of Ministers of the Republic of Albania and the EU Commission for the Programme INTERREG IPA of the Cross-Border Co-operation Italy-Albania-Montenegro, 2014-2020; Ratification of the Financing Agreement among the Council of Ministers of the Republic of Albania, Republic of Greece and the EU Commission for the Programme INTERREG IPA of the Cross-Border Co-operation Greece-Albania, 2014-2020; Ratification of the Protocol for Amending the Free Trade Agreement between the Republic of Albania and EFTA States; and Amendments and Additions to Law No. 9947/2008 on Intellectual Property, amended.

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is stipulated by the current legislation<sup>163</sup>. Of the three sample draft laws initiated by Members of Parliament at the end of 2016, only one was provided with a formal opinion of the Government<sup>164</sup>.

The Parliament approves Government-sponsored laws within a reasonable time frame; almost all (97%) of the draft laws submitted to the Parliament were approved within a year<sup>165</sup>. The number of draft laws adopted under “urgent” proceedings is relatively low. In 2016, only 6 out of 123 laws (less than 5%) sponsored by the Government were approved under urgent proceedings.

Although the existing regulations do not specifically stipulate discussion in the Parliament of reports on the implementation of laws, there were a few such cases in 2016<sup>166</sup>. The Parliament also closely monitors the EI process and discusses the monitoring reports on NPEI implementation on a regular basis.

Government participation in parliamentary discussions is stipulated by existing regulations<sup>167</sup>. Although statistics were not provided for the assessment, representatives of the Parliament confirmed that ministers attend the plenary sessions of Parliament whenever issues under their responsibility are being discussed and whenever they are invited to attend. Participation of the lead minister in the discussion of draft laws in a plenary session of Parliament is mandatory.

Overall, the value for the indicator ‘Parliamentary scrutiny of government policy making’ is 4.

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<sup>163</sup> Constitution, Article 82/2.

<sup>164</sup> Law No. 10463 of 22 September 2011 on Integrated Waste Management, amended; Law No. 9584 of 17 July 2006 on Salaries, Remunerations and Structures of Independent Constitutional Institutions and Other Independent Institutions Created by Law, amended; and amendments to Law No. 155/2015 on Gambling in the Republic of Albania.

<sup>165</sup> Based on information provided by the administration.

<sup>166</sup> Based on interviews by SIGMA. According to the Parliament’s report “Participation of the Public in the Legislative Activities”, in 2016 the Committee for Labour, Social Affairs and Health organised 17 public hearings: 11 for the legislative process and 6 to oversee implementation of legislation in several areas.

<sup>167</sup> RoP of the Parliament; the Constitution.

### Parliamentary scrutiny of government policy making

This indicator measures the extent to which the parliament is able to scrutinise government policy making. The legal framework is assessed first, followed by an analysis of the functioning of important parliamentary practices and outcomes.

Overall indicator value 0   1   2   3   **4**   5

Sub-indicators	Points
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making	4/5
2. Completeness of supporting documentation for draft laws submitted to the parliament	3/3
3. Co-ordination of governmental and parliamentary decision-making processes	2/2
4. Systematic review of parliamentary bills by the government	0/1
5. Alignment between draft laws planned and submitted by the government (%)	0/2
6. Timeliness of parliamentary processing of draft laws from the government (%)	2/2
7. Use of extraordinary proceedings for the adoption of government-sponsored draft laws (%)	4/5
8. Government participation in parliamentary discussions of draft laws	2/2
9. Basic parliamentary scrutiny of the implementation of policies	2/2
<b>Total<sup>168</sup></b>	<b>19/24</b>

**The existing regulatory framework enables adequate parliamentary scrutiny of Government policy making. Almost all Government-sponsored laws are approved by the Parliament without any delay, although a significant number of approved laws initiated by the Government were not included in the approved annual legislative plan. The Government systematically reviews draft laws initiated by the Parliament, but formal opinions of the Government are issued only for draft laws likely to entail additional financial costs. The Parliament occasionally discusses and evaluates the implementation of laws, but on an *ad hoc* basis.**

#### Key recommendations

##### Short-term (1-2 years)

- 1) The OPM should strengthen its co-ordination mechanisms and procedures to ensure that all relevant CoG institutions and OPM units are consulted on all new draft policy proposals before the package is submitted to the CoM for final approval.
- 2) The OPM should ensure all policy proposals are checked against the requirements of evidence-based policy making and against the Government's wider priorities and previously announced policies before they are included in the Government agenda for final approval. Guidance to ministries should be provided on how to comply with these requirements, and the OPM should also ensure that policy proposals are returned to lead ministries when flaws or inconsistencies in content are identified.
- 3) The Government should ensure that sufficient time is provided to ministries for reviewing and providing comments on new proposals.

<sup>168</sup> Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-16=3, 17-20=4, 21-24=5.

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- 4) The Government should send its annual legislative plan to the Parliament before the start of a new legislative year. The Government should also aim to minimise the number of draft laws submitted to Parliament outside the agreed legislative plan.
- 5) The Parliament should increase its oversight of implementation of Government policies by ensuring regular review and evaluation of various programmes and laws. The Government should proactively and regularly prepare and send to the Parliament implementation and evaluation reports on major legislation and policies, and participate in discussions of those reports in the Parliament.

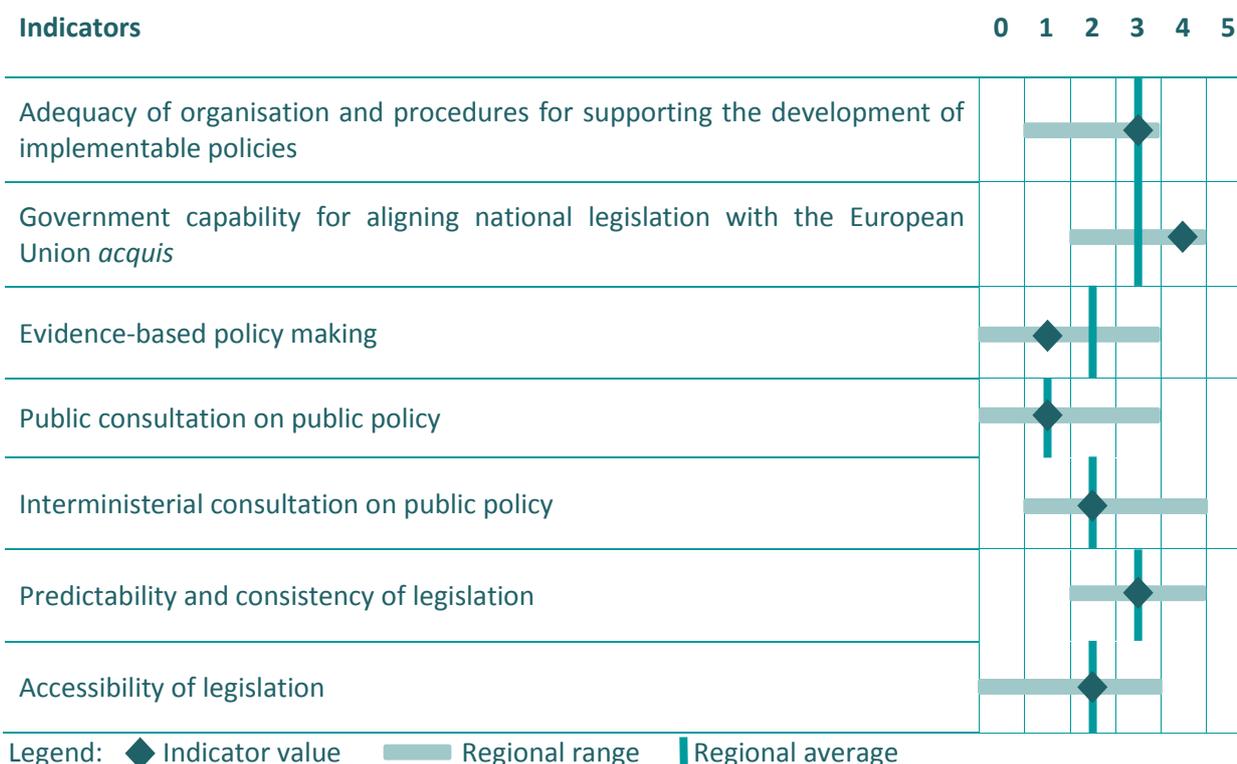
**Medium-term (3-5 years)**

- 6) The Government and Parliament should discuss and agree new procedures and legislative changes that would allow the Government to review and comment on all draft laws initiated within the Parliament.

## Policy development

**Key requirement: Inclusive, evidence-based policy and legislative development enables the achievement of intended policy objectives.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



### **Analysis of Principles**

**Principle 8: The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet government objectives.**

The structures, core functions and internal organisation of ministries in Albania are established through the Law on State Administration<sup>169</sup> and orders of the PM<sup>170</sup> and of relevant ministers<sup>171</sup>. Based on the existing regulatory framework, the policy responsibilities of ministries are clearly defined. Individual Prime Ministerial orders are supported by ministerial organigrammes indicating the titles and intended staffing levels of the various ministerial units.

The policy development process involves the preparation of policy proposals by policy units, with legal units responsible for transforming policy and legislative requests into actual draft legislative proposals. As a general rule, policy development is not delegated to bodies subordinate to the ministries.

The RoP define the procedural requirements that line ministries have to follow submitting a proposal for final approval<sup>172</sup>; it also defines the rules, requirements and principles for legislative drafting<sup>173</sup>. The

<sup>169</sup> Law No. 90/2012 on the Organization and Functioning of the State Administration.

<sup>170</sup> The structure and systematisation of each ministry is approved by an individual decision of the PM.

<sup>171</sup> The rulebook of each ministry is approved by an individual order of the relevant minister.

<sup>172</sup> DCM No. 584 of 28 August 2003, amended in 2015 on approval of the RoP of the CoM.

<sup>173</sup> RoP of the CoM, Chapter III: Preparation of the Draft Act.

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process for providing opinions is defined, and the documents that must accompany a draft law are clearly specified. However, the RoP focus primarily on requirements that must be fulfilled by the end of the policy development process. A law-drafting manual provides additional information and guidance on how to develop policies, focusing particularly on law-drafting techniques. However, the Government has not officially adopted this manual, which was elaborated through external assistance several years ago<sup>174</sup>.

The general requirements for policy development prescribed in the existing regulations have not been translated into more detailed internal rules and guidelines to help ministry officials prepare, organise and manage the whole policy-making process more effectively, based on the specific needs and priorities of the ministry<sup>175</sup>. The current regulatory framework does not, for example, clearly set out the process and requirements for initiating internal consultations on policy proposals within ministries. It is therefore impossible to verify whether all the relevant units and departments of the ministries are being consulted during the policy development process<sup>176</sup>. As a result, a coherent, well-informed and uniform approach to policy development within each line ministry cannot be guaranteed.

The proportion of staff involved in policy development work in ministries is sufficiently ensured: at least 30% of the staff of the four ministries analysed are directly involved in activities related to policy development<sup>177</sup>.

Overall, in view of the weaknesses in policy-making practices and rules within line ministries, the value for the indicator 'Adequacy of the organisation and procedures for supporting the development of implementable policies' is 3.

<b>Adequacy of organisation and procedures for supporting the development of implementable policies</b>						
This indicator measures the adequacy of the regulatory framework to promote effective policy making, and whether staffing levels and the basic policy-making process work adequately at the level of ministries.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for effective policy making	3/4
2. Staffing of policy-development departments (%)	2/2
3. Adequacy of policy-making processes at ministry level in practice	2/6
<b>Total<sup>178</sup></b>	<b>7/12</b>

<sup>174</sup> *Law Drafting Manual: A Guide to the Legislative Process in Albania* (second revised version of 2009), unofficial version. The Albanian administration has confirmed that this manual is still in use across the Government as the main manual for drafting laws, despite it having not been formally approved.

<sup>175</sup> The process of drafting laws is referred to in the rulebook of the Ministry of Social Welfare and Youth; the rulebooks of other ministries set out the role of the legal departments. However, none of these rulebooks stipulates the policy development and law-making processes in detail. They do not stipulate, for example, the requirements for starting interministerial or public consultations, or for preparing proposals of sub-legal acts for adoption.

<sup>176</sup> Respondents from the line ministries interviewed mentioned that the working groups that prepare draft law proposals play a vital role in interministerial consultations. However, as these working groups often include representatives of external organisations and other ministries, they do not necessarily constitute a ministry-specific co-ordination platform. In addition, interviewees confirmed that the department responsible for the Budget is not always involved in the working groups. For policy proposals for which no working group has been set up, the decision of whether to involve the budget department depends on individuals assessing whether the Budget would be significantly affected.

<sup>177</sup> The interviewees were officials from selected line ministries: the Ministry of Agriculture, Rural Development and Water; the Ministry of Economy; the Ministry of Environment; and the Ministry of Youth and Social Affairs.

<sup>178</sup> Point conversion ranges: 0=0, 1-2=1, 3-5=2, 6-8=3, 9-10=4, 11-12=5.

**Ministries have clear organisational structures and core responsibilities are attributed to their various internal organisational units, but they lack detailed internal rules and guidelines on how to organise and manage actual policy development work. However, the proportion of staff allocated for policy development tasks within internal units of ministries is adequate.**

***Principle 9: The European integration procedures and institutional set-up form an integral part of the policy-development process and ensure systematic and timely transposition of the European Union acquis.***

The overall EI framework and the roles and responsibilities of the various actors in the EI process are defined and established<sup>179</sup>. The legislative framework<sup>180</sup> establishes clear rules and procedures for the transposition of the *acquis*, and additional EI-specific checks and mandatory consultations with the MEI are fully embedded in the main policy development process<sup>181</sup>. The use of tables of concordance in the transposition process is required by regulation<sup>182</sup>, and they are consistently used in practice<sup>183</sup>.

Regulations require that all policy proposals related to EI undergo full scrutiny by the MEI to ensure their compliance with the EI commitments and plan. The MEI can propose changes and accept or reject a draft proposal by issuing opinions that will constitute an integral part of the final package submitted to the CoM for approval. Horizontal procedures for *acquis* transposition and responsibility for translation of the *acquis* have also been established<sup>184</sup>. Translation of relevant EU legislation is organised by the MEI, prior to its transposition. The decision of the Council of Ministers (DCM) No. 119 establishes the procedures for translating EU legislation into Albanian, and for translating Albanian legislation into one of the languages of the EU<sup>185</sup>. Review of a sample of EU directives planned for transposition in 2017 confirmed that the Albanian translation was available for all cases<sup>186</sup>.

The transposition of EU directives is an integral part of the domestic policy development process, and no provisions exempt EI transposition cases from the established procedures<sup>187</sup>. As for domestic legislative proposals, explanatory memoranda are also mandatory for proposals transposing the *acquis*. However, review of a sample of draft laws submitted showed that public consultations had been organised for only one of the five laws reviewed<sup>188</sup>.

The legal framework and institutional arrangements for interministerial co-ordination and handling of EI-related issues in ministries are strong. According to the MEI, in recent years the capacities of EI units in line ministries have improved in both the number of staff involved in EI-related activities and in their

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<sup>179</sup> EI-related processes have been further clarified and strengthened through changes to the RoP of the CoM. See also DCM No. 233/2015 and DCM No. 653/2016.

<sup>180</sup> DCM No. 584 of 28 August 2003 (amended in 2015) on the Approval of the RoP of the CoM, Article 25.

<sup>181</sup> Amendments of March 2015 to the RoP of the CoM introduced additional provisions related to the EI-related checks during policy development.

<sup>182</sup> RoP of the CoM, Articles 12/1, 18 and 25.

<sup>183</sup> Analysis based on review of the following five draft laws: 1) the draft Law on Additions and Amendments to Law No. 10128 of 11 September 2009 on Electronic Commerce; 2) the draft Law on Cosmetic Products; 3) the draft Law on the Air Code of the Republic of Albania; 4) the draft Law on Approval of the Technical Regulation on Energy Labelling of Electrical Lamps and Luminaires; and 5) the draft Law on the Energy Performance of Buildings.

<sup>184</sup> DCM No. 946 of 9 October 2013 on the Responsibilities of the MEI, Article 9.

<sup>185</sup> DCM No. 119 of 7 March 2007 on the Procedures for Translation of the Legislation of the EU into Albanian, and the Translation of Albanian Legislation into One of the Languages of the EU.

<sup>186</sup> Translation into Albanian of the five most recently approved EU legal acts planned to be implemented in 2017 was checked.

<sup>187</sup> DCM No. 584 of 28 August 2003 (amended in 2015).

<sup>188</sup> Public consultation information was available for the draft Law on Cosmetic Products only.

competence and skills<sup>189</sup>. However, overall challenges with staff capacities remain an issue for many government institutions<sup>190</sup>.

The functions and mandates of the interministerial structures responsible for managing and co-ordinating the EI process at both the political and administrative levels have been clearly established<sup>191</sup>. However, as discussed in previous sections, the political-level structures for EI co-ordination do not meet regularly<sup>192</sup>.

The quality of EI commitment planning is poor: the backlog rate for the total number of transposition-related legislative commitments carried over from the 2016 EI plan to the 2017 plan is estimated at 44%, and the actual implementation rate of legislative commitments for *acquis* transposition in 2016 is estimated to be 79%. These results suggest there are weaknesses and shortcomings in the actual planning and implementation process for EI commitments.

Overall, the value for the indicator ‘Government capacity for the alignment of national legislation with the European Union *acquis*’ is 4.

Government capacity for aligning national legislation with the European Union <i>acquis</i> .						
This indicator measures the adequacy of the legal framework for the <i>acquis</i> alignment process, the government’s consistency in using the tables of concordance in the <i>acquis</i> alignment process and the availability of the <i>acquis</i> in the national language. It also assesses the results of the <i>acquis</i> alignment process, focusing on the planned <i>acquis</i> alignment commitments carried forward from one year to the next and how the government is able to achieve its <i>acquis</i> alignment objectives.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for the <i>acquis</i> alignment process	5/5
2. Use of tables of concordance (%)	2/2
3. Translation of the <i>acquis</i> into the national language	2/2
4. <i>Acquis</i> alignment commitments carried forward (%)	1/4
5. Implementation rate of legislative commitments for <i>acquis</i> alignment (%)	2/4
Total <sup>193</sup>	12/17

**EI-related procedures and checks are fully embedded in the domestic policy-making system, and tables of concordance are consistently used during the transposition process. The MEI plays an integral role in the formal process of interministerial consultation by developing and issuing opinions on all EI-related proposals. However, the quality of planning for the EI process shows weaknesses and shortcomings, as many planned commitments are delayed and carried forward to the following year.**

<sup>189</sup> Based on an assessment of the capacities of line ministries by the MEI. Information provided during interviews with the MEI.

<sup>190</sup> Based on interviews conducted with the administration.

<sup>191</sup> PM Order No. 183 of 11 December 2009 on the Establishment, Composition and Functioning of the Inter-institutional Working Groups for Each Chapter of the *Acquis*, Including the Chapters of Political and Economic Criteria. The EI structures are the ICEI, the ICCEI and the IWGs.

<sup>192</sup> The ICEI met once in 2016, while the ICCEI met only twice according to information provided by MEI officials.

<sup>193</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-17=5.

**Principle 10: The policy-making and legal-drafting process is evidence-based, and impact assessment is consistently used across ministries.**

The RoP of the CoM set out the legal requirements and procedures that must be followed when proposals are sent for approval to the CoM. The Law Drafting Manual<sup>194</sup> provides guidance on how to apply the legal requirements in practice. Although this guidance is not officially approved, it is nevertheless used by the Albanian administration, particularly lawyers, as the main source of guidance for drafting laws<sup>195</sup>.

The regulations require that the package supporting a policy proposal submitted to the CoM for final approval be accompanied by an explanatory memorandum, an estimate of fiscal effects, and opinions of several key ministries with horizontal policy responsibilities<sup>196</sup>. The existing system of policy analysis based on explanatory memoranda is a very limited way of analysing the expected impacts and potential risks of new policy proposals. Furthermore, no specific guidance or methodology exist that would indicate the minimum standards and requirements for drafting explanatory memoranda.

The MoJ, the MoF and the MEI are entrusted with the respective horizontal roles of checking issues of legality, fiscal impacts, and compliance with the *acquis*<sup>197</sup>. The General Secretary of the CoM has overall responsibility for ensuring quality control in the final version of the explanatory memoranda. Although the DLPMA carries out this function, in the final stage of the policy development process, the focus of the DLPMA's reviews and checks is primarily on legal compliance, accuracy and completeness of the final proposed package submitted – not on the accuracy and quality of analysis provided in the explanatory memoranda<sup>198</sup>.

The review of a sample of five policy proposals confirms that the overall quality of analysis supporting new policy proposals is low<sup>199</sup>, not in line with the basic requirements and standards set in the RoP. For example, the analysis and information provided in the explanatory memoranda do not properly define the problem and the rationale for intervention, and no mention is made of alternative policy options considered. Similarly, the analysis of expected impacts of new policies is very basic: the likely impacts of new measures are not fully discussed even in qualitative terms. Furthermore, an estimation of budget costs and/or benefits associated with the proposals is limited or absent, and the approaches employed for monitoring and evaluation, and for identifying potential obstacles to successful implementation, are not properly identified<sup>200</sup>.

In June 2017, the PM approved a methodology for RIAs<sup>201</sup> to be piloted in the Ministry of Social Welfare and Youth, and the Ministry of Energy and Industry. However, a clear plan is not yet in place for institutionalising RIA within the existing system after the pilots are finished. In the absence of an RIA tool fully embedded in the system, no regular training is available to officials on evidence-based

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<sup>194</sup> *Law Drafting Manual: A Guide to the Legislative Process in Albania* (second revised version of 2009), unofficial version.

<sup>195</sup> Use of the manual during the legislative drafting process was confirmed by the administration during assessment interviews.

<sup>196</sup> RoP of the CoM of the Republic of Albania, Chapter III: Drawing up of the Draft Law.

<sup>197</sup> RoP of the CoM; DCM No. 946 of 9 October 2013; DCM No. 580/2004; and PM Order Nos. 4/2009, 201/2006, 183/2013, and 22/2015 on the scope, functioning and organigramme of the selected ministries.

<sup>198</sup> Information based on interviews with administration officials.

<sup>199</sup> Discussion and analysis of explanatory memoranda based on review of a sample of five draft laws and supporting materials provided during the assessment: the draft Law on Recovery and Emergency Intervention in Banks; the draft Law on Cosmetic Products; the draft Law on Education and Training; the draft Law on the Rights and Protection of Children; and the draft Law on Promoting the Use of Renewable Energy.

<sup>200</sup> Finding based on analysis of the explanatory memoranda prepared for the adoption of five new draft laws.

<sup>201</sup> Order of the Prime Minister No. 102 of 14 June 2017 on the Establishment of a Working Group to Pilot the Implementation of the Impact Assessment Methodology in Selected Ministries.

policy making<sup>202</sup>. Organisational capacities within ministries for conducting impact assessment of new policies, particularly in terms of analytical skills and expertise, remain low.

Due to the major weaknesses and shortcomings in the quality of analysis supporting policy proposals, the value for the indicator ‘Evidence-based policy making’ is 1.

Evidence-based policy making						
This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and broad impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Use of basic analytical tools and techniques to assess the potential impacts of new draft laws	2/2
2. Use of budgetary impact assessment prior to approval of policies	1/3
3. Use of broad Regulatory Impact Assessments	0/3
4. Availability of guidance documents on RIAs	0/2
5. Quality control of RIAs	0/3
6. Quality of analysis in RIAs	0/15
<b>Total<sup>203</sup></b>	<b>3/28</b>

**Only basic analytical tools and techniques are used during policy development, including some consultation and very limited analysis of impacts. The main analysis supporting policy proposals is accomplished through a system of explanatory memoranda, but the actual quality of analysis in the explanatory memoranda is poor. Although the Government has initiated a process for piloting RIA in two ministries, there is no clear plan for full institutionalisation of RIA within the existing system after the pilots.**

***Principle 11: Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination of different perspectives within the government.***

General principles and procedures for public consultation with external stakeholders are defined in the Law on Consultation<sup>204</sup>, the Decision of the CoM<sup>205</sup> on the Creation of an Electronic Register for Notices and Public Consultation, and the legal drafting manual. In addition, changes have been introduced in the RoP of the CoM, requiring all ministries to report on the public consultation process<sup>206</sup>. The MoSRP and the Ministry of State for Innovation and Public Administration (MIPA) are jointly responsible for supporting implementation of the Law on Consultation.

<sup>202</sup> *Ad hoc* training on RIA was organised for selected policy officials in 2016, but the training was based on general theory and not specific to the Albanian system.

<sup>203</sup> Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-18=3, 19-23=4, 24-28=5.

<sup>204</sup> Law No. 146/2014 on Public Notification and Consultation.

<sup>205</sup> DCM No. 828 of 7 October 2015.

<sup>206</sup> DCM No. 584 of 28 August 2003, amended by DCM No. 653/2016, Article 19e.

Many provisions of the Law on Consultation, which entered into force in May 2015, have not yet been implemented<sup>207</sup>. The law stipulates certain rules and requirements that line ministries must adhere to when preparing policies and new legislation<sup>208</sup>, but in practice the quality of the public consultations conducted by ministries varies significantly<sup>209</sup>. In fact, none of the five draft laws analysed in the framework of this assessment has complied with the existing legal requirements for public consultation<sup>210</sup>.

The existing framework for stakeholder consultation is further supported by dedicated councils, through which the Government aims to interact more directly with stakeholders. The National Economic Council (NEC) was established with the aim of structuring dialogue with the business community<sup>211</sup>, and the National Council for Civil Society (NCCS) and the Central and Local Government Consultative Council (CLGCC) have also been established. The NCCS has met twice since the law supporting the council was adopted in November 2015<sup>212</sup>, and the CLGCC was launched in January 2017<sup>213</sup>.

The Law on Consultation requires the creation of an electronic platform for public consultation<sup>214</sup>. This platform was developed and launched in late 2016, but was not functional until early 2017; it was not possible to assess the effectiveness of the new system, as not all ministries are using it and many public consultations are still published on ministerial websites. Overall, the public consultation activities of the administration are fragmented.

A network of public consultation co-ordinators has been established, involving officials from all ministries<sup>215</sup>. Although the cabinets of the MoSRP and the MIPA provide support and direction to the consultation co-ordinators to organise and lead the consultation process within their respective ministries, no official guidelines or manuals are provided on how to organise and carry out effective public consultation with proper stakeholder engagement.

According to the Law on Consultation, it is the role of the Commissioner for the Right to Information and Protection of Personal Data to control the quality of the consultation process<sup>216</sup>. However, this quality assurance and scrutiny function can be applied only if a participant in a public consultation process decides to appeal. The Cabinet of the MoSRP collects and manages information on public consultations conducted by line ministries, and no quality control of the public consultation process, focusing on the outcome of the process and its impact and use in the final decision-making process, is exercised.

Overall, interministerial consultation on draft policy proposals in the final stage of the policy development process is a well-embedded procedure that is routinely undertaken, and forums for conflict resolution have been established. Legislative proposals are distributed among line ministries

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<sup>207</sup> Law No. 146/2014.

<sup>208</sup> The Law on Consultation requires public bodies conducting consultations to provide all necessary information to stakeholders to promote effective public consultation. Ministries are also expected to prepare and publish annual reports on the transparency of the decision-making process.

<sup>209</sup> Finding based on interviews and on the absence of internal rules for policy development in line ministries. For example, ministries have not set the standard of working with a central overview of stakeholders invited to participate in consultations.

<sup>210</sup> Finding based on analysis of the full packages prepared for the adoption of five new draft laws.

<sup>211</sup> No interviews could be held with the NEC to assess recent developments. The lack of updates on the NEC website indicates that the Council became far less active in 2016.

<sup>212</sup> Law No. 119/2015 on the Establishment and Functioning of the National Council for Civil Society, adopted June 2015.

<sup>213</sup> Information provided in the official project supporting the CLGCC: <http://azrt.gov.al/perberja-e-keshillit-konsultativ/>

<sup>214</sup> This specific requirement is regulated by DCM No. 828 of 7 October 2015.

<sup>215</sup> The requirement to have public consultation co-ordinators is stipulated in the Law on Consultation, Article 10. Initially, IT/technical specialists from line ministries were nominated to be consultation co-ordinators, but they were replaced in 2016 by policy officials, according to information provided during interviews.

<sup>216</sup> Law on Consultation, Article 21.

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before a draft proposal is included on the agenda of the CoM session, and all legislative proposals must be accompanied by the opinions of the MoJ and the MoF. Other ministries, such as the MEI and the Ministry of Economic Development, Trade and Entrepreneurship, provide their opinion when it is deemed necessary. As a rule, ministries are consulted on draft proposals that have relevance for them<sup>217</sup>.

The RoP establish a standard deadline<sup>218</sup> for providing opinions during interministerial consultations, but the amount of time allocated by the RoP to ministries for interministerial consultation is not always sufficient. Deadlines for submitting opinions are often missed, and ministries take far more time to respond than the time frames established in the RoP<sup>219</sup>. No differentiation to the existing timeline is allowed, and rules are not based on the type and nature of the policy proposal being consulted. However, the various OPM units do not provide official (formal) opinions during the interministerial consultation on new policy proposals: the DLPMA in the OPM consolidates all opinions using the e-Acts system and prepares the final package for CoM approval<sup>220</sup>. There is no guidance on interministerial consultations at an early stage of the policy development cycle.

Weekly meetings of general secretaries have been officially established as a consultative forum that can also discuss and resolve issues concerning specific policy proposals<sup>221</sup>. In general, these regular meetings provide a useful platform for conflict resolution and co-ordination among ministries<sup>222</sup>.

Full information on the public consultation process and interministerial consultation for a sample of draft laws was not provided for the assessment. As a result, the relevant sub-indicator assessing and testing the practice of public consultation have received low values.

Since the Law on Consultation has not yet been fully implemented, and because the quality and impact of public consultation are poor in practice, the value for the indicator 'Public consultation on public policy' is 1. The value for the indicator 'Interministerial consultation on public policy' is 2.

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<sup>217</sup> Finding based on interviews and analysis of the interministerial consultation process that took place prior to the adoption of five new draft laws.

<sup>218</sup> RoP of the CoM, Article 28. Responses to requests for formal opinions must be provided within seven working days from the date the request was received through the e-Acts system. For the Minister of Justice, the Minister of EU Integration and the Minister of Finance, this deadline is extended to ten working days.

<sup>219</sup> Finding based on interviews with officials in the OPM and the MoF.

<sup>220</sup> The DLPMA of the OPM leads preparation of the CoM agendas.

<sup>221</sup> RoP of the CoM, Article 48/1.

<sup>222</sup> Finding based on interviews with officials in the CoM and the MEI.

### Public consultation on public policy

This indicator measures the implementation of public consultation processes in developing policies and legislation. It assesses the regulatory framework, the establishment of the quality control function on public consultation and the consistency in publishing draft laws for written public consultation online, and tests whether minimum standards for public consultations were upheld for approved drafts laws.

Overall indicator value 0   **1**   2   3   4   5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective public consultation process	6/10
2. Quality assurance of the public consultation process	0/3
3. Regularity in publishing draft laws for written public consultation	1/4
4. Test of public consultation practices	4/24
<b>Total<sup>223</sup></b>	<b>11/41</b>

### Interministerial consultation on public policy

This indicator measures the adequacy of the regulatory framework for the interministerial consultation process and tests the system in practice for five draft laws.

Overall indicator value 0   1   **2**   3   4   5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective interministerial consultation process	6/9
2. Test of interministerial consultation practices	3/12
<b>Total<sup>224</sup></b>	<b>9/21</b>

The Law on Consultation establishes clear rules and a process of public consultation for policy proposals, but it has not yet been fully implemented. The electronic platform supporting public consultation was developed and launched in 2016, but became operational only in 2017, and not all ministries are using it. No CoG institution is responsible for quality assurance and oversight of public consultation. Consultative bodies have been set up for various target groups of external stakeholders.

Interministerial consultation procedures for policy and legislative proposals are well developed, but deadlines for providing opinions are often missed. Existing rules do not facilitate effective interministerial consultation on major proposals, for which a longer time frame than the one established by current regulations may be needed. Regular meetings of the general secretaries of ministries serve as a useful platform for internal co-ordination and conflict resolution on specific policy proposals. Different OPM units do not provide formal opinions on draft laws during interministerial consultation.

<sup>223</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-41=5.

<sup>224</sup> Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-18=4, 19-21=5.

**Principle 12: Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.**

The RoP of the CoM set out, in general terms, how legislation should be developed. The law-drafting manual is the main document providing guidance and direction to lawyers on the drafting of laws, and it also explains why well-structured and clearly written laws are important. However, the manual has not been officially approved and it is not available online. It is also out of date and does not reflect all law development requirements, since additional elements – such as public consultation – have been introduced recently.

A clear procedure has been established for checking the quality of legislation, in which both the MoJ and the OPM have a role. The RoP stipulate that MoJ opinions are required for interministerial consultations<sup>225</sup>, and the role of the OPM is to verify whether the final proposal submitted to the CoM for approval is legally compliant and accurate<sup>226,227</sup>. The Parliament has acknowledged an improvement in the quality of staff working on legislative drafting in line ministries, but capacity issues remain<sup>228</sup>.

The Official Publication Centre<sup>229</sup> is responsible for publishing legislation in the Official Gazette, and the publication procedure is adequately defined in legislation. All primary and secondary laws are available through a central database, and the online database of the Official Gazette includes a substantial part of the legislation that is currently in force<sup>230</sup>. The search function of the electronic database of published legislation is currently being enhanced<sup>231</sup>, but paper copies of the Official Gazette are also available at a price that is meant to cover only the production costs of the publication.

The Official Publication Centre develops consolidated versions of legislation whenever the Government adopts amendments to existing laws. However, these versions are not legally binding and have an unofficial status.

The percentage of laws amended within one year of their adoption is below 5%<sup>232</sup>. This percentage indicates a stable legal environment and good-quality legal drafting. Only two laws were amended within one year of adoption by the Parliament, one of which was an amendment to the State Budget Law<sup>233</sup>.

According to the 2017 Balkan Barometer survey<sup>234</sup>, approximately 47% of the Albanian businesses surveyed consider the laws to be clearly written and not contradictory<sup>235</sup>. At the same time, 48% of the

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<sup>225</sup> RoP of the CoM, Article 47c.

<sup>226</sup> RoP of the CoM, Chapter IV.

<sup>227</sup> Interviews with the OPM confirmed that opinions of the MoJ are used as a basis for the OPM's final scrutiny of the quality of legal drafting (as those opinions are also submitted to the OPM as part of the final package of the draft law). Despite these two parallel but separate legal scrutinies, in 2016 no disagreement occurred between the OPM and the MoJ.

<sup>228</sup> Finding based on interviews with representatives of the Parliament.

<sup>229</sup> Established by the Law on Organisation and Function of the Official Publication Centre; [www.qbz.gov.al](http://www.qbz.gov.al).

<sup>230</sup> The main body of legislation is laws adopted since 1990.

<sup>231</sup> The Official Publication Centre expects the first phase of search function enhancement to be finalised in 2017. The upgraded database will include all legislation, including that adopted prior to 1990. Almost all legislation approved before 1990 is obsolete, but some may still be relevant for research and legal review, and for the use of certain provisions under civil law (e.g. checking and determining hereditary and ownership rights in historical cases).

<sup>232</sup> Calculation based on the number of new laws adopted by the Parliament in 2015 and any amendments to those laws within one calendar year of their adoption. Two out of 41 new laws were amended within one year of adoption, one of them an amendment to the state Budget.

<sup>233</sup> The two laws amended within one year of their adoption in 2015 were Law No. 107/2015 on Electronic Identification and Trusted Services and Law No. 147/2015 on the 2016 Budget.

<sup>234</sup> Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

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respondents believe that the laws and regulations affecting their company are easily available from the authorities<sup>236</sup>.

Overall, due to the good quality control of legislative drafting and the stability of legislation in the short term, the value for the indicator 'Predictability and consistency of legislation' is 3.

Despite a major improvement in the accessibility of legislation through the Official Publication Centre and the reform efforts that are being undertaken in this area, because not all laws are available online the value for the indicator 'Accessibility of legislation' is 2.

Predictability and consistency of legislation						
This indicator measures the predictability and consistency of legislation. It assesses the availability of training and guidance along with the establishment of the quality control function. The consistency of laws is assessed based on the ratio of laws amended one year after adoption, and predictability is assessed through the perceived consistency of interpretation of business regulations.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Availability of guidance documents on legal drafting	1/2
2. Quality assurance on legal drafting	3/3
3. Laws amended one year after adoption (%)	2/3
4. Perceived clarity and stability of government policy making by businesses (%)	0/2
<b>Total<sup>237</sup></b>	<b>6/10</b>

Accessibility of legislation						
This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for public accessibility of legislation	6/6
2. Accessibility of primary and secondary legislation in practice	2/8
3. Perceived availability of laws and regulations affecting businesses (%)	0/2
<b>Total<sup>238</sup></b>	<b>8/16</b>

<sup>235</sup> The businesses were asked if they agreed with the statement "Laws and regulations affecting my company are clearly written, not contradictory and do not change too frequently". The percentage of responses "strongly agree" or "tend to agree" were used to establish the value of the sub-indicator.

<sup>236</sup> The question asked during the survey was, "To what extent do you agree with the following statements? Information on the laws and regulations affecting my company is easy to obtain from the authorities." The percentage of responses "strongly agree" or "tend to agree" were used to establish the value of the sub-indicator.

<sup>237</sup> Point conversion ranges: 0=0, 1-2=1, 3-4=2, 5-6=3, 7-8=4, 9-10=5.

<sup>238</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

**Clear procedures and rules for drafting legislation have been established and are largely adhered to, but the current guidance document on legal drafting is out of date. Legal quality scrutiny is strongly embedded in the policy-making and law-drafting processes, and the OPM and the MoJ perform this role. Nearly all primary and secondary legislation is available centrally through a national electronic database that is accessible online free of charge. No official versions of consolidated legislation are published, although the unofficial consolidated versions are available through the national online database of legislation.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The Government should develop and approve a clear plan for full implementation of RIA within the existing policy-making system after the pilots in the two ministries are completed. The methodology and process for costing policy proposals and public consultation need to be fully consistent and in line with the new RIA system. The Government should ensure that the RIA reports form an integral part of the documentation supporting new policy proposals submitted for approval. The RIA reports should be published at least at the consultation and final stages of the policy approval process.
- 2) The Government should ensure that all draft laws undergo public consultation as required by the Law on Consultation. The Government should develop guidelines on public consultation to help ministries prepare, organise and carry out public consultations on time and in line with the requirements and standards introduced by the Law on Consultation. The electronic platform on public consultation should be fully operational and easy to access and use by all stakeholders. All ministries should ensure they use the system to implement public consultations on proposed new policies.
- 3) The Government should strengthen the quality control and oversight of the public consultation process to ensure that all ministries follow the established processes and requirements for public consultation. The oversight body for public consultation should ensure that all ministries prepare and submit a report on the outcome of public consultations before the proposal is finalised and submitted to the Government for final approval.
- 4) Line ministries should develop clear internal guidelines for developing policies and drafting legislation, which should function as intra-ministerial RoP.

#### **Medium-term (3-5 years)**

- 5) The quality of EI planning documents should be improved, with particular attention to the time frame for implementation and realistic planning. The process of implementing the *acquis* should be aligned with policy development requirements through the new RIA system, once it has been developed.
- 6) The Government should ensure that all primary and secondary legislation in force is available in an officially consolidated form through the online database that should be developed.

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## Public Service and Human Resource Management

## PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

#### 1.1. State of play

The horizontal, vertical and material scopes<sup>239</sup> of the civil service are well regulated in the Civil Service Law (CSL)<sup>240</sup>. Nevertheless, unjustified exceptions to the horizontal and vertical scopes still exist, with some institutions subordinated to the Prime Minister (PM) and line ministries.

The institutional and legal framework for a professional civil service is established. However, the incomplete development of the Human Resource Management Information System (HRMIS) hinders proper human resource (HR) planning, monitoring and homogeneous management. Recruitment procedures are based on merit, but shortcomings in job descriptions remain and adversely affect the organisation of pooled recruitment. The proportion of vacancies filled is relatively high, but the ratio of effective participation in competitions has declined.

Since the entry into force of the CSL, and while the curriculum of the in-depth training programme was under development, senior managerial positions have been filled using the “exceptional” procedure. The ordinary procedure for admission to this group is not yet implemented.

