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MONITORING REPORT

The **Principles** of **Public** **Administration**

ALBANIA

**November
2021**

Monitoring Report

The Principles of Public Administration

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List of abbreviations and acronyms

ADISA	Agency for Delivery of Integrated Services
AGFIS	Albanian Government Financial Information System
ALL	Albanian lek
ASPA	Albanian School of Public Administration
ATRAKO	Albanian Investment Institution
CAP	Code of Administration Procedure
CCCPAR	Cross-cutting Public Administration Reform
CCCPARS	Cross-cutting Public Administration Reform Strategy
CHU	Central Harmonisation Unit
CIT	corporate income tax
CJEU	Court of Justice of the European Union
CoCS	Commissioner for the Oversight of the Civil Service
CoG	centre of government
CoM	Council of Ministers
CPA	Central Procurement Agency
CPPPL	Law on Concessions and Public-Private Partnerships Law
CSL	Civil Service Law
CV	curriculum vitae
DCM	Decision of the Council of Ministers
DDGG	Department for Development and Good Governance
DoPA	Department of Public Administration
DPSHTRR	General Directorate of Road Transport Services
EEEC	European Electronic Communications Code
EI	European integration
eIDAS	Regulation on electronic identification and trust services
EPPS	Electronic Public Procurement System
EPS	e-procurement system (Albania)
EU	European Union
FMC	financial management and control
GAWP	Government/General Annual Work Programme
GRECO	Group of States against Corruption
HIDAACI	High Inspectorate of Declaration and Audit of Assets and Conflict of Interest
HRM	human resource management
HRMIS	Human Resource Management Information System

IA	internal audit
IC	internal control
ICT	Information and communications technology
IIWG	Inter-institutional Working Groups (for European integration)
IMF	International Monetary Fund
INTOSAI	International Organization of Supreme Audit Institutions
IPA	Instrument for Pre-Accession Assistance
IPMG-GGAA	Integrated Policy Management Group of the Good Governance and Public Administration
IPSIS	Integrated Planning System Information System
ISAC	Inter-sectoral Strategy against Corruption
IT	Information technology
LTPD	Long-Term Policy Document on the Delivery of Citizen-Centric Services by Central Government Institutions in Albania
LULUCF	land use, land-use change, and forestry
MBS	Management of the Budgetary System
MEFA	Ministry for European and Foreign Affairs
MEFF	Macroeconomic and fiscal framework Chapter 6 PFM
MEI	Ministry of European Integration
MIPA	Ministry of State for Innovation and Public Administration
MoFE	Ministry of Finance and the Economy
MoH	Ministry of Health
MoJ	Ministry of Justice
MoSRP	Minister of State for Relations with Parliament
MTBF	medium-term budget framework
MTBP	Medium-term Budget Plan/Programme
MTDS	medium-term debt management strategy
NAECCS	National Authority for Electronic Certification and Cyber Security
NAIS	National Agency for Information Society
NBC	National Business Centre
NGO	non-governmental organisation
NPEI	National Plan for European Integration
NSDI	National Strategy for Development and Integration
OPM	Office of the Prime Minister
OECD	Organisation for Economic Co-operation and Development
PAMS	Public Administration Reform Strategy
PAR	Public administration reform
PEFA	public expenditure and financial accountability
PM	Prime Minister

PFM	Public Financial Management
PIFIC	public internal financial control
PPA	Public Procurement Agency
PPC	Public Procurement Commission
PPL	Public Procurement Law
PPP	public-private partnership
PSHRM	Public service and human resource management
RIA	regulatory impact assessment
RoP	rules of procedure
SAI	Supreme Audit Institution
SCEI	State Committee for European Integration
SCPFM	Steering Committee for Public Financial Management
SFPAR	Strategic Framework of Public Administration Reform
SIFQ	Government Financial System
SME	small and medium-sized enterprise
SOE	state-owned enterprise
SSAI	State Supreme Audit Institution (Albania)
TMC	Top Management Corps
TS	Technical Secretariat
TSA	Treasury Single Account
UDGG	Unit for Development and Good Governance
UN	United Nations
UNPAN	United Nations Public Administration Network
VAT	value-added tax
WB	Western Balkans
WeBER	Western Balkans Enabling Project for Civil Society Monitoring of Public Administration Reform
WCAG	Web Content Accessibility Guidelines
WJP	World Justice Project
ZOS	Situation Operational Room (of the Prime Minister of Albania)

Introduction

The Principles of Public Administration and the EU integration path – measuring the fundamentals

The *Principles of Public Administration*¹ set out what good public governance entails in practice and outline the main requirements to be followed by countries during the European Union (EU) integration process. Good public governance is key for achieving economic growth, competitiveness and better quality of life. Democratic governance and the rule of law require capable, accountable and effective public administrations. In its 2014 and 2018 Enlargement Strategies, the European Commission (EC) highlighted public administration reform (PAR) as one of three “fundamentals first” areas of the EU enlargement process: “Addressing reforms in the area of rule of law, fundamental rights and good governance remains the most pressing issue for the Western Balkans. It is also the key benchmark against which the prospects of these countries will be judged by the EU”².

A regional series, with a long-term perspective

This monitoring report assesses the state of play and progress in improving the quality of national public administrations. Given the geostrategic importance of the Western Balkans to the EU, and the ongoing accession negotiations, SIGMA (Support for Improvement in Governance and Management) conducts regular monitoring of the region. In 2017, SIGMA established a baseline in all areas of public administration. In 2019, monitoring was conducted against selected Principles. The full scope is covered again in this 2021 report, which compares performance against the 2017 baseline and regional averages. By analysing the long-term perspective, significant changes are identified.

The assessment period is from July 2017 to July 2021. The data collection period was February-May 2021. The COVID-19 pandemic was at its highest, so in-person meetings were replaced by virtual ones. National experts provided invaluable support during this period in securing the necessary data.

Structured to provide key insights and recommendations to decision makers and detailed performance data to practitioners

The structure of the report mirrors that of the Principles. Each Principle has a dedicated section for its associated indicator(s). A country executive summary and summaries for each of the six thematic areas have been introduced to the 2021 report. The analytical findings and the short- to medium-term recommendations are developed to guide reform efforts and inform the policy dialogue and discussions between the EC and the Government.

SIGMA wishes to thank the Government for its collaboration in providing the necessary administrative data and documentation, as well as for its active engagement during the two rounds of validation to improve the factual accuracy of all the information used. The collaboration with the Regional Cooperation Council on the Balkan Barometer has been excellent. We also thank the experts from EU member countries who contributed to the report. Finally, the support of the EC is, as always, appreciated.

¹ OECD (2017), *The Principles of Public Administration*, OECD, Paris, <http://www.sigmaweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>.

² European Commission (2018), *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, p. 4, [communication-credible-enlargement-perspective-western-balkans_en.pdf](https://ec.europa.eu/eip/wp-content/uploads/2018/05/communication-credible-enlargement-perspective-western-balkans_en.pdf) (europa.eu).

Methodology

Overall approach – focus on implementation and outcomes, analysing a variety of primary data sources against precise criteria and benchmarks for an objective assessment

The *Methodological Framework for the Principles of Public Administration*³ contains a set of standard indicators that SIGMA applies consistently to measure the preconditions and enablers of successful reforms (good laws, policies and procedures, institutional structures, human resources) and the actual implementation of reforms and subsequent outcomes (how the administration performs in practice).

The overall approach recognises that no single measurement method can fully capture the complex issues related to organisational and behavioural change. SIGMA uses information from administrative data, surveys, statistics, interviews, etc., which is cross-checked and triangulated to arrive at a balanced assessment.

Data sources and validation

The main quantitative and qualitative methods applied in the framework are:

- Desk reviews of legislation, regulations, reports (most recent are analysed if adopted before July 2021)
- Interviews (conducted virtually March-May 2021 with 100+ interviewees per administration, including civil society)
- Review of cases and samples of government documentation (most recent are analysed)
- Observations of practice and on-site verification (conducted virtually March-May 2021 with national expert support)
- Analysis of administrative data from public registries and national statistics (most recent when possible, otherwise from 2020)
- Surveys of the population and businesses through the Balkan Barometer (conducted February-March 2021)⁴
- Surveys of 950 contracting authorities across the region (conducted February-April 2021).

Data was collected through SIGMA's tool for data collection, analysis and validation (PAR.IS). More than 10 000 documents were received regionally for analysis. In 2021, hundreds of government officials were provided direct access to SIGMA's detailed working sheets for calculation of numerical sub-indicator values and justifications for fulfilment of each of the criteria, in addition to fact-checking the draft monitoring reports. The monitoring reports only show the overall indicator values, but the detailed criteria-level analysis will be accessible in 2022 through a public portal.

Indicator values reflect the level of maturity and preparedness of administrations – from 0 to 5

The indicator values provide an indication of the administrative capacity and overall performance of national public administrations. This provides an indication of the capability to effectively implement the EU *acquis* and participate in the policy-making processes of the EU.

The point allocation is constructed so that a country can only receive an overall value of 2 on the basis of the quality of its legislative and regulatory framework; a value of 3 cannot be achieved without showing that implementation of key processes is happening in practice; and in order to obtain a value of 4, the country needs to show a consistent achievement of relevant outcomes. The value of 5 is reserved for outstanding performance and full compliance with the Principles and the standards for good public governance.

³ OECD (2019), *The Methodological Framework of the Principles of Public Administration*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-May-2019.pdf>.

⁴ Regional Cooperation Council, <https://www.rcc.int/balkanbarometer/home>.

In 2021, averages of the indicator values have also been calculated for each of the six thematic areas of the Principles of Public Administration. This enables comparison of overall trends across the whole administration, over time, and across the region, as shown in the indicator comparison charts:

- 1) Strategic framework of public administration reform
- 2) Policy development and co-ordination
- 3) Public service and human resource management
- 4) Accountability
- 5) Service delivery
- 6) Public financial management.

Understanding how the indicator values are calculated

Across the six thematic areas, the framework is composed of 48 Principles. Each Principle has one or two indicators. There are 52 indicators in total, with 340 sub-indicators and 1 000 individual criteria. Indicator values are presented at the top of the overview tables, on a scale from 0 (lowest) to 5 (highest). The indicator value is based on the total number of points received for the sub-indicators. The point conversion tables are accessible in the Methodological Framework. A three-digit reference number precedes the titles of the indicators: the first number refers to the area, the second to the Principle and the third shows whether this is the first or second indicator belonging to that Principle.

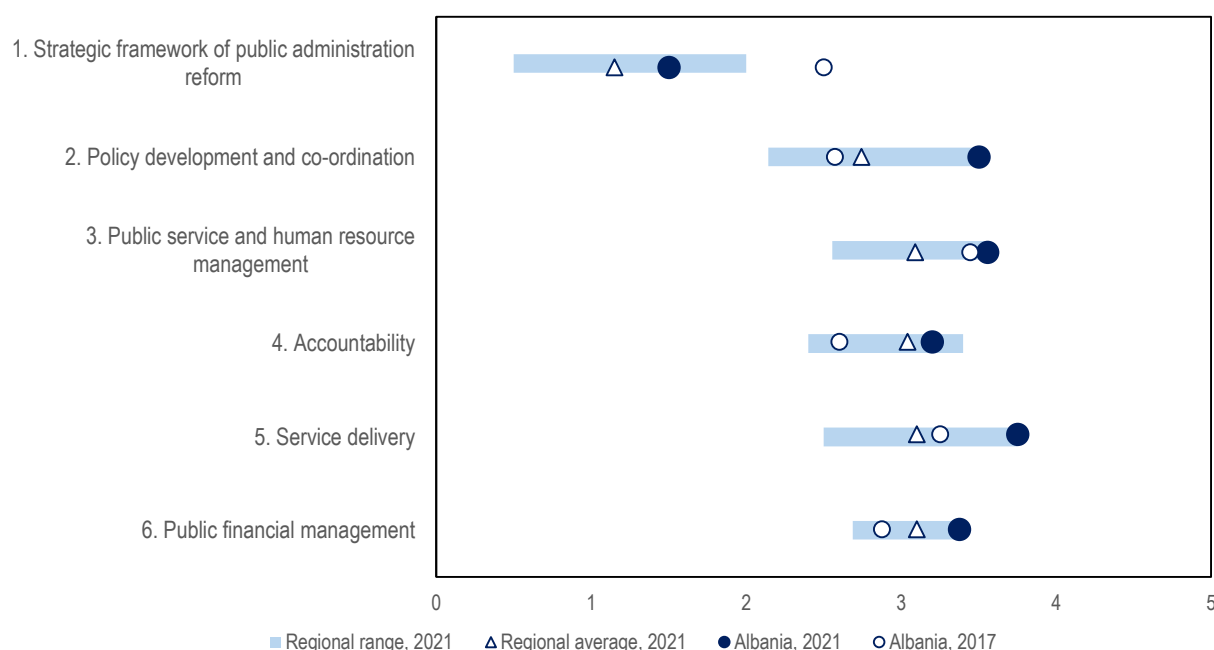
If the required information to assess a sub-indicator is not available or is not provided by the administration, 0 points are awarded. All data requested is needed for a well-functioning public administration and SIGMA does not estimate performance in the absence of credible evidence.

Executive summary

Despite many challenges that the 2019 earthquake and COVID-19 pandemic created, over the past years Albania has made slow but steady progress in implementing important reforms in different areas of public administration. Compared to 2017, the values of five out of six key area indicators have increased. In 2021, Albania has performed the strongest compared to its neighbours in the Western Balkans region, recording higher than the regional average values for the six key area indicators. Notwithstanding this relatively strong performance and progress, weaknesses and challenges remain which call for a more co-ordinated and purposeful planning and implementation of reforms to fill in the gaps in the regulatory and methodological frameworks, strengthen capacities and ensure better and more consistent application of existing tools and procedures.

The new EU Enlargement methodology (May 2021) puts a stronger focus on fundamental reforms, including the rule of law, functioning of democratic institutions and public administration reform (PAR). Further progress in key PAR areas, including European integration (EI) planning and co-ordination, can help Albania be ready for the next, more challenging phase of the EU integration process.

Compared to 2017, Albania has made solid progress in most areas, positioning itself as the lead performer in the Western Balkans region across all key areas



Extension of the strategic framework of PAR ensured continuity of reforms

Albania has extended the validity periods of all five strategies included in its PAR strategic framework, providing clarity, direction and continuity of reforms in all key areas until 2022-2023. However, the process of extension of the relevant action plans was not used to review, and potentially revise, the levels of ambition and targets of the reform objectives to achieve better and stronger results. Furthermore, the weaknesses and gaps in the monitoring and co-ordination mechanisms of the selected strategies have negatively affected the overall co-ordination and pace of reforms. A monitoring and co-ordination mechanism for PAR exists formally, but it is somewhat fragmented and does not function effectively for all strategies. It also lacks adequate political-level leadership and does not ensure systematic involvement of external stakeholders in monitoring the reform implementation.

Improvements in evidence-based policy making and the launch of a digital planning tool

Some tangible progress in selected areas of policy development and co-ordination has been observed, resulting in improvement in the overall performance in policy making compared to 2017. Regulatory Impact Assessment (RIA) was fully institutionalised in 2019, but its scope covers only primary legislation. A new information technology (IT) system for government planning and monitoring was launched in 2021, marking an important milestone in the Government's ambitious plan to establish a fully harmonised and integrated electronic planning and monitoring system. The full benefits of this new system, however, have yet to materialise, as there are still gaps in key regulations and guidance. Further strengthening of the Office of the Prime Minister, as the key centre- of- government institution, can help improve oversight and support for key functions, ensure consistent quality checks and strengthen policy co-ordination.

The civil service system is showing strong maturity, stability and resilience

Despite the new pressures and challenges caused by the COVID-19 pandemic, slow but steady progress has been observed in the Human Resource Management Information System (HRMIS), standardisation of job descriptions and implementation of court decisions favourable to dismissed civil servants. A smooth introduction of on-line recruitment of the civil service demonstrates the maturity and stability of the Albanian system. Co-ordination by the central human resource management (HRM) body has also strengthened, while the increased collaboration among key actors has led to innovative solutions such as the creation of the central online platform (administrata.al). At the same time, the implementation of salary reform to strengthen the attractiveness of the public sector has been slow, and management of senior civil servants has deteriorated.

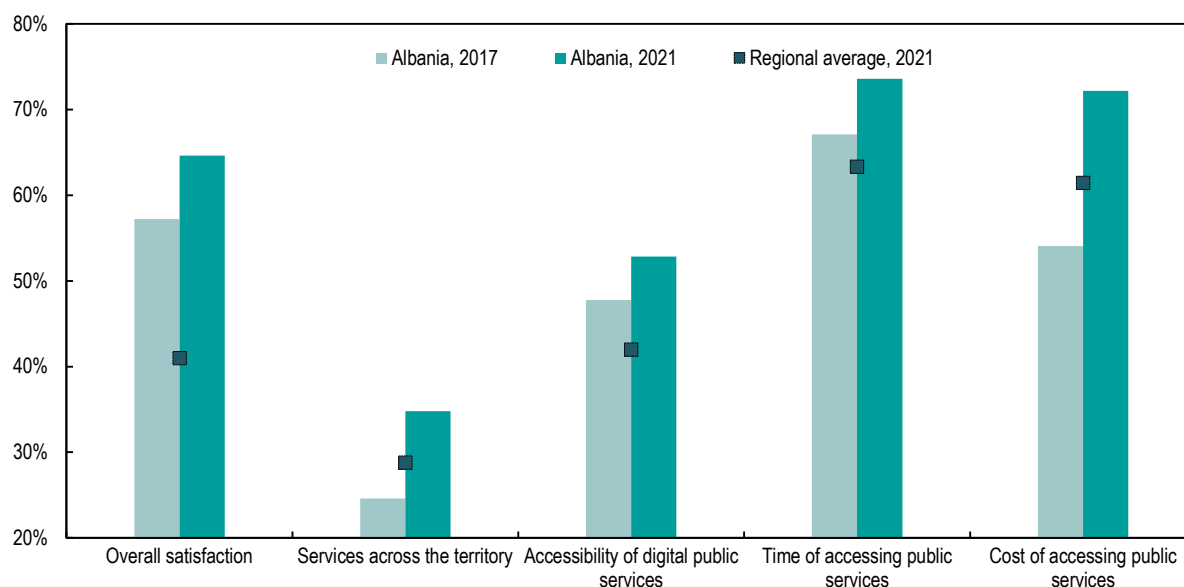
Reforms in agency restructuring have revealed systemic weaknesses and risks

Albania remains a solid regional performer in the area of accountability, but the unsuccessful initiative launched in 2018 to restructure the public-sector agencies has revealed bigger and more structural problems, particularly in the area of central policy and organisation of the public administration. Micromanagement and limited empowerment of senior civil servants persist within ministries, while their active, result-oriented steering of the subordinated agencies is absent. Weaknesses and gaps exist in the mandates of the Data Protection Commissioner and the People's Advocate. The latter remains the most trusted institution, but its recommendations are not widely implemented. Judicial review of administrative decisions is accessible at the first-instance courts, but severe backlogs exist at the appeal courts.

At the forefront of (digital) service delivery in the Western Balkans region

Building on its solid and stable policy framework and having in place a set of key (digital) enablers, Albania has managed to maintain its leading position in the region in the area of service delivery and digital transformation. Despite some shortcomings and gaps in some services, the overall satisfaction rates among citizens and businesses have been increasing, confirming the effectiveness of the policy and reforms of recent years. About 95% of administrative services are available online. This has proven to be an asset during the COVID-19 pandemic. Harmonisation of special laws with the Code of Administrative Procedures on the other hand has been slow, while the full benefits of implementing the 'once-only principle' have not yet materialised. The use of quality management tools in the state administration remains sporadic, and further efforts are needed to embed a user-centric service delivery culture with continuous improvement.

Albania's efforts to increase accessibility and quality of service delivery have resulted in increased overall satisfaction of citizens and businesses



Note: The average share of citizens who answered “mostly satisfied” or “completely satisfied” to the statements: “Could you please tell how satisfied you are with each of the following in your place of living?” in relation to: “Administrative services from central government (such as passports and personal identification [ID])”, “Accessibility to public services” and “Accessibility to public services via a digital channel”. The average share of citizens who answered “good”, “very good” and “excellent” to the following question: “How would you grade the following issues?” in relation to: “Time required to obtain public services” and “Price of public services”. *Only those respondents who have been in contact with central government services in the past year are included.

Source: Regional Cooperation Council, Balkan Barometer Public Opinion database (<https://www.rcc.int/balkanbarometer>).

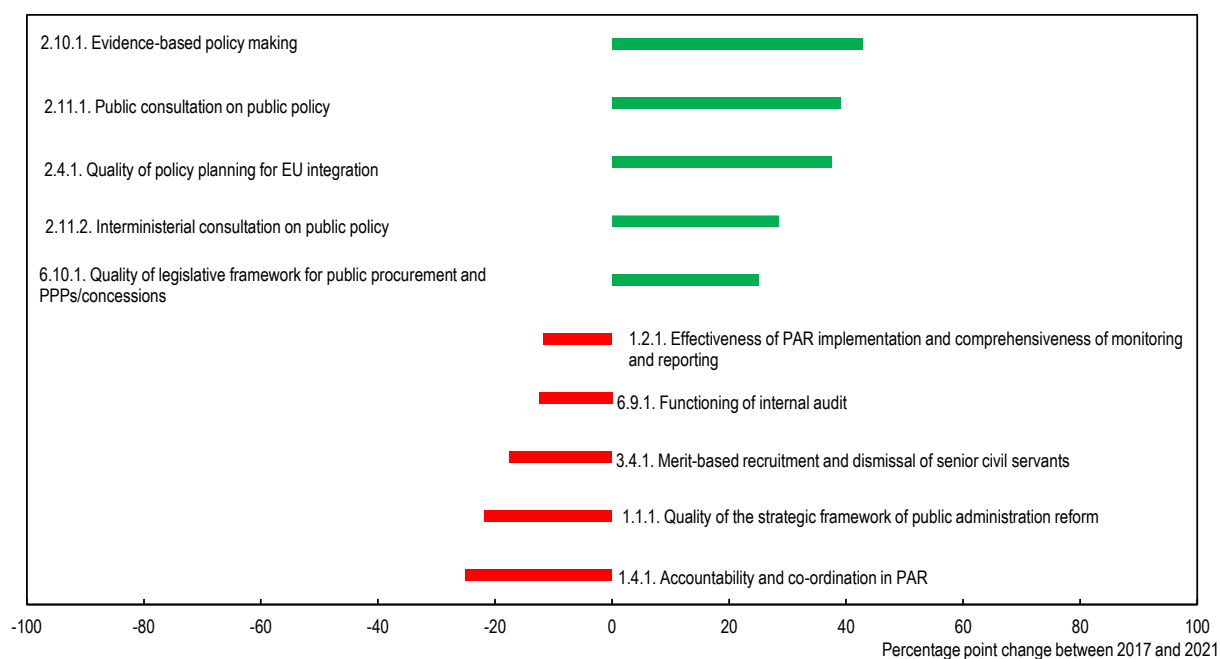
A solid foundation for managing public finance, improvements in public procurement legislation, but continued weaknesses in internal control and audit

Overall, the fiscal performance in Albania has been stable and public debt is adequately managed. The medium-term budget process and planning is fully established, but it could be further improved by strengthening the stability of sectoral ceilings in the medium-term. A complete legal and operational framework for internal control (IC) and internal audit (IA) is also established, but implementation lags behind. Similarly, the State Supreme Audit Institution (SSAI) 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 and audit quality. The absence of sustained and structured engagement by the Parliament to support the work of the SSAI is the biggest impediment. The adoption of the new Public Procurement Law in December 2020 and the Defence and Security Procurement Law in April 2020 were important milestones in the harmonisation of the legislation with the EU *acquis*. The performance of the Public Procurement Commission (PPC) has significantly improved. A new e–appeals system has been successfully launched. The size of the procurement market in terms of value of contracts has increased. Competition in public procurement, measured in terms of an average number of bids, remains low.

The way forward for PAR:

- Albania should develop a new and more ambitious PAR strategic framework for the next period, in an inclusive manner and with more streamlined monitoring and co-ordination mechanisms that can ensure more regular political-level leadership and stronger implementation results.
- Advancing faster with the reform of the civil service salary system will help attract more candidates, increase motivation and help enhance capacities of ministries to perform more successfully and deliver better policy outcomes.
- Further empowerment of line ministries, increasing their role in sectoral resource allocation and financial planning, and enhancing managerial accountability in general should remain priorities for reforms.

Major improvements in selected policy-making and public procurement indicators; weaker performance in the PAR quality and co-ordination, internal audit and merit-based recruitment of senior civil servants areas



Strategic Framework of Public Administration Reform

The Principles of Public Administration

Strategic Framework of Public Administration Reform

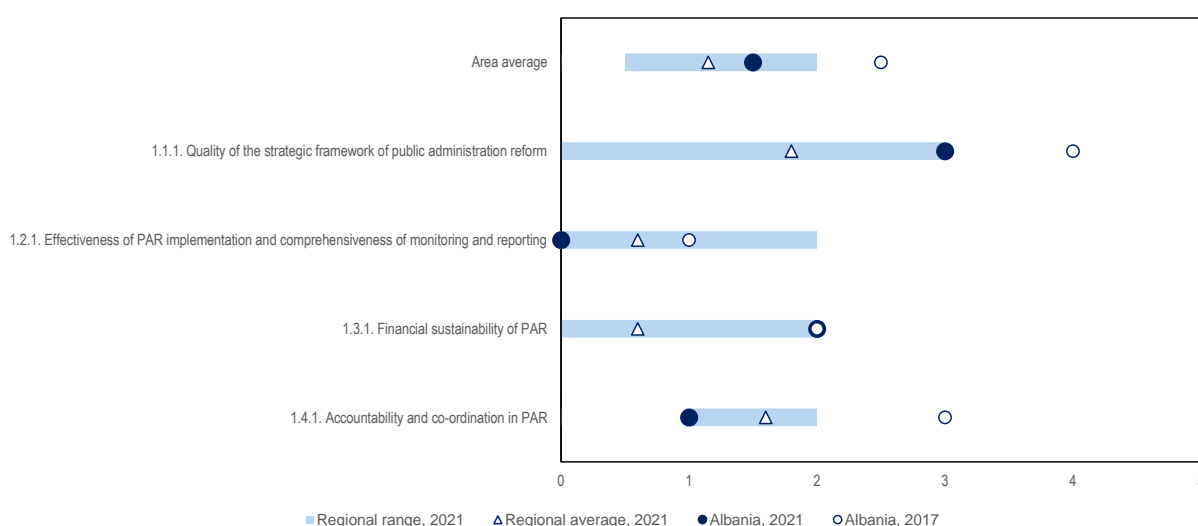
Principle 1	The government has developed and enacted an effective public administration reform agenda which addresses key challenges.
Principle 2	Public administration reform is purposefully implemented; reform outcome targets are set and regularly monitored.
Principle 3	The financial sustainability of public administration reform is ensured.
Principle 4	Public administration reform has robust and functioning management and co-ordination structures at both the political and administrative levels to steer the reform design and implementation process.

Strategic Framework of Public Administration Reform

Summary and recommendations

Since 2015, Albania has been implementing a comprehensive strategic framework of public administration reform (SFPAR), based on five strategic documents: the Cross-cutting PAR Strategy, the Public Financial Management Strategy (PFM Strategy), the Decentralisation Strategy, the Anti-corruption Strategy and the Digital Albania Strategy. The overall average value of SFPAR indicators is 1.5, which is higher than the regional average (1.2) but lower than the result in 2017 (2.5). The weaker performance in the 2021 assessment is largely due to additional weaknesses and gaps identified in the quality and development of selected strategies in the SFPAR.

Despite being above the regional average, the overall area indicator value lowered compared to 2017, due to weaknesses and gaps identified in selected strategies.



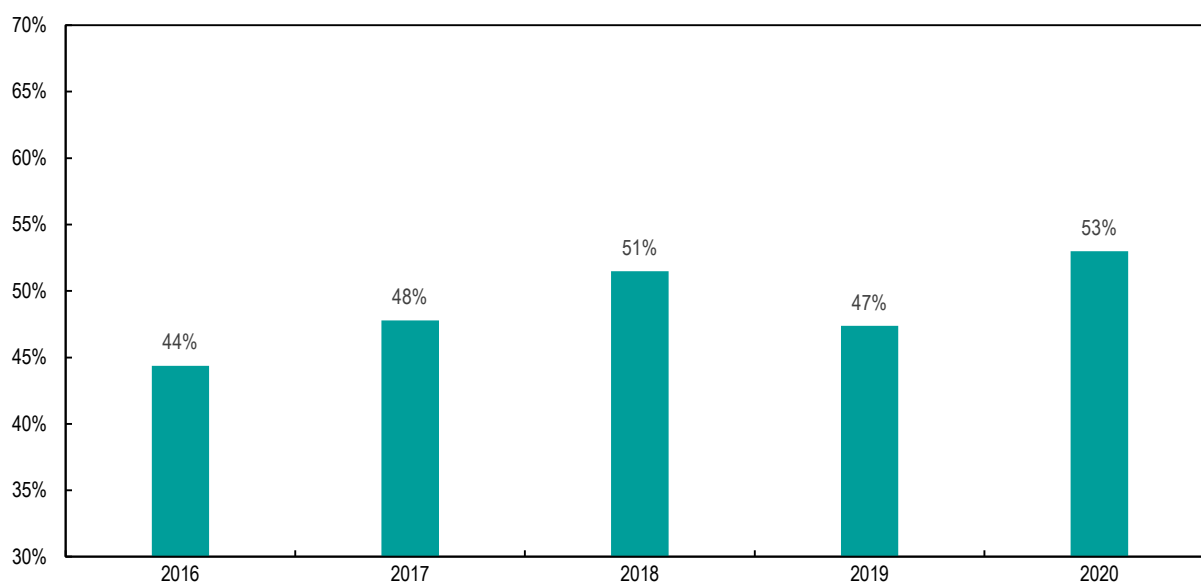
Albania has ensured the validity of its SFPAR by extending the lifetime of the strategies from 2020 until 2022-23. Albania and the Republic of North Macedonia are the only two countries in the region to have valid and complete strategic planning documents covering all key areas of PAR (as of June 2021). The quality of the strategic framework, however, has deteriorated since 2017, because of weaknesses in the quality of selected strategies, their performance monitoring frameworks, and the process of extending their period of validity beyond 2020. The prioritisation of PAR and its coherence with other planning documents is also worse than in 2017, as is the degree to which measures in the latest action plans of certain strategies are oriented toward reform.

A valid strategic framework of PAR has been secured through extensions of the key strategies until 2022-2023



Effectiveness of implementation of reforms and comprehensiveness of the monitoring and reporting frameworks is assessed as weak. The pace of reform, as assessed by the level of implemented activities in recent years, has been slow. On average, only about half of the annually planned measures were implemented each year across all five strategic documents in the period from 2016-2020. In general, annual monitoring reports for some of the strategies have not been prepared and published regularly and early enough after the end of the reporting year to ensure effective monitoring. Additionally, the fragmented nature of the SFPAR, which covers five strategies, creates challenges for the overall co-ordination and monitoring of reforms in all areas.

Implementation rate of PAR activities



Source: SIGMA analysis, based on data and information available in officially published reports and information shared with SIGMA during the 2017 and 2021 monitoring assessments (as of June 2021). Full implementation results for 2020 were not available for two strategies, hence those are not included in the calculation.

Financial sustainability of PAR has been assessed not to have changed since 2017, despite a slight improvement in the assessment of the actual funding of PAR, as measured by a review of available funds planned for the most expensive PAR activities. Quality of costing, however, remains weak across all

strategies, since the full information is not available. No systematic monitoring and review of the overall financial gap for PAR has been conducted that could explain the delays and low implementation rate.

Organisational and management structures for PAR have been formally established, but they have not been functioning fully and consistently in every area. The political-level bodies, in particular, have not been meeting regularly and frequently enough to guide and steer the overall reform agenda. In fact, **no political-level discussion of PAR agenda issues took place in 2020**. Accountability and co-ordination of PAR is thus assessed to have deteriorated since 2017. The COVID-19 pandemic and the 2019 November earthquake may have created additional challenges for the administration in ensuring the smooth and continuous functioning of the PAR mechanisms. Nevertheless, the lack of regular discussions on PAR at the political level is an issue to be addressed.

Engagement of external stakeholders in monitoring and consulting on the PAR agenda through the formal co-ordination structures has been limited. Non-state actors are mainly consulted in writing, as the relevant documents and reports are being prepared. Their involvement and participation in various monitoring structures has been limited, reducing openness and accountability.

Short-term recommendations (1-2 years)

- 1) The Government should ensure more regular discussions and meetings of all political and administrative-level structures responsible for monitoring and co-ordination of PAR across all five strategies included in SFPAR. External stakeholders and non-government organisations should be involved in the monitoring of PAR more regularly and systematically.
- 2) The Government should review the effectiveness of the current model and the structures for monitoring PAR strategies at the administrative level, with a view to consolidating and streamlining the system, in order to reduce fragmentation and improve co-ordination.
- 3) The Ministry of Justice, the Ministry of Internal Affairs, the Ministry of Finance and Economy and the National Agency for Information Society (NAIS), the Department for Public Administration (DoPA) and other institutions responsible should ensure that all required monitoring reports are prepared and published on time, as required by the relevant performance measurement frameworks. Annual monitoring reports should be prepared and published in the first quarter, after the end of the reporting year.
- 4) The institutions involved in SFPAR should complete the gaps that exist in the performance indicator frameworks, including finalising the outcome-level indicators and targets, to be able to measure progress towards the reform objectives. Monitoring data and information should be used to help develop a new, improved indicator framework for the next PAR strategic framework.
- 5) The Office of the Prime Minister (OPM), with the cabinet of the minister responsible for PAR, should consider developing a central government website to provide regular and up-to-date information on the Government's SFPAR, and on its implementation and monitoring.
- 6) The designated Minister responsible for PAR, with other relevant ministries and agencies, should initiate a consultative process for developing a new PAR strategic framework based on the priorities and reform ambitions of the new Government, to cover the period beyond 2022.


Medium-term recommendations (3-5 years)

- 7) The Ministry of Finance and Economy, the OPM and other relevant institutions should ensure that the costing of PAR strategies is consistently and adequately carried out to improve PAR monitoring and implementation. Costing of all strategies included in the new SFPAR should be based on the same methodology, to allow for effective monitoring and improved financial sustainability of reforms.

Analysis

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

Overall, the value for the indicator 'Quality of the strategic framework of public administration reform' is 3. This is lower than in 2017, when the same indicator was given a value of 4. The main reasons for the lower assessment are the weaknesses and shortcomings identified in the quality of some of the PAR planning documents, including their lack of coherence and alignment with other government planning documents, their weaker reform orientation and gaps in the performance measurement framework of selected strategies, which affected the overall score.

Indicator 1.1.1 - Quality of the strategic framework of public administration reform						
This indicator measures the quality of the strategy for public administration reform (PAR) and related planning documents (i.e. to what extent the information provided is comprehensive, consistent and complete), including the relevance of planned reforms.						
A separate indicator (1.1.3) measures financial sustainability and cost estimates in detail.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
	Points 2021	Change from 2017				
1. Coverage and scope of PAR planning documents	5/5	=				
2. Prioritisation of PAR in key horizontal planning documents	0/2	=				
3. Coherence of PAR planning documents	0/4	-2				
4. Presence of minimum content of PAR planning documents	5/7	=				
5. Reform orientation of PAR planning documents (%)	1/3	-2				
6. Quality of consultations related to PAR planning documents	1/2*	-1				
Total	12/23	-5				

Note: *Data not available or provided.

Albania's PAR strategic framework includes five separate strategies, dealing with different reform and policy areas. In addition to the two main strategies, the Cross-cutting PAR Strategy (PAR Strategy) and the Albania Public Finance Management strategy (PFM Strategy)⁵, three additional cross-cutting strategies complement the PAR reform agenda, focusing on digital transformation⁶, decentralisation⁷ and anti-corruption⁸.

The original periods of validity of all PAR strategic documents were due to expire in 2020. To ensure continuity of the reform agenda, the Government decided to extend the validity periods of all the strategies. This was mainly done by adopting new action plans for the PAR Strategy, the Cross-cutting Strategy Digital Agenda of Albania (Digital Agenda Strategy), the National Cross-cutting Strategy for Decentralisation and Local Governance (Decentralisation Strategy) and the Inter-sectoral Strategy Against Corruption (Anti-corruption Strategy). The periods of validity of these four strategies were

⁵ Cross-cutting Public Administration Reform Strategy 2015-2020, decision of the Council of Ministers No. 319, April 2015 and decision No. 697, 30 October 2019 (extending the implementation period until 2022); and Albania Public Finance Management Strategy 2019-2022, decision of the Cabinet of Ministers No. 824, 18 December 2019.

⁶ Cross-cutting Strategy Digital Agenda of Albania 2015-2020, decision of the Cabinet of Ministers No. 284, April 2015, Official Gazette No. 56.

⁷ National Cross-cutting Strategy for Decentralisation and Local Governance 2015-2020, decision of the Council of Ministers No. 691, 29 July 2015.

⁸ Intersectoral Strategy Against Corruption 2015-2020, decision of the Cabinet of Ministers No. 247, March 2015.

extended without revising the strategy documents and performance measurement frameworks. Only the PFM Strategy was formally revised, with a new action plan adopted in 2019.

Table 1. Period of validity of PAR agenda strategies

	Year of adoption	Original expiration date	Revised expiration date
PAR Strategy	2015	2020	2022
PFM Strategy	2014 (2019 revised)	2020	2022
Anti-corruption Strategy	2015	2020	2023
Decentralisation Strategy	2015	2020	2022
Digital Albania Strategy	2015	2020	2022

Source: PAR strategic planning documents and the information provided during the assessment.

The five PAR planning documents comprehensively cover all substance areas⁹. However, the acknowledgement of PAR as a priority in key Government planning documents is limited. PAR as a priority features adequately only in the National Plan for European Integration (NPEI) 2021-2023. The Government Programme 2017-2021 only briefly references the PFM and service delivery area reforms. The most recent National Strategy for Development and Integration (NSDI) 2015-2020, which covered all PAR areas comprehensively, formally expired in 2020. It was thus not taken into consideration in the assessment¹⁰.

PAR planning documents are not fully coherent with one another. While there are no clear contradictions between PAR planning documents, several inconsistencies were identified in some of them. These inconsistencies mostly relate to missing objectives, either in the strategy or the respective action plan¹¹. This may be a consequence of adopting new action plans without properly revising and updating the main PAR strategic documents. This has affected the overall scoring of the relevant sub-indicator.

Discrepancies were also found between PAR planning documents and the Government's legislative plan. Of a total of ten planned legislative measures included in PAR documents for adoption in 2021, only five were found to have been included in the 2021 Analytical Programme of Government (legislative plan of government), suggesting an alignment of only 50% with the legislative plan¹².

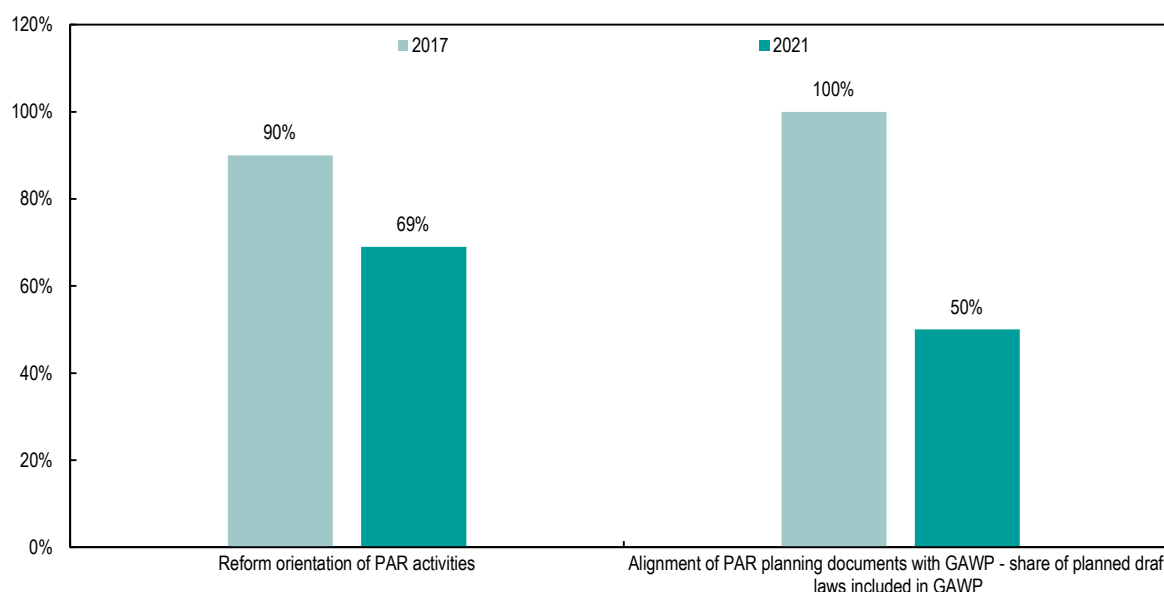
⁹ According to *The Principles of Public Administration* (2017), five key areas are: policy development and co-ordination, public service and human resource management, accountability, service delivery and public financial management.

