

STRENGTHENING THE ROLE OF PARLIAMENT OF ALBANIA IN CURBING CORRUPTION

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Notes on authorship and acknowledgements

This publication is prepared by the National Democratic Institute for International Affairs (NDI), the office in Albania. NDI engaged Anthony Staddon, a parliamentary development expert with over 20 years of practical research, and teaching experience in the field of political science, with an emphasis on parliamentary studies and anti-corruption policies, to lead the assessment and produce the report. The completion of the assessment would not have been possible without the invaluable cooperation of members and staff of the Albanian Parliament, representatives of the government, independent institutions, civil society activists, and academia.

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Abbreviations and Acronyms	5
Executive Summary	7
1. Introduction	14
2. Political and International Context	19
3. Albania’s Anti-Corruption Framework and Strategy	23
4. The Role of Parliament in Curbing Corruption	27
4.1 ISAC Approval and Monitoring	31
4.2 Parliament’s Relationship with Independent Institutions	33
5. Parliament's role in the oversight of public finances	38
5.1 The Committee on Economy and Finance	41
5.2 Proposal to Create a New Audit Subcommittee	43
6 Legislation	49
6.1 Law-making Process	50
6.2 Review of Draft Laws in the Parliament	51
6.3 Corruption Proofing of Legislation	52
6.4 Approval of Normative Acts	54
7 Legislative Ethics	57
Annex A Tips for MPs: Internal Oversight Tools	63
Annex B Relationship between the PAC & CAG – PAC of the States of Jersey	67
Annex C Germany’s Budget Committee	69
Annex D PAC Principles and Benchmarks	71
Annex E Checklist of common corruption risks in draft legislation	73
Annex F Standard structure of corruption proofing expertise report	75
Annex G Post-Legislative Review of the Bribery Act, 2010	77
Annex H The UK Parliamentary Commissioner for Standards	79
Sources	81

ACA	Anti-Corruption Agency
AG	Auditor-General
ALSAI	Albanian Supreme Audit Institution
CAAF	Canadian Audit and Accountability Foundation
CAG	Comptroller and Auditor General
CAPAC	Commonwealth Association of Public Accounts Committees
COPF	Committee for Oversight of Public Finance
CPI	Corruption Perceptions Index
CRCA	Child Rights Centre Albania
CSO	Civil Society Organisation
DfID	Department for International Development
ENNHRI	European Network of National Human Rights Institutions
EU	European Union
EUROSAI	European Organization of Supreme Audit Institutions
GOPAC	Global Organization of Parliamentarians Against Corruption
GRECO	The Group of States Against Corruption
HIDACCI	High Inspectorate of Declaration and Audit of Assets and Conflict of Interest ICO Information Commissioner's Office
IDM	Institute for Democracy and Mediation
IDRA	Institute for Development, Research and Alternatives
IFI	Independent Fiscal Institution
IGC	Intergovernmental Conference
INTOSAI	International Organization of Supreme Audit Institutions
IPU	Inter-Parliamentary Union
IPSA	Independent Parliamentary Standards Authority I
ISC	Inter-Sectional Strategy against Corruption
ISP	Instituti I Studimeve Politike
MP	Member of Parliament
NDI	National Democratic Institute
NAO	National Audit Office
NCAC	National Anti-Corruption Coordinator
NCPA	Network of Corruption Prevention Authorities
NRI	NRI National Bureau of Investigation
OBI	Open Budget Index
OECD	Organisation for Economic Co-operation and Development
OSCE	Organisation for Security and Co-operation in Europe
ODIHR	Office for Democratic Institutions and Human Rights

PAC	Public Accounts Committee
PAEC	Public Accounts Enterprises Committee
PCA	Parliamentary Control of the Administration
PEFA	Public Expenditure and Financial Accountability
PLS	Post-Legislative Scrutiny
PRT	Parliamentary Relations Team
RIA	Regulatory Impact Assessment
SAI	Supreme Audit Institution
SDG	Sustainable Development Goals
SPAK	Special Anti-Corruption Structure
SPO	Special Prosecution Office
TI	Transparency International
UK	United Kingdom
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Programme
US	United States
WFD	Westminster Foundation for Democracy

EXECUTIVE SUMMARY

1. This report, commissioned by the National Democratic Institute (NDI), is designed to identify entry points for the parliament of Albania in the battle against corruption. NDI conducted a field mission, led by a parliamentary development expert, in January 2023, which involved consultations with MPs, government officials, parliamentary staff, representatives from independent institutions and civil society organizations. The visit was supplemented by desk research. The report draws on good international practice and examples from other countries as well as academic research to examine the current and potential role of the legislature in curbing corruption, focusing on its legislative and oversight functions and legislative ethics.
2. Parliamentary oversight is a critical determinant of corruption, and effective oversight of public expenditures is an essential component of national anti-corruption strategies and programs. Any successful attempt to curb corruption must involve the parliament.
3. Corruption in Albania is prevalent in many areas of public and business life, challenging trust in institutions and politics and affecting access to and quality of public services. The prevention and prosecution of corruption is one of the main prerequisites for EU accession. According to the Trust in Governance Survey¹, the three institutions perceived as the most effective mechanisms for domestic accountability are the Albanian Supreme Audit Institution (SAI), parliament and the media. These findings suggest there is citizen support for the parliament to take a much more proactive and visible role in the domestic fight against corruption.
4. Legislatures require popular support in order to have the legitimacy and the political will to play its constitutional role in curbing corruption. This means that parliamentarians must set an example and uphold high standards of propriety. At the same time, parliamentarians are uniquely positioned to act as an interface between the people, who bear the heavy economic and social costs of corruption, and state institutions.

The role of parliamentary oversight in curbing corruption

5. Despite a robust legal and regulatory framework that provides for parliamentary oversight tools, the Parliament struggles to carry out its oversight function effectively.
6. For example, parliamentary questions and interpellations are important instruments available to MPs to seek information or explanations from the executive on policy or actions, to trigger a broader parliamentary debate, to draw the attention of the public on particular issues, and to demand concrete actions from the executive. However, the frequency of use in the Albanian Parliament seems to be limited, with scant evidence of impact, and question periods and interpellations are often marked with tension and offensive language.

¹ An annual exercise which explores public perceptions regarding trust in institutions, transparency and accountability, corruption, citizen engagement in policy and decision-making, satisfaction with public service delivery, management of natural disasters and enforcement of non-discriminatory laws and policies.

7. Commissions of inquiry can be a significant instrument of parliamentary oversight. Upon the request of 1/4 of all MPs, the Parliament is obliged to establish an investigative committee to examine abuse of power by public officials. In the Albanian Parliament, the work of such committees has been, in some cases, cancelled, for political reasons, with final reports never tabled for review in plenary session (GRECO, 2020). The success of Commissions of Inquiry will require procedures and processes to be streamlined in the Law on Parliamentary Investigation and the Rules of Procedure to address obstacles for the establishment and operations of investigative committees.
8. The Albanian Parliament lacks a strong culture of oversight, and demonstrates limited political will to tackle corruption. In the case of the majority, the electoral system encourages a passive back-bench with no incentives to question the work of the party leadership that sits in the executive. In the case of opposition, the lack of sound legislative and oversight strategies, coupled with limited partisan staff capacities hampers their ability to effectively use parliamentary oversight tools. Furthermore the practice of MPs working on a cross-party basis on anti-corruption issues is rare, but cross-party initiatives have produced tangible results in other areas (such as the Child Friendly Caucus and the Alliance of Women MPs efforts on strengthening the gender quota)
9. Parliamentarians, particularly those in the opposition, should make use of question period, interpellations and committee oversight hearings to seek information on policy and actions of the executive, including checking the implementation of recommendations from independent institutions. The parliament should prioritize amendments to the Law on Parliamentary Investigation and the Rules of Procedures, to address all obstacles for establishment and operations of the investigative committee

Inter-Sectional Strategy against Corruption (ISAC) implementation and monitoring

10. Albania's Inter-Sectional Strategy against Corruption (ISAC) 2015–2023 and its Action Plans do not address the potential role of parliament both as a key anti-corruption institution within the strategy and as a monitoring body.
11. Insufficient attention has been paid to parliamentary oversight of the approval processes, implementation and evaluation of the ISAC. None of the eight standing committees and seven sub-committees in the Parliament of Albania deal with national anti-corruption policies or strategies and it is unclear whether any of the committees plan (or have the capacity) to review them.
12. The forthcoming ISAC and its Action Plan must address the role of the parliament both as a key anti-corruption institution within the strategy itself and as an oversight body for its implementation. There should be a debate and formal parliamentary endorsement of ISAC through passing a motion or resolution in the plenary. The Parliament should call on the government to provide regular reports on the implementation of the ISAC's Action Plan.

This should include a report assessing the final implementation and success of the strategy to enable the legislature to assess achievements, gaps and steps required for the next strategy.

13. Parliament needs to consider how best it can monitor the ISAC and its Actions Plans. Ideally the ISAC and implementation reports should be referred to an appropriate committee for detailed consideration, including submissions from civil society and the public, followed by a report back to the plenary and public debate there. One option is for parliament to consider establishing a stand-alone Anti-Corruption cross-party body similar to the National Council for Monitoring Anti-Corruption Strategy Implementation in Croatia.

Parliament and the Independent Institutions

14. A robust system of accountability requires a strong legislature at its centre working alongside independent agencies to share the burden. In Albania, independent institutions are established by the constitution (such as the SAI) or by legislation (such as the Commissioner for Protection Against Discrimination). The parliament is responsible for approving their mandate, budget and management and monitors their annual activity, including the follow-up of recommendations.
15. The reporting and follow-up by parliament on the work of independent institutions is perfunctory, with few recommendations and sanctions handed out for inability to meet them. Often, MPs focus on challenging the work of independent institutions rather than using their findings in seeking accountability from the executive.
16. There is limited interaction when addressing the implementation of recommendations between the parliament, executive, subordinate, local and independent institutions. Despite some changes, including the establishment of an Online Platform for tracking recommendations of independent institutions, criticism persists that the legislature has yet to ensure an efficient evaluation of the executive's implementation of recommendations. The Minister of State for Relations with the Parliament is expected to coordinate implementation of recommendations. At least once a year, the State Minister drafts and proposes a status report to the Council of Ministers on the implementation of recommendations from independent institutions. However, while the Minister has presented to the Speaker periodic implementation reports, the reports are not published.
17. Parliament should prioritise efforts to support the activities of independent institutions. This should include prioritising the appointment of the heads of such bodies when they become vacant as well as ensuring a clear selection criterion and a professional competency test. Individuals with links to political parties should not be considered for leadership positions within independent institutions.

18. The status report on the implementation of recommendations prepared by the Minister of State for Relations with the Parliament must be published and considered by the legislature. The parliament might consider insisting upon improved and public interim reporting requirements to ensure that the government takes remedial action as speedily as possible. The Parliamentary Administration will need to devote more resources to assist MPs and the standing committees to fulfil this function. The Rules of Procedure should also specify how the parliament will follow-up the recommendations from the independent institutions, including the time to be allocated to the executive to respond. The parliament should consult with key stakeholders including MPs, parliamentary staff, the executive and representatives from the institutions to review the utility of the Online Platform to discern its usefulness, and identify potential improvements before engaging in updating it regularly. Capacity-building and awareness raising training for MPs and parliamentary staff on the role and responsibility of independent institutions and its relationship with the legislature should be periodically organised.

Parliament's role in the oversight of public finances

19. An essential component of parliamentary oversight is financial oversight, which is concerned with the scrutiny of public spending. A parliament's capacity to oversee public finances is associated with lower corruption levels, and this effect is related to the resources available to standing committees on finance or public accounts.
20. Budget Committees across Europe combine ex-ante and ex-post responsibilities and are often more focused on the ex-ante review of plans and proposals. Albania's parliamentary Committee on Economy and Finance follows this model. The Committee leads budget discussions during the budget approval process and reviews the Albanian Supreme Audit Institution's (ALSAI) draft budget and presents it for approval to the parliament. The relationship between Parliament and ALSAI is defined by law, but the working relationship is often complicated. While ALSAI reports publicly on actions taken by the executive to address audit recommendations, there is again little parliamentary follow-up. ALSAI has proposed the establishment of a working group to draft a Memorandum of Cooperation between ALSAI and the Assembly to intensify the working relationship.
21. There is a proposal to create a sub-committee on public accounts audits, under the Parliament's Economy and Finance committee. However, it is not yet clear when this audit sub-committee is going to start work and what the mandate of this committee is expected to be. There are concerns on the side of ALSAI that such a sub-committee may be used as a device to tighten control over the institution.

22. ALSAI's proposal for the establishment of a working group to draft a Memorandum of Cooperation with the Assembly is a sensible practical starting point for a broader discussion on how the parliament and ALSAI can better support each other. This should be prioritised immediately.
23. One option to build capacity within ALSAI and foster support and confidence within the legislature could include the periodic use of external performance assessments, perhaps using the Supreme Audit Institutions Performance Management Framework (SAI PMF). ALSAI should be encouraged to arrange peer review from the European Organization of Supreme Audit Institutions (EUROSAI) and other SAIs in the region and publish the results.
24. The creation of an audit subcommittee could ensure more time for the consideration of individual audit reports and to focus on the implementation of audit recommendations, including the use of parliamentary hearings to evaluate corrective actions taken by the audited institutions. The parliament should clarify the timeframe for the establishment of the proposed sub-committee and agree on its mandate, including through consultations with ALSAI to the extent possible. The Rules of Procedure must specify whether the provisions for parliamentary control also apply to subcommittees. The parliament should also consider a second option of establishing a Public Accounts Committee (PAC) or audit committee as a permanent Committee of the Assembly to be chaired by an opposition MP. Whatever structure is followed, the Assembly should incorporate well-established principles for the successful operation of audit committees (see pages 38–41).

Legislation

25. The European Commission (2022) reports that Albania has continued to improve its legal framework for preventing and combating corruption. Furthermore, the amendments to the Law on the Role of Parliament in EU integration Process was approved consensually through cross party support to strengthen parliament's role. Stakeholders accept that while there is a need to strengthen anti-corruption mechanisms, systems, and processes, the main deficiencies lie in the enforcement of laws rather than the legal framework.
26. It is the clear mandate of the legislature to review and scrutinise draft legislation before it is approved. There are several stages to the review of a draft law, thus in theory preventing the parliament from passing a law too hastily, with opportunities for consultation. In practice, however, the law-making process is often shortened, giving staff insufficient time to prepare proper legal opinions/analysis and little opportunity for MPs and committees to undertake detailed scrutiny or to have appropriate consultations. Some interviewees also raised the use of the normative act as a special procedure and argued the absence of timely debate can increase the chance that normative acts are poorly drafted, causing confusion for both the relevant authorities and the public.

27. A relevant committee examining a draft bill or the Speaker can seek the opinion of the advisory body that is the Council on Legislation. The Council reviews constitutional or legislative issues arising from the text of a draft law, or issues of the approximation of a draft law with other legislative acts in force, or with the jurisprudence of the Constitutional Court, and international acts to which Albania is party.. Currently, the Council does not comment on the quality of legislative drafting, even though one of the main criticisms of the legislative process relates to deficiencies in its preparation by the executive. The Council of Legislation could be well positioned, if equipped with adequate resources, to comment on the quality of legislation from a drafting perspective. A further option is to create a statutory independent body responsible for keeping Albanian law under review and recommending reform where it is needed.
28. Corruption-proofing is a legislative process tool that entails review of the form and substance of legal acts (principally statutes or regulations) in order to minimize the risk of future corruption. Despite the existence of corruption-proofing methodologies within Albania and across the region, there is no formalised procedure to review draft legislation to ensure it has been corruption-proofed. Parliamentary staff may review constitutional and legal issues and highlight provisions and suggest amendments, but do not analyse the risk of corruption. When considering changes to the Rules of Procedures, Parliament can add a requirement for the corruption proofing review to be submitted along with the other mandatory documents accompanying the draft legislation.
29. A system of post-legislative scrutiny (PLS) allows the legislature to review laws and consider whether they have achieved their intended purpose. The parliament is in the process of developing a PLS methodology and is considering different models. The parliament also has the right to oversee the content and implementation of the deadlines provided in the law for institutions regarding the issuance of by-laws. A system needs to be developed for tracking subsidiary acts.
30. The law-making process must ensure sufficient time in practice is given to staff to prepare proper legal opinions/analysis and sufficient opportunity for MPs and committees to undertake detailed scrutiny, including appropriate stakeholder consultations.
31. Albania should ensure corruption proofing is mandatory for all legislation. There is a need to create or implement a mechanism to analyse legislation from a corruption-proofing perspective within the legislature and pose key questions such as whether the law provides too many interpretations that can be exploited. The parliament could, for example, prioritise training parliamentary staff in corruption-proofing using the principles in the methodology presented in the Manual for Legal Drafting, approved by the Ministry of Justice.

32. The parliament should prioritise the development of an electronic system (or operationalise e-legislation system) to track the issuance, compliance and implementation of subsidiary acts. The system should be complimentary with the one used by the government (e-acts). The tracking of subsidiary acts should be the responsibility of the standing committee staff and legal advisors who lead the process of reviewing and amending the draft law.
33. The parliament must amend the Rules of Procedure to establish PLS procedures, once a methodology has been developed and adopted. The parliament should prioritise using the new procedure to review the implementation of the plethora of anti-corruption legislation introduced in recent years as well as the legislation establishing the independent institutions to ensure they are functioning as originally intended.

Legislative Ethics

34. Albania has made efforts to address the issue of the integrity of the legislature and legislators. The Law on the Prevention of Conflicts of Interest requires MPs to disclose and register conflicts of interest on a case-by-case basis. MPs are also subject to a number of prohibitions on private activities, contracts, external income, and gifts and hospitality.
35. A Code of Conduct for MPs was devised within Parliament, with an accompanying Handbook. The Rules of Procedure were amended to stipulate the obligation to respect the Code, and to organise disciplinary measures and procedures in case of violations. The Group of States Against Corruption (GRECO) has expressed satisfaction with the Code of Conduct, but also underlined the need for following up on the enforcement of these rules, including sanctioning, as well as the importance of training and guidance. The Code is subject to a periodic assessment by the Parliament's Council for Rules, Mandates and Immunities six months before the end of the legislature. Since the approval of The Code in 2018, no assessment has been completed.
36. The Parliament must ensure that all information relating to legislative ethics is published on the Assembly's website and regularly updated. The Code of Ethics should be subject to more frequent assessment by the Council for Rules, Mandates and Immunities. This review should consider the question of post-employment restrictions on MPs, which is also foreseen in the Conflict of Interest legislation, and a requirement to enforce a 'cooling off' period during which former legislators may not become lobbyists or be employed by the independent institutions. The Parliament must ensure that any breaches of the Code of Conduct are investigated by a fair procedure and, if necessary, punished. As there are concerns whether the political culture is conducive to the consistent implementation, enforcement and evaluation of the Code, the use of an external regulatory body or person, appointed and accountable to Parliament, should be considered for investigating breaches of the Code.