The development of a policy document on salary reform has not yet begun, and neither are salary steps linked to individual performance and continuous training in place. Therefore, promotion is the only way to improve salaries. Performance appraisals are conducted without relevant consequences, except for lateral transfers and promotion. The periodical evaluation of ‘additional knowledge’<sup>241</sup> of civil servants has started, partially duplicating other individual assessment procedures.

#### 1.2. Main developments

The following section describes key changes in the public administration for each key requirement<sup>242</sup> and main developments based on the indicators used in the SIGMA 2015 Baseline Measurement Report.

In the first quarter of 2016, the Council of Ministers (CoM) approved by-laws aimed at completing the secondary civil service legislation, taking into account the CSL amendments introduced in December 2014<sup>243</sup>. The legal framework on the integrity of civil servants was completed with Law No. 138/2015 on the Integrity of Persons Elected or Appointed to Exercise Public Functions, and with Law No. 60/2016 on Whistleblowing and Protection of the Whistleblowers. Secondary legislation to develop both laws was also adopted. The Albanian School of Public Administration (ASPA) finalised the curriculum of the in-depth training programme for admission to the Top Management Corps (TMC) in 2016.

The process of uploading the organisational structures of public institutions into the HRMIS was completed in 2015 for the central administration, and the introduction of complete data on individual public employees into the system is still being implemented. A uniform method for calculating the

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<sup>239</sup> See definitions of the horizontal, vertical and material scopes of the civil service in OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p. 41, <http://sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf>.

<sup>240</sup> Law No. 152/2013 on Civil Servants.

<sup>241</sup> DCM No. 1037 of 16 December 2015 on the Procedures of Evaluating Civil Servants on Acquiring and Updating Additional Knowledge.

<sup>242</sup> OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf>

<sup>243</sup> Law No. 178/2014 on Some Amendments and Supplements to Law No. 152/2013 on Civil Servants.

payroll was established by a joint order of the Minister of Finance (MoF) and the Minister of State for Innovation and Public Administration (MIPA) to be applied in 2017, but interoperability of the HRMIS with the MoF made little progress in 2016.

Preparation of the policy document on salaries foreseen in the Public Administration Reform (PAR) Strategy for 2017 has not started<sup>244</sup>. Meanwhile, in February 2017, the Government approved an update of the current salary regulations, which predate the CSL. New supplements for specific work conditions were added to positions in the Office of the PM (OPM), the Department of Public Administration (DoPA), the MoF and the Ministry of Justice (MoJ), among others.

**Key requirement: The scope of public service is clearly defined and applied in practice so that the policy and legal frameworks and institutional set-up for professional public service are in place.**

There has been no major improvement under this key requirement since 2015. Therefore, the indicator values remain the same.

The horizontal, vertical and material scopes of the civil service are well regulated in the CSL. Nevertheless, the exclusion of some institutions from the horizontal scope of the law – the grounds of which are unclear – persists, particularly for cases stemming from a wide interpretation of the definition of direct service delivery units. The setting of clear criteria by the Government, as recommended by SIGMA in 2016<sup>245</sup>, has not yet taken place. Exceptions to the vertical scope of the CSL have also been identified in some public institutions subordinated to ministries, when regulations provide for political appointment of the head of the institution, while this position is classified under Senior Civil Service in CSL legislation.

The legal framework of the civil service is complete, except for development of the salary system as established in the current law (see Principle 5). During 2015 and 2016, the primary legislation on integrity was completed with the new Law No. 138/2015 on Integrity, and with the new Law No. 60/2016 on Whistleblowing and Protection of the Whistleblowers. All the secondary legislation related to the new CSL and to the integrity legal framework (including new laws on integrity and whistleblowing) is in place.

The structure of the DoPA has been reinforced with 15 new positions, for a total of 58. Institutional capacities to ensure uniform implementation of human resource management (HRM) practices remain limited, as HRMIS is not yet operational. The basic functionalities of the HRMIS as the central register of personnel are technically developed and the process of uploading the organisational structures of the central administration institutions was completed in 2015, but populating the system with complete individual data is not yet finished. Processing public institution payrolls is not possible, and interoperability with the MoF is not in place.

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<sup>244</sup> Work on drafting the policy document is to begin after the Instrument for Pre-accession Assistance (IPA) 2014 Project has been implemented. In June 2017 drafting of the Terms of Reference for the IPA 2014 Project was being finalised.

<sup>245</sup> OECD (2016), *Monitoring Report: Albania*, OECD Publishing, Paris, p. 41, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Albania.pdf>

**Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports<sup>246</sup>**

	2015 Baseline Measurement Indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	4	4
	Extent to which the policy and legal frameworks for professional and coherent public service is established and implemented.	3	3
	Extent to which the institutional set-up enables consistent HRM practices across the public service.	3	3

**Key requirement: Professionalism of public service is ensured by good managerial standards and human resource management practices**

The proportion of vacancies filled in competitions organised in 2016 for non-senior civil service positions improved from 2015, but is still insufficient. Despite efforts to attract higher numbers of candidates for external recruitment, the ratios of applicants and eligible candidates per vacancy declined compared with 2015, and effective participation in competitions attained only three short-listed persons per vacancy, on average.

One procedure for admission to the TMC was launched in 2016 for 27 vacancies, still under the exceptional procedure established in the CSL, but 19% of the TMC positions remained unfilled. During 2016, the ASPA finalised the curriculum of the in-depth training programme for admission to the TMC. However, since the entry into force of the CSL, 126 TMC positions have been filled through exceptional procedures. This, along with the length and intensity of the training programme, challenges the feasibility of the ordinary admission procedure.

Stability in the civil service improved in 2016 compared with 2015. Termination of employment in non-senior-level positions decreased markedly, including dismissals. However, in 2016 there were 95 dismissals due to numerous restructuring procedures. The implementation of court rulings favourable to dismissed civil servants remains low: only 37% of such decisions were executed in the two years. The database and reporting system launched by MIPA at the end of 2015 has been only partially implemented.

Salary reform is still pending, as development of a policy document foreseen for 2017 in the PAR Strategy has not yet begun. Meanwhile, in February 2017 the Government approved an update of the current salary regulations, which pre-date the CSL. General increases to base salaries were established, and more salary supplements for specific work conditions of some vacancies in the OPM, the DoPA, the MoF and the MoJ, among others, were added. The criteria for allocating some supplements (i.e. the necessary specific work conditions) to certain positions are not clear, and their extension threatens the internal coherence and fairness of the system. At the same time, external competitiveness has not improved: the wage compression ratio of the updated base salary structure remains the same, so the lack of competitiveness of wages in higher categories persists.

The legal framework on the integrity of civil servants was completed with Law No. 138/2015 on the Integrity of Persons Elected or Appointed to Exercise Public Functions, and with Law No. 60/2016 on Whistleblowing and Protection of the Whistle-blowers. Secondary legislation is in place, and the institutional capacities of the High Inspectorate of Declaration and Audit of Assets and Conflicts of

<sup>246</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

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Interest (HIDAACI) and the DoPA, to undertake new responsibilities established by these laws, are being reinforced. Basic statistics to track all the investigation phases are in place and show a slight decrease in some indicators on the management of corruption offences, except for convictions by appeal courts, which increased by 24% in 2016.

**Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which the recruitment of public servants is based on the merit principle in all its phases.	4	4
	Extent to which the termination of employment of public servants is based on merit.	3	3
	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	3	3
	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	4	3
	Extent to which the training system of public servants is in place and applied in practice.	3	3
	Extent to which the performance appraisal system of public servants is in place and applied in practice.	3	3
	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	3	4
	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	4	4
<b>Quantitative</b>	Annual turnover of civil servants at the level of central administration.	Not available	Not available
	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	63%	66%
	Percentage of women in senior managerial positions in the civil service at the level of central administration.	47%	40%
	Annual turnover of senior managerial civil servants at the level of central administration.	0%	2% <sup>247</sup>
	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	Not available	48%

<sup>247</sup>

The indicator value is 18% if the annual turnover calculations include those civil servants who were released from their top-level management positions but were later appointed to other positions or were put back in the TMC reserves.

## 2. ANALYSIS

This analysis covers seven Principles for the public service and human resource management area grouped under two key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>248</sup>, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

### Policy, legal and institutional frameworks for public service

**Key requirement: The scope of public service is clearly defined and applied in practice so that the policy and legal frameworks and institutional set-up for professional public service are in place.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



#### ***Analysis of Principles***

##### ***Principle 1: The scope of public service is adequate, clearly defined and applied in practice.***

The CSL establishes a clear and very wide horizontal scope for the civil service. It encompasses the state administration, the administrations of independent institutions, and local government units.

Exceptions to the horizontal scope include judges and prosecutors, the civil judicial administration, the state intelligence service and personnel of direct service delivery units. Amendments to the CSL passed in December 2014<sup>249</sup> extending such exceptions are unclear in some cases<sup>250</sup>.

There are several institutions subordinated to the OPM and to line ministries whose staff is subject to the Labour Code, although their employees do not fit into any of the groups noted. They exercise core administrative functions, and the provision of services to citizens or to other public bodies is claimed as a reason for exclusion from the civil service<sup>251</sup>.

<sup>248</sup> OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>249</sup> Law No. 178/2014, Article 1, amending Law No. 152/2013, Article 2.

<sup>250</sup> OECD (2016), *Monitoring Report: Albania*, OECD Publishing, Paris, pp. 9-11, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Albania.pdf>.

<sup>251</sup> Examples of such institutions are: the Agency for Information Society, the Agency for the Implementation of Territorial Reform, the National Agency for Regional Development, the Agency for Regional Economic Development and the Agency for Openness and Dialogue under the Prime Minister; the Agency for Territorial Development and National Agency for Territorial Planning under the Ministry of Urban Development; and the National Agency of Natural Resources under the Ministry of Energy and Industry.

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At the same time, the lack of specific regulations to ensure merit-based recruitment, integrity rules and disciplinary procedures for some groups of public employees exercising public authority and excluded from the scope of the civil service through the amendments to the CSL passed in 2014, remains a matter of concern<sup>252</sup>.

The CSL clearly determines the vertical scope of the civil service – that is, the demarcations between political appointees, public servants and support staff<sup>253</sup>. Moreover, the CSL stipulates that civil servants in the top-level management category cannot be members of political parties<sup>254</sup>. The positions immediately under the ministers in the hierarchy of the ministries and the public institutions subordinated to ministries and to the PM are classified as senior civil service positions<sup>255</sup>. The same applies to the top management positions of the Administration of the Assembly, the President, and other institutions established in the constitution or by special laws. Nevertheless, exceptions to the vertical scope of the CSL are set forth by special laws that apply to some institutions subordinated to ministries; these laws designate that directors be appointed by the CoM or by the ministers to whom they report. Cases identified include the Director General of the Customs Directorate, the Head of the National Food Authority, the Director of the Civil Aviation Authority, and the chairperson and members of the Procurement Commission<sup>256</sup>.

Public employees who are not civil servants constitute the majority of public sector staff<sup>257</sup>. Yet, there is not a uniform, comprehensive legal framework ensuring merit-based recruitment and dismissal, as their employment contract relations are regulated by the Labour Code<sup>258</sup>, by relevant sector legislation if it exists (education, social services, health)<sup>259</sup>, by collective agreements, and by individual contracts.

The value for the indicator ‘Adequacy of the scope of public service’ is 4.

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<sup>252</sup> This is the case with the inspectors of the Supervisory Authority for Gambling and with the inspectors of the National Inspectorate for the Protection of the Territory. Both groups are only subject to the general Labour Code.

<sup>253</sup> Law No. 152/2013, Articles 2 and 4d. Regarding state administration, data provided by the DoPA confirms that all secretarial staff, building maintenance staff and drivers are not included in the civil service. Information technology (IT) support staff are civil servants, while accountants or equivalent positions can be either civil servants or be subject to the Labour Code, depending on which institution they work in.

<sup>254</sup> Law No. 152/2013, Article 37.

<sup>255</sup> Decision of the Council of Ministers (DCM) No. 142 of 13 March 2014 on the Description and Classification of Job Positions of State Administration Institutions and Independent Institutions, amended by DCM No. 262 of 25 March 2015.

<sup>256</sup> Law No. 102 of 31 July 2014 on the Customs Code of the Republic of Albania, amended by Law No. 32 of 2 April 2015; Law No. 10233 of 2 November 2010, amended by Law No. 10479 of 10 November 2011 on the Civil Aviation Authority. Information on the National Food Authority and the Procurement Commission was provided by the DoPA.

<sup>257</sup> At the end of 2016, only 4.5% of public employees working in the public sector were civil servants of the state central administration: 7 440 civil servants (DoPA data) and over 165 100 public employees (INSTAT administrative data for labour market; quarterly employment by administrative source and agricultural sector Q1 2012–Q4 2016). This proportion is virtually the same as in 2015 (4.7%).

<sup>258</sup> Law No. 7961 of 12 July 1995 on the Labour Code of the Republic of Albania, amended by Law No. 136/2015.

<sup>259</sup> Among others: Law No. 10107 of 30 March 2009 on Healthcare in the Republic of Albania; Law No. 7952 of 21 June 1995 on the Pre-university Education System; Law No. 8872 of 29 March 2002 on Vocational Education and Training, amended by Law No. 10/011 of 30 October 2008 and Law No. 10434 of 23 June 2011; Law No. 8461 of 25 February 1999 on Higher Education; and Law No. 9355 of 10 March 2005 on Social Aid and Services.

Adequacy of the scope of public service						
This indicator measures the extent to which there is a legal framework establishing an adequate horizontal, vertical and material scope for the public service <sup>260</sup> , and whether it is consistently applied across the public sector.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Clarity in the legislative framework of the scope of the civil service	2/2
2. Adequacy of the horizontal scope of the public service	4/6
3. Comprehensiveness of the material scope of civil service legislation	2/2
4. Exclusion of politically-appointed positions from the scope of the civil service	2/2
5. Clarity of the lower division line of the civil service	1/1
Total <sup>261</sup>	11/13

**The horizontal, vertical and material scopes of the civil service are well regulated. Nevertheless, exceptions to the horizontal scope of the CSL applied by public institutions subordinated to ministries and performing functions of public authority persist. Exceptions to the vertical scope of the civil service are present in some public entities subordinated to ministries, based on special legislation. There is not a uniform, comprehensive legal framework to ensure merit-based recruitment and dismissal of those public employees not covered under the CSL.**

*Principle 2: The policy and legal frameworks for a professional and coherent public service are established and applied in practice; the institutional set-up enables consistent and effective human resource management practices across the public service.*

The legal framework in place includes all the general provisions relevant to employment contract relations between civil servants and the management of the civil service<sup>262</sup>. There is a sound balance between primary and secondary legislation: primary legislation establishes the basic structures and principles, while secondary legislation contains detailed procedural and administrative provisions.

The scope of the PAR Strategy, adopted in April 2015<sup>263</sup>, encompasses the entire civil service as defined in the CSL<sup>264</sup>. In September 2015, the Integrated Policy Management Group for Good Governance and

<sup>260</sup> In OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p. 40, [http://sigmaweb.org/publications/Principles-of-Public-Administration\\_Edition-2017\\_ENG.pdf](http://sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf), SIGMA clarifies that it applies the **narrow scope** of public service, covering: 1) ministries and administrative bodies reporting directly to the government, prime minister or ministers (i.e. the civil service, strictly speaking); administrations of the parliament, the president and the prime minister; 2) other administrative bodies at the level of the central administration, if they are responsible for safeguarding the general interests of the state or other public bodies; and 3) independent constitutional bodies reporting directly to the parliament. The scope of public service thus does not cover institutions at the level of sub-national administration and special types of public service, elected and politically appointed officials, or support and ancillary personnel in the administrative bodies.

<sup>261</sup> Point conversion ranges: 0-3=0, 5-5=1, 6-7=2, 8-9=3, 10-11=4, 12-13=5.

<sup>262</sup> According to *The Principles of Public Administration*, this refers to the **material scope** of public service, which includes the scope and principles of the civil service; classification; recruitment and selection, including of civil servants in senior managerial positions; rights and obligations of civil servants, including the integrity system; remuneration (main principles and components of salary system); professional development, including performance appraisal, training, mobility and promotion; disciplinary procedures, including suspension of the civil service contract; termination of employment, including demotion and redundancy; and management and central co-ordination of the civil service.

<sup>263</sup> DCM No. 319 of 15 April 2015.

<sup>264</sup> More specifically, Objective 6 (Activities 6.1 to 6.10), Objective 7 (Activities 7.1 to 7.3), and Objective 10 (Activity 10.3) of the Strategy cover civil service and integrity aspects. Objective 6, on “improved capacities for the implementation of civil service legislation and facilitated enforcement procedures”; Objective 7, on “organisation of the civil service

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Public Administration Reform (IPMG-PAR) was established<sup>265</sup>. Membership of IPMG-PAR also includes the Minister of State for Local Government, who is also the National Co-ordinator for Anti-corruption (NCAC). The IPMG-PAR provides overall co-ordination and political support for PAR implementation, including the strategic objectives set in the civil service policy area.

The CoM is obliged to report to the Parliament annually on the civil service policy and its implementation, while MIPA is responsible for the general management of the civil service policy. So far, monitoring reports on the PAR Strategy indicate relatively good progress on activities under Objective 6 (improved capacities for the implementation of civil service legislation and facilitated enforcement procedures) and little progress on salary reform<sup>266</sup>. The CoM annual report on the civil service is produced by the DoPA.

The structure of the DoPA was reinforced in 2016 and 2017 with 15 new positions, for a total of 58. Five of the new positions are for a specific unit dedicated to the implementation of Law No. 138/2015 to guarantee the integrity of persons elected or appointed to exercise public functions. Forty-five positions are currently filled, and 13 vacancies are included in the staffing plan for 2017.

All the state central administration institutions with a minimum of 30 employees have at least one person in charge of HRM. Communication between DoPA and the HRM units in the state central administration is continuous and fluid, focused mostly on resolving issues of common interest concerning HRM procedures. During 2016, the DoPA organised some short workshops and training on different HRM topics, although not all HRM units participated<sup>267</sup>. Informal networks exist among some HRM units, but their co-operation is not institutionalised. Overall, HRM units are mostly focused on the day-to-day administrative management of the workforce<sup>268</sup>. There is a lack of co-ordination mechanisms to ensure homogeneous implementation of the law across the civil service, as well as to exchange knowledge and boost learning on HRM practices.

The process of uploading the organisational structures of the central administration institutions to the HRMIS<sup>269</sup> was completed in 2015. In 2016, progress was made in uploading positions and individual files of public employees to the HRMIS, but it was not completed. By May 2017, 29 330 positions and 16 900 employee files had been uploaded to the system, encompassing state administration institutions, independent institutions and local governments. The proportion of state administration institution positions uploaded into the system is only 55%<sup>270</sup>, and the proportion of individual files

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wage system based on job evaluation, on the evaluation of annual achievements of civil servants and on compulsory training outcomes”, and, partially, Objective 10, on “enhancement of the efficiency and accountability of public officials”, which includes some activities related to the integrity of civil servants.

<sup>265</sup> Decision of the Prime Minister No. 129 of 21 September 2015 on Undertaking Institutional and Operational Measures for Implementation of the Sector-Wide Approach and Establishment of Integrated Policy Management Groups.

<sup>266</sup> The Annual Monitoring Report 2016 of the Cross-cutting PAR Strategy 2015-2020 does not offer clear comparison with the Action Plan. However, analysis of both documents shows that 10 out of 21 activities planned for implementation in 2016 were executed according to schedule (48%) (Activities 6.5.2, 6.5.3, 6.7.1, 6.7.2, 6.8.1, 6.8.2, 6.9.1, 6.9.2, 6.9.4 and 6.10.4). Some activities included in the Action Plan are not mentioned in the monitoring report. Of quantitative targets for which information was provided, one out of five was achieved (20%).

<sup>267</sup> Interviews with HRM units.

<sup>268</sup> Interviews with HRM units. None of the HRM units interviewed elaborates periodical reports for top managers of their institutions with quantitative and qualitative data, and forecasts on the workforce. None of them prepares specific diagnoses and strategies on HRM (there are management plans of the directorates to which such units report, including the HR area, but they do not include analyses and strategies specific to HR). They are not regularly involved in professional HR networking activities, and only a few of the units interviewed participated in the workshops and training organised by the DoPA on HRM in 2016.

<sup>269</sup> According to the DCM of 5 March 2014, the system includes the organisational structure of administrative bodies, the total number and characteristics of public servants (gender, age, education, qualification, tenure, category, class and salary), information on disciplinary measures and information on the periodic individual performance appraisals.

<sup>270</sup> 15 400 positions uploaded out of 27 821.

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uploaded, compared with the total number of employees in a sample of public institutions, ranges from 69% to 95%<sup>271</sup>, with an overall ratio of 71%<sup>272</sup>.

Interoperability of the HRMIS with the Civil Registry was established in 2015, and with the database of the National Business Centre in 2016. A joint MIPA and MoF instruction<sup>273</sup> was signed in December 2016 to enable uniform payroll calculations. Until this crucial procedure is fully implemented, central processing of public institution payrolls will not be possible.

Incomplete development of the HRMIS and its limited reporting capacities<sup>274</sup> hinder the development of HR strategic planning, monitoring and management in the public administration. HR planning is currently limited to the development of annual staffing plans, based on short-term criteria established under the CSL and secondary legislation<sup>275</sup>.

Independent oversight of the civil service is ensured by the Commissioner for the Oversight of the Civil Service (COCS), set up by the CSL as an independent public body that reports to the Parliament<sup>276</sup>. During 2016, the Commissioner conducted inspections of 40 institutions: 26 procedures ended with a warning and recommendations<sup>277</sup>.

The Ombudsman conducts oversight activities in the area of public service, within the framework of its legal attributions. In 2016, the proportion of recommendations accepted by public administrations was higher than in the previous year, but the implementation rate remains low overall – around 30%<sup>278</sup>.

Considering the factors analysed above, the value for the indicator 'Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service' is 3.

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<sup>271</sup> Data provided in February 2017 by the Ministry of Economic Development, Trade and Entrepreneurship (78% of individual files have been uploaded); the Ministry of Social Welfare and Youth (95%); the Tax Administration (69%), and the Customs Directorate (69%).

<sup>272</sup> Overall data provided by the DoPA in June 2017 for May 2017.

<sup>273</sup> Instruction No. 4 of 13 December 2016.

<sup>274</sup> The system allows for quick reporting only on basic indicators, such as numbers of positions (not actual employment) by professional category in state central administration institutions, or the total number of starters and leavers by ministry. Information on average total annual salary for different staff categories is not yet available.

<sup>275</sup> CSL No. 152/2013 and DCM No. 108 of 26 February 2014 on the Annual Recruitment Plan to Civil Service. According to this decision, the elements that must be taken into account for developing staffing plans are: civil servants reaching retirement age, anticipated new vacancies in the civil service, and the progressive emergence of new vacancies in the civil service for other reasons.

<sup>276</sup> CSL No. 152/2013, Articles 11-16.

<sup>277</sup> Annual Monitoring Report 2016 of the Cross-cutting Public Administration Reform Strategy 2015-2020, p. 33.

<sup>278</sup> The proportion of recommendations accepted was higher than in 2015 (62% vs. 46%), but the implementation of accepted recommendations was lower (47% vs. 66%). Overall, implemented recommendations out of total recommendations remained around 30%.

**Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service**

This indicator measures the extent to which the policy, legal framework and institutional capacities are in place and enable consistent human resource management (HRM) practices across the public service, and assesses whether policies and laws are implemented to ensure proper management of the civil service, for example a functioning civil service database, availability and use of data, etc.

Overall indicator value 0   1   2   **3**   4   5

Sub-indicators	Points
1. Establishment of political responsibility for the civil service in the legal framework	2/2
2. Quality of public service policy documents	3/4
3. Implementation and monitoring of public service policy	1/4
4. Right balance between primary and secondary legislation	2/2
5. Existence of a central, capable co-ordination body	2.5/4
6. Professionalism of HRM units in civil service bodies	1/2
7. Existence of a functional HR database with data on the civil service	1.5/4
8. Availability and use of data on the civil service	3/5
<b>Total<sup>279</sup></b>	<b>16/27</b>

**The institutional and legal frameworks for professional management of the civil service are in place. However, institutional capacities to ensure adequate implementation of HRM practices are limited. Bilateral communication between the DoPA and HRM units is smooth, but effective horizontal co-ordination across civil service institutions is not yet in place. The HRMIS is still at an initial stage of development, which hampers strategic planning and monitoring of the civil service.**

***Key recommendations***

**Short-term (1–2 years)**

- 1) The Government should ensure that civil service status applies to all public service positions that exercise public authority, and to this end should establish clear criteria for the direct service delivery units included in the CSL and in Law No. 190/2012.
- 2) The Government should ensure that all positions of “head of institution”, equivalent to Secretary General in public bodies subordinated to line ministries, are classified as civil service positions, in compliance with the regulations on civil service job classification.
- 3) The DoPA should ensure that the uploading of complete data on public service organisations and employees in the HRMIS is finalised, and should set procedures for quality assurance and updating of the data, as well as for quick reporting on public service and key HRM indicators.
- 4) The DoPA should provide for more systematic horizontal co-ordination and communication across the HRM system, to ensure uniform and efficient implementation of the CSL and to enhance peer learning.

**Medium-term (3–5 years)**

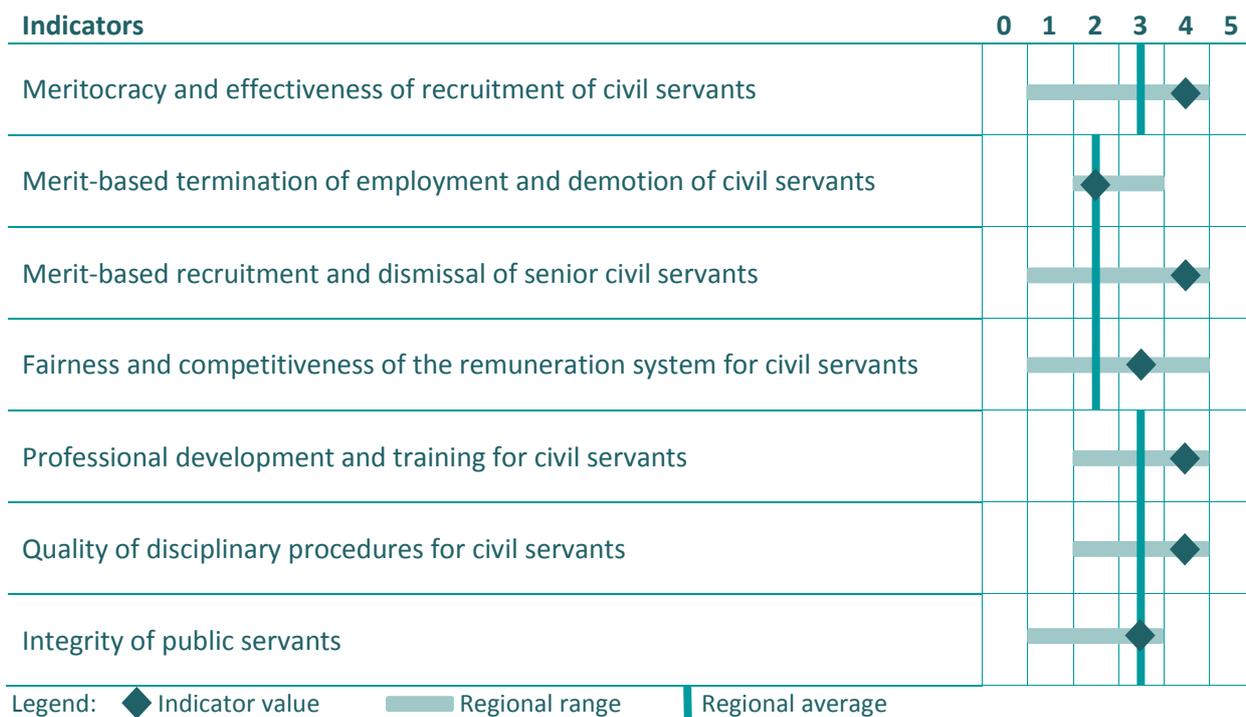
- 5) The DoPA should enhance the use of data in HRMIS to improve short-term planning and to develop strategic planning of the workforce, as well as to monitor implementation of the public service policy and HRM procedures.

<sup>279</sup> Point conversion ranges: 0-3=0, 4-8=1, 9-13=2, 14-18=3, 19-23=4, 24-27=5.

## Human resource management

**Key requirement: Professionalism of public service is ensured by good managerial standards and human resource management practices.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



### ***Analysis of Principles***

***Principle 3: The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.***

The CSL establishes recruitment procedures based on the principles of merit, equal opportunity and open competition. Recruitment provisions include clear, non-discriminatory eligibility criteria, and positive discrimination clauses in the event of a tie between candidates having received equal points in competitions<sup>280</sup>.

Annual staffing plans are prepared every year; the DoPA centralises and supervises the process for the central administration institutions<sup>281</sup>. In 2016, the number of vacancies in the annual staffing plan for non-senior positions was 1 109<sup>282</sup>, and increased up to 1 268 vacancies due to resignations, mobility

<sup>280</sup> DCM No. 243 of 18 March 2015 on Admission, Lateral Transfer, Probation Period and Appointment to the Executive Level (Chapter IV, point 13). Such clauses apply to persons with disabilities or to persons belonging to the less-represented gender in the group for which the competition is organised.

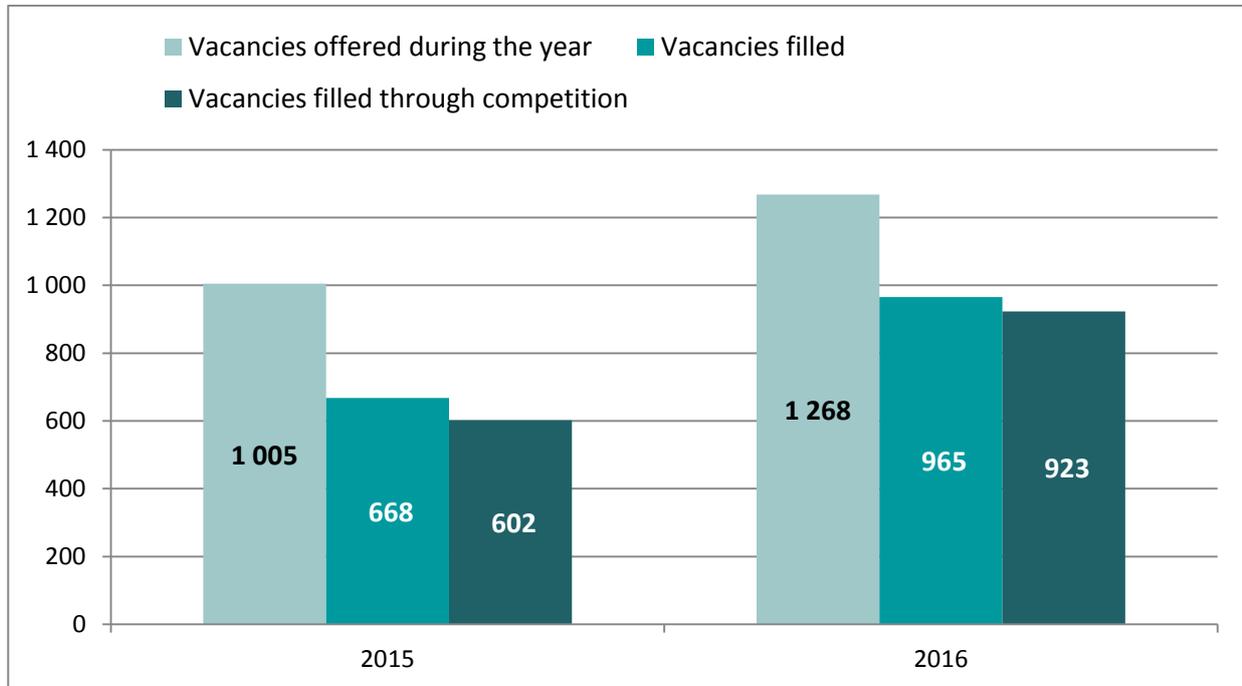
<sup>281</sup> CSL No. 152/2013, Article 18, and DCM No. 108 of 26 February 2014 on the Annual Recruitment Plan to Civil Service.

<sup>282</sup> The initial annual staffing plan for 2016 included 1 121 vacancies, of which 12 corresponded to senior civil service positions, and the rest (1 109) involved mid-level management, low-level management and expert-level civil service positions.

and other HRM procedures<sup>283</sup>. Twenty percent of the vacancies in the mid-level and low-level management categories were open to external candidates<sup>284</sup>.

During 2016, 625 competitions were organised to fill vacancies in non-senior civil service categories. The proportion of vacancies filled improved from 2015 (Figure 1), at slightly over 76% (965 vacancies filled out of 1 268 offered). If only competitions open to external candidates are considered, 66% of the vacancies offered were filled (589 appointments out of 889 vacancies).

**Figure 1. Vacancies filled in non-senior civil service positions, 2015-2016**



Source: Department of Public Administration.

Out of the 965 filled vacancies, 96% were filled through competition, either internal or external, and the other 4% by execution of court decisions or in compliance with other legal provisions. The number of the latter over the total number of vacancies filled diminished by one-third compared with 2015. The proportion of vacancies filled in the mid-level management category, although still insufficient, improved remarkably from 2015 (75% of vacancies filled in 2016 against 52% in 2015).

Nevertheless, these improvements were achieved with a significant fall in the ratios of applicants per vacancy, eligible candidates<sup>285</sup> per vacancy and participant candidates<sup>286</sup> per vacancy compared with 2015 (Figure 2). The ratio of effective participation in recruitment procedures – three participants per vacancy in 2016 (4.4 in 2015) – is low. Some progress has been made in disseminating information on recruitment through various channels, with the aim of attracting higher numbers of suitable candidates. All vacancies are publicly announced through the DoPA portal<sup>287</sup>.

<sup>283</sup> These 1 268 vacancies refer only to mid-level management, low-level management and expert civil service positions. The total number of vacancies offered for competition during 2016 in the senior civil service (TMC) was 27. Thus, the total number of vacancies offered for staffing in 2016, including all the civil service professional categories, was 1 295.

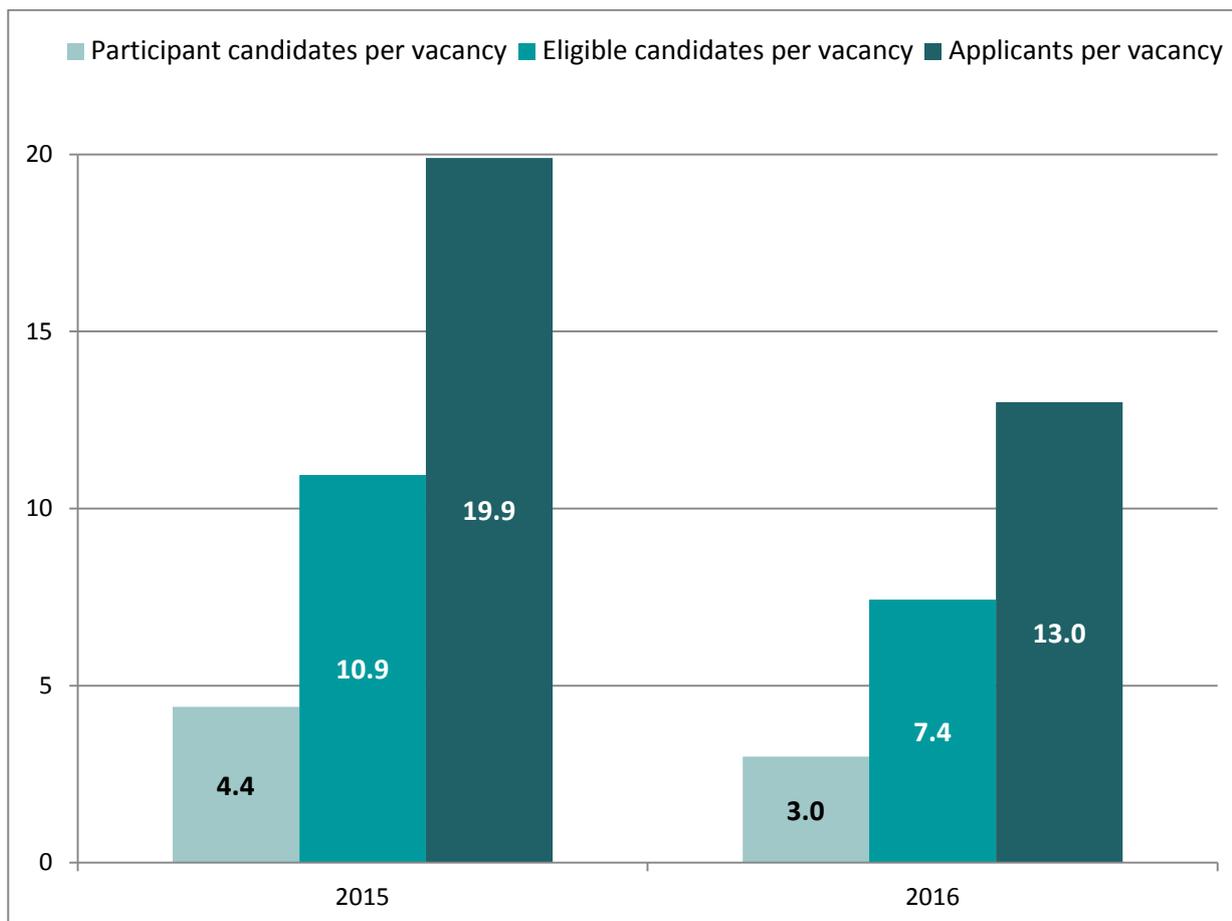
<sup>284</sup> DCM No. 284 of 13 April 2016 on the Opening of the Accession Procedure in the Lower and Middle Management for Other Candidates Outside the Civil Service for 2016, amended by DCM No. 860 of 12 July 2016. Specifically, 18 positions were opened for external competition in the mid-level category and 55 in the low-level category.

<sup>285</sup> Eligible candidates are applicants who fulfil the requirements established in the vacancy announcement, and are therefore pre-selected to participate in the recruitment procedures.

<sup>286</sup> Participant candidates are the eligible candidates who effectively took part in the recruitment procedures.

<sup>287</sup> [www.dap.gov.al](http://www.dap.gov.al).

**Figure 2. Applicants and eligible candidates per vacancy in competitions for non-senior civil service positions, 2015-2016**



Source: Department of Public Administration.

The selection methods for external recruitment improved through the introduction of multiple-choice questionnaires for the written tests, automatically generated from a bank of questions set up by the DoPA. The tests are anonymous and they are corrected electronically. Overall, external experts participating in selection committees and other external actors perceive a greater level of transparency and quality of selection procedures.

Although the process of drafting job descriptions in accordance with the CSL was already completed for central administration institutions and independent institutions in 2015, there are still some deficiencies that negatively impact HRM procedures<sup>288</sup>. Amendments to regulations on civil service job descriptions and classification were introduced<sup>289</sup>, aimed at setting harmonised standards for job descriptions<sup>290</sup> and to facilitate the pooling of vacancies.

In 2016, recruitment procedures from the date of announcement of the vacancy to the date of publication of results (in a sample of state administration institutions) lasted on average 1.7 months. However, the total time that elapsed from the declaration of a vacancy (during a year or at year-end) and the approval of the staffing plan (in February) until the appointment of candidates was significantly longer in many cases (up to several months), given that in the pool recruitment system many competitions were organised only during the second half of the year<sup>291</sup>.

<sup>288</sup> DoPA Annual Report for 2016, pp. 23-24.

<sup>289</sup> DCM No. 305 of 5 April 2017 amending DCM No. 142/2014.

<sup>290</sup> The draft amendments include, among others, harmonised standards for job descriptions of specialists in finance, in budget management, in procurement, in information technology, and in archives and protocol.

<sup>291</sup> Interviews with HRM units.

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The retention rate of civil servants recruited in 2015 was very high: 97% of them worked in the civil service 12 months after their appointment. The number of civil servants whose work relation terminated in 2016 decreased by 35% compared with 2015, and dismissals due to low performance, disciplinary decisions and court decisions diminished considerably from 2015 to 2016. However, in 2016 only 25% of court rulings on dismissals of civil servants confirmed the decision of the administration, which points to shortcomings in the implementation of dismissal procedures.

Thirty-two civil servants were reinstated to civil service positions in 2016 due to the execution of final court decisions, and at the end of 2016 there were still 150 final court judgements favourable to civil servants and pending implementation in central administration institutions. During the period 2014-2016, only 36.7% of such decisions were implemented<sup>292</sup>.