¹⁰ The administration has started to draft a new NSDI, covering a period of up to 2028. However, the process is not yet finalised.

¹¹ For example: the Digital Albania Strategy has two objectives. "Development of Electronic Governance (e-Governance), intending to improve the e-governance index by 5 points (places)" and "Minimisation of digital differences between regions and cities through 70% increase of internet access and 30% improvement of life quality" are included in the strategy, but are not included in the action plan. The objectives "Development of fast and very fast electronic communications infrastructure" and "Creating a digital single market/Creating a regional area without roaming" are in the action plan, but not in the Strategy. Decentralisation Strategy has a different set of objectives from the action plan – "European Integration and Local Governance" is not included in the action plan.

¹² The following draft laws were not found in the 2021 legislative plan: Preparation and revision of the Law on Local Self-Government; Finance (PFM); Legal framework on PPP and Concession adopted (PFM); Drafting a special legal framework (for the capital city) (CCSDEC); Changing the legal framework to reflect the increase in the share of local self-government units from mineral rent (CCSDEC); Improving the legal and regulatory framework for conditional grant financing of local functions or capital projects in strategic sectors for local self-government units (CCSDEC).

Figure 1. Reform orientation of PAR measures and their alignment with the Government Annual Work Plan (GAWP) / Analytical Programme of Government



Source: Calculated based on the SIGMA monitoring assessment methodology and using publicly available data and information provided by the administration.

All PAR planning documents include an analysis of the situation and existing problems and adequately discuss the objectives and activities of planned reforms. Monitoring frameworks are defined separately for each PAR planning document, usually in a specific chapter in the main strategy document. The major shortcoming of most strategies is in the area of performance measurement and indicators. The Digital Albania Strategy, in particular, has a set of performance indicators, but they are not linked to the policy objectives and do not have specific targets¹³. The Ministry of Justice specified a clear set of indicators and defined targets for the Anti-corruption Strategy only in 2018, an improvement on the 2017 assessment. PAR Strategy indicator targets were set for 2017-2020 but have not been revised or provided for the extended period until 2022. Indicator passports are generally developed after the adoption of PAR planning documents, in some cases after a two- to three-year delay. There is no evidence to support their formal approval or publication¹⁴.

The reform orientation of PAR measures is assessed at 69%, lower than in 2017, when 90% of activities were assessed to be reform-oriented. The Anti-corruption Strategy is assessed as being the least reform-oriented of the five PAR planning documents. Nearly half of its measures are assessed to be activities that are not likely to yield systemic change or improvements¹⁵.

Non-state actors were involved and consulted while developing the new action plans and the new PFM Strategy. Drafts of all the strategies were published on the centralized Electronic Register for Public Notices and Consultations for a period of two weeks. Evidence was also provided showing the involvement of non-state actors in the meetings of working groups or face-to-face drafting consultations of all PAR

¹³ During the October 2021 fact-checking consultation, SIGMA was asked to note that the Digital Albania 2015-2020 Strategy was prepared and monitored by the Minister of State for Innovation and Public Administration in 2014-2015. NAIS became the lead institution responsible for monitoring and co-ordination of reforms only in 2018. Considering the rapid technological advancements in this area and acknowledging the fact that the Digital Albania Strategy has become somewhat outdated in 2018, it was decided by the administration to start working on a new digital reform agenda by developing a new action plan, instead of updating the old one.

¹⁴ Only the Ministry of Justice provided evidence that indicator targets for the Anti-corruption Strategy were formally extended until 2023 and approved by the Decision of the Council of Ministers, No. 516, 1 July 2020.

¹⁵ The assessment was based on the information provided in the relevant planning document, following the SIGMA monitoring assessment methodology and process.


planning documents, except the Digital Albania Strategy. Although public consultations take place for all PAR areas, non-governmental representatives have raised the concern that the government institutions provide no feedback on the recommendations and suggestions they submit in public consultations¹⁶.

Conclusion

The scope and validity of the overall PAR strategic framework has been secured with the extensions of the expiration periods of all five PAR planning documents from 2020 to 2022/2023. PAR is not equally and sufficiently prioritised in all key Government planning documents. The quality and content of the PAR agenda is generally adequate and complete, but inconsistencies and gaps remain, particularly in the area of performance indicators and targets. Representatives of civil society organisations were consulted in the preparation and extension of the PAR planning documents through participation in meetings of the relevant working bodies, except on the digital service area. External consultation on the new action plan of the Digital Albania was conducted only electronically.

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

Overall, the value for the indicator 'Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting' is 0. The indicator value is lower than in 2017, when the value was set at 1. The main reason is the fact that for some PAR strategies, regular official monitoring reports, containing complete information on implementation results, including progress on achieving the objectives, are not prepared and published consistently and in a timely manner.

Indicator 1.2.1 - Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting						
This indicator measures the track record of implementation of PAR and the degree to which the goals were reached. It also assesses the systems for monitoring and reporting of PAR.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Comprehensiveness of PAR reporting and monitoring systems				1/7*	-2	
2. Implementation rate of PAR activities (%)				1/4	=	
3. Fulfilment of PAR objectives (%)				0/4*	=	
Total				2/15	-2	

Note: *Data not available or provided.

The PAR monitoring and reporting framework is formally established, and the roles of institutions are defined for all five PAR strategic documents. However, the practical application and use of the mechanism and monitoring is not ensured consistently and fully in all areas. For two out of five strategies, full official information on the implementation of PAR activities for the main assessment year of 2020 was not available and there was no evidence of their approval, which has affected the overall assessment and scoring of this indicator¹⁷.

¹⁶ Based on feedback from a consultative meeting of SIGMA experts with selected non-governmental organisations of Albania in March 2021.

¹⁷ As of the cut-off date of the current assessment, 30 June 2021, official annual monitoring reports with detailed activity lists for 2020 were not available for the Digital Albania and Decentralisation Strategies. It was thus not possible to confirm the implementation rates for those strategies. The Anti-corruption Strategy was published https://drejtesia.gov.al/wp-content/uploads/2021/04/2.-Raporti-i-monitorimit-SNKK-Janar-Dhjetor-2020_EN.pdf.

Annual monitoring reports on implementation of the PAR Strategy and Anti-corruption Strategy are regularly prepared and published on the website of the Department of Public Administration and the Ministry of Justice¹⁸. In general, PAR progress reports are not prepared and published regularly and on time for all five strategies, as provided for in the respective monitoring frameworks for most of the strategies. For example, the Digital Albania Strategy annual implementation reports are drafted and published at irregular intervals and do not provide information on achievement of indicators¹⁹. It also lacks a robust performance measurement framework, an issue that was raised in the 2017 assessment. The PAR Strategy monitoring framework calls for publication of semi-annual monitoring reports, but only annual reports are being prepared and published. The first annual Decentralisation Strategy implementation report was only drafted in 2021, five years after the adoption of the strategy, and there was no evidence it had been approved at the time of completion of this assessment.

It is not possible to assess fully the extent of implementation of PAR activities in line with the assessment methodology. First, as noted above, formally approved monitoring reports for some strategies were not available at the time of the assessment. Second, detailed official information about the annually planned and fully implemented activities were not available for two strategies, the Digital Albania and Decentralisation strategies. Furthermore, the 2020 annual implementation results for the Digital Albania Strategy were prepared based on the old action plan²⁰. Based on the available information, the implementation rate of the other three strategies was above 53% (Table 2).

Table 2. Estimated 2020 implementation rate of PAR activities

	2020 planned measures	2020 implemented activities	Implementation rate*
PAR Strategic Framework (total)	243	130	53%
PAR Strategy	35	19	54%
PFM Strategy	132	98	74%
Anti-corruption Strategy	25	13	52%
Decentralisation Strategy*	29	0*	0%*
Digital Albania Strategy*	22	0*	0%*

Source: SIGMA calculation, based on the available data, officially published reports and information shared with SIGMA during the 2017 and 2021 monitoring assessments (as of June 2021).

Note: Calculation of the 2020 implementation rate does not include the actual implementation results from the Digital Albania and Decentralisation strategies, because full official implementation results were not available as of the end of June 2021.

Unfortunately, it was not possible to estimate the overall level of fulfilment of PAR objectives in line with the assessment methodology because of the absence of the required official data and information and official reports. Additionally, published reports of some of the PAR strategies did not contain information about the progress towards achievement of objective-level indicators. In the case of the Digital Albania

¹⁸ DoPA website:

<http://dap.gov.al/publikime/dokumenta-strategjik/64-strategjia-ndersektoriale-e-reformes-ne-administraten-publike-2015-2020>; Ministry of Justice's website: <http://drejtesia.gov.al/raporte-monitorimi/>.

¹⁹ Only a quarterly report was prepared for 2019, and the 2020 annual report was not finalised and approved as of the cut-off date of this assessment (June 2021). The 2020 implementation results for the Digital Albania Strategy are based on the old Action Plan. During the final fact-checking consultation in October 2021, SIGMA was informed that the 2019 and 2020 annual reports on the Digital Albania Strategy were published. However, the publication date on the cover of the 2020 report is December 2020, before the end of the actual reporting year: https://akshi.gov.al/wp-content/uploads/2021/06/raport-monitorimi_AD_dhjetor20.pdf; https://akshi.gov.al/wp-content/uploads/2021/06/raport-monitorimi_AD_mars19.pdf.

²⁰ A new action plan for 2020-22 was prepared and approved in 2020. It is not clear which plan was the valid one used for monitoring and reporting on implementation of all annually planned measures in 2020.

Strategy, there are no outcome or impact-level indicators established to measure progress against the objectives. While the PAR Strategy has outcome-level indicators, the relevant targets have not been updated after the extension of the PAR Strategy implementation period, so it was not possible to conduct a reasonable analysis²¹.

In general, there is no central government website to provide clear, comprehensive information about the overall PAR agenda results. Since the strategic framework of PAR is fragmented, centralised monitoring and reporting on the overall reforms would help co-ordinate reforms and increase openness and transparency, including with external stakeholders.

Involvement of non-state actors in monitoring the implementation of reforms in public administration has been inconsistent and limited. Evidence of the regular engagement of external actors in monitoring was provided only for the PFM, Decentralisation and Anti-corruption strategies. Most of the relevant Thematic Group meetings (in the case of PFM strategy/Steering Committee meetings) hosted the representatives of non-governmental organisations. There is no evidence to confirm that representatives of non-governmental organisations were involved in discussions of implementation of the PAR and Digital Albania strategies.

Conclusion

Implementation of the PAR strategic framework is not being fully and consistently monitored, and PAR implementation reports are not drawn up and published regularly and in a timely manner to ensure effective monitoring for many strategies. Performance indicator frameworks of all PAR planning documents have gaps and weaknesses, particularly in measuring progress towards reform objectives. The actual implementation of all planned activities and objectives cannot be fully assessed for the assessment year, given the absence of relevant information for all strategies. Civil society representatives are not systematically included in monitoring of PAR reforms.

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

Overall, the value for the indicator 'Financial sustainability of PAR' is 2. The value for the indicator is the same as in 2017, but the strengths and weaknesses have slightly shifted. Actual funding of PAR activities has improved since 2017, but provision of systematic estimates for all additional costs has declined.

Indicator 1.3.1 - Financial sustainability of PAR						
This indicator measures to what extent financial sustainability has been ensured in PAR as a result of good financial planning.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Costed PAR activities (%)				3/3	=	
2. Completeness of financial information in PAR planning documents				0/4	-1	
3. Actual funding of the PAR agenda				1/3	+1	
Total				4/10	=	

Almost all (98%) of the PAR activities planned in all five strategic planning documents contain cost estimates. This marks a slight upward trend compared with the 2017 assessment (97%). All activities of

²¹ The implementation rate of the objectives is estimated to be 9%, based on the information about the outcome-level indicators provided in the reports of four strategies.

the Decentralisation and Anti-corruption strategies are costed, while about 10-15% of measures planned in the Digital Albania Strategy do not have cost estimates²².

Even though cost estimates are provided for most activities, the costing information is neither complete nor transparent across most of the strategies. Different calculation methods and approaches are used to provide cost estimates. Detailed review of the costing shows weaknesses and inconsistencies in the estimates provided. More than two cases were noted where additional costs that are necessary to implement a planned activity are not adequately costed²³.

Absence of full and accurate estimates of additional resource requirements for all planned PAR measures raises concerns about the financial sustainability of reforms. In general, there is no evidence to confirm detailed costing is performed at the strategy drafting stage, since detailed costing information that would disaggregate information, such as into temporary/one-off and recurrent costs was provided only for two of the five strategies (PAR and Decentralisation). Information about sources of funding for PAR measures is provided for four out of five PAR strategic documents. The funding sources are not provided for about 15% of the activities included in the Digital Albania Strategy.

Nearly a quarter of all PAR activities are assessed by the relevant bodies to require for their implementation only the planned administrative resources. The biggest share of such activities is observed in Anti-corruption Strategy.

Analysis of information about the actual funding of the most expensive PAR reform measures shows a slight improvement on 2017. However, there are still discrepancies in this area. They were found, in particular, in the planned and allocated funding of two out of the eight most expensive PAR activities expected to be funded through the state budget and donors, as per the assessment methodology²⁴.

Financial monitoring of PAR is not being systematically carried out in annual monitoring reports to assess the overall financial gap. It is not clear how large the financial gap for the overall PAR agenda is.

Conclusion

Although basic cost estimates are provided for nearly all PAR agenda activities, the costing information lacks the sufficient details to assess fully the need for additional funding in order to make adequate financial planning for successful implementation of all planned reform measures. Furthermore, the financial allocations for PAR are not adequately ensured, given the inconsistencies in the planned and actual funding of the most expensive PAR activities. This raises further concerns about the financial sustainability of PAR.


²² During the final fact-checking consultation of the draft monitoring report in October 2021, SIGMA was informed that the information about costing of the Digital Albania Strategy provided to SIGMA in March-June was inaccurate. Revised analysis of the costing information of the Digital Albania Strategy confirmed the original assessment, only 85% of measures have cost estimates provided.

²³ PAR Strategy activity 8.1.3 “Services for which information is provided through 3 alternative systems (internet, mobile app, call centre) set up by ADISA [the Agency for the Delivery of Integrated Services] added”. Digital Albania Strategy activity 6 “Expansion of the Government Financial Information System (SIFQ) up to 150 Budget Institutions through web portal and Document Management, Foreign Funds management through TSA and Project Cost”. Anti-corruption Strategy activities A 3.1.1 “No. of enhanced electronic services; (2020-602 services; 2021-670 services; 2022-720 services and 2023-750 services)”, A 3.1.6 “Necessary technical developments for the implementation of the service with electronic stamp/electronic signature (which can be provided)”, A 5.3.2 “400 users trained at central and local level (how many trained females and how many males)”, A 7.3.3 “Conducting study visits and seminars on ethics and integrity”.

²⁴ A discrepancy of more than 20% was noted in the planned and allocated funding of the following two PAR activities: Integration into EUIS Fiscalis 2020 (Entry ticket) (funded by the state budget); the DUE MARI Project’s main objective is the Promotion of lesser-known tourist destinations, by developing a distinctive, virtual platform to inspire potential visitors (donor funded).

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

Overall, the value for the indicator ‘Accountability and co-ordination in PAR’ is 1, lower than in 2017, when the indicator was assessed at 3. The main reasons for the deterioration are the lower number of discussions of PAR issues in the relevant political and administrative bodies, as well as limited engagement and participation of civil society representatives in co-ordination of the overall PAR agenda. There was no political-level discussion of PAR agenda during the main assessment year.

Indicator 1.4.1 - Accountability and co-ordination in PAR						
This indicator measures the extent to which leadership and accountability in PAR are established, the regularity and quality of co-ordination mechanisms at both the political and administrative level, and the performance of the leading institution.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Establishment of organisational and managerial accountability for PAR					4/6	=
2. Co-ordination mechanisms for PAR					1/10	-4
Total					5/16	-4

Note: *Data not available or provided.

PAR management and co-ordination structures at both the political and administrative levels are formally established. However, they have undergone major institutional changes since the 2017 assessment. Overall institutional responsibility for PAR, previously the responsibility of the Minister of Information and Public Administration (MIPA), was transferred in 2017 to the Deputy Prime Minister²⁵.

At the political level, the overall PAR agenda is steered by the Integrated Policy Management Group of the Good Governance and Public Administration (IPMG-GGPA), chaired by the Deputy Prime Minister²⁶. The political-level leadership and co-ordination of PFM reform is ensured by a separate Steering Committee for PFM (SCPFM) led by the Minister of Finance and Economy²⁷.

The Unit for Development and Good Governance at the Department for Development and Good Governance of the Office of the Prime Minister (UDGG-OPM), in its capacity as the Technical Secretariat (TS) of the IPMG-GGPA, is responsible for overall PAR agenda²⁸. The secretariat is responsible for technical tasks related to the functioning of the IPMG-GGPA and its Thematic Groups²⁹. The secretariat has been co-ordinating PAR-agenda related issues with the Cabinet of the Deputy Prime Minister. However, there is no certainty that, legally and practically, the UDGG-PMO holds the ultimate mandate

²⁵ Further changes are expected in the political-level responsibility and ownership of the PAR agenda in the new Government to be formed in September 2021. The analysis does not take these changes into account.

²⁶ Prime Minister’s Order No. 157, 22 October 2018, on “Taking measures for the implementation of sectoral/cross-sectoral policies, as well as the establishment and functioning of the integrated sectoral/cross-sectoral mechanism” and Terms of Reference for the Steering Committee for PFM.

²⁷ *Ibid.*

²⁸ Prime Minister’s Order, No. 157, 22 October 2018, on “Taking measures for the implementation of sectoral/cross-sectoral policies as well as the establishment and functioning of the integrated sectoral/cross-sectoral mechanism”.

²⁹ Prime Minister’s Order, No. 157, 22 October 2018, on “Taking measures for the implementation of sectoral/cross-sectoral policies as well as the establishment and functioning of the integrated sectoral/cross-sectoral mechanism” defines the following tasks: co-ordinate work between institutions under IPMG, provide methodological and standardisation support, organise meetings of IPMG and Thematic Groups, present issues for discussion, manage membership of IPMG, prepare periodic reports on the work of IPMG and Thematic Groups, etc.

and responsibility for overall co-ordination and monitoring of the PAR agenda, especially considering the fragmented nature of the current PAR implementation framework³⁰. In the area of PFM, the organisational responsibility for co-ordination of the PFM area is assigned to the Department for PFM Reform Management of the Ministry of Finance and Economy³¹.

Despite the clear assignment of political responsibility, PAR agenda issues are not being adequately or regularly discussed in the relevant political-level bodies. The IPMG-GGPA has not met in 2020 to discuss PAR-agenda related issues. In the assessment year, too, no meeting of the Strategic Planning Committee was held to discuss PAR³². However, the Steering Committee for PFM met twice in 2020 and once in 2021 to discuss PFM planning and monitoring, as well as substantive issues such as the public internal financial control or public expenditure and financial accountability mission.

A complex structure exists at the administrative level to co-ordinate and lead implementation across all PAR substance areas. Six IPMG Thematic Groups and one technical committee cover all PAR and PFM areas. Overall, in the assessment year of 2020, the administrative bodies have met 53 times. Although the meeting calendars of Thematic Groups are co-ordinated by the TS, they meet at greatly varying frequency, ranging from over 20 meetings for one area, to just once per year for some. It is thus assessed that administrative bodies have not met at least four times in the last calendar year for each individual substantive area, as required by the assessment methodology.

Table 3. Number of meetings of the Integrated Policy Management Group for Good Governance and Public Administration Reform (IPMG-GGPAR) and thematic groups. (September 2015-June 2017, 2020)

	Political level		Administrative level							Total
	IPMG-GGPA	Steering Committee for PFM	Technical Secretariat	Policy making	Civil Service Reform and Cross-cutting PAR	Public Service Delivery	e-Governance and Digitalisation	Anti-corruption	Decentralisation	
2015-2017	5	-	-	2	4	3	4	2	2	22
2020	0	2	5	1	3	22	1	9	10	53

Source: SIGMA analysis, based on the information provided during the assessment and the 2017 Monitoring Report.

Many meetings of some of the administrative-level structures show strong engagement of institutions in PAR reforms, at least at the level of certain officials. However, the meetings are not necessarily helping better planning and monitoring of individual PAR planning documents, as shown by the weaknesses in the implementation of monitoring and reporting of the five strategies. It is not clear how much these meetings focus on monitoring and implementation issues related to the planned PAR measures. There is also no evidence that the administrative-level bodies make decisions on substance or monitoring-related issues.

External stakeholders and civil society representatives are not regularly involved in the co-ordination of the PAR agenda across all PAR areas. Only four PAR co-ordination bodies invite non-state actors to participate in their meetings – the Steering Committee for PFM, Decentralisation Thematic Group, Anti-corruption Thematic Group and the Civil Service Reform and Cross-cutting PAR Thematic Group³³.

³⁰ The analysis of the PMO rulebook, which is very general, does not render robust evidence to conclude that the UDGG-PMO has the mandate to co-ordinate PAR agenda and escalate PAR related issues.

³¹ Prime Minister's Order, No. 157, 22 October 2018 on "Taking measures for the implementation of sectoral/cross-sectoral policies as well as the establishment and functioning of the integrated sectoral/cross-sectoral mechanism" and Terms of Reference for the Steering Committee for PFM.

³² The Strategic Planning Committee has met once to discuss budget planning issues. The EU-Albania PAR Special Group has met twice in the past calendar year. This is not considered to be the IPMG-GGPA, however.

³³ Based on the review of the relevant documents and information collected during the assessment.

Conclusion

A complex system of organisational and managerial responsibility for the PAR agenda is formally established at both the political and administrative level, but has not been fully operational in every area. Political PAR steering is not ensured, since no meetings of the relevant political-level bodies to discuss the PAR agenda were held in the main assessment year. Although the meeting calendars of IPMG Thematic Groups are co-ordinated through the Technical Secretariat, they meet irregularly and do not ensure regular discussion of all thematic areas. Civil society organisations are not systematically engaged in PAR agenda co-ordination for all areas.

Policy Development and Co-ordination

The Principles of Public Administration

Policy Development and Co-ordination

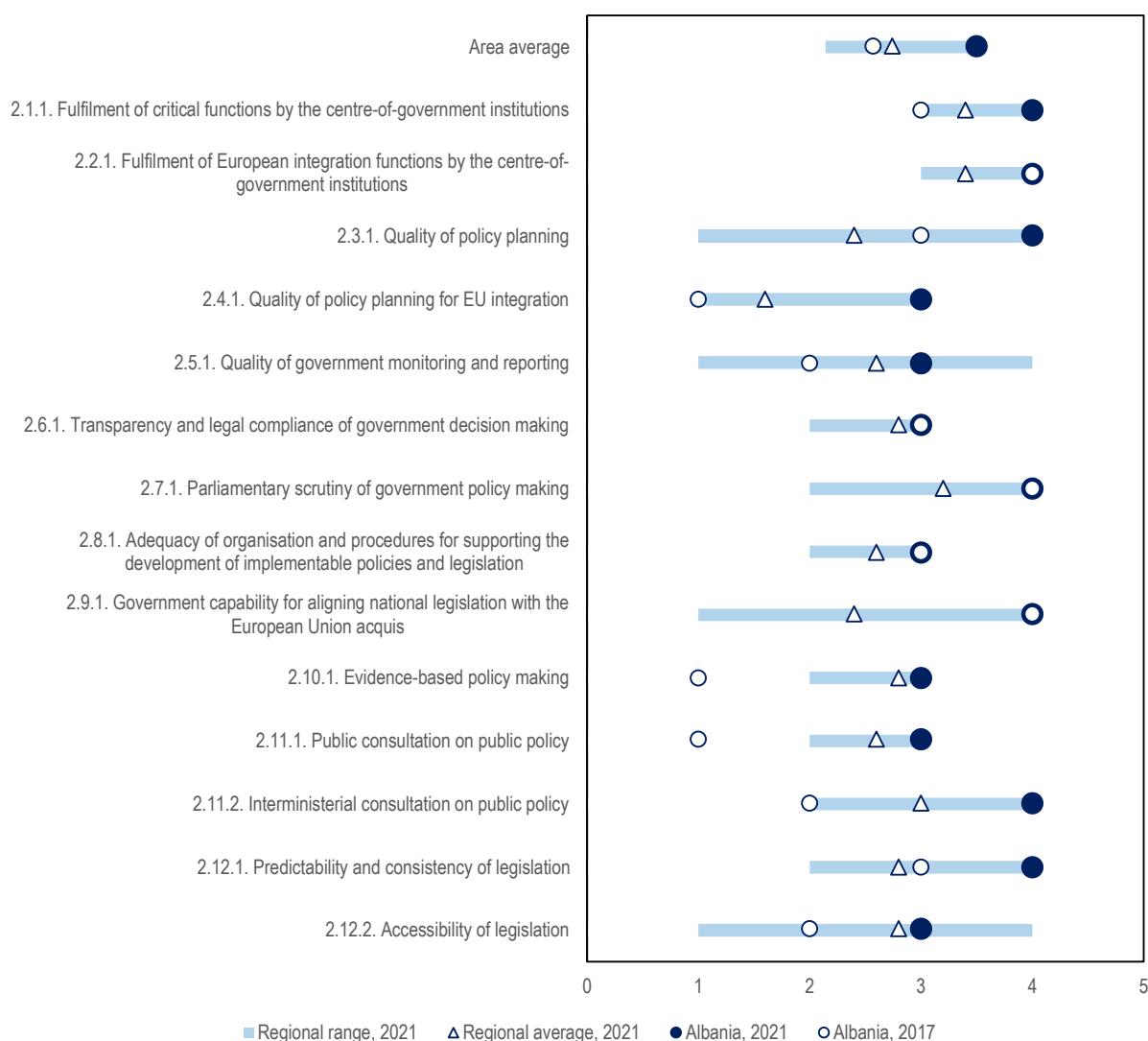
Principle 1	Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.
Principle 2	Clear horizontal procedures for governing the national European integration process are established and enforced under the co-ordination of the responsible body.
Principle 3	Harmonised medium term policy planning is in place, with clear whole of government objectives, and is aligned with the financial circumstances of the government; sector policies meet the government objectives and are consistent with the medium term budgetary framework.
Principle 4	A harmonised medium term planning system is in place for all processes relevant to European integration and is integrated into domestic policy planning.
Principle 5	Regular monitoring of the government's performance enables public scrutiny and supports the government in achieving its objectives.
Principle 6	Government decisions are prepared in a transparent manner and based on the administration's professional judgement; legal conformity of the decisions is ensured.
Principle 7	The parliament scrutinises government policy making.
Principle 8	The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet government objectives.
Principle 9	The European integration procedures and institutional set up form an integral part of the policy development process and ensure systematic and timely transposition of the European Union <i>acquis</i> .
Principle 10	The policy making and legal drafting process is evidence based, and impact assessment is consistently used across ministries.
Principle 11	Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination of different perspectives within the government.
Principle 12	Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.

Policy Development and Co-ordination

Summary and recommendations

Albania's performance in the area of policy development and co-ordination has been strong and has shown improvement. By comparison with other Western Balkan countries, it received the highest value for many indicators, and its overall average value and individual indicator values have risen from 2.6 in 2017 to 3.4 in 2021, the highest in the region. This improvement is largely a recognition of the institutionalisation of Albania's *ex ante* tools for policy development and the development of new regulations and systems for government planning. However, many challenges have yet to be addressed. Particularly by ensuring systematic implementation of all new processes and tools, the government has laid the foundation for further improvements in areas such as centre of government (CoG) co-ordination, strategic planning, regulatory impact assessment and public consultation.

Good progress has been recorded in most indicators since 2017



Key CoG functions are all formally assigned to the Office of the Prime Minister (OPM) and other institutions. The recent efforts of the administration to adopt an OPM Rulebook in order to improve the internal organisation and functioning of the OPM, as the key CoG institution, are not yet complete. Co-ordination between the CoG and line ministries and other agencies in planning and monitoring of government work is limited. The development of the Integrated Planning System (IPSIS) is an important milestone. IPSIS has been formally launched, but it is not yet fully operational, and many improvements and expected benefits depend on the system being rolled out and operational. The medium-term policy-planning set-up is still fragmented, and the planning processes and plans are not fully aligned. Developing a new regulatory basis to address fragmentation and clarify and streamline rules and procedures, as well as a full operationalisation of IPSIS are important priorities for this area.

As for co-ordination of European integration (EI), the co-ordination structure established in 2019 functions effectively on the administrative level, but not on the political level. The State European Integration Committee met infrequently in 2020. Making progress in this area should be a priority, as strong political leadership is essential for advancing European Union (EU) integration and for establishing co-ordinated policy development to ensure further alignment of national legislation with the EU *acquis*. An enhanced, integrated planning system, through the IPSIS, has laid a solid basis for better alignment of domestic and European integration planning. At the moment, the adoption of the NPEI has been delayed every year, and the plan itself is not satisfactorily aligned with the Government's annual plan.

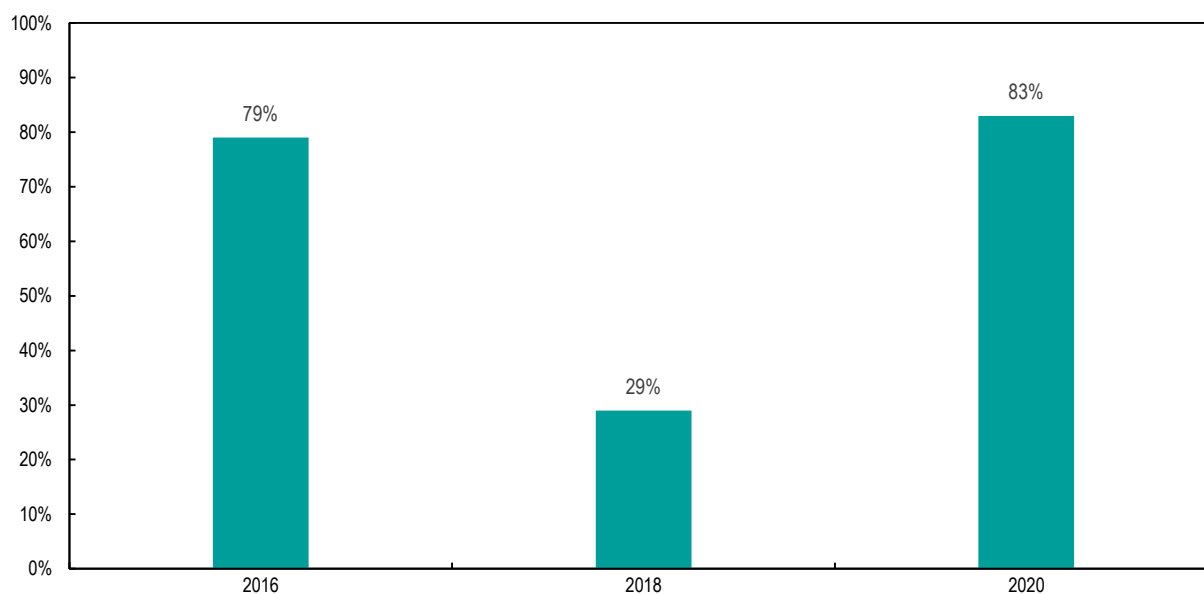
Governmental decision making is not transparent enough. The government publishes its decisions after a session, but the agendas for Government sessions are not announced in advance. There is no public communication in which the key decisions could be explained in an easily understandable way. The Parliament rarely discusses and evaluates the implementation of laws and governmental policies, which weakens the overall level of scrutiny of the government's work.

Overall, the quality and stability of legislation is high. The share of laws amended within one year of their adoption is low, which suggests that the legal environment is predictable, and that legal drafting is effective. Of 98 new laws adopted by the Parliament in 2019, only 5 were amended by the Government within one year. Moreover, in most cases, the Government adopts mandatory bylaws in a timely manner, which allows for full implementation of new laws.

A more active approach to monitoring the implementation of *acquis* alignment plans is in place, including weekly reports to the OPM and the Chief Negotiator. This has helped reduce the number of legislative commitments carried forward from 2020 to 2021 to 13% (the corresponding figures in previous monitoring assessments were 44% in 2017 and 73% in 2019³⁴). This has also helped increase the implementation rate of legislative commitments for *acquis* alignment to 83% in 2020 compared to 29% in 2019, 79% in 2017.

³⁴ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, <http://www.sigmaweb.org/publications/Monitoring-Report-2017-Albania.pdf> and OECD (2019), *Monitoring Report: Albania*, OECD, Paris, <http://www.sigmaweb.org/publications/Monitoring-Report-2019-Albania.pdf>.

Active monitoring has significantly improved the implementation rate of planned legislative commitments for EU *acquis* alignment



Note: Implementation rates from 2016, 2018 and 2020 are taken from the SIGMA Monitoring Reports of 2017, 2019 and 2021.

Source: SIGMA calculation based on publicly available plans and reports on implementation from the previous year.

The Rules of Procedure (RoP) of the Government were amended in 2018 to institutionalise *ex ante* analysis of regulatory proposals. The system of regulatory impact assessment (RIA), a key component of evidence-based policy making, is relatively recent, but is in place: the regulation requires impact analysis for all draft acts submitted to the Council of Ministers (CoM). The priority now is to ensure that line ministries have the skills and resources to prepare analysis of good quality and that quality control is systematically ensured. Implementation of RIA on secondary legislation, however, has not yet started, even though it is required by regulations. As with other aspects of policy development and co-ordination, progress has been made since 2017, and the challenge for the government is to build the culture and routines that will help ensure that recent efforts yield their full benefits.

Public consultation on key policies has not been successful in generating comments and feedback from stakeholders and ensuring meaningful input in final policy design. In the past, the process has thus not had a strong impact on policy making. A new guideline on public consultation, introduced in 2021, should help to improve the situation, with more rigorous quality checks now formally in place. This was one of the most important shortcomings of the previous system. Efforts in this area, and other initiatives to improve transparency, should have a positive effect on the quality of policy and increasing public trust in government.

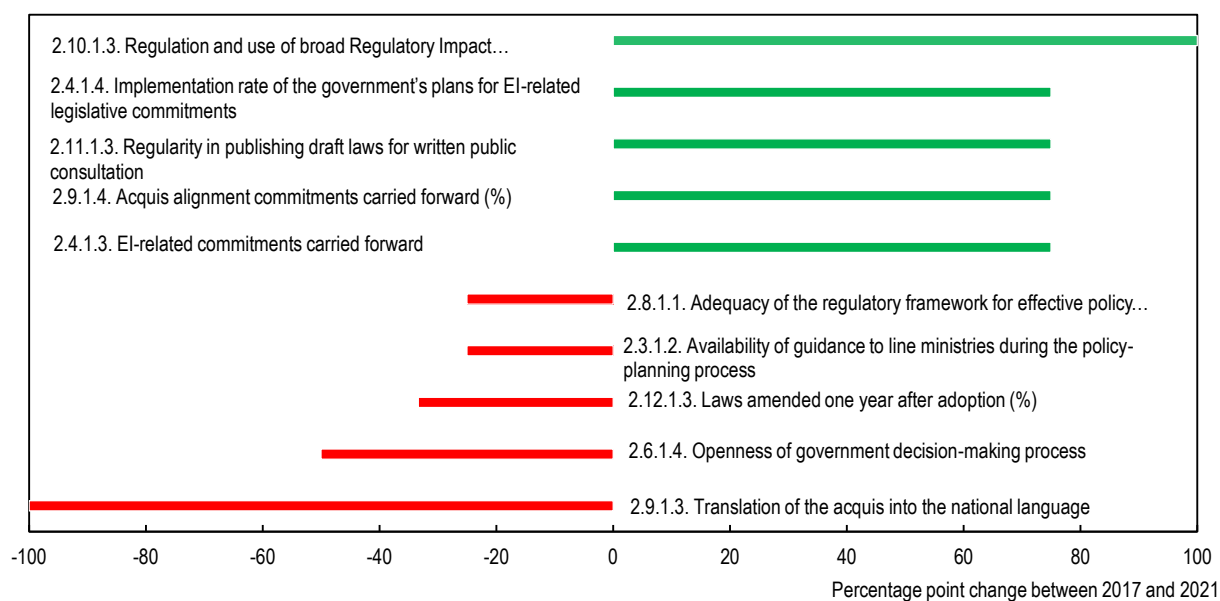
Short-term recommendations (1-2 years)

- 1) The Government should strengthen the capacities of the OPM, as the key CoG institution for carrying out all key functions. The OPM should finalise and approve a detailed Rulebook to clarify and confirm the roles and responsibilities of various units in performing the core CoG functions, and it should ensure that adequate guidance and support is provided to ministries for better policy co-ordination.
- 2) The OPM should fully operationalise the new IPSIS system, with all its modules and functionalities, and ensure that all ministries are using it consistently for planning, monitoring and reporting. A continuous programme for capacity building should be developed for all staff, so they can use the system effectively. The capacity of the relevant unit in the OPM should be enhanced to provide continuous oversight and quality control, and to provide guidance and support to ministries throughout the various phases of policy planning and development managed by IPSIS.
- 3) The respective institutions (i.e. the OPM and the Ministry for European and Foreign Affairs [MEFA]) should ensure that the General Annual Work Plan (GAWP) and the EI plan are developed simultaneously, to make sure the EI plan is adopted on time and fully aligned with the GAWP. The State Committee for European Integration (SCEI) should increase its presence as a political-level co-ordinating body of the EI process and should meet regularly.
- 4) The OPM should ensure that the agendas of the government sessions are published in advance and communicate to the public the key decisions that have been taken, in an easily understandable way.
- 5) The Parliament should introduce the practice of discussing the implementation of key laws and policies on a regular basis.
- 6) The Government should ensure full enforcement of the RIA methodology across the ministries, including for secondary legislation, by increasing its quality control and oversight, and continuing to provide training for key officials. The Government should initiate RIA on secondary legislation, aiming to analyse the impact of the most significant regulatory proposals introduced through secondary legislation, in a proportionate and targeted manner. Special attention must be paid to identifying alternative options to regulation and to accurate assessment of costs and benefits.
- 7) The Rules of Procedure should be revised to give the OPM's regulatory directorate a stronger oversight role in issuing formal opinions on the quality of RIA reports, including a mandate to return the items to the lead ministries in case the analysis is inadequate.
- 8) The OPM should ensure full enforcement of the recently adopted guideline on public consultation, monitor implementation of the rules and prepare and publish annual reports on public consultation, to deal with any challenges in implementation.
- 9) The Official Registry should ensure that all pre-1998 legislation that is effectively valid and in force is accessible electronically through the centralised platform.

Medium-term recommendations (3-5 years)

- 10) The Government should plan and carry out an evaluation of the new government planning and monitoring system, in particular on the effectiveness and impact of the IPSIS system on the quality of final plans and monitoring reports.
- 11) The Government should finalise the development of the integrated planning system and revise the fragmented medium-term policy-planning set-up. This would involve both drafting a new legislative framework for planning and continuing efforts to roll out the IPSIS system.