01

Introduction



1. Introduction

There is no common definition of corruption. The World Bank (1997) refers to “the abuse of public office for private gain” which Transparency International (TI) amends to “the abuse of entrusted power for private gain”. The Organisation for Economic Co-operation and Development (OECD) defines corruption more broadly as “the misuse of public office, roles or resources for private benefit”, while the United Nations Convention Against Corruption (UNCAC) defines specific acts of corruption rather than the term itself. The United States (US) Strategy on Countering Corruption (2021) identifies 5 illustrative types of corruption (see Box 1). There is broad agreement that corruption is costly for the economy, damaging development, and particularly bad for the poor (Kaufmann, 2000 and 2006; Pelizzo & Stapenhurst, 2014). Albania’s ISAC (2015–2023)² states at the outset that corruption is the main obstacle to the sustainable political, economic and social development of the country.

Box 1: Illustrative Types of Corruption

Grand corruption: when political elites steal large sums of public funds or otherwise abuse power for personal or political advantage. Administrative corruption: the abuse of entrusted power for private gain—usually by low to mid-level government officials—in interactions with citizens and the private sector, including to skirt official regulations and extort citizens in exchange for their basic services. Kleptocracy: a government controlled by officials who use political power to appropriate the wealth of their nation. Can include state capture. State capture: when private entities improperly and corruptly influence a country's decision-making process for their own benefit. Strategic corruption: when a government weaponizes corrupt practices as a tenet of its foreign policy

It is now widely accepted that multi-dimensional strategies are required to curb corruption involving many actors, including the legislature.³ The latest research at both global and regional levels demonstrates that parliamentary oversight is an important determinant of corruption and that effective oversight of public expenditure is an essential component of national anti-corruption strategies and programs. Many studies have shown the benefit of efforts to strengthen legislative oversight capacity. Pelizzo & Stapenhurst (2013) argued that oversight effectiveness and the ability to curb corruption are a function of oversight capacity but that such capacity should be assessed by taking into consideration not only the internal oversight tools of a legislature (questions, interpellations, hearings), but also external actors (such as SAIs & Anti-Corruption Agencies (ACAs), facilitating conditions (for example size of supporting staff, research facilities) and the socio-political context within which the legislature operates.

² Ministry of Justice, <https://www.drejtesia.gov.al/strategjia-ndersektoriale-kunder-korrupsionit/>

³ For example TI's “pillars of integrity” model includes legislative oversight as one pillar in a multifaceted strategy.

They found that when oversight capacity is measured by taking into consideration these three sets of factors, it has a *“significant impact not only on the effectiveness with which oversight is exercised but also on quality of democracy and level of good governance.”*

At the country level, recent research has focused on how parliamentary oversight is undertaken, which oversight mechanisms are effective, and on how national parliaments interact with other anti-corruption stakeholders to discover the mechanisms that link parliamentary capacity to corruption control (Stapenhurst, Draman, Larson & Staddon, 2020). Particular attention has been placed on the role and performance of Public Accounts Committees (PACs) as a specific oversight tool.⁴ Most PACs have an ex-post responsibility examining public finances after expenditure has taken place, through financial auditing and performance auditing. They do so by working closely with the head of the SAI who is responsible for auditing government accounts, financial statements, and operations. Both actors facilitate transparency and accountability in government financial operations, thus reducing the risk of corruption.

The emphasis on the PAC is explained by a strong association between PAC performance, good governance, and development, with PAC effectiveness as a cause, not a consequence of good governance. Stapenhurst, Pelizzo & Jacobs (2014) found that 40% of the level of corruption worldwide can be directly linked to the effectiveness of legislative oversight with the PAC as the key oversight tool. Given these findings, it seems clear that any successful attempt to curb corruption must involve the legislature.

In September 2015, all member states of the United Nations (UN) endorsed the Sustainable Development Goals (SDGs) which provide a road map for building a sustainable approach to development. The SDGs include a specific goal – goal 16 – to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions”. Box 2 lists some of the key targets relevant to parliaments.

Box 2: OVERVIEW OF RELEVANT TARGETS OF SDG 16

SUSTAINABLE DEVELOPMENT GOAL 16

Target 16.5

Substantially reduce corruption and bribery in all their forms

Target 16.6

Develop effective, accountable and transparent institutions at all levels

Target 16.7

Ensure responsive, inclusive, participatory and representative decision-making at all levels

⁴ The first comprehensive analysis of the PAC was undertaken by David McGee in 2002. McGee's seminal work was extended by Stapenhurst, Pelizzo, and Jacobs (2014). This study highlights that organizational, institutional, and behavioural factors provide an appropriate model to understand the functioning of PACs.

Parliaments are expected to support efforts for achieving the targets listed under SDG 16 by 2030. This will mean that each will need to build a baseline set of data to show where it is now with regard to these targets and then to measure progress going forward.⁵ This should include ensuring that there are systems in place to prevent corruption within a Parliament, including asset and income declarations, accounting and auditing for funds provided to MPs and party groups, and measures to prevent abuse of power.

This report is designed to identify entry points for the parliament of Albania in the battle against corruption.⁶ The report begins with a description of Albania's political and international context and the corruption challenges facing the country. The following **Section** provides a brief overview of Albania's anti-corruption framework and strategy. Parliament's role in combating corruption is highlighted in **Section 5**, first through consideration of its role in the implementation and overseeing the ISAC and, second, by examining its relationship with the independent institutions. **Section 6** focuses in particular on the relationship between ALSAI and Parliament and explores their role in overseeing how money is spent. The legislature has a dual role in enacting appropriate laws to counter corruption and in seeing how laws are enforced. **Section 7** explores how the legislature's clear mandate to review and scrutinise draft legislation can be improved from an anti-corruption lens. Finally, the issue of integrity of MPs is considered in **Section 8** as the success of any anti-corruption strategy requires that the behaviour of legislators and legislatures is ethical (Pelizzo and Stapenhurst, 2014).

The assessment, led by an international parliamentary anti-corruption expert, was carried out between 10-13 January 2023 and involved wide ranging consultations with MPs, government officials, parliamentary staff and heads of independent institutions, such as ALSAI and HIDAACI⁷ and civil society representatives. The visit was supplemented by desk research. The following corruption or governance assessments have been reviewed: a) Corruption Perceptions Index (CPI) by TI⁸, Control of Corruption (Worldwide Governance Indicators by World Bank)⁹, Freedom House Nations in Transit¹⁰, Open Budget Survey 2021 by the International Budget Partnership¹¹, GRECO Fifth Evaluation Round Evaluation Report (adopted October 2020)¹², TI's Deconstructing State Capture in Albania (2021)¹³, Albania BTI 2022 Corruption Report¹⁴, Regional Cooperation Council and Regional Anti-Corruption Initiative for the SouthEast Europe 2020 Strategy: Anti-Corruption Assessment of Laws ('Corruption Proofing') Comparative Study and Methodology.¹⁵

5 The IPU has prepared a self-assessment toolkit to assist parliaments and their members to assist their preparedness to engage with the SDGs and to identify additional strategies, mechanisms and partnerships to support implementation of the SDGs more effectively. See: <http://archive.ipu.org/pdf/publications/sdg-toolkit-e.pdf>

6 The paper does not consider the selection of candidates or instances of electoral corruption and electoral fraud.

7 The High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest

8 <https://www.transparency.org/en/countries/albania>

9 <http://info.worldbank.org/governance/wgi/Home/Reports>

10 <https://freedomhouse.org/country/albania/nations-transit/2022>

11 <https://internationalbudget.org/open-budget-survey/country-results/2021/albania>

12 <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a0923d> 13 <https://www.transparency.org/en/publications/deconstructing-state-capture-in-albania-an-examination-of-grand-corruption-cases-and-tailor-made-laws-from-2008-to-2020>

13 <https://www.transparency.org/en/publications/deconstructing-state-capture-in-albania-an-examination-of-grand-corruption-cases-and-tailor-made-laws-from-2008-to-2020>

14 <https://bti-project.org/en/reports/country-report/ALB> 15 https://www.rai-see.org/php_sets/uploads/2020/11/Comparative_Study-Methodology_on_Anti-corruption_Assessment_of_Laws.pdf

15 https://www.rai-see.org/php_sets/uploads/2020/11/Comparative_Study-Methodology_on_Anti-corruption_Assessment_of_Laws.pdf

The desk research also included a thorough review of the following legal documents and legislative acts: The Constitution of the Republic of Albania; Rules of Procedure of the Assembly; Law on the Rules of Ethics in the Public Administration; Law on the Right to Information; Law on Public Procurement; Law on the Prevention of Money Laundering and Financing of Terrorism; Law on Internal Auditing in the Public Sector; Law on the Organization and Functioning of Institutions for Combating Corruption and Organized Crime; Law on Governance Institutions of the Justice System; Law on Protection of Personal Data; Law on Public Cooperation in Combating Corruption; Law on Preventing and Striking at Organised Crime, Trafficking, Corruption, and other Crimes Through Preventative Measures Against Assets; Law on “Whistleblowing and Whistleblower Protection and Law on the Declaration and Audit of Assets, Financial Obligations of Elected Persons, and Certain Officials. In addition, the research also took note of the Albania Public Finance Management Strategy 2019-2022, ISAC 2015-2020, and Passport of Indicators - ISAC 2015-2020, External Mid Term Review of the ISAC, carried out by OSCE. The Law on Public Consultation.

02

Political and International Context



2. Context

Albania was granted EU candidate status in June 2014. The Council of the European Union (EU) decided in March 2020 to approve the opening of the accession negotiations pending fulfilment of a set of conditions. Accession negotiations with Albania and North Macedonia were finally launched in July 2022, after long delays mainly due to bilateral disputes between North Macedonia and Bulgaria. The screening process is now underway, but no chapters have been opened yet. Membership in the EU has cross-party support in Albania, and opinion polls suggest that the overwhelming majority of citizens are in favour of EU accession. In March 2023, the Law on the Role of Parliament in EU Integration Process was amended consensually through cross-party support to strengthen parliament's role.

The latest Communication on EU enlargement policy, covering the period from June 2021 to June 2022¹⁶ reports that "Albania has continued to maintain overall focus on the EU reform agenda, despite the challenge of addressing the economic and social consequences of the triple shock of the 2019 earthquake, the pandemic and of the Russian war of aggression against Ukraine". Notably, Albania maintained its record of full alignment with the EU's common foreign and security policy, which is interpreted as a strong signal of its strategic choice of EU accession and of its role as a reliable partner. Also, according to public perception surveys carried out by the Institute for Democracy and Mediation (IDM), 2022¹⁷ international organisations such as NATO (74.2%), the UN (71.3%) and the EU (70.9%), are the most trusted international institutions in Albania. Overall, Albanians continue to believe that international organisations (70%) are more able to hold the government to account than domestic organisations.

The prevention and punishment of corruption is an obligation deriving from Albania's accession to international instruments for the fight against corruption such as UNCAC, the Criminal Law Convention of the Council of Europe and the Civil Convention of the Council of Europe against Corruption. UNCAC was signed by Albania on 31 October 2003 and ratified by Parliament on 13 March 2006¹⁸. Combating corruption is also one of the main prerequisites for EU accession. The Council of the EU adopted a series of requirements for Albania to fulfil before its first Intergovernmental Conference (IGC), several of them related to Cluster 1 negotiations "fundamentals", including anti-corruption policies and actions, and the EU Commission progress reports continue to highlight corruption as a serious issue to be addressed.

¹⁶ Available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Albania%20Report%202022.pdf>

¹⁷ <https://www.undp.org/albania/publications/opinion-poll-2022-trust-governance>

¹⁸ Article 122 of the Albanian Constitution states that generally accepted rules of international law and international conventions, when they have been ratified by an act and have come into effect, shall form an integral part of Albania's domestic law and shall override any other contrary provision of domestic law.

The main pieces of anti-corruption legislation passed by the Assembly are as follows:

- i. Law no. 9367/2005 “on the prevention of the conflicts of interest in the exercise of public functions”, defines the rules, means, procedures, responsibilities and competencies for the identification, declaration, registration, treating, resolution and punishment of cases of conflicts of interest, applicable to all public officials.
- ii. Decision of the Council of Ministers no. 714/2004 “on external activities and gift giving during the activities of public administration employees”.
- iii. Law no. 9049/2003 “on the Declaration of Assets”
- iv. Law no 138/2015 “on guaranteeing the integrity of persons elected, appointed or exercising public functions” (so-called decriminalisation law)
- v. The laws and decisions adopting rules of ethics, such as Law no. 9131/2003 “on the Rules of ethics in public administration”, Decision no. 830/2013 “on the Ministerial Code of Conduct” and Decision no. 61/2018 of the Assembly “on the Code of conduct of the deputies of the Assembly”.
- vi. The Law “On signalling and protection of Whistleblowers”, considered as one of the most important instruments in the fight against corruption and protection of public funds, entered into force on 1 October 2016 for the public sector and on July 1st, 2017 for the private sector.

However, corruption remains prevalent in many areas of public and business life, challenging public trust in public institutions and politics. Freedom House (2022) noted: ‘Corruption is pervasive, and the EU has repeatedly called for rigorous implementation of anti-graft measures, particularly for corruption within the judiciary.’ The United States (US) Department of State (2021) also refers to pervasive corruption in all branches of government. According to the CPI published by TI, Albania occupied the 110th rank out of 180 countries in 2021 (whereas it was 99th in 2018, 91st in 2017 and 83rd in 2016) and based on the TI’s regional analysis provided in the report, Albania has scored only 35 points, while for example, in 2012 Albania’s score was 33 points, which marks very little progress in the last 10-year period.¹⁹ ²⁰ Control of Corruption is one of the seven governance indicators used by the World Bank²¹ which captures perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, or the “capture” of the state by elites and private interests. The results for Albania show that it has been ranked in the bottom 31st percentile of countries for the last 3 years.

Pelizzo and Stapenhurst (2014) demonstrate that the level of legitimacy of a legislature is directly related to its perceived integrity. It is therefore important to measure citizens’ trust in public institutions.²² The Albanian national source that provides a snapshot of the perceived integrity is the annual the “Trust in Governance”²³ survey which for 2022 reports that:

¹⁹ <https://www.transparency.org/en/countries/albania>

²⁰ Lidija Prokic, Transparency International’s Advisor for Eastern and Southeastern Europe official analysis

²¹ <http://info.worldbank.org/governance/wgi/Home/Reports>

76.5% of Albanians saw petty corruption as widespread or very widespread | **79.1%** for grand or high-level corruption

Both have decreased since 2021, with a sizeable drop for petty corruption in 2022

-6 PP FROM 2021

-10 PP FROM 2019 AND 2020

65.8% of Albanians had no confidence in the prosecution of grand corruption cases | **56.9%** had no confidence in the effective prosecution of petty corruption

Both figures have improved compared to 2021 **(68.4% AND 59.3%)**

15.4% of Albanians reported having witnessed cases of corruption at the central government level | **21.6%** at the local government.

32.7% of citizens that received local government services in 2022, reported paying a bribe to public officials at this level.

30.9% of citizens reported paying bribes to receive central government services in 2022, reported having paid a bribe to officials at this level.

Regarding the reasons behind bribe paying

50.3% reported being asked for it | **24.4%** said they paid to receive better services next time | **14.1%** paid as gratitude for the received services.

(IDM, 2023)

Legislatures require political will to play their constitutional role in curbing corruption, in addition to popular support and citizen trust to lend legitimacy to their actions (Pelizzo and Stapenhurst, 2013). This means that parliamentarians must set an example and uphold high standards of propriety. At the same time, Parliamentarians are uniquely positioned to act as an interface between the people, who bear the heavy economic and social costs of corruption, and state institutions. Corruption deepens poverty and parliamentarians are elected to improve the lives of the people who elected them. The three institutions perceived as the most effective mechanisms for domestic accountability are the Albanian State SAI (71.1%), followed by parliament (63.9%) and the media (61.5%). The public perception reports²⁴ suggest that there is sufficient citizen support for the Parliament of Albania to take a much more proactive and visible role in the domestic fight against corruption. The next section, therefore, turns to the anti-corruption framework in Albania and Parliament's role within it.

²² The danger is that legislatures become perceived as part of the problem of corruption. For example, a recent study of Nigeria concluded that the Parliament's oversight role had been compromised and the institution is part of the problem of corruption (Staddon, 2020).

²³ An annual exercise implemented by the IDM which explores public perceptions regarding trust in institutions, transparency and accountability, corruption, citizen engagement in policy and decision-making, satisfaction with public service delivery, management of natural disasters and enforcement of non-discriminatory laws and policies.

²⁴ SELDI Corruption Monitoring System in Albania 2021, NDI Audit of Political Engagement, IDM Trust in Governance 2021.

03

Albania's Anti-Corruption Framework and Strategy

3. Albania's Anti-Corruption Framework and Strategy

Several global and regional anti-corruption instruments recommend the establishment of national Anti-Corruption Agencies (ACA).²⁵ In Europe, the number of ACAs increased when countries in (south) eastern Europe started establishing anti-corruption institutions as part of their political transitions and EU accession processes. However, there is no one model for ACAs – some countries place anti-corruption functions into a single specialised agency; others split those functions between a number of agencies and a country's choice will be dependent on its political context, administrative environment and resource envelope (UNDP, 2011).