Considering the factors analysed above, the value for the indicator ‘Meritocracy and effectiveness of recruitment of civil servants’ is 4. The value for the indicator ‘Merit-based termination of employment and demotion of civil servants’ is 2.

<b>Meritocracy and effectiveness of recruitment of civil servants</b>						
This indicator measures the extent to which the legal framework and the organisation of civil service recruitment support merit-based and effective selection of candidates wishing to join the civil service and whether this ensures the desired results in terms of competitive, fair and non-discretionary appointments that enhance the attractiveness for job-seekers and performance of the public sector.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework and organisation of recruitment</b>	
1. Adequacy of the legislative framework for merit-based recruitment for civil service positions	16/18
2. Application in practice of recruitment procedures for civil service positions	14/18
<b>Performance of recruitment practices</b>	
3. Time required to hire a civil servant	2/2
4. Average number of eligible candidates per vacancy	3/4
5. Effectiveness of recruitment for civil service positions	1/4
6. Retention rate of newly hired civil servants (%)	4/4
<b>Total<sup>293</sup></b>	<b>40/50</b>

<sup>292</sup> DoPA Annual Report for 2016, p. 25.

<sup>293</sup> Point conversion ranges: 0–7=0, 8–16=1, 17–25=2, 26–35=3, 36–43=4, 44–50=5.

### Merit-based termination of employment and demotion of civil servants

This indicator measures the extent to which the legal framework and the human resource management practices support fair termination of employment in the civil service and fair demotion of civil servants wherever it is envisioned in the legislation. The indicator does not deal with the termination of employment and demotion of senior civil servants.

Overall indicator value 0   1   **2**   3   4   5

Sub-indicators	Points
<b>Legal framework and organisation of dismissals and demotions</b>	
1. Objectivity of criteria for termination of employment in civil service legislation	5/6
2. Objectivity of criteria for demotion of civil servants in the legislative framework	2/2
3. Right to appeal dismissal and demotion decisions to the courts	2/2
<b>Fairness and results of dismissal practices</b>	
4. Dismissal decisions confirmed by the courts (%)	0/4
5. Implementation of court decisions favourable to dismissed civil servants (%)	0/4
<b>Total<sup>294</sup></b>	<b>9/18</b>

**The legal framework provides for merit-based recruitment for civil service positions. However, there is limited capacity for staff planning which, along with shortcomings in the job descriptions, causes delays in the organisation of pooled recruitments. The proportion of vacancies filled has improved, but there has been a significant decline in the ratio of participant candidates, which is a threat to the quality and overall effectiveness of recruitment. Dismissals have decreased substantially since 2015, yet the implementation of court decisions favourable to dismissed civil servants remains very low.**

***Principle 4: Direct or indirect political influence on senior managerial positions in the public service is prevented.***

Senior managerial positions in the state administration are labelled TMC and are included in the scope of the civil service<sup>295</sup>. The CSL establishes recruitment criteria and procedures for senior-level management positions based on merit, equal opportunity and open competition<sup>296</sup>. These criteria and procedures differ from those established for non-senior civil servants, and they are regulated in specific by-laws<sup>297</sup>.

Admission to the TMC is possible through three different procedures. First, the basic means should be through a competition, followed by an in-depth training programme organised by the ASPA, and passing of the final exam<sup>298</sup>. Second, the CSL provides for direct, exceptional access through a national competition, until the first cohort finishes the ASPA training or in case the numbers of candidates that finish the programme is insufficient<sup>299</sup>. These two procedures are open to civil servants and external

<sup>294</sup> Point conversion ranges: 0–2=0, 3–6=1, 7–9=2, 10–12=3, 13–15=4, 16–18=5.

<sup>295</sup> These positions are: general secretary, director of department, director of general directorates and equivalent positions (for example, heads of subordinated institutions).

<sup>296</sup> CSL No. 152/2014, Articles 27-31, for recruitment to TMC positions in the state administration. Recruitment for senior management positions in independent institutions and local governments is regulated by Article 32, with a remission to Article 20, on general principles for recruitment in the civil service.

<sup>297</sup> DCM No. 118 of 5 March 2014 on the Procedures for the Appointment, Recruitment, Management and Termination of Civil Service Relations of the Top-Level Management Civil Servants and Members of the TMC, amended by DCM No. 388 of 6 February 2015.

<sup>298</sup> CSL No. 152/2015, Articles 27.4 and 28.

<sup>299</sup> CSL No. 152/2015, Articles 27.5 and 29.

candidates. Members of the TMC appointed through the exceptional procedure are obliged to attend *ex post* the in-depth training programme, although they do not undergo the final test. The national competition is managed in both cases by the National Selection Committee (NSC)<sup>300</sup>. Finally, a third procedure opens the possibility of direct appointment of senior civil servants from independent institutions to TMC positions in the state administration, following a selection assessment conducted directly by the DoPA. Once appointed, however, this staff member is also obliged to attend the ASPA in-depth training and to take the exam.

One admission procedure to the TMC took place in 2016, encompassing 27 vacancies<sup>301</sup>. It followed the second admission path established in the CSL, given that the in-depth training programme for admission to the TMC was not implemented at that time. Nineteen percent of the vacancies offered remained unfilled, and the number of applicants and eligible candidates per vacancy was low (three and two, respectively), although the quality of candidates was considered adequate by the members of the NSC. The selection methods applied by the NSC were subject to some adjustments, especially the closed multiple-choice questions for the written test. Nevertheless, the matrix of competencies for TMC members, elaborated in 2015, has not been further developed and the oral part of the exam is not fully based on structured interviews. The difficulty in implementing these tools may result from the fact that members of the NSC do not know which senior civil service position a candidate will finally be appointed to. Pool recruitment to TMC may therefore need to be reviewed in the future if appointment decisions turn out to be sub-optimal.

Since the entry into force of the CSL, and while the curriculum of the in-depth training programme was under development, 126 TMC positions have been filled. It was only in 2016 that the ASPA finalised the training curriculum for admission to the TMC<sup>302</sup>, consisting of five modules totalling 280 training hours<sup>303</sup>. The length and intensity of the training is not well adapted to the level of responsibilities and availability of time of members of the TMC already in office, or that of high-level professionals from other sectors in the economy who may be interested in applying for senior civil service positions. Alternative training modalities are being considered to ensure the feasibility of the programme and its adequacy to the target group.

TMC members are appointed to top-level management positions at the request of a head of institution, who may also release them from their position at any time. In this case they remain within the TMC pool and may be appointed to another top-level management position. Demotion, as a measure, is not foreseen in the civil service legislation for any of the civil service professional categories<sup>304</sup>. Termination of service in the TMC is regulated on the same basis as for all other civil servants. Specific terms applying to TMC members relate only to the unsuccessful completion of the ASPA's in-depth training and to a situation in which a TMC member has not been assigned to a regular position for at least eight months in a five-year period.

Only one disciplinary procedure against a TMC member was managed by the NSC in 2016, and resulted in the acquittal of the civil servant<sup>305</sup>. However, court rulings on dismissals of senior civil servants are

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<sup>300</sup> CSL No. 152/2015, Articles 28, 29 and 31. Regulation of the composition and functioning of the NSC is aimed at guaranteeing professionalism and independence. The NSC is made up of nine members, five of which are external independent experts selected through open competition among high-level professionals and academics.

<sup>301</sup> DCM No. 620 of 31 August 2016 on the Opening of the Accession Procedure to the TMC.

<sup>302</sup> With the support of the IPA Twinning project.

<sup>303</sup> The contents of the programme include EU policies and EU integration issues, strategic planning and formulation of government policy priorities, strategic and organisational management, public finance issues, and innovation in public administration.

<sup>304</sup> Senior civil servants may be appointed, with their consent, to mid-level management positions while they are awaiting appointment to regular TMC positions. While appointed in these positions, they are paid according to the top-level management salary and retain TMC position status (CSL No. 152/2013, Article 30).

<sup>305</sup> Interview with members of the NSC.

mostly in favour of the applicant, which points to shortcomings in these procedures<sup>306</sup>.

The proportion of women in TMC positions decreased from 2015 to 2016 (from 47% to 40%), but it still compares favourably with some EU countries<sup>307</sup>.

The value for the indicator 'Merit-based recruitment and dismissal of senior civil servants' is 4.

Merit-based recruitment and dismissal of senior civil servants						
This indicator measures the extent to which the legal framework and the organisation of recruitment and tenure conditions of the senior civil service support a professional senior management, free from undue political influence in access or termination of employment in senior civil service positions. This indicator relates to all competitions for senior positions, both external and internal.						
Recruitment and dismissal in senior positions is treated under a separate indicator due to the importance of the role of this group of civil servants and the increased risk of politicisation and favouritism. High priority accorded to merit and competitiveness in the recruitment process reduces the possibility for political influence in appointments to such positions.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework and organisation of recruitment and dismissal of senior civil servants</b>	
1. Appropriateness of the scope for the senior civil service in legislation	3/3
2. Adequacy of the legislative framework for merit-based recruitment for senior civil service positions	13/15
3. Objectivity of criteria for the termination of employment of senior civil servants in the legislative framework	4/4
4. Legislative protection of the rights of senior civil servants during demotion	2/2
<b>Merit-based recruitment and termination of employment in senior civil service positions in practice</b>	
5. Application in practice of recruitment procedures for the senior civil service	7/9
6. Ratio of eligible candidates per senior-level vacancy	0/4
7. Effectiveness of recruitment for senior civil service positions (%)	3/4
8. Women in senior civil service positions (%)	4/4
9. Stability in senior civil service positions	3/4
10. Dismissal decisions confirmed by the courts (%)	0/4
11. Implementation of final court decisions favourable to dismissed senior civil servants (%)	4/4
<b>Total<sup>308</sup></b>	<b>43/57</b>

**Although the ASPA finalised the curriculum of in-depth training for admission to the TMC, the basic admission procedure has not yet been implemented. Since CSL entered into force, 126 TMC positions have been filled through the use of the exceptional procedure. In 2016, 81% of vacancies opened for**

<sup>306</sup> According to data provided by DoPA, in 2016 there were three court procedures related to dismissal from a regular TMC position. At the time of this report, these cases are being tried in the Court of Appeals. One decision from the Court of First Instance was in favour of the institution, and two decisions were in favour of the TMC member.

<sup>307</sup> For example, this proportion is 39% in the UK, 32% in Italy and 28% in France (EY Senior Civil Service Women's Leadership Index 2016, <https://go.ey.com/2ontgSu>).

<sup>308</sup> Point conversion ranges: 0-10=0, 11-19=1, 20-28=2, 29-37=3, 38-46=4, 47-57=5.

**competition were filled, despite the low number of eligible candidates.**

***Principle 5: The remuneration system of public servants is based on job classification; it is fair and transparent.***

The CSL establishes the obligation to base salaries on the civil service job classification, and provides for both position-related and person-related salary components. Position-related components include the basic salary of the category, the supplement of the class to which the position belongs, and a supplement for extreme work conditions. Person-related salary components take the form of progressively ordered salary steps established within each class: progression from one salary step to the next is based on the individual's performance appraisal results, seniority in the civil service, and successful completion of mandatory training programmes.

However, the wage structure in place differs substantially from that established in the CSL<sup>309</sup>. Although it recognises both position-related and person-related components, none of them, except a seniority supplement, allows for salary upgrading without moving to another position. Neither the results of individual civil servants' performance appraisals nor mandatory training programmes are yet connected to the awarding of salary increments<sup>310</sup>.

This situation co-exists with stagnation in the growth of real wages in the public sector, after their sustained decline over the last decade<sup>311</sup>. Adoption of the new salary structure provided in the CSL depends on the drafting and approval of a strategic document on the salary policy, which is scheduled for the end of 2017.

For the time being, vertical promotion and salary increases remain the only ways to improve salary conditions. The Decision adopted by the CoM in March 2017 to modify some aspects of the current wage regulations<sup>312</sup> establishes, on the one hand, a general increase in different salary supplements<sup>313</sup>, and on the other hand introduces new supplements for specific work conditions in a set of positions in the OPM, the DoPA, the MoF and the MoJ, among others. These measures pose a threat to the internal coherence and fairness of the system.

There is no updated data available to compare salaries in the civil service with those in other sectors of the economy. However, the most recent study available<sup>314</sup> concludes that there is a positive salary gap for the public sector compared with the private sector in the case of low and mid-level wages, but a negative gap for highly paid jobs. The salary increases introduced by the Decision of the Council of Ministers (DCM) in March 2017 do not alleviate the lack of competitiveness in public service salaries, given that the compression ratio of the base salary remains practically unaltered<sup>315</sup>.

The salary components and the procedures to allocate them are transparent in the sense that they are thoroughly regulated, and they leave no margin of discretion to managers<sup>316</sup>. However, there are

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<sup>309</sup> DCM No. 187 of 3 March 2017, amending DCM No. 545 of 11 August 2011.

<sup>310</sup> The situation regarding individual performance appraisal of civil servants is further analysed under Principle 6.

<sup>311</sup> INSTAT, "Real wage growth in public sector, 2000-2015", <http://www.instat.gov.al/en/themes/wages-and-labour-cost.aspx>

<sup>312</sup> DCM No. 187/2017, amending DCM No. 545/2011.

<sup>313</sup> More specifically, the regulation sets forth increases in all positions' supplements, which, along with the supplement for the salary group, is equivalent to the base salary of the position. The increases are proportionally lower for the lower categories (7% of the amounts established by DCM No. 545/2011 for the expert category) and higher for managerial positions (10% for senior management positions, also compared with 2011). In addition, the specific supplements for working conditions are also significantly increased.

<sup>314</sup> ICS (Institute for Contemporary Studies) (2011), *Study on Comparability Levels between Public and Private Sectors*, ICS, Tirana.

<sup>315</sup> The ratio between the highest position supplement and the lowest position supplement established in DCM No. 545/2011 was 4.7 (ALL 129 000 vs. ALL 27 500), while it is 4.8 in DCM No. 187/2017 (ALL 141 900 vs. ALL 29 500).

<sup>316</sup> The salary supplements currently in force and linked to the person are only related to seniority and qualifications, and supplements linked to position are fully regulated and predetermined in the legislation.

widely diverse supplements for specific work conditions allocated to specific positions and institutions without explicit and clear criteria, and these supplements have been extended to new positions by the DCM of March 2017. Information on administration salary scales that is easy for the public to understand does not exist<sup>317</sup>. Nevertheless, salary conditions of vacancies offered for competition are included in the announcements and are publicly disclosed through the DoPA portal.

Because of the delay in adopting the new salary policy, and the adoption instead of new salary supplements for specific job positions which threaten internal fairness, the value for the indicator ‘Fairness and competitiveness of the remuneration system for civil servants’ is 3.

Fairness and competitiveness of the remuneration system for civil servants						
This indicator measures the extent to which the legal framework and the organisation of the civil service salary system support fair and transparent remuneration of civil servants, in terms of both the legislative and organisational preconditions and the performance and fairness of the systems in practice.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework and organisation of the remuneration system</b>	
1. Legal obligation to base salaries on job classifications	2/2
2. Comprehensiveness, clarity and transparency in legal definitions of salary, criteria and procedures for allocation	2/2
3. Availability of salary information	1/3
<b>Performance and fairness of the remuneration system in practice</b>	
4. Fairness in the allocation of base salaries in the job classification system	2/4
5. Base salary compression ratio	2/2
6. Managerial discretion in the allocation of bonuses	2/2
7. Motivational character of bonuses (%)	1/2
8. Competitiveness of civil service salaries (%)	0/3
<b>Total<sup>318</sup></b>	<b>12/20</b>

**Development of a strategic document on implementation of the new salary structure envisaged in the CSL has not yet begun, and salary steps linked to individual achievements are also not in place. A CoM decision adopted in March 2017 introduces a general increase in salaries and new salary supplements for specific job positions, but while these measures respond to pressure for real wage growth in the short-term, their adoption threatens the internal coherence and fairness of the system and makes evident the urgency of adopting the new CSL salary structure.**

***Principle 6: The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.***

The CSL establishes that civil servants have the right as well as the duty to improve their professional capabilities through professional and continuous training. The law sets up the ASPA as a central public institution, subordinated to the minister responsible for public administration, and responsible for the

<sup>317</sup> Only DCM No. 187/2017 has been published, in the Official Gazette. The text of the decision is dense and complex, and it does not include the total salaries for different categories, but instead information on base salaries for different groups of institutions opposed with lists of different salary supplements for different positions.

<sup>318</sup> Point conversion ranges: 0–3=0, 4–7=1, 8–10=2, 11–13=3, 14–16=4, 17–20=5.

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vocational training of civil servants, including the in-depth training programme for admission to the TMC.

The regulations allow civil servants to attend other training activities, either on their own initiative<sup>319</sup> or organised by the institution for which they work. Nevertheless, the ability of public administration institutions to organise other training is hampered by their lack of autonomous budgetary resources, as the ASPA centralises the budget for civil service training within the central administration institutions<sup>320</sup>.

Some HRM units have started to use the results of individual performance appraisals to identify training needs in their respective institutions. This is a positive development; however, it is not clear how the training needs that emerge from these bottom-up approaches are to be met, given the high degree of centralisation of the training system and the limited resources.

The legislation establishes a minimum of 60 training hours annually for mid- and top-level managers<sup>321</sup>, and 38% of the civil servants employed at the beginning of 2016 participated at least once in training activities organised by the ASPA during the year. Overall, the number of training days and civil servants trained decreased from 2015 to 2016 (Table 3), but the ASPA's budget remained stable (Figure 3).

**Table 3. Basic indicators on training delivered by the ASPA, 2013-2016**

	2013	2014	2015	2016
The ASPA's budget for training courses				
(ALL)	4 500 000	7 000 000	7 500 000	7 300 000
(EUR)*	32 033	50 005	54 730	54 114
Number of training days	132	530	1,055	726
Number of civil servants trained	1 631	3 789	4 919	4 650
Training budget per civil servant trained (EUR)	19.6	13.2	11.1	11.6

\*Exchange rates as of 31 December of each year.

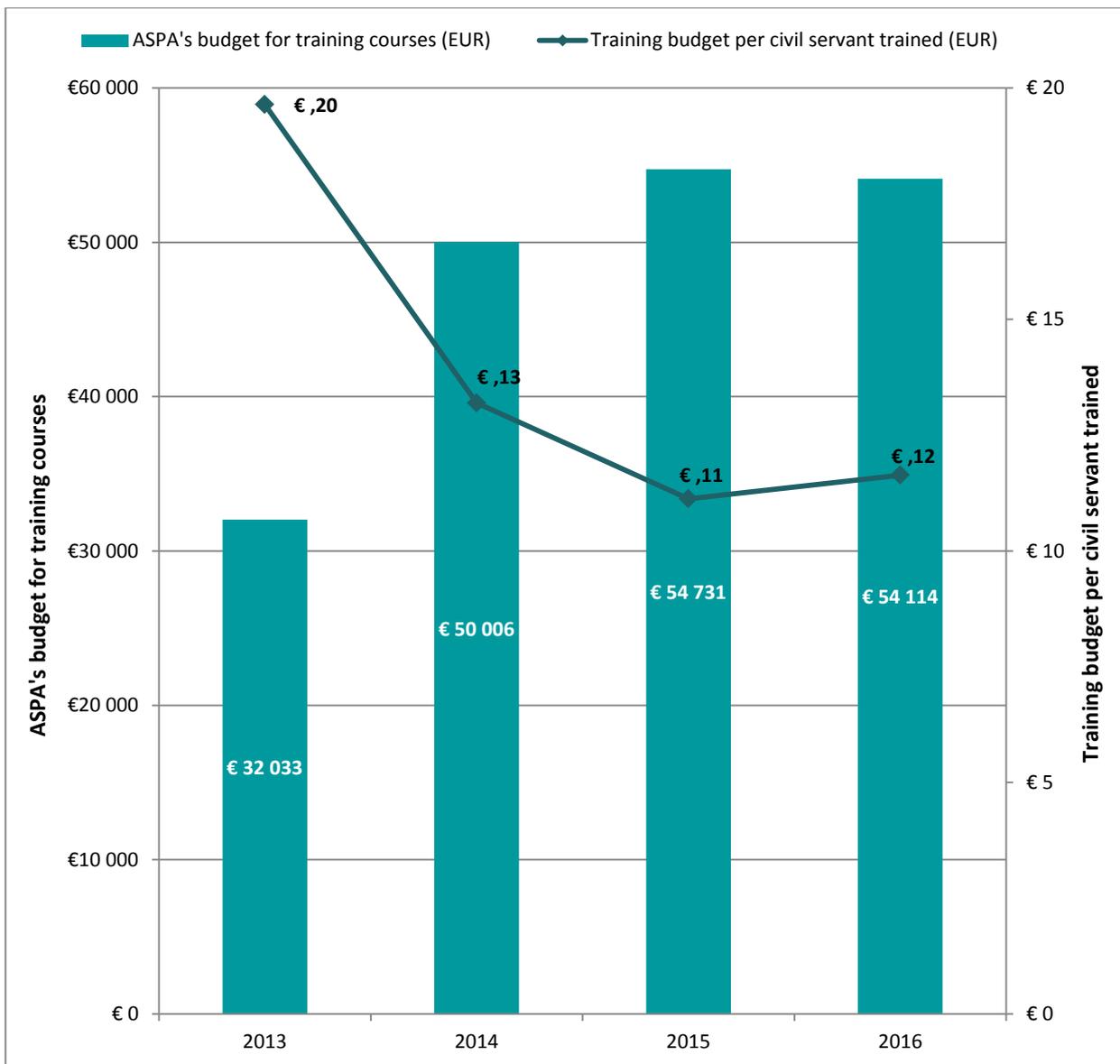
Source: <http://es.exchange-rates.org/Rate/EUR/ALL/31-12-2013>.

<sup>319</sup> The training activities must be related to the civil servant's job and must be approved by the head of the institution at the proposal of the civil servant's superior and of the HRM unit.

<sup>320</sup> Interviews with ASPA officials.

<sup>321</sup> DCM No. 138 of 12 March 2014 on Rules of the Organisation and Functioning of the Albanian School of Public Administration and Training of Civil Servants, amended by DCM No. 70 of 27 January 2016, Chapter IV, point 1c. This volume is very high compared with international practices. For comparison, some EU requirements are as follows, although they do not apply exclusively to mid-level management civil servants: 20 hours of "droit individuel à la formation" in the French State Public Administration (<http://bit.ly/1PH5n3V>); and five days per year in the UK, equivalent to 37 hours (<http://bit.ly/28XVfQA>). Also, in the 2014 State of the Industry report by the Association for Talent and Development, an average of 4.5 training days per employee, equivalent to 36 hours, are reported for large organisations, and 27 hours (3.5 days) for mid-size organisations (<http://bit.ly/1wZs1Gk>).

Figure 3. The ASPA's annual budget for training activities, 2013-2016



Source: Department of Public Administration.

Individual performance appraisals of eligible civil servants are conducted every six months, and results fall into the higher rating categories in almost all cases (96%). These results undermine the usefulness of the process, and cast doubt on their cost-effectiveness in view of the administrative burden of conducting the assessments every six months. Despite the obligation stemming from the CSL<sup>322</sup>, individual performance appraisals of TMC members have not yet been implemented.

The process of periodic individual evaluation of the acquisition and updating of additional knowledge necessary for civil servants to accomplish their duties started in the autumn of 2016<sup>323</sup>. Target groups in this first phase were the HRM and the European Integration units in state administration institutions. Nine civil servants out of the 160 assessed (6%) failed to pass the test and must attend special training and pass the examination again to be confirmed in their jobs<sup>324</sup>. Some amendments to the regulations of this periodic evaluation are under preparation, aimed at improving procedural aspects. However,

<sup>322</sup> CSL No. 152/2013, Article 62, point 3.

<sup>323</sup> DCM No. 1037 of 16 December 2015 on the Procedures of Evaluating Civil Servants on Acquiring and Updating Additional Knowledge.

<sup>324</sup> DoPA data.

doubts remain on the usefulness of such a procedure, given the instruments already in place to assess and enhance the professional qualifications of civil servants<sup>325</sup>.

In 2016, more than one-third of the vacancies offered for competition in non-senior civil service categories were filled through lateral transfers and vertical promotion; this proportion is considerably higher than in 2015. The proportion of positions at managerial level (low-level, mid-level and TMC) compared with the total number of civil service positions is still moderate (17%). However, an incremental trend is observed in the proportion of vacancies filled through internal promotion, which almost doubled from 2015 to 2016. This trend is consistent with the weaknesses identified in the salary system, which point to vertical promotion as the only way to salary improvement.

Considering the factors analysed above, the value for the indicator 'Professional development and training for civil servants' is 4.

Professional development and training for civil servants						
This indicator measures the extent to which the legal framework and the organisation of training, performance appraisal, mobility and promotion support fair professional development in the civil service.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework and organisation of professional development</b>	
1. Recognition of training as a right and a duty of civil servants	2/2
2. Co-ordination of the civil service training policy	3/3
3. Development, implementation and monitoring of training plans	3/3
4. Evaluation of training courses	2/2
5. Professionalism of performance assessments	2/4
6. Linkage between performance appraisals and measures designed to enhance professional achievement	4/4
7. Clarity of criteria for and encouragement of mobility	2/2
8. Adequacy of legislative framework for merit-based vertical promotion	2/2
9. Absence of political interference in vertical promotions	2/2
10. Right of civil servants to appeal against performance appraisal decisions	2/2
11. Right of civil servants to appeal mobility decisions	2/2
<b>Performance of professional development practices</b>	
12. Training expenditures in proportion to the annual salary budget (%)	2/4
13. Participation of civil servants in training	1/5
14. Perceived level of meritocracy in the public sector (%)	3/5
<b>Total<sup>326</sup></b>	<b>32/42</b>

**The slight decrease in the ASPA's budget in 2016 and the high degree of centralisation of the training system challenges its capacity to guarantee the right and duty of civil servants to be trained. Procedures aimed at assessing the professional capacity and performance of civil servants have been formally established, but are only partially implemented. Their cost-effectiveness deserves careful**

<sup>325</sup> Individual performance appraisals conducted every six months; the inclusion of compulsory training in the criteria for salary upgrades in the new CSL; and assessment of the training and qualifications of civil servants in competitions to fill vacancies through lateral transfer and promotion.

<sup>326</sup> Point conversion ranges: 0–6=0, 7–13=1, 14–21=2, 22–29=3, 30–36=4, 37–42=5.

**analysis, given the existing overlaps and administrative burden as well as their lack of connection with horizontal career development so far. Internal mobility is limited, albeit increasing.**

***Principle 7: Measures for promoting integrity, preventing corruption and ensuring discipline in the public service are in place.***

The legal framework to promote integrity and prevent corruption in the public service is in place<sup>327</sup>. In 2015 and 2016, it was completed with Law No. 138/2015, to guarantee the integrity of persons elected or appointed to exercise public functions, and with Law No. 60/2016 on Whistleblowing and Protection of the Whistleblowers. At the same time, as many as 31% of citizens admit that they or someone living in their household paid a bribe in some form in the past 12 months in relation to any of the following institutions: the police, registry and permit services, utilities, tax revenues, land services, or another government agency. This result is by far the highest among the Enlargement candidate countries and potential candidate countries in the Western Balkans and Turkey.

Law No. 138/2015 legislates that a compulsory self-declaration be completed by every person subject to the law<sup>328</sup>, with such self-declarations being publicly disclosed<sup>329</sup>. Law No. 60/2016 on Whistleblowing and Protection of the Whistleblowers was approved in June 2016, and entered into force for public sector institutions in October of the same year. The HIDAACI issued regulations on administrative procedures to investigate whistle-blowers' denunciations and handle whistle-blowers' requests for protection, and also conducted an awareness-raising campaign. The law establishes the obligation to set up specific units in public institutions with more than 80 employees<sup>330</sup>, and this process is well advanced. Amendments to Law No. 9049 reinforcing the role of the HIDAACI were approved by the CoM in May 2016 and sent to the Assembly<sup>331</sup>.

Thus, the legal framework on integrity and prevention of corruption in the public sector is now complete, but its degree of complexity and fragmentation remains high. Specific training on integrity issues is organised by the ASPA, although it is of short duration<sup>332</sup>.

The structure of HIDAACI was strengthened with 8 new inspectors in 2016, to give a total of 28 in all by the end of the year<sup>333</sup>. The number of declarations of assets and private interests audited increased

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<sup>327</sup> Conflicts of interest are regulated by Law No. 9367 of 7 April 2005, amended, on the Prevention of Conflicts of Interest in the Exercise of Public Functions. Restrictions to performing functions outside public administration during and after employment in the public service are established in Law No. 9131 of 8 September 2003 on the Rules of Ethics in the Public Administration, in Law No. 9367 of 7 April 2005 on the Prevention of Conflicts of Interests in the Exercise of Public Functions, and in special legislation of some independent institutions and regulatory agencies. Rules related to receiving gifts and benefits are established by the Law on the Prevention of Conflicts of Interest and by Law No. 9049 of 10 April 2003 on the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials. The code of conduct for public officials is established by Law No. 9131 of 8 September 2003 on the Rules of Ethics in the Public Administration. There are also specific codes of conduct for some groups of public servants, such as those working in the Customs Directorate of the State Supreme Audit Institution. The Penal Code (Law No. 7895 of 27 January 1995, amended) covers corrupt offences committed by public officials.

<sup>328</sup> The law prohibits persons who have been sentenced to imprisonment by final judgment or subject to security measures, or sentenced by a first-instance judgment for performing acts or omissions that constitute criminal offences from being appointed to a public function, including the civil service, and the removal from office of those who are already public officials.

<sup>329</sup> The list of self-declarations presented is available on the website of the Prime Minister's Office (<http://bit.ly/2p6rtSY>).

<sup>330</sup> DCM No. 816, issued November 2016, regulates the structure and the staff of such units in the public administration.

<sup>331</sup> The amendments are aimed at reinforcing the role of the HIDAACI by giving the High Inspectorate the powers of a judicial officer, by establishing election of the Inspector General by a majority of three-fifths of the Assembly, and by extending his/her mandate from five to seven years. The amendments also significantly increase the administrative fines imposed and, as far as civil servants are concerned, establish complete audits of declarations of high management-level civil servants every three years.

<sup>332</sup> ASPA data: in 2016, ten three-day training courses were organised, targeted at the National Co-ordinator Anti-corruption focal points in line ministries, middle management-level executives, and inspectors. There were 201 trainees in total.

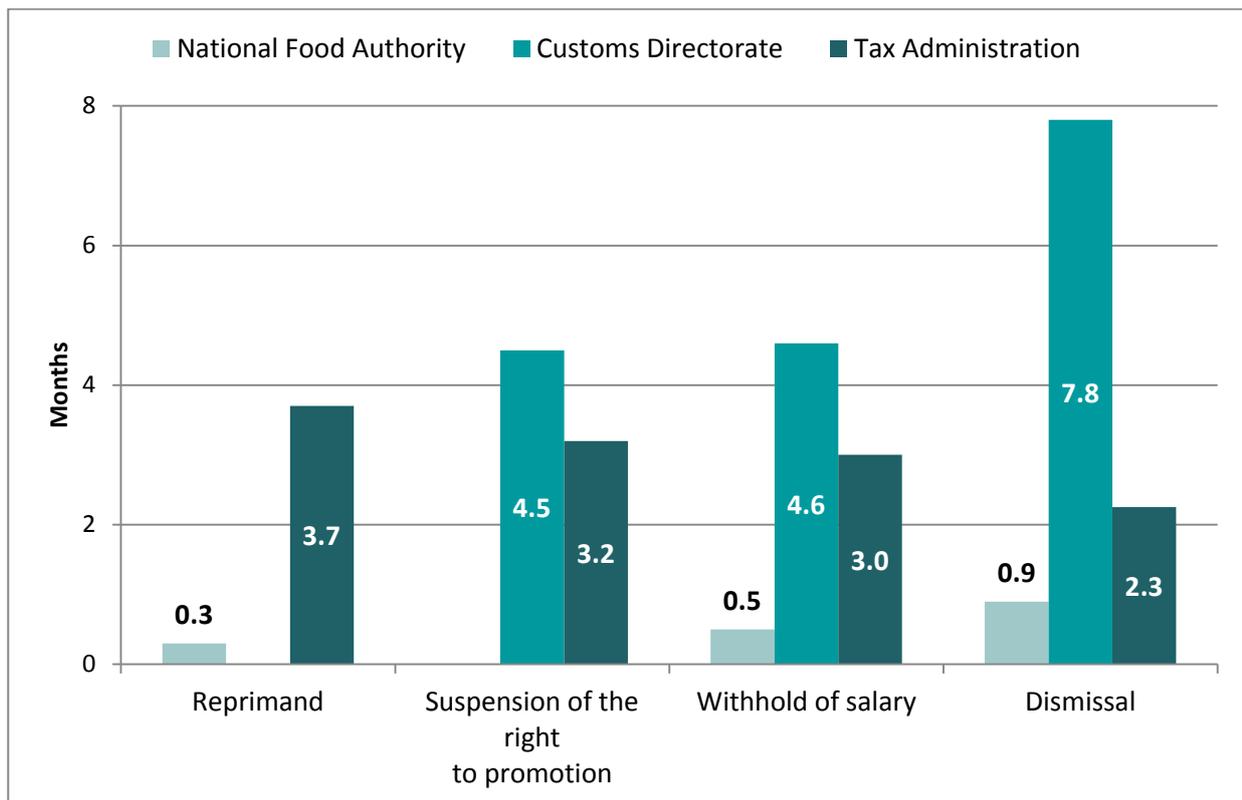
<sup>333</sup> The total staff of the High Inspectorate is 70, of which 10, including the 8 new inspectors, were added in 2016.

15% between 2014 and 2016, although the total number of such declarations received decreased slightly in the last two years. The number of administrative fines imposed and of criminal referrals was also lower in 2016<sup>334</sup>. No evidence has been provided on investigations and sanctions related to restrictions to secondary employment and post-employment, or on management of whistle-blower denunciations. About 40% of the criminal referrals in 2015 remained without an answer from the Prosecutor’s Office by the end of 2016<sup>335</sup>, one prison sentence was imposed in 2015, and there were six court decisions to impose fines in 2015 and seven in 2016.

The NCAC is responsible for monitoring implementation of the Intersectoral Strategy Against Corruption 2015-2020. In 2016, some progress was made with the availability of integrated statistics on the investigation of corruption offences<sup>336</sup>. Overall, the management of corruption offences in the public administration registered a slight decrease in number of cases compared with 2015 for some indicators, namely newly registered proceedings in the Prosecutor’s Office, number of suspensions, number of dismissals, and cases sent to the courts. The number of persons convicted in Appeal Court judgements increased by 24% (from 139 to 172)<sup>337</sup>.

Disciplinary procedures are regulated in the CSL and in secondary legislation<sup>338</sup>, which follow all the relevant basic and procedural principles. However, analysis of the length of disciplinary procedures conducted in some public institutions during 2016 reveals the excessive duration of such procedures, irrespective of the seriousness of the offence (Figure 4).

**Figure 4. Length of disciplinary procedures by type of sanction in some state administration institutions, 2016**



Source: Data provided by the institutions.

<sup>334</sup> 2015 Annual Report of HIDAACI, and data provided by the Cabinet of the High Inspector for 2016.

<sup>335</sup> Ditto.

<sup>336</sup> Such statistics are produced every six months, and include indicators to track investigations from the administrative instances up to the Supreme Court.

<sup>337</sup> Data received from the NCAC.

<sup>338</sup> DCM No. 115/2014.

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Only 25% of court decisions on disciplinary sanctions imposed by the administration upheld such decisions in 2016<sup>339</sup>, which points to shortcomings in the implementation of disciplinary procedures.

Considering the factors analysed above, the value for the indicator 'Quality of disciplinary procedures for civil servants' is 4. The value for the indicator 'Integrity of public servants' is 3.

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<sup>339</sup> Data provided by the DoPA. There were 36 court rulings related to disciplinary procedures in 2016, 9 of which upheld the administration's decisions.

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<b>Quality of disciplinary procedures for civil servants</b>						
This indicator measures the extent to which the legal framework and the organisation of disciplinary procedures support individual accountability, professionalism and integrity of civil servants and safeguard civil servants against unfair and arbitrary disciplinary cases.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework and organisation of disciplinary system</b>	
1. The adequacy of civil service legislation to uphold basic principles related to disciplinary procedures	4/4
2. Compliance between disciplinary procedures and essential procedural principles	6/6
3. Time limits for the administration to initiate disciplinary action and/or punish misbehaviour	2/2
4. Legislative safeguards for suspension of civil servants from duty	2/2
<b>Performance of the disciplinary procedures</b>	
5. Disciplinary decisions confirmed by the courts (%)	0/4
<b>Total<sup>340</sup></b>	<b>14/18</b>

<b>Integrity of public servants</b>						
This indicator measures the extent to which legislation, policies and organisational structures promote public sector integrity, whether these measures are applied in practice and how the public perceives the level of corruption in the public service.						
The indicator does not address the internal administrative proceedings related to integrity, as that is covered by a separate indicator on disciplinary procedures.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework and organisation of the public sector integrity</b>	
1. Completeness of the legal framework for public sector integrity	5/5
2. Existence of a comprehensive public sector integrity policy and action plan	4/4
3. Implementation of public sector integrity policy	1/3 <sup>341</sup>
<b>Public sector integrity in practice and public perceptions</b>	
4. Use of investigations in practice	1/4
5. Perceived level of bribery in the public sector by businesses (%)	2/4
6. Bribery in the public sector by citizens (%)	0/4
<b>Total<sup>342</sup></b>	<b>13/24</b>

<sup>340</sup> Point conversion ranges: 0–3=0, 4–6=1, 7–9=2, 10–12=3, 13–15=4, 16–18=5.

<sup>341</sup> The respective data was not provided to SIGMA.

<sup>342</sup> Point conversion ranges: 0–3=0, 4–7=1, 8–11=2, 12–15=3, 16–19=4, 20–24=5.

**The legal framework on the integrity and prevention of corruption of public officials, including civil servants, is complete, although it is complex and highly fragmented. Institutional capacity for asset and conflict of interest declarations has been reinforced, but a high proportion of investigative cases referred by the HIDAACI to the Prosecutor remain unanswered. The number of convictions increased by 24% (to 172) in 2016.**

**Key recommendations**

**Short-term (1–2 years)**

- 1) The DoPA should address the negative trend in the numbers of applicants, eligible candidates and participants taking part in recruitment procedures by carefully analysing influencing factors to find an effective solution.
- 2) The DoPA should enhance the quality of job descriptions and speed up the organisation of recruitment from the date of publication of the annual staffing plan to shorten delays in filling vacancies.
- 3) The DoPA should improve the execution rate of final court decisions favourable to dismissed civil servants.
- 4) The Government should ensure the implementation of the ASPA's in-depth training programme for access to the TMC in the recruitment planned for 2017 in this professional category.

**Medium-term (3–5 years)**

- 5) The Government should provide the ASPA with adequate resources to guarantee implementation of the right and duty of civil servants to be trained.
- 6) The DoPA should carefully monitor implementation of the new performance appraisal procedure with a view to introducing corrective measures to reduce the administrative burden if necessary.
- 7) The DoPA should carefully monitor implementation of the periodic evaluation of the acquisition and updating of supplementary knowledge by civil servants. Corrective measures should be taken to avoid new burdens on the system and to protect civil servants from unfair dismissal.
- 8) The Government should develop and implement salary reform, including financial impact analysis, based on the job evaluation scheme.



## ACCOUNTABILITY

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

#### 1.1. State of play

Basic mechanisms of bureaucratic accountability in central government are in place, but the transition towards a results-oriented approach to managing bodies subordinated to the ministries has not yet begun. Internal management of the ministries is centralised, with ministers still involved in making decisions of a technical nature. This distracts them from policy-making activities and hampers the managerial autonomy of senior civil servants.

Significant deficiencies in Law No. 119/2014 on the Right to Information<sup>343</sup> have become clear. The system of financial sanctions for non-compliance with the law is ill-conceived: in most cases, liability is assigned to public information co-ordinators of the respective institutions, although they do not make the decisions on whether to disclose or refuse access to information; heads of institutions or other decision makers are exempted from administrative liability. The websites of public institutions provide very limited information, and most public bodies have not adopted the mandatory transparency programmes specifying the information to be published on their websites.

The independence of the People's Advocate (Ombudsman) Institution is sufficiently guaranteed, but the level of implementation of its recommendations is quite low (below 30%) and has declined since 2014.

Administrative courts of first instance have been successful in reducing backlogs and achieving efficiency rates significantly higher than the European average. However, the single administrative court of appeal for the whole country remains a bottleneck. In March 2017, it was still dealing with cases from the first half of 2015.