The five highest percentage point increases and decreases for all sub-indicators in the area compared to 2017. Regulatory management and EI planning have seen clear improvements compared to 2017



Analysis

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

Overall, the value for the indicator 'Fulfilment of critical functions by the centre-of-government institutions' is 4. Compared to 2017 and 2019, the overall indicator value has improved. All key CoG functions³⁵ are now considered to have been established, and guidance on public consultation and the development of sector strategies and a stronger central function for the co-ordination of policy and strategic documents have been enhanced. However, shortcomings in co-ordination between CoG institutions continue.

Indicator 2.1.1 - Fulfilment of critical functions by the centre-of-government institutions

This indicator measures to what extent the minimum requirements for functions critical to a well-organised, consistent and competent policy-making system are fulfilled by the centre-of-government (CoG) institutions.

As this indicator is used to assess the fulfilment of the minimum requirements, it does not measure outcomes or include quantitative sub indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.

Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Critical functions are assigned to CoG institutions by legislation					8/8	+1
2. Availability of guidelines to line ministries and other government bodies					3/4	+1
3. Institutionalisation of co-ordination arrangements between the CoG institutions					2/4	=
Total					13/16	+2

All key CoG functions for ensuring a well-organised, consistent and competent policy-making system are fully established and assigned to the relevant CoG institutions. The regulatory framework includes the Law on Organisation and Functioning of the Council of Ministers (CoM)³⁶ and the RoP of the CoM³⁷. The institutions and positions responsible for fulfilling these functions are the OPM through the General Secretary of the CoM, the Ministry of Justice (MoJ), the Ministry of Finance and Economy (MoFE), the Ministry for Europe and Foreign Affairs (MEFA) and the Minister of State for Relations with Parliament (MoSRP).

The General Secretary of the CoM is assigned to perform many CoG functions with the assistance of different structural units and departments of the OPM. The functions of the post include co-ordinating the preparation of the Government sessions³⁸, preparation³⁹ and monitoring⁴⁰ of the Government Annual Work Programme⁴¹ (GAWP) and co-ordinating the policy content of proposals for Government decisions⁴². The

³⁵ The key/critical functions of the CoG as defined in OECD (2017), *The Principles of Public Administration*, OECD, Paris, <http://www.sigmaweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>.

³⁶ Law No. 9000 of 30 January 2003 on the Organisation and Functioning of the CoM (Law No. 9000/2003).

³⁷ Directive of the Council of Ministers (DCM) No. 584 of 28 August 2003 on the Approval of Rules of the CoM, with subsequent amendments by DCM No. 201 of 29 March 2006, DCM No. 4 of 7 January 2009, DCM No. 233 of 18 March 2015, DCM No. 653 of 14 September 2016 and DCM No. 197 of 11 April 2018 (RoP).

³⁸ Law No. 9000/2003, Article 9, and RoP, Article 52.

³⁹ Law No. 9000/2003, Article 27, and RoP, Articles 7, 9 and 10.

⁴⁰ Law No. 9000/2003, Article 27.

⁴¹ The Analytical Programme of the Government, as defined by Law No. 9000, Article 27, and RoP, Articles 7-10. This is also the main legislative plan of the Government.

⁴² Law No. 9000/2003, Article 9, and RoP, Chapter 5 on Co-ordination of Draft Acts.

last of these tasks was enhanced with the adoption of a new decree on integrated planning in 2020, which gave additional authority to the OPM for co-ordination of policy and strategic documents⁴³. The MoJ is responsible for ensuring legal conformity⁴⁴, and the MoFE is assigned to ensure the affordability of policies and to oversee the co-ordination of public sector resource planning⁴⁵. The MoSRP is in charge of managing the relationship between the Government and the Parliament, and also for co-ordinating government communications to ensure a coherent government message⁴⁶.

A continuing problem of insufficient co-ordination among CoG bodies and their internal units remains, however. While co-ordination on the preparation of the GAWP has improved since 2019, no progress of note was made in their co-ordination on policy proposals submitted to the Government for decision by the line ministries. The evidence suggests that the OPM still rarely prepares a summary of consolidated comments of all relevant CoG bodies and their units to inform final Government decision making⁴⁷. The process of co-ordination within the OPM is also not fully clarified and formalised. There is still no formal OPM Rulebook⁴⁸ to establish clearly the roles and responsibilities of various OPM structural units, and their internal co-ordination and working arrangements, including with the Cabinets of the Prime Minister and the Deputy Prime Minister. These play important roles in ensuring implementation of several key CoG functions and other CoG institutions.

Guidelines for ministries and other governmental bodies are available to support them in drafting legislation, developing the GAWP⁴⁹ and monitoring implementation of the state budget⁵⁰ and public investments⁵¹. There are still no detailed guidelines on how to monitor and report on the implementation of the GAWP (the Analytical Programme). Detailed policy development guidance is available with the RIA methodology, introduced in 2018. However, the RIA methodology and regulations are in practice currently applied only to draft laws. They should also be applied to all secondary legislation adopted by the CoM, since the original transition period, set by the RoP, expired at the end of 2019⁵². From 2020 onwards, sector strategies need to be prepared with the use of the Integrated Planning System Information System (IPSIS). IPSIS must be used for the development of all strategic documents, as well as for monitoring their implementation⁵³. The system is set up to automatically guide the entire process of preparing the strategic document, and contains detailed instructions for policy developers. The OPM has also prepared and

⁴³ DCM 290/2020 “On the creation of the state data basis of the Integrated Planning System Information System (IPSIS) additionally tasks the Department for Development and Good Governance of the Office of the Prime Minister with co-ordination of development of strategic documents”.

⁴⁴ Law No. 9000/2003, Article 24, and RoP, Article 22.

⁴⁵ Law No. 9936 on Management of Budgetary System in the Republic of Albania, adopted on 26 June 2008, with amendments by Law No. 25, adopted on 2 June 2016; and RoP, Articles 23-24.

⁴⁶ DCM No. 27/2019 of 23 January 2019.

⁴⁷ Only one example was provided during the assessment, which is not considered sufficient under the SIGMA assessment methodology.

⁴⁸ A draft OPM rulebook has been prepared, but it has not yet been approved.

⁴⁹ The basic rules for the preparation of the GAWP are set by the Law No. 9000/2003, Article 27, and the RoP, Articles 7-9. Further detailed guidance is annually (i.e. for each annual work plan) provided by the Regulatory Department of the OPM. Since 2019, such guidance has also been officially adopted by the General Secretary of the CoM. For the 2021 GAWP, the Guidance on How to Draft the General Analytical Program of Draft-Acts for 2021 was adopted with the Order of the Secretary General No. 16 of 13 October 2020, and for the 2020 GAWP, with the Order of the Secretary General No. 14 of 7 November 2019.

⁵⁰ Instruction of the MoFE No. 22 of 17 November 2016 on Standard Budget Monitoring Procedures for Central Government Units.

⁵¹ DCM No. 185 of 29 March 2018 on Management Procedures of Public Investments, Annex 2: Methodology “On Monitoring and Reporting of Public Investments”.

⁵² DCM No. 197/2018, Part III, Transitional Provisions.

⁵³ DCM No. 290/2020 of 11 April 2020 on the Creation of the State Database of the IPSIS.

published several manuals for the use of IPSIS. Guidance on public consultation was enhanced in February 2021 with the adoption of the Guideline on the Public Consultation Process⁵⁴. It provides detailed and practical instructions on how ministries should plan, carry out and monitor the process of consultation.

Conclusion

Key CoG functions are all established and assigned to relevant institutions. Guidance to line ministries on efficient policy making is in place and has recently improved, with the adoption of a detailed guideline on public consultations and on introduction of the IPSIS. IPSIS has not, however, been fully rolled out. Co-ordination between various CoG bodies and their units is partially ensured, but further institutionalisation and enhancing of co-ordination mechanisms is needed.

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

Overall, the value for the indicator 'Fulfilment of European integration functions by the centre-of-government institutions' is 4. Although the overall value of the indicator has not changed, a slight improvement over 2017 and 2019 is noted, thanks to the newly available guidance on management and co-ordination of EI-related negotiations. Despite its reorganisation in 2018-2019, the new EI co-ordination structure is still not functioning fully and effectively.

Indicator 2.2.1 - Fulfilment of European integration functions by the centre-of-government institutions						
This indicator measures to what extent the minimum criteria for European integration (EI) functions are fulfilled by the CoG institutions.						
As this indicator is used to assess the fulfilment of the minimum criteria, it does not measure outcomes or include quantitative indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Proportion of the EI functions that are assigned to the CoG institutions by law					6/6	+1
2. Availability of guidelines to line ministries and other government bodies					4/4	+1
3. Government's capacity for co-ordination of EI					6/8	=
Total					16/18	+2

Critical functions required for effective co-ordination and management of the EI process are all established in the existing legislative framework. The MEFA is the designated CoG institution responsible for overall daily co-ordination of EI, monitoring implementation, co-ordinating alignment of legislation with the *acquis* and co-ordinating EU assistance⁵⁵. Planning of EI, including costing of reforms, is assigned to the Negotiating Group, with the assistance of the MoFE and the MEFA⁵⁶. The co-ordination of accession

⁵⁴ Guideline on the Public Consultation Process, adopted with the Order of the General Secretary of the CoM, No. 3/2021 of 29 January 2021.

⁵⁵ DCM No. 500 of 13 September 2017 on Defining the Areas of Responsibilities of the Ministry for Europe and Foreign Affairs; DCM No. 32 of 19 January 2018 on Defining the Functions of the Ministry for Europe and Foreign Affairs and for the Structures of the Foreign Service in the Process of EU Integration of the Republic of Albania.

⁵⁶ DCM No. 749/2018 of 19 December 2018 on the Establishment, Organisation and Functioning of the State Structure Responsible for Conducting the Negotiations and Concluding the Treaty of Accession of the Republic of Albania into the European Union, Article 3, DCM 246/2018, Article 5, and MoFE Instruction No. 7/2018 on the Standard Procedures of Drafting the Mid-term Budget Programme, point 2.9.

negotiations is assigned to the State Committee of European Integration (SCEI) and the Chief Negotiator⁵⁷.

Ample guidelines are provided to line ministries and other governmental bodies in implementing EI functions. There are specific guidelines on the management of alignment of national legislation with the *acquis*⁵⁸, on providing inputs to planning and monitoring EU assistance⁵⁹, translation of the *acquis*⁶⁰ and on participation, management and co-ordination of EI-related negotiation⁶¹. Guidelines are also available for providing input both in EI planning documents⁶² and for reports monitoring the EI process⁶³.

The EI co-ordination structure is in place, but despite its reorganisation in 2018⁶⁴, still does not seem to function effectively. The SCEI is the top political-level body, responsible for ensuring the supervision of negotiations structure and co-ordination of the negotiating positions for each chapter of the *acquis*, prior to the approval of the CoM⁶⁵. The SCEI is chaired by the Prime Minister. The Ministers responsible for Foreign Affairs and Finance and the Secretary General of the OPM are permanent members of the SCEI⁶⁶. The Chief Negotiator also became a member of the SCEI upon his appointment. However, no evidence was provided of any meeting of the SCEI in 2020 or 2021.

At the administrative level, the EI co-ordination is carried out on three levels: the Negotiating Group, which is chaired by the Chief Negotiator; the Technical Committee of the Inter-Institutional Working Groups (IIWG), chaired by the Deputy Minister for Europe and Foreign Affairs; and Inter-Institutional Working Groups. According to the data provided, the Negotiating Group held six meetings in the period from July to December 2020 and four meetings from January to September 2021. The Technical Committee held one meeting in 2020 and none in 2021. The Administration reports that “the regular meetings of the Technical Committee were cancelled at the beginning of 2020, due to the COVID-19 pandemic. Instead, online consultations are organised with the ministries/ institutions in charge, to lead the inter-institutional working groups.” As for the 33 IIWGs, 64 meetings in total were reported for 2020, fewer than in 2018, when there were 89, and almost a quarter of the number in 2016, when there were 238. Although the COVID-19 epidemic limited the possibility of physical meetings, virtual formats could probably have been used instead.

Development of the National Plan for EI (NPEI) is centrally co-ordinated, and the plans are updated annually. The Negotiating Group is responsible for leading the revision process⁶⁷ and is assisted by the

⁵⁷ DCM No. 422 of 6 May 2020 on the Composition, Rules of Operation and Financial Treatment of the Negotiating Team and the Chief Negotiator for Accession Negotiations of the Republic of Albania to the European Union and DCM 749/2018.

⁵⁸ RoP, Articles 7, 12/1, 18, 19, 21/1 and Annex: Template of the Explanatory Note and Table of Concordance of the Draft Normative Act with the *acquis*.

⁵⁹ Programming of IPA III (2021-2027): Template and methodological guidelines for the preparation of the sectoral strategic response document. Guidelines on monitoring IPA II were made available with the “Monitoring Manual for IPA II Country Action Programmes”, issued by MEFA (Directorate for EU funds) in April 2018.

⁶⁰ DCM No. 119/2007 on the Proceedings of Translation of the European Union Legislation into the Albanian Language and Translation of Albanian Legislation into One of the Languages of the European Union. Further practical guidance on translation is provided in the Manual for the Translation of the EU Legislation in the Albanian Language, co-issued by MEFA in February 2018.

⁶¹ Order of the Prime Minister No. 94 of 20 May 2019 and Order of the Prime Minister No. 93 of 20 May 2019.

⁶² Methodology for the Preparation of the NPEI 2021-2023, adopted by the Negotiating Group on 8 October 2020.

⁶³ *Ibid.*

⁶⁴ The new structure was set up with the adoption of the DCM No. 749/2018 in December 2018.

⁶⁵ DCM No. 749/2018.

⁶⁶ *Ibid.*

⁶⁷ DCM No. 749/2018, Chapter V.

Technical Committee⁶⁸, the IIWGs⁶⁹ and the MEFA, which prepares the methodology for the development of the plan that is subsequently approved by the Negotiating Group. Monitoring reports on the implementation of the NPEI are compiled annually. According to the RoP, the MEFA's opinion on compliance with EU legislation must be attached to all draft regulations aiming at the approximation of domestic legislation with the *acquis*, and this requirement is consistently followed in practice.

Conclusion


The legislative and institutional set-up for the European integration (EI) process is formally established, and existing guidelines are sufficient to support line ministries plan and carry out EI activities. Development of the national EI plan (NPEI) is centrally co-ordinated and regularly updated. However, despite its reorganisation in 2018-2019, the EI co-ordination structure is not functioning effectively, either on the political or the administrative level, as indicated by the infrequent meetings of its forums.

⁶⁸ Order of the Prime Minister No. 93 of 20 May 2019 on the Organisation and Functioning of the Technical Committee of the Inter-Institutional Working Groups.

⁶⁹ Order of the Prime Minister No. 94 of 20 May on the Set-up, Membership and Functioning of the Inter-Institutional Working Groups for European Integration.

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

Overall, the value for the indicator 'Quality of policy planning' is 4. This is an improvement over 2017, when the value was 3. The increase in the value of the indicator is due to the higher implementation rate of the Government legislative and better planning and costing of sectoral strategies. The central planning documents, however, are still not sufficiently streamlined.

Indicator 2.3.1 - Quality of policy planning						
This indicator measures the legislative, procedural and organisational set-up established for harmonised policy planning and the quality and alignment of planning documents. It also assesses the outcomes of the planning process (specifically the number of planned legislative commitments and sector strategies carried forward from one year to the next) and the extent to which the financial implications of sectoral strategies are adequately estimated.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Adequacy of the legal framework for policy planning					7/7	=
2. Availability of guidance to line ministries during the policy-planning process					3/4	-1
3. Alignment between central policy-planning documents					1/6	+1
4. Planned commitments carried forward in the legislative plan (%)					3/4	+1
5. Planned sectoral strategies carried forward (%)					4/4	+1
6. Presence of minimum content in sector strategies					5/6	new ⁷⁰
7. Completeness of financial estimates in sector strategies					5/5	+2
8. Alignment between planned costs in sector policy plans and medium-term budget					2/3	=
Total					30/39	+9

The planning system regulatory framework is fragmented. There is no single official document/regulation that would clearly and comprehensively establish the hierarchy and status of existing planning documents. The planning system architecture is partly defined by the Directive of the Council of Ministers (DCM) on Integrated Planning System (IPS) from 2005⁷¹, but the document is outdated, and some elements it envisaged have never been fully implemented⁷². However, in 2020, the Informed Information Planning System (IPSIS), which the Government has been developing since 2010, was developed and operationalised⁷³. IPSIS is primarily a planning tool, but the manuals and regulations that operationalise it indirectly define the hierarchy of various planning documents and reinforce the need for harmonisation and alignment between various documents. In principle, both the DCM on IPS and the IPSIS envisage a similar architecture, although the individual titles of the documents differ. At the top of the hierarchy is the National Strategy for Development and Integration (NSDI), as a mid- to long-term development strategy. Cross-sector and sectoral strategies, a three-year medium-term budgetary framework (MTBF) and a government programme establish the policy priorities for the medium term.

In practice, the current medium-term strategic framework for policy planning consists of the Government programme, a three-year MTBF, a three-year Economic Reform Programme and a three-year NPEI. The top-level planning document, the NSDI, which was to set out the vision and direction of all reforms over

⁷⁰ This sub-indicator was introduced after the 2017 assessment.

⁷¹ DCM No. 692 of 10 November 2005.

⁷² OECD (2017), *Monitoring Report: Albania*, OECD, Paris, pp. 32-33
<http://www.sigmaweb.org/publications/Monitoring-Report-2017-Albania.pdf>.

⁷³ DCM No. 290/2020 of 11 April 2020 on the Creation of the State Database of the Integrated Planning System Information System.

the medium to long term, expired in 2020. The next NSDI is still in the process of being drafted, indicating shortcomings in its planning process.

The key novelty since 2017 has been the introduction of the IPSIS in April 2020. This was developed as an advanced digital database and planning tool that aims not only to unify the existing planning processes but to ensure full harmonisation of all future strategic planning documents. The system provides automatic guidance throughout the process of preparing a strategic document, as well as for monitoring and reporting on the implementation. Both monitoring and reporting should follow the decision of the CoM on the establishment of IPSIS, and also be conducted through the IPSIS.

It is not yet possible to assess the overall impact and effectiveness of IPSIS, but the system has not fully been rolled out and, for example, is not yet used to prepare or report on the GAWP and the NPEI⁷⁴. For sectoral strategies, on the other hand, development, monitoring and reporting, the IPSIS has already been used. In 2020-2021, the OPM systematically organised trainings for ministries for the use of IPSIS, and has also published several manuals on its individual functionalities (on the preparation of strategies, on monitoring and reporting, etc.)⁷⁵.

In October 2018, the Government reinforced the management system for integrated public policy planning. Under the Prime Minister's Order on the Measures for the Implementation of a Broad Sector/Cross-Sector Approach and Establishment and Functioning of the Sector/Cross-Sector Integrated Mechanism⁷⁶, five Integrated Policy Management Groups (IPMG)⁷⁷ and five Sectoral Steering Committees⁷⁸ were established. These are responsible for ensuring co-operation in planning, co-ordination of implementation and monitoring of cross-sector and national policies and programmes in key priority areas. The PM Order also charged the Policy Development and Good Governance Unit at the Department for Development and Good Governance of the OPM for co-ordinating the entire system and for quality control of processes of cross-sectoral planning⁷⁹.

Despite these improvements in the regulatory framework and guidance and the development of a new systems, the quality of planning of government work, as measured by the level of alignment between different central planning documents, has not improved since 2017. Compared to 2017, the level of alignment between the NPEI and the Analytical Programme for 2020 has even dropped (from 77% to 64%)⁸⁰, indicating that, rather than resulting in better co-ordination of the two plans, the reported efforts have had the opposite effect. No noteworthy progress has been made on the level of alignment between the Analytical Programme and sector strategies, which remains very low, at 25% (compared to 21% in 2017), as only two out of the eight draft laws envisaged in the five sample strategies reviewed⁸¹ have been included in the Analytical Programme.

⁷⁴ According to the OPM.

⁷⁵ Based on information provided in the assessment interviews by the OPM.

⁷⁶ Order of the Prime Minister No. 157 of 22 October 2018 on the Measures for the Implementation of a Broad Sector/Cross-sector Approach and Establishment and Functioning of the Sector/ Cross-sector Integrated Mechanism.

⁷⁷ For the following areas: Good Governance and Public Administration, Competitiveness and Investment, Employment and Skills, Integrated Land Management and Integrated Water Management.

⁷⁸ For the following areas: Justice Reform, Internal Affairs, Public Financial Management, Interconnectivity and Environment, Climate and Waste Management.

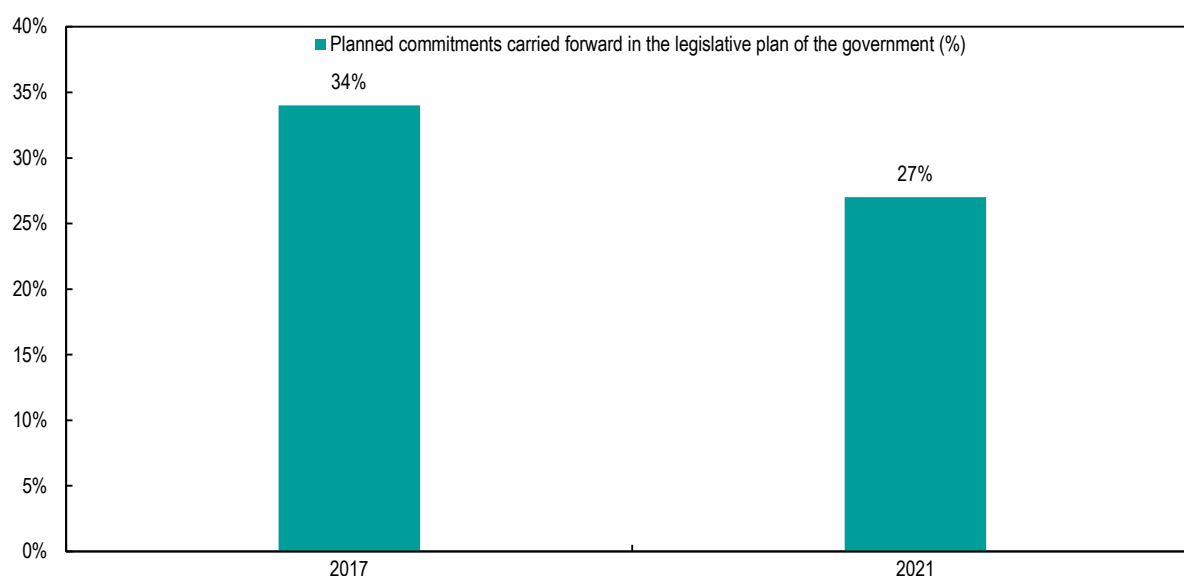
⁷⁹ Order of the Prime Minister No. 157 on the Measures for the Implementation of a Broad Sector/Cross-sector Approach and Establishment and Functioning of the Sector/ Cross-sector Integrated Mechanism, Article 10.

⁸⁰ Of the 14 draft laws, which according to the 2021 NPEI, must be approved by the Government in 2021, 5 do not appear in the 2021 Analytical Programme.

⁸¹ The sample included: the Digital Albania Action Plan for 2019-2022; the National Cross-Cutting Strategy of the Fight against Terrorism, 2021-2025; the National Strategy for Cyber Security and the Action Plan, 2020-2025; the Cross-cutting Community Safety Strategy, 2021-2026; the Strategy against Organized Crime and Serious Crimes, 2021-2025 and the Action Plan for 2021-2022.

The process for drawing up the GAWP, i.e. the Analytical Programme, continues to be well-organised. Before the start of the process each year, the OPM prepares practical instructions for ministries, with an indicative timeline. From 2019 onwards, these annual instructions are also formally approved by the General Secretary of the OPM. According to the OPM, their formal approval has improved the practice, as the ministries have since been following the instructions more consistently. Co-ordination among CoG bodies on line ministries' proposals for the Analytical Programme has also improved since 2017, since OPM departments and the MoFE now seem to be consistently co-ordinating their feedback. However, despite these improvements, planning is still not entirely realistic, given that 27% of the planned legislative commitments in the 2020 Analytical Programme were carried forward to the next year⁸² (compared to the 34% carried forward from the 2016 to the 2017 plan⁸³).

Figure 1. Government legislative commitments carried forward



Source: Analytical Programme for 2020 and for 2021. Data on 2017 is taken from the SIGMA Monitoring Report 2017.

As noted before, development of sector strategic documents from 2020 is managed centrally through the IPSIS. As part of one module, the system requires that strategies contain information on their financial resources and cost of implementation⁸⁴. Similar to cross-sectoral planning, the quality control of sectoral planning is also the responsibility of the Policy Development and Good Governance Unit of the OPM, and the analysis of the sample sectoral strategies confirmed that the unit consistently provides guidance and comments to line ministries on their draft strategic documents. The review of samples additionally showed that the quality of strategic documents had improved since 2017. In most cases, they clearly set their policy objectives and contain outcome indicators with target values, making it possible to monitor the progress made⁸⁵. They are, in most cases, also appropriately costed and indicate expected sources of funding⁸⁶. However, the analysis of the samples also revealed that there has been no significant progress

⁸² Of the 48 draft laws included in the 2020 Analytical Programme, 13 were also included in the 2021 plan.

⁸³ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, pp. 34
<http://www.sigmaxweb.org/publications/Monitoring-Report-2017-Albania.pdf>.

⁸⁴ Based on information provided by OPM.

⁸⁵ The practice across the strategies is far from uniform. Some have several outcome indicators set for individual policy goals, others only one, some have outcome indicators set only for their main policy goals, and others for specific objectives within individual policy goals. An additional problem is that in some strategies, the outcome indicators are complex and thus difficult to monitor, especially in cases where an individual strategy has many such complex indicators.

⁸⁶ Only one of the five sample strategies was not fully costed (the Digital Albania Action Plan for 2019-2022).

in the alignment between the planned costs in sector strategies and the costs foreseen in the Medium-Term Budget Programme; it is estimated to be 60% (as compared to 56% in 2017⁸⁷). This runs the risk that adequate funding for the activities planned will not be available. On the positive side, the quality of the MTBF has improved since 2017, although it is still not satisfactory. In the last review, the MTBF did not contain any outcome-level indicators, leaving no way to measure success, but the current MTBF includes outcome-level indicators at least for the majority of its priorities (for 45 out of 70 priorities).

Conclusion

The regulatory framework of the medium-term policy planning is fragmented. It is built on the IPS adopted in 2005, some of which is not yet fully operational. A new, advanced digital strategic planning system (IPSIS) was introduced in 2020. This will need to be rigorously implemented and enforced for all planning processes, including the annual European integration plan and the GAWP, to deliver the anticipated benefits and efficiency gains. In practice, the quality of government planning still has weaknesses. Key central planning documents and various processes used during planning have so far not been fully aligned.

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

Overall, the value for the indicator 'Quality of policy planning for European integration' is 3. Compared to 2017 and 2019, when the value was 1, the implementation rate of the annual EI plan has improved significantly and the number of EI commitments carried forward also dropped accordingly. But there are still issues with the quality of the EI plan, since it is still insufficiently aligned with the GAWP and is also insufficiently costed.

Indicator 2.4.1 - Quality of policy planning for European integration

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

Overall 2021 indicator value  since 2017

0 1 2 **3** 4 5

	Points 2021	Change from 2017
1. Adequacy of the legislative framework for harmonised planning of EI	2/2	=
2. Quality of planning documents for EI	2/6	=
3. EI-related commitments carried forward (%)	4/4	+3
4. Implementation rate of the government's plans for EI related legislative commitments (%)	3/4	+3
Total	11/16	+6

The legal basis for the NPEI as the key planning document for all EI-related activities is set by the DCM on the Establishment, Organisation and Functioning of the State Structure, Responsible for Negotiating and Concluding the Republic of Albania Accession Treaty with the European Union⁸⁸ and the DCM on the Approval of the National Plan for European Integration 2021-2023⁸⁹. Since 2019, the Negotiating Group

⁸⁷ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, pp. 34
<http://www.sigmaxweb.org/publications/Monitoring-Report-2017-Albania.pdf>.

⁸⁸ DCM No. 749/2018.

⁸⁹ DCM No. 90/2021.

has been responsible for leading the development of the NPEI, while the MEFA assists with the preparation of the methodology for its preparation. The latest methodology was prepared for the drafting of the NPEI 2021-2023 and was approved by the Negotiating Group on 8 October 2020.

The NPEI continues to be revised annually. Its most recent version covers 2021-2023 and was approved by the Government in February 2021.

By comparison with 2019, the quality of the NPEI has improved. In addition to the list of legislative measures, the plan now contains a special list of implementing measures. Individual quarterly deadlines are set for all planned legislation and implementing activities. Costing has also improved, but is not yet sufficiently consistent. In the 2018 plan, the information on costing and sources of funding for the non-legislative measures was limited, since the plan did not include specific cost estimates but only summary tables of total budgets for each *acquis* chapter, without a breakdown for individual activity⁹⁰. In the 2020 plan, 45% of commitments related to implementation were individually costed, and sources of funding were also listed for all of them. The continuing problem, however, is that neither the MEFA nor MoFE are checking the adequacy of the aggregate figures and calculations provided by the ministries, so the reliability of the costing provided in the NPEI remains questionable.

The NPEI implementation has improved significantly since the 2019 assessment. In 2018, the implementation rate of the NPEI legislative commitments, measured by the number of legislative items (draft laws) planned and approved by the Government, was only 26%⁹¹, but it reached 82% in 2020⁹². The improvement in implementation is also shown by the indicator listing the number of EI commitments carried forward to the next year. In 2018, 40% of the measures planned for implementation in 2017 were carried forward to the 2018 plan⁹³, while in 2021, the figure was only 14%⁹⁴. Given that the NPEI has not changed significantly in terms of the volume of commitments, the improvement can be attributed to better and more realistic planning and enhanced implementation monitoring, which is now co-ordinated by the Chief Negotiator's Office. Progress reports are prepared by the MEFA on a weekly basis, and are regularly discussed at weekly meetings of general secretaries of ministries and the OPM.

However, progress has still not been achieved on the alignment between the NPEI and the Analytical Programme. In 2018, 75% of the legislative commitments from the NPEI were also included in the Analytical Programme⁹⁵, but in 2021, this share was only 64%⁹⁶, although the RoP clearly mandates that development of both plans must be co-ordinated⁹⁷. The inconsistency can be partly attributed to the inconsistency of their timelines, since the Analytical Programme was adopted in December 2020 and the NPEI only in February 2021. Compared to previous years, the timeline of the NPEI development has, however, improved slightly, given that in 2018, the NPEI was not adopted until May. On the positive side,

⁹⁰ OECD (2019), *Monitoring Report: Albania*, OECD, Paris, p. 15, <http://www.sigmaweb.org/publications/Monitoring-Report-2019-Albania.pdf>.

⁹¹ OECD (2019), *Monitoring Report: Albania*, OECD, Paris, p. 16, <http://www.sigmaweb.org/publications/Monitoring-Report-2019-Albania.pdf>.

⁹² In 2020, the Government approved 27 out of 33 planned draft laws.

⁹³ OECD (2019), *Monitoring Report: Albania*, OECD, Paris, p. 16, <http://www.sigmaweb.org/publications/Monitoring-Report-2019-Albania.pdf>.

⁹⁴ Of 111 measures, which, under the 2020 NPEI, had to be achieved in 2020, 15 also appear in the 2021 NPEI.

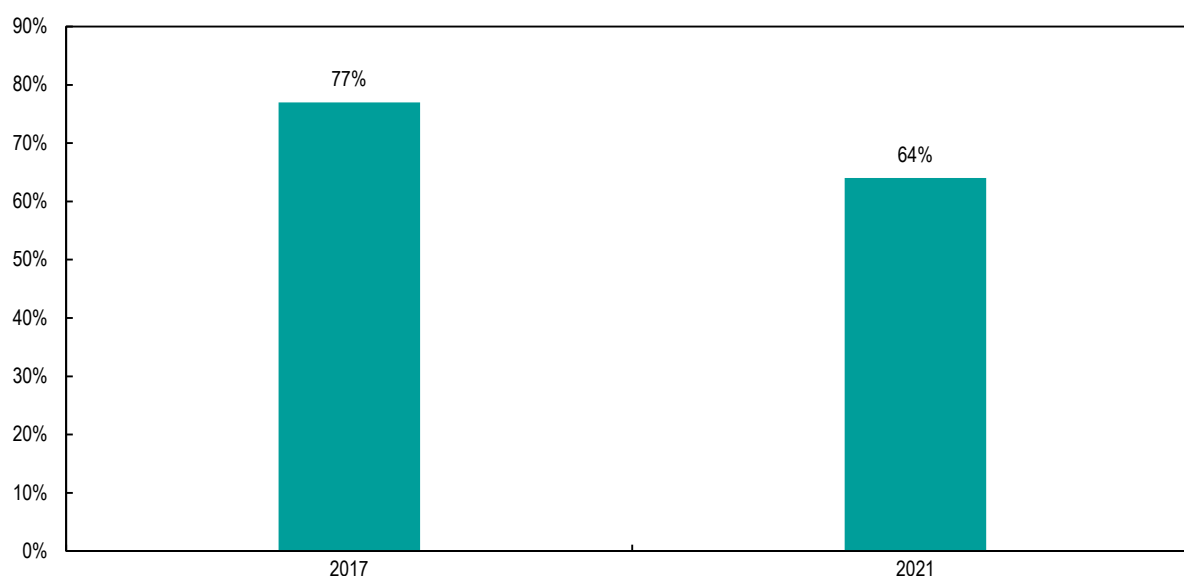
⁹⁵ OECD (2019), *Monitoring Report: Albania*, OECD, Paris, p. 15, <http://www.sigmaweb.org/publications/Monitoring-Report-2019-Albania.pdf>.

⁹⁶ Of 14 draft laws, which according to the 2021 NPEI have to be approved by the Government in 2021, 5 do not appear in the 2021 Analytical Programme.

⁹⁷ RoP, Article 7.

the 2021 plan was also put up for public consultation for the first time, which partly contributed to its late approval⁹⁸.

Figure 2. Alignment between the Analytical Programme and the NPEI



Source: SIGMA calculation on the basis of the Analytical Programme for 2021 and the NPEI 2021-2023. Data on 2017 is taken from the SIGMA Monitoring Report 2017.


Conclusion

The medium-term planning system for EI is in place but is not streamlined enough or fully aligned with other government plans. Adoption of the NPEI is delayed every year, and the plan itself is not satisfactorily aligned with the Government's annual Analytical Programme. The quality of NPEI slightly improved, including its costing, but it still does not give a realistic picture of the resources needed for implementation, due to inconsistent costing of implementing activities. On the other hand, the monitoring process has improved, and as a result, the implementation rate of the plan has risen sharply, exceeding 80% in 2020. In earlier monitoring, the rates were 55% (2016) and 26% (2018), respectively.

⁹⁸ The online public consultation on the draft NPEI was organised on the Electronic Registry of Public Notification and Consultation from 19 January to 15 February 2021. <https://www.konsultimipublik.gov.al/Konsultime/Detaje/319>.

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

Overall, the value for the indicator 'Quality of government monitoring and reporting' is 3. There has been no major improvement in the legal framework for monitoring and reporting, but the quality of reporting documents has improved since 2017, when the overall value was 2. This is mainly due to the improvement of the quality of reports on sector strategies, which now consistently include information on achievement of planned outcomes. Public availability of reports on key Government planning documents, however, continues to be a challenge.

Indicator 2.5.1 - Quality of government monitoring and reporting						
This indicator measures the strength of the legal framework regulating reporting requirements, the quality of government reporting documents and the level of public availability of government reports.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Adequacy of the legislative framework for monitoring and reporting				3/8	=	
2. Quality of reporting documents				9/12	+3	
3. Public availability of government reports				2/5	-1	
Total				14/25	+2	

Regulatory and institutional monitoring and the reporting framework for government performance continues to be fragmented, since several CoG institutions are involved in monitoring and reporting activities, using various reporting tools, templates and standards, and lack co-ordination. Harmonisation of reporting practice is anticipated once the IPSIS has been fully rolled out, but this has not yet been achieved.

Budget monitoring is regulated by the instruction of the Minister of Finance. The reporting process requires the preparation of three periodic monitoring reports per year on each programme. The instruction also requires the publication of monitoring reports on the official website of each ministry or institution⁹⁹.

Sector strategies from 2020 onwards have been monitored on the IPSIS¹⁰⁰. The IPSIS user manual, Strategy Documents Monitoring Reports, issued by the Department for Development and Good Governance of the OPM, requires semi-annual and annual monitoring reports for strategies. According to the manual, reports should be published on the institutions' websites¹⁰¹.

Monitoring of the NPEI is regulated by the DCM on the Approval of the National Plan for European Integration 2021-2023¹⁰² and the Methodology for the Preparation of the NPEI 2021-2023, adopted by the Negotiating Group. Ministries should thus report on progress monthly to the MOFE and to the Chief Negotiator, while the MOFE is to report to the CoM every three months. In practice, however, reporting is more frequent and is taking place on a weekly basis.

The Law on the Organisation and Functioning of Council of Ministers requires the ministers to periodically report "on the enforcement of the acts, which are adopted by the Council of Ministers, for the areas that they cover and the activity that they manage pursuant to the implementation of the political programme of

⁹⁹ Instruction of Minister of Finance No. 22 of 17 November 2016 on Standard Budget Monitoring Procedures for Central Government Units, Articles 33 and 49.

¹⁰⁰ DCM No. 290/2020 of 11 April 2020 on the Creation of the State Database of the Information System of Integrated Planning.

¹⁰¹ IPSIS User Manual: Strategy Documents Monitoring Reports, p. 26 and 31.

¹⁰² DCM No. 90/2021 of 17 February 2021.

the Council of Ministers¹⁰³. The reports should be submitted to the PM and the General Secretary of the CoM. However, the problem remains that the existing provisions regulate the monitoring process only in very general terms, without being further laid out in the respective law or in the RoP. They also do not require preparation and publication of a consolidated report on the Analytical Programme. In practice, however, the progress with the Analytical Programme is monitored on weekly basis, through checks of the E-Acts system by the Regulatory and Compliance Department of the OPM, which also sends regular weekly reports to the General Secretary of the OPM. In addition, the Government's performance on the priorities of its political programme continues to be monitored by the Situation Operational Office of the OPM, which reports weekly to the PM. No publicly available reports, however, are prepared for that either.

The quality of the reports continues to vary significantly. The annual implementation report on the Analytical Programme submitted for SIGMA review includes only numerical information on achievement of outputs. The details on which specific measures were adopted or implemented and what specific progress was achieved in terms of outcomes are omitted, largely because the Analytical Programme does not include policy objectives or outcome-level indicators to measure the progress. On the other hand, the report on the implementation of the NPEI includes information on achievement of outputs by presenting both numerical (the percentage of implemented measures) and the practical (list of un-adopted regulations) aspects of the implementation. Reports on sectoral strategies, however, include information on both achieved outputs and outcomes¹⁰⁴.

Conclusion

Monitoring of the government's performance is not sufficiently regulated and organised. Regulation requires regular reports on the budget, the European integration plan and sectoral strategies, but the main problem is that the Government is still not formally required to prepare a comprehensive annual report on its work. Only a report of this kind could give a full picture of its performance. The practice of making reports publicly available is also inconsistent, preventing public scrutiny of the Government's work.

¹⁰³ Law No. 9000/2003, Article 27.

¹⁰⁴ Based on the analysis of five sample reports: the Annual Report for Cross-Sectoral Public Administration Reform Strategy for 2019; the Monitoring Report for Public Finance Management Strategy for 2019; the Monitoring Report for Anti-corruption Strategy for 2019; the Monitoring Report for Justice Strategy for 2019; and the Monitoring Report for Social Protection Strategy for 2019.

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

Overall, the value for the indicator 'Transparency and legal compliance of government decision making' is 3. The total value of the indicator remains the same as in 2017, since no major changes were identified.