Albania does not have a multi-purpose ACA, but it has established specialised bodies in charge of investigating, prosecuting and adjudicating complex corruption cases – the Anti-Corruption and Organised Crime Courts and the Special Anti-Corruption Structure (SPAK), comprising the Special Prosecution Office (SPO)²⁶ and the National Bureau of Investigation (NBI)²⁷. SPAK was established following a reform of the Constitution in 2016 and became operational in December 2019. It is an independent judicial entity tasked with investigating corruption and organised crime at the highest levels of government and society. Article 135(2) of the Constitution gives the SPAK Courts²⁸ competence to adjudicate (a) corruption, (b) organised crime, and (c) charges against an extended group of the highest-level officials. In 2020 and 2021 the scope of jurisdiction of the courts against corruption was amended: electoral corruption was added to its remit, whereas low-level corruption was eliminated from its remit²⁹. However, these amendments have yet to be reflected in the Constitution.

The ALSAI is the highest institution of economic and financial control³⁰ and its mission is defined in article 2 of law 154/2014 "On the Organization and functioning of the Supreme State Audit" and embodied also in the ALSAI Development Strategy 2018-2022: "*ALSAI is an independent constitutional institution, built to serve Albanian citizens and to act as an "agent" of the Parliament and other stakeholders by continuously, impartially and fully informing them about the responsibility that the government and public entities exercise in using the public funds of the Albanian taxpayers, thus contributing to improve governance through the fight against corruption*".

25 For example the Council of Europe's Criminal Law Convention on Corruption (Article 20). UNCAC states that ACAs are a crucial element of an anti-corruption framework. Articles 5, 6 and 36 all recognise the need for state parties to ensure the existence of ACAs that have the mandate, independence, quality staff and resources to discharge their mandates effectively. However, there are very few examples of successful ACAs. Pelizzo and Stapenhurst (2014) argue that while ACAs can play an important role in reducing corruption, they are often 'captured' by the government to protect its own leadership and/or to harass opposition leaders. They argue that such bodies are most effective when independent of government and free of operational interference.

26 The SPO consists of 17 prosecutors and the latest EU progress report notes that the SPO sent 31 of the 440 corruption cases sent to court in 2021 and has followed up criminal investigations for vetted-out High Court and Constitutional Court judges and prosecutors.

27 The NBI investigates crimes of corruption and organised crime, as well as crimes committed by subjects identified in the Constitution. It is a special unit of the Judicial Police, but an independent body and accountable to the SPO. The NBI currently consists of 60 investigators and is monitored by an International Commission consisting of two criminal justice experts nominated by the EU and two by the US government.

28 The law requires a minimum number of 16 SPAK judges in the first instance and 11 in the appellate instance. Judges of the SPAK Courts receive additional compensation, are afforded special security, and are entitled to earlier retirement than their peers. Judges can only be dismissed from office by a two-thirds majority of the High Judicial Council, a constitutional body responsible for the governance of the judiciary that consists of six judges chosen by the courts and five lay members appointed by Parliament.

29 The European Commission (2022) has also recognised Albania's efforts to build on its track record of investigation, prosecutions and convictions in the fight against corruption and highlights the importance of greater political will, further structured efforts, and adequate resources and skills. However, the Commission warns that corruption remains an area of serious concern.

30 The Constitution of the Republic of Albania, revised, article 162/1

The High Inspectorate for Declaration of Assets and Control of Conflict of Interest (HIDAACI) is an independent institution entrusted with the audit of asset declarations and conflict of interest of elected and other officials and also monitors and advises on mechanisms aimed at managing the status of whistleblowing.³¹ Whistleblowing is made by any means of communication, in writing or verbally to HIDAACI or the responsible unit. In 2021, HIDAACI issued fines as an administrative measure in 82 cases of refusal to declare conflict of interests and failure to comply with the law on whistleblowing and whistle-blower protection. The large majority of these measures were upheld by administrative courts. However, there were no final convictions on cases referred by the body relating to asset declarations by high-level state officials (European Commission, 2022) suggesting that its main success to date has been with administrative staff.

The People's Advocate of Albania (Ombudsman)³² does not have a direct mandate in the fight against corruption, but can recommend the initiation of investigations to the Prosecution body when corruption cases are identified during administrative investigations. One area in which the Ombudsman has publicly stated his concern relates to transparency in public procurement procedures.³³ According to the OECD (2021), the Ombudsman stands out among oversight bodies as the most trusted and most effective controller of the executive power, widely perceived as independent from political influence.

Albania has a network of central institutions responsible for the drafting, implementation and oversight of anti-corruption policies. The National Anti-Corruption Coordinator (NCAC) oversees and coordinates policies and plans specifically focused on anti-corruption (including policy implementation) and facilitates the coordination with stakeholders to collaborate in these processes. The ISAC 2015-2023 and Action Plan 2020-2023 contains 84 preventative, punitive and public awareness measures. The Anti-Corruption Plan 2020-2023, Albania's third, builds on and strengthens the first two national action plans (2015-2017 and 2018-2020) with particular emphasis on enhancing integrity in public institutions to benefit the public interest. Following a decision reached by the Council of Ministers in October 2021,³⁴ a General Directorate of Anti-Corruption was created for coordination of the fight against corruption, across the strategic areas of Prevention - Awareness - Punishment. This Directorate focuses on all functions previously performed by the NCAC, as well as by all agencies under the Prime Minister that have focused on anti-corruption.

³¹The law 60/2016 "On whistle-blowers and whistle-blower's protection" states that "any person who becomes aware of dubious corruption conduct or practices in the course of employment or in connection with his activity during employment with the organisation shall be entitled to whistle-blow on this fact with the responsible unit within his/her organisation or with HIDAACI as an external mechanism, as convenient."

³²Article 60 of the Constitution defines the Ombudsman's role as defending the rights, freedoms and lawful interests of individuals from unlawful acts or omissions of public administration bodies. The Ombudsman can initiate an investigation of individual cases on its own initiative or on request in relation to violations of rights and freedoms or legitimate interests that stem from irregular acts of public administration. The Ombudsman can submit recommendations to the public administration institutions to address the violations found. In cases where the relevant body does not respond to his/her recommendations, the Ombudsman may report to the Parliament and propose concrete measures for restitution of the violated right.

³³See for example, Annual Report 2021 <https://www.avokatipopullit.gov.al/media/manager/website/reports/Annual%20Report%202019-1.pdf>

³⁴Decision 20.10.2021 "On the establishment, organization and functioning of the network of anti-corruption coordinators and the structure responsible for anti-corruption at the National Anti-Corruption Coordinator".

A Coordination Committee composed of the Minister of Justice³⁵ (as NCAC) and 10 Deputy Ministers meet every 4 months to discuss and approve a report monitoring the implementation of the anticorruption strategy. The Committee is expected to include independent institutions and civil society in the implementation and monitoring of the strategy. The European Commission (2022) has acknowledged that consultations have improved with relevant stakeholders before the approval of the ISAC implementation monitoring reports, including the use of the public consultation platform. However, doubts exist whether consultation has been applied across all stakeholders, with many CSOs complaining that their input has not been considered.³⁶

A recent study on the role of Parliament in curbing corruption highlights that many jurisdictions have established a plethora of extra-oversight institutions, which have overlapping mandates and largely act in an uncoordinated fashion (Stapenhurst, 2020). This is reflected in Albania where several independent evaluations have concluded that the anti-corruption setup comprises many institutions that operate independently from each other and have functions that often overlap. Furthermore, anti-corruption policies and efforts are often unclear on workflow and responsibility and leave doubts as to who is the political champion of the anti-corruption agenda on behalf of the Government. The existing independent external institutions that deal with anti-corruption are often faced with a dual burden of a constant expansion of competences combined with human and budgetary constraints. For example, since 2016, HIDACCI has been tasked to oversee the implementation of the Whistleblower law with very few results. This is partly explained by the fact that the legislation passed by the Assembly lacks several important elements found in the EU Directive on whistle-blower protection, such as protection for whistleblowers who resort to public disclosure.³⁷

³⁵ In 2017 the Ministry of Justice assumed the capacity of the NCAC from the Minister of State for Local Issues.

³⁶ While assessing the ISAC's implementation as being on track, the Commission has also raised concerns about i. weaknesses in areas such as ownership, institutional capacities and an inadequate budget for the strategy's activities and ii. the difficulty of measuring the impact of anti-corruption structures on preventing public sector corruption, despite the presence of some monitoring indicators within the strategy.

³⁷ <https://www.iidkpkj.al/gjoolsys/2020/12/Raporti-Vjeter-Viti-2019.pdf>

04

The role of parliamentary oversight in curbing corruption

4. The role of parliamentary oversight in curbing corruption

As officials elected to represent citizens, parliamentarians play an important role in ensuring that public voice and interests are expressed and reflected through their unique political mandate to legislate and hold the government to account. Robust parliamentary oversight strengthens governance through rigorous scrutiny and monitoring of government policies and actions to ensure that processes and decision making are transparent, inclusive and representative. By demanding government transparency and accountability, the oversight function contributes to anti-corruption³⁸. Parliaments have an array of tools and mechanisms at their disposal to carry out oversight. These include instruments designed to acquire information on policies and actions of executive officials, special committees of inquiry, special bodies for financial oversight, independent agencies established to serve as ‘watchdog’ and report their findings to Parliament, and special parliamentary bodies to oversee particular policy priorities or processes (e.g. anti-corruption strategies or EU Integration). With recent amendments to the Law on Parliament in the EU integration process, the legislature is poised to play stronger role in curbing corruption as it will be reviewing and providing recommendations for the negotiation positions, including for Cluster 1 chapters (fundamentals first).

Parliamentary questions and interpellations are important instruments available to MPs to seek information or explanations from the executive on policy or actions, to trigger a broader parliamentary debate, to draw the attention of the public on particular issues, and to demand concrete actions from the executive. In the Albanian Parliament, a 45-minute question period is envisaged at the beginning of each plenary session, whereas a special 60-minute question period is scheduled every Wednesday.³⁹ While the right to initiate an interpellation is granted to every MP, the frequency of use seems to be limited, and there is scant evidence of impact. According to the parliament’s 2021 annual report, in a year when parliamentary elections were held, only 1 question and 8 interpellations were initiated by MPs.⁴⁰ In 2022, 25 interpellations were held, three with the prime minister, four with deputy prime minister MP Balluku, and 18 with different governmental ministers¹. The monitoring reports of ISP also emphasized that question period and interpellations are often marked with tension and offensive language from ministers.⁴¹

Standing committees present another important mechanism to oversee the performance of executive institutions under their jurisdiction. In the Albanian Parliament, and upon the request of 1/3 of MPs, committees can organise hearings and summon executive officials.⁴² In 2021, only eight (8) hearings were organised by the standing committees.⁴³ In 2022, the usage of thematic hearings with representatives of the government, independent bodies and other institutions established by law, has increased to 41.² In addition, Parliament can establish ad-hoc Commissions of Inquiry to examine abuse of power by public officials. While investigative committees are generally perceived as an effective mechanism, GRECO (2020) noted that “parliamentary control procedures have not always been carried through to reach a final decision, as the work of the investigative committees was, in some cases, cancelled for political reasons (resignation of some MPs for instance), this contributes to challenging public trust in the anticorruption policies.

38 Transparency International. Overview of parliamentary oversight tools and mechanisms. At: <https://knowledgehub.transparency.org/product/overview-of-parliamentary-oversight-tools-and-mechanisms>

39 Parliament of the Republic of Albania. Rules of Procedures. Articles 89–97. At: <https://web-api.parliament.al/Files/RregullorjaeKuvenditeperditesuar.pdf>

40 Kuvendi i Shqipërisë. Raport vjetor mbi veprimtarinë e Kuvendit për vitin 2021. At: <https://web-api.parliament.al/Files/202212261911282533Raport%20vjetor%202021.pdf>

41 Instituti për Studime Politike. Aktiviteti parlamentar dhe cilësia e përfaqësimit. Raport monitorimi i Kuvendit 2022. At: <https://isp.com.al/wp-content/uploads/2022/08/ISP-Aktiviteti-parlamentar-dhe-cilesia-e-perfaqesimit-raport-ii-2022.pdf>

42 Parliament of the Republic of Albania. Rules of Procedures. Article 36. At: <https://web-api.parliament.al/Files/RregullorjaeKuvenditeperditesuar.pdf>

43 Kuvendi i Shqipërisë. Raport vjetor mbi veprimtarinë e Kuvendit për vitin 2021. At: <https://web-api.parliament.al/Files/202212261911282533Raport%20vjetor%202021.pdf>

1 Annual Report of the Parliament 2022 <https://web-api.parliament.al/Files/202308310938234462Raport%20vjetor%202022.pdf>

2 <https://web-api.parliament.al/Files/202308310938234462Raport%20vjetor%202022.pdf>

The Greco Evaluation Team can only conclude that the parliamentary control, as applied, appears rather weak in its present form”. The success of Commissions of Inquiry will require procedures and processes to be streamlined in the Law on Parliamentary Investigation and the Rules of Procedure to address obstacles for the establishment and operations of investigative committees.

In 2021, Parliament of Albania, through the Swiss-funded project implemented by NDI, established the Parliamentary Institute (PI). The PI is tasked to support MPs in scrutinizing legislation and overseeing the executive by providing impartial policy research and analysis and improving citizens' knowledge of parliament's work through civic education. The PI's products and services delivered during 2022 and 2023, have already produced tangible results.⁴⁴

Despite a robust legal and regulatory framework that provides for parliamentary oversight tools, the parliament still struggles to effectively carry out its oversight function. Transparency International (2021) concluded that “the most important institution in terms of exercising effective oversight over the executive to ensure that public policy serves public interests – the Albanian Parliament – is not fulfilling its constitutional mandate”. One key factor is the lack of a strong culture of oversight, as well as limited political will. In the case of the majority, the electoral system encourages a passive back-bench, with no incentives to question the work of the party leadership that sits in the executive. In the case of opposition, the lack of sound legislative and oversight strategies, coupled with limited partisan staff capacities, hampers their ability to effectively use parliamentary oversight tools. To provide some context, during 2021 the parliamentary commissions held 79 hearings with heads of ministries and public institutions (15 ministries and 65 public institutions depended on the state budget, out of which 28 are public independent institutions), roughly one hearing per ministry/institution, per year per committee, which coincides with the annual report submission. Only the High State Audit submits to the parliament approximately 160 audit reports per year, nevertheless, as per interviews conducted with both the Head of the Economy and Budget Commission and Director General of Albanian High State Audit, they are only summoned for the annual report. Furthermore, during 2021-2022, in view of its oversight functions the following actions were carried out:



⁴⁴ In 2023, alone the PI delivered 49 research and analysis and engaged over 3,500 citizens in its civic education activities.

for which the Assembly approved 24 resolutions and addressed concrete recommendations and tasks for 2021. In the resolutions approved for independent institutions, the issues addressed in the European Commission report were listed as priority recommendations.

The Parliament approved the establishment of 3 investigatory commissions⁴⁵:

This is further corroborated by the EU commission report 2023 which states: **“That concerning its oversight function, MPs filed 21 requests for interpellations, out of which four with the Prime Minister who nonetheless did not attend in person. The parliamentary oversight of the work of independent institutions remains limited to the consideration of their annual reports”**⁴⁶ The report ends its assessment with **“Parliamentary oversight of government performance, including sub-ordinated agencies, needs to be strengthened. Regulatory and institutional monitoring, and the reporting framework for government performance continue to be fragmented. Communication to citizens about ongoing reform efforts needs to be improved. The harmonization of reporting practice requires the Integrated Planning System Information System to be fully rolled out.”** Throughout the desk review conducted for this report, it was noted that the practice of MPs working on a cross-party basis is rare, but when it has occurred, it has produced tangible results (such as the Child Friendly Caucus and the women’s Alliance efforts on strengthening the gender quota).

Annex A provides tips for parliamentarians on how to contribute effectively to oversight in the plenary (motions and debates and questions). Box 3 provides an example of how a culture of oversight can be established as part of a democratic consolidation

Box 3: Developing a culture of oversight

Understanding what parliamentary oversight is and the condition under which it is likely to flourish

Government treating parliament as a genuine partner of governance

MPs taking responsibility to make oversight a fundamental aspect of parliamentary life

Accommodating oversight in the parliamentary timetable through appropriate procedures in the standing orders, or by convention

Setting a sustainable place for change that respects national circumstances

Recognizing parliamentary committees as the most flexible instrument of oversight

Source: Global Parliamentary Report (2017)

⁴⁵ - With decision no. 45/2021 set up the investigative commission “For the investigation of serious violations constitutional by the President of the Republic of Albania”, for the then outgoing president.
- With decision no. 81/2021 set up the investigative commission “For checking the legality of actions of public bodies in the procedures for the construction and administration of treatment plants urban waste”.
- With decision no. 79/2021 set up the investigative commission “For the control of the activity of the bodies of public administration and local government to verify the use of resources to the state administration for electoral purposes in the elections of April 25, 2021”#

⁴⁶ The 2022 EU Commission Report for Albania (<https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Albania%20Report%202022.pdf>)

Recommendations:

1. Parliamentarians, particularly those in the opposition, should make use of question periods, interpellations and committee oversight hearings to seek information on policy and actions of the executive, including follow-on implementation of recommendations from independent agencies.
2. The Parliament should prioritise amendments to the Law on Parliamentary Investigation and the Rules of Procedures to address all obstacles for establishment and operations of the investigative committees.
3. A number of international organisations provide general and bespoke training and capacity building in the area of parliamentary oversight and use of oversight instruments. These opportunities should be investigated for use by staff and MPs.⁴⁷
4. The recently formed Parliamentary Institute has the potential to wield greater influence in agenda setting and deliberations within the parliamentary realm. This can be achieved through its proactive research and analysis efforts in the area of anti-corruption, as well as by promoting active collaboration with the academic and think tank communities in support of parliamentary anti-corruption endeavors.

4.1 ISAC implementation and monitoring

In reviewing the parliament's current role in terms of the anti-corruption framework and strategy, it is important to consider its role in the oversight of the implementation of the ISAC (section 5.1) and its relationship with the independent institutions (section 5.2). One weakness of the ISAC and its Action Plans is that it fails to adequately give a role to the parliament both as a key anti-corruption institution within the strategy itself and as a monitoring tool. There is no formal parliamentary endorsement of ISAC by way of a resolution. Even though formal endorsement may not be legally necessary, it would be "a useful way of cementing support for the strategy" and for many countries a legislative vote of approval is the best means of doing so (UN, 2015). One example of practice within the region is the Anti-Corruption Strategy 2021-2030 adopted by the Parliament of Croatia on 29 October 2021.