A law on state liability is in place<sup>344</sup>, but because data on its application in administrative and judicial practice is not collected in a systematic manner, it is not possible to assess the effectiveness of the liability regime.

#### 1.2. Main developments

The following section describes key changes in the public administration for each key requirement<sup>345</sup> and main developments based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

#### **Key requirement: Proper mechanisms are in place to ensure accountability of state administration bodies, including liability and transparency**

There have been no significant developments in governance of state administration bodies since 2015. However, the number of bodies subordinated directly to the Prime Minister (PM) increased, mainly due to the creation of four new institutions<sup>346</sup>.

Implementation of the key obligations stemming from Law No. 119/2014 on the Right to Information has not been completed: only 36% of public institutions have adopted the mandatory transparency

<sup>343</sup> Law No. 119/2014 on the Right to Information, approved 18 September 2014.

<sup>344</sup> Law No. 8510/1999 of 15 July 1999 on Non-contractual Liability of State Administration Bodies.

<sup>345</sup> OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p. 54, [http://sigmaweb.org/publications/Principles-of-Public-Administration\\_Edition-2017\\_ENG.pdf](http://sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf).

<sup>346</sup> The Agency for Implementation of Territorial Reform, the Centre for Openness and Dialogue, the National Agency for Regional Development, and the Agency for Regional Economic Development.

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programmes, and almost half of them have not yet appointed a co-ordinator of public information issues<sup>347</sup>.

Judicial reform has created additional safeguards for judicial independence and integrity, with constitutional regulations for the appointment of judges now being more detailed. This constitutional reform initiated an ongoing process of redesigning the entire regulatory framework for the judiciary. Key laws have already been adopted, including the Law on the Organisation of the Judicial Power<sup>348</sup> and the Law on the Status of Judges and Prosecutors<sup>349</sup>. However, new laws on legal aid and court fees, which are of particular importance for citizen access to justice, are still under discussion.

Capacities of the administrative courts have been strengthened by the appointment of 14 new judges (since March 2015) and the filling of vacant legal assistant positions. Together with a decrease in the influx of new cases, this has contributed to increasing the efficiency of the courts.

There were no major changes in the organisation of the state administration, except for an increase in the number of central government bodies reporting directly to the PM due to the creation of new agencies and changes in subordination of other bodies<sup>350</sup>.

The legislative framework for access to public information, adopted in 2014, has not been changed, but there are a number of shortcomings in its implementation, as described above. Although the independent Commissioner for Freedom of Information and Personal Data Protection has reached full operational capacity and is now recognised as a central figure in this area, the low level of public institution transparency has not yet been successfully addressed.

The Ombudsman's Institution has introduced internal procedures for monitoring implementation of its recommendations. In the 2015 assessment, due to the lack of a monitoring scheme, the share of the Ombudsman recommendations implemented was calculated based on the number of recommendations accepted by the state administrations. However, based on information from the new monitoring system, it now appears that the number of recommendations actually implemented is much lower than previously declared by the institutions, so the current value of this indicator is less than half that of the 2015 assessment.

New constitutional and legislative arrangements contribute to strengthening judicial independence and integrity, and the influx of new cases to the administrative courts of first instance has decreased considerably. The significantly higher number of incoming cases in 2014 was mainly related to dismissals in the public sector after the 2013 parliamentary elections and the large number of cases passed on to the newly established administrative courts by the courts of general jurisdiction<sup>351</sup>.

It should be noted that legal assistants have been hired in the administrative courts, in accordance with SIGMA's recommendations. However, six judge's positions in the courts of first instance remain vacant, and the number of legal assistants in three courts does not meet the statutory ratio (not fewer than one legal assistant for every two judges). The quality of jurisprudence of first-instance courts improved slightly, as measured by the share of rulings changed or returned for retrial by the appeal court.

There has been no progress in monitoring implementation of the law on state liability. Statistical data on the number of public liability requests submitted to the courts is not collected at the central level, and there are currently no initiatives aimed at improving this situation.

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<sup>347</sup> Annual Report of the Commissioner for Freedom of Information and Personal Data Protection for 2016.

<sup>348</sup> Law No. 98/2016 of 6 October 2016 on the Organisation of the Judicial Power in the Republic of Albania.

<sup>349</sup> Law No. 96/2016 of 6 October 2016 on the Status of Judges and Prosecutors in the Republic of Albania.

<sup>350</sup> Four new agencies were established under the PM, and two institutions have been transferred to direct subordination to the PM (information provided by the Department of Public Administration [DoPA]).

<sup>351</sup> Information based on interviews with relevant stakeholders conducted during the fact-finding mission to the country.

**Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports<sup>352</sup>**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2	2
	Extent to which the right to access public information is enacted in legislation and applied in practice.	3	3
	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	3	3
	Extent to which public authorities assume liabilities and guarantee redress.	4	4
<b>Quantitative</b>	Number of bodies reporting to the council of ministers, to the prime minister or to the parliament.	32 <sup>353</sup>	43 <sup>354</sup>
	Share of public information requests refused in a given year by the supervisory authority.	Not available <sup>355</sup>	Not available <sup>356</sup>
	Share of oversight institutions' recommendations to state administrative bodies implemented within two years <sup>357</sup>	69% <sup>358</sup>	29% <sup>359</sup>
	Number of complaints submitted to the administrative court in a given year.	21 363 <sup>360</sup>	12 339 <sup>361</sup>

<sup>352</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

<sup>353</sup> Institutions subordinated to the PM: 19, according to data received from the DoPA. Institutions subordinated to the Parliament: 13 non-constitutional bodies, according to data received from a member of the Parliament.

<sup>354</sup> Institutions subordinated to the PM: 25, according to data received from the DoPA (excluding territorial bodies and enterprises). Institutions subordinated to the Parliament: 15 non-constitutional bodies, according to data provided by the Ministry of State for Innovation and Public Administration (MIPA).

<sup>355</sup> According to changes in the structure of oversight of access to public information, responsibility was transferred from the Ombudsman to the newly created Commissioner. The Ombudsman was not collecting this data at all.

<sup>356</sup> The Commissioner for Freedom of Information and Personal Data Protection does not have data for all information holders, as 40% of them did not report on implementation of the Law on the Right to Information in 2016.

<sup>357</sup> Relates to the Ombudsman only.

<sup>358</sup> Annual Report of the Ombudsman for 2014. Based on responses of the institutions, not on real implementation. Relates only to the Ombudsman.

<sup>359</sup> Data received from the Ombudsman. Due to introduction of a mechanism for monitoring implementation of the Ombudsman's recommendations, reliable data was collected on the share of recommendations implemented (not only those accepted).

<sup>360</sup> Data received from the Ministry of Justice (MoJ).

<sup>361</sup> Data received from the MoJ.

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	Percentage of cases changed or returned for verification by the higher court <sup>362</sup> .	49% <sup>363</sup>	42% <sup>364</sup>
	Backlog of administrative cases.	2 511 <sup>365</sup>	4 255 <sup>366</sup>

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<sup>362</sup> Court of Appeal.

<sup>363</sup> Out of 4 611 rulings, 2 260 were dismissed or changed by the Court of Appeal and 2 351 were upheld. Data received from the MoJ.

<sup>364</sup> Out of 4 737 rulings, 1 993 were dismissed or changed by the Court of Appeal and 2 744 were upheld. Data received from the MoJ.

<sup>365</sup> Data received from the MoJ.

<sup>366</sup> Ditto.

## 2. ANALYSIS

This analysis covers five Principles for the accountability area grouped under one key requirement. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>367</sup>, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

### Key requirement: Proper mechanisms are in place to ensure accountability of state administration bodies, including liability and transparency.

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



### ***Analysis of Principles***

#### ***Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.***

The general legislative framework for central government bodies is in place. Law No. 90/2012 on the Organisation and Functioning of the State Administration<sup>368</sup> provides a typology of central government bodies, including bodies subordinated to the ministries and autonomous agencies. The distinction between these two types of institutions is not based on clear functional criteria, as both are established to perform operational (administrative) functions. According to Article 10.3 of Law No. 90/2012, "Autonomous agencies shall be established only if the administrative functions ... shall be performed better by this form of organisation than by a ministry or a subordinated institution, in accordance with the principle of economy, efficiency and efficacy". However, no detailed guidelines for selecting the most adequate organisational form for performing specific tasks accompany this provision. As a result, there are no safeguards against arbitrary determination of the status of new institutional and governance arrangements associated with each type of body.

<sup>367</sup> OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>368</sup> Law No. 90/2012 of 27 September 2012 on the Organisation and Functioning of the State Administration.

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Policy on institutional development of the central government is at an early stage of development, with no evidence of mechanisms for regularly reviewing the effectiveness of government structures. Control of the institutional development of central government is hampered by the lack of an institution explicitly responsible for this task and equipped with the resources (analytical capacity) and powers necessary to perform this function. Furthermore, establishment of new administrative bodies in recent years (2015-2016) has not been accompanied by a comprehensive *ex ante* analysis of the need to create the new bodies or any examination of alternatives conducted following a clear methodology. There is, thus, no evidence to demonstrate rational control of central government organisation.

Decision No. 893/2014 of the Council of Ministers<sup>369</sup> established more detailed procedures for adopting changes in the organisational structures of government bodies, giving the Department of Public Administration (DoPA) a co-ordinating role in this process. However, there are no clear policy guidelines to assess the rationale and cost-effectiveness of the proposed changes.

Key elements of the bureaucratic standard of accountability of bodies subordinated to the ministries are established by Law No. 90/2012. Ministries may conduct inspections of subordinated bodies. The annual plans, budgets and annual reports of administrative bodies are submitted to parent ministries for approval. However, there is no evidence of implementation of a results-oriented accountability model for subordinated bodies. Law No. 90/2012 does not establish any performance management programme requiring setting of objectives, indicators and targets for institutions subordinated to ministries.

In practice, the annual plans and annual reports of subordinated bodies consist of general objectives and detailed lists of activities that are planned or executed, but no clear indicators or targets. Moreover, the content and format of planning documents and reports vary significantly. This indicates that there is no consistent cross-government approach to management of subordinated bodies<sup>370</sup>.

Another issue of concern is the centralised management culture within the ministries. A large number of technical decisions related to staff management or administrative issues (e.g. approving business trips or annual leave requests of the staff) require involvement at the political level (minister) and/or the top administrative level. This limited delegation of decision-making authority creates an additional burden for top-level officials and also hampers implementation of managerial accountability by not granting an adequate scope of autonomy to senior civil servants.

Overall, the value for the indicator 'Accountability and organisation of central government' is 2.

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<sup>369</sup> Decision No. 893/2014 of 17 December 2014 on Adoption of the Rules of Organisation and Functioning of the Supporting Cabinets, Internal Organisation of the State Administration Institutions and the Detailed Procedures of the Preparation, Proposal, Consulting and Approval of the Internal Organisation.

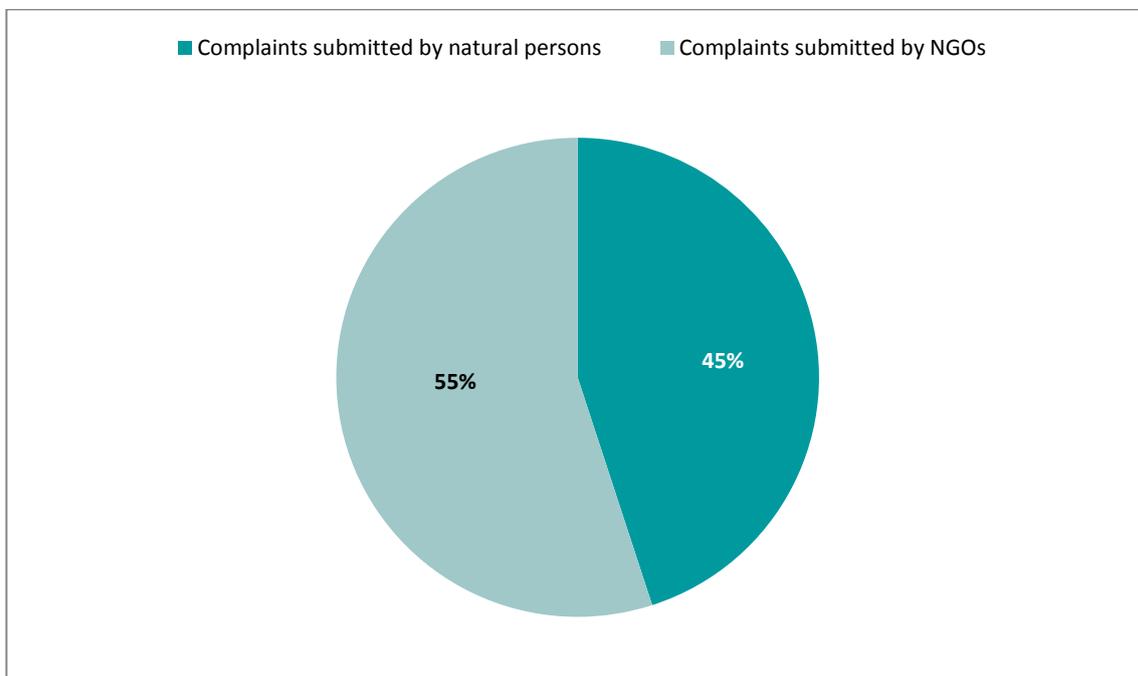
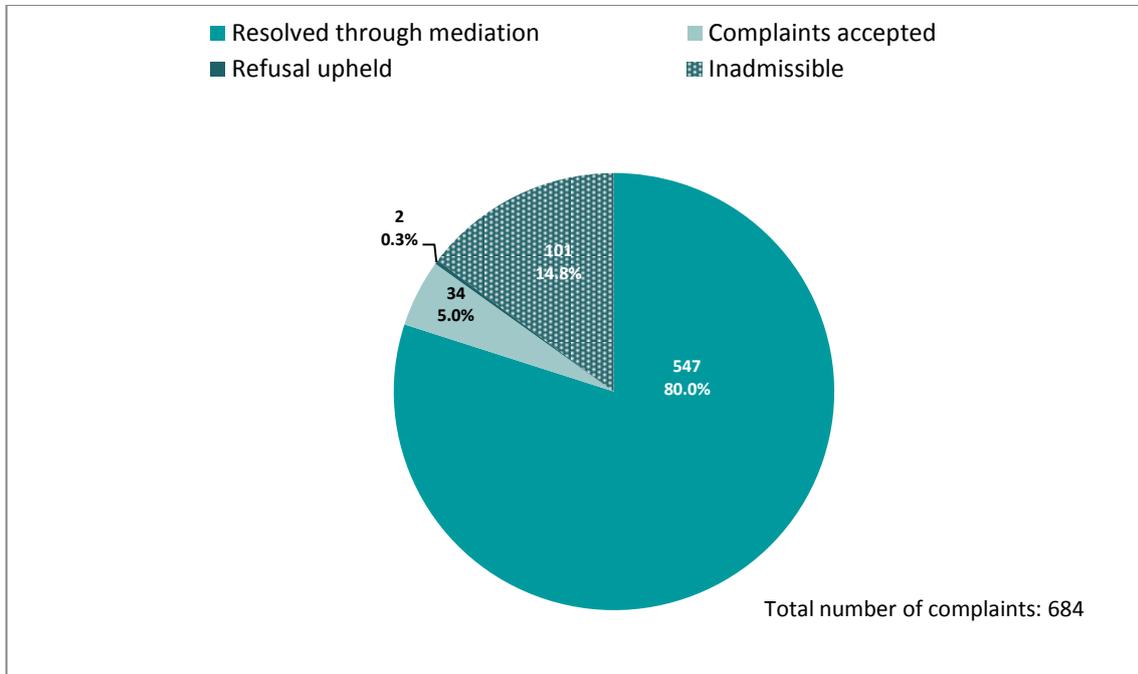
<sup>370</sup> Observations based on the review of sample of annual plans and reports of bodies subordinated to selected ministries.



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Law No. 119/2014 in public bodies<sup>372</sup>. Effectiveness of the procedure access to information upon request, as assessed by citizens and businesses, is moderate: just over 40% of respondents declare that requests for information are handled in a timely manner and information provided is complete and pertinent<sup>373</sup>.

**Figure 1. Handling individual complaints in public information cases in 2016 by the Commissioner for Freedom of Information and Personal Data Protection**



Source: Annual Report of the Commissioner for Freedom of Information and Personal Data Protection for 2016.

<sup>372</sup> Data provided by the Commissioner.

<sup>373</sup> Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

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The efforts of the Commissioner should be acknowledged, but there are a number of concerns about Law No. 119/2014 and its implementation. The list of possible restrictions on access to information is extensive and includes many general clauses that could create disproportionate or arbitrary restrictions to access to information. For example, access to information can be refused when it causes “clear and serious harm to the following interests”, such as “conduct of inspection and auditing procedures of public authorities”; “preliminary consultations and discussions within or between public authorities on public policy development”; or “progress of international or intergovernmental relations”. Moreover, a request can also be rejected if it “remains unclear”.

Mechanisms for supervision of compliance with Law No. 119/2014 are not fully effective. Although the Commissioner is required to report to the Parliament on implementation of the law, only 60% of information holders provided the Commissioner with statistical data on the number of public information requests they received and responded to in 2016<sup>374</sup>. Another issue of concern is the system of financial sanctions that the Commissioner can impose for non-compliance. According to the law, liability in most cases of non-compliance (i.e. refusal to make information available) is borne by the public information co-ordinators appointed in each institution<sup>375</sup> even though these employees (usually junior civil servants) only co-ordinate the process for handling the request. In practice, final decisions on disclosing or refusing access to information are made by the heads of institutions, but they are exempt from liability. As a result, the law promotes an administrative “blame game”, in which junior civil servants can be held liable for decisions made by their superiors.

It should be also noted that the Commissioner appears to have a restrained approach to sanctions, despite the high level of non-compliance revealed by inspections conducted among state administration bodies and the extensive list of possible sanctions. In 2016, the Commissioner imposed 97 fines for violation of laws regarding personal data protection and only 3 fines for non-compliance with Law No. 119/2014 (of which 2 were overturned by the court)<sup>376</sup>. This approach mitigates the overly stringent provisions of Law No. 119/2014, but it also undermines the administrative liability regime established under this Law.

Furthermore, the approach to promoting proactive disclosure of public information, organised around a transparency programme to be adopted by information holders, has proved ineffective. The transparency programme is an official document that lists the categories of information to be disclosed proactively, and is to be published on each institution’s website. The major issue is that the transparency programme does not enable quick access to all information listed via links provided in the programme. Citizens interested in accessing specific information need to: 1) review the transparency programme (usually published as a scanned document with no option to search for relevant information); and 2) review the institution’s website to identify relevant information. Such a bureaucratic approach to managing institutional transparency does not contribute to promoting a high standard of open government.

A review of the websites of selected institutions shows that the transparency of government institutions remains a challenge. In particular, major planning documents (annual plans, annual budgets) and annual reports of the relevant institutions are not publicly available. Moreover, access to legislation is problematic, as the publicly available database of consolidated versions of primary and secondary laws<sup>377</sup> is incomplete and without an easy-to-use search function.

Overall, the value for the indicator ‘Accessibility of public information’ is 3.

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<sup>374</sup> Data provided by the Commissioner.

<sup>375</sup> Law on the Right to Information, Article 19, point 3.

<sup>376</sup> Annual Report of the Commissioner for Freedom of Information and Personal Data Protection for 2016.

<sup>377</sup> <http://www.qbz.gov.al/Ligje.pdf/Fusha.htm>

### Accessibility of public information

This indicator measures the extent to which the legal and institutional framework regarding access to public information is established, promoting timely responses to public information requests free of charge or at a reasonable cost. It also covers the practical application of these legal requirements, with particular focus on proactive disclosure of public information and perceptions of availability of public information.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
<b>Legal and institutional framework for access to public information</b>	
1. Adequacy of legislation on access to public information	9/10
2. Comprehensiveness of monitoring on the implementation of legislation on access to public information	3/5
<b>Citizens' level of access to public information</b>	
3. Proactivity in disclosure of information by state administration bodies on their websites (%)	2/5
4. Proactivity in disclosure of datasets by the central government (%)	2/5
5. Perceived accessibility of public information by the population (%)	1.5/2.5
6. Perceived accessibility of public information by businesses (%)	1/2.5
<b>Total<sup>378</sup></b>	<b>18.5/30</b>

**The active approach of the Commissioner for Freedom of Information and Personal Data Protection contributes to adequate supervision of implementation of the right to public information. However, significant shortcomings of the regulatory framework and low transparency among state administration bodies hamper effective dissemination of this right.**

**Principle 3: Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.**

The legal framework for oversight institutions meets international standards. New constitutional arrangements for the judicial system and a bundle of primary laws have been prepared and implemented in close co-operation with international institutions (e.g. the Venice Commission<sup>379</sup>), and have created a solid basis from which to gradually strengthen judicial independence and integrity. The procedures for appointing and promoting judges have been regulated in a detailed manner, ensuring transparent criteria to assess candidates. Disciplinary measures against judges are specified in the Constitution, and the procedure for imposing them, established by Law No. 96/2016, provides instruments for counteracting irregularities while respecting judicial independence.

According to Law No. 8454/1999 on the People's Advocate<sup>380</sup>, the mandate of the Ombudsman is broad, including both protection and promotion of human rights. Any natural or legal person (including non-citizens) may submit their case to the Ombudsman. Investigation by the Ombudsman can be initiated upon request of the affected person or *ex officio* by the Ombudsman. The Ombudsman's investigative powers are extensive, with guaranteed access to documents and detention facilities, and

<sup>378</sup> Point conversion ranges: 0-5=0, 6-10=1, 11-15=2, 16-20=3, 21-25=4, 26-30=5.

<sup>379</sup> Venice Commission (2016), Final Opinion on the Revised Draft Constitutional Amendments on the Judiciary (15 January 2016) of Albania, adopted by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016); Venice Commission, Albania - Amicus Curiae Brief for the Constitutional Court on the Law on the Transitional Re-evaluation of Judges and Prosecutors (The Vetting Law), adopted by the Venice Commission at its 109th Plenary Session (Venice, 9-10 December 2016).

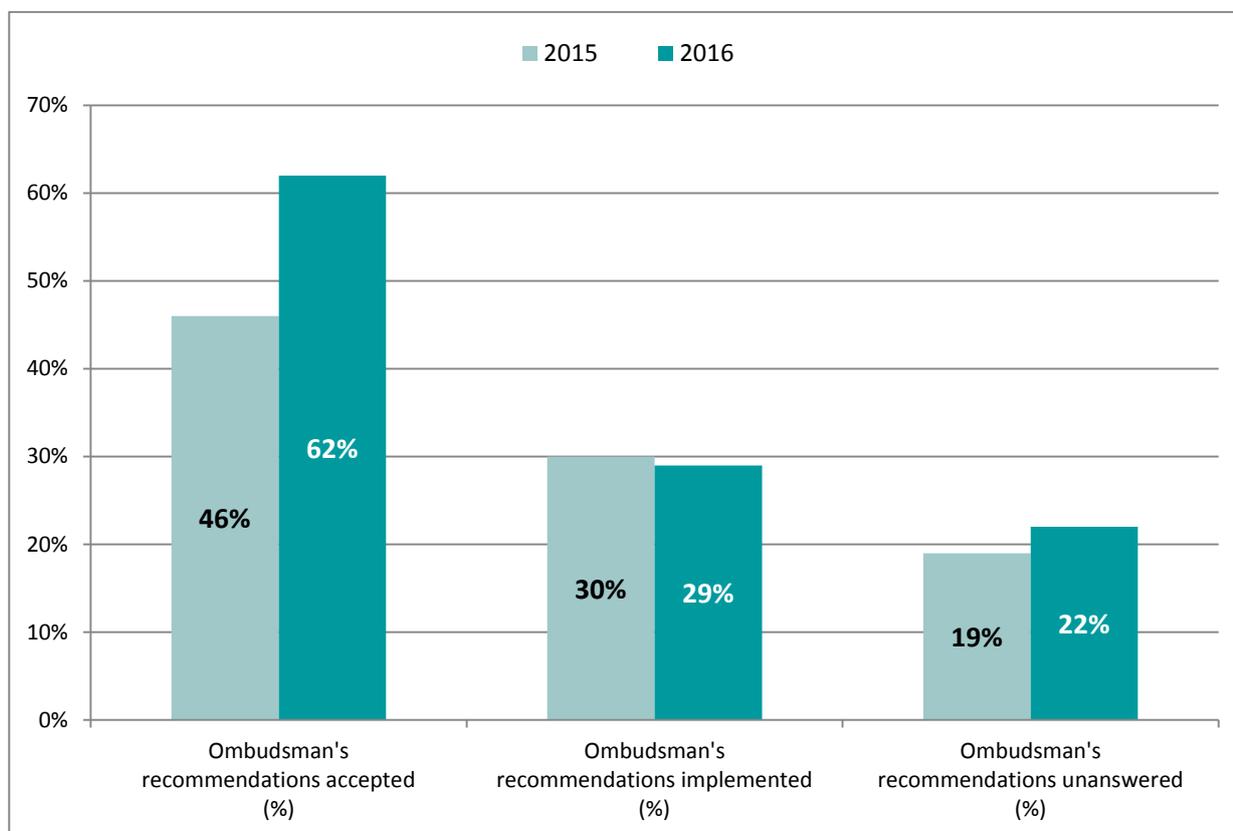
<sup>380</sup> Law No. 8454/1999 of 4 February 1999 on the People's Advocate.

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public authorities are required to respond to the Ombudsman's requests and recommendations within 30 days. The Ombudsman reports only to the Parliament, which discusses the annual report of the Ombudsman in the relevant committee and adopts recommendations for the institution for the following year, but the Ombudsman does not have the opportunity to present reports in plenary sessions of the Parliament.

More importantly, the level of implementation of recommendations remains low. Almost 75% of the Ombudsman's recommendations are not implemented by state administration bodies, and this situation has not improved since 2015 (Figure 2). While the majority of state administration bodies accept the Ombudsman's recommendations, monitoring conducted by the Ombudsman Institution showed that in 2016 fewer than half of the recommendations issued had actually been implemented. It is also of concern that 20% of the institutions addressed by the Ombudsman simply ignore its recommendations<sup>381</sup>.

**Figure 2. Implementation of the Ombudsman's recommendations (%)**



Source: Data provided by the Ombudsman's Office.

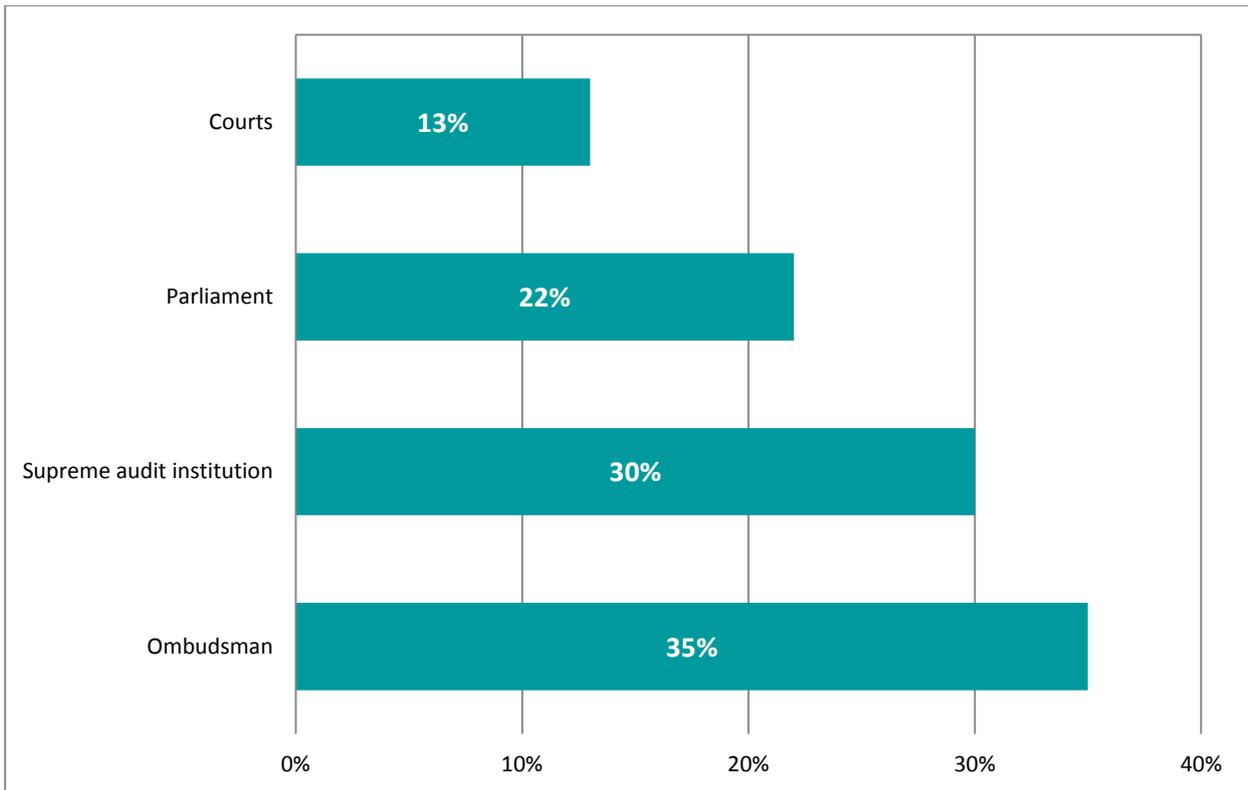
Furthermore, while the Law on the People's Advocate (Ombudsman) is generally compatible with international standards, it is noteworthy that military orders to the armed forces are explicitly exempt from the Ombudsman's jurisdiction. This limitation of the Ombudsman's powers is not offset by any comparable mechanism ensuring protection of the rights of members of the armed forces.

Effectiveness of the Ombudsman Institution is also hampered by the lack of trust citizens place in the Ombudsman and their perception that the position is not fully independent from political influence<sup>382</sup>. At the same time, however, trust in the Ombudsman remains higher than for other oversight institutions – the Parliament, courts, and the State Supreme Audit Institution (SSAI).

<sup>381</sup> Data provided by the Ombudsman.

<sup>382</sup> According to the 2017 Balkan Barometer survey, 61% of respondents do not trust the Ombudsman and 58% doubt that the Ombudsman is independent of political influence.

**Figure 3. Citizens' trust in oversight institutions**



Source: 2017 Balkan Barometer survey, the Regional Cooperation Council.

Guarantees of the independence of the SAI are sufficiently established by the Constitution<sup>383</sup>, and the executive has no power to interfere with the SSAI's managerial and budgetary autonomy<sup>384</sup>. However, half of the recommendations issued by the SSAI in 2016 have not been implemented by state administration bodies<sup>385</sup>.

Overall, the value for the indicator 'Effectiveness of scrutiny of public authorities by independent oversight institutions' is 3.

<sup>383</sup> Constitution of Albania, Articles 162-165.

<sup>384</sup> Law No. 154/2014 on the Organisation and Functioning of the State Supreme Audit Institution.

<sup>385</sup> Data provided by the SSAI.

### Effectiveness of scrutiny of public authorities by independent oversight institutions

This indicator measures the extent to which there is a functioning system of oversight institutions providing independent and effective supervision over all state administration bodies. The strength of the legislative framework is assessed, as well as the effectiveness of oversight institutions in changing practices in the state administration and building trust among the population.

Overall indicator value 0 1 2 3 4 5

Sub-indicators	Points
<b>Legal and institutional framework for oversight institutions</b>	
1. Legislative safeguards for the independence and adequate mandate of the ombudsman institution	8/10
2. Legislative safeguards for the independence and adequate mandate of the SAI	10/10
3. Legislative safeguards for the independence of courts and judges	10/10
<b>Effectiveness of oversight institutions</b>	
4. Implementation of ombudsman recommendations (%)	0/8
5. Implementation of SAI recommendations (%)	4/8
6. Perceived independence of oversight institutions by the population (%)	0/5
7. Trust in oversight institutions by the population (%)	1/5
8. Perceived ability of oversight institutions and citizens to effectively hold the government accountable (%)	3/6
<b>Total<sup>386</sup></b>	<b>36/61</b>

**The constitutional and legislative framework provides for strong, independent oversight institutions, and additional safeguards for judicial independence and integrity are being introduced in the judicial reforms gradually being implemented. It should be noted, however, that implementation of the Ombudsman's recommendations remains low.**

#### *Principle 4: Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.*

The rights of an individual to challenge administrative actions or omissions in administrative courts are extensive. Law No. 49/2012 on Administrative Courts<sup>387</sup> enables anyone to file a lawsuit to repeal an administrative act in part or in full, or to order a relevant body to take an administrative action or prohibit the undertaking of an administrative action. The deadline for bringing a case to the administrative court is favourable for applicants (45 days from the date of notification of the administrative act). Appeals against all judgments of first-instance administrative courts can be filed with the Administrative Court of Appeal in Tirana (the single administrative court of appeal in Albania). However, the right of appeal is not permitted in several cases. For instance, one cannot challenge a judgment in a case relating to an administrative act that contains a monetary obligation with a value of less than twenty times the national minimum wage (although standards have not been established for this type of administrative case, excluding the right to appeal small claims cases is generally acceptable<sup>388</sup>).

<sup>386</sup> Point conversion ranges: 0-10=0, 11-20=1, 21-30=2, 31-40=3, 41-50=4, 51-61=5.

<sup>387</sup> Law No. 49/2012 of 3 May 2012 on Administrative Courts.

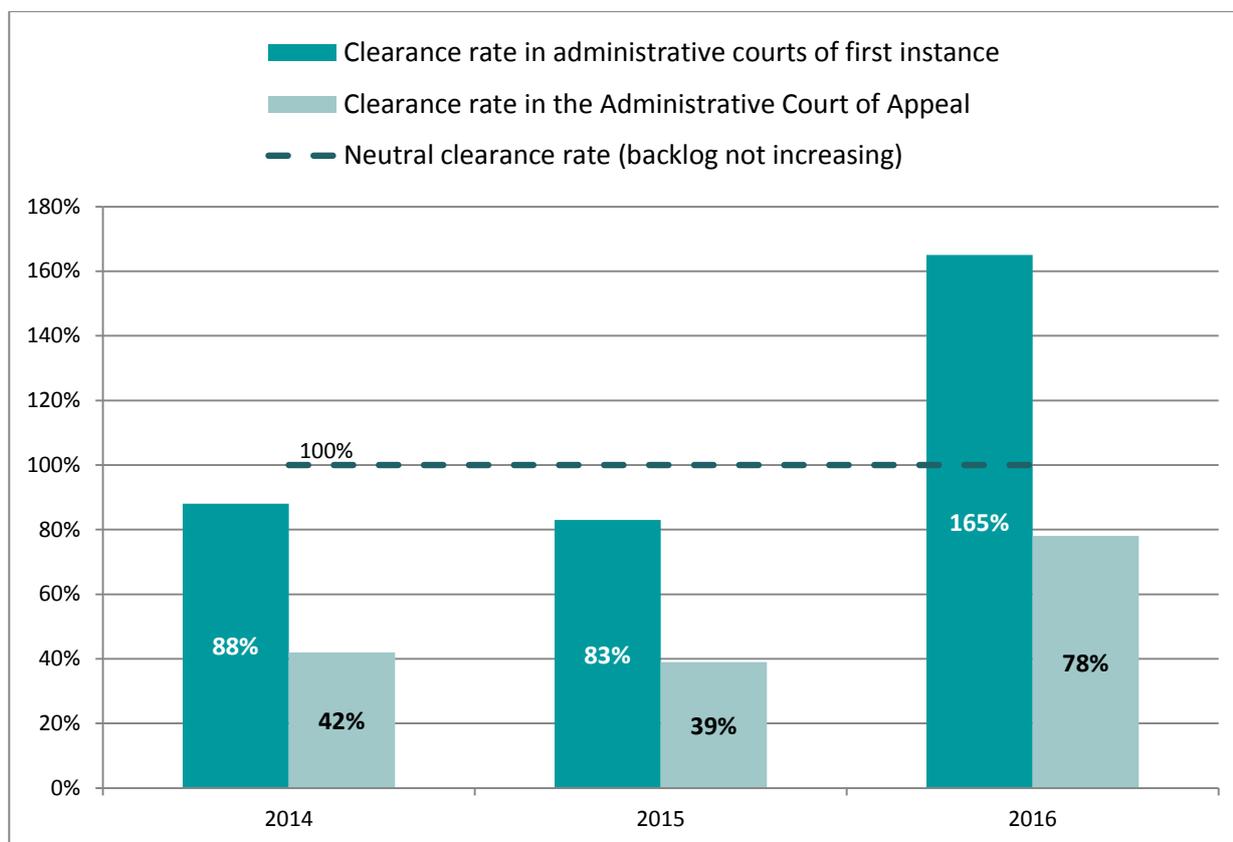
<sup>388</sup> There are no international standards in this matter relating to administrative cases. However, the Council of Europe's Recommendation No. R(95)5 Concerning the Introduction and Improvement of the Functioning of Appeal Systems and Procedures in Civil and Commercial Cases allows exclusion of small claims from appeal (although no definition of "small claim" is provided). Recommendation No. 2004(20) on Judicial Review of Administrative Acts states, "The decision of the tribunal that reviews an administrative act should, at least in important cases, be subject to appeal to a

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Administrative justice is affordable, although the fixed court fee for initiating an administrative case is equal to 5.5% of the average monthly wage in the country. However, the Law on Legal Aid ensures the right to apply for exemption from the court fee, as well as the right to reimbursement of the court fee (and other expenses) if the applicant wins the case.

Administrative courts of first instance ensure access to justice in a reasonable amount of time, and the 2016 clearance rate was very high. This means that the courts not only managed to maintain an efficient pace for incoming cases, but also significantly reduced the backlog of cases from past years (Figure 3). This increased efficiency is primarily due to a drop in the influx of new cases<sup>389</sup>, but also to the appointment of new judges and the filling of vacant legal assistant positions<sup>390</sup>. The quality of case law, measured by the share of rulings overturned by the appeal court, is moderate (28% of rulings were returned for retrial by the second-instance court).

**Figure 4. Clearance rate in the administrative courts in Albania (2014-2016)**



Source: Data provided by the Ministry of Justice and Administrative Court of Appeal in Tirana.

Progress made by the first-instance courts contrasts with the situation in the Administrative Court of Appeal, which is struggling with efficiency problems primarily caused by the historical backlog of cases transferred to it from courts of general jurisdiction in 2014. In 2016, the Administrative Court of Appeal managed to reduce the backlog (Figure 4) and shorten the average time needed to dispose of a case from 3.5 years to approximately 2 years (Figure 5), but the number of unresolved cases at the beginning of 2017 was more than twice the total number of cases resolved in 2016<sup>391</sup>. This means that

higher tribunal, unless the case is directly referred to a higher tribunal in accordance with the national legislation". However, no definition of "important case" is provided.

<sup>389</sup> Number of complaints submitted to the administrative court dropped from 21 363 in 2015 to 12 339 in 2016.