Indicator 2.6.1 - Transparency and legal compliance of government decision making						
This indicator measures the legal framework established for ensuring legally compliant decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision making, and businesses' perception of the clarity and stability of government policy making.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021		Change from 2017
1. Adequacy of the legislative framework for government session procedures				5/5		=
2. Consistency of the CoG in setting and enforcing the procedures				3/4		+1
3. Timeliness of ministries' submission of regular agenda items to the government session (%)				0/3		=
4. Openness of the government decision-making process				1/4		-2
5. Perceived clarity and stability of government policy making by businesses (%)				3/4		+1
Total				12/20		=

The Law on the Organisation and Functioning of the CoM¹⁰⁵ and the RoP set out clear rules and procedures for the Government's decision-making processes and preparation, follow-up and communication on government sessions.

The General Secretary of the CoM has the responsibility to ensure a policy proposal's coherence with government priorities and previously announced policies¹⁰⁶. It is also within the General Secretary's authority to oversee the policy development and consultation processes, to ensure compliance with the standards in place. However, the authority of the General Secretary is limited, as they can only return the item to the proposing ministry if the proposal is in contradiction with the Constitution, ratified international agreements or domestic legislation, or if mandatory information or mandatory supplements are missing. It cannot be returned in cases when the substance requires improvement or if it is inconsistent with government priorities¹⁰⁷. In such cases, the General Secretary is only authorised to present the matter to the PM¹⁰⁸. Consistency and coherence checks are, however, not systematically conducted. In practice, the check is carried out by the Regulatory and Compliance Department of the OPM, but the focus of the check is chiefly on legal compliance and quality of legal techniques and drafting. Moreover, involvement of other OPM units, such as the unit responsible for strategic planning, is not systematically ensured.

The MoJ is responsible for legal scrutiny, and the MoFE reviews the drafts to check their financial viability¹⁰⁹. Their opinions are consistently attached to all draft regulations submitted to the Government¹¹⁰.

¹⁰⁵ Law No. 9000/2003, Articles 13-22, and RoP, Chapters VII-VIII.

¹⁰⁶ Law No. 9000/2003, Article 9, and RoP, Article 12.

¹⁰⁷ RoP, Article 47.

¹⁰⁸ Law No. 9000/2003, Article 9.

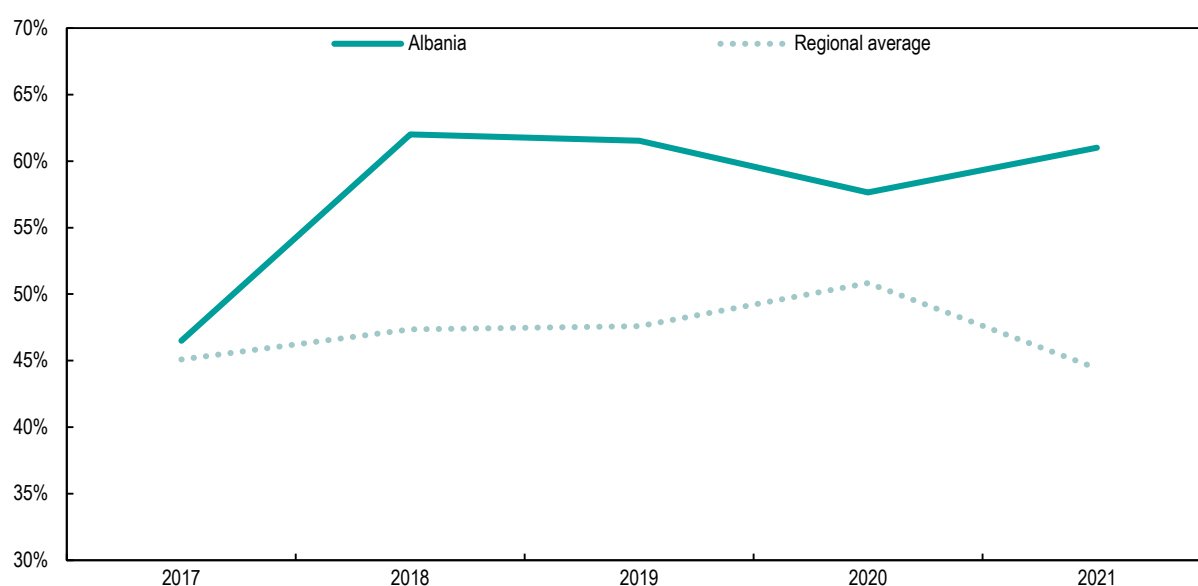
¹⁰⁹ RoP, Articles 22 and 23.

¹¹⁰ Based on the review of sample packages for the following five draft laws: Law on some Additions and Amendments to Law No. 9179 on a Special Treatment of Employees Who Have Worked in Several Enterprises of the Military Industry; Law on some Additions and Amendments to Law No. 44/2012 on Mental Health; Law on some Additions and Amendments to Law No. 9062 Family Code; Law on Placing on the Market and Supervision of Pyrotechnic Articles; and Law on some Additions and Amendments to Law No. 10193 on Jurisdictional Relations with Foreign Authorities in Criminal Matters.

The Regulatory and Compliance Department of the OPM checks the quality of RIA reports attached to the legislative proposals and the MEFA is responsible for reviewing the compliance of draft regulations with the *acquis*. The RoP requires that the Ministry of Economy, the Ministry of Labour and Social Affairs, the Ministry of Foreign Affairs and the Department of Public Administration (DoPA) are also consulted in some cases¹¹¹. It was not possible to assess compliance of line ministries with the procedural deadlines for submission of items to Government for approval, since the required information for 2020 was not made available.

The agendas of formal government sessions are not made publicly available in advance. Records of all decisions agreed upon at the Government sessions are kept, but are only sent to ministers upon request. Government decisions are regularly published on the official website, as required by law¹¹². However, there is no regular communication with the public (e.g. in press conferences or press releases explaining key decisions) after the government sessions.

Figure 3. Perceived clarity and stability of government policy making by businesses



Note: Positive responses (“Strongly agree” and “Tend to Agree”) to the question whether the laws and regulations affecting businesses are considered.

Source: Regional Cooperation Council, Balkan Barometer Business Opinion database (<https://www.rcc.int/balkanbarometer>).

The level of perceived clarity and stability of government policy making by businesses, as measured by the 2021 Balkan Barometer survey, is reported to be 61%. This is an overall improvement on 2017, when the result of perceived clarity of government policy making was reported at 47%.

Conclusion

Government decision making is well regulated. Clear procedures are in place for preparing Government sessions, and compliance checks on new policy proposals are required. However, checks on their consistency with the Government priorities are still not being carried out systematically. Governmental decision making is also not transparent enough. The agendas of Government sessions are not announced in advance. The government publishes its decisions after the session, but does not communicate with the public about key decisions in an easily understandable way.

Principle 7: The parliament scrutinises government policy making.

¹¹¹ RoP, Articles 25 and 27.

¹¹² Law No. 9000/2003, Article 22.

Overall, the value for the indicator 'Parliamentary scrutiny of government policy making' is 4. There were no major changes identified in the legislation or practice of parliamentary oversight of Government. A slightly lower assessment of the relevant sub-indicator is due to a minor increase in the use of extraordinary proceedings for the adoption of government-sponsored draft laws.

Indicator 2.7.1 - Parliamentary scrutiny of government policy making						
This indicator measures the extent to which the parliament is able to scrutinise government policy making. The legal framework is assessed first, followed by an analysis of the functioning of important parliamentary practices and outcomes.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making					4/5	=
2. Completeness of supporting documentation for draft laws submitted to the parliament					3/3	=
3. Co-ordination of governmental and parliamentary decision making processes					2/2	=
4. Systematic review of parliamentary bills by government					0/1	=
5. Alignment between draft laws planned and submitted by the government (%)					0/2	=
6. Timeliness of parliamentary processing of draft laws from the government (%)					2/2	=
7. Use of extraordinary proceedings for the adoption of government sponsored draft laws (%)					3/5	-1
8. Government participation in parliamentary discussions of draft laws					2/2	=
9. Basic parliamentary scrutiny of the implementation of policies					2/2	=
Total					18/24	-1

The regulatory framework enabling parliamentary scrutiny and oversight of Government policy is established with the Constitution¹¹³ and the RoP of Parliament. The Parliament and its committees are able to debate, scrutinise and amend government policies and programmes. The RoP of the Parliament stipulates written and oral questions from members of parliament to ministers and the participation of ministers or their deputies in the work of the Parliament when an issue under their jurisdiction is discussed. The legal drafting rules and guidelines of the Parliament are consistent with those of the Government¹¹⁴.

The RoP of the Parliament requires draft laws submitted by the Government to be accompanied by explanatory memorandums or other appropriate supplements and those are implemented in practice. Explanatory memoranda and the RIA reports were included in the supporting documentation sent to the Parliament for all sample draft laws under review¹¹⁵.

¹¹³ Constitution of Albania, as amended by Law No. 76/2016. The main articles regulating the relationships between the Parliament and the Government are Articles 80-83, 101 and 104-105.

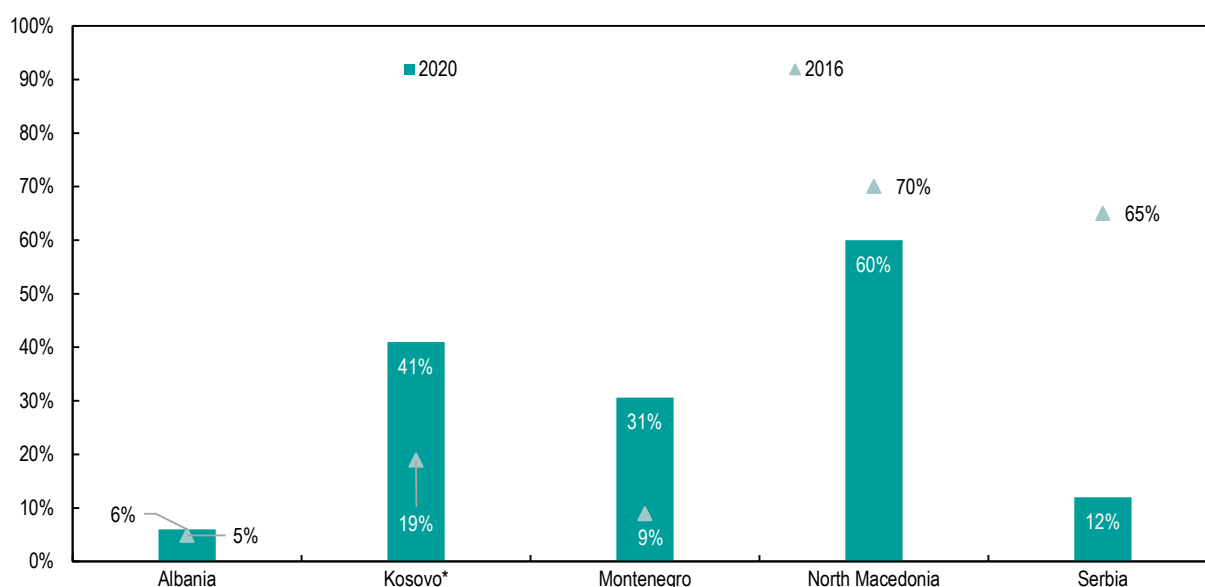
¹¹⁴ RoP of the Parliament. Articles 68, 71, 73, 90-91, 102 and 110.

¹¹⁵ The following draft laws were reviewed: Draft Law on Some Changes and Additions to Law No. 9179 on Special Treatment of Employees Who Have Worked in Several Enterprises of the Military Industry; Draft Law on Some Amendments and Additions to Law No. 9947 on Industrial Property; Draft Law on the Establishment, Organisation and Functioning of the National Investigation Authority and Railway and Marine Accidents; Draft Law on Division of the Albanian Railway; Draft Law on the Establishment of Railway Regulatory Authority.

There is no legal requirement to ensure that the Government systematically reviews all draft laws initiated by the Parliament. This is only required for drafts with budgetary implications¹¹⁶. As a result, none of the three sample draft laws¹¹⁷ initiated by the MPs received a formal opinion from the Government.

There is ample co-ordination of governmental and parliamentary decision-making processes. Regular meetings are held in the framework of the Parliament's Conference of Chairs, which discusses and decides on the work programme, the calendar of the proceedings of the Parliament and its committees, since the Minister of State for Relations with the Parliament is one of its members¹¹⁸. The Government does not submit its annual legislative programme to the Parliament, since there is no requirement that it do so, but the programme is published in the Official Gazette and is hence accessible to everyone. However, in 2020, 80% of the Government's drafts submitted to the Parliament did not originate in the Government legislative plan (i.e. the Analytical Programme)¹¹⁹. This indicates that there are major weaknesses in the planning and implementation of the Government legislative activities.

Figure 4. Use of extraordinary/shortened proceedings for the adoption of government-sponsored draft laws (% of total)



Note: *This designation is without prejudice to positions on status and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence. Information about all levels of the BIH administration was not available to report.

Source: SIGMA analysis, based on the information collected from the Parliament administration, publicly available reports and data provided from the administrations.

Despite the high share of drafts that did not originate in the Government's annual plan, the Parliament was able to process the Government's drafts efficiently. Virtually all draft laws (98%) submitted in 2019

¹¹⁶ RoP of the Parliament, Article 68.

¹¹⁷ The sample included: the Draft Law on an Amendment to Law No. 138/2015 on Guaranteeing the Integrity of Persons who are Elected, Appointed or Exercise Public Functions; the Draft Law on Some Amendments to Law No. 8097 on Supplementary State Pensions of Persons Performing Constitutional Functions and State Employees; the Draft Law on Remission of Obligations of the Military to the Social Insurance Fund, Created as a Difference from the Review of Temporary Pensions.

¹¹⁸ RoP of the Parliament, Article 12. The Conference of Chairs includes the Speaker, the vice-speakers and the heads of the parliamentary groups and parliamentary committees.

¹¹⁹ Of 90 draft laws submitted to the Parliament by the Government in 2020, 72 were not included in the 2020 Analytical Programme.

were processed within a year¹²⁰. Fewer than 6% (5 out of 85) of the draft laws submitted by the Government were adopted in urgent proceedings in 2020. In this regards, Albania performs best compared to other countries of the region.

Government participation in parliamentary discussions is required by existing regulations. Although statistics were not provided for the assessment, the review of minutes of plenary sessions and committee meetings confirmed that both are regularly attended by the respective ministers, deputy ministers or senior civil servants, to discuss issues for which they are responsible.

Although Parliament reviews the implementation of some major policies, this does not happen systematically or regularly. In fact, it seems quite rare for the Parliament to undertake this task. Evidence was provided for at least one such case in 2020, but it is not a frequent occurrence. As reported by the Administration of the Parliament, in some cases, parliamentary committees call for hearings with the ministers to discuss the implementation of specific laws.

Conclusion

Existing legislation provides for adequate parliamentary scrutiny of Government policy making, but, in practice, the Parliament rarely discusses and evaluates the implementation of laws and governmental policies. Regular co-ordination between the Parliament and the Government is provided for, so almost all Government-sponsored laws are discussed and approved by the Parliament without delay. On the other hand, the existing rules do not require the Government to review draft laws initiated by members of parliament systematically, nor does the Government do so on a regular basis, which can lead to inconsistencies in legislation and policies.

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

Overall, the value for the indicator 'Adequacy of organisation and procedures for supporting the development of implementable policies' is 3. There were no major changes identified during the assessment period, so the overall value remains the same as in 2017. The shortcomings in the legislative framework persist and the ministerial internal policy-development practice remains inconsistent, but the policy-development departments continue to be adequately staffed.

Indicator 2.8.1 - Adequacy of organisation and procedures for supporting the development of implementable policies						
This indicator measures the adequacy of the regulatory framework to promote effective policy making, and whether staffing levels and the basic policy-making process work adequately at the level of ministries.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Adequacy of the regulatory framework for effective policy making				2/4	-1	
2. Staffing of policy development departments (%)				2/2	=	
3. Adequacy of policy-making processes at ministry level in practice				2/6	=	
Total				6/12	-1	

The organisational structure and the jurisdiction of ministries with respect to policy making are established by the Law on the Organisation and Functioning of State Administration¹²¹, the Law on the Organisation

¹²⁰ Of the 100 submitted, 2 draft laws were not processed within one year of submission.

¹²¹ Law No. 90/2012 on the Organisation and Functioning of State Administration.

and Functioning of the CoM and orders of the PM¹²² and of relevant ministers¹²³, and the RoP defines procedural requirements that line ministries must follow when submitting a proposal for final approval by the Government. As a rule, policy development is not delegated to bodies subordinate to the ministries¹²⁴, and the responsibility for leading and overseeing the internal policy development at the ministries is assigned to the ministers¹²⁵.

The number of staff involved in policy development work in ministries continues to be sufficient: the analysis showed that at least 30% of the staff of the four sample ministries¹²⁶ are directly involved in policy development.

However, a persistent problem remains that general requirements for policy development, set by the RoP, have still not been consistently translated into more detailed in-house/internal rules that would help ministry officials prepare, organise and manage the policy-making processes. In most cases, the internal rulebooks of the ministries determine only which directorates and units exist, but do not specifically define their tasks (e.g. which unit is in charge of policy development, implementation or EI co-ordination, etc.) nor do they regulate internal policy-development and legislation-drafting procedures (e.g. how the drafting process is initiated, who needs to be consulted internally and when, what checks need to be organised, etc.) for laws, DCMs or strategic documents under their jurisdiction¹²⁷. Detailed rules are prescribed only for the development of secondary regulation adopted by the ministers.

As a result, the practice across and within ministries still varies significantly, as confirmed by the analysis of the sample draft regulation¹²⁸. The Ministry of Health and Social Protection did not provide any evidence that the two drafts¹²⁹ reviewed had undergone any in-house consultation or review. The sample drafts of the MoFE¹³⁰ were consulted on internally with the Legal and Foreign Relations Directorate of the General Directorate of Prevention of Money Laundering, while, according to the evidence provided, one of the drafts¹³¹ of the Ministry of Tourism and Environment was consulted upon widely among various

¹²² The structure and systematisation of each ministry is approved by an individual decision of the PM.

¹²³ The rulebook of each ministry is approved by an individual order of the relevant minister.

¹²⁴ Law No. 9000/2003, Article 23.

¹²⁵ RoP, Article 13.

¹²⁶ The sample included the Ministry of Agriculture and Rural Development, the MoFE, the Ministry of Tourism and Environment and the Ministry of Health and Social Protection.

¹²⁷ Based on the assessment of four sample ministries: the Ministry of Agriculture and Rural Development, the MoFE, the Ministry of Tourism and Environment and the Ministry of Health and Social Protection. Of these four, three ministries submitted their internal rulebooks for review, while the MoFE submitted its manual on financial management control, which does not in any way regulate the structure of the ministry or its internal development of regulation and policies. Of the remaining three ministries, only the rulebook of the Ministry of Health and Social Protection specifies the tasks of individual directorates, departments and units (and thus what their tasks in policy development are). The other two ministries' rulebooks specify only which directorates and units they include. None of the three rulebooks submitted includes specific internal procedural rules for drafting laws or DCMs, and they regulate only the procedures for bylaws adopted by the ministry or minister respectively.

¹²⁸ The required samples were provided for review by the three ministries, but not by the Ministry of Agriculture and Rural Development.

¹²⁹ Draft DCM on National Plan of Deinstitutionalisation 2020-2022 and Draft Law on Some Amendments and Additions to Law No. 163/2014 on Social Worker Order.

¹³⁰ Draft DCM on the Determination of the Manner and Procedures of Registration and Publication of Data for the Beneficiary Owners, as well as Notification by the State Authorities and Member States; Draft DCM on the Determination of the Rules for the Operation of the Register of Owners.

¹³¹ Draft Law on Some Additions and Amendments to Law No. 10440/2011 on Environmental Impact Assessment.

ministry and with the corresponding positive opinion of the MEFA¹³⁴. These requirements are consistently followed in practice¹³⁵.

Policy proposals dealing with alignment of the *acquis* are subject to the same policy development requirements as domestic proposals and, like domestic proposals, must undergo public and interministerial consultation procedures¹³⁶. In case of conflicting opinions, the RoP calls for conflict resolution meetings co-ordinated by the PM or the Secretary General of the CoM¹³⁷. EI-related issues are also discussed and resolved during the regular weekly meetings of regulatory departments or general secretaries of the CoM and ministries.

The requirements and procedures for translating EU legislation into Albanian and for translating the domestic legislation into one of the languages of the EU are established under DCM No. 119/2007. Translations are planned and organised by the MEFA Unit for the Certification of Translation. The annual plan of translations is drawn up in consultation with the line ministries, to reflect their priorities. However, review of the sample of the five most recently adopted EU legislative acts to be transposed into the local legislation showed that, since 2019, the efficiency of the translation process has not improved. The Albanian translation was available on time in only one case¹³⁸.

On the positive side, thanks to enhanced monitoring, which now involves weekly reports to the OPM and the Chief Negotiator, the implementation of the *acquis* alignment plans has improved significantly. Of the planned legislative commitments in the 2020 EI plan, only 13% were carried forward to the 2021 plan¹³⁹

¹³⁴ RoP, Article 12/1.

¹³⁵ Assessment based on analysis of packages of sample policy proposals, including: DCM No. 1170 of 24 December 2020 on the Approval of Procurement Rules in the Field of Defence and Security; Draft Law on Making Available on the Market and Supervision of Explosives for Civil Use; Draft Law on Placing into the Market and Surveillance of Pyrotechnic Articles; DCM No. 1087 of 24 December 2020 on the Approval and Publication of the Combined Nomenclature of Goods 2021; and DCM No. 1089 of 24 December 2020 on the Establishment, Methodology of Organisation and Modality of Operation for the Entity in Charge with Alternative Dispute Resolution (ADR) for Consumer Disputes, Different from Those Referring to General Interest Services; and the Definition of Additional Criteria That ADR Entities Shall Meet.

¹³⁶ RoP, Chapter 3: Preparation of the draft act. The regulatory framework for public consultations, i.e. the Law on Public Notification and Consultation and the Guideline on Public Consultation Process, also does not foresee any exceptions for EI affairs.

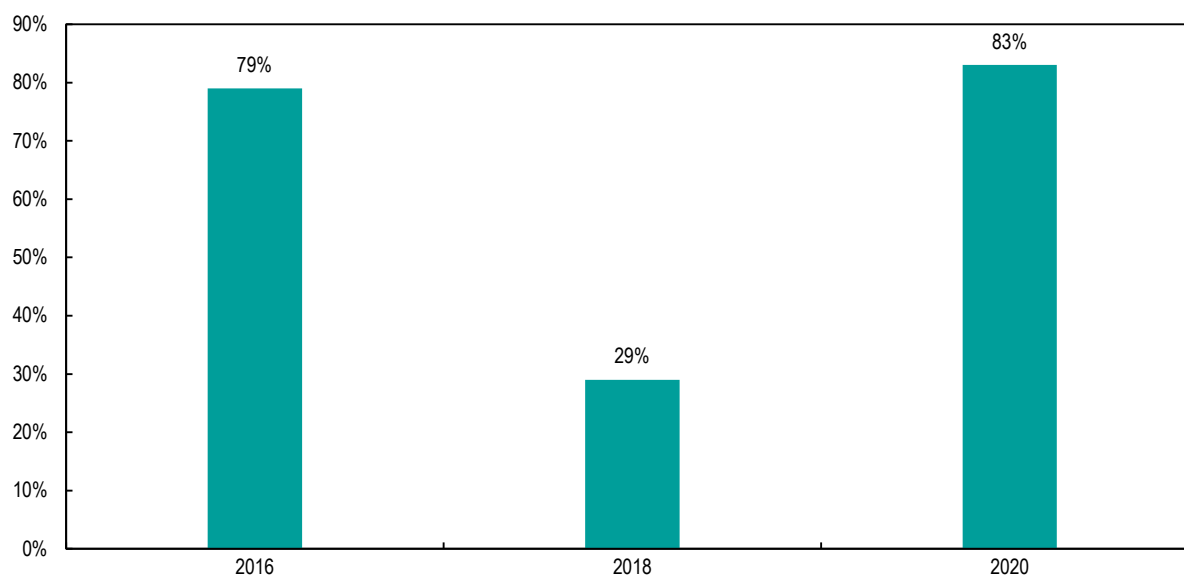
¹³⁷ *Idem*, Articles 33-41.

¹³⁸ Albanian translations of the following most-recently approved EU Regulations and Directives planned in the NPEI 2021-2023 for approximation in 2021 were requested: 1) Regulation (EU) 2020/1085 of 23 July 2020 amending Annexes II and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for chlorpyrifos and chlorpyrifos-methyl in or on certain products; 2) Commission Delegated Regulation (EU) 2020/621 of 18 February 2020 amending Annexes I and V to Regulation (EU) 2019/125 of the European Parliament and of the Council concerning trade in certain goods which may be used for punishment capital, torture or other cruel, inhuman or degrading treatment or punishment; 3) Common Military List of the European Union adopted by the Council on 17 February 2020 (equipment covered by Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment). updating and replacing the Common Military List of the European Union adopted by the Council on 18 February 2019; 4) Commission Delegated Regulation (EU) 2019/2199 of 17 October 2019 amending Council Regulation (EC) No. 428/2009 establishing a Community regime for the control of exports, transfer, mediation and transit of dual-use items; 5) Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No. 1224/2009 and Regulations (EU) No. 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No. 894/97, (EC) No. 850/98, (EC) No. 2549/2000, (EC) No. 254/2002, (EC) No. 812/2004 and (EC) No. 2187/2005. Of these, the translation was submitted for review only for Regulation (EU) 2020/1085 of 23 July 2020.

¹³⁹ Eleven of 82 commitments from the 2020 NPEI also appear in the plan for 2021.

(as compared to 44% in 2017¹⁴⁰ and 73% in 2019¹⁴¹) and the total implementation rate of legislative commitments for *acquis* alignment was 83% in 2020¹⁴² (with 29% in the 2019 assessment, and 79% in the 2017 assessment ¹⁴³).

Table 1. Implementation rate of legislative commitments for *acquis* alignment



Notes: Implementation results from 2016, 2018 and 2020 are taken from the SIGMA Monitoring Reports of 2017, 2019 and 2021.

Source: SIGMA calculation based on publicly available plans and reports.

Conclusion

Transposition of the *acquis* is well-organised, and the established rules are consistently followed in practice. Monitoring of implementation has improved, contributing to a higher implementation rate of draft laws and by-laws included in the NPEI. However, the translation process of the *acquis* planned for approximation is inadequate, resulting in delays in the availability of translations and potential delays and weaknesses in transposition.

¹⁴⁰ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, p. 50
<http://www.sigmaweb.org/publications/Monitoring-Report-2017-Albania.pdf>.


¹⁴¹ OECD (2019), *Monitoring Report: Albania*, OECD, Paris, p. 18
<http://www.sigmaweb.org/publications/Monitoring-Report-2019-Albania.pdf>.

¹⁴² A total of 68 of the 82 planned items in the NPEI were approved.

¹⁴³ OECD (2019), *Monitoring Report: Albania*, OECD, Paris, p. 18
<http://www.sigmaweb.org/publications/Monitoring-Report-2019-Albania.pdf> and OECD (2017), *Monitoring Report: Albania*, OECD, Paris, p. 50 <http://www.sigmaweb.org/publications/Monitoring-Report-2017-Albania.pdf>.

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

Overall, the value for the indicator ‘Evidence-based policy making’ is 3. The legal framework was enhanced in 2018 with the adoption of a requirement that all draft acts submitted to the Government need to be accompanied by the Impact Assessment Report. The guidance on RIA has also improved with the publication of the Impact Assessment Methodology, and quality control for the RIA processes has also (partly) been established. As a result, the overall value of the indicator, which was 1 in 2017, has increased.

Indicator 2.10.1 - Evidence-based policy making						
This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Regulation and use of basic analytical tools and techniques to assess the potential impact of draft new laws				2/2	=	
2. Regulation and use of budgetary impact assessment prior to approval of policies				3/3	+2	
3. Regulation and use of Regulatory Impact Assessments				3/3	+3	
4. Availability of guidance documents on impact assessment				1/2	+1	
5. Quality control of impact assessment				2/3	+2	
6. Quality of analysis in impact assessment				4/15	+4	
Total				15/28	+12	

The obligation to conduct thorough *ex ante* impact assessment for all regulation submitted to the Government was established in the RoP in 2018. It requires that draft acts be accompanied by the Impact Assessment Report (RIA report)¹⁴⁴. Implementation of this requirement is supported by the RIA Methodology, issued in March 2018. The methodology offers practical guidance and explanations and some hypothetical examples. However, it does not include examples from the Albanian practice, and is still not publicly available¹⁴⁵. However, good quality RIA examples are being shared with ministries

Both the RoP and the methodology call for analysis of a broad range of impacts, economic, social and fiscal and so on. The RIA report must provide an overview of the problem and the objectives of the proposed regulation. It must also identify and analyse options for addressing the problems identified, include the fiscal impact assessment and the results of the stakeholder consultation process, and describe the mechanisms for implementing and monitoring implementation of the proposed regulation.

The RoP requirement that all draft acts (of both primary and secondary legislation) submitted to the Government undergo RIA is not fully enforced, however. RIA reports are still prepared for draft laws only, but not for the bylaws, despite the fact that the transition period, during which the RIA reports were mandatory only for draft laws, expired at the start of 2020. RIA is thus enforced only for a small fraction of the regulations, since the draft laws are only a minor part of the regulations adopted by the Government¹⁴⁶.

¹⁴⁴ RoP, Article 45.

¹⁴⁵ The methodology is not at present published on any of the government websites.

¹⁴⁶ According to the OPM, the reason for not complying with the RoP is that the RIA process is still in its initial phase. It argues that efforts must be focused on improving the RIA reports on draft laws, because their quality is not yet satisfactory. Before RIA is put in place for bylaws, it says, additional criteria need to be adopted for the selection of

The quality control of the RIA reports is carried out by the RIA Unit of the OPM¹⁴⁷. Additionally, the MoFE is required to check the evaluation report on budgetary revenues and expenditures, i.e. the fiscal assessment¹⁴⁸. It is not clear whether MoFE uses RIA reports to inform the preparation of its opinion on fiscal sustainability of new policies. Quality checks on draft RIA reports are conducted, but the feedback provided by the RIA Unit is informal. There is no requirement for the RIA unit to provide an official opinion on the quality of the RIA report. Although the RIA unit regularly comments on the draft reports, it has no leverage to consistently check and enforce quality standards at the final stage. As the analysis of the sample RIA report packages¹⁴⁹ showed, the RIA Unit in the end always gave its informal green light, even though its main comments were often not taken into account and the key shortcomings of the reports were left unaddressed.

As for the quality of the RIAs, the analysis of the sample RIA reports confirmed that it is not yet satisfactory. While the ministries are able to define the main objective of the regulation and to justify the policy intervention, they have difficulties describing alternative options for achieving the objective. Usually, only the selected option is discussed in the analysis, with no further discussion of non-regulatory alternatives. For example, the RIA report for the Law on Open Data and Reuse of Public Sector Information discusses, within the regulatory option, only whether to amend the existing law or to adopt a new one. Substantially different policy alternatives on specific issues are not considered, such as voluntary compliance or improved information campaigns to increase implementation within the current regulatory framework. The assessment of the impacts of available options is often insufficient, since it mainly focuses only on the fiscal costs, and even the estimation of fiscal costs is usually not sufficiently justified. For example, in the RIA report for the Law on the Cultivation, Collection, Processing, Production and Trade of Tobacco and its Products, the total amount of budgetary costs is given, but without any explanation of the method used for their calculation, while the budgetary benefits are evidently significantly underestimated¹⁵⁰. The practice of setting implementation and monitoring mechanisms is also not uniform, since few reports contain sufficient information about them¹⁵¹. Overall, the analysis confirms the information from SIGMA interviews that in most cases, the ministries conduct RIA not at an early stage, before decisions on policy direction are made, but at the end of developing a draft.

Conclusion

Regulatory and methodological framework to ensure evidence-based policy making was established in 2018, but it currently covers only primary legislation. In practice, RIA is being systematically used in law making, but the quality of analysis and consideration and comparison of different alternatives requires improvement. As a rule, RIA is conducted at the end of the draft development process instead of at the beginning, and the final quality check, although in place, is not sufficiently rigorous.

the categories of bylaws that will have to undergo RIA. None of this, however, justifies ignoring binding RoP requirements, and the transitional period of a year and a half has been long enough to allow for the discussion and adoption of additional criteria, if that was needed.

¹⁴⁷ Impact Assessment Methodology, pp. 9-10.

¹⁴⁸ RoP, Article 23.

¹⁴⁹ The sample contained RIA reports for the following five draft laws: the Law on Placing on the Market and Supervision of Pyrotechnic Articles; Law on the Cultivation, Collection, Processing, Production and Trade of Tobacco and its Products; Law on the Division of the Albanian Railways Company; Law on the Profession of the Real Estate Broker; Law on Open Data and Reuse of Public Sector Information.

¹⁵⁰ The law aims to reduce the informal trade and consumption of tobacco, whose budgetary losses are estimated at EUR 30 million to EUR 50 million annually. Improved regulation should result in additional budgetary revenue, but the report does not address this.

¹⁵¹ Only three out of five sample RIA reports contained enough information on how and by whom the policy is likely to be implemented, and only two described the mechanisms to be used to monitor and evaluate the progress achieved.

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

Overall, the value for the indicator ‘Public consultation on public policy’ is 3. The legislative framework and guidance improved significantly with the adoption of the Guideline on Public Consultation Process in 2021, which also established quality control over public consultation processes. As a result, the overall value of the indicator has increased, from a value of 1 in 2017. However, although the public consultation practice has improved in some respects since then, its quality is still not sufficient.

Overall, the value for the indicator ‘Interministerial consultation on public policy’ is 4. No major changes in the regulatory framework have been made since 2017, but the interministerial consultation practices have improved. As a result, the overall indicator value is higher than in 2017, when the value was 2.

Indicator 2.11.1 - Public consultation on public policy

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

Overall 2021 indicator value  since 2017

0 1 2 **3** 4 5

	Points 2021	Change from 2017
1. Adequacy of the regulatory framework for an effective public consultation process	9/10	+3
2. Quality assurance of the public consultation process	1/3	+1
3. Consistency in publishing draft laws for written public consultation	4/4	+3
4. Test of public consultation practices	13/24	+9
Total	27/41	+16

Public consultation requirements and procedures are set out in the Law on Public Notification and Consultation¹⁵² of 2014 and the Guideline on Public Consultation Process¹⁵³, adopted in January 2021. The Guideline contains detailed practical instructions on how to plan, implement and monitor the consultation process. Under the existing regulation, public consultation is required for draft laws and draft policy strategic documents of major public interest, but it is still not required for the secondary legislation adopted by the Government¹⁵⁴. As a result, of the 402 draft regulations that according to the Government Analytical Programme had to be approved in 2020, only 49 needed to undergo public consultation¹⁵⁵.

From January 2021, the regulatory framework has allowed for informing stakeholders in advance about forthcoming public consultations. According to the new Guideline on Public Consultation Process, the Government must, within one month of the approval of the annual Analytical Programme, prepare and publish the Annual Public Consultation Plan¹⁵⁶. A minimum duration for written public consultation through the Government online consultation portal (the Electronic Registry of Public Notification and Consultation)¹⁵⁷ is established at a minimum of 20 days, and may be extended to 40 days for especially complex and important matters¹⁵⁸. The Law on Public Notification and Consultation requires that the report on the outcome of public consultation be part of the documentation submitted with the agenda items for

¹⁵² Law No. 146/2014 on Public Notification and Consultation.

¹⁵³ Guideline on the Public Consultation Process, adopted by the Order of Secretary General of CoM No. 3 of 29 January 2021.

¹⁵⁴ Law No. 146/2014, Article 4.

¹⁵⁵ Annual Report on Public Consultations in 2020, p. 7.

¹⁵⁶ Guideline on the Public Consultation Process, p. 12.

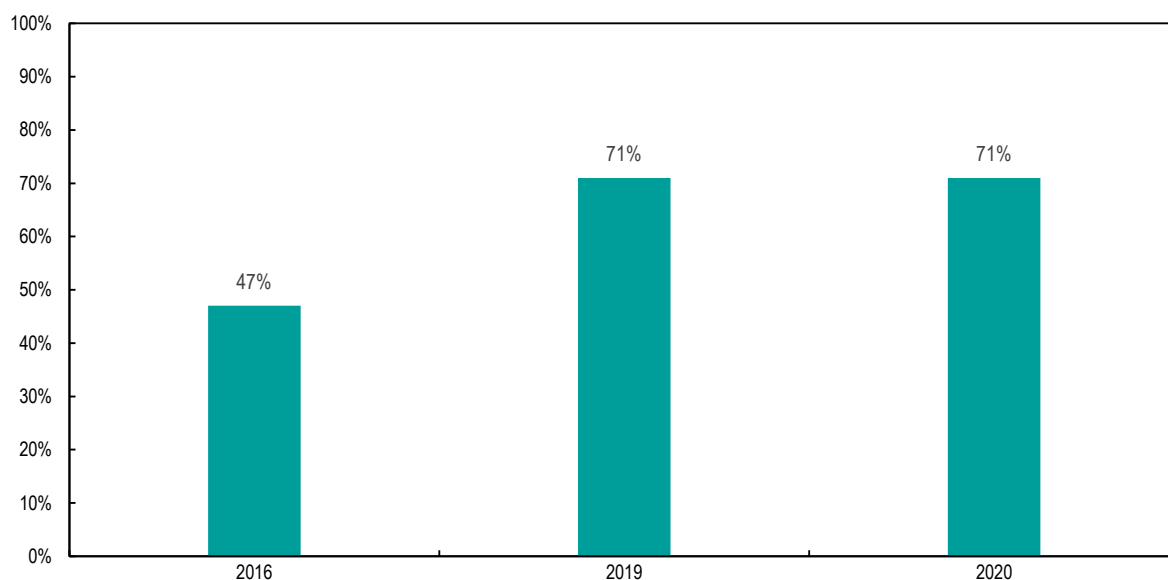
¹⁵⁷ Electronic Registry of Public Notification and Consultation, <https://www.konsultimipublik.gov.al/>.

¹⁵⁸ Law No. 146/2014, Article 15.

government sessions¹⁵⁹. The report also needs to be made public and available to the general public on the Government online consultation portal and e-mail or the website of the ministry¹⁶⁰. With the adoption of the Guideline on Public Consultation Process, CoG quality control over public consultation was also directly established, since the Guideline gives the Regulatory and Compliance Department of the OPM the responsibility of ensuring that all draft acts are accompanied by a consultation report¹⁶¹. It also instructs the ministries to report quarterly on implementing their annual consultation plans, and the Department for Development and Good Governance of the OPM is charged with preparing and publishing annual reports on the progress of the quality of public consultations. The progress reports the department has been preparing since 2019 have proven to be a useful tool for identifying major challenges in the public consultation practice and for planning improvements.

In practice, however, the regularity of publishing drafts for mandatory online public consultation continues to be insufficient. Although all four sample ministries¹⁶² published online for public consultation at least 80% of the draft laws they submitted to the Government in 2020, the official Government annual report on public consultation for 2020 shows a less positive overall picture. In 2020, only 71% (67 out of 93) of draft acts, which, by law, needed to be presented for consultation on the Government online consultation portal, were actually consulted on the online portal¹⁶³. According to the report, consistency across ministries also varies widely. The ministries of agriculture, defence, culture and health and social welfare, for example, were 100% consistent in conducting mandatory consultation, while the Ministry of Interior and the Ministry of Infrastructure and Energy, for example, consulted on only 50% of the drafts that should have been presented¹⁶⁴.

Figure 5. Consistency in publishing draft acts for mandatory online consultation on the Electronic Registry of Public Notification and Consultation



¹⁵⁹ *Idem*, Article 19.

¹⁶⁰ Guideline on the Public Consultation Process, p. 25.

¹⁶¹ *Idem*, p. 23. Until January 2021, there was no designated unit responsible for checking the process and outcome of public consultation, so the enforcement of the rules in place was not systematically reviewed.

¹⁶² The Ministry of Health and Social Protection published all, i.e. three out of three drafts, the MoFE published 22 out of 26 drafts, the Ministry of Agriculture and Rural Development published five out of six drafts, and the Ministry of Tourism and Environment published eight out of nine drafts it submitted to the Government for approval in 2020.