In its evaluation of the Inter-Sectoral Strategy, ALSAI has also said the strategy lacks leadership and endorsement to legitimate the steering of the strategy.⁴⁸ Whatever the views on the management of the existing strategy, requiring the anti-corruption framework to be approved and monitored by parliament provides a further layer of accountability. Indeed, if the next ISAC does include a statement recognizing the need to increase the role and involvement of Parliament in the fight against corruption, it would seem illogical for the institution itself not to discuss and approve the strategy.

⁴⁷ For example, two very good institutions offering both generic and bespoke trainings are: McGill University, Parliamentary Programs, Research and Publications <https://www.mcgill.ca/scs-parliament/>, and the Commonwealth Parliamentary Academy <https://www.cpahq.org/parliamentary-academy/>

⁴⁸ ALSAI Performance Audit Department (2017). Performance Audit Report : The implementation of the anti-corruption strategy. <https://panel.kish.org.al/storage/phpRGAIQu.pdf>.

A second issue, common in many anti-corruption strategies, is that insufficient attention has been paid to oversight of the implementation of the ISAC by parliament as an independent and democratic evaluation of progress. The Ministry of Justice does have to report on its annual performance, part of which is also the coordination of the Intersectional Strategy, but this is a summary of activities, rather than a report towards indicators. Moving forward, it is important that the government reports to the parliament more explicitly on the implementation of the Action Plan. This will increase the plan's accountability and credibility and is likely to increase public confidence in the strategy. Parliamentary debate and support will also ensure the view of the political opposition is heard and encourage the creation of a shared understanding of Albania's corruption problems, aiding the long-term sustainability of the strategy.

There are examples within the region which may be considered for use in Albania. The anti-corruption agency in Serbia reports annually to the Serbian National Assembly on the status of the implementation of the National Anti-corruption Strategy and the Action Plans; specific reports can be submitted to, or requested by, Parliament. The Seimas Anti-Corruption Commission in Lithuania - a parliamentary body - monitors the implementation of the National Anti-Corruption Programme, hearing reports of different institutions on their work in the anti-corruption field (NCPA, 2022). Croatia has established a National Council for Monitoring Anti-Corruption Strategy Implementation on a parliamentary level in addition to a Council for the Prevention of Corruption at executive level.⁴⁹ The former is a special parliamentary committee with the purpose of coordinating the implementation of the Anti-Corruption Strategy and Action Plan. It is charged with evaluating corruption risks and proposing and designing preventative measures. Significantly, the Council is headed by an opposition representative and consists of six experts and five politicians (three from the opposition and two from the governing party). The Council follows the implementation of the anti-corruption measures identified in the Action Plan - and checks how various ministries are implementing them. The president of the Council presents its report in a plenary session of the Parliament once a year. The overall rationale for these bodies is to ensure an efficient mechanism for monitoring the implementation of anti-corruption strategies.

A further question is to how the Parliament should review the ISAC and its Actions Plans. The 2017 Global Parliamentary Report states that, in its modern form, the committee is probably the single most significant instrument of Parliamentary oversight and it includes anti-corruption efforts as an area of governance that may be subject to specific committee scrutiny. There are eight standing committees in the Assembly of Albania, one ad hoc committee and seven subcommittees. None of these committees deal exclusively with anti-corruption policies and it is unclear whether any of the committees plan (or have the capacity) to review them. Given the concerns about capacity and performance of the existing parliamentary committees in Albania, the Assembly may wish to consider a standalone anti-Corruption cross party body similar to the committee established in Croatia.

49 The Council for the Prevention of Corruption is a governmental advisory body responsible for developing and monitoring national anti-corruption documents, composed of all relevant stakeholders, including civil society, and presided by a Ministry of Justice and Public Administration representative.

Recommendations:

5. The ISAC and its Action Plans must address the role of the parliament both as a key anti-corruption institution within the strategy itself and as a monitoring tool. There should be a debate and formal parliamentary endorsement of ISAC through passing a motion or resolution in the plenary. This should encourage broader ownership of the ISAC.
6. Moving forward, it is important that the government reports to the parliament more explicitly and regularly, ideally on an annual basis, on the operation of the Action Plan to increase the plan's accountability and encourage the creation of a shared understanding of Albania's corruption problems, aiding the long-term sustainability of the strategy. This should include a report assessing the final implementation and success of the strategy to enable the legislature to assess achievements, gaps and steps required for the next strategy.
7. Parliament needs to consider how best it can monitor the ISAC and its Actions Plans. Using a committee is the most significant instrument of Parliamentary oversight and ideally the ISAC and implementation reports should be referred to an appropriate committee for detailed consideration, including submissions from civil society and the public, followed by a report back to the plenary and public debate there.
8. Currently none of the committees in the Assembly deal effectively with anti-corruption policies and strategies and it is unclear whether any of them plan (or have the capacity) to review them. One option is for Parliament to establish a standalone Anti-Corruption body similar to the National Council for Monitoring Anti-Corruption Strategy Implementation in Croatia.

4.2. Parliament's Relationship with Independent Institutions

“Oversight and accountability entail certain interlocking obligations on the part of parliament (the overseer) and the government (the accountable entity). To hold the government to account parliament needs a legal mandate for oversight, as well as the capacity and independence to exercise it. Conducting oversight is a core responsibility for all members of parliament. However, they do not bear this responsibility alone: parliament is one of many oversight actors within society (albeit one with a unique constitutional role). Effective oversight requires parliament to work closely with these other bodies, which include audit institutions, national human rights bodies and ombudspersons, as well as civil society organisations.” Inter-Parliamentary Union (IPU), 2017

The Assembly alone is unable to ensure accountability across the wide range of activities of government and the myriad of other public sector bodies. A robust system of accountability requires a strong legislature at its centre working alongside other independent agencies to share the burden of accountability. The goal of the Assembly should be what was described as “sitting at the apex of broad accountability structures in order to provide a framework for their activity, publicise their existence and use the information they provide to challenge Ministers” (Hansard Society, 2001). This section focuses, therefore, on the overall relationship between parliament and independent institutions with specific attention on how the legislature acts on recommendations from these institutions to hold the government accountable.

The Albanian Parliament interacts with independent institutions in its oversight function in four different ways: i) determining the mandate and responsibilities of the agencies; ii) appointing the governing boards of the respective institutions; iii) reviewing or approving the institutions’ budget; and iv) monitoring and reporting on the institutions’ annual activity, including the follow-up of recommendations issued by the parliament.

The appointment of the heads of the independent institutions (ALSAI, People’s Advocate, HIDAACI) is supposed to be carried out in a way to ensure their independence. The head of ALSAI is appointed by the Parliament, on the proposal of the President of the Republic, for a seven-year term, with the right of election. The Inspector General, who acts as Head of HIDACCI, is appointed by Parliament by a qualified majority for a renewable term of 7 years. The People’s Advocate is elected by a three-fifths majority of all members of the Assembly for a period of 5 years, with the right to be re-elected. This corresponds to the Paris Principles⁵⁰ that calls for a broad consensus in the parliament. Similarly, the legislature makes the final decision when removing the head of an independent institution. However, a local parliamentary watchdog ISP(2022) has highlighted how the Assembly has faced considerable difficulties in fulfilling its function to elect and appoint suitable candidates to fill constitutional vacancies, including the People’s Advocate. This situation failed to be resolved after 7 months of parliamentary procedure. It is imperative that Parliament prioritises the appointment to such bodies given that they share the same goal of enhancing the accountability of government. A further consideration is whether the procedure for selection of candidates is sufficiently merit based and objective and guards against political appointments. A crucial component of an institution’s independence from the executive is the extent to which its budget is determined by a body other than the executive, and whether it has sufficient resources to fulfil its mandate and have the powers to initiate investigations. Despite periodic concerns about underfunding, these conditions are largely met in Albania. The budget of the independent institutions is determined by the legislature and the funding levels are broadly level with the resources needed to fulfil their mandate.

⁵⁰ Principles relating to the status of National Institutions (Paris Principles), adopted by UN General Assembly Resolution 48/134 from 20 December 1993.

For example, ALSAI submits its budget proposal directly to the Economic and Finance Committee in Parliament, and normally receives the budget requested. HIDACCI drafts its own separate budget, within ceilings determined by the Ministry of Finance and subject to Parliament's final approval. HIDACCI's staff numbers and structure are subject to approval by Parliament. However, the independent institutions may be subject to budget cuts as the executive determines mid-term expenditure thresholds.

The European Commission (2020) has recommended that the Parliament should strengthen efforts in support of the activities of the independent institutions. There are examples of good practice. The Inspector-General acknowledged a good relationship between HIDACCI and Parliament: training has been organised for MPs on the legal framework for the prevention of conflict of interests. In contrast, there is often a complicated relationship between the ALSAI and the Parliament (see section 6). The People's Advocate has requested increased attention and awareness of its role from the relevant state authorities, including parliament, so it can better fulfil its role (European Network of National Human Rights Institutions (ENNHRI), 2021). Often, MPs focus on challenging the work of independent institutions rather than using their work and expertise in seeking accountability from the executive for their findings.

It is the role of parliament to oversee the annual reports of the independent institutions and MPs can summon their representatives to appear at a hearing on relevant issues.⁵¹ It is also Parliament's responsibility, as the institution which oversees both the executive and independent institutions, to ensure that their recommendations are enforced. However, the European Commission (2020) has concluded that "the administration's performance remains poor when it comes to implementing recommendations from the independent institutions".

The parliament has established an inter-institutional mechanism for the systematic monitoring of the follow-up and implementation of independent institutions' recommendations⁵² and an Online Platform was launched in September 2019 to foster a transparent and more efficient assessment of executive and subordinate agencies' implementation of recommendations from independent institutions. The platform is composed of six of the 21 independent institutions that operate in Albania⁵³ and is mainly designed for use by parliamentary staff and independent institution staff. The online platform is supposed to be updated periodically both with the recommendations of independent institutions and with information from government institutions (which have a "contributor" role in this platform).

51 Article 103 of the Rules of Procedure outlines the arrangements for the independent institutions to report to the Assembly. The Conference of Chairpersons decides on the calendar for presentation in the Assembly of the reports by the relevant institutions. Each report is reviewed by the Service for Monitoring Independent Institutions, and a summary along with a draft resolution is submitted for review to the relevant committee. The responsible committee organises a hearing session and, at the end of the discussion, drafts a resolution on the evaluation of the work of the institution and submits it to the plenary sitting. The committee can ask for written information from other bodies; obtain views from CSOs and will also call the head of the independent institution to a hearing. The head of the institution will present the report in the plenary sitting. This is followed by the reading of the draft resolution of the respective committee on the evaluation of the work of the institution and a question and answer session. At the end of the debate, the draft resolution presented by the committee is voted upon. It should also be noted that a standing committee, a chairperson of a parliamentary group or at least 10 Members have the right to call the head of the state institution in the plenary sitting to give explanations or to inform the Assembly on issues related to the institution's activity. The Assembly decides with an open vote and without debate.

52 Decisions no. 49/2017 "On the establishment of the mechanism for systematic monitoring of the follow-up and implementation of the recommendations of independent constitutional institutions and those established by law", and no. 134/2018 "On the approval of the annual and periodic monitoring manual".

53 The High State Control, the People's Advocate, the Competition Authority, the Commissioner for Protection from Discrimination, the Commissioner for the Right to Information and the Commissioner for Civil Service Supervision.

The platform is monitored and evaluated by the Parliament through the Monitoring Service of Independent Institutions, but it is unclear how many MPs know about the platform and use it. It would, therefore, be helpful for the platform to be socialised among the MPs, parliamentary staff, the executive and representatives from the institutions to discern its usefulness, and identify potential improvements that need to be made before engaging in updating it regularly.

Despite these mechanisms, parliament and its committees have yet to ensure an efficient evaluation of the executive's implementation of recommendations. Part of the problem may be the recommendations themselves: although a performance evaluation is conducted after submission of the annual report, the recommendations approved by the Assembly generally assess the duties performed by these institutions rather than the follow-up means of existing procedures, processes or mechanism to monitor their enforcement (IDM, 2020). There is also insufficient attention on the evaluation criteria to be used for monitoring the progress of recommendations. The online platform is a useful initiative and contains the total number of recommendations for each line ministry and agencies by each independent institution and how many of them have been implemented. However, it is difficult to find qualitative information on the implementation of specific recommendations and it is not possible for other actors and citizens to provide their input on the extent of follow-up.

Furthermore, there is limited interaction when addressing recommendations between the parliament, executive, subordinate, local and independent institutions. The Minister of State for Relations with the Parliament is expected to coordinate implementation of recommendations with the executive. At least once a year, the State Minister drafts and proposes to the Council of Ministers a status report on the implementation of recommendations from the independent institutions. However, while the Minister has presented to the Speaker periodic implementation reports, the reports are not published. The Assembly might consider insisting upon improved and public interim reporting requirements by line ministries to the relevant committees to ensure that the government takes remedial action as speedily as possible. The Rules of Procedure should also specify clearly how the Parliament will follow up the recommendations from the independent institutions, including the time to be allocated to the Executive to respond to the recommendations. The committees should be expected to monitor the implementation of these recommendations. The Parliamentary Administration will need to assist MPs and committees to fulfil this function. Capacity-building and awareness raising training for MPs and parliamentary staff on the role and responsibility of independent institutions and its relationship with the legislature should also be organised.

Recommendations:

9. Parliament should prioritise efforts to support the activities of independent institutions. This should include prioritising the appointment of the heads of such bodies when they become vacant as well as ensuring a clear selection criteria and a professional competency test. Individuals with links to political parties should not be considered for leadership positions within independent institutions.
10. It is parliament's responsibility, as the institution which oversees both the executive and independent institutions, to ensure that the recommendations from independent institutions are enforced. The Rules of Procedure should also specify clearly how the parliament will follow up the recommendations from the independent institutions, including the time to be allocated to the Executive to respond to the recommendations.
11. The parliament should consult with key stakeholders including MPs, parliamentary staff, the executive and representatives from the institutions to review the utility of the Online Platform to discern its usefulness, and identify potential improvements before engaging in updating it regularly.
12. The status report on the implementation of recommendations prepared by the Minister of State for Relations with the Parliament must be published and considered by the legislature. The parliament might consider insisting upon improved and public interim reporting requirements to ensure that the government takes remedial action as speedily as possible. The Parliamentary Administration will need to devote more resources to assist MPs and the standing committees fulfil this function.
13. Capacity-building and awareness raising training for MPs and parliamentary staff on the role and responsibility of independent institutions and its relationship with the legislature should be periodically organised..

05

Parliament's role in the oversight of public finances



5. Parliament's role in the oversight of public finances

SAIs play an important oversight role, particularly in relation to the use of public funds. Evidence in this area suggests that, while SAIs can be effective in combating corruption, their effectiveness depends on the wider institutional context, including power dynamics between different government bodies and the quality of checks and balances mechanisms linking them (e.g. legislative oversight, executive discretionary authority, etc.). There is consistent evidence that, when special audits are combined with follow-up actions to sanction the corrupt, they are effective. DfID (2015)

An essential component of parliamentary oversight is financial oversight, which is concerned with the scrutiny of public spending. Imbeau and Stapenhurst (2018) found that a parliament's capacity to oversee public finances is associated with lower corruption levels and that this effect is related to the resources available to standing committees on finance or public accounts. Good governance requires a strong and influential Parliament able to scrutinise the expenditure and revenue proposals of the executive on an annual basis according to a regular timetable with access to relevant and timely information. Yet ensuring financial and economic accountability remains a challenge; some legislatures do not have the capacity for effective scrutiny of the budget and/or there may not be a tradition of independent scrutiny. The "power of the purse" is such that the executive often resists disclosure of details of their revenue and expenditure plans. This can lead to corruption and poor fiscal performance.⁵⁴

The parliamentary budget process in Albania is regulated by a comprehensive legal framework⁵⁵ and the Assembly has a role in both budget planning and expenditure allocations (ex ante) and in the financial reporting, external audit and evaluation (ex post) phases of the budget process.⁵⁶ Oversight of budget execution takes the form of annual accounts, either in the form of a single, consolidated report on public expenditure across government or through individual accounts and spending reports produced annually by each government ministry and agency and audited by the SAI's.

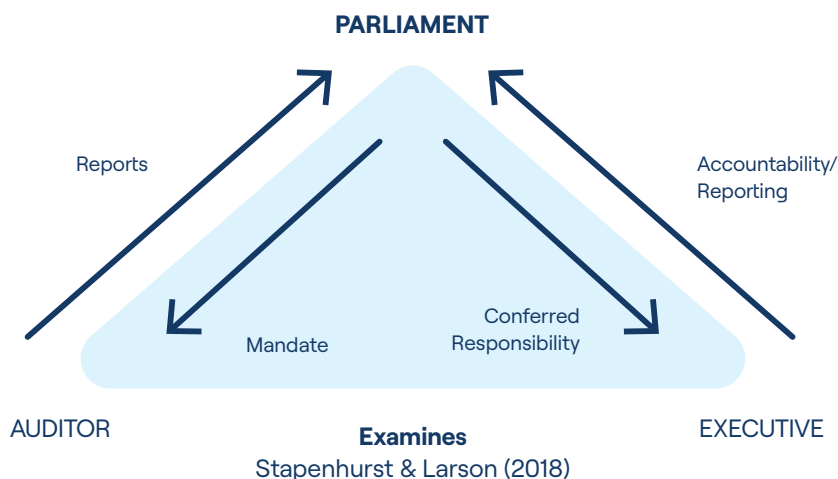
The relationship between the legislature and the ALSAI is symbiotic. While parliament depends on high quality audit reporting to exercise effective scrutiny, the ALSAI requires an effective parliament to ensure that departments take audit outcomes seriously. Parliament is the forum in which these reports receive public attention, which creates pressure on the government to respond to and address issues of concern. Indeed, the success of the legislator depends to a large extent on the quality of the SAI's reports and the success of the ALSAI also depends on the effectiveness of the PAC (Stapenhurst and Titsworth, 2001). This is shown as Figure 1.