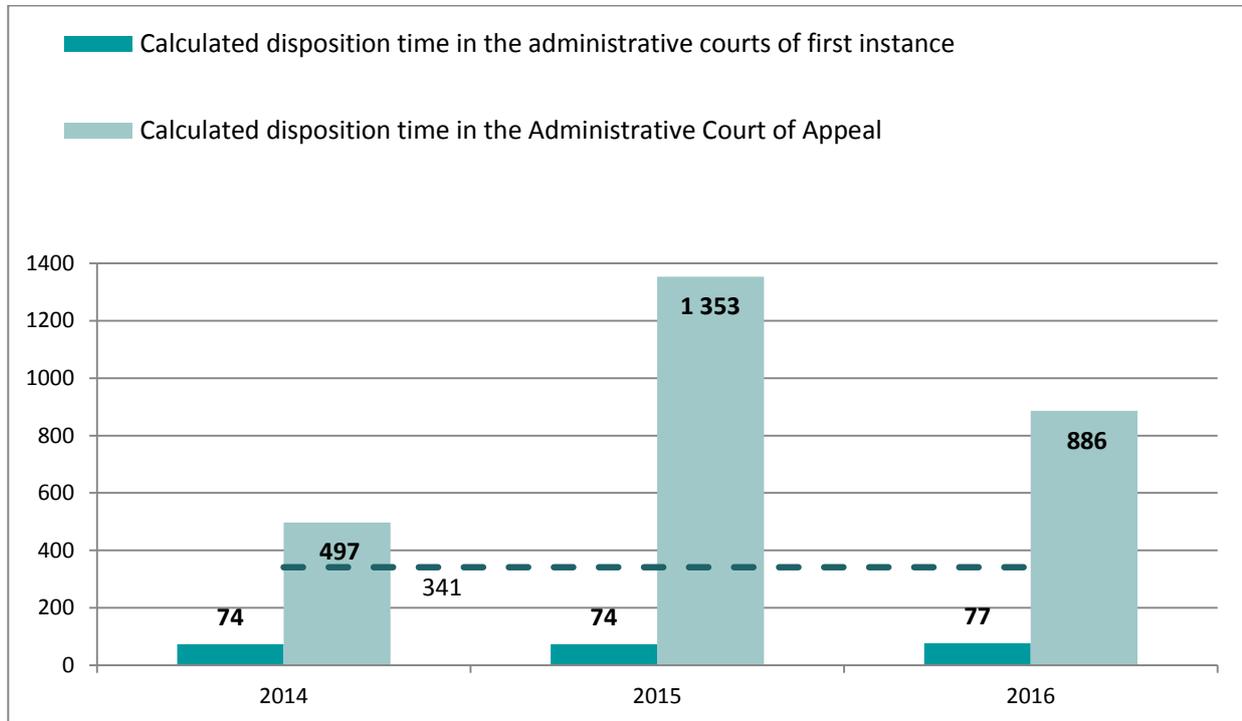
<sup>390</sup> In February 2017, there were 43 judges and 27 legal assistants in administrative courts of first and second instance, compared with 29 judges and no legal assistants in the first quarter of 2015 (data received from the High Council of Justice).

<sup>391</sup> The total number of cases resolved in 2016 was 5 126, while the total number of cases unresolved at the beginning of 2017 was 12 563 (data provided by the Administrative Court of Appeal).

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there is little chance of solving the backlog problem in the foreseeable future, unless extraordinary measures are implemented (e.g. temporary or permanent appointment of new judges and administrative staff).

**Figure 5. Calculated disposition time (in days) in the administrative courts in Albania (2014-2016)**



Sources: Data provided by the Ministry of Justice and Administrative Court of Appeal in Tirana; data on efficiency of courts in Europe provided by CEPEJ (European Commission for the Efficiency of Justice) (2016), *European Judicial Systems: Efficiency and Quality of Justice*.

Statutory deadlines are in place for handling the cases in administrative courts of first and second instance<sup>392</sup>; however, missing these deadlines has no impact on the case (i.e. it does not lead to tacit approval of the lawsuit or compensation for the applicant). It is clear that this kind of measure has limited impact on the courts’ performance if the basic preconditions for judicial efficiency are not met (i.e. a sufficient number of judges and administrative staff, and adequate technical support).

Nevertheless, six positions for judges in first instance courts remain vacant, and the number of legal assistants in three out of six courts of first instance does not meet the statutory ratio (minimum of one assistant for two judges)<sup>393</sup>. Moreover, the electronic case management system used by first-instance and second-instance administrative courts is outdated and offers only limited functionalities, confirmed by users<sup>394</sup> and in reports of international experts<sup>395</sup>. For instance, it does not enable the generation of comprehensive real-time statistics on the workload of courts and judges.

Therefore, the value for the indicator ‘Fairness in handling of administrative judicial disputes’ is 3.

<sup>392</sup> Law No. 49/2012, Articles 27 and 48.

<sup>393</sup> Data provided by the High Judicial Council.

<sup>394</sup> Opinions collected by SIGMA in interviews during the fact-finding mission to the country.

<sup>395</sup> For example, Bühler, J. and J. Johnsen (2015), “In-depth assessment report of the justice system in Albania”, EU/CoE Support to Efficiency of Justice (SEJ); Velicogna, M. et al. (2016), *Court Organisation and Court Administrators’ Capacities in Albania: A First Exploratory Study*, SEJ.

### Fairness in handling of administrative judicial disputes

This indicator measures the extent to which the legal framework and the organisation of courts support fair treatment in administrative judicial disputes. It covers the main criteria for an effective judiciary in efficiency, quality (including accessibility) and independence. Outcomes, in terms of case flow and public perceptions of independence, are also measured.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
<b>Legal framework and organisation of the judiciary</b>	
1. Adequacy of the legislative framework for administrative justice	6/6
2. Accessibility of administrative justice	3/4
3. Effectiveness of remedies against excessive length of proceedings in administrative cases	0/2
4. Use of an electronic case-management system	0/1
5. Public availability of court rulings	2/2
6. Organisation of judges handling administrative justice cases	3/5
<b>Performance of the administrative the justice system</b>	
7. Perceived independence of judicial system by the population (%)	0/5
8. Calculated disposition time of first-instance administrative cases	5/5
9. Clearance rate in first-instance administrative courts (%)	5/5
10. Cases returned for retrial by a higher court (%)	3/5
<b>Total<sup>396</sup></b>	<b>27/40</b>

**The procedural framework for administrative judicial proceedings ensures comprehensive review of actions and omissions of state administration bodies. Efficiency problems have been resolved in the first-instance courts, but the considerable backlog in the Administrative Court of Appeal and flawed management of judicial administration (the case management system and administrative support) undermine the impact of progress in reducing the first-instance court backlog.**

***Principle 5: The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.***

The constitutional principle of state liability<sup>397</sup> for damage caused by unlawful acts and omissions of public authorities was implemented by Law No. 8510/1999 on non-contractual liability of state administration bodies<sup>398</sup>. The scope of public liability established by this law is broad, in terms of both the grounds for liability and the persons entitled to seek compensation. All unlawful acts and omissions, as well as acts or omissions that are legal but cause disproportionate damage, fall under the scope of this law. Acts or omissions of private bodies performing public functions have also been explicitly included in this liability regime, and discrimination in seeking compensation based on nationality of the applicant is explicitly excluded.

According to Articles 17 and 40 of Law No. 49/2012, administrative courts are competent to decide on public liability, on both the grounds of the application and the amount of compensation. Before filing a lawsuit, however, the applicant must exhaust the administrative measures available for seeking

<sup>396</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.

<sup>397</sup> According to the Constitution, Article 44, "Everyone has the right to be rehabilitated and/or indemnified in compliance with law if he is damaged because of an act, unlawful act or omission from state bodies".

<sup>398</sup> Law No. 8510/1999 of 15 July 1999 on Non-contractual Liability of State Administration Bodies.

compensation (i.e. must submit a liability request to the state administration body that allegedly caused the damage within three years after the applicant was informed of the damage).

As for procedural aspects of the public liability regime, Law No. 8510/2009 envisages both financial reward and restitution as forms of available compensation. It is important to underline that compensation needs to cover not only direct loss but also lost profits.

Statistical data on the application of Law No. 8510/1999 in the courts is not collected in a systematic manner, which hampers evaluation of its practical implementation. As the publicly available database of consolidated laws in the country is incomplete and not user-friendly, citizens' awareness that procedures exist for seeking compensation may be limited.

Overall, the value for the indicator 'Functionality of the public liability regime' is 2.

Functionality of public liability regime						
The indicator measures the extent to which there is a functioning system guaranteeing redress or compensation for unlawful acts and omissions of public authorities. It examines the strength of the legislative framework for public liability and whether it is applied in practice. Wrongful acts of the state against civil servants are excluded.						
<b>Overall indicator value</b>	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework for public liability</b>	
1. Comprehensiveness of the scope of public liability	1/1
2. Coverage of the public liability regime to all bodies executing public authority	1/1
3. Non-discrimination in seeking the right to compensation	1/1
4. Efficiency and fairness of the procedure for seeking compensation	3/3
<b>Practical implementation of the right to seek compensation</b>	
5. Application of the public liability mechanism in the court in practice	0/3 <sup>399</sup>
6. Proportion of entitled applicants receiving payments	0/3 <sup>400</sup>
<b>Total<sup>401</sup></b>	<b>6/12</b>

**The legal framework ensures extensive rights to compensation for damages caused by administrative actions and omissions. However, as data on compensation for damages is not available, it is not possible to assess its functioning in practice.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The Government, in close co-operation with the Commissioner for Freedom of Information and Personal Data Protection, should conduct comprehensive *ex post* assessment of the Law on the Right to Information and should then propose amendments relating primarily to: a) the content and method for implementing transparency programmes; b) administrative liability mechanisms; and c) enhancing proactive disclosure of public information.
- 2) The Government, in close co-operation with the Commissioner for Freedom of Information and Personal Data Protection, should develop a strategy for promoting proactive transparency of state administration bodies. This strategy should ensure, at the least, that: a) more information is made

<sup>399</sup> The respective data was not provided to SIGMA.

<sup>400</sup> Ditto.

<sup>401</sup> Point conversion ranges: 0-2=0, 3-4=1, 5-6=2, 7-8=3, 9-10=4, 11-12=5.

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available on government websites in a user-friendly manner; b) citizens have online access to consolidated versions of all laws; and c) the level of proactive transparency is regularly monitored.

- 3) Legislative measures should be undertaken to ensure adequate protection of military personnel rights, for as long as they are explicitly exempt from the Ombudsman's general jurisdiction.
- 4) The Parliament should allow the Ombudsman to present the annual report in plenary session and should more closely supervise implementation of the Ombudsman's recommendations by state administration bodies by, for instance, requiring that the Government report on implementation of the recommendations on a regular basis (e.g. every six months) and establishing a special sub-committee tasked only with monitoring implementation of the recommendations.
- 5) The Ministry of Justice (MoJ) should develop and urgently implement an action plan to reduce the backlog in the Administrative Court of Appeal. This plan may include, in particular: a) providing funds for at least a temporary increase in the number of judges in the Court; b) improving the working conditions of the Court by developing a new case-management system; and c) establishing, in co-operation with the Court and the High Judicial Council, a mechanism for regularly monitoring the Court's workload (e.g. a joint monitoring committee).

**Medium-term (3-5 years)**

- 6) The Government should introduce a common framework for governance of bodies subordinated to the ministries, promoting a results-oriented management culture. In particular, this model should ensure that annual plans of the institutions contain specific and measurable objectives, indicators and targets, and that progress towards meeting them is regularly reported and monitored by the relevant units of the ministries.
- 7) The MoJ should introduce a mechanism for monitoring the implementation of Law No. 8510/1999 on Non-contractual Liability of State Administration Bodies in administrative and judicial practice in order to develop policies to improve administrative practices and thus reduce the number of liability cases in the future.



## SERVICE DELIVERY

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015-JUNE 2017

#### 1.1. State of play

The institutional set-up for public sector service delivery co-ordination is in place. Overall policy responsibility lies with the Minister of State for Innovation and Public Administration (MIPA), while the Agency for Delivery of Integrated Services (ADISA) is responsible for setting the standards in citizen-centric public service delivery and the National Agency for Information Society (NAIS) co-ordinates service delivery through digital channels. The basic model of service delivery is that the ADISA runs front offices for the rest of service providers.

An increasing number of services are delivered through centrally co-ordinated physical one-stop shops. The number of services provided through the government portal has also grown substantially, facilitated by utilisation of an interoperability platform, a compulsory interface for data exchange by government bodies. All basic registries are integrated and “only once” policy implementation is supported by central review processes carried out by the NAIS.

While citizen satisfaction with general public services is low (satisfaction with e-services is the second-lowest in the region<sup>402</sup>), in contrast the level of satisfaction with administrative services is one of the highest in the Western Balkans. Businesses, however, highly value the digital services provided for them, with the level of satisfaction being the highest in the region. The ADISA has made efforts to improve user satisfaction by setting up one-stop shops across the country, increasing the transparency of service provision by introducing service passports (information cards about public services) and creating standardised templates to apply for administrative services.

Collection of citizen feedback is elaborate. The ADISA has made improvements in this area, introducing central tools and guidelines for measuring user satisfaction for services provided through physical channels (i.e. integrated citizen service centres [CSCs] and its own front offices), but implementation of those tools is still at an early stage. Similarly, the ADISA has recently developed a quality assurance framework, implementation of which has involved 12 key central government institutions since September 2016<sup>403</sup>.

The needs of customers with disabilities are not being adequately attended to. The National Action Plan on Persons with Disabilities 2016-2020 addresses the issue of accessibility to public services by people with disabilities, but overall improvements are not yet visible, although ease of access for people with restricted mobility is ensured at the ADISA CSCs.

#### 1.2. Main developments

The following section describes key changes in the public administration for the key requirement<sup>404</sup> and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

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<sup>402</sup> Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

<sup>403</sup> So-called ZOS system requires reporting of the 12 institutions against an elaborate set of performance indicators.

<sup>404</sup> OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Principles-of-Public-Administration\\_Edition-2017\\_ENG.pdf](http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf)

**Key requirement: The public administration is citizen-oriented; the quality and accessibility of public services is ensured.**

Progress has been made in strengthening the policy framework for citizen-centred service delivery, which also entails elements of administrative simplification put into practice, and steady progress has been made in improving the accessibility and quality of administrative services.

Two major documents were put in place to support the Government's service delivery agenda: the Long-Term Policy Document on the Delivery of Citizen-Centric Services by Central Government Institutions in Albania<sup>405</sup> (LTPD) was approved by the Council of Ministers (CoM) in May 2016 and Law No. 13/2016 on the Method of Delivering Public Services at Front-Office Level in the Republic of Albania<sup>406</sup> was approved by the CoM in February 2016. While the LTPD sets out the Government agenda in the area of service delivery transformation, the Law is its main implementation instrument, as it sets out the main principles and rules for delivering public services and describes the model for co-operation among different institutions in service delivery processes, focusing mostly on the one-stop shop model of service delivery.

The National Action Plan on Persons with Disabilities 2016-2020 was approved by the CoM in June 2016. In practice, however, accessibility issues for people with disabilities remain largely unaddressed outside of the ADISA CSCs. The accessibility of public buildings remains generally low, and web accessibility standards have not yet been adopted; the 2015 SIGMA recommendation in this area therefore remains valid.

One of the main developments in the practical implementation of planned actions has been the opening of 91 service windows to improve service quality and availability. Successful implementation of the interoperability technical solution by the NAIS has made it possible to increase the number of e-services in the government portal (e-Albania.al) from 32 in April 2014 to 467 in February 2017.

Developments and progress since 2015 have resulted in improvement of two indicator values. A systematic process of reviewing administrative burdens through service reengineering has been put in place and has reduced the perceived administrative burden.

Although adoption of the Code of Administrative Procedure (CAP) is a major improvement, central support by the Ministry of Justice (MoJ) during the initial implementation period was only modest, with no concentrated effort to review and harmonise special regulations.

Major improvements have taken place in bringing more and more services online through the e-Albania.al portal.

Standardisation of service provision (unified application forms, service passports, complaints management) has made it easier to use administrative services, and improvements in gathering user feedback about service quality and satisfaction have also been made. However, SIGMA's recommendation to develop a methodology and gather information on the costs of all delivery channels at the individual service and agency level remains valid.

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<sup>405</sup> <http://www.adisa.gov.al/wp-content/uploads/2016/10/GoA-Citizen-Centric-Service-Delivery-Policy-Document2c-April-2016.pdf>.

<sup>406</sup> Official Gazette No. 27/2016.

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**Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports<sup>407</sup>**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which citizen-oriented policy for service delivery is in place and applied.	2	3
	Extent to which policy and administrative preconditions for e-service delivery are applied.	5	5
	Extent to which the legal framework for good administration is in place and applied.	2	3
<b>Quantitative</b>	Expenditure on general public services as a share of gross domestic product.	7.2% <sup>408</sup>	7.7% <sup>409</sup>
	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	Not available <sup>410</sup>	Not available <sup>411</sup>
	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application.	15 <sup>412</sup>	15 <sup>413</sup>
	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	Not available <sup>414</sup>	4.5% <sup>415</sup>
	Average number of days needed to set up a business <sup>416</sup> .	4.5	5.0
	Average cost of setting up a business <sup>417</sup> .	10%	10%
	Share of citizens who submitted paperless/electronic/digital income tax statements last year.	81% <sup>418</sup>	100% <sup>419</sup>

<sup>407</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

<sup>408</sup> Data provided by the Department of Public Administration (DoPA).

<sup>409</sup> Data provided by the Ministry of Finance (MoF), <http://www.financa.gov.al/al/buxheti/buxheti-ne-vite/buxheti-2017/ligji-i-buxhetit-2017>.

<sup>410</sup> No country-wide data is available.

<sup>411</sup> Ditto.

<sup>412</sup> In days. Delivery Unit of the Office of the Prime Minister (OPM).

<sup>413</sup> Ditto.

<sup>414</sup> No country-wide data is available.

<sup>415</sup> 16 institutions out of 358 participated in the 2016 World Bank household survey.

<sup>416</sup> According to World Bank *Doing Business* reports, 2015 and 2017.

<sup>417</sup> Percentage of income per capita, according to World Bank *Doing Business*.

<sup>418</sup> Data provided by the MoF.

<sup>419</sup> Declaring personal income tax can only be done digitally. Data provided by the General Taxation Directory.

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	Share of companies that sent their tax declarations using the Internet.	100% <sup>420</sup>	100%
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<sup>420</sup>

Decision of the Council of Ministers (DCM) No. 922 of 29 December 2014 on the Submission of Mandatory Tax Returns and Other Tax Documents only Through Electronic Filing made it obligatory to file corporate income tax returns and payments electronically for the 2014 fiscal year; KPMG Tax News Albania, No. 3, March 2015.

## 2. ANALYSIS

This analysis covers four Principles for the service delivery area grouped under one key requirement. It includes a summary analysis of the indicator used to assess against each Principle, including sub-indicators<sup>421</sup>, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

**Key requirement: The public administration is citizen-oriented; the quality and accessibility of public services is ensured.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



### **Analysis of Principles**

#### **Principle 1: Policy for citizen-oriented state administration is in place and applied.**

There is a policy framework in place for improving public service delivery. It includes three main strategic documents: 1) the Cross-cutting Public Administration Reform Strategy 2015-2020 (PAR Strategy); 2) the Cross-cutting Strategy Digital Agenda of Albania 2015-2020; and 3) the LTPD.

The LTPD, which is the most recently adopted and most comprehensive and specific of these strategies in the service delivery area, has four components: 1) standardisation and re-engineering of services; 2) separation of front office from back office and decentralisation of service delivery; 3) digitisation and interoperability; and 4) citizen feedback and performance monitoring. Its objectives are: a transition to 100% e-services, available at all times; an overall high score on the Citizen Satisfaction Index (CSI); and classification as one of the top 20 European countries according to the United Nations (UN) E-Government Survey's Online Service Index (OSI)<sup>422</sup>. Innovation and information technology are identified as the key enablers in the reform implementation process, with special reference to the "digital first" principle. However, in some cases physical service delivery is preferred even though digital processes could increase accessibility to the service, for example for services related to the Civil

<sup>421</sup> OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>422</sup> <https://publicadministration.un.org/egovkb/en-us/reports/un-e-government-survey-2016>.

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Status Registry<sup>423</sup>, such as applications to change address or renew personal identity documents (IDs) (Box 1).

**Box 1: Provision of administrative services by the Civil Status Registry**

The Civil Status Registry is one of the largest providers of administrative services. It issues birth, marriage and death certificates, and can also register marriages (4 million transactions per year overall). The Civil Status Registry has 350 regular offices and 37 archive offices, and the emphasis is still strongly on physical service delivery. Certain services can only be applied for at the local office nearest an applicant's place of residence, as physical interaction of civil servants with applicants is seen as an additional security measure – indicating that the offices do not trust the ID they themselves issue, whereas all other authorities must trust it. Digital means have therefore not been introduced because of this physical security measure, whereas high-security electronic identification capabilities are built into the ID cards the Civil Status Registry issues.

Additionally, duplicated institutional contacts are sometimes required. For example, when obtaining personal ID, citizens must first go to a Registry counter, where personal data is verified against the applicant's birth certificate. Then the person is accompanied to a counter of Aleat (the company that produces personal IDs) to complete additional application procedures (fingerprints, digital picture and signature). The two offices are located close to one another in the same space.

Central co-ordination of service delivery is conducted by two different organisations. The ADISA is designated institution responsible for models and standards in citizen-centric public service delivery, and the NAIS is responsible for co-ordinating government work in the information and communication technology (ICT) area and providing services to citizens through the government portal (e-Albania.al)<sup>424</sup>. The two agencies have co-operated closely during the service re-engineering process administered by the ADISA and both are key players at the service delivery reform programme steering committee led by the MIPA. Analysis of both physical and digital channels to decide which service should be provided through which channel is not always adequate to ensure that optimal solutions are implemented<sup>425</sup>.

In general, government institutions appear to be aware of the strategic goals set out in the LTPD, but the approach at the level of agencies sometimes is still to apply piecemeal improvements to physical service provision rather than to radically transform the operating model by leveraging technology (as in the example cited in Box 1).

Albania does not use regulatory impact assessments (RIAs) or other tools to systematically evaluate administrative burdens. Reducing administrative burdens, particularly the time spent on complying with certain administrative procedures, is a policy objective of the Government<sup>426</sup>. The "as-is" situation<sup>427</sup>, including time measurements, is available for all services of the ten key central government institutions that have undergone business process reengineering<sup>428</sup>.

Overall, a noticeable improvement in the ADISA-provided front office services and in other service delivery areas have resulted in Albania registering one of the highest levels of satisfaction with

<sup>423</sup> Interview with the Ministry of Interior, 2 March 2017.

<sup>424</sup> Apart from these functions, the NAIS also implements government programmes in the area of information society. See DCM No. 703 of 29 October 2014 on the NAIS.

<sup>425</sup> SIGMA discovered one occasion on which digitalisation had been completed before the ADISA approached an agency with its reengineering plan.

<sup>426</sup> Service Delivery Agreement, endorsed by the Prime Minister, MIPA, line ministries and government agencies at the first Interministerial Committee on the Reform of Public Services on 30 June 2015.

<sup>427</sup> "As-is" situation describes the state of play before reengineering efforts take place, which aim at the "to-be" situation.

<sup>428</sup> E-mail communication of 16 June 2017 with the Delivery Unit of the OPM.

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administrative services in the Western Balkans<sup>429</sup>, with 41% of citizens satisfied or very satisfied and an even higher percentage of businesses (46%) satisfied or very satisfied.

The value for the indicator 'Citizen-oriented service delivery' is 3.

Citizen-oriented service delivery						
This indicator measures the extent to which citizen-oriented service delivery is defined as a policy objective in legislation or official government plans and strategies. It furthermore measures the progress of implementation and evaluates the results achieved, focusing on citizens and businesses in the design and delivery of public services. Implementation and results are evaluated using a combination of quantitative and perception-based metrics.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Policy framework for citizen-oriented service delivery</b>	
1. Existence and extent of application of policy for service delivery	8/8
2. Existence and extent of application of policy for digital service delivery	8/8
3. Existence of central co-ordination for digital government projects	4/4
4. Established policy for administrative simplification	6/12
<b>Performance of citizen-oriented service delivery</b>	
5. Perceived quality of public service delivery by citizens (%)	4/6
6. Renewing personal ID document	1.5/6
7. Registering a personal vehicle	1.5/6
8. Declaring and paying personal income taxes	4/6
9. Perceived quality of public service delivery and administrative burdens by businesses (%)	3/6
10. Starting a business	4.5/6
11. Obtaining a commercial construction permit	1/6 <sup>430</sup>
12. Declaring and paying corporate income taxes	2/6
13. Declaring and paying value added taxes	3/6
<b>Total<sup>431</sup></b>	<b>50.5/86</b>

**The strategic framework for service delivery is in place and is well recognised by public institutions. Responsibilities for co-ordinating service delivery reform have been assigned, but they are fragmented for the delivery of physical and digital services; the decision of whether to provide a physical or a digital channel for each service is therefore not always optimal. While administrative simplification to reduce the time required to deliver services happens in the course of services' re-engineering, there is no comprehensive strategy in place.**

<sup>429</sup> Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

<sup>430</sup> The value reflects the situation prior to the reform of administrative procedures in this area.

<sup>431</sup> Point conversion ranges: 00-14=0, 15-28=1, 29-42=2, 43-56=3, 57-70=4, 71-86=5.

***Principle 2: Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.***

With introduction of the CAP, there has been a clear move to set standards for citizens' rights to good governance. The new CAP, which came into force in May 2016, recognises the key principles of good administrative procedures.

In the new CAP, special attention is devoted to enhancing the system and regulation of administrative dispute proceedings and the administrative judiciary, and protection against administrative silence has been enhanced. Also, a special "complaint" remedy has been introduced (Articles 142-144) for cases of administrative complaint against other administrative actions – not against an individual administrative act, but regarding the indirect performance of public services<sup>432</sup>.

Implementation of the reform is ongoing, so it is too early to assess its impact. Harmonisation of special legislation with the CAP is being done on an as-needed basis rather than as a campaign. There is currently no systematic, centrally co-ordinated review process in place to determine which legal acts should be changed to comply with the new CAP regulations.

The MoJ has not developed a comprehensive plan to support reform implementation, but some initiatives, such as developing a commentary to implement the CAP and initial training for civil servants, are in place to support the implementation process. The Albanian School of Public Administration (ASPA) has provided initial training to more than 500 civil servants through an Instrument for Pre-accession Assistance (IPA) programme<sup>433</sup>. The principles of the new CAP are also included in the training programme for new public servants delivered by the ASPA. However, a widespread need to conduct training on the new CAP for civil servants responsible for drafting special regulations and for public officials who provide public services remains, as does the need to raise the awareness of the general population, ensuring that citizens and businesses understand their rights regarding administrative procedures. Against this background, it is encouraging to note that, according to the 2017 Balkan Barometer survey, 57% of citizens perceive administrative procedures to be efficient (the third-highest rating in the Western Balkans). However, a high rate of repeals or changes to decisions of administrative bodies by the administrative courts (52%) indicates that there is a significant need to improve the quality of administrative decision making. Therefore, the relevant sub-indicator 4 below receives 0 points.

Overall, the value for the indicator 'Fairness and efficiency of administrative procedures' is 4.

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<sup>432</sup> See the comparative study by ReSPA (Regional School of Public Administration) (2016), "Legal Remedies in Administrative Procedures in Western Balkans", ReSPA, Danilovgrad, Montenegro, pp. 69-74.

<sup>433</sup> Report on training about CAP by the ASPA (February 2016-January 2017).

Fairness and efficiency of administrative procedures						
The indicator measures the extent to which the regulation of administrative procedure is compatible with international standards of good administration and good administrative behaviour. This includes both the legal framework for administrative procedure and its practical applications.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework for administrative procedure</b>	
1. Existence of legislation on administrative procedures of general application	3/3
2. Adequacy of law(s) on administrative procedures to ensure good administration	7/7
<b>Fairness and efficiency of administrative procedures</b>	
3. Perceived efficiency of administrative procedures in public institutions by citizens (%)	3/4
4. Repeals of or changes to decisions of administrative bodies made by the administrative courts (%)	0/4 <sup>434</sup>
<b>Total<sup>435</sup></b>	<b>13/18</b>

**The CAP, in force since May 2016, sets clear standards for good administration. Central support from the MoJ during the initial implementation period has been modest, for example there is currently no concentrated effort to review and harmonise special regulations. Initial training for government officials has been provided, and further support is envisaged.**

**Principle 3: Mechanisms for ensuring the quality of public services are in place.**

Processes for monitoring service delivery and redesign of services are in place. The LTPD formalises the reform management structure led by the MIPA. In addition, the OPM Delivery Unit plays a key role in monitoring, as well as facilitation of implementation of reforms. Monitoring of progress on service delivery is conducted regularly, with quarterly reports on implementation of the PAR Strategy and LTPD submitted to the MIPA. In addition, even though the formal line of reporting assesses and records progress against the LTPD and PAR Strategy, according to the Delivery Unit<sup>436</sup> the more frequent line of reporting to them is not based on those strategic documents, but on an internal roadmap that is not publicly available. The monthly reports are not made public either. Finally, the MIPA also leads monitoring and reporting on implementation of the Digital Agenda Strategy<sup>437</sup>. The reports on both LTPD and PAR Strategy are approved by the Integrated Policy Management Group for Good Governance and PAR (IPMG-PAR).

There is no Government policy on quality management models in the public administration and no practices in place for using advanced user-engagement methods (i.e. focus groups, user panels, prototype testing, A/B testing, customer journey mapping) in service design processes. However, the ADISA has developed a framework for quality management for front office services, based on the Common Assessment Framework and on the Organisation for Economic Co-operation and Development (OECD) Integrity Management Framework, and is currently implementing quality assurance methodology in the one-stop shops it manages<sup>438</sup>. In 2017, the first nationwide mystery

<sup>434</sup> Information provided by the Administrative Court. Out of 20 351 decisions, 10 589 decisions of administrative bodies were changed or repealed (52%). It would have to be under 41% to receive a value of one or more.

<sup>435</sup> Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

<sup>436</sup> Interview with the Delivery Unit of the OPM, 27 February 2017.

<sup>437</sup> The Department for Innovation and Good Governance of the OPM is responsible for monitoring the Digital Albania Strategy on a semi-annual basis.

<sup>438</sup> E-mail communication of 16 June 2017 with ADISA officials.

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shopper<sup>439</sup> assessment was conducted by the Institute for Development, Research and Alternatives (IDRA), a civil society organisation, resulting in awards for the best-performing regional office and institutions overall<sup>440</sup>.

The ADISA also created a guideline for managing complaints, which sets out a unified approach to the process for managing user complaints. This unified approach includes a standardised complaint form and a standardised process for handling complaints by the front and back offices<sup>441</sup>, such as rules on how to respond to all complaints. All citizens should receive responses to complaints within ten working days, and the Guideline also covers implementation of similar complaint-management procedures for other service points that have not been consolidated into one-stop shops.

The legal framework for ensuring interoperability is in place, and the NAIS has implemented the technical solution for integrating government IT systems to enable the reuse of data. At the operational level, the NAIS is responsible<sup>442</sup> for reviewing and approving acceptance of all new government IT systems, ensuring that principles related to service delivery (such as reuse of already existing data, the so-called “only once” principle) are implemented. The NAIS also co-ordinates integration with the interoperability technical solution<sup>443</sup> to enable data exchange among registers. Currently, 42 information systems are interconnected to the interoperability framework, including all basic registers<sup>444</sup>. Thanks to the legal framework that obligates all authorities to seek NAIS approval when new IT systems are to be introduced, the NAIS has strong leverage to push authorities to integrate their new systems with the common interoperability solution. The centrally co-ordinated interoperability technical solution is the only legal way to exchange electronic data between government IT systems<sup>445</sup>.

The ADISA has made advances in working out new standards to improve service delivery. The inventory of public services is in place and contains a high level of information: over 1 400 services of 134 government bodies have been classified and coded<sup>446</sup>. Unified information, in the form of service passports for 481 services<sup>447</sup>, is available via the e-Albania.al portal, enabling citizens to get an overview of what they need to do when using the service. A standard template for service application was introduced in July 2016<sup>448</sup> to simplify the procedure by unification, and six public authorities have adopted the standard application form and are applying it in practice<sup>449</sup>.

Costs related to delivering public services are not yet systematically monitored on a wide scale, but the ADISA has taken steps to pilot cost measurements. Currently, the cost per transaction is available for 13 service delivery institutions<sup>450</sup>, but there is no monitoring of cost per transaction through different channels of service (digital versus physical channels), which could provide an additional incentive to prioritise digitalisation of services (when possible).

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<sup>439</sup> Mystery shopper is a tool to measure service quality by sending an external reviewer to participate in the service provision process as a regular client.

<sup>440</sup> IDRA (2017), “Mystery Shopper Visits’ an Assessment Platform for Improvement of Public Service, Focusing on Citizens”, <http://www.idrainstitute.org/en/events/vizitat-e-klientit-misterioz>.

<sup>441</sup> A front office is an administrative office in which customers get served, while a back office is an office in which administrative work (from processing applications to preparing issuance of documents to customers) is carried out.

<sup>442</sup> DCM No. 703/2014.

<sup>443</sup> Microsoft Biztalk.

<sup>444</sup> Interview with NAIS officials on 27 February 2017.

<sup>445</sup> Ditto.

<sup>446</sup> ADISA (2015), “Modernisation of Public Services”, p. 6.

<sup>447</sup> E-mail communication of 16 June 2017 with ADISA officials.

<sup>448</sup> ADISA (2015), “Modernisation of Public Services”, p. 21.

<sup>449</sup> Interview with ADISA on 27 February 2017.

<sup>450</sup> The ADISA reported that it monitors average transactions costs, calculated on the basis of operational costs incurred by institutions subject to the Feasibility Study, commissioned by the ADISA.

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The legal framework for electronic signatures is in place<sup>451</sup>, and electronic signatures are recognised as equal to handwritten signatures on the same grounds as in the EU eIDAS<sup>452</sup> regulation. The practical implementation of electronic signatures is at an early stage. There are two service providers on the market, but there are no low-cost or free-of-charge digital signature services available for citizens, making it difficult to achieve traction on the market. Without the widely used high-security e-ID and e-signature infrastructure, it is difficult to introduce new e-services that require higher security levels in authentication and take legally binding actions by signing documents on-line.

The only service for which electronic signature infrastructure is fully in use, making it possible to provide completely digital transactions, is the application for construction permits<sup>453</sup>. In the course of this project, run as a priority for the Cabinet of Ministers, procedures were simplified, some fees were removed, the time required to obtain a permit was reduced, and the whole process was made digital-only.

The value for the indicator ‘Existence of enablers for public service delivery’ is 4.

Existence of enablers for public service delivery						
This indicator measures the extent to which citizen-oriented service delivery is being facilitated by the existence and implementation of enabling tools and technologies, such as public service inventories, interoperability frameworks, digital signatures and user feedback mechanisms. It evaluates how effective the central government is in establishing and using those tools and technologies to improve the design and delivery of public services.						
Overall indicator value	0	1	2	3	<b>4</b>	5

Sub-indicators	Points
<b>Central and shared mechanisms to better enable public service provision</b>	
1. Central monitoring of service delivery performance	2/3
2. Interoperability infrastructure in place	3/3
3. Existence of common standards for public service delivery	2/3
4. Legal recognition and affordability of electronic signatures	2/3
<b>Performance of central and shared mechanisms for public service delivery</b>	
5. Use of quality management tools and techniques	1/4
6. Adoption of user engagement tools and techniques	3/4
7. Interoperability of basic registers	4/4
<b>Total<sup>454</sup></b>	<b>17/24</b>

All major registries are integrated into the interoperability platform, and it is widely utilised for data exchange. The legal framework for electronic signatures is in place, but there are no low-cost digital signature services available to citizens. Central monitoring of service delivery performance is in the pilot phase. There is no government-wide policy on introducing quality management models into the public administration, apart from the ADISA-created quality management framework for service delivery in its front offices. The ADISA has also introduced standards to improve service delivery.

**Principle 4: The accessibility of public services is ensured.**

<sup>451</sup> Law No. 107/2015 on Electronic Identification and Trust Services.

<sup>452</sup> <https://ec.europa.eu/futurium/en/content/eidas-regulation-regulation-eu-ndeg9102014>.

<sup>453</sup> SIGMA interview with the Ministry of Urban Development and Agency for Territorial Development on 2 March 2017.

<sup>454</sup> Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-24=5.

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Improving accessibility to administrative services is a clear policy objective for the Albanian Government. One-stop shops provided by the ADISA consolidate front-end service provision to offer easier access, higher transparency and efficiency of service delivery. The ADISA is working on expanding the network of one-stop shops to increase territorial coverage (most recently, new offices in Kruja, Fier and Gjirokastra opened in 2017)<sup>455</sup>. Since 2016, there has been a call centre where citizens can request information about roughly 480 services provided through the e-Albania.al portal. Nevertheless, perceived satisfaction with public services across the country is still low, at only 25%<sup>456</sup>.

Availability of digital services through the e-Albania.al portal is constantly rising. In February 2017, 467 transactional services were available through the portal<sup>457</sup>, 275 of which are at level 4 automation, the highest UN Public Administration Network (UNPAN) classification<sup>458</sup>, referring to fully digitalized services. One of the factors that impedes full digitalisation of service processes is the low uptake of digital signatures. The first examples of full digitalisation with removal of paper alternatives have been the health card, declaring taxes, applying for construction permits and applying for university. In the case of construction permits, digital signatures are used by both applicants and public officials<sup>459</sup>.

According to the 2017 Balkan Barometer survey, there is a big discrepancy between perceived accessibility of digital public services among those who have not been in contact with central government services (29.2% satisfied) and those who have actually experienced a central government service (47.7% satisfied)<sup>460</sup>. In contrast, 62% of businesses expressed satisfaction with digital public services, the highest percentage in the Western Balkan region.

Although it is common to set standards for improving access for people with disabilities (especially those with reduced mobility), enforcement of the standards is weak. In general, the needs of customers with disabilities are not adequately addressed in practice<sup>461</sup>, although it should be noted that the ADISA CSC model requires that all established centres be wheelchair accessible. The National Action Plan on Persons with Disabilities 2016-2020<sup>462</sup> was recently adopted by the CoM<sup>463</sup> to address the issue of accessibility to public services by people with disabilities; thus, the policy framework is in place to ensure access to public buildings for people with limited mobility. Web accessibility standards (Web Content Accessibility Guidelines [WCAG]) for public web pages and e-service channels have not been adopted. However, the adoption of web accessibility standards is a goal in the digital agenda action plan, as well as in the National Action Plan on Persons with Disabilities 2016-2020.

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<sup>455</sup> ADISA (2015), "Modernisation of Public Services", p. 21; update through e-mail communication with ADISA officials on 16 June 2017.

<sup>456</sup> Those who responded "mostly satisfied" or "completely satisfied" to the Balkan Barometer question "How satisfied are you with public services in general?"

<sup>457</sup> Interview with NAIS officials on 27 February 2017.

<sup>458</sup> Albania uses a modified UNPAN classification of e-government evolution, which divides it into five categories from simplest to more sophisticated: emerging presence, enhanced presence, interactional presence, transaction presence and connected presence. Albania has skipped interactional presence, resulting in four categories. For UN classification, see *UN E-Government Survey 2008: From E-Government to Connected Governance*, <https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2008-Survey/Complete-survey.pdf>. For Albanian classification, see LTPD, p. 8.

<sup>459</sup> Interviews with the ADISA, General Tax Department and Agency for Territorial development in February 2017.

<sup>460</sup> Those who responded "mostly satisfied" or "completely satisfied" to the Balkan Barometer question "How satisfied are you with accessibility to public services via a digital channel?"

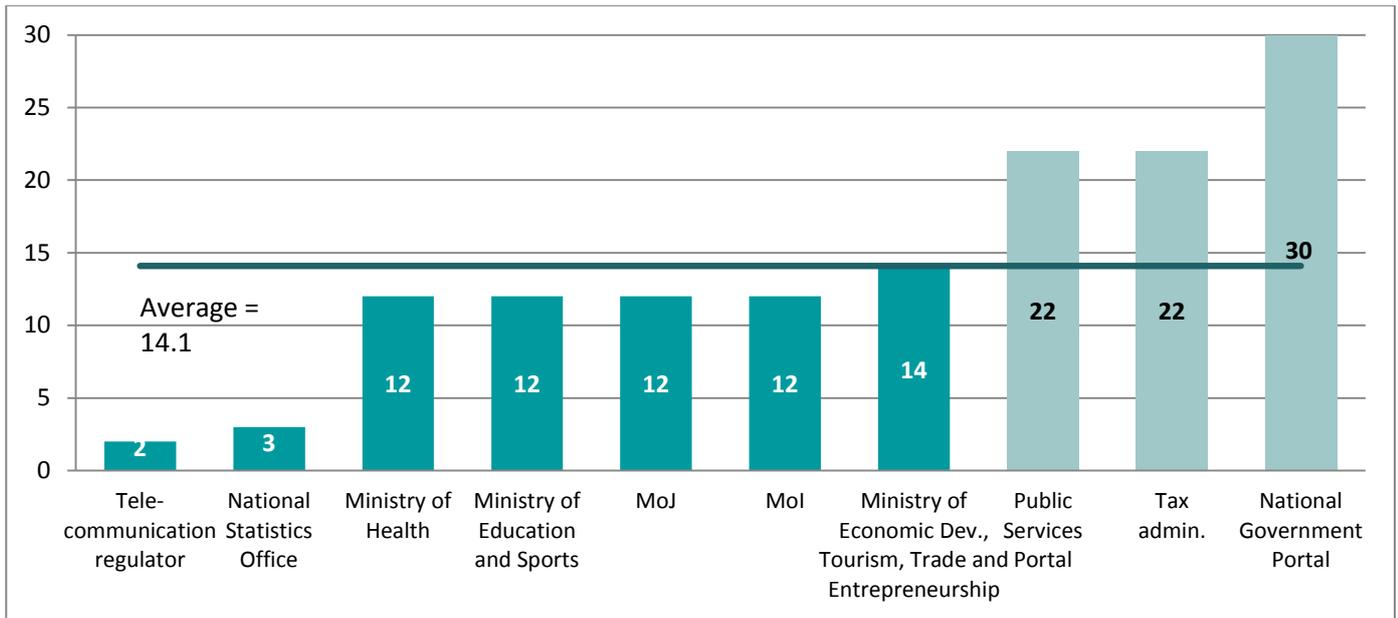
<sup>461</sup> National Action Plan on Persons with Disabilities 2016-2020, pp. 18-19; SIGMA interview with Ministry of Social Welfare and Youth on 28 February 2017.