¹⁶³ Annual Report on Public Consultations in 2020, pp. 5 and 12. In 2019, the consistency of conducting online consultations, according to the report, was also 71%, while in 2018 it was only 47%.

¹⁶⁴ *Idem*, p. 15.

Notes: Rates from 2016, 2018 and 2020 are taken from the SIGMA Monitoring Reports of 2017, 2019 and 2021.

Source: Annual Government Report on Public Consultations in 2020.

As for the analysis of consultation practice for the five sample draft laws¹⁶⁵, it showed that all five drafts were consulted online, and for the required 20-day period. The fuller picture, in the Government annual report for 2020, is again more critical: the minimum 20-day deadline was respected in only 74% of cases¹⁶⁶. The obligation to submit the report on the outcome of public consultation to the Government was fulfilled in three out of the five sample cases¹⁶⁷, while in the remaining two cases, the RIA report and/or the explanatory memorandum contained information only on who was consulted, without specific information on the content of the comments received and the result. Stakeholders provided comments for three drafts, but only for two of them was a publicly available report produced that included comments and feedback from the ministry¹⁶⁸. On the positive side, the RIA report and the explanatory memorandum were published with the draft law in all five sample cases, and meetings were held in addition to the written public consultation in three sample cases¹⁶⁹. In one case¹⁷⁰ stakeholders were also included in the working group set up for developing the law.

However, according to the Government report, stakeholder response to public consultation continues to be very weak. Only 388 comments were received from 266 stakeholders in 2020, with half of the consulted draft acts (37 of 74) receiving no comments¹⁷¹. Such a weak response suggests that the consultation processes have not so far been organised efficiently and targeted enough to attract more interest, which is also one of the key findings of the Government report¹⁷².

¹⁶⁵ The sample involved the following draft laws: the Law on Placing on the Market and Supervision of Pyrotechnic Articles; Law on the Cultivation, Collection, Processing, Production and Trade of Tobacco and its Products; Law on the Division of the Albanian Railways Company; Law on the Profession of the Real Estate Broker; Law on Open Data and Reuse of Public Sector Information.

¹⁶⁶ Annual Report on Public Consultations in 2020, p. 9.

¹⁶⁷ For the Law on Placing on the Market and Supervision of Pyrotechnic Articles; Law on the Cultivation, Collection, Processing, Production and Trade of Tobacco and its Products; and Law on Open Data and Reuse of Public Sector Information.

¹⁶⁸ The report was published in two cases: for the Law on the Cultivation, Collection, Processing, Production and Trade of Tobacco and its Products; and for the Law on the Profession of Real Estate Broker. For the Law on the Division of the Albanian Railways Company, the public consultation report was not published, nor did its RIA report or Explanatory Memorandum contain any substantial information about comments received. It was simply reported that some were received. In the remaining two cases, no comments were submitted, according to the reports.

¹⁶⁹ For the Law on the Cultivation, Collection, Processing, Production and Trade of Tobacco and its Products; the Law on the Division of the Albanian Railways Company; and the Law on the Profession of the Real Estate Broker.

¹⁷⁰ Draft Law on the Cultivation, Collection, Processing, Production and Trade of Tobacco and its Products.

¹⁷¹ Annual Report on Public Consultations in 2020, p. 20. For comparison: in 2019, the Croatian Government consulted 1 031 documents and received 19 543 comments from a total of 4 153 legal and natural persons. Cf. Report on the Implementation of Consultations with the Interested Public in the Procedures for the Adoption of Laws, Other Regulations and Acts in 2019, pp. 8, 9, 16 and 19, <https://savjetovanja.gov.hr/vijesti/izvjesce-o-provedbi-savjetovanja-sa-zainteresiranom-javnoscu-u-postupcima-donošenja-zakona-drugih-propisa-i-akata-u-2019/1217>.

¹⁷² Annual Report on Public Consultations in 2020, p. 25.

Indicator 2.11.2 - Interministerial consultation on public policy

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

Overall 2021 indicator value  since 2017

0 1 2 3 **4** 5

	Points 2021	Change from 2017
1. Adequacy of the regulatory framework for an effective interministerial consultation process	8/9	+2
2. Test of interministerial consultation practices	7/12	+4
Total	15/21	+6

The procedure for interministerial consultation is set out by the Law on the Organisation and Functioning of the CoM¹⁷³ and the RoP¹⁷⁴. Overall, the procedure is sufficiently regulated, but the main shortcoming is that no general provision requires the drafting ministry to consult all interested or affected ministries or governmental bodies. The RoP lists by name all institutions that need to be consulted and hence effectively limits the list in formal terms, although this does not exclude wider consultation. The MoJ and the MoFE must be consulted on all draft acts, and in certain cases, the MEFA, the ministry responsible for labour and social affairs, and the Department of Public Administration. The OPM departments that act as CoG bodies do not need to be consulted in the development phase of the draft act. They are expected to comment once the drafts have been submitted to the Government. The MoJ, the MEFA and the MoFE are given ten days by the RoP to prepare their opinion, while other ministries and departments have seven days. The comments and suggestions received must be included in the explanatory memorandum submitted to the Government with the draft proposal.

The analysis of the sample of five draft laws¹⁷⁵ showed that interministerial consultation continues to be a well-organised and well-run process; CoG bodies, including the OPM, and affected ministries and departments, are routinely consulted before the draft is submitted to the Government, even when they are not required so by the RoP. The deadline for submission of comments also seems to be routinely respected by the drafting ministries¹⁷⁶, but on the other hand, it is sometimes missed by the commenting ministries. This is mostly due to the fact that the RoP do not take into consideration the different types and nature of the policy proposals being consulted on, and hence does not allow extensions of the timeline even in cases when that would be reasonable. On the negative side, the requirement that the Government must be informed of the outcome of interministerial consultation is, as suggested by the sample of supporting documentation for the five draft laws under review, often not observed. Only in two cases did

¹⁷³ Law No. 9000/2003, Article 24.

¹⁷⁴ RoP, Chapter IV. Articles 22-26, 28 and 45.

¹⁷⁵ The sample under review involved the following draft laws: Law on Placing on the Market and Supervision of Pyrotechnic Articles; Law on the Cultivation, Collection, Processing, Production and Trade of Tobacco and its Products; Law on the Division of the Albanian Railways Company; Law on the Profession of the Real Estate Broker; Law on Open Data and Reuse of Public Sector Information.

¹⁷⁶ However, the consistency could not be verified fully, as the information about the duration of consultation was made available for SIGMA review only for three sample cases: for the Draft Law on Open Data and Reuse of Public Sector Information; the Draft Law on the Profession of Real Estate Broker; and the Law on Placing on the Market and Supervision of Pyrotechnic Articles. In all three cases, however, the minimum deadline was respected.

the explanatory memorandum include information on the comments from the ministries consulted and how they were reflected in the final draft¹⁷⁷.

Forums for conflict resolution are established and working in practice¹⁷⁸. According to the RoP, a special conflict resolution co-ordination under the PM or the Secretary General of the CoM may be called if conflicting views cannot be resolved, but most often, these issues are resolved at the weekly meetings of general secretaries and/or directors of legal departments. These regular meetings provide a useful platform for co-ordination between ministries.

Conclusion

Legislation requires that the decision-making process be open and inclusive. Public consultation so far has not been very successful, and has resulted in a very weak stakeholder response. In 2021, the legislation was amended accordingly and a quality check, one of the most evident shortcomings, is now also conducted. It is to be hoped that this will increase public trust and response.

Interministerial consultation is well regulated and mostly working in practice, and mechanisms for resolving disagreements have also been established. A key shortcoming is that central authorities are not active enough in ensuring that policy proposals are coherent with Government priorities.

¹⁷⁷ The two cases were the Law on Placing on the Market and Supervision of Pyrotechnic Articles; and the Law on the Profession of the Real Estate Broker. In the other three cases, information was provided on those who submitted comments, but without any information on their content or result.

¹⁷⁸ RoP, Articles 33-42 and 48/1.

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

Overall, the value for the indicator ‘Predictability and consistency of legislation’ is 4. No major changes were identified in the area, apart from the increased confidence of businesses in the stability and reliability of the legislation that affects them. The improvement of the overall indicator value since 2017, when the value was 3, is mainly related to the new sub-indicator on the timeliness of adoption of mandatory bylaws. The analysis confirmed that they are usually in place on time.

Overall, the value for the indicator ‘Accessibility of legislation’ is 3. All post-1998 legislation is available online free of charge and in a consolidated format. The share of those who find that information on laws and regulations affecting their companies is easily obtainable from the authorities has also increased. Nonetheless, a substantial number of older laws and bylaws (more than 350) are still not available online.

Indicator 2.12.1 - Predictability and consistency of legislation

This indicator measures the predictability and consistency of legislation. It assesses the availability of training and guidance along with the establishment of the quality control function. The consistency of laws is assessed based on the ratio of laws amended one year after adoption, and predictability is assessed through the perceived consistency of interpretation of business regulations.

Overall 2021 indicator value  since 2017

0 1 2 3 **4** 5

	Points 2021	Change from 2017
1. Availability of guidance documents on legal drafting	2/2	+1
2. Quality assurance on legal drafting	3/3	=
3. Laws amended one year after adoption (%)	1/3	-1
4. Perceived clarity and stability of government policy making by businesses (%)	1/2	+1
5. Timeliness of adoption of mandatory bylaws (%)	2/3	new ¹⁷⁹
Total	9/13	+3

Procedures are in place to ensure the coherence and quality of legislative drafting. The MoJ is responsible for legal scrutiny¹⁸⁰. It has published the Law Drafting Manual which contains detailed, practical instructions for legal drafting formalities and arrangements, including how to enact and initiate laws and transitional issues, and consistently ensures that those instructions are applied in practice¹⁸¹. The 19 lawyers working in the Codification Department of the MoJ issued 1 318 opinions in 2020¹⁸².

The share of laws amended within one year of their adoption remains as low as in previous assessments, indicating a stable legal environment and good legal drafting. It is estimated at 5% as of 98 laws adopted by the Parliament in 2019. For only 5 was an amendment prepared by the Government within one year of adoption. The analysis further confirmed that in most cases, the Government acts in a timely fashion in

¹⁷⁹ This indicator has been introduced since the 2017 assessment.


¹⁸⁰ Law No. 9000/2003, Article 24/2, and RoP, Article 22.

¹⁸¹ The Codification Department of MoJ provided its opinion for all five sample drafts: the Law on Some Additions and Amendments to Law No. 9179 on a Special Treatment of Employees Who Have Worked in Several Enterprises of the Military Industry; Law on Some Additions and Amendments to Law No. 44/2012 on Mental Health; Law on Some Additions and Amendments to Law No. 9062 Family Code; Law on Placing on the Market and Supervision of Pyrotechnic Articles; and Law on Some Additions and Amendments to Law No. 10193 on Jurisdictional Relations with Foreign Authorities in Criminal Matters.

¹⁸² According to the information provided by the Codification Department of the MoJ.

adopting mandatory bylaws. Of nine bylaws required by the three sample laws¹⁸³, eight had been adopted by the time the law took effect.

According to the 2021 Balkan Barometer survey, 61% of responding businesses tend to agree or strongly agree that the laws and regulations affecting their companies are clearly written, not contradictory and are not revised too frequently. In 2017, the share was 47%¹⁸⁴.

Indicator 2.12.2 - Accessibility of legislation					
This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.					
Overall 2021 indicator value  since 2017	0	1	2	3	4 5
				Points 2021	Change from 2017
1. Adequacy of the regulatory framework for public accessibility of legislation				6/6	=
2. Accessibility of primary and secondary legislation in practice				2/8	=
3. Perceived availability of laws and regulations affecting businesses (%)				1/2	+1
Total				9/16	+1

The Law on the Organisation and Functioning of the Centre for Official Publications¹⁸⁵ stipulates the process, the deadlines and the responsibilities of relevant bodies for publishing and consolidating legislation. All primary and secondary legislation from 1998 onwards (a total of over 34 000 acts) is available free and in a consolidated format on an online central registry of the Official Gazette¹⁸⁶. This covers the main body of legislation currently in force in Albania¹⁸⁷.

The online register's interface was recently upgraded to allow for easier search and more information about the acts published¹⁸⁸. However, according to the Centre for Official Publications, about 350 laws and bylaws from the period 1980-1998 are not yet available online.

The 2021 Balkan Barometer survey shows that 63% of business representatives reported that information on laws and regulations affecting their companies was easily obtainable from the authorities. The result was an improvement on 2017, when the share was 48%¹⁸⁹.

¹⁸³ The sample included: Law No. 20/2020 on the Completion of Transitional Property Processes in the Republic of Albania, Law No. 112/2020 on the Register of Beneficiary Owners and Law No. 102/2020 on Regional Development and Cohesion. The only bylaw not adopted on time was the bylaw required by the Law on Regional Development and Cohesion.

¹⁸⁴ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, p. 56, <http://www.sigmaweb.org/publications/Monitoring-Report-2017-Albania.pdf>.

¹⁸⁵ Law No. 78/2014 on the Organisation and Functioning of the Centre for Official Publications.

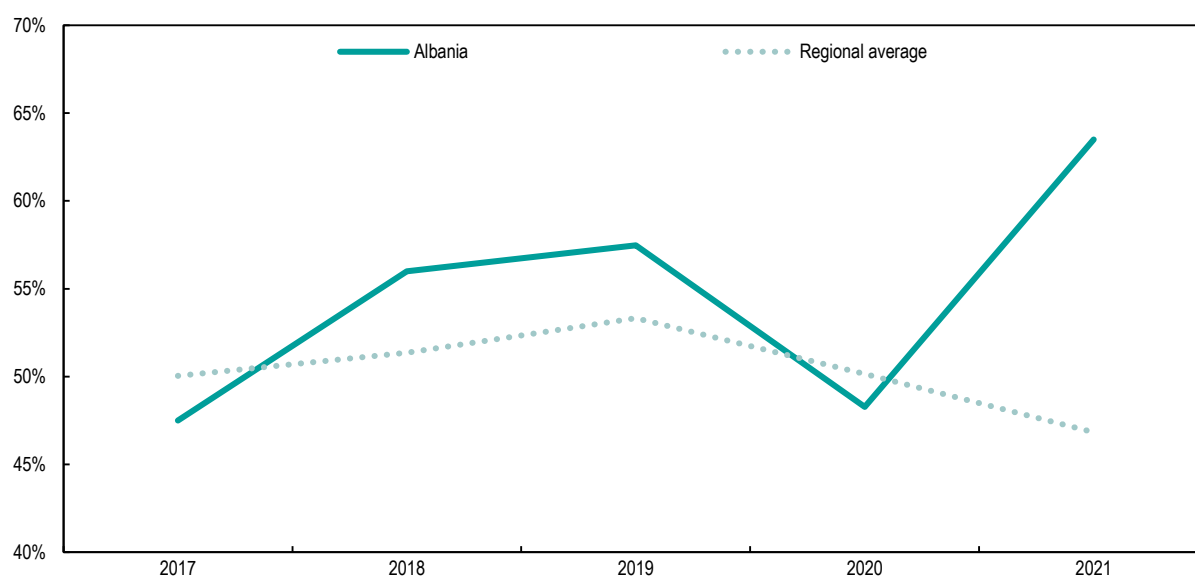
¹⁸⁶ The Electronic Archive of Acts, <https://qbz.gov.al/>.

¹⁸⁷ While some old laws are formally still valid, those are not relevant and are no longer used. The assessment of this criteria has thus been revised from the 2017 value.

¹⁸⁸ For example, the online register now also provides the information on the history of the act, i.e. dates when the act was amended.

¹⁸⁹ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, p. 56-57, <http://www.sigmaweb.org/publications/Monitoring-Report-2017-Albania.pdf>.

Figure 6. Perceived availability of laws and regulations affecting businesses



Note: Positive responses (“Strongly agree” and “Tend to Agree”) to the question whether the laws and regulations affecting businesses are considered.

Source: Regional Cooperation Council (RCC), Balkan Barometer Business Opinion database (<https://www.rcc.int/balkanbarometer>).

Conclusion

Clear procedures and rules for drafting legislation are established and adhered to. Scrutiny of legal quality is also effectively ensured. However, changes to certain legislation are still too frequent, which increases public distrust in the stability of legislation.

All post-1998 primary and secondary legislation is available centrally and in consolidated format on a national electronic database accessible online free of charge, but about 350 laws and bylaws predating 1998 are still not easily accessible.

Public Service and Human Resource Management

The Principles of Public Administration

Public Service and Human Resource Management

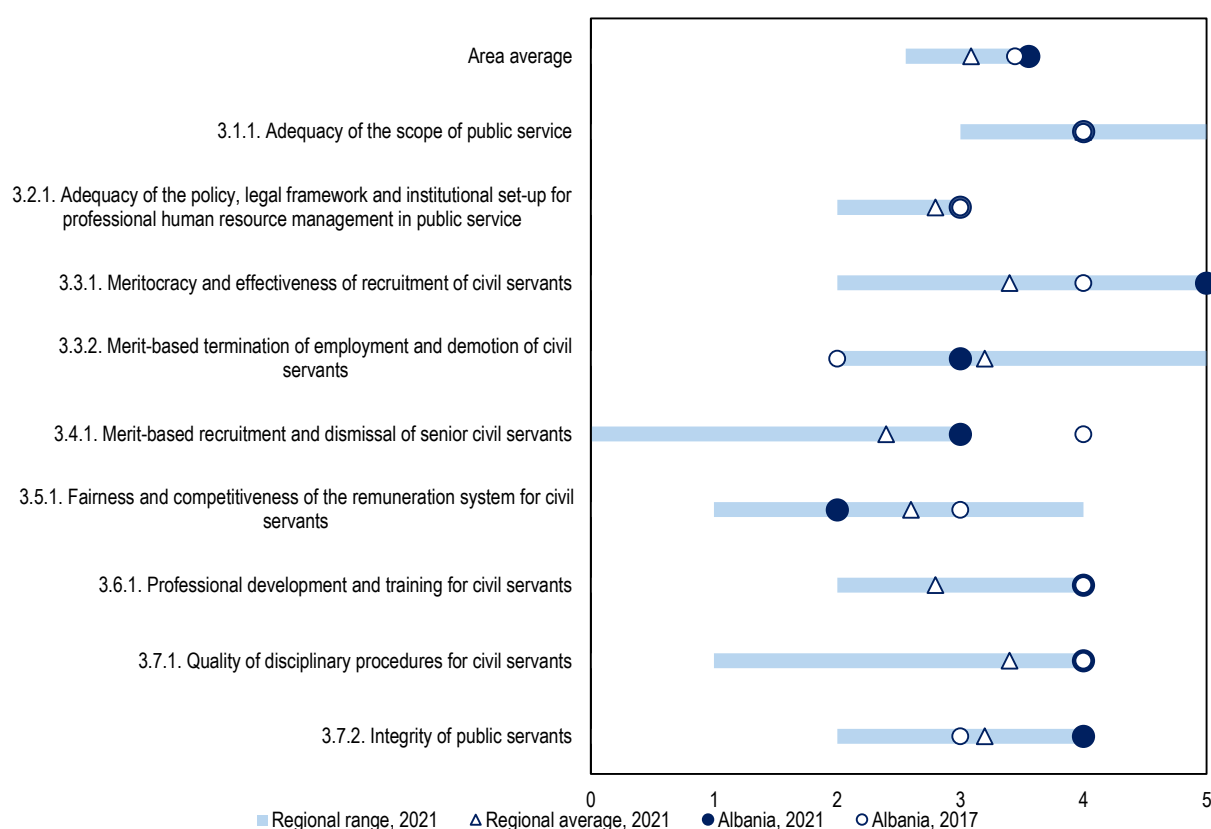
Principle 1	The scope of public service is adequate, clearly defined and applied in practice.
Principle 2	The policy and legal frameworks for a professional and coherent public service are established and applied in practice; the institutional set up enables consistent and effective human resource management practices across the public service.
Principle 3	The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.
Principle 4	Direct or indirect political influence on senior managerial positions in the public service is prevented.
Principle 5	The remuneration system of public servants is based on job classifications; it is fair and transparent.
Principle 6	The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.
Principle 7	Measures for promoting integrity, preventing corruption and ensuring discipline in the public service are in place.

Public Service and Human Resource Management

Summary and recommendations

In the area of public service and human resource management, Albania scores the highest in the Western Balkans region, with an aggregate composite indicator of 3.6. With the Civil Service Law (CSL)¹⁹⁰ dating back to 2013 and all secondary legislation in place, the Albanian civil service system can be considered mature and stable by regional standards. Limited legislative and organisational changes have taken place since the previous assessment in 2017. Nevertheless, several weaknesses persist and, more importantly, the practice does not always follow the concepts enshrined in the CSL.

Albania is a solid regional performer in PSHRM, but salary reform is needed and management practices for senior civil servants need to be reviewed



As defined by the legislative framework, **the scope of the civil service is comprehensive; however, exclusions to vertical scope persist** (the heads of certain agencies are appointed by the political authorities). After the government's reorganisation, and based on the somewhat unclear criteria of the CSL, a number of bodies were given the status of service delivery units and placed under the Labour Code, which increases the **fragmentation of the horizontal scope**.

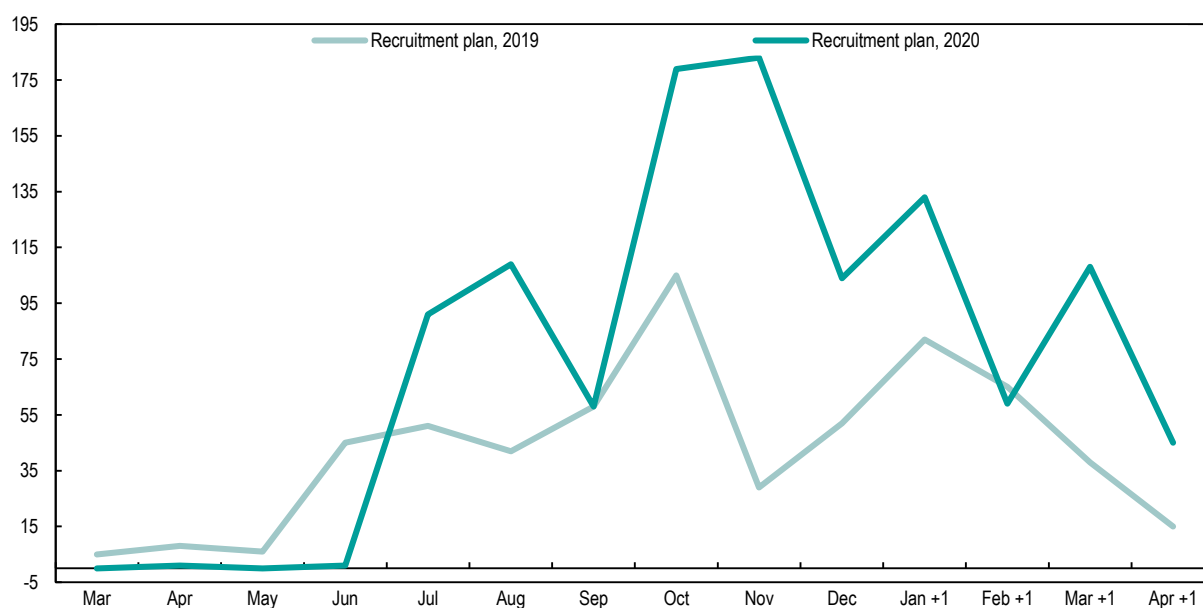
Since the abolition in 2017 of the position of the Minister of State for Innovation and Public Administration (MIPA), **political responsibility for the civil service has not been clearly assigned**. Nevertheless, the Department of Public Administration (DoPA) remains a key institution, responsible for co-ordination of policy implementation. Communication between DoPA and human resource management (HRM) units is fluid, but additional guidelines would ensure uniform application of key HR practices. Significant progress has been made in populating the Human Resource Management Information System (HRMIS) and

¹⁹⁰ The Law on Civil Servants, No. 152/2013.

extending it to all public institutions, but the rollout has not yet been completed. Its interoperability with the Civil Registry and the Treasury System is now possible and partially in place. Lack of complete data has hampered strategic planning and monitoring HR activities.

The legislation in force is aligned with the core principles of merit-based recruitment and fully applied in practice. DoPA successfully launched online recruitment processes in record time, after the lockdown was imposed in early 2020 as a result of the COVID-19 pandemic. However, recruitments for groups of positions at the entry level are still not standard procedure, and recruitment to individual positions is equally common, because uniform job descriptions have not been established in all institutions. Implementation of court decisions favourable to dismissed civil servants was progressing well until the outbreak of the pandemic, but this long-lasting and costly problem has not been finally resolved.

Implementation of the Annual Recruitment Plans for 2019 and 2020 show that 2020 recruitment was stalled by the pandemic, but that introducing e-recruitment in April allowed for successful appointments all year, exceeding the 2019 numbers



Notes: Number of appointments to the civil service per month resulting from recruitment procedures launched in 2019 and 2020.

Source: Department of Public Administration.

Management of senior civil servants differs significantly from what is foreseen in the legislation.

The standard recruitment procedure has never been followed, supposedly because the Albanian School of Public Administration (ASPA) has not rolled out the in-depth training programme finalised in 2016. Although the Top Management Corps (TMC) has had a sufficient number of successful candidates, they have not been appointed, and about 30% of senior managerial positions remain vacant. Dismissals from the TMC are rare, but the turnover in individual senior positions is much higher. The performance appraisal of senior managers provided for in the CSL has not yet begun.

A need for improvement in the remuneration system has been acknowledged for some years, but the first comprehensive draft of the reform was prepared only in 2020. It was not accompanied by an action plan, and consultations with stakeholders are pending. Extending the working condition allowance to various groups of civil servants has become a substitute for motivational use of remuneration policy.

Although **performance appraisal, promotion, training and mobility have been introduced, they are not interlinked and thus do not constitute a comprehensive performance management system.** However, despite the challenges caused by the 2019 earthquake, the 2020 COVID-19 pandemic and the subsequent lockdown, ASPA continued to provide training programmes, almost exclusively online.

The legal framework on integrity and disciplinary procedures, complemented by the anti-corruption strategy, is comprehensive, but still fragmented. Data on its application is not

centralised. Progress has been made in the implementation of the Law on Declaration of Assets, but the resources of the High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI) are insufficient to deal with its expanded mission.

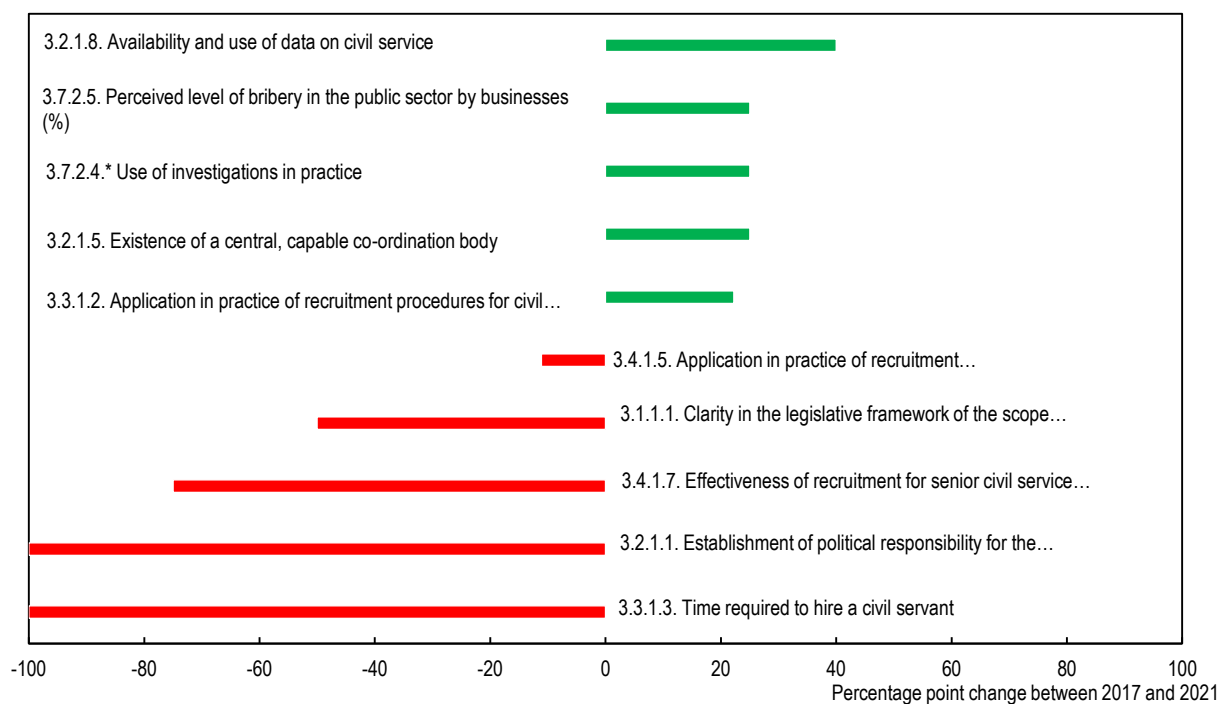
Short-term recommendations (1-2 years)

- 1) The Government should ensure that the practice of TMC management respects the letter and the spirit of the CSL: access to the TMC should take place through the standard procedure, all TMC members should undergo in-depth training at ASPA, those appointed to regular positions should undergo performance appraisals and evaluations by the National Selection Committee, and TMC members should be appointed to all vacant senior managerial positions without delay.
- 2) The Government should finalise the process of harmonising and improving job descriptions in state administration institutions and ensure that recruitments to the executive positions follow the CSL requirements and that competitions organised for individual positions become an exception.
- 3) The Government should continue to undertake measures and create conditions to attract good candidates to all positions in the civil service. The young graduates' scheme can be considered one such measure, but it should be given legal basis in the CSL.
- 4) The Government should finalise the prolonged process of implementing the HRMIS. All institutions need to be covered, and up-to-date data on civil servants is necessary to allow strategic and evidence-based HR management at the state level.
- 5) The Government should finalise the prolonged process of implementing court decisions favourable to unlawfully dismissed civil servants, while taking steps to keep the number of new successful appeals in such cases at a low level.
- 6) The Government should ensure that, after an inclusive consultation process, a salary system reform is prepared, politically supported and implemented, so that CSL provisions are applied in practice and remuneration becomes a useful tool of HR management.
- 7) The Government should specify the criteria set up in the CSL on the creation of direct-service delivery units and provide clear guidelines to preserve the consistency of the scope of the Civil Service.

Medium-term recommendations (3-5 years)

- 8) The Government should establish a consistent employment framework for all employees in the public administration, in order to ensure that all employees are selected through competition, except when the law provides otherwise. The framework should limit to fully justified exceptions the creation of direct service delivery units and other arrangements that guide the employee relations governed by the Labour Code (including temporary contracts). DoPA should collect data on this entire population to allow for evidence-based HR management.
- 9) HIDAACI, in collaboration with DoPA, should promote a uniform, efficient implementation of the legislation on integrity, for example by compiling norms, regulations and guidelines in the form of a practical handbook for HMR units.

The five highest percentage point increases and decreases for all sub-indicators in the area compared to 2017. There is steady progress in various sub-indicators, with drops primarily in those beyond the influence of the Department of Public Administration



Note: * marks where points have been deducted because data was not available or of poor quality.

Analysis

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

Overall, the value for the indicator 'Adequacy of the scope of public service' is 4, equal to the 2017 value. The clarity and consistency of the horizontal scope is negatively affected by the establishment of a number of direct-delivery units.

Indicator 3.1.1 - Adequacy of the scope of public service						
This indicator measures the extent to which there is a legal framework establishing an adequate horizontal, vertical and material scope for the public service, and whether it is consistently applied across the public sector.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Clarity in the legislative framework of the scope of the civil service					1/2	-1
2. Adequacy of the horizontal scope of the public service					5/6	+1
3. Comprehensiveness of the material scope of civil service legislation					2/2	=
4. Exclusion of politically appointed positions from the scope of the civil service					2/2	=
5. Clarity of the lower division line of the civil service					1/1	=
Total					11/13	=

The Civil Service Law (CSL) as amended in 2014¹⁹¹ is unchanged, except for a slight positive modification introduced by Law 41/2017. It now includes judicial administrative employees in the scope of the civil service, whereas other exceptions to the horizontal scope are still in force¹⁹².

The CSL provides a clear definition of its scope, covering three broad categories: state administration institutions, independent institutions and local government units. It clearly determines the vertical scope of the civil service – that is, the demarcations between political appointees, public servants and support staff. Moreover, the CSL stipulates that civil servants in the top-level management category cannot be members of political parties. The positions immediately under the ministers in the hierarchy of the ministries and the public institutions subordinated to ministries and to the PM are classified as senior civil service positions. The legal framework of the civil service is complete, except for development of the salary system as established in the current law (see Principle 5). However, some issues remain with its implementation, already raised in the 2017 monitoring report, and contribute to the fragmentation of the civil service scope and an increased risk of political influence.

First, the establishment of several direct-service delivery units challenges the consistency of the horizontal scope¹⁹³. The risk identified in 2017 materialised, and the number of such units increased after the

¹⁹¹ CSL 152/2013 amended by Law No. 178/2014.

¹⁹² CSL, Article 2.

¹⁹³ CSL Article 4-1 c) specifies that a civil servant is a person whose functions involve in particular the exercise of administrative public authority, the support and the monitoring of the implementation of administrative rules and procedures. Article 4-1 dh) states that "Public direct service units are the administrative units delivering directly to the citizens public service of pre-university and university education, health care, culture, sports, arts, social assistance and other social services".

reorganisation of government administration. Some institutions with staff previously covered by the CSL¹⁹⁴ became regulated by the Labour code, in contradiction with the constitutional provisions presented below.

Second, exceptions to vertical scope persist. The appointments of the heads of some public bodies are based on special laws and decisions of the Council of Ministers (CoM) and not on the CSL¹⁹⁵.

Third, although there are clear criteria in the CSL to identify the lower category of the administrative employees who are in charge of support tasks and do not exercise public authority, the identification of some other categories of public employees excluded from the status of civil servant is subject to interpretation¹⁹⁶.

Finally, there is no overall framework to ensure that fundamental principles enshrined in the Constitution govern work relations of all public employees¹⁹⁷. There should be a set of basic rights and obligations shared by all public employees and employers. Work relations of public officials are regulated by legislation such as the CSL, the Labour Code¹⁹⁸, specific sectoral legislation or collective agreements or contracts. Moreover, there is a lack of data to characterize the group of non-civil servants¹⁹⁹, while they represent the majority of public sector employees²⁰⁰. The annual report of the Department of Public Administration (DoPA) is focused on civil servants only.

Conclusion

The scope of the civil service is comprehensive and defined by the legislative framework; however, exclusions persist and create fragmentation. After the reorganisation, a number of bodies were given the status of service delivery units and placed under the Labour Code, based on unclear criteria. Vertical scope is affected by special legislation that gives political authorities the competence to appoint heads of some public bodies. A uniform legal framework for all public employees, ensuring principles of public service, does not exist.

¹⁹⁴ The Health Care Service Operator subordinated to the Ministry of Health and Social affairs; the four regional directorates supervising health care centres and hospitals; the General Directorate of the Pre-university Education System and the four regional directorates; the National Youth Agency (DoPA Information).

¹⁹⁵ The National Authority for Veterinary and Plant Protection (Law No. 10465 of 29 September 2011 amended by Law No. 71/2020); the National Youth Agency (Directive of the Council of Ministers, or DCM, No. 681 of 2 September 2020); the State Expropriation Agency (DCM No. 395 of 13 May 2020); the National Centre for Traditional Activities (DCM No. 433 of 26 June 2019); the National Institute for Registration of Cultural Heritage (DCM No. 364 of 25 September 2019); the National Centre of Books and Readings (CMD No. 24 of 16 January 2019); the National Food Authority (Law No. 9863 of 28 January 2008, amended by Law 16/2020).

¹⁹⁶ CSL Article 2 h). Employees assuming the powers of the judicial police agent and those permitted to carry weapons under the law are not civil servants.

¹⁹⁷ Constitution of Albania, Article 107, "Employees in the public administration are selected through competition, except when the law provides otherwise 1. Public employees apply the law and are in the service of the people. 2. Employees in the public administration are selected through competition, except when the law provides otherwise. 3. Guarantees of tenure and legal treatment of public employees are regulated by law".

¹⁹⁸ Law No. 7961 of July 1995 on the Labour Code, amended by Law No. 136/2015.

¹⁹⁹ Mainly in terms of gender, limited-term or permanent contracts, scale of salaries, occupied jobs and type of employers.

²⁰⁰ According to the National Institute of Statistics, 175 443 people were employed in the public sector in 2020: 14 228 legislators, senior officials and managers, 77 232 specialists, 35 556 specialist technicians and assistants, 14 305 simple clerks, 34 122 workers) <http://www.instat.gov.al/>.

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

Overall, the value for the indicator ‘Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public services’ is 3. The value was the same in 2017. Better availability and use of data on the civil service and improvements in the way DoPA exercises its central co-ordination role is offset by the lack of clearly assigned political responsibility for public service since the government reorganisation in 2017.

Indicator 3.2.1 - Adequacy of the policy, legal framework and institutional set up for professional human resource management in public service					
This indicator measures the extent to which the policy, legal framework and institutional capacities are in place and enable consistent human resource management (HRM) practices across the public service, and assesses whether policies and laws are implemented to ensure proper management of the civil service, for example a functioning civil service database, availability and use of data, etc.					
Overall 2021 indicator value	0	1	2	3	4 5
				Points 2021	Change from 2017
1. Establishment of political responsibility for the civil service				0/2	-2
2. Quality of public service policy documents				3.5/4	+1
3. Implementation and monitoring of public service policy				1/4	=
4. Right balance between primary and secondary legislation				2/2	=
5. Existence of a central, capable co-ordination body				3.5/4	+1
6. Professionalism of HRM units in civil service bodies				1/2	=
7. Existence of a functional HR database with data on the civil service				1.5/4	=
8. Availability and use of data on the civil service				5/5	+2
Total				17.5/27	+2

As noted in Chapter 1, the initial validity period of the Cross-cutting Public Administration Reform (CCPAR) Strategy 2015-2020 was extended to 2022. This was done by adopting a new Action Plan covering an additional two years, without changing the reform objectives set in the strategy. The strategy is composed of four main pillars, with pillar III dedicated to “Civil Service Human Resource Management”. It includes two main objectives²⁰¹, with 36 planned sub-activities and monitoring indicators²⁰². At the end of 2020, 32 sub-activities had started, of which 15 were fully implemented, 17 were ongoing and four activities had not yet started²⁰³.

Since the reorganisation of the Government in 2017 and the abolition of the position of the Minister of State for Innovation and Public Administration (MIPA), the political responsibility for the civil service is not clearly assigned to any of the ministers, Deputy Prime Minister or the Prime Minister.

²⁰¹ Objective 6, “Improved capacities for the implementation of civil service legislation and facilitated enforcement procedures”, and Objective 7, “Organisation of the CS salary system based on job evaluation, on the evaluation of annual achievements of civil servants and on compulsory training”, according to the CCPAR Strategy Annual Monitoring Report 2020.

²⁰² Some indicators noted as “growing or decreasing trends” do not provide quantifiable targets, e.g. 6.1.3 and 6.1.4, “number of trained persons” or 6.4.2, “final court decisions implemented by public administration institutions”.

²⁰³ Based on the information provided by the administration through the monitoring reports. Objective 6 includes 32 sub-activities and Objective 7 covers four sub-activities, according to the CCPAR Strategy Annual Monitoring Report 2020.

Overall, there is a sound balance between the primary and the secondary legislation. Some guidelines in key areas, however, have neither been updated (disciplinary measures) nor issued (performance appraisal) to ensure common practices by the HMR units. The support provided to DoPA and ASPA in the framework of the Instrument for Pre-Accession Assistance (IPA) project contributed to some improvements²⁰⁴.

The Human Resource Management Information System (HRMIS) continues to be populated, with 78 000 positions and 60 268 employee files now uploaded (80%)²⁰⁵. The system includes 840 spending units (70%) of the total of 1 200. The system is interoperable with the Civil Registry and the Treasury System, and all modules are operational. The payroll module has been upgraded to accommodate various specific individual cases for the future automatic calculation of salaries in all state administration institutions, including independent institutions and local self-government units²⁰⁶. New legal basis was given to the system (in October 2020)²⁰⁷, in particular to address issues that might arise when the payroll module is extensively used²⁰⁸. However, as long as the database is not complete, reliable data to use in real time for strategic management, planning and monitoring activities is not available.