54 For a fuller discussion see Joachim Wehner "Effective Financial Scrutiny" in Rick Stapenhurst, Niall Johnston & Riccardo Pelizzo (ed.) The Role of Parliament in Curbing Corruption, WBI Development Studies, Washington pp. 81-92.

55 Organic Budget Law: <https://financa.gov.al/ligjet/>; Constitution of the republic of Albania: <http://www.parlament.al/Files/sKuvendi/kushtetuta.pdf>; Chapter 13. Law on organization and functioning of SAI: http://www.klish.org.al/web/ligji_klish_al_1622.pdf. Rules and Procedure of the National Assembly of Albania.

56 A comprehensive review of the ex-ante stage of the budget process is outside the scope of this report. For reviews of the ex-ante stage of the budget process see OBI (2021) Albania; PEFA (2017); Klepsvik, Knut, et al. (2014), "Budgeting in Albania", OECD Journal on Budgeting, Vol. 13/2. <http://dx.doi.org/10.1787/budget-13-5214bz8n86d>. The legislature receives the Executive's Budget Proposal at least two months before the start of the budget year and has the power in law to amend the Executive Budget Proposal (and does so in practice). Sector committees and a specialised budget committee also publish reports on the Executive's Budget Proposal with findings and recommendations at least one month in advance of the start of the budget year. Weaknesses include the lack of scrutiny of in-year budget implementation and the lack of a law/regulation requiring the executive to obtain approval from the legislature prior to shifting funds between administrative units. Adoption of the budget and other important laws through accelerated procedure also can present a major challenge for the legislature (and the opposition in particular). A capacity gap is the lack of an Independent Fiscal Institution (IFI) to conduct budget analysis. The Parliamentary Institute is building capacities to conduct budget analysis and support MPs in reading/understanding government budgets and reports of financial/audit institutions.

Figure 1: Fiduciary Obligation



There are different options for establishing committee capacity to consider SAI's findings. In some legislatures, the same committee responsible for approving the budget is also tasked with considering audit reports. In Germany, audit reports are considered in the audit subcommittee of the Budget Committee, where membership is proportionately distributed according to party representation in parliament. Each member is assigned the role of rapporteur for a specific ministry and has to scrutinise the remarks on this entity in the audit report. The relevant ministers, or at least high-ranking bureaucrats, finance ministry officials and auditors take part in the discussions.

Other parliaments, such as New Zealand, involve departmentally related committees, such as those responsible for health, education or defence, to scrutinise audit findings in their relevant area. This can inject subject-relevant expertise into the audit process in the legislature. In turn, sectoral committees might benefit from more intimate knowledge of the audit outcomes with regard to their respective departments. Proponents argue that involving sectoral committees enhances scrutiny as the audit reports will receive more attention than a single is best achieved through one dedicated committee. In addition, the audit institution may committee allows. Critics respond that a strong relationship between auditors and legislators require commensurately more resources to service a number of committees.

Across Europe there are two main types of committees interacting with the SAI:⁵⁷

- Parliamentary Audit Committees concerned solely with the ex-post aspects of scrutiny. These are the equivalent of the PAC used in the Westminster Model.⁵⁸
- Budget Committees concerned with scrutinising the budget and scrutiny of public funds, which are therefore involved in both ex-ante and ex post oversight processes. Although these committees can have an ex post role, they are often more focused on ex ante review of plans and proposals (Jacobs, 2019).

57 In some countries, for example the Czech Republic and Poland, both budget committees and committees for audit scrutinise the budget. Some legislatures outside of Europe use more than one audit committee. In Trinidad and Tobago, India, The Maldives and Sri Lanka, for example, a separate committee also provides oversight relating to public sector undertakings. This is an option for Albania to consider given complaints that financial disclosure and audit of accounts in SOEs are weak and inconsistent.

58 In order to increase the effectiveness of a PAC, it is important to understand and address its country specific needs as "what makes PACs work effectively in some regions has no impact on PAC performance in other regions, whereas what has no impact on PAC performance in some regions, is a major driver of PAC performance in other context" (Stapenhurst, Pelizzo, Jacobs, 2014).



Parliamentary Audit Committees



Budget Committees

5.1 The Committee on Economy and Finance

In most countries, the audit of accounts is followed by the consideration of audit findings by the legislature which has a responsibility to review and make use of the auditors' report. Data from the IPU (2017) shows that the vast majority of parliaments (90 per cent) receive reports from SAIs, a much smaller percentage (66 per cent) report having clearly established procedures for reviewing reports: "Working closely with the SAI is a very important means of parliament tapping into a vital technical expertise and of preventing mismanagement and corruption". Albania's Committee on Economy and Finance essentially acts as a budget committee i.e. it combines ex ante and ex post responsibilities.⁵⁹ The Committee leads budget discussions during the budget approval process and presents it for approval to the parliament in accordance with the budget law. It receives two main reports from the ALSAI as follows:

- An annual performance report which is submitted within three months from the end of the year;
- The Report on the Implementation of the State Budget, which is submitted within nine months of the year end.

The Committee has the power to:

- produce a draft Parliamentary Resolution on the ALSAI's annual report that is debated and approved in plenary session;
- scrutinise the ALSAI's report on the execution of the State Budget before the government submits the draft law for the upcoming annual State Budget to parliament;⁶⁰ and
- consider particular audit reports on specific requests from a member of parliament or the Prime Minister.

The Committee on Economy and Finance formulates its recommendations based on the findings of the ALSAI's report. These recommendations, once approved by the plenary, are legally binding. However, the Open Budget Index (OBI) (2021) reports that while the Committee for Economy and Finance examined the Audit Report on the implementation of the annual state budget, it does not publish a report with findings and recommendations.

59 Chapter III of the Rules of Procedure is dedicated to the budget process and the role of the [Follow up Actions as Regard to Implementation of DR - Google Docs](#) on Economy and Finance.
60 Article 158 (V) of the Constitution mandates that after hearing the High State Control's report, the Assembly should debate and vote on the implementation of the previous year's budget. The Committee on Economy and Finance is also involved in this process since there is no separate committee for public accounts. There are no deadlines for review of the audit reports.

It found no evidence that the Committee held any public hearings and/or used any participation mechanisms through which the public can provide input during its public deliberations on the audit report. A further reported issue⁶¹ has been the Committee's reluctance to appoint an independent body to audit ALSAI's accounts. Finally, as highlighted earlier, while the ALSAI reports publicly on actions taken by the executive to address audit recommendations in the annual report, there is little parliamentary follow-up.

The relationship between Parliament and ALSAI is defined by law, but the working relationship was described as 'complicated, but supportive' in interviews during this assessment. Stakeholders within the ALSAI felt that some MPs had unrealistic expectations of the institution. In return, some members of the Economic and Financial Committee allege that ALSAI audit reports lack a proper approach/methodology, and often exaggerate deficiencies, serving as ammunition to those denouncing corruption in institutions.

Nevertheless, according to 2022 SIGMA Public Finance Monitoring Report – a joint initiative of the Organisation for Economic Cooperation and Development (OECD) and the European Union (EU) for providing support to partner countries in their efforts to modernise public governance systems -- ALSAI has updated all of its audit methodologies and quality-assurance procedures in full alignment with international standards, but more work remains to be done to improve implementation. According to the same report the absence of sustained and structured engagement by the Parliament to support the work of the ALSAI is the biggest impediment to achieve efficiency⁶². ALSAI's proposal for the establishment of an inter-institutional working group for drafting a Memorandum of Cooperation between ALSAI and the Parliament is a sensible practical starting point for a broader discussion on how the parliament and ALSAI can better support each other. Such support may involve drafting questions for MPs and providing requested information or through a formal parliamentary liaison office. In Botswana, for example, the SAI and PAC agreed on an arrangement whereby the SAI tasked one of his senior offices with the provision of on-the-ground support to the PAC. Some audit committees draw on the SAIs for secretariat assistance either on an ad hoc basis or through a program of regular secondments. More recently, many SAIs have also developed a more ad hoc advisory function, whereby the legislature requests advice or opinions on specific issues under consideration. Especially in the absence or lack of dedicated legislature research capacity, this can broaden the access of parliament to independent expert analysis and advice. A memorandum of cooperation should stress that the Assembly and ALSAI have separate mandates but complementary roles. **Annex B** displays the rules which govern the relationship between the AG and PAC in the States of Jersey.

⁶¹ During the qualitative interview with ALSAI general director and secretary general, 12 of January 2023 and the international expert.
⁶² Albania Monitoring Report SIGMA OECD EU <https://www.sigmaweb.org/publications/Monitoring-Report-2021-Albania.pdf>

One option to build capacity within ALSAI also build confidence towards its auditing methodologies within the legislature could include the periodic use of external performance assessment, perhaps using the SAI PMF.⁶³ In Australia for example, many state legislatures require a strategic review of the SAI during each term of parliament; this involves a review of the SAI's functions and a performance audit. As members of INTOSAI and EUROSAI, ALSAI should be able to arrange peer review from EUROSAI and other SAIs in the region. Membership of INTOSAI and EUROSAI should also ensure that ALSAI has recourse to external support for the revision of its practices and procedures when necessary.

5.2 Proposal to create a new audit subcommittee

A second proposal, reported by Public Expenditure and Financial Accountability (PEFA) in 2018, is to create a sub-committee on public accounts audits, under the Parliament's Economic and Finance Committee. Such a subcommittee is also a requirement of the European accession negotiations. A Standing Parliamentary Subcommittee on Economy and Finance was reportedly established in 2020 to monitor/control implementation of the state budget, as referenced in a 2020 GRECO report, but to date, there is no record of the subcommittee.

There are concerns that the sub-committee for ALSAI may be used as a device to tighten control over ALSAI. The ALSAI must never become politicised; equally, the audit committee is free to disagree with aspects of AL SAI's work without being unnecessarily critical and partisan. Circumstance and personality will dictate that the relationship will not always be smooth, but a positive and constructive partnership must be the aim.

Generally, it is unwise and counter-productive for the PAC to adopt an adversarial attitude towards the ALSAI (although the ALSAI should expect probing questions, particularly in relation to its annual report). Each party should respect the independent rights and obligations of the other.

The creation of an audit subcommittee, along the lines of the Germany model (see Annex C), could strengthen the relationship between ALSAI and the Assembly by giving more time for the consideration of individual audit reports and to focus on the implementation of audit recommendations, including the use of parliamentary hearings to evaluate the corrective actions taken by the audited institutions. The Committee on Economy and Finance does not routinely deal with individual audit reports which means that reports such as a Performance Audit Report into the Implementation of the Anticorruption Strategy (2020) have not received detailed scrutiny. ALSAI is seeking to increase the number of performance audits in line with the requirements of the European Commission for external audit of the public sector⁶⁴ which suggests that there will be greater pressure on the legislature to follow-up.

63 INTOSAI (2020) report that while there has been an increase in the number of SAIs who use SAI PMF to assess their performance, there is still a reluctance of SAIs to be transparent with their own financial and performance information.
64 ALSAI Annual Report 2020.

The merits of a subcommittee⁶⁵ versus a formal committee must be carefully considered. Some stakeholders felt that, generally, sub-committees are weaker, and cannot be as effective as committees as they have no ‘teeth’. While there are examples of functional subcommittees in Albania (for example the Subcommittee on Sustainable Development), it is not made explicitly clear in Article 102⁶⁶ whether the provisions for parliamentary control also apply to them. Furthermore, while the rules specify that, at the end of each calendar year, the standing committees present the annual report of their parliamentary activity in a special plenary sitting, they do not give the same right to a subcommittee.⁶⁷

A second option is to establish an actual PAC or audit committee as a permanent Committee of the Assembly. As stated earlier, the PAC is the parliamentary committee responsible for ensuring financial accountability in government as well as assisting the broader accountability of ministers and their departments to Parliament. Although PACs are mostly associated with the Westminster model of parliamentary governance, the first PAC was actually introduced in Denmark and PACs have also been adopted by countries that do not have historical or institutional ties with the United Kingdom such as Ethiopia, Indonesia and Thailand. As Stapenhurst, Pelizzo and Jacobs (2014) argue, *“if one were to measure the success not so much of specific PACs, but the success of the PAC as an institutional model or institutional archetype, then one could measure the success of the PAC on the basis of the fact that it is an institutional device that has travelled far”*.

Kosovo has recently separated audit from the responsibilities of a Budget Committee by creating a Committee for Oversight of Public Finance (COPF) which became operational in 2009. The responsibility for oversight of the budget is therefore shared by the Committee on Budget and Finance and the COPF in the Assembly.⁶⁸

The scope of COPF’s work includes: overseeing the legality of public expenditures according to the reports and annual and periodic audit reports, overseeing all reports of the ALSAI of budgetary organizations and public enterprises and overseeing audit reports and public expenditures drafted by institutions that utilize public funds. This Committee is chaired by an opposition MP.

⁶⁵ Article 19 of the Rules of Procedure of the Assembly refer to the Standing Committees and sub-committees of the Assembly. The Article states that on the request of the chair of the standing committee and on the proposal of the Conference of Chairpersons, sub-committees can be established for particular issues or duties related to the activity of the committee. The sub-committee cannot have less than 5 members, but not more than 9. The membership of the sub-committee is not necessarily connected to the membership of the standing committee of which the sub-committee is part of. Article 21 states that the members of the Standing Committees and sub-committees, together with their chairmanships, are elected by open vote by the Assembly on the proposal of the Conference of Chairpersons, according to the lists of candidates drawn up in agreement with the Speaker of the Assembly and the chairperson of every parliamentary group.

⁶⁶ 1. The standing committees of the Assembly may present reports and proposals to the Assembly on matters that fall within their competence or when the Assembly asks for it.
2. The committees have the right to summon the ministers at any time to give explanations and clarifications about issues in the fields for which they are individually responsible, as well as about the implementation of laws, decisions, resolutions or declarations approved by the Assembly. On request of the committees, the heads of the state institutions provide explanations and information on issues related to their activity, as well as on issues related to the implementation of the recommendations of independent institutions addressed to them.
3. The standing committees within their respective fields of responsibility may perform controls or ask for documentation that they consider necessary for the examination of a particular matter. In this case the Speaker of the Assembly is informed by the committee chairperson in writing. At the end of the control, the committees draw up a report, which is forwarded to the Speaker of the Assembly and is made known publicly, also including the opinion of the minority.

⁶⁷ The report is not subject to debate, with the exception of cases when the Conference of Chairpersons decides otherwise.

⁶⁸ Rules of Procedure of the Assembly of the Republic of Kosovo, Article 69, “Main and Functional Committees”, and Annex no. 2, Committee on Budget and Finance and Committee for Oversight of Public Finance

Whatever structure is followed, the Assembly should consider the following principles:

- 1** First, *the committee should be given specific authoritative powers, and use these powers effectively.* Parliaments have adopted varying approaches to the establishment of PACs: constitution, legislation and standing orders. Whatever framework is applicable in establishing a PAC and enabling its authority, the framework for Albania should clearly spell out the mandate of the PAC and the legal powers that it has in fulfilling its mandate (Ngozwana, 2009) and the committee must enjoy the support of the institution. Good practice is for the PAC to be given the power to initiate its own inquiries on matters related to government expenditures.
- 2** Second, *the committee, if established, should have a broad scope or mandate.* When this is limited, it can impact the PAC's ability to perform its oversight function (McGee 2002, Stapenhurst, Pelizzo, and Jacobs 2014). Furthermore, when access to government organizations or public entities is limited, the potential effectiveness of the PAC is compromised. Given the large number of accounts audited annually by the ALSAI, it is important that the relevant parliamentary committee prioritizes its efforts on the major problems emerging from the audits, leaving minor issues to be dealt with directly by the SAI in conjunction with the relevant government ministry or agency.
- 3** Third, the committee's primary focus should be the impartial audit of public expenditure; wider policy issues remain the preserve of other committees. Members should refrain from making a judgement on the merit of a particular policy during PAC meetings. Nonetheless, the mandate should include assessment of the efficiency, economy and effectiveness of a given policy and its implementation.
- 4** Fourth, the committee should take the lead in overseeing the operations of ALSAI. ALSAI should be the sole decider on what to audit and how to audit it. However, there should be scope to discuss ALSAI's intended work programme with the committee and the committee could have the mandate to refer investigations to ALSAI for follow-up.
- 5** Fifth, the committee should possess two factors identified as determinants of a PAC's success related to its composition: having balanced representation i.e. proportionate to party membership in the Assembly and the exclusion of government ministers from the PAC (Pelizzo and Stapenhurst, 2008). This ensures the PAC's political legitimacy and independence. Staddon (2015) argues that having a mixture of new and experienced Members on the PAC is important. Members with long service will have experience of the workings of government and civil service, whilst new Members will obtain a deeper understanding not just of financial scrutiny and oversight, but also of how the executive works. The Assembly will need to invest resources in building capacity of members. The exclusion of government ministers is ensured by the existing Standing Orders which stipulate that the members of the Council of Ministers cannot be members of the standing committees

6 Sixth, there should be appropriate engagement of opposition parties within the committee. Research has indicated that, in countries where opposition parties are better represented in PACs⁶⁹, these bodies hold more hearings, conduct more inquiries and produce more reports. It is an important principle in most jurisdictions that the PAC is chaired by an opposition MP.


7 Seventh, members of the committee must be politically impartial. One way to assist members to distinguish between their role as a Party member and their role as a member of the PAC is to develop a true ethos of policy neutrality. This allows members to individually and collectively focus on the performance of the bureaucracy rather than the political objective. There should be a shared desire to see that the government delivers the best service at the least cost. In addition, the tone set by the chairperson of the committee is critical for ensuring the non-partisan ethos of the committees. Partisanship will cause problems in most committees, but it is highly dangerous for an audit committee given that a PAC’s ultimate purpose is to encourage, assist and secure improvements in the efficiency and effectiveness of the use of public money. Table 1 provides examples of cross-party collaboration.

Table 1: Cross-Party Collaboration


What cross-party collaboration looks like	Ways to promote collaboration
Focus on the administration of policy, not its merits	Ensure consistent committee membership
Reach unanimous committee decisions	Treat other members respectfully
Focus on ability to strengthen public administration	Avoid having ministers as members or witnesses
Work collaboratively on questioning	Focus on the committee’s ability to strengthen public administration
Support the implementation of audit recommendations	Agree on principles for speaking order and timing.