<sup>462</sup> <http://www.al.undp.org/content/dam/albania/docs/PAK%20eng.pdf?download>.

<sup>463</sup> National Action Plan on Persons with Disabilities 2016-2020, approved by DCM No. 483 on 29 June 2016.

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**Figure 1. Number of content accessibility problems on government websites, 2017**



Source: SIGMA test of compliance with Web Content Accessibility Guidelines (WCAG), March 2017.

Sign language is officially recognised<sup>464</sup>, but the use of plain language by the public administration is not compulsory for government institutions.

Therefore, the value for the indicator 'Accessibility of public services' is 2.

<sup>464</sup> Prime Minister's Decision No. 837 of 3 December 2014 for the Recognition of Sign Language in the Republic of Albania.

### Accessibility of public services

This indicator measures the extent to which the access to public services is promoted in policy formulation and implementation. It evaluates whether this policy framework leads to measurably easier access for citizens, measures citizen perceptions of accessibility to public services and tests the actual accessibility of government websites. Dimensions covered are territorial access, access for people with disabilities and access to digital services.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
<b>Policy framework for accessibility</b>	
1. Existence of policy for the accessibility of public services	3/3
2. Availability of statistical data on accessibility to public services	0/3 <sup>465</sup>
3. Adequacy of policy framework for public service users with special needs	3/4
4. Existence of common guidelines for government websites	1/2
<b>Government performance on accessibility</b>	
5. Compliance of government websites with Web Content Accessibility Guidelines (WCAG)	2/3
6. Perceived satisfaction with public services across the territory by population (%)	0/3
7. Perceived accessibility of digital public services by population (%)	1/3
8. Perceived time and cost of accessing public services by population (%)	1.5/3
<b>Total<sup>466</sup></b>	<b>11.5/24</b>

**Access to administrative services is constantly improving through installation of new one-stop shops and increasingly available digital services on the e-Albania.al portal. However, despite a solid policy framework, accessibility issues for people with disabilities remain largely unaddressed in practice, apart from measures taken in the ADISA CSCs. The accessibility of public buildings remains low, and web accessibility standards have not been adopted.**

#### Key recommendations

##### Short-term (1-2 years)

- 1) The ADISA and the NAIS should ensure that during the re-engineering processes of each service, both physical and digital optimisation possibilities are considered in order to achieve optimal solutions for the Government as well as for citizens. The cost of all delivery channels – per transaction, per service, by individual agency – should be monitored separately, as this should act as an incentive for digitalisation.
- 2) The ADISA should implement quality management tools in the one-stop shops and make efforts to ensure that the quality assurance tools are also introduced by other government bodies providing over-the-counter services. Also, methods for measuring how the services are performing, such as digital uptake, completion rate and user satisfaction, should be introduced on the government portal.
- 3) The application of user feedback tools, worked out and piloted by the ADISA, should be expanded to cover more services, including e-services.
- 4) The Government should adopt and implement web accessibility standards for all government webpages and the e-services portal.

<sup>465</sup> The respective data was not provided to SIGMA.

<sup>466</sup> Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-24=5.

**Medium-term (3-5 years)**

- 5) The Ministry of Interior should make efforts to ensure that e-ID and electronic signature infrastructure will be available to citizens and businesses free of charge or at low cost, as this is one of the prerequisites for creation and uptake of high-security transactional services.
- 6) Implementation of the “digital first” principle should be reinforced through a holistic approach to digitalisation, including provision of training in digital skills and awareness-raising among the general population, possibly in partnership with private sector entities.
- 7) The Government should complement the general policy on accessibility of public services for special-needs users with concrete policy measures and metrics to improve the situation.



## PUBLIC FINANCIAL MANAGEMENT

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

#### 1.1. State of play

The legal and operational framework for implementing public financial management (PFM) is in place. Whereas the period 2011-2015 was characterised by unrealistic macroeconomic and fiscal assumptions that led to high general government deficits (5.2% in 2014 and 4.0% in 2015<sup>467</sup>), there was some fiscal stabilisation in 2016, partly due to the improved reliability of fiscal projections. The outturn for the general government budget deficit in 2016 is estimated at 1.8%<sup>468</sup>. The public debt to gross domestic product (GDP) ratio has stabilised at around 70% and is forecast to decrease to 62.8% in 2019<sup>469</sup>, but it is too early yet to say whether it is on a sustainable path.

A medium-term budgetary framework (MTBF) covering a three-year period is in place, but the quality of the MTBF is still not adequate, particularly at the institutional level in relation to strategic and operational planning and regarding the reliability of medium-term projections.

The Central Harmonisation Unit (CHU) continues to prepare an extensive public internal financial control (PIFC) annual report covering financial management and control (FMC) and internal audit (IA), which includes recommendations for improvement. It accompanies the budget report to the Government and is also sent to the Parliament, but there are no Government decisions to support implementation of the report's recommendations.

There is also no real leadership on FMC among budget users. The general secretary or equivalent head of the institution is the FMC and risk management co-ordinator, but there are no active plans for the implementation of FMC. On IA, the CHU has developed a methodology for external quality assurance of IA work, but reviews are expected to commence only in 2017.

The regulatory framework covers public procurement and concessions/public-private partnerships (PPPs) contracts; the most recent amendment to the Public Procurement Law (PPL) was adopted in 2017.

The legal framework for public procurement in the classic and utilities sectors is largely harmonised with the 2004 European Union (EU) procurement directives, though a number of legal gaps have been identified. These gaps are even more important in light of the 2014 directives, and no transposition has yet been initiated. The Defence and Security Procurement Directive 2009/81/EC has not been implemented yet.

The institutional structure for policy development, monitoring and support in the areas of public procurement and concessions/PPPs is divided among the Ministry of Economic Development, Trade and Entrepreneurship, the Public Procurement Agency (PPA) and the Ministry of Finance (MoF).

The Public Procurement Commission (PPC) is the body designated to make review decisions on complaints lodged by aggrieved tenderers. The independence of the review system has been strengthened by recent amendments to the PPL<sup>470</sup> which make the PPC directly accountable to the Parliament. The amended EU Remedies Directive 2007/66/EC has yet to be implemented in full.

The public procurement system is fully digitalised. However, the functioning of the system is affected by an excessive and prescriptive regulatory framework, including the Budget Law. The institutional

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<sup>467</sup> Albania's Economic Reform Programme 2016-2018, p. 53.

<sup>468</sup> Fiscal Indicators, Ministry of Finance (MoF), April 2017, <http://www.financa.gov.al/al/raportime/programimi-ekonomiko-fiskal/raporte-dhe-statistika-fiskale-mujore/statistika-fiskale-mujore>

<sup>469</sup> Medium-Term Budget Programme (MTBP) 2017-2019, p. 17.

<sup>470</sup> Law No. 47/2017 on Some Changes and Amendments to Law No. 9643/2006 on Public Procurement.

structure prioritises compliance and transaction monitoring and control, rather than efficient procurement operation outcomes.

The independence, mandate and organisation of the Supreme Audit Institution (SAI) of Albania (the State Supreme Audit Institution [SSAI]) are established and protected by the Constitution and by primary legislation. The audit activities of the SSAI do not yet, however, comply with international auditing standards. The core of SSAI audit work is still a form of compliance audit, with a focus on defining irregularities; the development of performance audit is progressing, but that of financial audit is still in its infancy.

## 1.2. Main developments

The following sections describe key changes in the public administration for each key requirement<sup>471</sup> and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

In recent years, Albanian authorities have made extensive efforts to further PFM reforms. The implementation of these reforms is managed through the Albania Public Finance Management Strategy 2014-2020 (PFM Strategy)<sup>472</sup>. Initial efforts centred on laying the foundations for implementing reforms, such as establishing the structures for driving reform, drafting legislative amendments and capacity improvements in key areas. However, the monitoring and reporting framework for implementing PFM reforms is now fully operational. In 2015-2016, the process for monitoring the PFM Strategy was strengthened by the development of detailed methodology and guidance on performance indicators (“indicator passports”). Monitoring and reporting is led by the PFM Reform Secretariat, which reports to a ministerial-level steering committee<sup>473</sup>. A new directorate responsible for monitoring the implementation of PFM reforms has also been established.

In addition to this, the mandate of the MoF has been expanded and it became responsible for capital investment management in early 2016. Furthermore, directorates to monitor the performance of budget organisations and local budgets have been established.

The amendments to the PPL, which were adopted by the Parliament on 13 April 2017<sup>474</sup>, have strengthened the independence of the PPC. As a result of these changes, the PPC will report directly to the Parliament and not to the Prime Minister (PM), and members of the PPC will be elected by the Parliament. The structure, budget, number of employees and organigramme of the PPC will be approved by the Parliament in the future, and the PPC will submit its annual reports to the Parliament.

The Government has also implemented framework agreements and collaborative tenders that can be arranged among contracting entities. These are positive steps that will reduce the high number of low-value purchases, as well as the extensive number of procedures negotiated without publication.

The volume of low-value transactions (below ALL 800 000) decreased substantially during 2015-2017.

There were no major developments in external audit during the period, although the SSAI Strategic Development Plan (SDP) 2013-2017 continues to be implemented and the SSAI management has committed to reviewing the Plan annually.

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<sup>471</sup> OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, [http://sigmaweb.org/publications/Principles-of-Public-Administration\\_Edition-2017\\_ENG.pdf](http://sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf)

<sup>472</sup> Albania Public Finance Management Strategy 2014-2020, MoF, December 2014, [http://www.financa.gov.al/files/userfiles/Raportimet/Albanian\\_PFM\\_strategy\\_2014-2020.pdf](http://www.financa.gov.al/files/userfiles/Raportimet/Albanian_PFM_strategy_2014-2020.pdf)

<sup>473</sup> Albania Public Finance Management Strategy 2014-2020, MoF, December 2014, pp. 76-77.

<sup>474</sup> Law No. 47/2017 on Some Changes and Amendments to Law No. 9643/2006 on Public Procurement.

**Key requirement: The budget is formulated in compliance with transparent legal provisions and within an overall multi annual framework, ensuring that the general government budget balance and the ratio of debt to gross domestic product are on a sustainable path.**

Since 2015, the main development in formulating the budget within a multiannual framework, ensuring that the general government budget balance and the ratio of debt to GDP are on a sustainable path, has been an improvement in the legislative basis that underpins this objective. In June 2016, the Parliament approved amendments to the Law on Management of Budget Systems (MBS) to implement tasks defined in the PFM Strategy 2014-2020. The new articles on fiscal rules and principles, such as the new debt and deficit rules that were introduced to pursue counter-cyclical fiscal policy, are important legislative developments. Owing to the introduction of these rules and the monitoring role of the MoF, the value of the indicator relating to the fiscal rules strength index rises from 1 in 2015 to 2 in 2017.

The MTBF is still unreliable; however, efforts are being made to strengthen medium-term fiscal planning in the budget process and the credibility of the MTBF through the introduction of a more independent macro forecast based on International Monetary Fund (IMF) estimates, and legally binding medium-term ceilings for budget organisations. These were weaknesses highlighted in the 2015 Baseline Measurement Report. It is notable that although budget revenue in 2016 was 2.8% below the budget target, actual expenditure in that year was 4.3% below planned expenditure, and in consequence the general government deficit was only 1.8% of GDP.

Progress has also been made in developing a top-down approach for drafting the Medium-Term Budget Programme (MTBP) and the relevant legal provisions established in the MBS Law to support this process. To a large extent, the MTBP reflects the legal requirements for the content of the MTBF. Moreover, because the new legislation was adopted recently, further improvements of the MTBP document may be possible in the next programming cycle. However, policy information in the MTBP is organised by institution and includes very detailed and technical data. There is no summary of sector-based strategic policy information or sector expenditure plans.

The process of fiscal risk monitoring and reporting was launched recently, and the MoF plans to elaborate a separate fiscal risk statement to be attached to the draft 2018 budget.

Amendments that aim to minimise fiscal risks arising from concessions and PPPs by introducing certain limits for these activities<sup>475</sup>, and to establish a contingency fund of at least 0.7% of total budget expenditure to guard against possible revenue shortfalls and unpredictable interest rate changes<sup>476</sup>, are also positive developments.

However, it is too early to assess the effects of these legal provisions since they were only introduced in 2016. Therefore, the value of the indicators relating to the MTBF strength index and the extent to which the annual budget proposal includes full information at the time of presentation to the Parliament remain unchanged from 2015.

**Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports<sup>477</sup>**

	2015 Baseline Measurement Indicator	2015 value	2017 value
<b>Qualitative</b>	MTBF strength index.	2	2

<sup>475</sup> MBS Law, Article 4.2, paragraph 5.

<sup>476</sup> MBS Law, Article 4.1, paragraph 1, point c; Articles 5-6.

<sup>477</sup> OECD (2015), *Baseline Measurement Report: Albania*, OECD Publishing, Paris, [http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Albania.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Albania.pdf)

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	Fiscal rules strength index.	1	2
	Extent to which the annual budget proposal includes full information at the time of presentation to the parliament.	2	2
<b>Quantitative</b>	Percentage differences between the planned budget revenue in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	-12.2%	-5.2%
	Percentage differences between the planned budget expenditure in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	-5.6%	-11.5%
	General government budget balance.	-5.2% <sup>478</sup>	-1.8% <sup>479</sup>
	Percentage differences between the planned budget revenue (as approved in the budget) compared to the outturn of the latest available year.	-9.7%	-2.8%
	Percentage differences between the planned budget expenditure (as approved in the budget) compared to the outturn of the latest available year.	-3.9%	-4.3%

**Key requirement: Accounting and reporting practices ensure transparency and public scrutiny over public finances; both cash and debt are managed centrally, in line with legal provisions.**

In comparison with 2015, in-year financial reporting has improved, with monthly spending information for ministries and other first-line budget users, and quarterly local government financial data being published by the end of the following quarter. Therefore, the indicator value has increased from 1 in 2015 to 2 in 2017.

However, there is still no progress in annual budget reporting since, according to the criteria on which the Principle is based, the format of the annual budget report is still weak and lacks a number of elements. One of the key SIGMA recommendations in 2015 was to improve the Annual Report on the Execution of the Budget to mirror the original budget format and explain variations, but this has not been done yet.

In the 2015 Baseline Measurement Report, SIGMA recommended that the MoF should monitor the arrears prevention strategy and that all commitments should be recorded in the treasury system, with the treasury system being made available to all budget users. There is some progress in this regard, since a function to record multiannual commitments in the Albanian Government Financial Information System (AGFIS) was introduced in 2016. Furthermore, the system was enabled to receive reports from social insurance funds.

An effort was also made by the MoF to eliminate arrears. Thus, the stock of arrears at the end of 2015 was 3.7% of total budget expenditures. According to the Arrears Prevention and Clearance Strategy, the Government allocated more than ALL 70 billion to address the problem of arrears during the

<sup>478</sup> Published as -5.1% in the *Baseline Measurement Report: Albania*; revised in light of information from the MoF.

<sup>479</sup> Fiscal Indicators, MoF, April 2017, <http://www.financa.gov.al/al/raportime/programimi-ekonomiko-fiskal/raporte-dhe-statistika-fiskale-mujore/statistika-fiskale-mujore>

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2013-2015 period<sup>480</sup>; however, the problem of arrears is still relevant today. This is also the opinion of the SSA I.

The public debt-to-GDP ratio is stabilising. The ratio, according to MoF preliminary data, was 71.0% at the end of 2016, which is in line with the initial target of 71.3% for 2016 in the MTBP 2016-2018. The public debt service cost, representing the total interest cost in 2016, was 2.4%, which is lower than in 2015.

No progress was made in the area of asset management, and this was also indicated in the SIGMA 2015 Baseline Measurement Report on implementation of the PFM Strategy.

**Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which in-year financial reporting provides full information and is made publically available.	1	2
	Extent to which the annual financial report includes full information and is made available in time to the parliament.	3	3
<b>Quantitative</b>	Average percentage differences between cash flow projections and actual cash balance on a monthly basis.	7.2%	6.3%
	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	8.6%	0.4%
	Public-sector debt servicing costs as a share of gross domestic product.	2.7% <sup>481</sup>	2.4%
	Difference of public-sector debt level outturn from target.	-4.9%	-0.4%

**Key requirement: National internal control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout the public sector.**

Staffing of the CHU/FMC increased from five to six over the period. Resources will nevertheless be stretched by the programme to review FMC questionnaires within organisations and new responsibilities for government accounting standards.

FMC training is now being provided by the Albanian School of Public Administration (ASPA) as part of the normal suite of public sector training it offers. Emphasis in the CHU/FMC has moved from training to more strategic issues.

In FMC, a performance monitoring regime has been introduced with five indicators each provided by the CHU/FMC, the CHU/IA, the Budget Division and the Treasury Division. The results are laid out as a league table in the PIFC Annual Report and presented to the Council of Ministers (CoM). This initiative has been successful in stimulating more interest in FMC and has led to CHU presentations in line ministries.

<sup>480</sup> Strategy for Repaying and Preventing Arrears, p. 9.

<sup>481</sup> Published as 2.8% in the *Baseline Measurement Report: Albania*; revised in light of information from the MoF.

The CHU/FMC developed a plan for institutional visits to verify issues included in the FMC self-assessment questionnaires, to ensure that conclusions, actions and rankings for individual institutions are appropriate. There were 16 such reviews in the first half of 2017, and feedback was provided to each of the 16 institutions.

The various changes to legislation, regulations and guidance material since the last assessment have aided the development of FMC. Many of these changes have been supported by a two-year EU Twinning project with Austria and France<sup>482</sup>.

The FMC Law was revised in 2015 and, among many detailed revisions, now includes a clearer definition of FMC, establishes the role of the FMC and risk management co-ordinator, and provides the legal framework for the PIFC Board.

Supporting subsidiary legislation in the form of orders and instructions has been introduced. In addition, a new FMC manual has been prepared, reflecting the changes in legislation and other guidelines.

**Table 3. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which the operational framework for FMC is complete, in place and applied.	3	3
<b>Quantitative</b>	Share of first-level budget organisations where the budget structure is aligned with the organisational structure.	30% <sup>483</sup>	Not available <sup>484</sup>

**Key requirement: The internal audit function is established throughout the public sector and internal audit work is carried out according to international standards.**

Staffing of the CHU/IA has fluctuated markedly, dropping from 14 to 5 in 2013, but in 2017 it registered 6 posts with 5 staff actually in place. Changes to the IA staff certification programme should have made the process less demanding for the CHU/IA, but plans to expand external quality assessments of IA units will increase staff workload again.

Compared with the 2015 assessment, there has been progress on a number of the indicators. The number of IA units has grown (103 to 114), with a smaller increase in the number of internal auditors in the public sector (363 to 370). The number of IA units meeting the minimum staffing levels has also increased (71% to 75%), as has the proportion of staff having national IA certification (82% to 95%) despite the introduction of DCM No. 83 allowing up to one-third of a unit's audit staff to be uncertificated<sup>485</sup>.

There have been various changes to legislation, regulations and guidance material since the last assessment, which have aided the development of IA. A number of these changes have been supported by the EU Twinning project referred to above.

<sup>482</sup> Twinning Project on the Implementation of a Modern Financial Management and Control System and Public Financial Inspection, funded by the EU.

<sup>483</sup> Information provided by the MoF.

<sup>484</sup> The respective data was not provided to SIGMA.

<sup>485</sup> DCM No. 83 of 3 February 2016, amended by DCM No. 353 of 11 May 2016 on Adoption of Criteria for the Establishment of Internal Audit Units in the Public Sector, paragraph 3.

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The Law on IA was revised in 2015 to better align it with international standards by introducing reference to audit charters and codes of ethics, as well as adding the concept of competence to the general principles.

Supporting subsidiary legislation, in the form of decisions of the Council of Ministers, has been introduced to provide additional guidance on a number of issues raised in the Law on IA, such as a Qualification Commission of Internal Auditors, establishment of IA committees in public entities and criteria for the establishment of IA units in the public sector.

**Table 4. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement Indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which the operational framework for internal audit is designed and in place.	3	3
	Quality of internal audit reports.	2	2
<b>Quantitative</b>	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	71%	75%
	Share of internal auditors with a national or international internal audit certificate.	82%	95%

**Key requirement: Public procurement is regulated by duly enforced policies and procedures that reflect the principles of the Treaty on the Functioning of the European Union and the European Union *acquis* and are supported by suitably competent and adequately resourced institutions.**

The legal and institutional framework of the public procurement system has undergone few major changes and improvements since 2015. The PPL was amended in April 2017, but those changes were limited to the PPC only.

The value of the indicator measuring the nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness is increased from 1 to 2 because wide-ranging consultations were conducted during the PPL amendment process.

Regulations supporting the Concessions and Public-Private Partnerships Law (CPPPL) have also been adopted and implemented since 2015.

**Table 5. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement Indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which public procurement legislation is complete and enforced.	3	3
	Nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness.	1	2
	Extent to which policy framework for public procurement is developed and implemented.	3	3
	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	3	3
	Comprehensiveness of systems for monitoring and reporting on public procurement proceedings and practices.	2	2
	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	3	3

**Key requirement: In case of alleged breaches of procurement rules, aggrieved parties have access to justice through an independent, transparent, effective and efficient remedies system.**

Progress has been noted in this area. Amendments to the PPL, which regulate the establishment, functioning and stronger independence of the PPC, were adopted by the Parliament on 13 April 2017.

These PPL amendments strengthen the PPC's independence and make it responsible to the Parliament, which is an improvement on the existing regulatory framework. As a result, the value of the relevant indicator assessing the presence of procurement review and appeal bodies covering the functions mentioned, and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work, is increased from 2 to 3.

The share of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints (39.6% to 70%) has grown, indicating the PPCs capacity limitations.

**Table 6. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement indicator	2015 value	2017 value
<b>Qualitative</b>	Presence of procurement review and appeal bodies covering the functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work.	2	3
	Presence of a user-friendly procurement review website including timely publication of decisions and statistics, with adequate search functions.	4	4
<b>Quantitative</b>	Actual processing time of complaints related to procurement compared with maximum legal requirements.	18	Not available
	Number of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints.	39.6%	70%
	Number of complaints in relation to the number of tender notices published.	15.8%	14%
	Share of complaints in procurement that are challenged to the next judicial level.	7.9%	7%

**Key requirement: Contracting authorities are adequately staffed and resourced and carry out their work in accordance with applicable regulations and recognised good practice, interacting with an open and competitive supply market.**

There have been no major changes under this key requirement.

The extent and quality of guidelines and other supporting documentation are excellent, but they should be made less prescriptive. The focus on transparency and open competition has been maintained: the majority of contracts above the low-value threshold were finalised through competitive procedures. Regrettably, the share of negotiated procedures without publication remains high (30%, or 2 186 in 2016<sup>486</sup>), mainly due to the strict budget rules.

The Government has introduced framework agreements which are encouraging: 42 were concluded in 2016, generating 490 call-offs<sup>487</sup>.

Training and other capacity-building actions remain insufficient, and no progress since 2015 is evident. The support structure, including the PPA and ATRAKO (the Concessions Treatment Unit of the Ministry of Economic Development, Tourism, Trade and Entrepreneurship), is not organisationally equipped to provide the necessary operational support to contracting entities and the private sector.

<sup>486</sup> PPA Annual Report 2016.

<sup>487</sup> *Ibid.*

**Table 7. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent of use of modern procurement techniques and methods.	4	4
	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	4	4
Quantitative	Share of contracts already announced in published procurement plans or indicative notices.	100%	100%
	Share of contracts awarded by competitive procedures.	87.7%	70%
	Share of contracts awarded based on acquisition price only.	98%	98%
	Share of contracts amended after award.	Not available <sup>488</sup>	Not available
	Average number of tenders submitted per goods contract to be procured.	Not available	Not available
	Average number of tenders submitted per works contract to be procured.	Not available	Not available
	Average number of tenders submitted per services contract to be procured.	Not available	Not available

**Key requirement: The constitutional and legal frameworks guarantee the independence, mandate and organisation of the supreme audit institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high-quality audits that impact on public sector functioning.**

The SSAI is based on the Constitution and on the 2015 SSAI Law, which is in line with international standards. In 2014, however, the SSAI’s audit work and access to the premises of the General Tax Department were restricted. This negatively influences the value assigned to the indicator on the “extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework” during the last three years. The value has therefore not changed since 2015, remaining at 3.

In July 2013, the SSAI management adopted the SDP 2013-2017, which had been developed with the support of SIGMA. Implementation of the Plan was reviewed in 2015, and it is currently being realised with the support of twinning partners, the SAIs of Poland and Croatia. In 2016, the SSAI management agreed to annually review the SDP 2013-2017. Therefore, the value for the extent to which the SSAI management ensures the development of the institution has increased from 4 to 5 since 2015.

The SSAI budget claims 0.1% of the state Budget, and in 2016 the SSAI used almost its entire budget.

<sup>488</sup> Not available means that no data has been collected by the administration.

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The proportion of audit report summaries published on the SSAI website compared with audit reports adopted has improved. Due largely to an improvement in the internal summary approval procedure, the publication rate is nearly 100%.<sup>489</sup>

The rate of implemented recommendations at the end of 2016 was 49.7%. Compared with the rate at the end of 2014 (75.5%), this is a decrease of 34.1%. Since 2015, top officials of government institutions have been reacting less and less to SSAI recommendations to take administrative and disciplinary measures<sup>490</sup>.

The SSAI has followed up on two key recommendations of the 2015 Baseline Measurement Report: it has started to improve its planning system, and the 2016 annual report includes the number of accepted recommendations.

Short-term key recommendations to include budget coverage in each individual audit programme and report, and to improve public relations on performance audit reports have not yet led to specific actions.

**Table 8. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports**

	2015 Baseline Measurement Indicator	2015 value	2017 value
<b>Qualitative</b>	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	3	3
	Extent to which the SAI management ensures the development of the institution.	4	5
<b>Quantitative</b>	Share of SAI budget in the state budget.	0.08%	0.10%
	Proportion of audit reports published on the SAI website compared with audit reports adopted.	88.7%	98.1%
	Share of audit recommendations accepted and implemented by auditees.	75.5%	49.7%

<sup>489</sup> Of the 154 audit reports in 2016, only 3 confidential reports were not published.

<sup>490</sup> Chairman of the SSAI, 1 March 2017, and 2015 SSAI Annual Report, p. 50.

## 2. ANALYSIS

This analysis covers 16 Principles for the public financial management area grouped under 8 key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>491</sup>, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

### Budget management

**Key requirement: The budget is formulated in compliance with transparent legal provisions and within an overall multi annual framework, ensuring that the general government budget balance and the ratio of debt to gross domestic product are on a sustainable path.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



#### **Analysis of Principles**

**Principle 1: The government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum period of three years; all budget organisations operate within it.**

The Government approves a three-year MTBF on a general government basis annually in June. Legal provisions to send a copy of the MTBP to the Parliament exist in the MBS Law, but there is no practice whereby the Parliament discusses the MTBP document prior to submission of the annual budget proposal.

As indicated in the 2015 Baseline Measurement Report, the MTBP is well developed at both the ministerial and programme levels. However, sector-based policy information and sector expenditure plans are not presented in the document to support cross-cutting policy discussions and anticipated results.

The MTBF covers revenue and expenditure plans for the entire general government, including local governments, social funds and Instrument for Pre-accession Assistance (IPA) funding. An effort is being made to increase the reliability of forecasts by introducing an independent macro forecast based on IMF estimates<sup>492</sup>, but the impact of this innovation can only be assessed after the implementation of the 2017 Budget.

<sup>491</sup> OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>492</sup> Provisions of Law No. 25 of 2 June 2016 on Amendments to Law No. 9936/08 on Management of the Budgetary System in the Republic of Albania.

Efforts also are being made to improve the reliability of the MTBP. Thus, amendments to the MBS Law have introduced binding medium-term ceilings for the first-level budget organisations at programme level. In particular, the law stipulates that the MoF prepare a draft annual budget with ceilings based on three-year periods (modelled on the MTBP) and submit it for approval to the CoM<sup>493</sup>, and that the MTBP include a “detailed report about the budget requests submitted by the central government units, within the budget ceilings approved by Decision of Council of Ministers (DCM), as well as about the additional budget requests”<sup>494</sup>.

Progress can be seen in the consistency of total expenditures when compared with forecasts in earlier MTBP publications. However, this is not the case at the level of budget organisations, as ceilings remain unreliable. Table 9 shows that the expenditure allocations for selected ministries in certain years deviate significantly across different MTBP publications.

**Table 9. Sustainability of ceilings for selected ministries**

Ministry of Transport and Infrastructure ALL million					
	For 2015	For 2016	For 2017	For 2018	For 2019
MTBP 2015-2017	42 335	35 616	30 931		
MTBP 2016-2018		35 419	41 579	42 262	
MTBP 2017-2019			33 264	35 013	35 065
Ministry of Culture ALL million					
	For 2015	For 2016	For 2017	For 2018	For 2019
MTBP 2015-2017	1 406	1 424	1 426		
MTBP 2016-2018		1 709	1 432	1 498	
MTBP 2017-2019			1 654	1 712	1 712

Source: Ceilings from Medium-term Budget Programmes.

Amendments to the MBS Law have introduced new fiscal principles and rules. The new debt rule aims to reduce the ratio of public debt to GDP annually to 45% of GDP and to keep it at that level<sup>495</sup>. The new general government balance rule was introduced to limit the general government deficit to a maximum of 2%, when the latest IMF World Economic Outlook forecasts the GDP real growth rate for the country to be at least 5%<sup>496</sup>. While this rule aims to maintain a counter-cyclical fiscal policy (avoiding large deficits during years of economic buoyancy and retaining a margin for expenditure in more challenging periods), it does not limit spending during years of moderate economic growth. Thus, the risk of a pro-cyclical fiscal policy remains, even though the debt reduction rule should still serve to encourage prudent fiscal policies to a significant extent. Mechanisms to monitor and enforce the fiscal rules have not been established according to international practice, and an earlier plan to set up an independent Fiscal Council has not been implemented, although the MoF plans to elaborate a separate fiscal risk statement to be attached to the draft 2018 budget.

With legislative changes having been introduced only recently and no evidence of monitoring and enforcement mechanisms to ensure compliance with the rules, the credibility of the medium-term

<sup>493</sup> MBS Law, Article 29.

<sup>494</sup> *Idem*, Article 26.

<sup>495</sup> *Idem*, Article 4.1(a).

<sup>496</sup> *Idem*, Article 4.1(d).

revenue and expenditure plans cannot be guaranteed. There are significant deviations between actual outturns and forecasts for both revenue and expenditure. Table 10 shows that the difference for revenue in 2016 was 4.9%, and for expenditure it was 10.2%. It is notable, however, that actual expenditure for 2016 was lower than originally planned, which demonstrates adherence to prudent fiscal policies.

**Table 10. General government revenues and expenditures, forecast vs. outturn**

	Revenue forecast for 2016 ALL million	Revenue outturn for 2016 ALL million	Expenditure forecast for 2016 ALL million	Expenditure outturn for 2016 ALL million
MTBP 2015-2017	426 062	407 021	480 962	433 697

Source: Forecast data from Medium-term Budget Programme 2015-2017, outturn data from fiscal statistics, [http://www.financa.gov.al/files/userfiles/Thesari/Treguesit\\_Fiskal\\_sipas\\_Buxhetit\\_te\\_Konsoliduar/2016\\_perfundimtare/Treguesit\\_fiskal\\_12-2016\\_perfundimtar.pdf](http://www.financa.gov.al/files/userfiles/Thesari/Treguesit_Fiskal_sipas_Buxhetit_te_Konsoliduar/2016_perfundimtare/Treguesit_fiskal_12-2016_perfundimtar.pdf).

Therefore, the value for the indicator 'Quality of the medium-term budgetary framework' is 3.

Quality of the medium-term budgetary framework					
This indicator measures the quality of the medium-term budgetary framework (MTBF), focusing on the process of budget preparation and four areas that influence the quality of the budget documents.					
Overall indicator value	0	1	2	<b>3</b>	4 5

Sub-indicators	Points
1. Strength of the medium-term budgetary framework	7/12
2. Strength of the fiscal rules	4/5
3. Credibility of medium-term revenue plans (%)	2/4
4. Credibility of medium-term expenditure plans (%)	1/4
<b>Total<sup>497</sup></b>	<b>14/25</b>

The MTBF is still unreliable. However, efforts are being made to strengthen its role in the budget process through the establishment of fiscal rules in the legislation, and steps to introduce more unbiased macro forecasting and binding medium-term ceilings for budget users. Risks for the sustainability of the public finances remain due to the absence of mechanisms to enforce the fiscal rules.

*Principle 2: The budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.*

Amendments to the MBS Law include new requirements for the comprehensiveness of the budget within a medium-term framework, more prudent macroeconomic forecasting and other innovations. For example, the explanatory note for the draft 2017 Budget includes information on fiscal risks, improved presentation of Government policy objectives and non-financial performance information.

<sup>497</sup> Point conversion ranges: 0-3=0, 4-8=1, 9-13=2, 14-18=3, 19-22=4, 23-25=5.

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The legal provisions also introduce a top-down approach for drafting the MTBP and the annual budget within the established timetable. However, further efforts will be needed to ensure consistency between the two publications. The general government deficit limit for 2017 was set at 1.4% of GDP in the MTBP 2017-2019, but was increased to 2% of GDP in the 2017 budget. Sector ceilings are not set in the MTBP or in the annual budget.

Spending appropriations in the MTBP and in the annual Budget are becoming more comparable, but cannot yet be considered consistent. Table 11 shows that the percent differences between total expenditure in the MTBP and the annual Budget were 2.1% in 2015, 2.5% in 2016 and 0.4% in 2017 – greatly improved from 10.8% in 2014. However, spending appropriations in 2017 for individual institutions in the MTBP and in the annual Budget indicate notable variations. For example, the difference for the Ministry of Culture is 23%, and for the MoF 6.7%.

**Table 11. Government expenditures in 2016 and 2017, MTBP vs. annual Budget**

	MTBP <sup>498</sup>	Annual Budget <sup>499</sup>	Percentage difference
	ALL million	ALL million	
2014	411 740	456 404	10.8%
2015	463 124	472 697	2.1%
2016	464 959	453 325	2.5%
2017	465 657	467 599	0.4%

Source Medium-term Budget Programmes and Annual Budget Laws.

The budget calendar is fixed in legislation and is comprehensive. It provides for an appropriate amount of time for line ministries to prepare budget requests, and to discuss and negotiate budget plans with the MoF and within the Government. However, the budget calendar has not been respected in recent years due to delays in submitting the draft annual budget proposal to the Parliament. Indeed, the draft budget for 2017 was submitted to the Parliament on 11 November 2016 instead of by the 20 October deadline indicated in budget legislation<sup>500</sup>.

The function of public investment planning moved from the Ministry of Economic Development, Tourism, Trade and Entrepreneurship to the MoF in March 2016. About 2 000 investment projects are currently being implemented under domestic and foreign financing, and a list of investment projects is included in the budget documentation. Public investment management procedures exist, but they have not been improved in recent years. The governmental Strategic Planning Committee is in charge of selecting large investment projects. Although a new instruction on capital investment appraisal procedures is expected to be approved in the near future, the risk of prioritising for political rather than economic reasons remains.

The reliability of revenue and expenditure forecasts in the annual budget is weak, although 2016 shows an improvement from 2015 (Table 12).

<sup>498</sup> MTBP 2014-2016, MTBP 2015-2017, MTBP 2016-2018 and MTBP 2017-2019, [www.financa.gov.al/al/raportime/buxheti/programi-buxhetor-afatmesem-ne-vite](http://www.financa.gov.al/al/raportime/buxheti/programi-buxhetor-afatmesem-ne-vite).

<sup>499</sup> Annual Budget Law 2014, Annual Budget Law 2015, Annual Budget Law 2016 and Annual Budget Law 2017, <http://www.financa.gov.al/al/raportime/buxheti/buxheti-ne-vite>

<sup>500</sup> MBS Law, Article 29.

**Table 12. Reliability of revenue and expenditure plans in 2014, 2015 and 2016**

Revenue, ALL million			
	Planned in the annual budget	Outturn	Percentage difference
2014	364 704	366 721	0.5
2015	414 469	379 206	-8.5
2016	418 894	407 021	-2.8
Expenditure, ALL million			
	Planned in the annual budget	Outturn	Percentage difference
2014	456 404	438 849	-4.0
2015	472 697	437 408	-8.1
2016	453 325	450 224	-4.3

Sources: Annual budgets of 2014, 2015 and 2016; Macroeconomic and Fiscal Framework 2018-2020.

The procedure of draft budget scrutiny in the Parliament is well established and adequate. However, the legislature does not discuss the MTBP prior to submission of the draft annual budget proposal by the Government. This weakness restricts the Parliament's knowledge and understanding of the Government's overarching budget policy, as well as its intentions for the coming budget year and the medium-term period.

The overall value for the indicator 'Quality of the annual budget process and budget credibility' is 3.

#### Quality of the annual budget process and budget credibility

This indicator analyses the process of budget preparation and the level of transparency and quality of the budget documents. Quality parameters include the link between the multi-annual and annual budget, the budget preparation process, selection of priorities for new expenditures, comprehensiveness and transparency of budget documentation, scrutiny and oversight of the budget proposal and rules for in-year budget adjustment.

Overall indicator value 0   1   2   **3**   4   5

#### Sub-indicators

#### Points

1. Operational alignment between the MTBF and the annual budget process	3/4
2. Reliability of the budget calendar	2/4
3. Transparency of the budget proposal before its adoption in parliament	6/8
4. Quality in the budgeting of capital investment projects	3/5
5. Parliamentary scrutiny of the annual budget	1/5
6. Transparency and predictability of procedures for in-year budget adjustments	2/4
7. Credibility of revenue plans in the annual budget (%)	3/4
8. Credibility of expenditure plans in the annual budget (%)	3/4
<b>Total<sup>501</sup></b>	<b>23/38</b>

<sup>501</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-26=3, 27-32=4, 33-38=5.

There is alignment between the MTBF and the annual budget process, but more is needed to ensure complete consistency of the two publications. Progress is also being made with regard to the transparency of the budget proposal and in the credibility of planned revenue and expenditures in the annual budget. Moving the responsibility for capital budgeting to the MoF is a positive step. Significant weaknesses remain, however, regarding parliamentary scrutiny of the budget.

**Key recommendations**

**Short-term (1-2 years)**

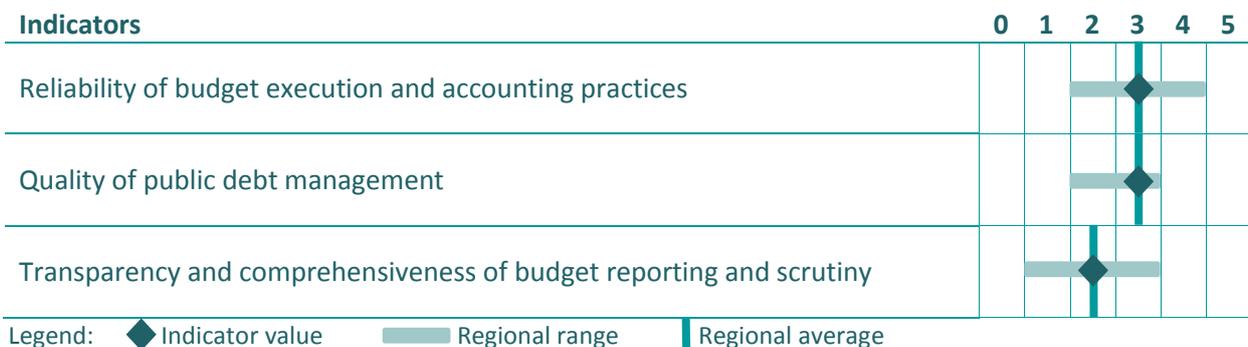
- 1) The MoF should improve the MTBP document by including a summary of sector-based policy information and sector expenditure plans.
- 2) The MoF should improve annual budget documentation by including a separate statement on fiscal risks.
- 3) The Parliament should initiate discussions on the MTBP prior to submission of the draft budget proposal.