The integrated platform *administrata.al*²⁰⁹, launched in April 2019, pursues several objectives. It aims to unify the enforcement of human resource procedures, improving communication across the entire public administration and helping to address the needs of the HRM units in their daily work (e.g. ready-to-use templates of documents). Standard processes would be accessible through specific modules, such as performance appraisals, job descriptions and training need assessments²¹⁰. Another component provides citizens information through external pages. DoPA is in charge of both the HRMIS and the links with the platform *administrata.al*. Getting both databases operational requires strong co-ordination and co-operation throughout the administration.

The staff of DoPA has slightly increased, from 58 in 2017 to 61 in 2021; 45 of whom deal with the civil service. Frequent communication and exchanges occur between DoPA and HRM units²¹¹. The COVID-19 crisis hampered DoPA's efforts to build a strong professional network with planned and regular activities, as stipulated in the Order of 30 May 2019²¹².

²⁰⁴ The IPA project on the Implementation of Civil Service Reform across the Public Administration to Strengthen Public Sector Governance and the Efficiency of the Albanian Public Administration started on 8 October 2018 and is extended until 7 October 2021 (Europe Aid /137805 /IH/SER/AL Contract A/IPA 2014/05).

²⁰⁵ CSL 152/2013, Article 17. The database has to include all employees in State Administration Institutions, Independent Institutions and Local Government Units. This represents a population of roughly 175 000 people (INSTAT).

²⁰⁶ Electronic interoperability with the Treasury System, the Government Financial Information System (GFIS) was tested positively for 118 spending units. Thus, 14% of the spending units are able to calculate payrolls through the HRMIS (2020 DoPA Report).

²⁰⁷ DCM No. 833 of 28 October 2020 on the "detailed rules for the content, procedure, and administration of personnel files and the central personnel register" repealed DCM No. 117 of 5 March 2014.

²⁰⁸ DCM No. 833 states that the HRMIS system interacts with the Government Financial System (SIFQ) for secondary data related to accounting budget classification, elements of payroll, payroll orders and employee salaries, as well as the Tax Information System. The joint MIPA and MoF instruction No. 4 of 13 December 2016 will thus have to be updated.

²⁰⁹ <https://administrata.al/defaultHP.aspx>.

²¹⁰ A set of indicators developed by DoPA with the support of the IPA project will be integrated into the platform (29 indicators and 109 data points) to measure the main components of HR development and assess Civil Service issues in real time.

²¹¹ At the beginning of 2020, several meetings were held on the job description issue, involving some HMR units.

²¹² The Order No. 39 of 30 May 2019 issued by DoPA provides legal basis to establish an "inter-professional network of employees in human resource units".

The Commissioner for the Oversight of the Civil Service (CoCS) is an independent legal entity elected by the Assembly, in charge of monitoring the legality of all aspects of the management of the civil service and in all institutions that employ civil servants²¹³. To fulfil its mission, the CoCS carries out *ex officio* administrative investigations. In case of any violations of the law, the CoCS delivers a written decision to the institution to improve the situation and may impose fines if the “warning decision” is not executed. In 2020, the Commissioner for the Oversight of the Civil Service (CoCS) carried out 73 general oversights. The verification of warning decisions were conducted in 49 institutions, of which only 24 entities implemented the recommendations²¹⁴.

Conclusion

Since the position of the Minister of State for Innovation and Public Administration was abolished in 2017, political ownership and responsibility for the civil service has not been clearly assigned. Communication between DoPA and HRM units is fluid. Some guidelines are still missing to ensure uniform application of key HR practices. Significant progress has been made in populating the HRMIS, and its interoperability with Civil Registry and the Treasury System is now possible, but the system is not yet fully operational. Lack of data hampers strategic planning and monitoring HR activities.

²¹³ CSL 152/2013, Articles 11 to 16, establish the rules applicable to the status and the competences of the CoCS (nomination, responsibilities, competences, procedures to be applied in case of violation of the law).

²¹⁴ Annual monitoring report 2020 CCPAR Strategy, p. 44.

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

The overall value for the indicator 'Meritocracy and effectiveness of recruitment of civil servants' is 5, in comparison to 4 in 2017. More complete recruitment files of actual procedures confirmed proper application of the regulatory framework, despite the delays imposed by COVID-19 in the time required to hire a civil servant.

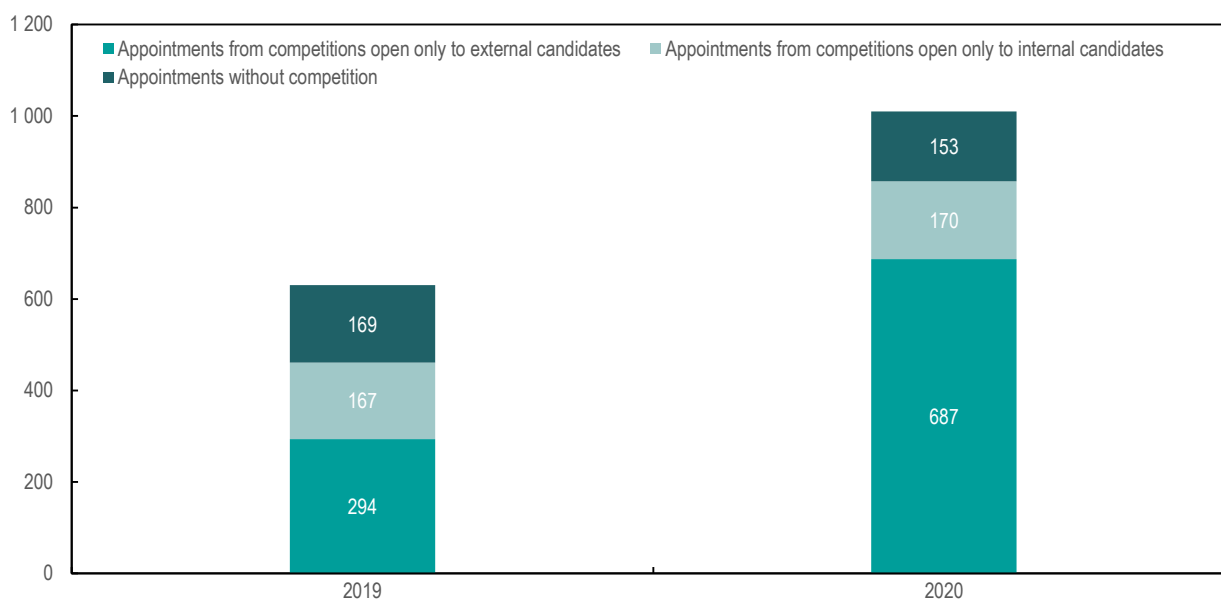
The overall value for the indicator 'Merit-based termination of employment and demotion of civil servants' is 3. It was 2 in 2017. A slight change in the interpretation of the criteria for termination of employment (sub-indicator 3.3.2.1) resulted in the change in the overall value of the indicator. The areas of improvement lie in administrative decisions on dismissals confirmed by courts, and in implemented decisions favourable to civil servants.

Indicator 3.3.1 - Meritocracy and effectiveness of recruitment of civil servants						
<p>This indicator measures the extent to which the legal framework and the organisation of civil service recruitment support merit-based and effective selection of candidates wishing to join the civil service and whether this ensures the desired results in terms of competitive, fair and non-discretionary appointments that enhance the attractiveness for job seekers and performance of the public sector.</p> <p>This indicator measures only external recruitment. The indicator on merit based recruitment and dismissal of senior civil servants covers recruitment and promotion to senior managerial positions, and the indicator on professional development covers promotions to other positions.</p>						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Legal framework and organisation of recruitment						
1. Adequacy of the legislative framework for merit based recruitment for civil service positions					18/18	+2
2. Application in practice of recruitment procedures for civil service positions					18/18	+4
Performance of recruitment practices						
3. Time required to hire a civil servant					0/2	-2
4. Average number of eligible candidates per vacancy					3/4	=
5. Effectiveness of recruitment for civil service positions (%)					1/4	=
6. Retention rate of newly hired civil servants (%)					4/4	=
Total					44/50	+4

The CSL and secondary legislation establish recruitment procedures in line with the principles of merit, equal opportunity and open competitions. Annual staffing plans for the central administration institutions that set the number of vacancies to be filled are centralised by DoPA, and in recent years, were in practice exceeded by about 20%²¹⁵. Despite the pandemic, the number of appointments following competitions open to external candidates more than doubled, while appointments after internal competitions remained the same.

²¹⁵ CSL No. 152/2013, Article 18, and DCM No. 108 of 26 February 2014 on the Annual Recruitment Plan to Civil Service. The implementation rate was 100% in 2018 118% in 2019 and 121% in 2020. The initial staffing plan had foreseen a total of 880 vacancies, but 1 237 were announced, because new needs emerged, especially in the executive category (with 668 planned vacancies as opposed to the 982 announced in 2020) (DoPA Report p. 19).

Figure 1. Appointments to the civil service in 2019 and 2020



Note: Appointments without competition in 2020 include: 74 appointments from the pool of successful candidates (Article 22 and 23.3 CSL), 33 appointments as a result of the implementation of the court decision and 46 appointments as a result of permanent transfer for legal reasons or return from suspension.

Source: DoPA.

At the executive level, the lowest category of the civil service²¹⁶, the number of competitions organised for individual positions remains high, although competitions for the groups (pool recruitment), should be standard, as set by the CSL²¹⁷. In 2020, there were 453 competitions for unique positions and 100 group competitions (for 529 positions)²¹⁸. This was mostly due to the job descriptions, which are not sufficiently clear, harmonised and complete²¹⁹. The process of improving job descriptions, in line with functional duties exercised by civil servants, continued in 2020 and was supported by the IPA project²²⁰.

The number of eligible candidates per position in open competitions significantly increased, to 9.5 in 2020; it was only 3.5 in 2016²²¹. At the same time, the retention rate of civil servants remains very high: 97% of those recruited in 2019 were working in the civil service 12 months after their appointment²²².

For the lower and middle management category, 254 individual competitions were announced in 2020, and 36 were opened to candidates from outside the civil service²²³.

²¹⁶ CSL Articles 19.7, 19.8, 22.1. At the executive level, recruitment is done through open competitions.

²¹⁷ CSL Articles 19 and 22. For the executive category, positions shall be classified by groups and competitions organised for each group.

²¹⁸ Data from DoPA.

²¹⁹ Currently, job descriptions are based on the DCM No. 305 of 5 April 2017 and DoPA guideline No. 1 of 31 May 2017 on drafting job descriptions.

²²⁰ The process is finalised for five line-ministries. Overall, 1 000 jobs positions are to be reviewed.

²²¹ In 2020, 1 017 positions were offered in competitions between 9 662 eligible candidates, while in 2019, 675 positions were offered in competitions with 3 704 eligible candidates. The ratio of eligible candidates per position was of 9.7 in 2020, 5.5 in 2019, 3.5 in 2016 and 4.4 in 2015 (information provided by DoPA).

²²² Relevant data for the 2020 recruitment processes not yet available.

²²³ CSL Article 26.4: Exceptionally, the CoM, for state administration institutions, may decide that the procedure for filling vacancies for the lower or middle management category can be opened to other candidates who meet the

The COVID-19 pandemic in 2020 significantly influenced the recruitment procedures. They were formally suspended in March 2020²²⁴, but DoPA managed to swiftly reorganise the process so that it could be conducted fully online²²⁵. This was possible because of the lack of legal obstacles and previous experience with the relevant IT tools. As a result, 379 civil servants of different categories were recruited in 2020, using procedures conducted entirely online²²⁶. However, the official lockdown has adversely affected both the average time required to hire a civil servant²²⁷ and, as a result, the relevant sub-indicator (3.3.1.3).

At the end of 2018, the Government began recruiting to civil service positions so-called “students of excellence”. The special scheme managed by DoPA and the Office of the Prime Minister (OPM) was regulated by two successive decisions²²⁸, establishing selection procedures and limiting the number of vacancies offered to them to one-third of the total number. After preliminary assessment of criteria, students are ranked accordingly to the collected points, and the winners are employed on a one-year temporary labour contract. Although the scheme is successful in placing students in the civil service, it raises some legal questions, as there is no legal basis (even temporarily) under the Labour Code for employing staff in civil servant positions yet employed under the Labour Code (even temporarily). Not certain if bound by the CSL, their duties and rights are unclear. After one year, many take part in open competitions for their specific posts. Experience gained in this position gives them natural advantage, hence the high rate of success²²⁹.

The Labour Code is also a basis for temporary employment in the state administrations. A framework decision of the CoM outlines the type of positions for temporary engagements²³⁰, and the annual limits of employees under temporary contract provisions for each institution are also specified at each level of government²³¹. In 2020, the initial limit of 1 427 positions, was subsequently increased to 2 628 employees. For each position, a title, period of employment and number of hours per day is determined. However, it is not clear why, for example, 28 specialists engaged at the OPM (for the entire year and for eight hours per day) are not employed under the CSL, nor why such managerial decisions are taken by the CoM and not left to the discretion of individual heads of institutions.

conditions and requirements for the vacancy/vacancies. In any case, the filling of vacancies in this category may not exceed 20% of the total number of vacancies in each calendar year.

²²⁴ The suspension due to COVID-19 was decided on 12 March 2020. The Order of the Minister of Health No. 262 of 16 April 2020 stated that recruitment procedures could continue only if they could be conducted online.

²²⁵ For more information see: *Online recruitment to the civil service in Albania as a response to the COVID-19 crisis*: <http://sigmaweb.org/publications/Online-recruitment-civil-service-SIGMA-May-2020.pdf>.

²²⁶ At the executive level, 283 online competitions were organised, for 278 civil servants recruited; 79 online competitions for 75 civil servants recruited at the low level, and 27 competitions online for 26 civil servants recruited at the mid-level.

²²⁷ For the sample of the 10 recruitment files examined in 2020, the average number of days to fill a vacancy was 170. For the same files absent the pandemic, the average length of time would have been 80 days.

²²⁸ The scheme was first regulated by DCM No. 766 of 26 December 2018, which was replaced by DCM No. 586 of 30 August 2019 on Temporary Employment of Excellent Students in the State Administration Institutions. A threshold limiting the number of positions offered to students to one-third of vacancies was introduced.

²²⁹ For the two calls in 2019, 450 former students who were employed in the scheme applied to open competitions; 374, or 83%, were successful and were consequently appointed.

²³⁰ DCM No. 109 of 6 March 2019, “On setting the standards for conducting some activities with temporary employees in central government units”, <https://qbz.gov.al/share/dieM24VhTaijUTG2QVUK2A>.

²³¹ DCM No. 47 of 22 January 2020, “On the distribution of contracts on temporary engagement in the public sector”, <https://qbz.gov.al/eli/vendim/2020/01/22/47>.

Indicator 3.3.2 - Merit-based termination of employment and demotion of civil servants

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

Overall 2021 indicator value  since 2017

0 1 2 **3** 4 5

Points
2021

Change from
2017

Legal framework and organisation of dismissals and demotions

1. Objectivity of criteria for termination of employment in civil service legislation	6/6	+1
2. Objectivity of criteria for demotion of civil servants in the legislative framework	2/2	=
3. Right to appeal dismissal and demotion decisions to the courts	2/2	=

Fairness and results of dismissal practices

4. Dismissal decisions confirmed by the courts (%)	0/4	=
5. Implementation of court decisions favourable to dismissed civil servants (%)	0/4	=
Total	10/18	+1

The number of terminations of employment in the civil service in 2020 fell by 31% compared to 2019. Dismissals due to restructuring represent the bulk of the total²³². In 2020, there were seven appeals against dismissal decisions, and court rulings confirmed the administrative decisions in only two cases²³³.

Steady progress has been made in dealing with unimplemented final court decisions for illegal dismissals. The process, boosted by the request of the Parliament in 2018²³⁴, is ongoing. Collaboration between DoPA, CoCS and HR Units takes place, a Special Commission has been established, and a database was built to collect relevant information from all institutions involved, followed by hearings on a case-by-case basis. At the end of 2019, for the state administration institutions, 170 civil servants had returned to their regular position and 263 were registered on the waiting list²³⁵. By the end of 2020, almost 72% of the court decisions were implemented, but 109 decisions were still pending²³⁶. In 2020, the process

²³² In 2019, 895 terminations of employment were registered, of which 428 were dismissals for restructuring. In 2020, 301 employees lost their civil servant status when the National Food Authority ceased to be covered by the Civil Service Law.

²³³ In 2019, 17 court rulings out of 33 confirmed the dismissal decisions.

²³⁴ The Resolution of the Parliament approved on 10 May 2018 asking CoCS to ensure the enforcement of final court decisions on reinstatement of civil servants in office in co-ordination with DoPA and HMR units, followed by CoCS orders No. 589 of 1 August 2018 and No. 10 of 21 January 2019.

²³⁵ That is, 143 decisions for the General Directorate of Taxes, 115 for line ministries and 5 for other subordinated institutions. The total number of final court decisions for return to the civil service at the end of 2019, including local administrations and independent institutions was 601, 433 of them for the state administration institutions (CoCS 2019 Annual Report).

²³⁶ Implementation of final court decisions 2018: 62.8%; implementation of final court decisions 2019: 66.5%. Updated CoCS information for 2020 relates to the General Directorate of Taxes only, where, since 2014, out of 408 dismissal decisions appealed to the courts, in 291 cases the court decided on the reinstatement of the civil servant. In 177 cases, they returned to a regular civil service position, and in 114, they are still on the waiting list (information provided by DoPA).

slowed down, due to the pandemic²³⁷. Already by 2019, CoCS evaluated the financial consequences for the state budget at over ALL 511 million paid to dismissed civil servants pursuant to court decisions²³⁸.

Conclusion


The legislation in force is aligned with the core principles of merit-based recruitment. However, pool recruitments, foreseen at the entry level, continue to be in the minority, because uniform job descriptions are still not in place in all institutions. DoPA successfully launched online recruitment processes shortly after the introduction of the lockdown in early 2020. Implementation of court decisions favourable to dismissed civil servants was progressing well until the outbreak of the pandemic.

²³⁷ 33 implemented decisions in 2020, by comparison with 53 in 2019 and 58 in 2018 (DoPA information).

²³⁸ This is about EUR 4.2 million (CoCS report 2019).

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

Overall, the value for the indicator 'Merit based recruitment and dismissal of senior civil servants' is 3, compared to 4 in 2017. The high number of vacancies in senior positions and low implementation of court decisions favourable to dismissed senior civil servants, together with a more strict interpretation of stability in these positions (in 2021, releases were taken into account) resulted in the lower value of the indicator.

Indicator 3.4.1 - Merit-based recruitment and dismissal of senior civil servants		
<p>This indicator measures the extent to which the legal framework and the organisation of recruitment and tenure conditions of the senior civil service support a professional senior management, free from undue political influence in access or termination of employment in senior civil service positions. This indicator relates to all competitions for senior positions, both external and internal.</p> <p>Recruitment and dismissal in senior positions is treated under a separate indicator due to the importance of the role of this group of civil servants and the increased risk of politicisation and favouritism. High priority accorded to merit and competitiveness in the recruitment process reduces the possibility of political influence in appointments to such positions.</p>		
Overall 2021 indicator value	 since 2017	0 1 2 3 4 5
		Points 2021 Change from 2017
Legal framework and organisation of recruitment and dismissal of senior civil servants		
1. Appropriateness of the scope for the senior civil service in legislation	3/3	=
2. Adequacy of the legislative framework for merit based recruitment for senior civil service positions	15/15	+2
3. Objectivity of criteria for the termination of employment of senior civil servants in the legislative framework	4/4	=
4. Legislative protection of the rights of senior civil servants during demotion	1/2	-1
Merit-based recruitment and termination of employment in senior civil service positions in practice		
5 Application in practice of recruitment procedures for the senior civil service	6/9	-1
6. Ratio of eligible candidates per senior level vacancy	0/4	=
7. Effectiveness of recruitment for senior civil service positions (%)	0/4	-3
8. Women in senior civil service positions (%)	4/4	=
9. Stability in senior civil service positions (%)	0/4	-3
10. Dismissal decisions confirmed by the courts (%)	0/4	=
11. Implementation of final court decisions favourable to dismissed senior civil servants (%)	0/4	-4
Total	33/57	-10

The senior-level management civil servants in the state administration institutions are labelled Top Management Corps (TMC) and are part of the civil service²³⁹. The CSL states that only TMC members may be appointed to senior civil positions²⁴⁰. Recruitment is regulated by clear procedures and criteria

²³⁹ These positions are general secretary, director of general directorate, director of department, and equivalent positions as heads of subordinate institutions.

²⁴⁰ CSL No. 152/2013 as amended, Article 30.2.

based on merit, equal opportunity and open competition²⁴¹. The regulations established in specific by-laws²⁴² take into account their specificity and differ from those provided for non-senior civil servants.

Recruitment to the TMC should be through a national competition open to selected civil servants and other individuals meeting specific requirements²⁴³, followed by an in-depth training programme organised by ASPA and after passing the final exam (Article 28). However, the law provides an exception allowed by Article 29 until the first graduation of TMC is achieved or if the number of graduates is not sufficient (CSL, Articles 27.5 and 29). Direct admission to TMC by national competition is opened to civil servants, but the CoM may exceptionally open it to other candidates. Finally, a third procedure allows senior civil servants from independent institutions to be appointed to a TMC position in the state administration, after a selection process managed by DoPA (CSL, Article 30.5/1)²⁴⁴.

None of the current members of TMC have been recruited under the standard procedure provided for by the CSL: only the exceptional procedure has been applied, and each time, the CoM opened the admission to other candidates (from outside the civil service)²⁴⁵. TMC is also formed by civil servants in senior management level recruited in accordance with the previous CSL of 1999²⁴⁶. The reason given for not using the standard procedure almost seven years after the law entered into force in October 2013 is that the in-depth training programme for TMC at ASPA is not ready. However, as noted in the 2017 monitoring report, in 2016, ASPA finalised the curriculum of a comprehensive, in-depth-programme elaborated in the framework of the twinning project²⁴⁷. In October 2019, ASPA started a pilot training programme, involving 57 TMC members, with the results to be announced late 2021²⁴⁸. However, this programme is not yet a formal, in-depth training programme that members directly admitted to TMC should also complete²⁴⁹.

The maximum number of TMC members is set in the annual budget law, in line with the criteria established by the CSL²⁵⁰. In 2020, only one new TMC position was opened to competition, and there were two eligible candidates. At the end of 2020, the proportion of women employed in senior managerial positions reached 43%²⁵¹.

²⁴¹ CSL No. 152/2013 as amended, Articles 27-31, for recruitment to TMC positions in the State administration.

²⁴² DCM No. 118 of 5 March 2014 on the Procedures for the Appointment, Recruitment, Management and Termination of Civil Service Relations of the Top-Level Management Civil Servants and Members of the TMC, amended by DCM No. 388 of 6 February 2015.

²⁴³ In line with DCM No. 116 of 5 March 2014 on requirements and conditions for admission to TMC, the competition phase consists of the evaluation of the CV of the candidates (which includes the evaluation of education, experience and field-related training, as well as annual performance appraisals) – up to 10 points out of 100; as well as written testing (up to 40 points) and structured oral interview (up to 50 points), which aim to assess knowledge, skills and qualities related to the area of competence.

²⁴⁴ Once appointed, the senior civil servant has to attend the ASPA in-depth training. Since 2015, this procedure, which is not fully transparent, has been used five times.

²⁴⁵ In line with CSL Article 29.1.

²⁴⁶ CSL Article 67.1 and 67.2 on the status of the current officials and employees.

²⁴⁷ Twinning contract AL-12-IB-OT-01. The TMC curricula were based on several modules, for a total of 280 hours. <http://dap.gov.al/attachments/article/174/TMC%20training%20catalogue%20bilingual.pdf>.

²⁴⁸ As explained by ASPA to SIGMA, the pilot programme has been designed with the support of the IPA project, since no TMC programme was available.

²⁴⁹ DCM No. 118 of 5 March 2014 on the Procedures for the Appointment, Recruitment, Management and Termination of Civil Service Relations of the Top-Level Management Civil Servants and Members of the TMC, amended by DCM No. 388 of 6 February 2015, Chapter VI, point 4.

²⁵⁰ CSL, Article 27.2. The total number of senior civil servants who are members of the TMC, is equal to the number of regular positions of the category in the State administration institutions, plus a reserve of 15%.

²⁵¹ Out of 71 positions, 31 were women. The figure was 40% in 2016.

Decisions to release and appoint TMC members to top-level management positions are made at the request of heads of institutions, with DoPA responsible for the administrative part of the process. Released officials stay in the TMC (pool) without salary, waiting to be appointed to another position²⁵². At the end of 2020, only 71 TMC members were appointed to managerial positions, while 31 senior positions remained vacant, some for a significant time²⁵³. Acting positions are not allowed by the CSL – given the ease of appointment and availability of competent candidates from the TMC – which leads to extended use of temporary measures²⁵⁴.

Table 1. Positions occupied by members of the TMC on 31 December 2017-2020

	2017	2018	2019	2020
Number of regular positions in senior management category at the state administration institutions	107	103	102	102
Total number of TMC	105	112	112	103
Senior civil servants appointed to regular positions	77	77	75	71
Senior civil servants not appointed to regular positions	28	35	37	32
Number of vacancies in senior management positions in the state administration at the year's end	30	26	27	31

Source: DoPA.

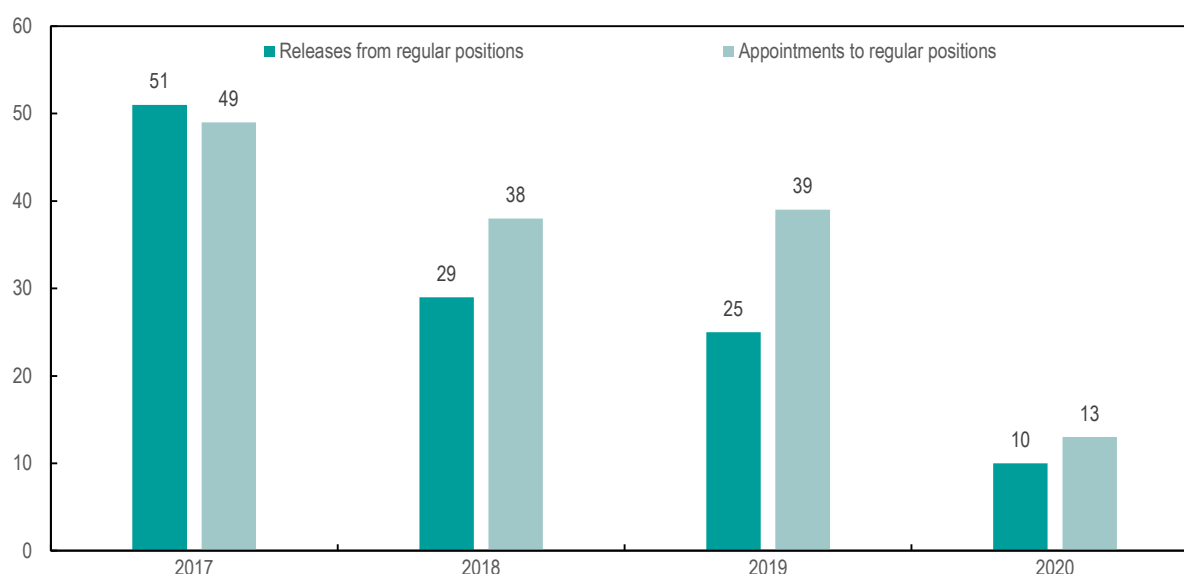
The number of decisions appointing and releasing a TMC member to and from senior positions is high every year, in particular in 2017 (the same senior civil servant can be appointed and released more than once in a year). Given that such decisions, taken at will by heads of institutions, do not require written justification, the figures below are a proxy for the weight of political influence in the management of senior civil servants in Albania.

²⁵² In case a TMC member is not appointed to a regular position for at least eight months in a five-year period, the person is dismissed from the TMC and the civil service.

²⁵³ For example, the position of General Director of the General Regulatory and Compliance Directorate at the Ministry of Culture, has been vacant since June 2020 and that of the Secretary General, Ministry of Defence, since December 2018.

²⁵⁴ Law 90/2012 on the Organisation and Functioning of Public Administration stipulates that the general secretary shall be substituted in case of short-term absence or incapacity by one of the general directors at the ministry (Article 15.3).

Figure 2. Number of decisions of releases and appointments concerning senior civil servants 2017-2020



Source: DoPA.

Actual dismissals from the TMC (and, as a consequence, from the civil service) are regulated by CSL and are rare in practice: in 2020 and 2019 no dismissals²⁵⁵ were recorded. In this period, three court rulings were issued for senior civil servants who appealed such decisions taken in previous years, of which two were in favour of the senior civil servants.

The implementation of the process to evaluate TMC members is not satisfactory, as far as the legal provisions are concerned²⁵⁶. In 2020, only 41 performance appraisals were conducted by the relevant authorities, and only 12 were submitted to DoPA²⁵⁷. Consequently, members of the National Selection Committee were unable to conduct their evaluation. This is another element of the TMC management that does not function as provided for in the CSL.

Conclusion

Management of senior civil servants in practice differs significantly from what is foreseen in the legislation. Standard recruitment procedure has never been applied, because ASPA has not implemented the in-depth training programme finalised in 2016. Although there are successful candidates in the TMC (pool), about 30% of senior positions remain vacant, as ministers do not appoint candidates to regular positions. Dismissals from the TMC are rare, but the turnover in individual senior positions is much higher. In addition, performance appraisals of senior managers are not yet take carried out.


²⁵⁵ Two terminations of employment for resignations are reported in 2020, and only one resignation in 2019.

²⁵⁶ CSL, Article 62 and DCM No. 109 of 26 February 2014. The first step of the appraisal process consists of filling the evaluation form either by the Prime Minister, the ministers or general secretaries or equivalent positions. The second step is to submit the completed written forms to the National Selection Committee in charge of the final evaluation.

²⁵⁷ Results were similar in 2019.

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

Overall, the value for the indicator ‘Fairness and competitiveness of the remuneration system for civil servants’ is 2, compared to 3 in 2017, because some components of the salary are not defined based on clear and transparent criteria and processes. The system lacks transparency and openness, which makes the civil service less competitive than the private sector.

Indicator 3.5.1: Fairness and competitiveness of the remuneration system for civil servants						
This indicator measures the extent to which the legal framework and the organisation of the civil service salary system support fair and transparent remuneration of civil servants, in terms of both the legislative and organisational preconditions and the performance and fairness of the system in practice.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
			Points 2021		Change from 2017	
Legal framework and organisation of the remuneration system						
1. Legal obligation to base salaries on job classifications			2/2		=	
2. Comprehensiveness, clarity and transparency in legal definitions of salary, criteria and procedures for allocation			0/2		-2	
3. Availability of salary information			1/3		=	
Performance and fairness of the remuneration system in practice						
4. Fairness in the allocation of base salaries in the job classification system			2/4		=	
5. Base salary compression ratio			2/2		=	
6. Managerial discretion in the allocation of bonuses			2/2		=	
7. Motivational character of bonuses (%)			1/2		=	
8. Competitiveness of civil service salaries (%)			0/3*		=	
Total			10/20		-2	

Note: *Data not available or provided.

The salary structure for civil servants as established in the CSL²⁵⁸ is composed of three main sub-components: the basic salary of the category, the supplement related to the class of the position and the allowance for working positions. Within each class of each category, salary steps shall ensure the progression of the remuneration towards the upper salary levels, according to three criteria: seniority in the civil service, performance appraisal results and successful completion of training programmes defined for each step. No bonuses are provided for in the legislation.

In practice, the salary system is still based on the previous law²⁵⁹, as prescribed by the Decision of the Council of Ministers (DCM) of March 2017²⁶⁰. The legal basis provides a fragmented and complex system, and no clear overview of remunerations per category and per position. It is also an obstacle to transparent communication of salaries in the published announcements of open competitions²⁶¹.

²⁵⁸ CLS 152/2013, Article 34.

²⁵⁹ Law 8549/1999 of 11 November 1999 on the Civil Servant Status.

²⁶⁰ DCM No. 187 of 8 March 2017 On Approval of Structure and Levels of Civil Servants Salaries amends DCM No. 545 of 11 August 2011.

²⁶¹ Information provided in the announcements of competitions refer to the DCM No. 187. For candidates from outside the civil service, the information is difficult to understand.

The list of beneficiaries entitled to receive the “allowance for working conditions” was extended in 2017. The continuous need to rely on the allowance, with vague criteria²⁶², weakens the coherence and fairness of the system, as noted in the previous monitoring report. Vertical promotion remains the only way for civil servants to improve their remuneration. The base salary compression ratio within the Civil Service is 3.66.

A policy paper on the salary system was drafted in 2020 with the intent of providing a basis for a global reform²⁶³. Based on the principle “Equal pay for equal work”, the paper proposes technical options for further discussion. It was accepted by DoPA and presented to some members of the government, but – according to the explanations provided – it does not need to be formally adopted by the Government. Further consultations with the Assembly and other stakeholders are to be held²⁶⁴ and financial simulations have yet to be conducted. The detailed action plan that needs to accompany the policy paper if the reform is to be implemented is not yet available.

Despite the preparations for a reform of the salary policy, updated basic data on remuneration is missing. Statistics for measuring the competitiveness of salaries in the public sector with similar jobs in the private sector, based on refined criteria²⁶⁵, are not available, nor is data on the average monthly salary per category of civil servants²⁶⁶.

Conclusion

Although the need for reform of the remuneration system has been acknowledged for some years now, the first comprehensive draft of the reform was prepared only in 2020. With no bonuses nor pay rise options related to performance, the working condition allowance is extended to various groups of civil servants with no transparency or consistency in their application. Comparison of remuneration within the system and with the private sector is difficult, due to the lack of reliable data.

²⁶² According to DoPA, the analysis is made on a case-by-case basis using the following criteria “(i) harmful to health; (ii) other hazardous conditions for the performance of the duty or that affect the rigorous performance of duty, (iii) the impossibility of attracting employees with specific education to the administration, because there is a shortage of educated people in these fields and the private labour offers much higher pay for them, (iv) the need to distinguish organisational units or institutions, which, due to the legal basis on which they are created and function, have responsibilities and perform cross-sector functions”.

²⁶³ *Policy paper on the salary system*. IPA project “Implementation of civil reform across the public administration”- Activity 1.1.a Component of the salary policy Albania (AL /IPA 2014/05).

²⁶⁴ Public consultations with all stakeholders are scheduled in 2021.

²⁶⁵ Type of jobs, type of employers (central administrations, subordinated institutions, local government units), geographical locations of work.

²⁶⁶ The database on personnel expenses is kept by the budget group, with no distinction made between civil servants and public employees.

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

Overall, the value for the indicator 'Professional development and training for civil servants' is 4, as it was in 2017. Changes in the allocated points are marginal: the professionalism of performance assessments and the perceived level of meritocracy in the public sector improved, while the lack of data on training expenditures explains the slight drop.

Indicator 3.6.1 - Professional development and training for civil servants						
This indicator measures the extent to which the legal framework and the organisation of training, performance appraisal, mobility and promotion support fair professional development in the civil service.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
Legal framework and organisation of professional development						
1. Recognition of training as a right and a duty of civil servants					2/2	=
2. Co-ordination of the civil service training policy					3/3	=
3. Development, implementation and monitoring of training plans					2/3	-1
4. Evaluation of training courses					1/2	-1
5. Professionalism of performance assessments					3/4	+1
6. Linkage between performance appraisals and measures designed to enhance professional achievement					4/4	=
7. Clarity of criteria for and encouragement of mobility					2/2	=
8. Adequacy of legislative framework for merit based vertical promotion					2/2	=
9. Absence of political interference in vertical promotions					2/2	=
10. Right of civil servants to appeal against performance appraisal decisions					2/2	=
11. Right of civil servants to appeal mobility decisions					2/2	=
Performance of professional development practices						
12. Training expenditures in proportion to the annual salary budget (%)					0/4*	-2
13. Participation of civil servants in training (%)					1/5	=
14. Perceived level of meritocracy in the public sector (%)					4/5	+1
Total					30/42	-2

The legislative framework has not changed since 2017. Vocational and continuous training are a right as well as an obligation for all civil servants²⁶⁷. To fulfil this mission, ASPA is given the status of a central public institution with administrative and academic authority and an autonomous budget²⁶⁸.

ASPA's resources have been significantly enhanced. The staff is composed of 23 civil servants²⁶⁹, and the planned budget has been increased since 2018; however, difficulties were observed in terms of implementation of the training programmes and budget execution (in 2020 caused by COVID-19 related restrictions)²⁷⁰.

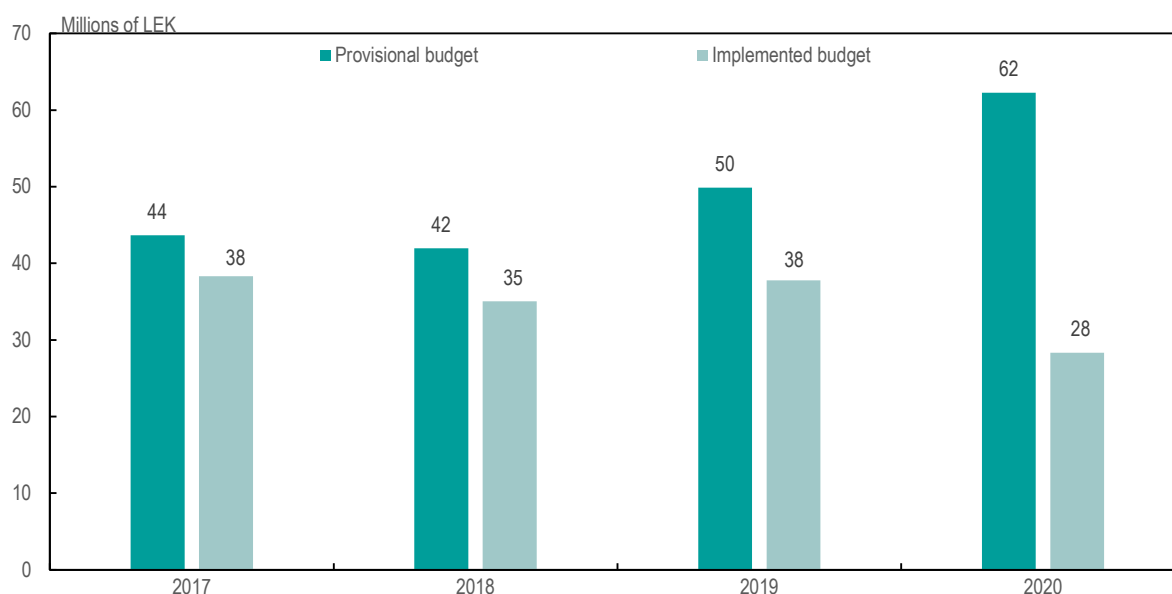
²⁶⁷ CSL, Article 38 development as a right and Article 42 as a duty.

²⁶⁸ ASPA is regulated by CSL, Article 8 and DCM No. 138 of 12 March 2014 on the rules and organisation and functioning of ASPA and training of civil servants. The ASPA director reports directly to ministerial authority (Article 8-11dh).

²⁶⁹ Order of the Prime Minister No. 106 of 13 August 2020. The staff consisted of 16 civil servants in 2019.

²⁷⁰ In 2020, the initial budget was reduced to ALL 42 million in July 2020, owing to COVID-19. The under-implementation is partly due to the consequences of the 2019 earthquake and the pandemic.