Source: Canadian Audit and Accountability Function (CAAF) (2021)


8 Eighth, *the committee should have an unconditional right to summon witnesses and call for information or documents and schedule public hearings for witnesses to provide testimony on critical issues raised in the audit report.* The UK NAO (2011) suggests that scrutiny is most effective when the Committee seeks evidence in the following order:



Written submissions, sought by advertising the forward programme of hearings;



The SAI provides the committee with a pre-hearing written and oral brief on the audit findings and attends the hearing where it may act as an expert witness if required.



Officials and/or ministers, in order to have a challenging discussion informed by the views of the experts heard in the previous meetings.

⁶⁹ The PAC is either chaired by the opposition, or there is equal representation and decision making quota between majority and opposition.

If facilities allow, public hearings should be webcast live, the audio recorded, and transcripts uploaded to the parliamentary website as soon as they are available following the hearing. In general, all submissions and transcripts of evidence given at public hearings are public documents. This means that the evidence may be published on the committee's website and quoted in the committee's report to the Parliament.

9 Ninth, the committee must be adequately resourced and staffed. In preparing for a committee meeting with an accountable organisation, committee staff should:

- Undertake analysis of the SAI report and identify the main findings. Key issues and data are usually highlighted in the summary section of the report. Chapter and paragraph headings may also point up the key issues;
- Obtain clarification and further briefing from the SAI if required;
- Summarise the key facts from the report into a short briefing for committee members;
- Prepare suggested questions, as well as supplementary questions for MPs to use during the meeting.

In some countries, the SAI may carry out most of the preparations for the briefing, leaving committee staff to review the briefings and possible questions and add additional points if necessary. The extent of ALSAI's involvement should be determined by the proposed memorandum of cooperation.

10 Tenth, the Committee should issue formal and substantive reports to parliament at least annually and the committee/ALSAI must track recommendations to ensure they are implemented. There should be a procedure by which committee reports are externally verified by a body other than the Committee to ensure the veracity of draft reports/recommendations prior to finalisation (normally the Audit Office). It is also good practice for a draft of the report to be given to the body being examined to allow correction of factual material. Generally, draft reports are adopted by consensus, and decisions should be reached by consensus. A time limit should be set for the executive's response to be received and tabled in Parliament.⁷⁰

Annex D shows a list of principles and benchmarks for PAC members developed by the Commonwealth Association of Public Accounts Committees (CAPAC).⁷¹

⁷⁰ Staddon (2015) argues that PACs should be expected to obtain a higher success rate of recommendations than other committees because they are grounded by audit reports which have been agreed with departments, making them difficult for the government to ignore. PAC recommendations also relate to improving policy implementation, which is easier to implement than the recommendations produced by many of the other select committees on the actual merit of policy.

⁷¹ CAPAC was founded in June 2015 with the aim of ensuring that all 'Commonwealth Parliaments and the citizens they serve benefit from strong and independent Public Accounts or equivalent committees to sustain and promote the highest principles of public finance'.

Recommendations

14. *The Assembly must address the working relationship that exists between the Committee on Economy and Finance and ALSAI. The proposal for the establishment of an inter-institutional working group for drafting a Memorandum of Cooperation between ALSAI and the Parliament is a sensible practical starting point for a broader discussion on how the parliament and ALSAI can better support each other. This should be prioritised immediately.*
15. *One option to build capacity within ALSAI and foster support and more confidence in ALSAI methodologies within the legislature could include the periodic use of external performance assessment, perhaps using the SAI PMF. ALSAI should be encouraged to arrange peer review from EUROSAI and other SAIs in the region and publish the results.*
16. *A parliament's capacity to oversee public finances is associated with lower corruption levels. The creation of an audit subcommittee could ensure more time for the consideration of individual audit reports and to focus on the implementation of audit recommendations, including the use of parliamentary hearings to evaluate the corrective actions taken by the audited institutions. The parliament should clarify the timeframe for the establishment of the proposed sub-committee and agree its mandate, and to the extent possible include consultations with ALSAI. The Rules of Procedure must specify whether the provisions for parliamentary control also apply to subcommittees. The Parliament should also consider a second option of establishing a PAC or audit committee as a permanent Committee of the Assembly to be chaired by an opposition MP. Whatever structure is followed, the Assembly should incorporate well-established principles for the successful operation of audit committees (see pages 38-41).*

06

Legislation



6. Legislation

The Assembly of Albania has a dual role in enacting appropriate laws to counter corruption and in seeing how laws are enforced. The European Commission (2022) reports that Albania has continued to improve its legal framework for preventing and combating corruption with the most important aspects of the legislation for the fight against corruption in place.⁷² This, among others includes legislation on whistleblower protection, conflict of interest, asset declaration, the right to information.

GRECO (2020) describes the anti-corruption and integrity legislation and framework as comprehensive but rather complex, and recommends that “the focus should now be put on its overall coherence and the effective implementation of these norms, on improving the capacities of the bodies responsible for their enforcement and on adopting a proactive approach to both administrative and judicial control ... There is a concern that not all the subjects of this legislation are properly aware of the norms they need to apply”. Most stakeholders interviewed for this report accepted that while there is an ongoing need to strengthen anti-corruption mechanisms, systems, and processes, the main deficiencies lie in the enforcement of laws, through systems, penalties and even individual liabilities, rather than in the legal framework.

6.1 Law-making processes

Most laws adopted by the parliament in Albania are proposed by the executive branch.⁷³ This is not uncommon in parliamentary systems of government. Article 81 of the Constitution recognises the rights of individual MPs with 20,000 electors to propose laws,⁷⁴ but these procedures are under-utilised and incidences of their successful use are rare.⁷⁵ A recent example is law no. 62/2022 "For the national registry of those convicted of sexual crimes"⁷⁶, but even this important legislation was first proposed by a leading local human rights and advocacy organisation Child Rights Centre Albania (CRCA) in 2013 and took a long time to come to fruition. In 2022, the Albanian Parliament saw an increase in legislative initiatives proposed by MP, amounting to 37, 4 of which were taken forward.³

“ The legislative process in Albanian Parliament is short, in most cases varying from 10 days to three weeks, especially as regards legislation deemed strategic from the Executive, such as public procurement, concessions and investments.”⁷⁷⁷⁸⁷⁹

⁷³ This study is focusing on the parliamentary review of draft laws and the role of the executive in law-making is outside the scope of this report. TI (2021) have highlighted the lack of transparency in law-making at executive level; limited room for consultation with non-government stakeholders; and the lack of attention on the financial impact of proposed legislation and the costs of its implementation. However, the legislature's role in scrutinising draft legislation will be even more important when there are shortcomings in the drafting process at executive level.

⁷⁴ Law no 54/2019 "On the legislative initiative of electors in the Republic of Albania".

⁷⁵ One example is the 2006 Act on Domestic Abuse. Few countries make provision at the national level for initiatives which allow citizens to take part to intervene in the development of laws. In some cases citizens' initiatives are able to activate legislative changes directly (Switzerland, Uruguay), whereas in others the approval of the Parliament is required (Latvia, Portugal, Colombia).

⁷⁶ The law defines the principles, rules and procedures based on which sex offenders are registered by the police. The goal of the law is to protect every person from sexual crimes, especially children, with the focus being the prevention of sexual crimes.

⁷⁷ TI cites the example of Special Law No. 4/2018 of 1 February 2018 which was drafted by the executive and adopted by the Parliament adopted in a little over ten working days.

⁷⁸ Law for extending the retention period of medical students was approved through expedited procedure <https://ata.gov.al/2023/07/06/pr-ligji-per-studentet-e-mjekesise-do-te-diskutohet-me-procedur-e-te-pershpejtuar/>

⁷⁹ Law of the approval for the Development of Durres Marine, a highly corruption risk piece of legislation was also approved through expedited procedure <https://www.reporter.al/2022/11/09/kuvendi-fut-me-procedure-te-pershpejtuar-marreshjen-se-crete-per-portin-e-durresit/>

³ Raporti Vjetor Parlamenti 2022 <https://web-api.parlament.al/Files/202308310938234462Raport%20vjetor%202022.pdf#72> However, the European Commission has encouraged the Assembly to adopt a unified law on political party and campaign financing, and also address remaining OSCE/ODIHR recommendations.

No matter how a draft law is introduced into a parliament, it is the clear mandate of the legislature to review and scrutinise the draft before it is approved. A frequent complaint is the limited time given to MPs and expert parliamentary services to review draft legislation and to consult relevant stakeholders. In Albania, TI (2021) identifies “shortcomings in the integrity of law-making, consultation processes, transparency, professionalism and the application of other principles that safeguards interests in the legislative process” and raises the incidence of tailor-made laws.⁸⁰ The problem of tailor-made laws, which directly benefit certain business interests, was also acknowledged by stakeholders interviewed for this report.

Furthermore, TI (2021) highlighted how some legislative proposals from the government have been announced at a very late stage in the process, namely at the adoption of the draft law by the government or its submission to parliament.⁸¹ However, the Legislative Service, during the qualitative interviews states that, the Albanian Parliament confirms that the executive sends draft laws and other documents⁸² in sufficient time to forward for review and consultation. The Legislative Service also notes that citizens and CSOs can participate in the legislative process during the phase of the writing and preparation of a bill initiated by MP(s) in addition to the hearing sessions organised by standing committees.⁸³ During 2022–2023, 18 representatives of civil society and interest groups participated in reviewing the draft laws in standing committees.. During the period January – March 2023, the Assembly reviewed and adopted 44 parliamentary acts: 23 Laws and 21 Resolutions. However, there were other instances where the civil society was removed from the stakeholder consultation process of draft laws⁸⁴.

6. 2 Review of draft Laws in the Parliament

There are several stages to the review of a draft law, thus, in theory, preventing the Parliament from passing a law too hastily, and creating opportunities for consultation. The Rules of Procedure outline two review stages: first within the committee concerned and then in the plenary sitting, and MPs have the right to propose amendments at both stages. Article 75 of the Rules of Procedure allows every MP and the Council of Ministers to propose amendments to a draft law during the plenary session of parliament on condition that they are registered up to 24 hours before the plenary session and shared with other MPs. TI (2021) argues that this procedure raises concerns over the integrity of the law-making process as the amendments evade the scrutiny of the parliamentary committee and its expert staff and advisors. In practice, the law-making process in parliament can and has been very short giving staff insufficient time to prepare proper legal opinions/analysis and research analysis and little opportunity for MPs and committees to undertake detailed scrutiny, or to have appropriate stakeholder consultations through public hearings and other mechanisms.

80 Defined as legal acts that are enacted with the purpose of serving only the interests of a natural person, a legal person or a narrow group/network of connected persons and not the interest of other actors in a sector, group in society or the public interest.

81 Examples presented by TI include the Vlora Airport Law and linked plans to establish the Air Albania Company, the National Theatre Special Law and other legal acts that have prompted public discontent in the forms of protest or petitions.

82 After the draft laws and accompanying reports are registered in a special register, they are passed to the Speaker who orders their distribution to the deputies. The review of draft laws cannot begin without at least two weeks from the submission date, except for cases in which the Rules of Procedure have stated otherwise. This is the preliminary time to introduce the drafts to the deputies and the public, while the preparation for the debate starts from the time when they have been included in the work plan and the 3-week work calendar. Depending on the complexity of the issues presented by the draft legislation, an extended period of time may be scheduled in the work program (3–9 weeks according to the Rules of Procedure) or be carried over from one calendar to another.

83 Manual on the Public participation in the decision-making process of the Parliament of Albania. Available at www.parlament.al/Files/Informacione/manuali_i_azhornuar_21298_1.pdf. Any input from civil society on bills must be submitted within ten days from the day of publication of the bill or from the date of the request for an opinion. The Parliament confirms that the closing date for the online public consultation depends on the deadline for reviewing the draft law for approval, and it takes into account the fact that the project law may have gone through the public consultation process by the relevant line ministry which, based on the law on public consultation, should be at least 20 days for the consultation. In addition, the Parliament states that the interested parties can send comments and/or recommendations for the legal acts that are reviewed in the Parliament, from the moment they are announced to the public and published on the official website. Interested parties can address comments and/or recommendations for draft acts to the coordinator for stakeholders groups, or address it to the relevant Committee.

84 Civil Society Removed from the State Budget Consultation <https://mailchi.mp/2f47d8df1f462/the-assembly-cancels-consulting-the-health-budget-2023-with-civil-society-ac-tors>

The relevant committee examining a draft bill will appoint a rapporteur from its membership who must submit their written opinion on the issues surrounding the legislation before the bill is discussed in committee. In preparing the report, the rapporteur may seek the assistance of the government's specialists related to the issue, legal services of parliament as well as the assistance of other external experts. The rapporteur can also propose that the committee seek the opinion of the Council on Legislation (decided by a vote). The role and powers of the Council of Legislation is defined by Article 14 of the Rules of Procedure⁸⁵. The Council acts as an advisory body and its role is to assess or provide an opinion on constitutional or legislative issues that arise regarding the text of a draft law or on issues of the approximation of a draft law with other legislative acts in force or with the jurisprudence of the Constitutional Court and international acts to which Albania is party.⁸⁶

A notable feature of the review undertaken by the Council of Legislation is that it does not review or comment on the quality of legislative drafting – this aspect of its review was removed when the Rules of Procedure were amended in 2019.

This is an important gap as one of the main criticisms of the legislative process in Albania relates to deficiencies in its preparation by the executive; many stakeholders within the Parliament referred to a decline in the quality of legislation sponsored by the executive. The fact that laws are amended often (sometimes within a year after enactment) supports this view. Of course, it is possible, indeed desirable, for the legislature to improve legislation through the subsequent amendment process, but it does seem illogical for a Council consisting of legislative experts not to comment on the quality of legislation from a drafting perspective. A second option would be to create a statutory independent body responsible for keeping Albanian law under review and recommending reform where it is needed.⁸⁷

6.3 Corruption proofing of legislation

1. A further problem is the lack of a formalised procedure to review draft legislation to ensure it has been corruption-proofed i.e. 'a review of the form and substance of drafted or enacted legal rules in order to detect and minimise the risk of future corruption that the rules could facilitate' (Hoppe, 2014). From the perspective of the Parliament's Legislative Service there are a number of mechanisms in place that contribute to reducing the risks of corruption in terms of reviewing draft legislation through the public consultation process and the preparation and submission of the Regulatory Impact Assessment (RIA) report.

⁸⁵ The Council has a membership of ten Members, appointed by the Speaker of the Assembly after consulting the Chairs of the parliamentary Caucuses. The Council guarantees equal representation between the parliamentary majority and opposition. The members of the Council are professional legal experts or have legislative experience. The rapporteur on the issue on the Committee responsible and the proposer of the draft law may take part in the meeting of the Council of Legislation.

⁸⁶ If the Committee responsible rejects the opinion of the Council, in the report to the plenary sitting, the arguments of refusal are presented and the report of the Council is attached to the report of the Committee. At the conclusion of review, the Council submits a report to the Speaker of the Assembly and/or to the Committee responsible in which it reflects all opinions on the issue. The Speaker of the Assembly may authorize that the report be read out to the plenary sitting by the rapporteur(s) when there is more than the one opinion.

⁸⁷ The UK's Law Commission performs this function in the UK. The Law Commission is a statutory independent body which aims to ensure that the law is as fair, modern, simple and as cost-effective as possible; to conduct research and consultations in order to make systematic recommendations for consideration by Parliament, and to codify the law, eliminate anomalies, repeal obsolete and unnecessary enactments and reduce the number of separate statutes.

However, there is no formal corruption impact assessment undertaken by the executive or the Parliament.⁸⁸ There have been efforts to introduce corruption proofing procedures in the executive, by both OSCE and IDRA within the Ministry of Justice, however, it never led to a formalisation of the procedure. The OSCE methodology was cross referenced and included as an annex in the Manual of Legal Drafting, developed with the support of EURALIUS project, however the Ministry cites lack of authority to mandate ministries to apply the methodology and limited capacities to conduct a proper corruption proofing review. The reports submitted by the Council of Ministers accompanying the draft law are an opportunity to demonstrate what the initiator intends to achieve with the legislation and its implementation effects. The report includes arguments as to why the draft law objectives cannot be fulfilled by the existing legal instruments, its compatibility with the Constitution, with the domestic legislation in force and the EU legislation, and its socio-economic effects.⁸⁹ There is no explicit reference to the possible implications of the draft law to indicate whether the legislation has been corruption proofed to identify issues such as: unclear definitions of the rights and duties of public officials; broad discretionary power; over-broad freedom to enact by-laws and other subsidiary legislation; linguistic ambiguity; inadequate sanctions; lack of (or conflicting) regulatory and administrative procedures; and disproportionate burdens on citizens to exercise their rights.

Even if corruption proofing had taken place within the executive during the drafting stage, there needs to be an independent external check at the Parliament. Currently the report accompanying the draft law in the plenary session does not normally include any analysis on how the draft law and amendments are expected to contribute to the prevention of corruption. Parliamentary staff may review constitutional and legal issues and highlight provisions and suggest amendments, but do not analyse the risk of corruption.

There is therefore an urgent need to create a mechanism and train parliamentary staff to analyse legislation from a corruption-proofing perspective and pose key questions such as whether the law provides too many interpretations that can be exploited by a public servant. The Council of Legislation may be the best body to consider a report by a qualified expert on corruption-proofing.

Box 5 provides a summary of who should apply the corruption-proofing methodology⁹⁰. Annex E shows a checklist of common corruption risks in draft legislation and Annex F illustrates a standard structure of corruption proofing expertise report.

⁸⁸ Some countries allow CSOs to perform a parallel process of review. In Moldova all laws and regulations are subject to corruption proofing by a government agency and an NGO. This has increased transparency and participation as well as broadened the perspectives on corruption-proofing.

⁸⁹ Law Drafting Manual: A Guide to the Legislative Process in Albania and the Rules of Procedure.

⁹⁰ A methodology on assessment of corruption proofing in Albania's legislation was prepared by IDRA in 2016.

Box 5: Who and when should apply the Methodology?