**Medium-term (3-5 years)**

- 4) The MoF should consider strengthening the existing budget balance rule to ensure sustainability of public finances.

**Key requirement: Accounting and reporting practices ensure transparency and public scrutiny over public finances; both cash and debt are managed centrally, in line with legal provisions.**

The values of the indicators assessing Albania’s performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



**Analysis of Principles**

**Principle 3: The ministry of finance (or authorised central treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.**

The Treasury Single Account (TSA) has been established in the Bank of Albania and, according to legal requirements, all receipts and payments shall be made through the TSA. However, a significant number of budget organisations are legally mandated<sup>502</sup> to operate separate bank accounts that are not under the control of the MoF.

All payments of the 16 largest budget organisations (mainly ministries, but also Tirana municipality and some subordinate organisations such as the Roads Authority and the Agricultural Development Agency)

<sup>502</sup> MBS Law, Article 8.

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are made through AGFIS; this currently covers about 60% of total budget expenditure. Treasury district offices deal with the financial transactions of budget entities not yet on line with AGFIS. A new function of AGFIS – to register and provide information on multi-year commitments – was introduced in 2016.

The MBS Law<sup>503</sup> states that “the allocation of budgetary funds shall be based on forecasts of inflows and commitments and shall ensure the efficient use of financial resources and macro-stability”. Annual budget appropriations are approved by the MoF on a monthly basis, and these monthly allocations are considered the basis for budget execution through AGFIS. Monthly allocated amounts reflect the needs of budget organisations as verified by the MoF and are paid when funds are available, generally within one month.

The cash flow forecast prepared by the Treasury on a monthly basis reflects the TSA average cash flow patterns of the previous three years, while respecting the monthly ceiling of the annual budget appropriations approved by the MoF. The cash flow forecast is updated daily depending on TSA operational data. Cash liquidity is ensured, but arrears remain a problem: the most recent Macroeconomic and Fiscal Framework for 2018-2020 indicates the stock of arrears at the end of 2015 to be ALL 17.6 billion, and no arrears at the end of 2016. However, this does not mean that the accumulation of new arrears is being prevented. According to MoF arrears monitoring data, new arrears for 2016 amounted to ALL 1.8 billion<sup>504</sup>. One of the SSAI conclusions following the MoF’s audit of the process of paying arrears in 2014 points out that “the strategy of repayment of arrears failed to meet the main objectives for which it was designed, as it did not have any impact on economic growth”.

Therefore, the overall value for the indicator ‘Reliability of budget execution and accounting practices’ is 3.

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<sup>503</sup> MBS Law, Article 42.

<sup>504</sup> Information on new arrears November–December 2016 and January–December 2016, <http://www.financa.gov.al/al/raportime/shlyerja-e-detyrimeve-te-prapambetura>

### Reliability of budget execution and accounting practices

This indicator measures the quality of cash and commitment management, controls in budget execution and accounting practices. These aspects ensure reliable information on government spending and thus a foundation for management decisions on government funds.

Effective cash flow and planning, monitoring, and management of commitments by the treasury facilitate predictability of the availability of funds for budgetary units. Reliable accounting practices that include constant checking and verification of the recording practices of accountants are important to ensure good information for management.

Overall indicator value 0   1   2   **3**   4   5

Sub-indicators	Points
1. Presence of a treasury single account (TSA)	0/2
2. Frequency of revenue transfer to the TSA	1/1
3. Frequency of cash consolidation	1/1
4. Credibility of cash-flow planning	1.5/2
5. Budget classification and chart of accounts	1/2
6. Frequency of bank-account reconciliation (for all central government bank accounts)	2/2
7. Availability of data on the stock of expenditure arrears	2/2
8. Expenditure arrears (%)	1/3
<b>Total<sup>505</sup></b>	<b>9.5/15</b>

**The MoF centrally controls disbursement of funds and ensures cash liquidity, but cash management remains weak. Despite some irregularities indicated in the SSAI audit reports, the Arrears Prevention and Clearance Strategy and funds allocated for the purpose had a positive impact on payment of arrears, but did not prevent the accumulation of new ones.**

*Principle 4: There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected and debt-servicing costs are kept under control.*

State borrowing in Albania is governed by the MBS Law, the Law on State Borrowing, State Debt and State Debt Guarantees, and the Law on Local Borrowing<sup>506</sup>; limits for public debt are set in the MBS Law and in the annual budget. Recent amendments to the MBS Law revised the definition of public debt by including state guarantees for borrowing<sup>507</sup> within the scope of public debt. However, the definition of public debt is still not in line with European System of Accounts (ESA) 2010 definitions because accumulated interest is calculated on a cash basis. The new MBS Law also introduced a specific contingency in the budget for potential debt service risks: according to legal provisions, contingency funds shall be no less than 0.7% of total budget expenditure. In fact, 0.85% of total budget expenditure was allocated for this purpose in the 2017 budget.

The MoF elaborates a comprehensive medium-term debt management strategy that is published annually in April. The strategy discusses the development of central government debt, state guarantees and debt service risks, and defines risk mitigation and alternative financing strategies. It also includes some risk and sensitivity analysis as well as clear medium-term targets to improve debt structure, increase sustainability and improve market conditions for Government debt instruments.

<sup>505</sup> Point conversion ranges: 0-1=0, 2-4=1, 5-7=2, 8-10=3, 11-13=4, 14-15=5.

<sup>506</sup> [www.financa.gov.al/al/legjislacioni/buxheti-thesari-borxhi/legjislacioni](http://www.financa.gov.al/al/legjislacioni/buxheti-thesari-borxhi/legjislacioni).

<sup>507</sup> Law on the Amendments to the MBS Law, Article 58.

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However, local debt issues are not presented in the strategy because local debt in Albania is marginal at less than 0.1% of GDP.

The public debt-to-GDP ratio in each of the years 2013-2016 was around 70%, although it is currently forecast to decrease from end-2017 onwards, to 62.8% by end-2019<sup>508</sup>. Nevertheless, although the central government marketable debt-to-GDP ratio in Organisation for Economic Co-operation and Development (OECD) countries has been estimated at 73% in 2017<sup>509</sup>, this is still above the euro conversion criterion of a 60% debt-to-GDP threshold.

The share of domestic debt in the total debt structure was 52.8% at the end of 2015, whereas external debt accounted for 47.2%<sup>510</sup> (up from 42% at the end of 2014). In 2015, the share of external debt with variable interest was 52%, in comparison with 51% in 2014<sup>511</sup>; this slight growth means that the interest rate risk is also increasing. Debt service in relation to revenues in 2015 was as high as 26.5%<sup>512</sup>, driven mainly by an increase in debt repayments and indicating exposure to liquidity risk. All of these risks are identified in the Medium-Term Debt Strategy (MTDS).

The country's debt is reported quarterly through data published on the website of the MoF<sup>513</sup> with a time lag of one month, whereas the annual debt report is published no later than three months after the end of the reporting year. Debt reports contain basic data on local government debt stock, but do not provide information about local debt development.

The overall value for the indicator 'Quality of public debt management' is 3.

Quality of public debt management	
This indicator measures the procedures and organisation established for the management of public debt and the outcomes achieved, in terms of debt risk mitigation practices, the share of public debt to GDP, and the difference between public sector debt outturn and target.	
Overall indicator value	0   1   2 <b>3</b> 4   5

Sub-indicators	Points
1. Existence of requirements and limitations for borrowing in the legal framework	2/3
2. Existence and minimum content of a public debt management strategy	3/4
3. Clarity of reporting on public debt	3/4
4. Risk mitigation in the stock of public debt	1/6
5. Difference between public sector debt outturn from target (%)	3/3
6. Public debt as a share of GDP (%)	1/2
<b>Total<sup>514</sup></b>	<b>13/22</b>

**Recent legislative amendments have been adopted to strengthen debt sustainability and to minimise the risks to debt sustainability following a period in which the public debt-to-GDP ratio has been allowed to grow significantly. Although the Government has planned to gradually reduce the level of debt, risks related to refinancing, interest rates and exchange rates persist.**

<sup>508</sup> MTBP 2017-2019, p. 17.

<sup>509</sup> OECD (2017), *OECD Sovereign Borrowing Outlook 2017*, OECD Publishing, Paris, <http://www.oecd.org/daf/fin/public-debt/Sovereign-Borrowing-Outlook-in-OECD-Countries-2017.pdf>

<sup>510</sup> MTDS 2016-2018, p. 8.

<sup>511</sup> *Idem*, p. 10.

<sup>512</sup> *Idem*, p. 17.

<sup>513</sup> <http://www.financa.gov.al/en/reports/debt/debt-indicators>

<sup>514</sup> Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-16=3, 17-19=4, 20-22=5.

**Principle 5: Transparent budget reporting and scrutiny are ensured.**

The MoF publishes actual outturn amounts of the executed budget against the profile established in the MTBP and the annual budget. The report provides information about actual total revenue by taxes and other income, total expenditures by economic category, including capital expenditures, general government deficit and deficit financing<sup>515</sup>. The report is published on a monthly basis, within four weeks from the end of the month.

The MoF also publishes more detailed quarterly reports on fiscal statistics of the Government, which include actual data for each month on revenue collection, borrowing and expenditures by functional classification<sup>516</sup>. The reports also provide cumulative data on expenditures by central government institutions on a monthly basis, which is an improvement on the situation identified in the 2015 Baseline Measurement Report. However, neither of the MoF reports provides relevant information on variations against the profile, which restricts analysis of in-year budget execution for external analysts.

Relevant data on local government finances is published on the website<sup>517</sup>, which includes quarterly reports of local revenue by individual taxes and expenditures by economic and functional category. However, the reports do not present local government lending and borrowing information, nor do they present data on the stock of local government arrears.

Amendments to the MBS Law provide for Government elaboration of a comprehensive semi-annual budget implementation review, but this report was not prepared in 2016 because the new legislation came into force halfway through the year. It is therefore too early to assess the effect of this legislative change.

The MBS Law requires the CoM to approve a consolidated annual budget execution report and submit it to the Parliament in June each year<sup>518</sup>. However, the 2015 annual budget execution report was not released until October. Moreover, the format of the annual budget execution report was unchanged despite recommendations in the SIGMA 2015 Baseline Measurement Report that it should mirror the original budget format and explain variations. The 2015 report on budget implementation<sup>519</sup> included macroeconomic analysis, debt development and revenue, but no analysis of expenditures by budget organisations or by budget programmes. Thus, in this regard the annual budget execution report does not mirror the original annual budget format.

A positive step is that the MoF has recently initiated budget execution monitoring based on the performance of budget organisations. The newly established Budget Management and Monitoring Unit within the MoF performs this task and produces progress reports three times a year, as well as an annual report on how line ministries implement their objectives, activities and investment projects. These reports represent progress in monitoring by the MoF, but as they are not included in the process of Government reporting to Parliament, they are not being fully utilised.

The overall value for the indicator 'Transparency and comprehensiveness of budget reporting and scrutiny' is 2.

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<sup>515</sup> [www.financa.gov.al/al/raportime/thesari/treguesit-fiskal-sipas-buxhetit-te-konsoliduar](http://www.financa.gov.al/al/raportime/thesari/treguesit-fiskal-sipas-buxhetit-te-konsoliduar).

<sup>516</sup> <http://www.financa.gov.al/al/raportime/thesari/buletini-fiskal>.

<sup>517</sup> [www.financatvendore.al](http://www.financatvendore.al)

<sup>518</sup> MBS Law, Article 63.

<sup>519</sup> Actual Budget Report 2015, <http://www.financa.gov.al/al/buxheti/buxheti-ne-vite/buxheti-faktik-ne-vite1482915269/buxheti-faktik-2015>

### Transparency and comprehensiveness of budget reporting and scrutiny

This indicator measures the extent to which the government facilitates external monitoring of the execution of the budget through the publication of relevant information, as well as the credibility of that information and whether it is used effectively to ensure accountability. The degree of budget scrutiny on the basis of the published information is also assessed.

Overall indicator value 0   1   **2**   3   4   5

Sub-indicators	Points
<b>Comprehensiveness of published information</b>	
1. Quality of in-year reports of government revenue, expenditure and borrowing	3.5/7
2. Quality of the annual financial report of the government	2/7
3. Quality of annual reports of state-owned enterprises, extra-budgetary funds and local government	3/5
4. Clarity of national accounting standards and consistency with international standards	1/4
5. Existence of reporting on fiscal risks identified in the budget	1/1
<b>Scrutiny and oversight using published information</b>	
6. Quality of the annual financial reporting on the use of public finances	1/3
7. Timeliness of dissemination of the SAI report to the national parliament	2/2
8. Timeliness of parliamentary discussion on the report of the SAI	3/3
<b>Total<sup>520</sup></b>	<b>16.5/32</b>

**New legal requirements are leading to better in-year and annual budget reporting. However, during the assessment period only limited progress on expenditure transparency was achieved, as public analysis of expenditures by institutions remains restricted. The opportunity for the Parliament to scrutinise the annual budget report is reduced due to weaknesses in the format and content of the document.**

#### **Key recommendations**

##### **Short-term (1-2 years)**

- 1) The MoF should improve reporting on local governments, including on local government debt.
- 2) The MoF should amend the annual budget report to mirror the annual budget proposal.
- 3) The MoF should strengthen monitoring of the financial situation of state-owned enterprises (SOEs) by elaborating a consolidated financial report at least once a year.

##### **Medium-term (3-5 years)**

- 4) The MoF should establish a budget expenditure evaluation process to increase spending efficiency.
- 5) The MoF should ensure the development of accounting standards for the public sector consistent with international standards.

<sup>520</sup> Point conversion ranges: 0-7=0, 8-12=1, 13-17=2, 18-22=3, 23-27=4, 28-32=5.

## Internal control and audit

**Key requirement: National internal control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout the public sector.**

The values of the indicators assessing Albania’s performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



### **Analysis of Principles**

**Principle 6: The operational framework for internal control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and the public administration in general.**

In Albania, the Law on Financial Management and Control 2010 (FMC Law)<sup>521</sup> provides a sound legal framework for the development of FMC, and is consistent with the organic budget law, the MBS Law. Under the law, the requirement to introduce FMC applies to all public institutions, including independent ones relying on extra-budgetary funds and commercial organisations only partly owned by the state<sup>522</sup>.

To guide implementation of FMC, Albania has established the Public Finance Management Strategy 2014-2020 (PFM Strategy), Pillar 5 of which seeks to establish effective internal control through a wide range of deliverables, covering issues such as information systems needed for effective FMC and enhanced status for the Head of Finance, as well as a series of seven FMC pilot rollouts<sup>523</sup>. All organisations required to implement FMC have at least some actions under the Strategy (e.g. risk management implementation).

The Cross-cutting Public Administration Reform Strategy 2015-2020 (PAR Strategy) includes specific measures that support the aims of the PFM Strategy. Two fundamental elements of the PAR Strategy are “more delegation of decision-making” and “promotion of professionalism in the civil service and meritocracy in recruitment”<sup>524</sup>, both of which impact the effectiveness of managerial accountability. Delegation is also specifically mentioned in the FMC Law, but more in terms of signatures and tasks<sup>525</sup> rather than decision making and budget management.

In terms of specific control processes, the SIGMA Principles anticipate alignment in controls for both national and EU funds. In Albania, there are marked differences, with separate arrangements for

<sup>521</sup> Law No. 10296 of 8 July 2010, amended by Law No. 110/2015 of 15 October 2015.

<sup>522</sup> FMC Law (2010), Article 3.

<sup>523</sup> Conducted through the Twinning Project on the Implementation of a Modern Financial Management and Control System and Public Financial Inspection in Albania, funded by the EU.

<sup>524</sup> PAR Strategy 2015-2020, p. 6.

<sup>525</sup> FMC Law (2010), Article 15.

procurement, IPA units within beneficiaries and central control from the Central Finance and Contracting Unit (CFCU)<sup>526</sup> underpinning the related sub-indicator value below.

The CHU/FMC currently has a full complement of six staff, and its role has been largely to provide guidance and support for institutions, including the extensive FMC manual and training for managers. It also co-ordinates the annual self-assessment survey on the status of FMC: in 2016, 102 out of the 112 organisations required to submit data to the CHU/FMC responded. The results of the survey are included in the PIFC annual report<sup>527</sup>, but are also part of a set of 20 indicators for performance monitoring of government ministries and larger municipalities. This set of indicators is also included in the PIFC annual report, as well as data from the Budget and Treasury directorates within the MoF and the CHU/FMC and the CHU/IA. Aggregate scoring for the institutions involved has been converted into a set of league tables that has sparked greater interest in FMC issues<sup>528</sup>. Annex 2 of the PIFC annual report includes a detailed assessment for each organisation, commenting separately on each of the different performance areas.

The CHU/FMC has developed a plan for institutional visits to verify issues included in the FMC self-assessment surveys, to ensure that conclusions, actions and rankings for individual institutions are appropriate. During the first half of 2017, 16 institutions were monitored on site; the CHU/FMC provided feedback to each of the 16 institutions, and the conclusions will be included in the 2017 PIFC report.

The CHU/FMC acknowledges that there is no specific analysis of the coherence of PIFC legislation with other horizontal legislation, but it takes other legislation into consideration, such as the MBS Law and the Law on Public Administration, when making legal changes in the PIFC area<sup>529</sup>.

The PIFC annual report is submitted to the Government at the same time as the annual budget statement, and both documents are also tabled in the Parliament. The report makes recommendations for improvement based on current findings, but there are no specific decisions of government to add authority to these recommendations. There is also formal reporting on FMC Strategy progress, which shows seven out of eight actions planned for 2016 were completed<sup>530</sup>.

The Treasury Division's AGFIS is available online to 16 organisations (mainly ministries but also Tirana Municipality and subordinate organisations such as the Roads Authority and the Agricultural Development Agency). The system gives first-level budget organisations online access to information on financial transactions of their subordinate bodies even when their transactions have been processed through Treasury branches. However, organisations without direct access, including the Tax Authority, have to process transactions twice: once in hard copy for input to the local Treasury branch, and a second time for input to their own local accounting system. The transactions in the two systems have to be reconciled at the end of the month, adding to the workload of finance staff.

The PIFC Board, chaired by the Minister of Finance, is now operational and has a programme of four meetings a year including reviewing the PIFC annual report and monitoring FMC developments.

The overall value for the indicator 'Adequacy of the operational framework for internal control' is 3.

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<sup>526</sup> Under the MoF.

<sup>527</sup> Report on functioning of the public internal control system in general government units for 2015, May 2016.

<sup>528</sup> Following the CHU/FMC presentation to the Council of Ministers, individual discussions were requested by all the major ministries.

<sup>529</sup> Information provided by the MoF.

<sup>530</sup> Actions for 2016 from the PFM Strategy 2014-2020 Monitoring Report 2015, published March 2016, compared with actions described in the draft PFM Strategy 2014-2020 Monitoring Report 2016, dated March 2017.

### Adequacy of the operational framework for internal control

This indicator measures the extent to which the operational framework for internal control (financial management and control) is established, in terms of policy and strategic content, the regulatory framework, and adequate review and reporting mechanisms

A separate indicator measures the implementation of the operational framework for internal control.

Overall indicator value 0   1   2   **3**   4   5

Sub-indicators	Points
1. Policy for the development of internal control	5/6
2. Completeness of the regulatory framework for internal control	4/5
3. Comprehensiveness and regularity of the annual review and reporting on internal control	3/5
4. Alignment between national budget management and control systems and those for EU-funded programmes	0/4
<b>Total<sup>531</sup></b>	<b>12/20</b>

The required legal and operational framework for FMC continues to be largely in place. The PAR Strategy 2015-2020 and the PFM Strategy 2014-2020 both include measures to strengthen the framework for FMC and its application at the organisational level. An exception to this is alignment of national budget management and EU-funded programmes, for which different structures and processes are used.

**Principle 7: Each public organisation implements internal control in line with the overall internal control policy.**

Implementation at the organisational level has benefited from the two-year Twinning project with Austria and France. With the assistance of these twinning partners, FMC was introduced in seven pilot organisations<sup>532</sup> through a range of initiatives, including training of staff and development of risk registers, audit trials and organisational charts. From this work in pilot institutions, material was developed to train the CHU/FMC and staff in other organisations. Furthermore, revised legislation, regulations and guidance were also developed.

Authorising Officers have been appointed as FMC and Risk Management Coordinators<sup>533</sup> for their organisations, with wide-ranging responsibilities for implementation of the FMC Law. They are required to report on progress to the head of the unit, and to propose internal administrative acts, monitoring and updating of systems, etc. The instructions allow some of the related tasks to be delegated to staff within the finance function.

Monitoring of progress in FMC implementation addresses 112 of the largest organisations and is based on an FMC questionnaire. This covers the components of FMC in line with the Committee of Sponsoring Organizations of the Treadway Commission (COSO) Model<sup>534</sup> (such as the elements required for an effective control environment or risk management), but not any plans the organisations may have for further implementation of FMC (e.g. further internal rules, delegation or

<sup>531</sup> Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-17=4, 18-20=5.

<sup>532</sup> Three ministries and four municipalities.

<sup>533</sup> Instruction 16 on Tasks and Responsibilities of Financial Management and Control and Risk Coordinator in Public Units, 20 July 2016.

<sup>534</sup> Model developed by COSO for evaluating internal control, <https://www.coso.org/Pages/guidance.aspx>.

training). The survey shows that progress has been made with the appointment of finance officers (or directors of finance in larger organisations), preparation of risk registers and approval of internal rulebooks clarifying roles and responsibilities; these claims were supported by evidence from a sample of five organisations<sup>535</sup>.

Overall, more than 1 000 organisations are required to implement FMC, and monitoring by the CHU/FMC covers only a small proportion of them. Subordinate organisations are expected to report on FMC implementation to their first-level budget organisation, which is then expected to report to the CHU/FMC on a consolidated basis. While this system respects the hierarchical relationship between first-level budget organisations and their subordinate bodies, this means that the CHU/FMC is unaware of progress in large organisations such as the Tax Authority or the Roads Authority. Also, the issues faced in FMC implementation by a large operational organisation such as the Roads Authority may be quite different from those within its line ministry and difficult to consolidate in a meaningful way. For smaller, independent organisations there is no monitoring of progress at all.

A significant number of first-level budget organisations report directly to Parliament. Within this category, 29 organisations are neither ministries nor constitutional bodies<sup>536</sup>.

Although the PAR and PFM strategies refer to delegation, there is in practice very little beyond the head of institution delegating to the secretary general, or the secretary general delegating to one or more of the general directors. The PAR Strategy in particular aims “to delegate decision making closer to the position responsible for the function and to avoid overburdening of the head of the institution with operational decisions”<sup>537</sup>. This is a key element in achieving managerial accountability, one of the aims of FMC. Based on an analysis of five ministries, the extent of delegation of authority for signing off on a range of processes and procedures, such as small-scale procurement, approval of staff leave requests and requests for information by the public, is very low, with a large number of these decisions requiring the involvement of the minister and/or the top administrative level.

Managerial accountability should operate not just within organisations but between them so that ministers who have responsibility for a policy area are able to influence and monitor activity in subordinate organisations. This is consistent with the hierarchical relationship referred to above. An examination of documentation for eight bodies subordinated to four ministries<sup>538</sup> found no evidence of specific targets and measurable objectives for these bodies being agreed with the parent ministry and the ministry monitoring progress towards their achievement. The relationships do not, therefore, reflect the requirements of managerial accountability.

AGFIS, operated by the MoF Treasury, provides controls to ensure that financial commitments can only be made when both the budget and funding are available. Despite these controls, arrears of ALL 17 597 million<sup>539</sup> have accrued, which is more than 3.5% of the budget. Furthermore, the SSAI has been critical of the arrears process, giving rise to the sub-indicator below. Some arrears have arisen outside the scope of the controls through court-awarded damages against the Government, which could not be met by the available budget<sup>540</sup>.

Although budget organisations report to the MoF monthly regarding the cost of major investment projects, there is no evidence that they report about the physical progress of these projects.

The FMC Law requires public employees to report suspicions of fraud within their organisations, and explains that further processes are regulated by the Law on Financial Inspection. This latter Law

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<sup>535</sup> The MoF, the Ministry of Education and Sport, the Ministry of Transport and Infrastructure, the Tax Authority and the Roads Authority.

<sup>536</sup> According to the CHU.

<sup>537</sup> PAR Strategy 2015-2020, p. 18.

<sup>538</sup> The Ministry of Interior, the MoF, the Ministry of Justice and the Ministry of Economic Development, Tourism, Trade and Entrepreneurship.

<sup>539</sup> Stock of arrears at the end of 2015 from the Macroeconomic and Fiscal Framework for 2018-2020.

<sup>540</sup> From legal cases brought against the General Directorate of Taxation (GDT) by former employees.

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appoints the Principal Authorising Officer as the authority responsible for initiating inspections<sup>541</sup> but provides no guidance on how suspicions get to the point of being inspected. In practice, none of the sample organisations provided more detailed internal guidance for staff, and only two provided reports of irregularities found during 2016.

Because of the weaknesses and issues identified above, the value for the indicator ‘Functioning of internal control’ is 1.

Functioning of internal control						
This indicator measures the extent to which internal control systems are implemented in practice within the budget organisations and between ministries and their subordinate organisations, and the immediate results in terms of improved managerial accountability and governance arrangements between ministries and subordinated bodies.						
Overall indicator value	0	<b>1</b>	2	3	4	5

Sub-indicators	Points
1. Number of first-level budget organisations that are neither ministries nor constitutional bodies	2/3
2. Alignment between organisational and budget structures (%)	0/3 <sup>542</sup>
3. Credibility of controls for avoiding commitments above the expenditure ceilings	0/2
4. Availability of reporting of total cost and physical progress of major investment projects	0/2
5. Effectiveness of basic managerial accountability mechanism for central government bodies	0/4
6. Delegation of decision-making authority within ministries	1/4
7. Regularity and completeness of risk management practices	2/3
8. Existence of reporting on irregularities	0/2
<b>Total<sup>543</sup></b>	<b>5/23</b>

**Development of FMC at the organisational level has still not reached the same stage as for the overall legislative framework. The organisations involved in the pilot rollouts of FMC have benefited from a strong level of support, and some areas such as rulebooks and the availability of risk registers have improved. However, key issues such as delegation have yet to impact the way the public sector is managed in Albania.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) The CHU/FMC should consider whether there is a means for the Government to endorse the recommendations in the PIFC annual report to provide more encouragement for implementation, either within the existing legal framework or through additional measures.
- 2) The CHU/FMC should analyse the coherence of PIFC legislation with other horizontal legislation such as the MBS Law or the Law on Public Administration, especially in areas that have yet to develop fully, such as delegation.

<sup>541</sup> Law on Public Financial Inspections (2015), Article 11.

<sup>542</sup> The respective data was not provided to SIGMA.

<sup>543</sup> Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

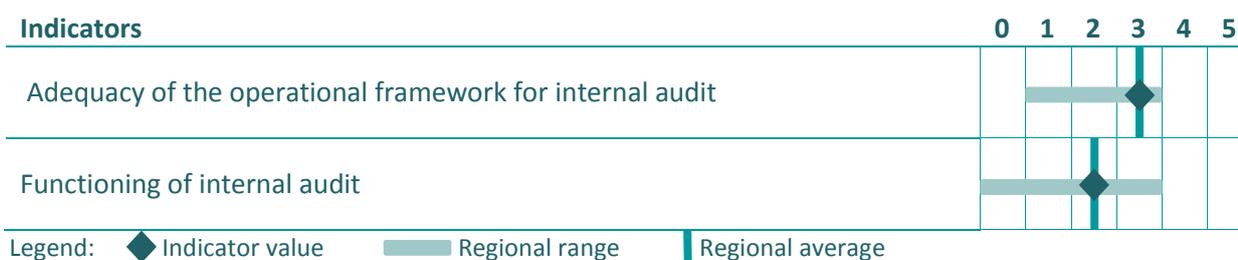
- 3) The CHU/FMC should implement pilot delegation exercises for a range of activities, for instance small-scale procurement and simple human resources (HR) processes such as leave and budget management, together with appropriate internal controls and monitoring arrangements.
- 4) The CHU/FMC should expand the annual FMC questionnaire to include issues affecting the FMC implementation process, such as the existence of a plan or the name of the officer responsible for implementation (rather than the authorising officer, who has overall responsibility as FMC and risk co-ordinator).
- 5) The CHU/FMC should extend the range of organisations completing the FMC questionnaire to include larger subordinate bodies, to ensure that they have as clear a picture of progress as key organisations such as the Tax Authority or the Roads Authority have.
- 6) The CHU/FMC should consider appropriate ways to maintain oversight of FMC implementation progress of those organisations not required to complete the full questionnaire. This might involve a simpler questionnaire asking whether key elements are in place and regularly updated, such as rulebooks, organigrams and risk registers.
- 7) The MoF should develop software to enable transactions within ministries' own accounting systems to be imported to AGFIS, rather than processing them twice. This would be an interim measure for organisations that will be linked directly to AGFIS in the future, but could be a more permanent solution for others.

#### Medium-term (3-5 years)

- 8) The MoF should complete implementation of the Action Plan associated with the PFM Strategy.

**Key requirement: The internal audit function is established throughout the public sector and internal audit work is carried out according to international standards.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



#### Analysis of Principles

**Principle 8: The operational framework for internal audit reflects international standards, and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.**

In Albania, the Law on Internal Audit in the Public Sector (2015)<sup>544</sup> provides a sound legal framework for the development of IA. The legislation applies very widely across all general government units and other related institutions that carry out public functions or rely on public funds. The number of organisations required to set up IA units is more limited, as DCM No. 83 sets revenue and staffing

<sup>544</sup> Law No. 114/2015 on Internal Audit in the Public Sector.

thresholds above which IA units are required<sup>545</sup>. For organisations below the thresholds, IA should be provided by the parent body or on a contractual basis.

Further development of IA is guided by the PFM Strategy 2014-2020, which at Pillar 5 has the objective of establishing a “well-functioning and efficient IA function in the public sector”. Actions to achieve this include professionalisation of IA through additional training and strengthening of the CHU/IA. All actions are to be driven by the CHU/IA and the MoF rather than directly involving IA units and their organisations. Formal reporting on PFM Strategy progress shows that all six of the planned actions for 2016 were completed<sup>546</sup>.

A total of 135 organisations are required by legislation to set up IA units; of those, 114 have complied. The PIFC annual report provides priorities for future development, such as introduction of a methodology for external assessment, but it gives no indication of why organisations have not complied with their legal obligation to set up IA units. As for Principle 6 above, there is no specific government support for the recommendations in the report.

IA staffing is still an area for concern. The CoM decision requires a minimum staff of three for each IA unit to enable effective internal processes for review and quality assurance, but only 75% of units comply with this requirement. The situation concerning qualifications and experience of internal auditors is better, with 90% holding national or international certificates.

The CHU/IA currently has six systematised posts with only five filled, but as this area has fewer developments than FMC, this is a reasonable balance. Typically, although the role of the CHU/IA is to provide guidance and support to IA units, it has also focused on the certification of internal auditors. Up to 2013, around 1 800 staff received certificates even though only 20% actually worked in an IA role. With SIGMA support during the 2015-2017 period, the national certification process was redesigned in accordance with the requirements of the Law on Internal Audit 2105<sup>547</sup>. There are currently 37 candidates for certification who are already junior employees in public sector IA units.

The CHU/IA has issued a detailed IA manual that requires risk-based planning and encourages systems-based auditing, with extensive template documents such as audit charters, audit plans and audit working papers to guide staff through their work. The manual is consistent with the legislation, but there are some inconsistencies with international standards<sup>548</sup>. For example, there is no specific reference to International Standard 2110 on governance that requires the auditor to assess recommendations to improve high-level processes for making strategic and operational decisions, or to Standard 2450 on the overall opinion, etc. A programme of continuing professional development training for internal auditors has been implemented and there are regular meetings of heads of IA units.

The CHU/IA and individual IA units have received training and methodological development support through one of the nine activities (activity 1.6 to professionalise IA capacities) of the two-year Twinning project referred to under Principle 6. The Twinning project also provided training to over 300 heads of IA units and internal auditors.

A methodology for ensuring quality assurance through CHU reviews of IA units has now been developed, and its implementation began in June 2017, with the CHU reviewing the Ministry of Health and the Ministry of Urban Development. The sub-indicator below reflects the fact that this only began in June and that less than five institutions have been reviewed so far.

The CHU/IA reviews progress with the development of IA units through a system of regular information gathering, starting with plans and continuing through to a self-assessment questionnaire on the

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<sup>545</sup> DCM No. 83 of 3 February 2016, amended by DCM No. 353 of 11 May 2016 on Adoption of Criteria for the Establishment of Internal Audit Units in the Public Sector.

<sup>546</sup> Actions for 2016 from the PFM Strategy 2014-2020 Monitoring Report 2015, published March 2016, compared with the actions described in the draft PFM Strategy 2014-2020 Monitoring Report 2016, of March 2017.

<sup>547</sup> Law on Internal Audit in the Public Sector, Articles 19 and 20, Official Gazette No. 195/2015.

<sup>548</sup> Institute of Internal Auditors (IIA) (2017), “International standards for the professional practice of internal auditing (standards)”, IIA, Lake Mary, FL.

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structure of the unit and a series of spreadsheets covering staffing, audits completed and recommendations made. These data are compiled and included in the PIFC annual report, together with the league tables mentioned under Principle 6.

The PIFC Board mentioned under Principle 6 is also relevant here, as one of its meetings is planned to cover IA issues.

The overall value for the indicator ‘Adequacy of the operational framework for internal audit’ is 3.

Adequacy of the operational framework for internal audit						
This indicator measures the extent to which the operational framework for internal audit (IA) has been established, assessing the adequacy of the regulatory framework, the institutional set-up, and co-ordination and quality assurance mechanisms.						
A separate indicator measures the implementation of the framework and the results achieved.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for internal audit	4/5
2. Organisational capacity for internal audit	2/5
3. Co-ordination, development and guidance of the internal audit system	4/5
4. Existence of a system for quality assurance for internal audit	1/3
<b>Total<sup>549</sup></b>	<b>11/18</b>

**A stronger legal and operational framework for IA is now in place, but there are still some weaknesses with organisations not setting up IA units when required to and staffing levels being below those required by the CoM decision. The PFM Strategy seeks to address some of these issues. The MoF has begun to implement a system for quality assurance of IA.**

*Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents, as appropriate to the organisation.*

There are now 114 IA units with a total of 370 IA staff in public sector organisations in Albania, but this still leaves 21 organisations having failed to set up IA units when legally required to do so by DCM No. 83<sup>550</sup>. This decision also requires an IA unit to have at least three staff (including the head of unit), a requirement that is now met by 75% of organisations that have established units<sup>551</sup>.

Audit charters have been prepared and approved for the sample of organisations following the guidelines set out in the IA manual covering, for example, independence and reporting. There is inconsistency in IA reporting in line ministries and their subordinate bodies. In line ministries, the head of the IA unit reports directly to the minister rather than to the general secretary, who is head of the administration. In subordinate bodies, the head of IA reports directly to the general director, i.e. the head of the administration. In relation to the MoF, this means that the minister responsible for the Tax Authority does not receive reports on IA operations within the Tax Authority directly. In practice, heads of IA for subordinate bodies report to IA committees established in their parent ministries.

<sup>549</sup> Point conversion ranges: 0-2=0, 3-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

<sup>550</sup> DCM No. 83 of 3 February 2016, amended by DCM No. 353 of 11 May 2016 on Adoption of Criteria for the Establishment of Internal Audit Units in the Public Sector.

<sup>551</sup> Information provided by the MoF.

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All IA units are required to prepare both strategic and annual plans, and in practice 110 units have prepared such plans for 2017<sup>552</sup>. Within the sample group of organisations, the style and level of complexity of these plans vary, but they are always supported by the planning spreadsheets prescribed by the CHU/IA. They each cover risk, but do not demonstrate in all cases that the risk assessment has addressed all parts of the related organisation. From the completed plans, the CHU/IA produces an aggregate plan<sup>553</sup> that is shared with the SSAI in an effort to eliminate overlapping of audit activity in particular organisational units. Despite this, IA units report that overlapping still exists.

Information technology (IT) audit capability is a weakness in Albania, with no IA staff in post having the specific IT audit qualifications required for in-depth system analysis<sup>554</sup>. The IA manual now includes a 30-page section on IT audit with checklists, including physical access controls, logical access controls and processing controls. While the checklists are useful, IA staff in Albania may lack the technical knowledge to interpret the results and there is no reference to interrogation procedures or to running test software, which are essential for effective IT auditing. For the sample group of organisations, only one IT audit is planned for 2017 and that is for the Tax Authority. Although the audit was planned on the assumption that an IT audit specialist would be employed, there is no experienced IT auditor there yet.

There have been efforts through training to focus more IA work on the effectiveness of internal control systems rather than on compliance work. It is difficult to assess progress, however, because in the sample group of organisations 51 of the 69 audits planned for 2017 are described as “combined”<sup>555</sup>.

The IA manual lays out the procedures for IA units to follow up on the implementation of recommendations agreed with auditees. The guidance appropriately recognises that some recommendations will take longer to implement than others, so time limits are to be agreed with the auditee rather than prescribed, but progress should be assessed in the next audit year.

The value for the indicator ‘Functioning of internal audit’ is 2.

Functioning of internal audit						
This indicator measures the extent to which internal audit is implemented and whether activities effectively contribute to improved management of public finances within the budget organisations.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Strength of planning of internal audit in budget organisations	5/7
2. Quality of audit reports	1/6
3. Follow-up and implementation of audit recommendations	1/3
<b>Total<sup>556</sup></b>	<b>7/16</b>

**IA units have been set up in most of the organisations required to have them, but approximately 25% still do not meet the minimum staffing requirements for such units. While the number of units and staffing has increased overall, the numbers of assignments and recommendations have fallen, making it difficult to conclude that IA units have progressed overall.**

<sup>552</sup> Ditto.

<sup>553</sup> CHU/IA Strategic Plan 2016-2020 for Internal Audit in the Public Sector.

<sup>554</sup> Such as Certified Information Systems Auditor (CISA) qualifications.

<sup>555</sup> Audits described as “combined” or as being an “evaluation of systems and financial compliance” in the audit plans.

<sup>556</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The CHU/IA should ascertain why organisations are not creating IA units when they are legally obligated to, and should provide assistance in setting up units.
- 2) The CHU/IA, when completing the planned programme of external quality assurance reviews of internal audit, should identify areas in which additional training or changes to methodology guidance may be required.
- 3) The CHU/IA should update the IA manual and guidance to reflect the 2017 changes in international IA standards.
- 4) The CHU/IA, the MoF and the SSAI should seek ways to establish effective IT capacity for IA.
- 5) The MoF should review the staffing of the CHU/IA to ensure it has sufficient and appropriate resources to complete the 20 external quality assurance reviews required each year to meet the standard five-year cycle for such reviews.

#### **Medium-term (3-5 years)**

- 6) The CHU/IA should implement the Action Plan of the IA Strategy 2016-2020.
- 7) The MoF should implement the Action Plan of the PFM Strategy.

### **Public procurement**

**Key requirement: Public procurement is regulated by duly enforced policies and procedures that reflect the principles of the Treaty on the Functioning of the European Union and the European Union *acquis* and are supported by suitably competent and adequately resourced institutions.**

The values of the indicators assessing .....performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



### **Analysis of Principles**

**Principle 10: Public procurement regulations (including public-private partnerships and concessions) are aligned with the European Union *acquis*, include additional areas not covered by the *acquis*, are harmonised with corresponding regulations in other fields and are duly enforced.**

The Albanian regulatory system for public procurement and concessions/PPPs is based primarily on the amended PPL No. 9643/2006 and CPPPL No. 125/2013. Primary legislation is supplemented and enacted by mandatory comprehensive secondary legislation comprised of DCMs, instructions, guidance documentation, templates and standard tender and contract documentation. The Budget Law and its complementary secondary legislation under the MoF are also important elements of the existing

regulatory and operational framework for public procurement. Prior approval procedures and the ban on tender publication between 15 October and 31 December originate from financial regulations<sup>557</sup>.

The PPL is set to implement EU Public Procurement Directives 2004/17/EC and 2004/18/EC, but no decision has been made on harmonisation of the PPL with the more recent EU Directives 2014/24/EU and 2014/25/EU. The Defence and Security Procurement Directive 2009/81/EC has not been implemented.