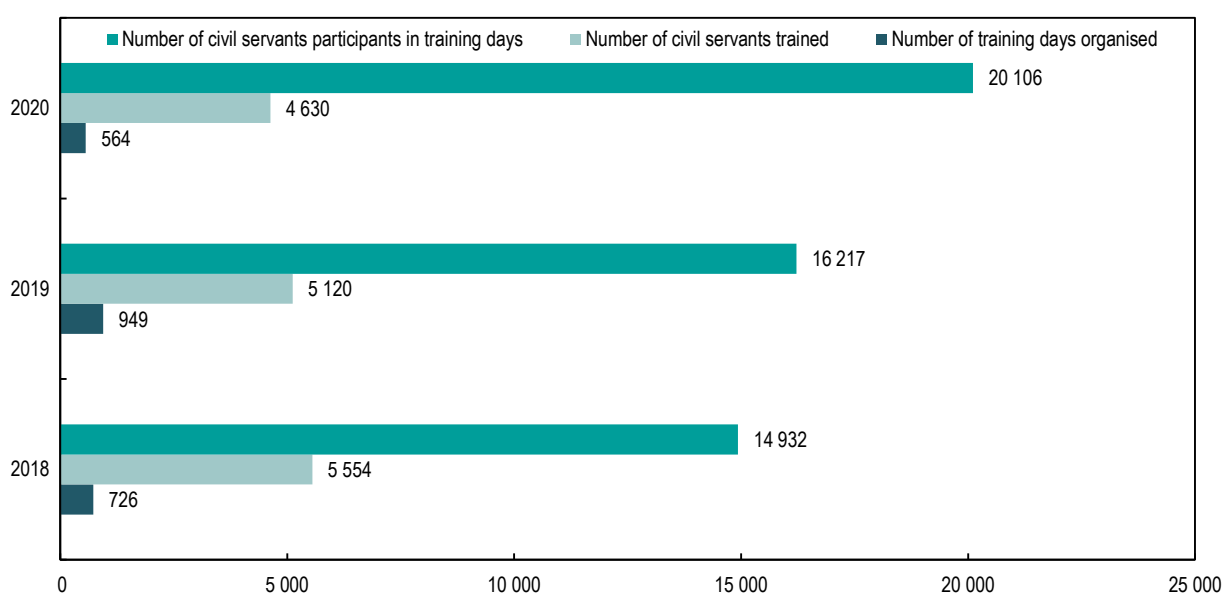
Figure 3. Planned and implemented budgets of ASPA, 2017-2020



Source: ASPA.

Since the earthquake of November 2019, which caused major damage to the ASPA building, and later the COVID-19 crisis, the institution has faced major challenges in organising and conducting training. Due to the pandemic, since April 2020, all training programmes have been delivered online. In 2020, the overall number of participants increased in comparison to previous years, but the number of individual civil servants who took part in ASPA-organised training has fallen since 2018²⁷¹.

Figure 4. Training delivered by ASPA to civil servants from central administrations, independent institutions and local governments, 2018-2020



Source: CCPAR Strategy Annual Monitoring Report 2020.

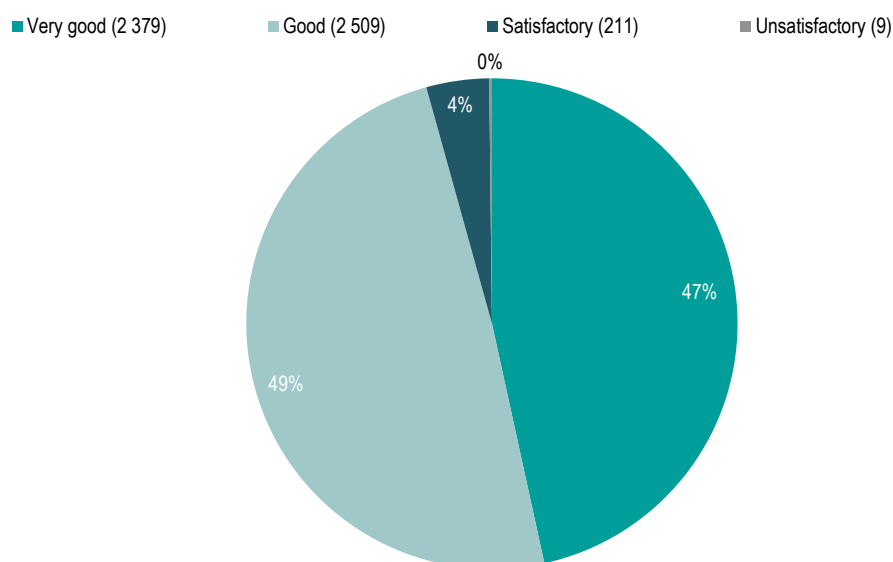
The legal framework for conducting performance appraisals is in place. In 2020, 93% of the civil servants eligible to be assessed were evaluated. Yet, in practice, the system is not effective, because almost all

²⁷¹ Civil servants from the State Administration Institutions represent 52% of the 4 630 civil servants. The lack of access to online technology for some staff has affected the indicator in 2020 (CCPAR Strategy Annual Monitoring Report p. 46).

civil servants are assessed as higher than average (95%). Performance appraisals, promotions and trainings are not interlinked to ensure an effective management of human resources. The CSL²⁷² also provides for a specific procedure involving DoPA for the acquisition and updating of additional knowledge of civil servants in connection with the area and the functions they perform²⁷³. Results of these tests provide results aligned with natural distribution (62% – sufficient; 26% – good; 12% – not sufficient)²⁷⁴.

The dismissals due to “non-satisfactory” evaluation in two consecutive years for the performance were limited to four cases in 2020, and three in 2019.

Figure 5. Individual performance appraisals of non-senior civil servants in 2020



Source: DoPA.

Information on training courses for staff conducted by other public institutions and paid for out of their own budgets are not aggregated at a national level to provide a global assessment of public training policy.

Conclusion

Performance appraisal, promotion, training and mobility are all in place, but are barely linked to each other and do not constitute a comprehensive performance management system. ASPA managed to continue providing training programmes, which went online, despite the 2019 earthquake and 2020 lockdown. The training policy for civil servants should be based on more strategic goals and needs to be monitored regularly and closely, based on a complete set of indicators.

²⁷² CSL Article 62 and CMD No. 1037 of 16 December of 2015, on the evaluation procedures of civil servants for the acquisition and updating of additional knowledge. Senior civil servants are not subject to this procedure.

²⁷³ Each year, target groups of positions and lists of employees are defined by DoPA. The process starts with a preliminary testing managed by a commission. Civil servants rated satisfactory follow training at ASPA to fill the gaps. Those rated unsatisfactory undergo a particular training programme, ending with a written test. In case of failure, they are dismissed. In 2017, 905 staff in charge of inspecting functions were tested, and in 2018, 332 customs staff.

²⁷⁴ Data for 2018 (selected staff from the customs). Civil servants who are rated unsatisfactory undergo a training programme, ending with a written test. If they fail, they are dismissed.

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

Overall, the value for the indicator ‘Quality of disciplinary procedures for civil servants’ is 4, the same as in 2017. A gap in regulations related to legislative safeguards for suspension of civil servants from duty has been identified in the current assessment, but it has not affected the overall value of the indicator.

Overall, the value for the indicator ‘Integrity of civil servants’ is 4, an increase from 3 in 2017. The progress is due to slight improvements in some areas (perceived level of bribery by businesses, implementation of public sector integrity policy and availability of information on investigations). In contrast, the bribery in the public sector experienced by citizens scored 0 both in 2021 and 2017.

Indicator 3.7.1 - Quality of disciplinary procedures for civil servants						
This indicator measures the extent to which the legal framework and the organisation of disciplinary procedures support individual accountability, professionalism and integrity of civil servants and safeguard civil servants against unfair and arbitrary disciplinary cases.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
Legal framework and organisation of disciplinary system						
1. The adequacy of civil service legislation to uphold basic principles related to disciplinary procedures					4/4	=
2. Compliance between disciplinary procedures and essential procedural principles					6/6	=
3. Time limits for the administration to initiate disciplinary action and/or punish misbehaviour					2/2	=
4. Legislative safeguards for suspension of civil servants from duty					1/2	-1
Performance of professional development practices						
5. Disciplinary decisions confirmed by the courts (%)					0/4	=
Total					13/18	-1

The legal framework that covers the disciplinary system and the integrity of public servants is in place. Duties of civil servants²⁷⁵ are detailed in the CSL and secondary legislation, as well as the type and the scale of sanctions²⁷⁶. The rules applied to disciplinary procedures are in line with the set of core values and principles²⁷⁷. The CSL is completed by a series of sectoral laws, including the Law on the Rules of Ethics in the Public Administration²⁷⁸. Serious offenses are subject to criminal punishment. Yet, legal

²⁷⁵ E.g. obligation of accountability, obligation to refuse illegal orders (Article 44), obligation to avoid conflict of interest (Article 46 and 47-1), obligation to submit a declaration of private interest and assets (Article 47.2).

²⁷⁶ CSL, Articles 57-58 on the scale and proportionality of sanctions.

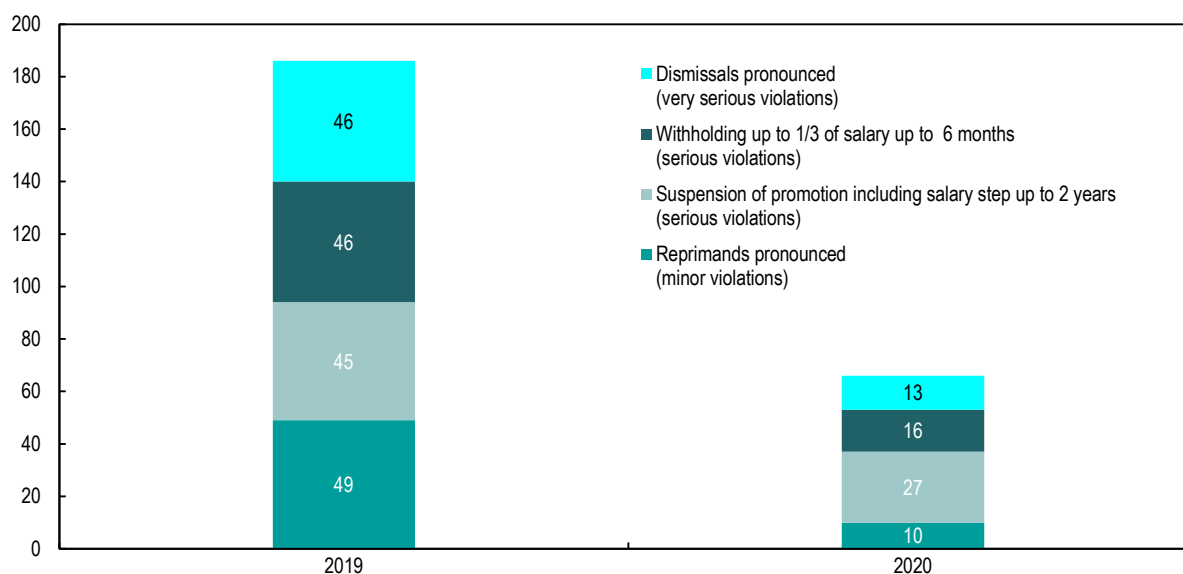
²⁷⁷ For instance, rights to be informed of the alleged breaches of duties, to be heard, to be assisted, to appeal against sanctions, time limits to initiate proceedings, suspension procedure.

²⁷⁸ Law No. 9131 of 8 September 2003, on the Rules of Ethics in the Public Administration. DCM No. 714 of 22 October 2004 "on external activities and receipt of gifts during the activity of public administration officials". Law No. 9367 of 7 April 2005 as amended on the Prevention of Conflicts of Interest in the Exercise of Public Functions. Law No. 9049 of 10 April 2003 as amended on declaration and audit of assets, financial obligations of the elected and certain public officials. Law No. 138/2015 as amended on Guaranteeing the Integrity of Persons who are Elected, Appointed or Exercise Public Functions. Law No. 60/2016 of 2 June 2016 on Whistleblowing and Whistle-blower Protection.

provisions regarding the sensitive issue of the revolving door are currently based on a single provision²⁷⁹, which is not sufficient to regulate the movement of civil servants back and forth between the public and the private sector²⁸⁰. The legislation is completed by the Inter-Sectoral Strategy against Corruption (ISAC), extended to 2023, and the Action Plan 2019-2023²⁸¹. The Co-ordinating Committee for ISAC implementation is headed by the Minister of Justice and the Inter-Institutional Anti-corruption Task Force for inter-institutional inspections are established²⁸².

In practice, the number of disciplinary procedures for all type of offenses is moderate, with a total of 66 disciplinary procedures finalised in 2020, in sharp contrast with the year 2019, when 186 procedures were recorded²⁸³.

Figure 6. Number of disciplinary procedures finalised in 2019 and 2020 for non-senior civil servants.



Source: DoPA

²⁷⁹ Article 18 of Law N° 9131 of 2003 forbids former civil servants for a two-year period from representing a person or organisation in a conflict or in a commercial relationship with the Albanian public administration, for the duty he has performed or in continuation of it.

²⁸⁰ Dafa A., National PAR Monitor Albania 2019/2020, Institute for Democracy and Mediation, Tirana 2021, p. 76. https://weber-new.s3.us-west-2.amazonaws.com/wp-content/uploads/2020/05/16162550/WeBER2.0_National-Monitoring-PAR-ALBANIA_2019-2020.pdf.

²⁸¹ In 2019, the Initial Action Plan 2018-2020 was reviewed by the Ministry of Justice and a new one was adopted for the period 2019-2023, aiming at implementing the 18 objectives of the ISAC.

²⁸² Both are chaired by the Minister of Justice.

²⁸³ DoPA Report 2020. Recommendations to initiate the procedure came from the supervisor/institution for 46 cases, the Supreme Audit Institution of Albania in 3 cases, the Task Force Inter-institutional Anticorruption in 3 cases, the internal audit of the institution in 3 cases.

Indicator 3.7.2 - Integrity of public servants

This indicator measures the extent to which legislation, policies and organisational structures promote public sector integrity, whether these measures are applied in practice and how the public perceives the level of corruption in the public service.

The indicator does not address the internal administrative proceedings related to integrity, as that is covered by a separate indicator on disciplinary procedures.

Overall 2021 indicator value  since 2017

0 1 2 3 **4** 5

	Points 2021	Change from 2017
Legal framework and organisation of public sector integrity		
1. Completeness of the legal framework for public sector integrity	5/5	=
2. Existence of a comprehensive public sector integrity policy and action plan	4/4	=
3. Implementation of public sector integrity policy	2/3*	+1
Public sector integrity in practice and public perceptions		
4. Use of investigations in practice	2/4*	+1
5. Perceived level of bribery in the public sector by businesses (%)	3/4	+1
6. Bribery in the public sector experienced by the population (%)	0/4	=
Total	16/24	+3

Note: *Data not available or provided.

There is no centralised data to monitor the implementation and the efficiency of the integrity system by the different institutions.

The Law on Declaration and Audit of Assets requires a compulsory self-declaration to be completed by every person, subject to the law²⁸⁴ and checked by the High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI)²⁸⁵. In 2019, the steps necessary for setting up an electronic system of declaration of private interests as a state database were finalised²⁸⁶. In 2019-2020, 13 administrative fines for failure to declare private interests and/or conflicts of interest were issued to senior civil servants²⁸⁷. Under the Law on the Right of Information²⁸⁸ an increased volume of requests were addressed to the HIDAACI²⁸⁹ for declarations on disclosure of assets.

²⁸⁴ The list of subjects who have the obligation to make a declaration is set in Article 3 of the Law No. 9049 of 10 April 2003 on the Declaration and Audit of Assets, financial obligations of elected persons and certain public officials, and includes high and middle management officials, according to the legislation in force on civil servants.

²⁸⁵ HIDAACI is entitled to order inspections to check the accuracy of the declarations.

²⁸⁶ DCM No. 330 of 22 April 2020 on the Establishment of the State Database of Declaration of Assets and Conflict of Interests provides the legal basis to create the electronic database system under the authority and administration of HIDAACI.

²⁸⁷ HIDAACI report for 2020 on “statistical data on administrative measures”. The measures concerned the Secretary General, General Director and the Director of Directory.

²⁸⁸ Law 199-2014/ of 18 September 2014.

²⁸⁹ In the period 2014-2019, about 52 198 declarations were made public, with 10 937 declarations in 2019. In 2020, approximately 6 182 declarations were disclosed, after requests from nongovernmental organisations (NGO), media and individuals. HIDAACI activity report 2019.

Regarding Law No. 9367 of 7 April 2005 on the Prevention of Conflict of Interest in the Exercise of Public Functions, the HIDAACI is the central authority responsible for supporting the implementation in practice of complex rules²⁹⁰.

Law No.60/2016 on Whistleblowing and Whistle-blower Protection provides for internal and external reporting mechanisms to protect whistle-blowers from acts of retaliation. The process of establishing specific units in public institutions with more than 80 staff is ongoing, in co-operation with the CoCS and DoPA²⁹¹. The number of reported cases is limited at present²⁹².

The number of criminal and other referral cases by HIDAACI was 430 for 2014-2019, and 72 for the year 2020²⁹³. Data on the results of referrals, very low in previous years, was not available for 2020.

The human and financial resources for the HIDAACI have increased in 2019 to 70 employees (up from 60 in 2015), as has the allocated budget²⁹⁴. However, additional capacities are claimed in order to meet the full range of tasks, as HIDAACI has to respond to growing needs arising from the implementation of the laws.

The critical issue of corruption is a major concern often underlined by publications and the media. The 2021 Balkan Barometer survey showed that 23% of citizens have experienced concrete bribery in the public sector in the past 12 months²⁹⁵ and 17% of businesses agreed with the statement that it is common to pay irregular sums or gifts to public officials to get things done. The corruption perception index by Transparency International ranks Albania 104th out of 180 countries, with 36 points in 2020²⁹⁶. The latest report of the Group of States against Corruption (GRECO)²⁹⁷ considers that overall, corruption in Albania is prevalent in many areas of public and business life and remains an issue of concern that challenges public trust in public institutions and political life. GRECO considers the impact of anti-corruption measures, in particular for vulnerable areas (customs, tax administration, education, health, public procurement, etc.) remains limited. There is a strong need to develop trainings, internal inspection mechanisms within the public administration and to develop co-operation with law enforcement authorities.

Conclusion

The legal framework on integrity and disciplinary procedures, complemented by the anti-corruption strategy, is comprehensive, yet fragmented. Data on its application is not centralised. Progress has been made in the implementation of the Law on Declaration of Assets, but the resources of HIDAACI are insufficient to deal with its expanded mission. International assessments and citizens' perception continue to indicate that corruption is a major concern.

²⁹⁰ HIDAACI provides technical assistance, supports legal initiatives undertaken by public institutions for preventing conflicts of interest and evaluates the implementation of Law No. 9367 on Prevention of Conflicts of Interest.

²⁹¹ For the public sector, 168 responsible units were created, and 149 annual reports were received from the public sector by HIDAACI (HIDAACI activity report 2019).

²⁹² In 2019, as an external mechanism, for both private and public sectors, HIDAACI registered and investigated 14 cases and 1 request for protection, compared to 2020, when 9 cases were investigated and 1 request for protection.

²⁹³ Referrals relate to criminal offences of refusal to declare, failure to declare, hiding or false declarations, crimes involving laundering of proceeds, fiscal evasion. Cases are referred to the Prosecution Institution, the tax investigation structures, the General Directorate for the Prevention of Money Laundering, as well as the State Police.

²⁹⁴ The budget was ALL 142.88 million in 2019, as compared to ALL 107 829 000 in 2015.

²⁹⁵ On this specific question, the score for Albania (23.2%) is more than double the average score of the six Western Balkans participants (11%).

²⁹⁶ <https://www.transparency.org/en/cpi/2020/index/alb>.

²⁹⁷ GRECO Evaluation report Albania, published 3 December 2020, adopted at the 86th Plenary Meeting (Strasbourg, 26-29 October 2020).

Accountability

The Principles of Public Administration Accountability

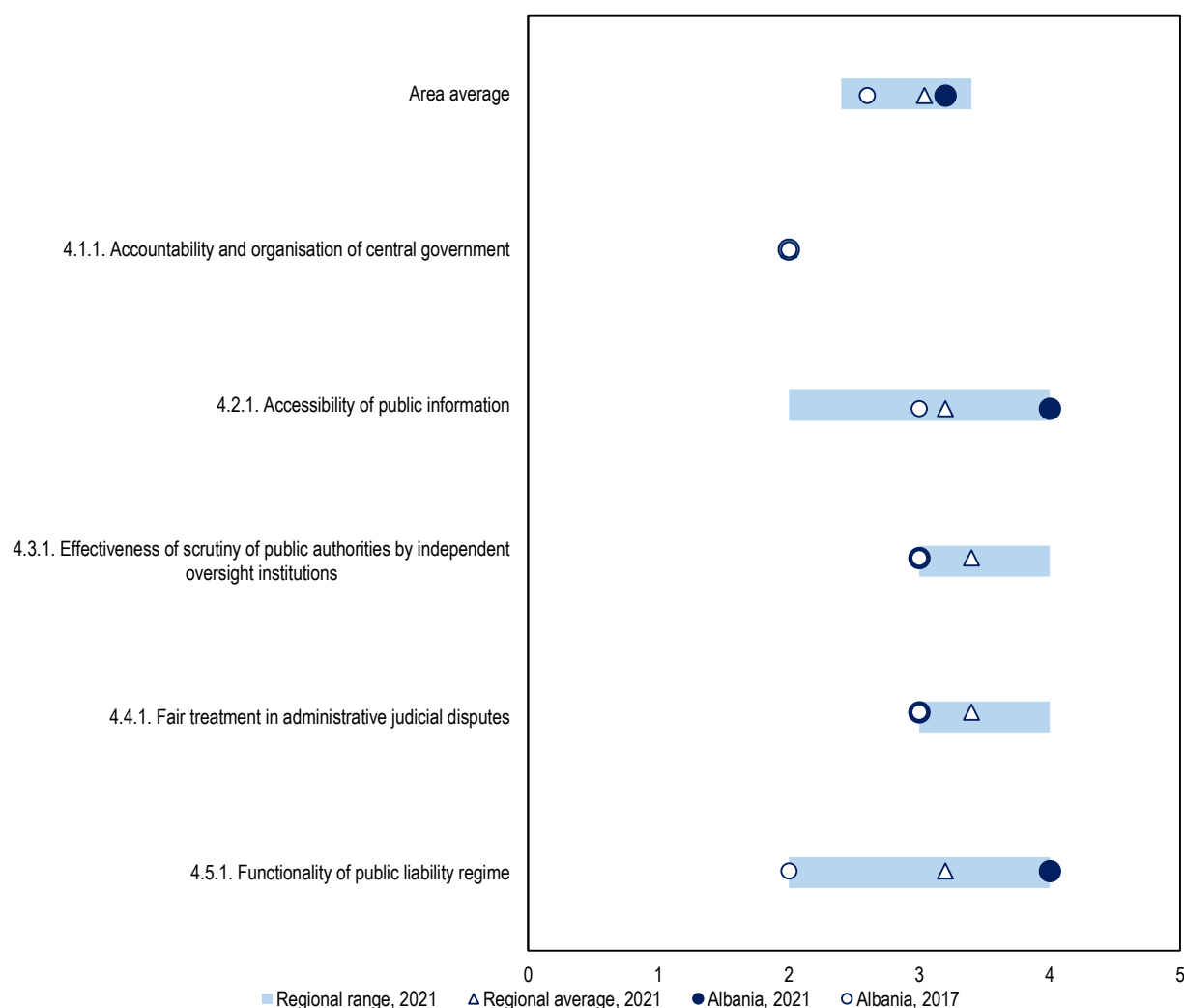
Principle 1	The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.
Principle 2	The right to access public information is enacted in legislation and consistently applied in practice.
Principle 3	Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.
Principle 4	Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.
Principle 5	The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.

Accountability

Summary and recommendations

With an area average of 3, Albania remains a solid regional performer in the area of accountability. The lack of vision and policy of macro-organisation of public administration remains the outstanding weakness. A typology of administrative bodies exists in the legislation, but its practical value is questionable. The distinction between two types of institution – subordinated institutions and autonomous agencies – is blurred and not followed in practice. The unsuccessful initiative for restructuring of agencies that started in 2018 exposed the structural problem of weak central policy and stewardship of the organisational set-up of the Government administration. Another major deficit is the absence of active, results-oriented steering of the subordinated agencies by respective portfolio ministries. Furthermore, within ministries, micromanagement and limited empowerment of senior civil servants persists.

Albania is a strong regional performer in the accountability area. Major improvement came from new evidence of functioning of the public liability regime



Albania performs relatively well in the area of access to public information, and its legislative framework is in line with international standards. The public perception of transparency, among both citizens and businesses, has improved significantly since 2017 and is at a relatively high level. Interventions of an independent Information and Data Protection Commissioner prompt the administration to provide requested information, but the effectiveness of this body suffers from shortcomings in the

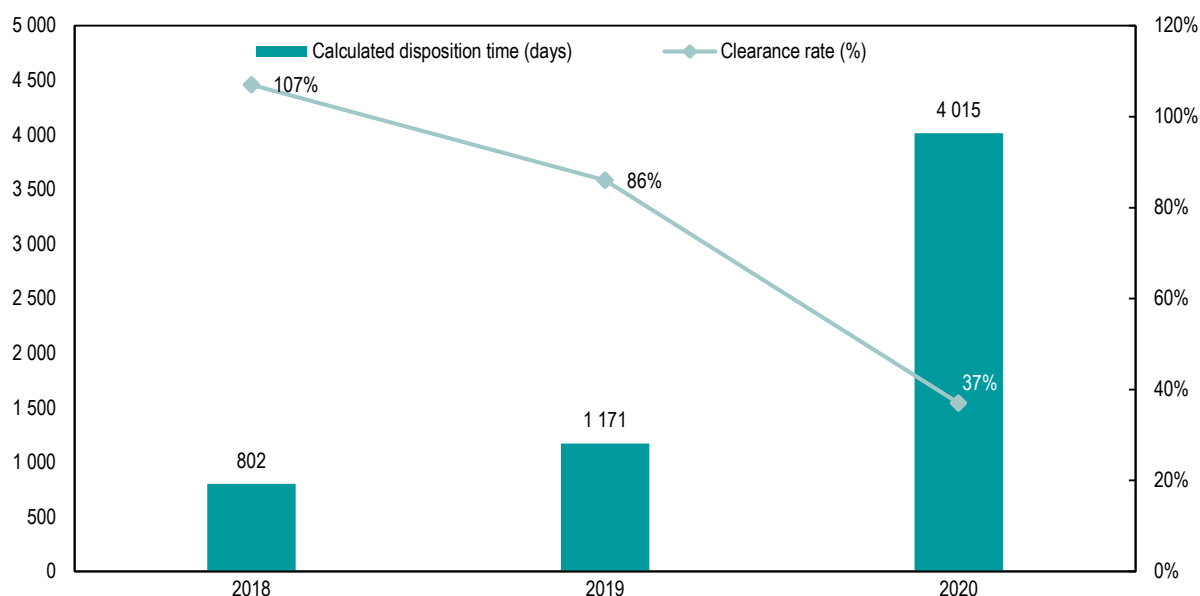
legislative framework. It lacks mechanisms to enforce its decisions and has no explicit mandate to conduct comprehensive inspections. Limited use of sanctions stems from a flawed concept of “liable person” that has persisted since 2017. There is also room for improvement on collecting comprehensive data about the functioning of the system, proactive disclosure of public information and fulfilling transparency obligations, where progress is slow.

As regards oversight of the public administration by independent institutions, the legislative framework is adequate overall and ensures sufficient independence of the oversight institutions.

The only limitation concerns the Ombudsman, whose mandate does not cover the entire executive. Moreover, a further decline in the implementation of its recommendations has been noted since 2017. Nevertheless, the People’s Advocate stands out among oversight bodies as the most trusted and most effective controller of the executive, widely perceived as independent of political influence.

According to the legislation, judicial review of administrative decisions is accessible to all groups of citizens, thanks to relatively low court fees and the recently adopted Law on State Guaranteed Legal Aid. The efficiency of administrative courts is satisfactory at the level of first instance, but continues to be dramatically low in the single Administrative Court of Appeal. The appeal procedure in administrative judicial cases does not function, as potential applicants cannot reasonably expect their cases to be handled in any less than several years. Contrary to the SIGMA recommendations of 2017, in some respects, the technical and organisational preconditions for effective functioning of the administrative courts have even deteriorated. The newly introduced right to seek financial compensation for delays, not yet widely used, is unlikely to solve the structural problems in the Court of Appeal. **Albania scores particularly low in terms of effectiveness of judicial control of the executive and public trust towards the courts, despite continuous efforts towards judicial reform.**

Basic parameters of efficiency of the Administrative Court of Appeal, 2018-2020



Source: Data provided by the Administrative Court of Appeal.

Public liability for administrative wrongdoing is enshrined in the legislation, and there is also evidence that it is implemented in practice. However, there is no mechanism for regular monitoring and analysis of the administrative and judicial practice in these matters. Further, the Government does not collect data on payments made in public liability cases and the reasons for them, to make it possible to detect and mitigate cases of severe maladministration.

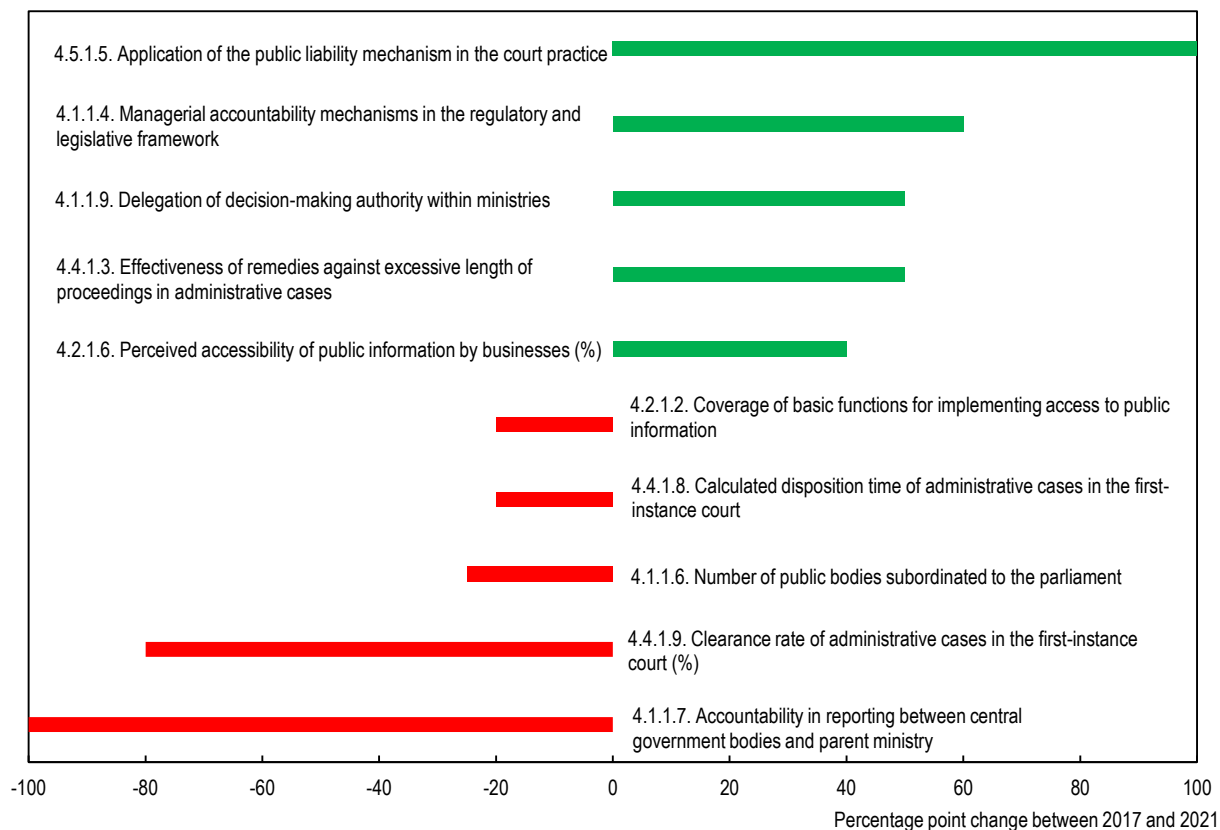
Short-term recommendations (1-2 years)

- 1) The Government should develop and implement a comprehensive steering framework for the bodies subordinated to the ministries, ensuring that monitoring and supervisory functions are clearly allocated to the relevant ministerial unit, that subordinated bodies are held accountable for results delivered and that the ministry provides them with structured performance feedback. Implementation of these measures could start with a major revision of Law No. 90/2012.
- 2) The Government should establish stronger central oversight and control over organisational changes in the public administration, particularly in the creation of new bodies, through institutionalisation of *ex ante* analysis, to prevent excessive agencification and to ensure that it is justified and in line with the government policy.
- 3) The Government, in close co-operation with the Information and Data Protection Commissioner, should strengthen the Commissioner's mandate to collect data on the practice of implementation of Law No. 119/2014, conduct inspections of compliance with transparency requirements and amend the provisions of Law No. 119/2014 relating to sanctions, so that violations of the right to information are effectively penalised, and to collect comprehensive data on the functioning of the system of access to public information.
- 4) The Assembly should enhance its co-operation with the Ombudsman and address the increasing problem of the lack of responsiveness of public administration bodies to the Ombudsman's recommendations. Among possible measures, the creation of a special parliamentary subcommittee could be considered, with the mandate to monitor implementation of the Ombudsman's recommendations. In addition, the monitoring mechanism based on the Inter-Institutional Online Platform should be revived.
- 5) The Ministry of Justice, in co-operation with the High Council of Justice, should urgently develop and implement an action plan for tackling the enormous backlog in the Administrative Court of Appeal. Extraordinary measures are needed to address this issue, including temporary or permanent transfer of judges, as well as increasing the number of judicial assistants and administrative staff.

Medium-term recommendations (3-5 years)

- 6) The Government should consider revision of the institutional locus of the regulatory authorities currently reporting to the Assembly, by ensuring that they are involved in the implementation of Government policies. While respecting the functional autonomy of regulators, this could involve mechanisms for aligning their strategic objectives with Government policy priorities, as well as reporting the obligations of the regulators towards the Government.
- 7) The Ministry of Justice should introduce mechanisms to monitor cases based on Law No. 8510/1999 on Non-contractual Liability of State Administration Bodies (both court cases and amicable settlements) that result in the liability of the State, with the goal of improving administrative procedures and decisions and thus reducing public liability cases in the future.

The five highest percentage point increases and decreases for all sub-indicators in the area in compared to 2017. Data on public liability mechanism being used in practice and better results in managerial accountability contribute to the increases, but the COVID-19 pandemic negatively influenced the efficiency of administrative justice



Analysis

Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.

Overall, the value for the indicator ‘Accountability and organisation of central government’ is 2, the same as in 2017 and 2019²⁹⁸. Some improvements have been recorded in terms of the delegation of decision making in the ministries, but the unsuccessful initiatives to restructure agencies, and persistent problems with ministerial steering of subordinated bodies have hindered progress since the last assessment.

Indicator 4.1.1: Accountability and organisation of central government						
This indicator measures the extent to which the governance model of central government upholds lines of accountability and contributes to increasing the state’s capacity, which is defined as the ability of the administrative apparatus of the state to implement policies, deliver services to citizens and support decision makers with policy advice. This includes assessing the legal and institutional framework for overall organisation of central government, as well as its implementation in practice.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
Policy and legal framework for central government organisation						
1. Clarity and comprehensiveness of official typology of central government bodies				4/5	=	
2. Adequacy of the policy and regulatory framework to manage central government institutions				4/5	+3	
3. Strength of basic accountability mechanisms between ministries and subordinated bodies				3/5	=	
4. Managerial accountability mechanisms in the regulatory framework				3/5	+3	
Central government’s organisation and accountability mechanisms in practice						
5. Consistency between practice and policy in government reorganisation				2/4	+2	
6. Number of public bodies subordinated to the parliament				0/4	-1	
7. Accountability in reporting between central government bodies and parent ministry				0/4	-4	
8. Effectiveness of basic managerial accountability mechanisms for central government bodies				0/4	=	
9. Delegation of decision-making authority within ministries				3/4	+2	
Total				19/40	+5	

At the macro level, the framework Law No. 90/2012 on the Organisation and Functioning of the State Administration²⁹⁹ envisages three types of sub-ministerial bodies (agencies): 1) subordinated institutions; 2) autonomous agencies and 3) direct-service delivery units. This distinction is not based on clear criteria, providing extensive discretion and little guidance on selection of the organisational form for specific functions (Table 1). Most of the public administration bodies meet criteria for each type of body. Furthermore, the formulation of criteria for establishing autonomous agencies is seriously flawed. For example, autonomous agencies are characterised as bodies requiring no “permanent and immediate” supervision from the Government. This formulation is not accurate, since any executive bodies should

²⁹⁸ OECD (2019), *Monitoring Report: Albania*, OECD, Paris, <http://sigmaweb.org/publications/Monitoring-Report-2019-Albania.pdf>.

²⁹⁹ Law No. 90/2012 of 27 September 2012 on the Organisation and Functioning of the State Administration.

remain subject to continuous Government oversight, while enjoying functional autonomy in implementing their core mandate.

Table 1. Official typology of sub-ministerial bodies

Type of body	Criteria for creation
Subordinated institution	Performing administrative functions requiring a high degree of management or leading specialisation and which relate to the direct implementation of the law, delivery of public services to the population or internal services to the state administration, or support and advice to the ministry.
Autonomous agency	Performing administrative functions, the fulfillment of which cumulatively meets the following criteria: a) there is no need for permanent and immediate direction and supervision from the Prime Minister or a minister; b) in-depth managerial specialisation is required; c) they are partially or totally financed by legal means other than those of the general state budget.
Direct-service delivery unit	Delivering public services directly to third parties in the areas, as explicitly provided for by law.

Source: Law No. 90/2012 on the Organisation and Functioning of the State Administration.

Further, this typology is not followed by consistent governance and accountability regimes applicable to all bodies of the relevant type. Bodies of the same type may operate in different regimes relating to financial management or status of the staff. For example, in two subordinated bodies operating under the Ministry of Health and Social Protection (the State Social Service and the Health Care Service Operator) the status of the staff differs significantly – civil service legislation applies only in the State Social Service.

Central stewardship of the organisational architecture of the public administration is weak, which is one of the reasons for the failure of the massive restructuring of the Government agencies launched in 2017. Proposals for changes were developed by line ministries rather than a central task force and lacked strong methodological guidance and quality assurance from the centre. SIGMA concluded in 2019 that this initiative lacked clearly defined objectives, strong central steering and technical capacity. Since then, no improvements have been introduced, and the reform has been discontinued³⁰⁰.

The Government continues the implementation of organisational changes, mainly in the creation of new agencies outside the framework for the reorganisation, which is formally still in force (Table 2). Decisions on setting up new bodies were not accompanied by extensive analysis. Such an analysis should have been conducted to provide a strong business case for further expansion of the administrative apparatus, demonstrating why the relevant Government functions could not be effectively implemented by any of the existing institutions, including ministries.

³⁰⁰ A similar conclusion can be drawn from the analysis of the external experts contracted by the EU Delegation in Tirana to assist the process (G. La Ferrara and G. Kadziauskas, *Support to the Reform of Subordinated Institutions and Agencies in Albania*. Final Report, February 2021).

Table 2. Reorganisations of Government administration since July 2019

Date	Before restructuring	After restructuring
July 2019	Inspection responsibilities in the area of environmental, water and land protection performed by the National Inspectorate of Environment and Forestry, Waters and Tourism	Abolishing the State Inspectorate of Environment, Forests, Water and Tourism and distributing its inspection responsibilities among National Environment Agency, the National Coastline Agency and the National Territory Protection Inspectorate
May 2020	Internal unit (directorate) within the Ministry of Infrastructure and Energy responsible for functions pertaining to expropriation procedures	Transferring functions pertaining to expropriation procedures to the newly created State Expropriation Agency
September 2020	National Youth Service, operating within the civil service system	Transformation into the National Youth Agency, operating outside the civil service system (direct-service delivery unit)
September 2020	Four regional agencies for veterinary and plant protection operating directly under the Ministry of Agriculture and Rural Development	Creation of the National Authority for Veterinary and Plant Protection, supervising four regional branches

Source: Based on information provided by DoPA.