Methodology should be applied by an expert, who meets the following criteria:

- is a lawyer, preferably with legal drafting experience;
- is not an author of the draft he/she intends to screen for corruption risks;
- is able to carry out corruption proofing of the draft and prepare a corruption proofing expertise report after the draft is finalized by the author, but before it is passed in the final reading by the adopting authority, while the draft is still susceptible of final pre- adoption improvements;
- is specialized in certain areas of law and conducts corruption proofing of drafts in his/her area of expertise. An example of fields of expertise division is:
 - a) constitutional order, public administration, justice and home affairs;
 - b) budget and finance;
 - c) economy and commerce;
 - d) education, mass-media and cults;
 - e) social protection etc.
- The areas of law can be divided according to the domestic classification of legislation, or according to the specialization of the Parliament's commissions, or according to other acceptable criteria;
- knows the Methodology and has undergone special training on corruption proofing.

Source: Cojocaru (2010)

6.4 Approval of Normative Acts

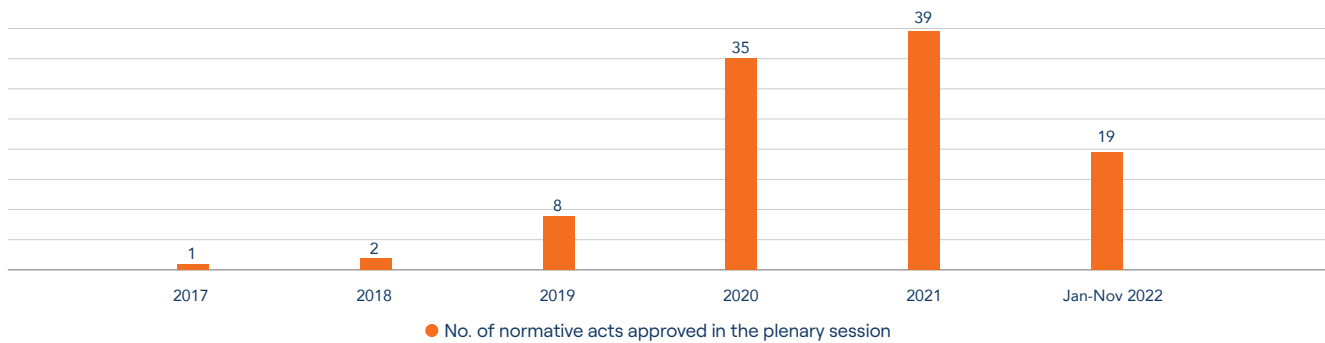
A further issue relates to the use of Article 88 of the Rules of Procedure which provides for the approval of the normative act as a special procedure.⁹¹ Unlike draft laws, the normative act is not reviewed article by article and the Parliament can only decide to approve or repeal it, within 45 days from its issuance. In 2021, 39 normative acts were approved, mainly because of the COVID-19 pandemic, but concerns have also been raised at the impact of the measures and the lack of control by the parliament within the constitutional deadlines. Governments need the capacity to act rapidly in emergencies, but it is important that all measures taken under this procedure are properly debated and decided in Parliament. The absence of timely debate can increase the chance that normative acts are poorly drafted, with avoidable technical mistakes causing confusion for both the relevant authorities and the public. When parliamentary scrutiny is known to be rigorous, and when ministers expect to face difficult debates and perhaps even the threat of a veto vote, it is inevitable that greater work will be put into ensuring that rules are clear, publicly defensible, and error free⁹². However, during 2022 the use of normative acts marked a decrease. Please refer to the chart below.⁴

⁹¹ The normative act enters into force as soon as it is published in the official journal, giving immediate effects on its implementation. Two conditions must be met: necessity and emergency. This power of the normative act is temporary, for only 45 days, within which the Parliament approves or rejects it. During the review of the normative acts, the Parliament has the task of verifying whether the Council of Ministers has met the preconditions to define need and, but it can also look at its content if it is compliant with the Constitution.

⁹² A literature review of parliamentary oversight of governments' response to COVID-19 pandemic in the European Union and Canada, Switzerland, the United Kingdom and the United States identifies best practice regarding oversight and reforms that parliaments could pursue to strengthen their preparedness or future crises. This includes the decision of certain parliaments to prioritise oversight work over other functions, giving opposition members a prominent role in oversight committees, or setting up expert committees to investigate the executives' handling of the pandemic. See European Parliament Research Service (2023) [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/740217/EPRS_STU\(2023\)740217_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/740217/EPRS_STU(2023)740217_EN.pdf).

⁴ Statistics Provided by Parliamentary Staff

No. of normative acts approved in the plenary session acc. to art. 101 of the Constitution



One of the essential functions of the Parliament of Albania is to monitor the implementation of laws. Post Legislative Scrutiny (PLS) is one way in which the legislature can review laws and consider whether they have achieved their intended purpose. While this can be done on an ad-hoc basis by individual MPs or the permanent commissions, a formal methodology of PLS has yet to be agreed and this type of review is not included in the Rules of Procedures. The Parliament is in the process of developing a methodology and has been considering the Swiss and UK models⁹³ with support of the OSCE and Westminster Foundation for Democracy (WFD). The PLS should also include systematic oversight of subsidiary acts to ensure that they are issued within the timeline and the boundaries set forth by the law. To this end, parliament has yet to develop a system to track the issuance, compliance and implementation of subsidiary acts. The tracking of subsidiary acts should be the responsibility of the committee staff and legal advisors who led the process of reviewing the draft law during the law-making process.

The Rules of Procedure will need to be amended to establish processes/procedures for PLS and a manual is foreseen to be developed for MPs and parliamentary staff. To date, some partial efforts of PLS have been undertaken by some parliamentary committees, such as the Subcommittee on Human Rights and the Subcommittee on Gender Equality and Prevention of Violence Against Women with support of the WFD⁹⁴ as part of the HUGEN network activities. As a result of this process a PLS report of the Law on Gender Equality in Society was created. Also, more recently, at the request of the Speaker of Parliament, a study of the review of law on domestic violence was commissioned by the parliament's internal think tank Parliamentary Institute, and a legal initiative was proposed based on the findings. When a methodology for PLS is agreed, the parliament should prioritize using the new procedure to review the implementation of the plethora of anti-corruption legislation introduced over the last 10 years. The Parliament should also consider using the new procedure to examine the legislation establishing independent institutions to ensure that once established they have been functioning according to the intention of the legislators, and that all necessary regulatory and budgetary provisions have been put in place (Murphy & De Vrieze, 2020). Annex G provides an example of a review of the Bribery Act (2010) in the UK.

⁹³ In the UK parliament, there is freedom for all Committees to conduct PLS work. The regular PLS Scrutiny work by parliamentary Committees is supplemented by the formal requirement that the government publish a memorandum on the implementation of legislation three to five years after Royal Assent. The relevant department tables its PLS Memorandum with the relevant House of Commons Select Committee that must decide whether further inquiry is needed. In Switzerland, the constitution establishes a direct obligation for the parliament to evaluate the effectiveness of the legislation and other measures adopted. The federal parliament set up in 1991 the Parliamentary Control of the Administration (PCA), a specialized service which carries out evaluations on behalf of the Parliament. The PCA works based on mandates on behalf of parliamentary committees. The Unit cannot decide to conduct research on its own. The Unit has fewer than five staff and issues approximately three (large) research reports per year. The Unit has a budget to hire experts and outsource part of the work. For further information, see WFD's practical practical guidance for organizing post-legislative scrutiny inquiries in Parliament available at <https://www.wfd.org/what-we-do/resources/guide-post-legislative-scrutiny>.

⁹⁴ For more information on the WFD work on PLS in Albania, see p 10-11 as part of the Hugen network: <https://www.hugenwb.net/uploads/materials/Post-Legisla-Scrutiny%20in%20the%20Parliaments%20of%20the%20Western%20Balkans.pdf>, p 10-11

Reccomendations

17. *No matter how a draft law is introduced into a parliament, it is the clear mandate of the legislature to review and scrutinise the draft before it is approved. The law-making process must ensure sufficient time in practice is given to staff to prepare proper legal opinions/analysis and sufficient opportunity for MPs and committees to undertake detailed scrutiny, including appropriate stakeholder consultations.*
18. *The Council of Legislation should be required to comment on the quality of legislation from a drafting perspective. A further option is to create a statutory independent body responsible for keeping Albanian law under review and recommending reform where it is needed.*
19. *Albania should ensure corruption proofing is mandatory for all legislation. There is a need to create or implement a mechanism to analyse legislation from a corruption-proofing perspective within the legislature and pose key questions such as whether the law provides too many interpretations that can be exploited. The parliament should prioritise training parliamentary staff in corruption-proofing using the principles in the methodology presented in the Manual for Legal Drafting, approved by the Ministry of Justice.*
20. *The parliament should develop an electronic system (or operationalise e-legislation system) to track the issuance, compliance and implementation of subsidiary acts. The tracking of subsidiary acts should be the responsibility of the standing committee staff and legal advisors who lead the process of reviewing and amending the draft law.*
21. *The parliament should amend the Rules of Procedure to establish processes/procedures for PLS, once an appropriate methodology has been developed and adopted. The Parliament should prioritise using the new procedure to review the implementation of the plethora of anti-corruption legislation introduced in recent years as well as the legislation establishing the independent institutions.*

07

Legislative Ethics



8. Legislative Ethics

“Robust standards and regulation can help to prevent abuse of office and other forms of corruption by: setting out clear rules for how MPs should behave, monitoring how they actually behave, and punishing transgressions. The role of an MP is complex and can raise a number of ethical dilemmas. Clear and consistently enforced standards provide greater clarity for MPs and their staff about how the public expects them to behave, especially after a scandal in which good faith mistakes have been made. Regulation should not interfere with the exercise of parliamentary duties, for example, by requiring deputies to engage in unnecessary bureaucratic procedures, but it should create a fair and stable environment in which MPs can perform their roles of representation, scrutiny and legislation”. (OSCE, 2017)

In 2016, TI ranked Albania as zero in terms of the extent that the integrity of the legislature is ensured in practice and referenced various indicators and developments that pointed to very poor integrity among Albanian legislators⁹⁵. Efforts have since been made to rectify this weakness. A law, adopted in December 2015, addresses the problem of individuals with criminal records obtaining or holding public office.⁹⁶ The Law on the Declaration of Assets requires MPs to declare their interests at the beginning and end of their tenure, and annually to the HIDAACI. The interval for performing full control of asset declarations of deputies has been reduced from once every three years to once every two years. Asset declarations are publicised on the HIDAACI’s website and are also published by Open Spending Albania.⁹⁷ The Law on the Prevention of Conflicts of Interest requires MPs to disclose and register conflicts of interest on a case-by-case basis. MPs are also subject to a number of prohibitions on private activities, contracts, external income, and gifts and hospitality.

A further significant weakness was the lack of an ethical regime within Parliament. Pelizzo and Stapenhurst (2006) note that by creating ethics regimes, parliaments (a) establish a standard for parliamentarian’s behaviour (b) clarify what forms of behaviour are acceptable and what forms are improper, (c) create an environment that is less likely to tolerate misconduct and other forms of unethical behaviour, and, by doing so, (d) create an environment in which parliamentarians are less likely to engage in corrupt practices. The Parliament of Albania attempted to fill this gap by establishing a Code of Conduct for MPs in September 2018.

The Code contains basic rules on conflicts of interest, declarations of private interests, limitations on outside activities whilst in office, gifts, contacts with lobbyists and third parties, post-employment restrictions and standards of deputies’ conduct during the parliamentary and non-parliamentary activities. It provides for the notification of ad hoc conflicts of interest involving deputies and occurring during the legislative process as well as their publication on the Assembly’s website (Article 13).

⁹⁵ Transparency International (2016) National Integrity System Assessment.

⁹⁶ Draft Law on Guaranteeing the Integrity of Persons who are Elected, Appointed or Exert Public Functions and related report: http://www.parliament.al/web/pub/dekriminalizimi_per_publicim_24579_1.pdf; Constitutional amendments: http://www.parliament.al/web/pub/ligj_nr_137_24917_1.pdf

⁹⁷ http://spending.data.al/en/moneypower/list/pos_id/6

Deputies are to make a declaration at the beginning of the plenary session of the meeting of a committee or other body, and this is recorded in the minutes. When such a conflict of interest arises during the legislative process, the MP's written statement of conflict of interest is published on the Assembly's website. With such a statement, deputies forfeit their right to vote on the draft law concerned or any other political document.

The Code is accompanied by a Handbook on Conduct in Parliament. The handbook acts as a useful source to assist MPs to understand the code and contribute to its effective implementation. The Parliament confirms that all MPs are sent an electronic and hard copy of the code together with the handbook. It is also available on the parliament website together with a Register of lobbyists, interest groups and CSOs, containing a list of entities accredited by the Assembly, divided by areas of responsibility of the permanent parliamentary commissions. Finally, an electronic register for gifts is also published on the Assembly's website and a commission established for determining the value of gifts.

GRECO (2018, 2020) has expressed satisfaction with the Code of Conduct, but also underlined the need for following up on the enforcement of these rules, including sanctioning, as well as the importance of training and guidance. GRECO has also noted that the Rules of Procedure of the Assembly have been amended to clearly stipulate the obligation to respect the Rules of Procedure and the Code, and to organise disciplinary measures and procedure in case of violations of these instruments. Article 63 of the Rules of Procedure provides for disciplinary measures (drawing the deputy's attention; reprimands; exclusion from plenary sittings; exclusion from participating in committee meetings and plenary sittings for 10 days). Members have the right to complain against serious measures applied against them.

The Secretariat for Procedures, Voting and Ethics reviews and decides on requests to take disciplinary measures. The Secretariat is composed of five members, one of which is the secretary and four others are members. The Assembly approves their composition with open voting, based on the proposal of the Speaker after consultations with the chairpersons of the parliamentary groups. The Bureau of the Assembly⁹⁸ examines and decides on appealing disciplinary measures foreseen in these Rules of Procedure and for infringement of the Code of Conduct imposed by the chair of the session or of the committee meeting or by the Secretariat on Procedures, Voting and Ethics.

98 The Bureau of the Assembly is composed of the Speaker, the Deputy Speakers, two secretaries on the budget and four secretaries and is presided over by the Speaker of Assembly. The composition of the Bureau of Assembly must reflect, as much as possible, the political composition of the Assembly. The Speaker of Assembly consults with the chairpersons of the parliamentary groups about the composition of the Bureau of Assembly. The Bureau decides on the budget of the Assembly based on the proposals of the secretaries on the budget; decides on the complaints in the cases of the constitution of the parliamentary groups and the complaints of the parliamentary groups on the composition of the standing committees of the Assembly.

There are still concerns, however, at the implementation of the Code of Conduct as reflected in the following assessment by ISP (2022):

The session monitored was dominated by harsh political rhetoric, derogatory and personalised discourse, bullying of MPs and the diversion of speeches from issues on the agenda into personalised or collective attacks on political rivals. The Code of Conduct was not respected and the disciplinary measures by the Assembly followed double standards, penalising only opposition MPs. The most important leaders of the two political parties were the main bearers of this rhetoric... The Assembly created a new online site, which is still incomplete, in an effort to increase information and transparency. However, no MP was registered in the Conflict of Interest or Gifts Register, there were delays and omissions in the publication of parliamentary documentation, and some parliamentary procedures were neglected or bypassed ... The Assembly must strengthen its mechanisms for monitoring and preventing conflict of interest, as well as implement all the principles of the Code of Conduct, following the same standards in relation to the sanctioning of abusive cases, whilst discouraging insulting and derogatory rhetoric in all instances.

The Code of Conduct states that the Council for Rules, Mandates and Immunities should carry out an assessment of the code of conduct six months before the end of the legislature. The evaluation report is presented to the Assembly in a plenary session and published. The assessment follows a consultative meeting with CSOs and interest groups. Each MP, parliamentary group or standing committee may undertake an initiative to revise and amend the Code based on the issues presented by the report. However, the Parliament has confirmed that such an assessment has yet to be implemented and to date there hasn't been any initiative to amend the Code of Conduct. A future review may wish to consider the question of post-employment restrictions on MPs and a requirement to establish a 'cooling off' period during which former legislators may not become lobbyists or work within the independent institutions.

As part of a review of the code, the Assembly may wish to consider whether it is best placed to carry out investigation and adjudication of serious complaints made against the Code. At present the parliament largely operates a self-regulation system (with the exception of responsibilities to HIDACCI) which means that the institution takes responsibility for disciplinary matters. As Power (2009) notes, a model that relies on politicians regulating themselves is unlikely to retain public credibility.

Other models to consider include hybrid systems (involving a mixture of self and external regulation (as found in the UK and France) and using an external regulator (as found in Serbia). The OSCE Parliamentary Assembly (2006) has recommended that participating States establish an “office of public standards to which complaints about violation of standards by parliamentarians and their staff may be made”. However, one difficulty with external regulation is building ownership and trust among MPs of the ethical regime within the legislature. Hybrid systems, in contrast, combine self-regulation with some elements of external regulation. The United Kingdom has separated the functions of investigation and adjudication through the use of an external commissioner, the Standards Commissioner (see Annex H) and a parliamentary Committee on Standards and Privileges. The Standards Commissioner, who is appointed by the Parliament, receives the complaint, investigates, and reports their findings to the Committee. It is the job of the committee to report to the House and recommend sanctions.

An innovative feature of the Standards Committee is that it includes an equal number of elected members and lay members (members of the Committee on Standards who are not MPs but members of the public) selected to provide an independent element in the standards system. The lay members play a full role and are involved in both disciplinary cases and inquiries related to broader standards matters. They have full voting rights and form part of the quorum. They are recruited through open and fair competition, come from diverse backgrounds, and possess significant external regulatory experience.

The French National Assembly established its first independent *déontologue* – the equivalent of a commissioner for ethical standards in 2011. The commissioner is charged with ensuring adherence to the principles set out in the parliamentary code of ethics and has the mandate to collect and keep MPs’ declarations of interest; advise MPs on the code’s principles; alert the Bureau of the Assembly in case of violations; and prepare an annual report to the Assembly providing recommendations on how to implement the code. He/she may also be tasked with conducting studies on ethics issues (OSCE 2012).

In case of suspected violations of the code, the Commissioner informs both the MP and the president of the Assembly and makes recommendations to address the situation. If the Bureau confirms the breach of the code, the Commissioner makes its findings public and informs the MP who must take all necessary measures to rectify the situation and adhere to the code. The Bureau can, in case of refusal of the MP to address the situation, make this situation public or decide on disciplinary actions such as reprimand, censorship, censorship with temporary exclusion, deprivation of parliamentary allowance (Assemblée Nationale 2015).