There are many areas in which further changes in the PPL are needed in order to achieve full compliance with all directives, especially those adopted recently. For example, there are provisions that are either missing completely or that are present but have been incorrectly implemented. Among the missing or non-implemented provisions are those covering important instruments and rules of the directives, such as competitive dialogue, e-auctions and the Dynamic Purchasing System (DPS). The DPS and e-auctions are covered by the PPL but not by the secondary legislation, thus have not been put into operation; although these instruments were voluntary under previous directives, they are now mandatory under the updated ones. Furthermore, horizontal sustainability policies, such as on environmental and social considerations, are not reflected in the legal system at all.

There are also some important procurement procedures and rules that have been incorrectly implemented. For example, the open procedure is the default method, while all other methods require justification or have been incorrectly designed, such as the restricted procedure that does not allow for shortlisting. Other deviations in the regulatory framework concern thresholds, time limits, selection criteria and award methodologies.

The regulatory framework does, however, reflect the fundamental EU treaty principles of transparency, equal treatment and non-discrimination. The existing regulatory framework focuses on ensuring transparency, open and fair competition and the integrity of the procurement process budget and expenditure control, while less attention is given to the efficiency and value-for-money aspects of procurement operations.

The main procedures and provisions of the PPL apply not only above the EU thresholds, but also within the ranges of specific national thresholds. Open competition with the publication of tender notices is generally required for the awarding of any contract, irrespective of its value and including low- and small-value purchases. Although negotiated procedures without prior publication are to be used only on an exceptional basis, the numbers are comparatively high.

The PPL transposes the Utilities Directive in a separate chapter, but without establishing full compliance and with less flexibility. The number of contracts awarded above the EU thresholds in 2016 was 15<sup>558</sup>.

Awarding of concessions is regulated by the CPPPL No. 125/2013, which in many important aspects has been modelled on EU Directive 2014/23/EU. Under the CPPPL, both concessions and PPP award procedures should be conducted in accordance with the PPL provisions for works and services contracts; review and remedies provisions apply to awarding of CPPPL contracts. Although the CPPPL already incorporates many requirements of the recent Concessions Directive, harmonisation is not complete. The following instances of non-compliance with EU law have been identified:

- provisions exempting from the CPPPL any concessions related to the construction, operation and maintenance of hydropower plants for generation and distribution of energy
- the possibility to accept unsolicited proposals giving preference to the companies named in such proposals.

Overall, the value for the indicator 'Quality of the legislative framework for public procurement and PPP/concessions' is 3.

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<sup>557</sup> DCM No. 807 of 16 November 2016 on Disciplining the Budget Commitments.

<sup>558</sup> International Open Procedure (higher thresholds than EU thresholds).

Quality of legislative framework for public procurement and PPP/concessions						
This indicator measures the quality of the legislative framework for public procurement and public-private partnerships (PPPs)/concessions, above and below EU thresholds. Opportunities for participation of SMEs in public procurement are assessed, as well as whether practical measures are taken to allow for proper implementation of the legislation. The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Compliance of public procurement legislation with the <i>acquis</i> above EU thresholds</b>	
1. Level of alignment of public procurement legislation with the EU Directives	3/6
2. Scope of public procurement legislation	3/6
3. Public procurement procedures	1/4
4. Publication and transparency	5/5
5. Choice of participants and award of contracts	2/5
6. Availability of procedural options	1/4
<b>Public procurement procedures below EU thresholds</b>	
7. Advertising of public procurement procedures	2/3
8. Contract award procedures	6/7
<b>Opportunities for participation of SMEs in public procurement</b>	
9. Opportunities for participation of SMEs in public procurement	3/5
<b>Availability of measures for the practical application of the legislative framework</b>	
10. Availability of measures for the practical application of the legislative framework	4/5
<b>Quality of legislation concerning PPPs/concessions</b>	
11. Coverage of legislation on PPPs/concessions	2/2
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions	6/8
<b>Total<sup>559</sup></b>	<b>38/60</b>

Overall, the Albanian regulatory framework on public procurement is more prescriptive and rigorous than the EU Directives, and the legal gap with the 2014 EU Directives is significant. The existing regulations and standard documentation used during public procurement are comprehensive and generally of a high quality, but their excessive prescriptiveness creates implementation problems for contracting entities. The wider legislative framework, including regulations on the state Budget, negatively impacts the overall functioning of the procurement system. The CPPPL and its implementing regulations on concessions and PPPs basically comply with the *acquis* and to a large extent with the EU Concessions Directive of 2014, but some amendments are needed to achieve complete compliance.

**Principle 11: There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.**

The institutional framework for public procurement and concessions/PPPs encompasses the PPA, the PPC (responsible for complaint reviews and remedies), the MoF's Office of Project Management, and

<sup>559</sup> Point conversion ranges: 0-10=0, 11-20=1, 21-30=13, 31-40=3, 41-50=4, 51-60=5.

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ATRAKO under the Ministry of Economic Development, Trade and Entrepreneurship (responsible for concessions and PPPs specifically).

The PPA has a staff of 29<sup>560</sup> and is organised into two main directorates – the Legal and Monitoring Directorate and the Directorate of Information Technology and Publication – as well as the Sector of European Integration, Human Resources and Finance, which is directly accountable to the General Director. The PPA is responsible for developing, implementing and monitoring public procurement policy as well as the practical functioning of the system.

The PPA plays an important role in co-ordinating and implementing the PFM Strategy that includes several high-priority public procurement components and actions to be undertaken in the short and medium term, such as: (a) establishing efficient mechanisms for policy making, co-ordination and consultation; (b) developing the institutional structures of the PPA, PPC and ATRAKO; (c) aligning the public procurement and concession laws fully with the *acquis*; and (d) improving the functionality of the public procurement system.

Under the updated concession and PPP legislation<sup>561</sup>, the MoF and ATRAKO are key pillars of the CPPP system. ATRAKO's role is to encourage and assist contracting authorities in identifying, evaluating and negotiating concessions and PPPs. The MoF safeguards against fiscal implications and risks of concessions and PPPs: it has the authority and obligation to analyse fiscal impacts of project proposals, to establish budget acceptability and to secure fiscal sustainability in the long term. To these ends, the MoF has the power and responsibility to integrate concessions and PPP investments into the long-term budget framework and to ensure that any contract modifications are approached with the same fiscally responsible rationale.

The co-ordination arrangements and allocation of responsibilities and tasks between the PPA and ATRAKO are established in the existing regulatory framework. One new feature introduced by Law No. 77/2015 on Amendments and Additions to Law No. 125/2013, adopted 16 July 2015, is the transfer of legislative power and the right to propose concession and PPP laws and bylaws from the PPA to ATRAKO.

The value of the indicator 'Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently' is 4.

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<sup>560</sup> PPA Annual Report 2016.

<sup>561</sup> CPPPL No. 125/2013.

**Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently**

This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies are open and transparent.

Overall indicator value 0   1   2   3   **4**   5

Sub-indicators	Points
<b>Quality of the policy framework for public procurement</b>	
1. Quality of the strategy for development of public procurement and PPPs/concessions	2/5
2. Quality of the operational action plan	2/5
3. Implementation of the strategy and the action plan	1/5
4. Monitoring of strategy implementation	5/5
<b>Capability of central procurement institutions and their performance</b>	
5. Adequacy of the legal framework to ensure capable institutions	10/10
6. Clarity in definition and distribution of central procurement functions in the legislation	10/10
7. Performance of the institutions involved, their capacity and resources	14/20
<b>Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement</b>	
8. Presence and quality of monitoring and data collection	6/10
9. Accessibility of public procurement data	10/10
<b>Total<sup>562</sup></b>	<b>60/80</b>

**The PPA is a well-established and functioning institution within the public procurement system. However, in view of the many new challenges, its roles should be redesigned focusing on its efficiency and appropriateness. In addition, there is a need for stronger policy co-ordination and consultation functions within the overall institutional framework for public procurement.**

**Regarding concessions and PPPs, ATRAKO's capacity and capabilities need to be strengthened. The distribution of responsibilities among the MoF, ATRAKO and the PPA also needs to be clarified.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) A Procurement Strategy Committee should be established by Government decision to initiate all actions under the PFM Strategy.
- 2) The process of harmonising the PPL with recent EU procurement directives should be initiated.
- 3) In revising the PPL, the current regulatory approach and extent of implementing regulations should be reviewed.
- 4) The Law on Defence and Security Procurement based on the EU directive should be adopted and effectively implemented.
- 5) A forum for policy co-ordination and consultation should be established.

<sup>562</sup> Point conversion ranges: 0-12=0, 13-25=1, 26-39=2, 40-53=3, 54-67=4, 68-80=5.

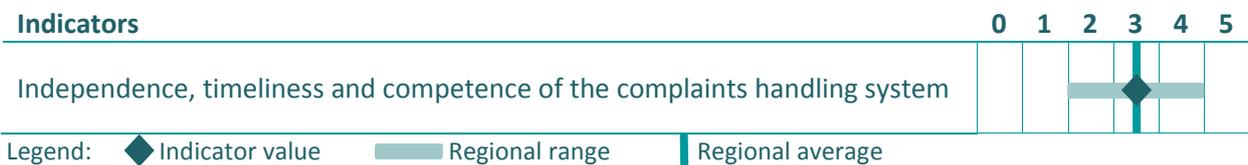
- 6) Measures should be taken to improve daily communication and co-operation among the key procurement institutions.
- 7) An organisational review of the PPA should be initiated, and its capacity and capabilities should be strengthened.
- 8) The roles and responsibilities of ATRAKO, the MoF and the PPA should be clarified.
- 9) The capacity and capabilities of ATRAKO should be strengthened.

**Medium-term (3-5 years)**

- 10) A PPL harmonised with the new EU Public Sector and Utilities Directives should be adopted.
- 11) Complete secondary legislation should be adopted that redirects the focus from integrity towards value-for-money when appropriate, and grants contracting entities more flexibility and discretion in managing procurement operations.
- 12) A new PPA organisational design should be instituted to more effectively meet the new responsibilities and challenges.
- 13) A new organisation for centralised purchasing should be established.

**Key requirement: In case of alleged breaches of procurement rules, aggrieved parties have access to justice through an independent, transparent, effective and efficient remedies system.**

The values of the indicators assessing Albania’s performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



**Analysis of Principles**

**Principle 12: The remedies system is aligned with the European Union acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.**

The PPC was established by the PPL in 2009 and its structure is outlined in several CoM decisions<sup>563</sup>. The PPC is a public legal body that has, thus far, been subordinate to the PM. The review mechanism largely follows the Remedies Directives, but several provisions of Remedies Directive 2007/66/EC, such as those relating to ineffectiveness of contracts, alternative punishments and *ex ante* voluntary transparency notice, have not been included in the PPL.

The PPC has five members, two of whom act as the head and deputy head, and 14 inspectors supported by some administrative staff (in total 30 employees)<sup>564</sup>. Tenders and awards under the

<sup>563</sup> DCM No. 86 of 12 April 2010 on Approval of the Organisation Chart of the Institution of the Public Procurement Commission; DCM No. 184 of 17 March 2010 on Adoption of the Regulation on Organisation and Functioning of the Public Procurement Commission; and some amendments to DCM No. 659 of 3 October 2007 on Approval of Rules of Public Procurement by Electronic Means.

<sup>564</sup> Order of the PM No. 60 of 12 May 2017.

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Concessions/PPP Law are also subject to the same review and remedies system, although with some differences, such as the maximum review time of an appeal.

Since its establishment in 2009 the membership of the PPC has changed many times, and all current members of the Commission are new.

The PPC is to conclude its reviews within 15 days, with a possible maximum extension of 15 additional days; in 90% of cases in 2016, the maximum deadline was met<sup>565</sup>. As in previous years, the majority of cases the PPC reviewed in 2016 were appeals involving procurement of security services.

PPC reviews cover only the cause of the appeal, without any *ex-officio* investigation of the tender proceedings. After an appeal is filed, a suspension decision has to be made by the contracting entity until the appeal is fully examined.

PPC decisions range from corrective measures, including invalidation of award decisions (but not of the entire process), to the annulment of all procedures with a request for re-tendering. The majority of decisions made by the PPC are corrective.

According to the adopted PPL amendments, the independence of the PPC has been strengthened and it is now responsible to the Parliament rather than to the PM. Members of the PPC will be elected by the Parliament; its structure, budget, number of employees and organigramme shall be approved by the Parliament; and it will submit its annual reports to the Parliament.

The PPC has no power to make decisions on contracts that have already been concluded because the PPL does not provide for effective remediation after this point. It also explicitly excludes reviews of procurement procedures for which no public notice has been published.

The trend in the number of complaints filed annually by tenderers has been increasing steadily: 1 393 complaints were filed in 2016 (only one appeal concerned concessions), an increase of 19% from 2015 and three times the number filed in 2013. The proportion of complaints relative to the number of published tender notices is 14%, and more than 60% of the complaints (844 appeals) refer to the procurement of security services. The PPC has attempted to deal with this serious and exceptional problem by issuing a guidance note<sup>566</sup>.

One hundred appeals were made to the Administrative Court of Tirana in 2016, which is 7% of the review decisions made by the PPC.

**Table 13. Distribution of complaint decisions by the PPC**

Decisions	2015	2016
Accepted complaints	560	683
Complaints rejected	564	708
Not reviewed	-	2
<b>Total</b>	<b>1 124</b>	<b>1 393</b>

Source: Public Procurement Commission Annual Report 2016.

The increase in the number of complaints has made it difficult for the PPC to meet review decision deadlines: in 72% of cases, the PPC's final review decision was made after the deadline prescribed by the PPL. Although the situation was better in the past, there were already significant deviations from stipulated time limits: in 2014, legal deadlines were exceeded by 40%. The increased workload of the

<sup>565</sup> Public Procurement Commission Annual Report 2016.

<sup>566</sup> A joint recommendation between the PPA and the PPC, "Recommendations on how to develop procurement procedures for obtaining private security guards services", 1 April 2015.

PPC and its difficulty in keeping to deadlines may also be the result of a significant (50%) turnover of key staff in the past three years<sup>567</sup>.

Overall, the value for the indicator 'Independence, timeliness and competence of the complaints handling system' is 3.

<b>Independence, timeliness and competence of the complaints handling system</b>					
This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed, specifically in terms of compliance with the EU Directives. Then, sub-indicators measure the strength of the institutional set-up for handling complaints. Next, the actual performance of the review system is measured using a combination of qualitative and quantitative indicators. Finally, the performance of the remedies system for PPP/concessions is evaluated.					
Overall indicator value	0	1	2	3	4

Sub-indicators	Points
<b>The legislation sets out the mechanisms for handling complaints in compliance with EU Directives</b>	
1. Right to challenge public procurement decisions	4/5
2. Time limit for challenging decisions taken by contracting authorities/entities	2/2
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties	1/3
4. Mechanisms to ensure implementation of the review body's resolutions	0/2
5. Right to challenge decisions of the review body	3/3
<b>The institutional set-up for handling complaints</b>	
6. Legal provisions establishing the review body ensure independence of the institution and its members	5/7
7. Adequacy of the organisational set-up and procedures of the review body	3/4
8. Public availability and timeliness of data on the review system	3/4
<b>Performance of the review system</b>	
9. Fairness of fee rates for initiating review procedures	1/3
10. Actual processing time of complaints	1/3
11. Complaint submission in practice	1/4
12. Quality of decision making by the review body	2/4
13. Cases changed or returned after verification by the court (%)	2/2
<b>Performance of the remedies system in PPP/concessions</b>	
14. Right to challenge lawfulness of actions/omissions in PPPs/concessions procedures	5/5
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members	5/5
16. Timeliness and effectiveness of complaints handling system	3/5
<b>Total<sup>568</sup></b>	<b>40/61</b>

**The recent significant increase in complaints is alarming; it is particularly important to resolve complaints concerning tenders for security services. The capacity of the PPC has remained the same despite the increase in complaints, which has led to a great number of PPC decisions being**

<sup>567</sup> Information provided by the PPC.

<sup>568</sup> Point conversion ranges: 0-8=0, 9-19=1, 20-30=2, 31-41=3, 42-52=4, 63-61=5.

**submitted overdue. The review system does not meet all the requirements prescribed for a sound and effective review mechanism.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) Following adoption of PPL amendments making the PPC subordinate to Parliament, the effective merit-based appointment of new PPC members should be ensured; comprehensive instructions should be issued; and necessary budgetary resources, office facilities and other measures should be provided for proper functioning of the PPC.
- 2) As part of the PFM Strategy, a review mechanism fully aligned with EU directives and good practice should be initiated, and an explicit standstill period of at least ten days should be introduced.
- 3) Review procedures should be clarified and simplified, particularly concerning time limits and stages in the process to be respected.

**Medium-term (3-5 years)**

- 4) A capacity-building plan should be initiated, adopted and implemented to redirect the current formalistic focus of the PPC towards the substance of complaints instead.

**Key requirement: Contracting authorities are adequately staffed and resourced and carry out their work in accordance with applicable regulations and recognised good practice, interacting with an open and competitive supply market.**

The values of the indicators assessing Albania’s performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



**Analysis of Principles**

**Principle 13: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.**

The legal and institutional frameworks of the public procurement system were designed specifically to ensure transparency, integrity and open competition in procurement operations and to exercise strong budget and transaction control, rather than to ensure efficient operation outcomes. The strong focus on open competition with mandatory publication of tender notices, irrespective of contract value, has generated a very high number of tender opportunities and costly transactions in the procurement system. Statistics for 2016 show that 5 109 contract notices were published above the low-value threshold. The number of small-value purchases (below EUR 5 900/ALL 800 000) published in the electronic system amounted to 21 914, of which 4 904 were cancelled. The number of negotiated

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procedures without publication was 2 186<sup>569</sup>, which is a decrease of 520 procedures compared with 2015.

The system for procuring low-value purchases is in need of revision owing to procedural deficiencies as well as transaction costs that in many cases exceed the value of the contract. The system is also incompatible with the principle of proportionality and suffers from excess competition, but it should be emphasised that the number of low-value transactions has decreased significantly since 2014, when they amounted to 46 537<sup>570</sup>.

The e-procurement system managed by the PPA is a web-based platform in Albanian and English that enables electronic processing of public procurement and concession procedures, including publication of contract notices, downloading and uploading of tender documentation and tender submissions, and e-archiving. The platform has benefitted the public procurement system in many ways, most visibly through increased transparency, easier access, simplification, lower transaction costs and improved data collection and monitoring. All contracting authorities are mandated to use the system for all transactions above the lower band of the small-value threshold of EUR 740/ALL 100 000, and in 2016 there was an average of four tender submissions per tender invitation<sup>571</sup>.

The General Directorate of Centralised Purchasing of the Ministry of Interior (the Central Purchasing Body [CPB]) is responsible for centralised purchasing in 13 specifically defined categories on behalf of the CoM and central government authorities<sup>572</sup>. Although the CPB launched 42 procedures in 2016, it is not a central purchasing body as defined by EU directives. The CPB has started to use framework agreements in certain areas such as airline tickets and fuel, but so far with limited success.

Other modern instruments covered by the EU directives, such as a DPS and e-auctions, are included in the PPL but have not been implemented by secondary legislation.

Budget and payment approval procedures are strictly regulated, but the procurement plan should include detailed estimates of the value of contracts subject to tendering in the upcoming fiscal year. Budget approval is required not only at the contracting entity level, but also concerning specific tender and contract values, and a limited budget fund restriction is applied to each tender. If a tender exceeds the limit, the PPL requires that it be excluded. Further, no procurement contract can be signed unless approval is granted by the Treasury confirming the availability of funds under the approved budget; this is done electronically for all entities within the government sector and manually for public entities. Another feature of the budget system is that no publication of tenders is allowed between 15 October and 31 December according to the Budget Law<sup>573</sup>.

The open procedure and proposal requests are the main competitive procurement methods used, but the negotiated procedure without publication is also common. Restricted and special procedures for selecting consultants are rarely practised.

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<sup>569</sup> All data are from the PPA Annual Report 2016.

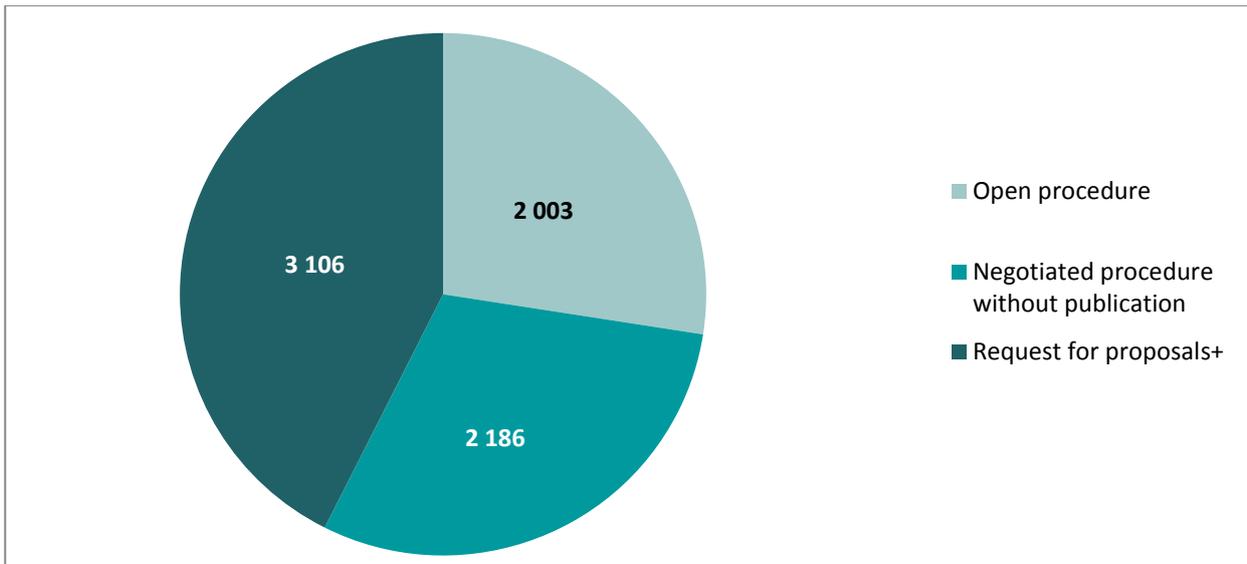
<sup>570</sup> PPA Annual Report 2015.

<sup>571</sup> PPA Annual Report 2016.

<sup>572</sup> PPL, Article 11 and DCM No. 53, 2009.

<sup>573</sup> DCM. No. 80 of 16 November 2016 on Disciplining the Budget Commitments.

**Figure 1. Distribution of procurement methods in numbers**



Source: Public Procurement Agency Annual Report 2016.

In practice, the “lowest price” criterion is the only award criterion used (98%). The “most economically advantageous tender” criterion is rarely used, except in tenders for consultancy services. The mandatory use of tender securities was abolished by an amendment to the PPL (Article 49), so they may now be applied only above the high-value threshold. This positive change facilitates the participation of small and medium-sized enterprises and reduces transaction costs. Contract management is governed by mandatory standard contract conditions for goods, services and works that are an integral part of standard tender documents. Contract management is, however, a weak segment of the procurement process: according to a recent World Bank review of the Albanian procurement system, poor implementation with cost overruns and execution delays are common<sup>574</sup>.

The market for public contracts in Albania is small (EUR 792 million 2016<sup>575</sup>), yet very important for Albanian economic operators.

The value for the indicator ‘Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations’ is 2.

<sup>574</sup> World Bank (2017), Country Procurement and Contract Implementation (CPCI) review.

<sup>575</sup> PPA Annual Report 2016 (the value of published limited funds).

### Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations

This indicator measures the extent to which public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring most efficient use of public funds. It measures performance in the planning and preparation of public procurement, the transparency and competitiveness of the procedures used, the extent to which modern approaches and tools are applied, and how the contracts are managed once they have been concluded.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
<b>Planning and preparation of the public procurement procedure</b>	
1. Due attention is given to the planning process	2/5
2. Presence and use of cost estimation methods and budgeting	2/2
3. Perceived quality of tender documentation by contracting authorities and economic operators	3/4
<b>Competitiveness and transparency of conducted procedures</b>	
4. Perceived fairness of procedures as seen by businesses (%)	3/4
5. Contracts awarded by competitive procedures (%)	3/5
6. Contracts awarded based on acquisition price only (%)	0/5
7. Average number of tenders submitted per competitive procedure	2/3
8. Contracts awarded when one tenderer submitted a tender (%)	1/2
<b>Use of modern procurement methods</b>	
9. Adequacy of regulatory framework for and use of framework agreements	1/5
10. Adequacy of regulatory and institutional framework and use of centralised purchasing	3/5
11. Penetration of e-procurement within the procurement system	4/5
<b>Contract management and performance monitoring</b>	
12. Presence of mechanisms requiring and enabling contract management	0/6
13. Contracts amended after award (%)	1/4
14. Extent of <i>ex post</i> evaluation of the procurement process and of contract performance	0/6
<b>Risk management for preserving the integrity of the public procurement system</b>	
15. Existence of basic integrity tools	2/4
<b>Total<sup>576</sup></b>	<b>27/65</b>

The procurement process is generally over-regulated and the legal framework is too stringently prescriptive. Emphasis on control, sanctions and the fear of complaints has created a risk-aversion culture within the public administration that advocates compliance with rules instead of quality performance and outcomes. The objectives of transparency, integrity and competition, although fundamentally positive, have been over-prioritised, as illustrated in the rules for procurement of small-value purchases.

The e-procurement system is very comprehensive. The increased use of framework agreements is also positive, but secondary legislation should be more flexible and user-friendly. Other modern

<sup>576</sup> Point conversion ranges: 0-12=0, 13-23=1, 24-34=2, 35-45=3, 46-56=4, 57-65=5.

techniques, such as a DPS and e-auctions, are covered by the PPL but have not been implemented by secondary legislation and thus are not employed.

The procurement market is open and free of regulatory restrictions on participation, and competition in participation rates is satisfactory. Contract management is a weak component of the procurement system, however.

*Principle 14: Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.*

Contracting entities have access to a wide range of implementing guidelines for most steps of preparing, planning and conducting the tendering process, including standard tender documents for goods, services and work, contract conditions and templates; this documentation can be downloaded through the PPA's e-procurement platform. The contract management phase is less supported and regulated than the tendering phase, and sustainable procurement is still not a prioritised area, therefore not addressed in the PPL or in secondary legislation.

The PPA provides interpretations, explanations and advice to contracting entities on application of the regulatory framework, but the legal and monitoring focus of the organisation may imply an inability to offer comprehensive and adequate operational guidance.

The absence of a developed and institutionalised system for education and training in public procurement is clearly a major obstacle. Training in public procurement, which is not mandatory or part of a certification system, is provided by the ASPA, or by the PPA alone or in co-operation with international organisations, on specific topics such as framework agreements and tender evaluation methodologies. In 2016, 236 procurement staff obtained training; the private sector is not eligible for support and training.

Overall, the value for the indicator 'Availability and quality of support to contracting authorities and economic operators to strengthen professionalization of procurement operations' is 2.

**Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations**

This indicator measures the availability and quality of support given to contracting authorities and economic operators to develop and improve the knowledge and professional skills of procurement officers and to advise them in preparing, conducting and managing public procurement operations. This support is usually provided by a central procurement institution.

This indicator does not directly measure the capacity of contracting authorities and entities. The assessment is of the scope of the support (whether all important stages of the procurement cycle are covered), its extent, and its quality and relevance for practitioners (whether it provides useful, practical guidance and examples). Surveys of contracting authorities and economic operators are used to gauge the relevance and practical applicability of the support.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
<b>Availability and quality of manuals, guidelines, standard tender documents and other operational tools</b>	
1. Availability and quality of manuals and guidelines	2/5
2. Availability and quality of standard tender documents, standard forms and standard contract models	4/5
<b>Availability and quality of training and advisory support</b>	
3. Access to quality training for procurement staff	0/5
4. Availability of advice and support for contracting authorities and economic operators	1/5
<b>Procurement procedures cancelled</b>	
5. Procurement procedures cancelled (%)	4/5
<b>Total<sup>577</sup></b>	<b>11/25</b>

**Complementary secondary legislation (instructions, guidelines and standard tender and contract documentation) is readily available and comprehensive, but its mandatory nature and insufficient adaptation to various needs and market circumstances affect the quality of the supporting instruments. Because the PPA is focused on procedural interpretations and guidance, not enough attention is given to operational requirements. In addition, the lack of institutionalised and systematic training in public procurement for procurement staff is a major hindrance to the efficient and professional execution of procurement functions, and economic operators should also be included in any capacity-building initiatives.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) A collaborative efficiency review of the operational component of the procurement system should be initiated to identify obstacles and problems for effectively and efficiently undertaking public procurement, both procedurally and operationally.
- 2) A review of centralised purchasing should be initiated to contemplate other organisational and operational solutions outside the Ministry of Interior.
- 3) The system for small-value purchases should be revised or abolished.

<sup>577</sup> Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-25=5.

- 4) The limited fund rules and the approval procedures under the Budget Law for control and authorisation of procurement transactions should be revised.
- 5) Development of the e-procurement system should continue, to prepare it for e-auctions, call-offs under framework agreements and a DPS.
- 6) Support and other measures for the wider use of framework agreements should be strengthened.
- 7) A procurement capability and capacity review of contracting entities should be initiated to determine training and competence-building needs, and to outline a national strategy on training and other capacity-building actions.

#### Medium-term (3-5 years)

- 8) The strategies and actions plans on efficiency development and capacity strengthening determined and initiated during the short-term phase should be implemented.

### External audit

**Key requirement: The constitutional and legal frameworks guarantee the independence, mandate and organisation of the supreme audit institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high quality audits that impact on public sector functioning.**

The values of the indicators assessing Albania's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



#### Analysis of Principles

**Principle 15: The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.**

The SSAI is established under the Constitution, which regulates its independence<sup>578</sup>. Its functional, operational and financial independence, as well as its mandate and organisation, are further regulated in the Law on the Organisation and Functioning of the State Supreme Audit Institution (SSAI Law), approved by the Albanian Parliament on 27 November 2014 and published in the Official Gazette on 6 February 2015<sup>579</sup>.

The Chairman of the SSAI, who has the immunity of a Judge of the Supreme Court<sup>580</sup>, was appointed in December 2011 for a seven-year term. The appointment and dismissal clauses in the 2015 SSAI Law are in accordance with international standards, although a subjective criterion in the dismissal clause for

<sup>578</sup> Constitution of the Republic of Albania, Articles 162-165.

<sup>579</sup> Law No. 154/2014, Official Gazette of 6 February 2015.

<sup>580</sup> SSAI Law, Article 22.

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the Chairman allows for dismissal if “he or she carries out acts or behaviours that damage seriously his or her position and figure”<sup>581</sup>.

The SSAI annually proposes its draft budget to the Economic and Financial Committee of the Parliament, which reviews it and submits it for approval to the Parliament. The SSAI independently implements its budget<sup>582</sup>.

The SSAI has a sufficiently broad mandate: it has the authority to audit budget implementation and revenue collection by the general government as well as the use, management and protection of public funds and public or state property<sup>583</sup>. It is also entitled to audit the users of public funds provided by the EU or other international organisations (except as otherwise provided by law), activities under concession contracts, state budget grants to political parties, public entities and associations, and loans and obligations guaranteed by the State. The audit of economic and financial interests of the State in other legal entities is limited to those entities in which the State has more than half of the quotas or shares. This implies, for example, that the SSAI does not have the authority to audit State participation in PPP projects in which the State contribution is less than 50%.

The SSAI is empowered to carry out financial, compliance and performance audits. Audit reports are shared with auditees for their comments, and summaries of audit reports are published on the SSAI website. In 2016, 151 out of the 154 reports were published (three reports were regarded as confidential). The SSAI reports to the Parliament twice a year: in March it presents its Annual Performance Report and in September its Report on the Implementation of the State Budget. According to the SSAI Law, the Chairman can propose to parliamentary committees that they consider special audit reports<sup>584</sup>; in 2016, nine such reports were presented to the Parliament.

The 2015 SSAI Law guarantees access to premises and information<sup>585</sup>. Access to General Tax Department information and premises were restricted in the past, but the 2015 law gives the SSAI the authority to evaluate or reassess tax declarations. The SSAI is not, however, allowed to intervene in the self-declarations of tax entities. In practice, during 2015-2017 there were no problems with access to information<sup>586</sup>.

Apart from the poor perception of the SSAI’s independence by the population (the 2017 Balkan Barometer survey indicates that only 26% believe that the SSAI is independent of political influence<sup>587</sup>), the sub-indicators rate very well, and the value for the indicator ‘Independence of the supreme audit institution’ is 4.

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<sup>581</sup> *Idem*, Article 23.2d.

<sup>582</sup> *Idem*, Article 7.

<sup>583</sup> *Idem*, Article 10.

<sup>584</sup> *Idem*, Article 15f.

<sup>585</sup> *Idem*, Article 26.

<sup>586</sup> Information provided by the Secretary General of the SSAI.

<sup>587</sup> Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

Independence of the supreme audit institution						
This indicator measures the extent to which external audit by the supreme audit institution (SAI) is conducted independently and the internationally recognised conditions for the effective functioning of the SAI are found in law and practice.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Constitutional and legal independence of the SAI	4/4
2. Organisational and managerial independence of the SAI	5/5
3. Adequacy of the SAI mandate and alignment with International Standards of Supreme Audit Institutions (ISSAIs)	3/3
4. Access to information and premises	1/1
5. Perception of SAI independence by population (%)	0/3
Total <sup>588</sup>	13/16

**The independence, mandate and organisation of the SSAI are established and protected by the Constitution and by the 2015 SSAI Law. Despite this, the perception of SAI independence by the population is surprisingly low.**

*Principle 16: The supreme audit institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.*

The SSAI does not yet function according to the International Standards of Supreme Audit Institutions (ISSAIs), but is still in a transition phase. A two-year EU Twinning project with the SAIs of Poland and Croatia, which started in March 2016, aims to support the SSAI in its development into a professional external audit institution.

The SSAI carries out all types of audit: financial, compliance and performance; in 2016, it carried out a total of 154<sup>589</sup>. The main part of the SSAI's work, traditional compliance audits (117 in 2016), focuses on determining economic damage (e.g. irregularities) and violations of rules and regulations. The mandatory financial audit of the consolidated budget execution statement does lead to an opinion<sup>590</sup>, but not as defined by the ISSAIs.

The SSAI has developed new manuals for financial and compliance audits. The manuals reflect new audit approaches according to the ISSAIs but are not fully consistent with these standards yet<sup>591</sup>. In 2016, the new financial and compliance audit manuals were tested in ten compliance audits and three financial audits, and the SSAI will continue testing the new approaches for financial and compliance audits in the coming years. The current EU Twinning project also assists the SSAI in developing the new manuals. An opinion on the consolidated budget execution statement completely in line with the ISSAIs for financial audits is not foreseen before 2022.

In 2016, the SSAI continued increasing its number of performance audits, conducting 13 compared with 12 in 2015. These audits were planned in Government policy areas and carried out in line with

<sup>588</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

<sup>589</sup> 117 compliance audits, 8 financial audits, 13 performance audits and 16 other audits, including 2 IT audits and 14 thematic audits (information provided by the SSAI).

<sup>590</sup> According to the 2015 SSAI Law, Article 10, the SSAI should give an opinion annually on the consolidated budget execution statement and is entitled to give opinions on financial statements (Article 10c).

<sup>591</sup> SIGMA review of financial and compliance audit manuals, August 2016, and review of performance audit manual, March 2017.

international good practice. As yet, the published performance audit reports have not attracted much attention from the Albanian Parliament or from society in general<sup>592</sup>.

The relative importance of the 154 audits in terms of budget coverage cannot be determined because the SSAI does not record this type of statistic. A multiannual strategic audit plan, based on risk analysis and with priorities for audit activities, does not exist. Audits are still planned according to historically defined audit topics, which cover a fragmented part of the budget of the audited institution. The current EU Twinning project assists the SSAI in developing a planning system, which will introduce strategic and annual planning based on risk analysis.

Quality control and quality assurance policies and procedures are laid down in several documents. The internal regulation on audit procedures defines policy and procedures based on ISSAI 40, while the tasks and job descriptions for quality control and quality assurance are included in the internal regulations on administration procedures. The audit manuals also contain specific quality control and quality assurance indicators. Once audits are completed but not yet published, the Department for Legal Affairs and Quality Control reviews the quality of the audit work; review of 100% of audits is not possible, however, due to time constraints. Each year a specially appointed commission reviews the quality of a sample of audit files. In general, the quality of the files is poor: audit trails are missing and some findings and recommendations are not reported. The Twinning project is developing a uniform quality control and quality assurance policy and procedure.

Compared with 2014, the rate of implemented recommendations decreased in 2016 from 75.5% to 49.7%. According to the SSAI<sup>593</sup>, many recommendations are not implemented because top officials of government institutions refuse to follow up on SSAI recommendations, especially recommendations to replace officials after wrongdoings. However, the quality of the recommendations may also be a reason for not following up. A 2015 report of a non-governmental organisation (NGO) indicates that the recommendations that are not followed up are sometimes “unclear and of low importance”<sup>594</sup>.

Since 2012, the SSAI has had an intensive annual training programme with an average of 25-28 days for each staff member. This high number of training days indicates that the SSAI is working seriously on improving the professionalism of its staff. In practice, however, the high number of training days has not had much influence on the impact of the SSAI recommendations.

The Parliament has a formal procedure for handling the two mandatory SSAI reports: the Committee of Economy and Finance discusses these reports with the Chairman of the SSAI, and after this discussion the Committee defines a resolution with recommendations for the SSAI, the Government and the Parliament<sup>595</sup>. There are no hearings with auditees on the findings and recommendations of the SSAI. The SSAI has to report annually on the implementation of the Committee’s recommendations to the SSAI and to the Government.

Regarding how the general population perceives the SSAI, the 2017 Balkan Barometer survey indicates that 51% agree that the SSAI can effectively scrutinise the government and make it accountable to citizens.

Owing to SSAI methodology not being fully compliant with the ISSAIs, the low rate of recommendations being implemented, the overall value for the indicator ‘Effectiveness of the external audit system’ is 3.

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<sup>592</sup> Only 4 out of the 13 audit reports were sent to the Parliament, and only one of the reports led to parliamentary committee questions (information provided by the SSAI).

<sup>593</sup> Chairman of the SSAI, 1 March 2017 and 2015 SSAI Annual Report, p. 50.

<sup>594</sup> Center for Transparency and Free Information and USAID (2015), “Strengthening the law through the implementation of ALSAI’s recommendation”, pp. 179-207.

<sup>595</sup> Regulation of the Albanian Assembly, Article 103.

Effectiveness of the external audit system						
This indicator measures the extent to which external audits contribute to improved management of public finances and how the supreme audit institution applies standards to ensure high-quality audits (e.g. through its manuals and quality assurance system).						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Coverage of mandate by external audit	6/6
2. Compliance of audit methodology with ISSAIs	3/6
3. Quality control and quality assurance of audits	5/6
4. Implementation of SAI recommendations	2/6
5. Use of SAI reports by the legislature	4/6
<b>Total<sup>596</sup></b>	<b>20/30</b>

**The audit activities of the SSAI do not yet comply with the ISSAIs, and the core of its audit work is still a form of compliance audit, with emphasis on defining economic damages rather than on preventing such damages. The SSAI's focus on producing a large number of audit reports annually negatively influences the quality of its audit work and recommendations.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) The SSAI should begin preparations for updating the SDP 2013-2017 well in advance.
- 2) The SSAI should develop a risk-based audit strategy in which:
  - a. the current focus on increasing the number of reports should be reconsidered in favour of improving the quality of audit work and recommendations in line with the ISSAIs
  - b. a gradual reduction in the number of compliance audits should be considered in favour of increasing the number of financial and performance audits.
- 3) The SSAI should regulate that the budget coverage of each audit be mentioned in each individual audit programme and individual audit report.
- 4) The SSAI should improve its public relations by organising press conferences following newly published audit reports, and should organise seminars, to increase publicity around the importance of performance audits for as wide an audience as possible.

**Medium-term (3-5 years)**

- 5) The SSAI should draft a long-term training strategy to improve the professional skills of audit staff in using the ISSAIs.
- 6) The SSAI should develop a vision on how to fulfil its advisory role regarding national and international developments in public finance and auditing.

<sup>596</sup> Point conversion ranges: 0-5=0, 6-10=1, 11-15=2, 16-21=3, 22-25=4, 26-30=5.

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