The Parliament of Albania has been praised for its commitment to improve professional and ethical standards by establishing new rules surrounding the conduct of parliamentary business. There are several types of unethical political conduct covered by the code. The code must be kept under review as it is likely that standards and expectations about conduct will change in the future and to ensure that any breaches of the code are investigated by a fair procedure and, if necessary, punished. As there are concerns from both parliamentary staff and Members of the PARliament whether the political culture is conducive to consistent implementation, enforcement and evaluation of the Code, the use of an external regulatory body or person, appointed and accountable to Parliament, should be considered. During 2023, parliamentary administration has been working with the local watchdog IDM on drafting integrity plan for parliamentary administration. It is yet to be finalized.

Recommendations

22. *The Parliament must ensure that all information relating to legislative ethics (including on conflict of interest, the Register of lobbyists, interest groups and CSOs and the register for gifts) is published on the Assembly's website and regularly updated.*
23. *The Code of Ethics should be subject to an assessment by the Council for Rules, Mandates and Immunities. This review should consider the question of post-employment restrictions on MPs and a requirement to enforce a 'cooling off' period during which former legislators may not become lobbyists or be employed by the independent institutions, as foreseen by the Law on Conflict of Interest.*
24. *The Parliament must ensure that any breaches of the Code of Conduct are investigated by a fair procedure and, if necessary, punished. To support consistent implementation, enforcement and evaluation of the Code, the use of an external regulatory body or person, appointed and accountable to Parliament, should be considered for investigating breaches of the Code.*

ANNEX A

Tips for MPs: Internal Oversight Tools

1. Participating in Committees

Why should I get involved?

Committee inquiries are one of the most commonly used forms of oversight by MPs, providing an opportunity to consider issues and death away from the cut and thrust of the plenary. Consensus can be achieved and is more likely to be taken seriously by government and partisan interventions. In particular, inquiries could be very influential on government policy.

What do I need?

- effective research and advice from specialists and experts
- understanding of the committee's annual plan of work
- an interest in the subject area of the committee
- up-to-date knowledge of the committee's subject area
- relevant information about the issues affecting your constituents.

How can I be effective in setting the agenda for a committee?

- Ensure that you are adequately prepared for meetings. Committee work is detailed and very time-consuming and there can be a lot of reading ahead of meetings.
- Keep abreast of issues in your subject area through reading additional research.
- Seek to work as a team with all committee members to achieve consensus whenever possible.
- Be ready to contribute to discussions on the choice of subject to enquiries. Suitable subjects might include: a topic currently in the media spotlight; a law or policy area where specific problems have been identified; a matter of particular concern to the chair of committee members; an issue that offers an opportunity to influence government policy.
- The terms of reference will specify the areas the work will cover and will be agreed by the committee. Seek clarity if you are unclear about the scope of the Inquiry and if necessary suggest additions or amendments.

How can I be effective in committee hearings?

- A wide range of people should be invited to provide their views to the committee in writing. Some will be invited to give evidence in person. It is important to hear from ordinary people receiving services as well as experts and service providers. As a committee member, be ready to suggest people or organisations to invite.
- Ensure that the different experiences of people are taken into consideration throughout the inquiry process – for example, those of men and women, children and young adults, older people, and people with disabilities.
- Before hearings, coordinate with the other committee members, so that each member's questions cover different areas and do not repeat each other.

How can I be effective in framing and implementing committee findings?

- Read the draft report of an inquiry and consider whether you wish to suggest any amendments.
- Be prepared to compromise on a final report in order to achieve consensus.
- Take part in the promotion of a finished report through attendance at any press conference and through your use of social media.
- Consider any government response to the committee recommendations.

Be prepared to return to the subject area in future to check on progress.

2. Debates

Why should I get involved?

Debates allow MPs to speak at length on issues. They provide an excellent opportunity to hold the government to account in the public space of the plenary.

What do I need?

- Understanding of the processes used to determine subjects for debate and whether you can influence them.

How can I contribute effectively?

- If possible, submit a request for a debate on a subject of your choice.
- Where forward business is published, review the program regularly to be ready to take part in debates.
- If little notice is given of debates, draft a speech on an issue that concerns you ready for use at short notice.
- Undertake research to ensure that the speech is well-informed, using the parliamentary research service, answers to oral and written questions, previous debates and committee reports.
- Ensure that your speech focuses on a few key issues taking into account any time limit.
- Set out concerns using stories from constituents' experiences and statistics; press the government for information and have clear demands.
- Practise speaking, get comfortable with the parliamentary chamber, ensure you have time to make your demands.
- In some parliaments MPs can intervene to challenge or support other MPs who are speaking. Have detailed information to hand during the debate to use these opportunities to make points.

3. Questions

Why should I get involved?

Questions are one of the most commonly used forms of oversight among MPs. Questions and answers inform the public about work in parliament and put information into the public domain. They can be used to highlight government failures or successes and press government to do more. Successful oversight helps to build the profile of MPs and political parties. All MPs need to demonstrate that they are campaigning hard for their constituents.

- Oral questions are an effective way to raise constituency issues, make political points, seek information, press for government action, highlight campaigns, or seek a meeting with a minister.
- Written questions are useful for seeking detailed information on government action, plans and views. A well-targeted written question can identify areas where government is failing to take any action.
- A number of MPs acting together, whether formally through parties or blocs or informally, can use a series of questions to establish a political narrative or shine a spotlight on an issue. This can be done over time or by focusing a significant number of questions in a plenary session on one issue.

What do I need?

- the parliamentary rules for asking questions;
- relevant research about the subject of your question, including information on government policies, action and statistics, disaggregated by sex;
- case studies from constituents (when raising constituency issues)

How can I contribute effectively?

- Be clear about the purpose of your question.
- Avoid asking questions that have already been asked.
- Undertake research.
- For oral questions, use the time allowed wisely. One focused question is more effective than a longer speech. Asking more than one question at a time, allows the minister to choose the most straightforward question to answer and avoid a more difficult or embarrassing one.
- Prepare supplementary questions carefully to help achieve your objective in asking the question.
- For written questions, be precise and accurate about the information or action that is requested.
- Use question phrases that require the minister to provide a substantial, specific answer. For example: “What discussions has the minister had ...”; “How many...”; “What plans does the minister have ...”; “What assessment has the minister made of ...”; “What estimate has the minister made of ...”; “What is the policy of the minister on ...”.

Source: Global Parliamentary Report 2017, Parliamentary Oversight: Parliament’s power to hold government to account.

ANNEX B

Relationship between the PAC & CAG – PAC of the States of Jersey

There are specific rules which govern the relationship between the Comptroller and Auditor General (CAG) and the Public Accounts Committee. These are –

The PAC may hold private meetings for the purpose of discussing reports by the CAG or when preparing for a public hearing. There will also be other instances when the matter under discussion may concern particularly sensitive material. The decision on whether to hold private or public meetings will be decided by the PAC in conjunction with the CAG.

It is unlikely that the PAC will require expert witnesses as advice will be supplied by the CAG. Meetings will be scheduled in conjunction with the CAG.

The CAG should make two sets of papers available to the PAC as follows –

Reports which would have been published before submission to the PAC; and

Briefings which would be intended to assist the committee in deciding how to approach a matter which had been the subject of a published report. This may, for example, suggest areas of enquiry which the committee might wish to take further or questions that it might wish to ask. Briefings would be confidential.

Premature disclosure of material submitted to the PAC may affect the effectiveness of its work and that of the CAG.

The CAG will discuss reports prior to circulation with the Chair, PAC in order to check any political sensitivities. PAC members will be informed of the publication of a report from the CAG 7 days prior to its publication. Copies of all CAG's reports will be made available to PAC members at the same time as other States members and the media.

All disclosures and Press Releases will be subject to agreement between the CAG and the PAC.

The PAC and the CAG are both independent, answerable only to the States Assembly. The CAG has a statutory duty to liaise with the PAC and will attend all meetings of the PAC. It is essential that the PAC and CAG should work together whilst remembering that neither shall dictate to the other.

The CAG will draw up a programme of work and will consult with the PAC on items to be included.

The CAG will undertake the research and analysis and produce a report containing conclusions and recommendations.

The CAG and the PAC will discuss the reports and decide whether the conclusions are of such public interest that they should be the subject of a public hearing. A report will be published, following the hearing, which includes the comments of the PAC on the report and the findings of the hearing.

ANNEX C

**Germany's Budget
Committee**

The Budget Committee plays a leading role in the drafting of the budget. Although the Rules of Procedure of the German Bundestag do not contain a provision to this effect, the chairpersonship of the Budget Committee is traditionally given to a member of the opposition. This not only reflects the Budget Committee's important status but also serves to underline the significance of Parliament's scrutiny of the Government. The Members of the German Bundestag who sit on the Budget Committee have access to exclusive information and share responsibility for the budget. Through being members of this committee and sharing the same heavy workload, they develop a kind of solidarity which extends across party-political boundaries. In the Budget Committee in particular, deliberations are therefore business-like and characterised by a spirit of cooperation and compromise.

The special status enjoyed by the Budget Committee is further enhanced by the important role played by its subcommittee, the Auditing Committee, which is responsible for the parliamentary scrutiny of budgetary and financial management and in this context cooperates closely with the Federal Audit Office. The purpose of this cooperative structure is to ensure that the relevant findings are continuously introduced into the budgetary process. The Federal Audit Office is not only responsible for examining, on the basis of earlier budgets, whether the administration has managed its finances competently and efficiently, but also monitors and assesses the execution and progress of particular projects, quite often at the instigation of the Budget Committee. The budget procedure as a whole can thus be seen as a circular process involving review, ongoing scrutiny and planning by Parliament, with the findings in one field benefiting all the others.

Through the Budget Committee, the Bundestag is constantly involved in the conduct of the Federation's financial affairs and, of course, also exerts a certain degree of political influence on the decisions involved. This is one of the reasons why budget debates are among the highlights of the parliamentary year. They are not only an occasion for arguments about individual budget items; the entire Government programme in terms of the expenditure involved is generally hotly debated by the Government and the opposition. The Federal Chancellor's budget is particularly likely to trigger a general debate on his or her policy principles, while budgets for important departments – e.g. economics and labour, defence, foreign affairs – prompt public scrutiny of Government policy.

Source: Deutscher Bundestag (2023)

ANNEX D

PAC Principles and Benchmarks

PAC Principles and Benchmarks

A PAC should operate independently of government. PACs should have the power to select issues without government direction. The PAC's independence should be outlined clearly through the provisions of the Standing Orders.

PACs should have an adequate budget to cover their personnel and other operational costs, training and capacity building costs, as well as costs associated with hearings, publication of reports and sourcing external advice.

A PAC needs non-partisan and skilled support staff. At a minimum, a PAC should have a Clerk and research staff.

A PAC should encourage public involvement and media coverage, Committee hearings should be open to the media and the interested public; any exceptions from this rule need to be reasonably justified.

PAC members should have a common understanding and articulation of the PAC's mandate, roles and powers. Members should have a good understanding of how PAC powers should be applied.

A PAC should have access to all records, in whatever form, to be able to scrutinise the executive and perform the necessary oversight of public spending.

A PAC should have the power to summon persons, papers & records, and this power shall extend to witnesses and evidence from the executive branch, including officials.

PACs should provide a summary report of their overall findings and the extent to which their recommendations have been implemented that should lead to a debate in Parliament.

PACs need to ensure that there are robust arrangements in place to follow up their recommendations, including timelines.

Source: CAPAC

No plans to be compliant	Rarely compliant	Plans to be compliant	Mostly compliant	Fully compliant

ANNEX E

Checklist of common corruption risks in draft legislation

I. Coherence of the draft and its interaction with other legislation

1. Faulty reference provisions
2. Faulty delegation provisions
3. Concurrent provisions
4. Gaps

II. Manner of exercising public authority duties

5. Extensive regulatory powers
6. Excessive duties or duties contrary to the status of the public authority
7. Duties set up in a manner that allows waivers and abusive interpretations
8. Parallel duties
9. Regulating an obligation of the public authority by using discretionary formula as “may”, “has the right”, “can”, “is entitled” etc.
10. Exercising duties of setting up rules, controlling their implementation and applying sanctions
11. Non-exhaustive, ambiguous or subjective grounds for a public authority to refuse to act
12. Lack/ambiguity of administrative proceedings
13. Lack of specific terms
14. Unjustified terms
15. Failure to identify the responsible public authority/subject the provision refers to

III. Public interest and manner of exercising rights and obligations

16. Exaggerated costs for provision’s enforcement as compared to the public benefit
17. Promotion of interests contrary to the public interest
18. Infringement of interests contrary to the public interest
19. Excessive requirements for exercise of rights/obligations
20. Unjustified limitation of human rights
21. Discriminatory provisions
22. Provisions establishing unjustified exceptions and waivers
23. Unfeasible provisions

IV. Transparency and access to information

24. Lack/insufficiency of access to information of public interest
25. Lack/insufficiency of transparency in functioning of public authorities
26. Lack/insufficiency of the access to information on the legal act

V. Accountability and responsibility

27. Lack of clear accountability of public authorities for the violation of draft provisions
28. Lack of clear and proportionate sanctions for the violation of draft provisions
29. Mismatch between the violation and sanction
30. Confusion/duplication of types of legal liability for the same violation
31. Non-exhaustive grounds for liability

VI. Control mechanisms

32. Lack/insufficiency of supervision and control mechanisms (hierarchic, internal, public)
33. Lack/insufficiency of mechanisms to challenge decisions and actions of public authorities

VII. Language

34. Ambiguous expression that allows abusive interpretation
35. Use of different terms for same phenomenon or use of the same term for distinct phenomena
36. New terms which are not defined in the legislation or the draft

ANNEX F

Standard structure of corruption proofing expertise report

CORRUPTION PROOFING EXPERT REPORT ON THE DRAFT [name of the draft]

General Evaluation

1. Author of the draft
2. Category of the act
3. Goal of the act

Justification of the Draft

4. Explanatory Memoranda accompanying the draft
5. Sufficiency of the reasoning contained in the Explanatory Memoranda
6. Financial-economic justification

Substantive Evaluation of Corruptibility

5. Establishing and promotion of interests/benefits contrary to the public interest
6. Damages contrary to the public interest which might be inflicted through the enforcement of the act
7. Compatibility of the draft with the provisions of the national legislation
10. Linguistic formulation of the draft
11. Regulation of the activity of the public authorities
12. Detailed analysis of the corruption risks contained in the draft's provisionst

No.	Article of the draft	Text of the draft	Expert's objection	Corruption Risk	Recommendation
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Conclusions

ANNEX G

Post-Legislative Review of the Bribery Act, 2010

In November 2009, the Bribery Bill 2009–10 was introduced in the House of Lords. The purpose of the bill was to reform and update bribery and corruption legislation. This included creating offences for: offering, promising or giving of an advantage (bribing another person) and requesting, accepting or agreeing to receive an advantage (being bribed). Both offences carry the same maximum penalty of ten years imprisonment and/or an unlimited fine for individuals, with offences relating to commercial organisations carrying a maximum penalty of an unlimited fine. In addition to the UK, the jurisdictional scope of these offences covers those which took place either partly or entirely outside the UK, providing that the alleged perpetrator of the offence is a British citizen or considered to have a “close connection” with the UK. This includes citizens of British Overseas Territories and companies incorporated in the UK. Similarly, the act also includes foreign nationals residing in the UK. The bill received royal assent on 8 April 2010. The act came into force on 1 July 2011.

On 17 May 2018, the House of Lords Select Committee on the Bribery Act 2010 was established to conduct a post-legislative review of the legislation. As part of this, the House of Lords recommended that the committee focus on several areas around bribery, including whether the act had led to a “stricter prosecution of corrupt conduct, a higher conviction rate and a reduction in such conduct”. During its review of the act, the committee received written evidence from 108 people and bodies. In addition, the committee held 23 oral evidence sessions, hearing from 52 witnesses.

The committee published its report on 14 March 2019. In its assessment of the act, the committee praised the structure of the act, the offences it created, its deterrent effect, and its interaction with deferred prosecution agreements, are only some of the aspects which have been almost universally praised. However, the committee did express a concern at the “slow pace” of bribery investigations, with a number of witnesses criticising the time it had taken for bribery charges to be brought and cases to reach trial. Consequently, the committee’s recommendations dealt “mainly” with the implementation and enforcement of the act, some of which are summarised below:

- The committee recommended that the Director of the Serious Fraud Office and the Director of Public Prosecutions publish plans outlining how they will speed up investigations into bribery and improve communication with those placed under investigation for bribery offences.
- It contended that a lack of awareness and training in the act may be a “contributing factor” in the lack of bribery prosecutions. Therefore, it called on the Government to provide resources for the City of London Police’s Economic Crime Academy to expand its anti-bribery training programme and to ensure that every police force had at least one senior specialist officer who has undertaken such training.
- In addition, the committee argued that the current requirement for prosecutions to be initiated only with the written consent of one of either the Director of Public Prosecutions, the Director of the Serious Fraud Office, or the Director of Revenue and Customs Prosecutions was “too rigid”.

ANNEX H

**The UK
Parliamentary
Commissioner for
Standards**

The Commissioner:

- Investigates allegations that MPs have broken the Rules of Conduct
- Oversees complaints from the parliamentary community about harassment, bullying or sexual misconduct by MPs
- Reviews the Code of Conduct and makes recommendations to the Committee on Standards
- Keeps the Register of Members' Financial Interests and three other Registers which the House requires

The Commissioner cannot investigate:

- How an MP has responded to your concerns or the standard of service they have provided
- An MP's views or opinions on social media
- How an MP has voted in Parliament or the policies they do or do not support
- What happens in the House of Commons chamber, this is a matter for the Speaker.
- Members of the House of Lords, these complaints should be directed to the Lords Commissioners.
- Complaints about how Ministers carry out their Ministerial duties, the Ministerial Code is separate to the Code of Conduct
- Complaints about MPs' expenses, this is regulated by the Independent Parliamentary Standards Authority (IPSA)
- Data breaches under the GDPR or Data Protection Act 2018, this is a matter for the Information Commissioner's Office (ICO)
- Any criminal offences, which should be reported to the police

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