As in other Western Balkan countries, a high number of classical executive bodies (especially regulatory authorities)³⁰¹ operate outside the Government administration, reporting to the Assembly only. This institutional arrangement demonstrates a misinterpretation of the requirement to provide regulatory authorities with sufficient functional autonomy in performing their regulatory functions, according to the standards established in the EU *acquis*. It must be stressed that EU law does not require that regulators be under the jurisdiction of the legislature. It recognises the responsibilities and powers of governments and portfolio ministries to oversee implementation of the Government policies also by the regulatory authorities operating in the relevant sectors³⁰².

At the middle level (relations between ministries and agencies), weak ministerial steering of subordinated bodies remains a core problem. Agencies operating under different ministries enjoy extensive autonomy in shaping their activity plans. Portfolio ministries are acquainted with the plans, but do not play an active role in setting objectives and targets for agencies. Regular performance monitoring, including sharing performance feedback in a structured, well-documented manner, is also lacking. In the organisational structure of the ministries, which was completely revamped in 2017, the function of steering and supervision of subordinated bodies is not clearly defined and allocated.

At the micro level (internal organisation of the ministries), some progress was achieved in terms of strengthening one of the aspects of managerial accountability, i.e. the delegation of decision-making powers over internal management, support services and handling individual administrative matters. However, improvement in this area cannot be attributed to any horizontal reform initiatives, but rather to adjustments at the level of individual ministries. Further efforts would be needed to ensure that political leadership of the ministries and secretaries general (top-level civil servants) in all ministries are relieved of dealing with technical issues of minor relevance.

³⁰¹ E.g. Authority of Electronic and Postal Communications, Competition Authority, Audiovisual Media Authority, Authority for Information on Documents of the Former State Security, Financial Supervision Authority, Energy Regulator and the Regulatory Entity of the Water Supply and Wastewater Treatment.


³⁰² Johnsen, J., L. Marcinkowski and D. Sześciło (2021), "Organisation of public administration: Agency governance, autonomy and accountability", SIGMA Papers, No. 63, OECD Publishing, Paris, <https://doi.org/10.1787/07316cc3-en>.

Conclusion

The legislative framework establishes the official typology of government bodies, but the determinant criteria are unclear. The unsuccessful attempt to restructure agencies that was initiated in 2018 exposed larger policy and structural problems and gaps, in particular the lack of central policy and political-level stewardship of the organisational set-up of the Government administration. Another major deficit is absence of active, results-oriented steering of the subordinated agencies by respective portfolio ministries. Micromanagement within ministries and limited empowerment of senior civil servants persists.

Principle 2: The right to access public information is enacted in legislation and consistently applied in practice.

Overall, the value for the indicator ‘Accessibility of public information’ is 4. Improvement of the indicator value – which was 3 in 2017 – can be attributed to improved perception of transparency among citizens and businesses reported by Balkan Barometer.

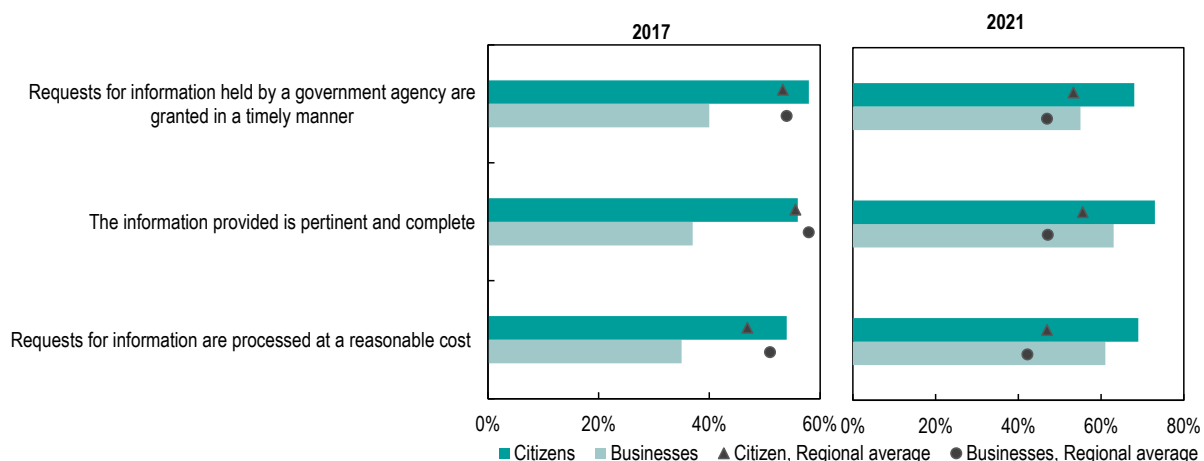
Indicator 4.2.1 - Accessibility of public information						
This indicator measures the extent to which the legal and institutional framework regarding access to public information is established, promoting timely responses to public information requests free of charge or at a reasonable cost. It also covers the practical application of these legal requirements, with particular focus on proactive disclosure of public information and perceptions of availability of public information.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Legal and institutional framework for access to public information						
1. Adequacy of legislation on access to public information					10/10	+1
2. Coverage of basic functions for implementing access to public information					2/5	-1
Citizens' level of access to public information						
3. Proactivity in disclosure of information by state administration bodies on websites (%)					2/5	=
4. Proactivity in disclosure of datasets by the central government (%)					3/5	+1
5. Perceived accessibility of public information by the population (%)					2/2.5	+0.5
6. Perceived accessibility of public information by businesses (%)					2/2.5	+1
Total					21/30	+2.5

A legislative framework guaranteeing the constitutional right of access to public information³⁰³ remains in line with international standards in this matter, in particular the the Council of Europe Convention on Access to Official Documents (Tromso Convention)³⁰⁴. Legislation provides for access to information upon request, but also establishes an extensive catalogue of information to be disclosed pro-actively. While the perception of responsiveness of public authorities in handling public information requests has improved considerably since 2017 (Figure 1), pro-active transparency requires greater attention. Review of websites of selected public bodies revealed that some basic documents, such as annual plans and annual reports, are not widely shared with the public.

³⁰³ Law No. 119/2014 on the Right to Information.

³⁰⁴ Council of Europe Convention on Access to Official Documents of 18 June 2009, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/205>.

Figure 1. Perception of transparency, 2017 and 2021

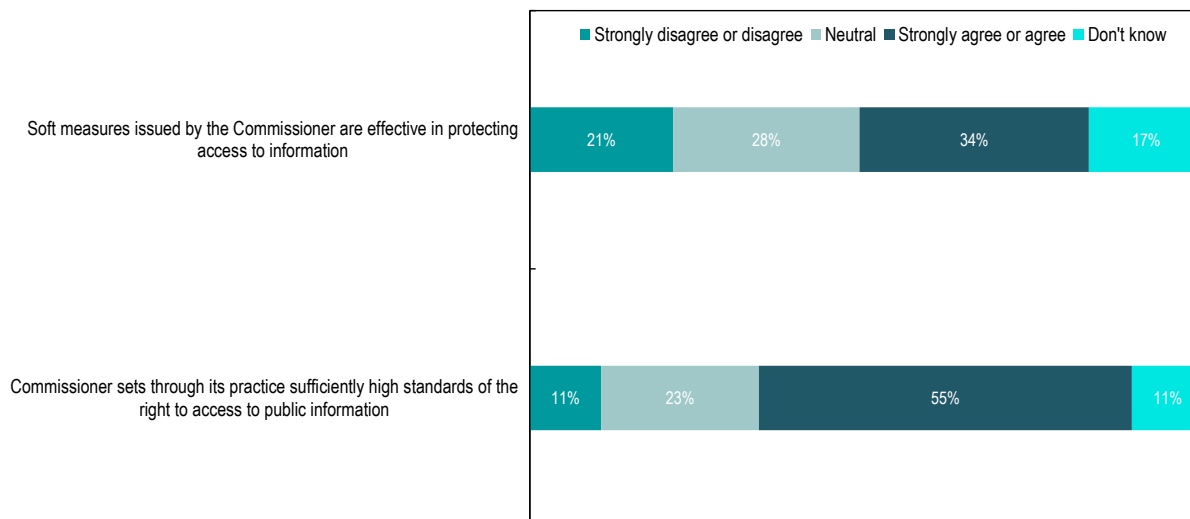


Note: The share of respondents answer “totally agree” or “tend to agree” to the statements presented in the figure. The share of citizens consider only those respondents who have been in contact with central government services in the past year.

Source: Regional Cooperation Council, Balkan Barometer Citizens’ and Business Opinion databases (<https://www.rcc.int/balkanbarometer>).

As in many countries in the region³⁰⁵, an independent body, the Information and Data Protection Commissioner, plays a key role in monitoring transparency standards established in the Law No. 119/2014. In particular, the Commissioner operates as an appeals body considering remedies against refusal of access to information or administrative silence. In a majority of the cases received by the Commissioner, the applicants received the requested information in the course of the proceedings, which provides some evidence of the successful mediating role of the institution. As WeBER survey³⁰⁶ also demonstrates, a large part of population positively assesses efforts of this institution in promoting transparency.

Figure 2. Impact of the IDP Commissioner on access to information standards



Source: WeBER PAR Monitoring 2021.

However, the effectiveness of oversight of observing the right to information suffers from shortcomings in the legislative framework. Public authorities are not even required to report to the Commissioner with basic

³⁰⁵ See also: Croatia, Kosovo, North Macedonia, Montenegro, Serbia and Slovenia.

³⁰⁶ <https://www.par-monitor.org/principles-of-public-administration/#>.

statistical data, e.g. on the number of public information requests received, share of requests refused, grounds for refusal etc. Further, the Commissioner has a weak formal mandate to conduct inspections or audits of public authorities covering full scope of transparency obligations, e.g. completeness of information disclosed pro-actively or timeliness of processing public information requests. It conducts some monitoring of proactive transparency obligations, but in 2020 the Commissioner imposed fines for noncompliance with transparency obligations only in three cases relating to failure of publication of transparency programmes by local government bodies.

Moreover, the extensive catalogue of sanctions for violations of the right to information, envisaged by the Law No. 119/2014, remains a dead letter. In 2020, the Commissioner imposed sanctions in only three cases of failure by local government bodies to publish transparency programmes. The major reason for very limited use of sanctions is the flawed concept of “liable person,” according to the Law No. 119/2014. For most of the possible violations of the right to information, the information co-ordinators in relevant institutions (usually junior civil servants) should be financially punished. This applies, for example, to the most typical cases of unjustified refusal of access to information. Such an arrangement ignores the fact that refusal of access to information, especially in sensitive cases, is often a decision of the head of authority, and the information co-ordinator’s task is simply to carry it out. Law No. 119/2014 mechanically attributes liability without taking into consideration the circumstances of the individual cases. This leads to the restrained approach of the Commissioner in applying sanctions.

A more effective system of inspections and sanctions might encourage public authorities to invest greater resources and attention in implementing transparency obligations. According to data provided by the Commissioner, progress on some basic functions is slow, and has even deteriorated in some respects (Table 3). For example, only around half of the institutions appointed information co-ordinators and published transparency programmes specifying data subject to proactive disclosure. A compulsory register of requests for information and responses is published by approximately one-third of the institutions. Only 59 institutions (of 374 identified holders of public information) joined the project of Electronic Requests and Responses Register on the Right to Information, enabling the citizens to submit request through a single online portal.

Table 3. Compliance among public authorities with basic transparency obligations established by law

Transparency obligations of public authorities	Share of authorities complying with relevant obligations [%]		
	2018	2019	2020
Publishing a transparency programme	42	59	64
Publishing a Requests and Responses Register	34	45	37
Appointing a public information co-ordinator	63	57	63
Total number of bodies	525	417	374

Source: Annual reports of the Information and Data Protection Commissioner.

Conclusion

Both citizens and businesses have a positive opinion of the accessibility of public information. The Independent Information and Data Protection Commissioner contributes to the enforcement of the right of access to public information, yet the flawed mechanism for imposing sanctions for violation of the right to information and lack of comprehensive transparency monitoring and data hinder further progress in this area.

Principle 3: Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.

Overall, the value for the indicator 'Effectiveness of scrutiny of public authorities by independent oversight institutions' is 3, the same as in 2017. Continuous problems with implementation of the Ombudsman's recommendations and lack of trust in the judiciary create a major barrier to improve the overall performance of the oversight system.

Indicator 4.3.1: Effectiveness of scrutiny of public authorities by independent oversight institutions						
This indicator measures the extent to which there is a functioning system of oversight institutions providing independent and effective supervision over all state administration bodies. The strength of the legislative framework is assessed, as well as the effectiveness of oversight institutions in changing practices in the state administration and building trust among the population.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
Legal and institutional framework for oversight institutions						
1. Legislative safeguards for the independence and adequate mandate of the ombudsman institution				8/10	=	
2. Legislative safeguards for the independence and adequate mandate of the SAI				10/10	=	
3. Legislative safeguards for the independence of courts and judges				10/10	=	
Effectiveness of and public trust in oversight institutions						
4. Implementation of ombudsman recommendations (%)				0/8	=	
5. Implementation of SAI recommendations (%)				4/8	=	
6. Perceived independence of oversight institutions by the population (%)				2/5	+2	
7. Trust in oversight institutions by the population (%)				2/5	+1	
8. Perceived ability of oversight institutions and citizens to effectively hold the government accountable (%)				3/5	=	
Total				39/61	+3	

Oversight institutions operate under a legal regime securing for them an adequate degree of independence. In particular, with significant international support (EURALIUS project³⁰⁷), a completely new legislative framework for judiciary was set up, accompanied by an ongoing judicial vetting process. Establishment of the High Council of Justice in 2018, performing key governance functions (appointment, allocation and promotion of judges), completed the process of formation of the new institutional architecture of the judicial system. The status of the High State Audit (SAI)³⁰⁸ is fully in line with the requirements established by the International Organization of Supreme Audit Institutions (INTOSAI). In December 2020, the Ombudsman institution (People's Advocate) was re-accredited with an 'A' status by the Global Alliance of National Human Rights Institutions, certifying compliance of the legislative framework³⁰⁹ with the minimum standards set by the Paris Principles³¹⁰.

³⁰⁷ <http://euralius.eu>.

³⁰⁸ Law No. 154/2014 on the Organisation and Functioning of the State Supreme Audit Institution.

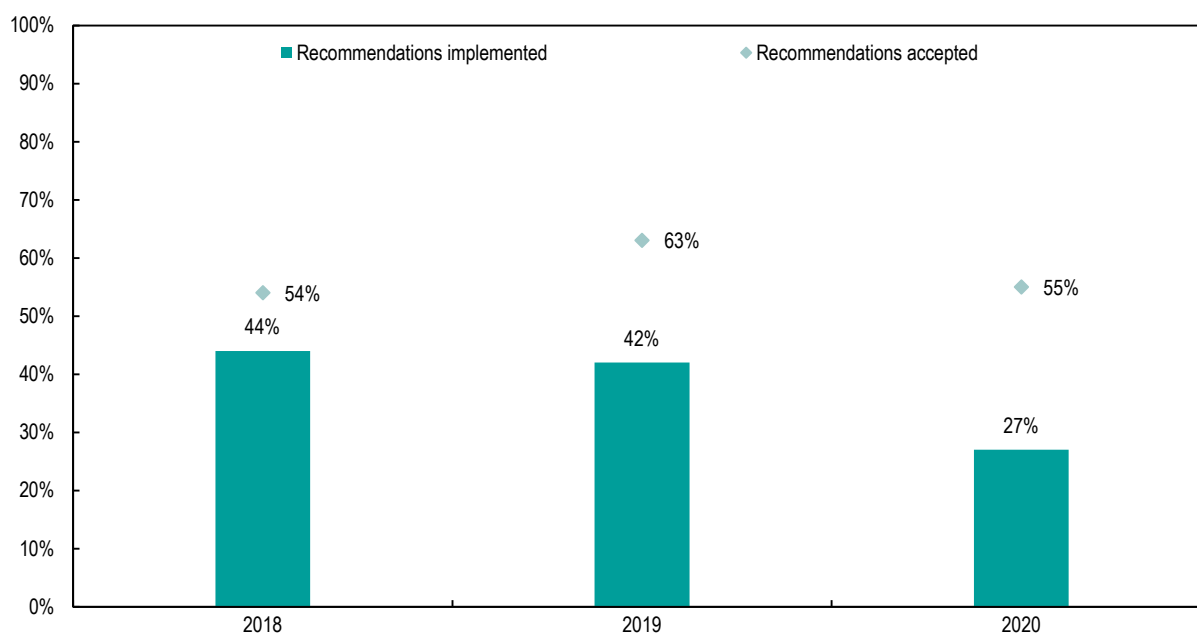
³⁰⁹ Law No. 8454/1999 of 4 February 1999 on the People's Advocate.

³¹⁰ Global Alliance of National Human Rights Institutions, accreditation status as of 20 January 2021, online: <https://www.ohchr.org/Documents/Countries/NHRI/StatusAccreditationChartNHRIs.pdf>.

However, in the light of some more demanding international standards, the jurisdiction of the Ombudsman institution is not sufficiently extensive. According to the documents of the Council of Europe and the Venice Commission, the institutional competence of the Ombudsman “should cover reviewing cases of maladministration by all bodies of the executive branch”³¹¹ and “public administration at all levels”³¹². In this context, exemption of the President and the Prime Minister from the People’s Advocate remit (Article 25 of the Law on the People’s Advocate³¹³), is not legitimate, as all these bodies constitute part of the executive.

The generally positive picture stemming from analysis of the legislation must be contrasted with the major practical challenges hampering effective oversight of the executive. Implementation of the People’s Advocate’s recommendations by state institutions has fallen off in previous years (Figure 3) and remains significantly lower than the SAI’s recommendations. Parliament fails to undertake measures promoting greater observance of the Ombudsman’s recommendations by the executive³¹⁴.

Figure 3. Implementation of the People’s Advocate’s recommendations [%]



Source: Annual reports of the Ombudsman and data provided to SIGMA.

Nevertheless, the People’s Advocate stands out among oversight bodies as the most trusted and most effective controller of the executive, widely perceived as independent of political influence³¹⁵. The High State Audit scores slightly lower, and the judiciary still has not managed to regain public trust, although compared to 2017, the situation has slightly improved.

³¹¹ Parliamentary Assembly of the Council of Europe, Resolution 1959 (2013): Strengthening the institution of the Ombudsman in Europe, 4 October 2013.

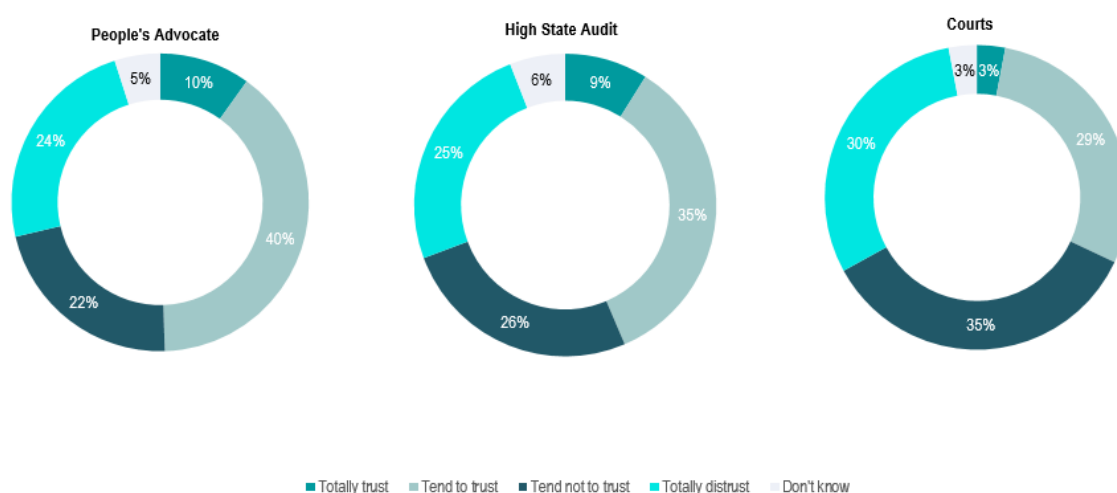
³¹² European Commission for Democracy Through Law (Venice Commission), Principles on the protection and promotion of the Ombudsman Institutions (“The Venice Principles”), 15-16 March 2019, Opinion No. 897/2017.

³¹³ Law No. 8454, dated 4 February 1999, supplemented by Law No. 8600, dated 10 April 2000, amended by Law No. 9398, dated 12 May 2005, added to and as amended by Law No. 155/2014, dated 27 November 2014, “On the People’s Advocate”.

³¹⁴ In 2019, it launched the Inter-Institutional Online Platform for monitoring implementation of the recommendations of various independent accountability bodies (including the People’s Advocate) by the state administration. However, data on recommendations of the Ombudsman institution were not updated in 2020, and there is no evidence of any additional support provided by the legislature to enhance implementation of the recommendations.

³¹⁵ According to the Balkan Barometer 2021, half of the population agree that the People’s Advocate effectively scrutinises the Government, and 42% of citizens see this institution as independent of political influence.

Figure 4. Citizens' trust in oversight institutions, 2021

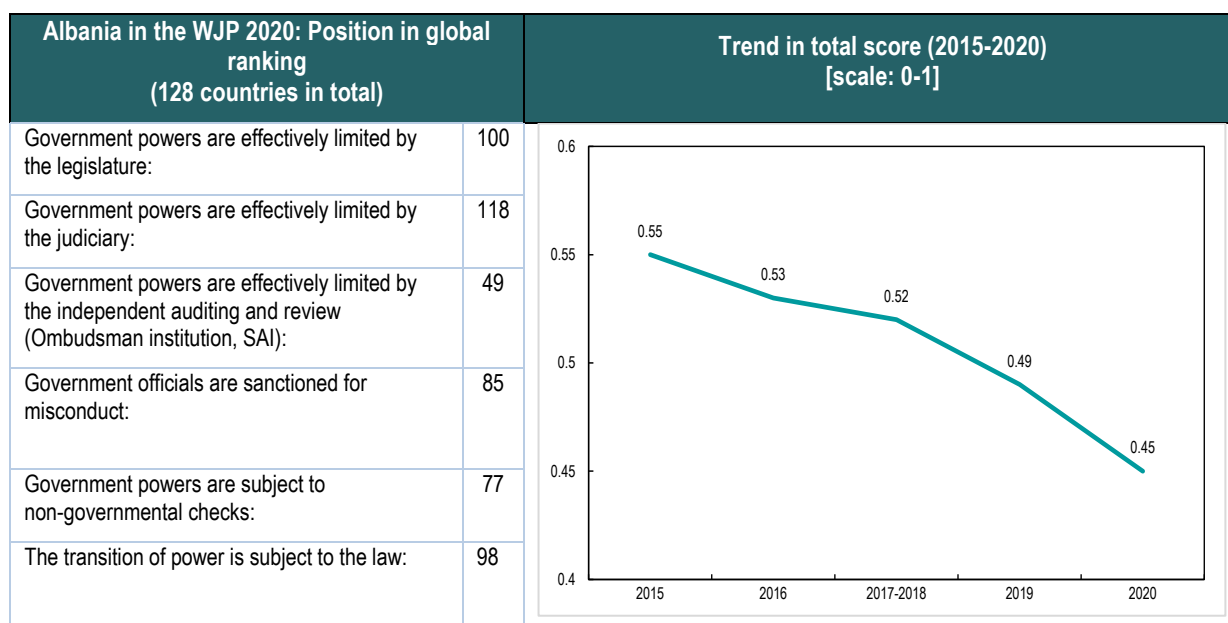


Notes: Analysis of survey responses by a representative sample of the population to the following question: "How much trust do you have in certain institutions?"

Source: Regional Cooperation Council, Balkan Barometer Public Opinion database (<https://www.rcc.int/balkanbarometer/>).

Data from the Balkan Barometer survey correspond well with results of the World Justice Project Rule of Law Index, in which Albania scores particularly low in terms of effectiveness of judicial control of the executive (Figure 5). On the other hand, it performs best in the region with regard to the effectiveness of the Ombudsman institution and SAI. The overall trend across the years, as in other countries in the region, is concerning, demonstrating a gradual deterioration of the democratic culture of external accountability of the Government.

Figure 5. Albania's performance in the World Justice Project Rule of Law Index; criterion: Constraints of Government powers



Source: World Justice Project. Data available online at:

<https://worldjusticeproject.org/rule-of-law-index/country/2020/Albania/Constraints%20on%20Government%20Powers/>

Conclusion

An adequate legal framework for oversight institutions (Ombudsman, SAI and courts) is in place, but the Ombudsman's scope does not cover the entire executive. This is compounded by the low responsiveness of public authorities towards the Ombudsman's recommendations (despite the highest trust level among oversight institutions) and continuously low public confidence in the judiciary.

Principle 4: Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.

Overall, the value for the indicator 'Fairness in handling of administrative judicial disputes' is 3, the same as in 2017. Although the total score has not changed, developments that were both positive (introduction of the procedure for seeking compensation for delays in judicial proceedings) and negative (increase of backlog caused mainly by the pandemic) were recorded.

Indicator 4.4.1 - Fairness in handling of administrative judicial disputes						
This indicator measures the extent to which the legal framework and the organisation of courts support fair treatment in administrative judicial disputes and the administrative judiciary is characterised by efficiency, quality (including accessibility) and independence. Outcomes in terms of case flow and public perceptions of independence are also measured.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
Legal framework and organisation of judiciary						
1. Adequacy of the legislative framework for administrative justice				6/6	=	
2. Accessibility of administrative justice				3/4	=	
3. Effectiveness of remedies against excessive length of proceedings in administrative cases				1/2	+1	
4. Use of an electronic case-management system				0/1	=	
5. Public availability of court rulings				2/2	=	
6. Organisation of judges handling administrative justice cases				4/5	+1	
Performance of the administrative justice system						
7. Perceived independence of judicial system by the population (%)				1/5	+1	
8. Calculated disposition time of first-instance administrative cases				4/5	-1	
9. Clearance rate in first-instance administrative courts (%)				1/5	-4	
10. Cases returned for retrial by a higher court (%)				2/5	-1	
Total				24/40	-3	

Administrative justice is accessible to anyone affected by administrative acts of public authorities³¹⁶. The court fee for initiating judicial review of administrative acts is slightly above 5% of the monthly average salary in the country, but parties with few material resources may request exemption from fees. The 2017 Law on State Guaranteed Legal Aid³¹⁷ also provides for various forms of legal assistance, including professional representation in judicial proceedings.

The efficiency of the administrative courts is satisfactory at the level of first instance, but dramatically low in the single Administrative Court of Appeal. The average duration of the first-instance proceedings at the

³¹⁶ Law No. 49/2012 of 3 May 2012 on Administrative Courts.

³¹⁷ Law No. 117/2017 on State Guaranteed Legal Aid.

end of the pandemic year (181 days) was shorter than the European average for a regular year (241 days in 2018)³¹⁸, although the courts have managed to clear only 2 out of 3 of the incoming cases due to the major disruption caused by the pandemic. At the end of March 2020, all activities of the courts (except for urgent matters) were suspended³¹⁹. In late April 2020, the High Council of Justice adopted guidelines setting rules and conditions for the gradual restoration of courts' functioning and promoting greater use of electronic communication, both by staff of the courts and citizens.

Despite these mitigation measures, the situation in the Administrative Court of Appeal further deteriorated. At the end of 2020, it recorded a backlog of over 15 times more unresolved cases than those it managed to dispose of in the pandemic year. Over a fifth of these cases had been pending for more than three years. For each active judge serving in the Administrative Court of Appeal, the number of unresolved cases reached nearly 2 000. While the calculated disposition time for the extraordinary period of 2020, in excess of ten years, should not be taken as a reliable indicator, it had already reached nearly 3.5 years in the pre-pandemic year of 2019. This leads to the conclusion that the appeal procedure in administrative judicial cases does not function, as the potential applicants cannot reasonably expect their cases to be handled in the foreseeable future.

The efficiency issues in the Administrative Court of Appeal are not new and result from a continuous increase in the backlog over the years. However, this issue was not adequately addressed by the institutions managing the judicial system (the Ministry of Justice and High Council of Justice). In 2017, SIGMA had already recommended urgent adoption of an action plan to reduce backlog in the Administrative Court of Appeal, including additional funds for at least a temporary increase in the number of judges in the Court and modernisation of the outdated electronic case management system³²⁰. No such activities have been undertaken, and in some respects, the technical and organisational preconditions for effective functioning of the administrative courts have even worsened. For example, due to amendments in the legislation introduced in 2017³²¹, the judges in the first-instance administrative courts were deprived of the support of legal assistants. There are also no legal assistants in the Administrative Court of Appeal.

Since the previous assessment in 2017, the applicants affected by the excessive length of judicial proceedings have gained the right to request the higher court for acceleration of the proceedings and to seek financial compensation for delays³²². Under the Civil Procedure Code, proceedings pending for more than one year in the relevant instance generally constitute a violation of the right to trial within a reasonable time, which allows the party to seek compensation. However, there is no indication that this tool has been used in practice. In 2020, no compensation claims were resolved by the relevant courts over delays in the first-instance administrative courts or Administrative Court of Appeal. Particularly in the latter case, this demonstrates insufficient awareness among applicants of the procedure for seeking compensation for procedural deficiencies. In the Administrative Court of Appeal, tens of thousands of cases have been pending for more than one year and thus qualify for compensation. The fact that no compensation was granted in itself indicates how ineffective this potential remedy has been. While greater efforts are needed to raise awareness of the procedure for seeking compensation for excessive length of proceedings, the establishment of this procedure makes the need for tackling the backlog even more urgent. Once compensation claims become more common, the massive delays will start to result in significant financial consequences for the state.

Conclusion

³¹⁸ Council of Europe (2020), European judicial systems: European Commission for the Efficiency of Justice (CEPEJ) Evaluation Report 2020. Evaluation cycle (2018 data), Strasbourg, p. 108.

³¹⁹ Normative Act No. 9 of 25 March 2020 on special measures in judicial activities throughout COVID-19.

³²⁰ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, <http://sigmaweb.org/publications/Monitoring-Report-2017-Albania.pdf>.


³²¹ Law No. 39/2017 of 30 March 2017 on the amendment of Law No. 49/2012 of 3 May 2012 on Administrative Courts.

³²² Articles 399/1-399/12 of the Civil Procedure Code (provisions added by the Law No. 38/2017 of 30 March 2017).

Administrative justice is formally accessible and affordable, but the efficiency of the administrative court system is constrained by the historical backlog of cases in the Administrative Court of Appeal. This was further exacerbated by the pandemic, after judicial operations were suspended.

Principle 5: The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.

Overall, the value for the indicator 'Functionality of public liability regime' is 3. While the legislative framework for seeking compensation for administrative wrongdoing has not changed since the previous assessment in 2017, additional evidence on the application of the public liability regime in judicial practice, which was obtained as part of this assessment, has resulted in an increase in the indicator value.

Indicator 4.5.1 - Functionality of public liability regime						
The indicator measures the extent to which there is a functioning system guaranteeing redress or compensation for unlawful acts and omissions of public authorities. It examines the strength of the legislative framework for public liability and whether it is applied in practice. Wrongful acts of the state against civil servants are excluded.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points		Change from
				2021		2017
Legal framework for public liability						
1.	Comprehensiveness of the scope of public liability			1/1	=	
2.	Coverage of the public liability regime to all bodies exercising public authority			1/1	=	
3.	Non-discrimination in seeking the right to compensation			1/1	=	
4.	Efficiency and fairness of the procedure for seeking compensation			3/3	=	
Practical implementation of the right to seek compensation						
5.	Application of the public liability mechanism in the courts in practice			3/3	+3	
6.	Payments made to entitled applicants (%)			0/3*	=	
Total				9/12	+3	

Note: *Data not available or provided.

Law No. 8510/1999 on Non-contractual Liability of State Administration Bodies³²³ provides the procedural framework for applying the constitutional principle of public liability³²⁴. The regulation remains compatible with international standards in this matter, in particular Recommendation No. R 84 (15) of the Committee of Ministers of the Council of Europe³²⁵. Damage caused by a wide array of unlawful administrative acts is subject to non-discriminatory right of compensation. Claims may address both direct loss and lost profits.

The procedure for seeking compensation promotes an amicable resolution of public liability disputes, as it requires the party to submit the claim to the administrative authority that allegedly caused the damage before filing the case with the administrative court. Action must be taken within three years after the applicant was informed of the damage.

³²³ Law No. 8510/1999 of 15 July 1999 on Non-contractual Liability of State Administration Bodies.

³²⁴ According to the Constitution, Article 44, "Everyone has the right to be rehabilitated and/or indemnified in compliance with law if he is damaged because of an act, unlawful act or omission from state bodies".

³²⁵ Recommendation No. R 84 (15) of the Committee of Ministers of the Council of Europe relating to public liability, adopted on 18 September 1986.

There is evidence of application of the public liability regime in administrative and judicial practice³²⁶. In several cases completed in 2020, the parties affected by administrative wrongdoing managed to obtain final rulings from the Administrative Court of Appeal granting compensation for damage caused by unlawful actions or omissions by public authorities. However, there is no mechanism for regular monitoring and analysis of the administrative and judicial practice in these matters. Further, the Government does not collect data on payments made in public liability cases and reasons thereof.

Conclusion

There is some evidence of practical application of the constitutional principle of public liability, although the Government has not put in place a mechanism for monitoring and analysis of practice in this matter that would enable it to detect and mitigate cases of severe maladministration.

³²⁶ The Ministry of Justice provided a list of 190 public liability cases in 2020 and according to the data provided by the Administrative Court of Appeal, there were 4 cases, where the compensation was granted by final and enforceable court ruling.

Service Delivery

The Principles of Public Administration Service Delivery

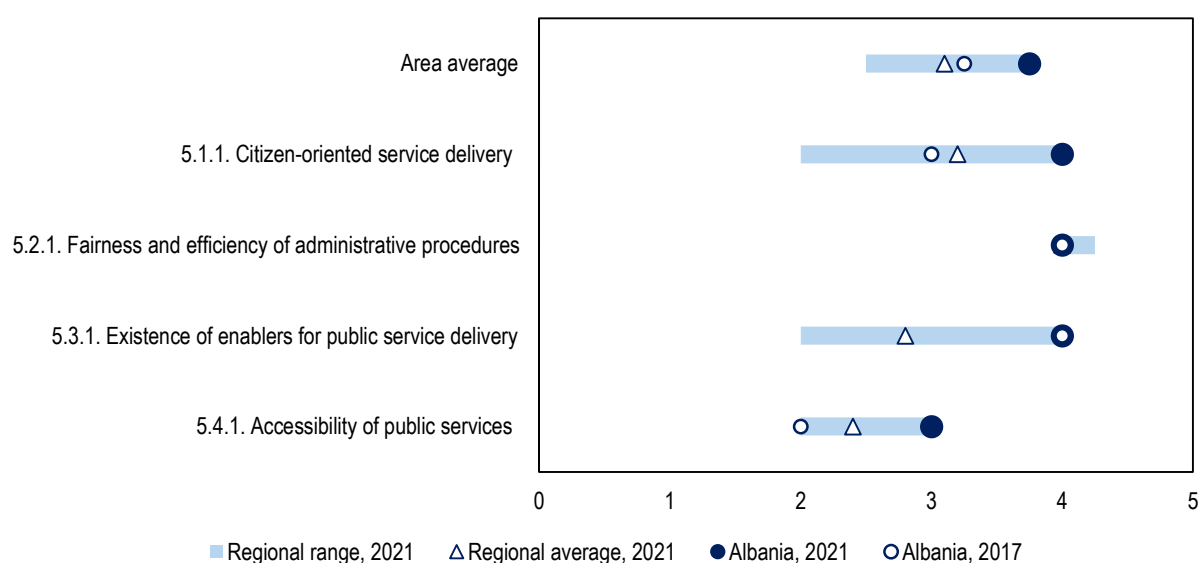
Principle 1	Policy for citizen oriented state administration is in place and applied.
Principle 2	Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.
Principle 3	Mechanisms for ensuring the quality of public service are in place.
Principle 4	The accessibility of public services is ensured.

Service Delivery

Summary and recommendations

With a composite average indicator value of 3.8 in the area of service delivery, Albania has maintained the positive trend noted in the 2017 assessment (value 3.3). With Serbia, it is one of the leading countries in the region (regional average 3.1) in improving service delivery, with a strong focus on digital services.

Increased progress in the Service Delivery area in Albania over time and compared to the region

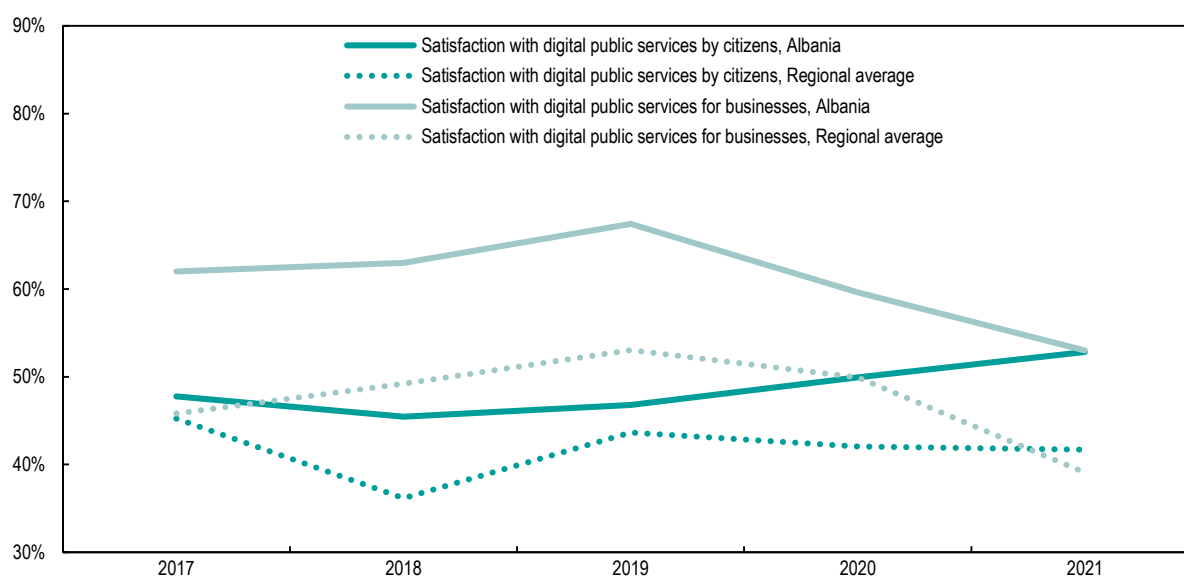


Based on a solid and stable policy framework and supporting institutional set-up, Albania continues to make good progress in the “citizen-oriented service delivery” area. The political leadership has persistently focused on digitalisation, and 95% of administrative services have been made available online in recent years. 1 207 electronic services in the e-Albania portal are of level 3 or 4, according to the UNPAN³²⁷ classification, of which 830 are electronic services of level 3 that can be applied online and 377 are electronic services of level 4, where the procedure begins and ends online. The availability of online services has proven to be an asset during the pandemic. Despite citizens’ and businesses’ generally high satisfaction levels with public services, however, individual services still tend to suffer from cumbersome procedures.

³²⁷ United Nations Public Administration Network

<https://publicadministration.un.org/egovkb/portals/egovkb/Documents/un/2003-Survey/unpan016066.pdf>.

Trends in satisfaction with digital public services among citizens and businesses in Albania, 2017-2021



Note: Includes the average share of citizens and businesses who answered “mostly satisfied” or “completely satisfied” to the statement: “Could you please tell how satisfied you are with each of the following in your place of living?” in relation to: “Accessibility to public services via a digital channel” and “Digital services currently provided by the public administration for businesses”. The share of citizens consider only those respondents who have been in contact with central government services in the past year. Data for 2020 citizens’ satisfaction is not available.

Source: Regional Cooperation Council, Balkan Barometer Public and Business Opinion databases (<https://www.rcc.int/balkanbarometer>).

The Code of Administrative Procedure (CAP), which came into force in 2016, is a crucial milestone in the “fairness and efficiency of administrative procedures”. **The percentage of citizens agreeing that administrative procedures in public institutions are efficient is 72%, and the rate of repeals or amendments to administrative decisions has substantially decreased since 2017.** The structures and methodologies are in place, but nevertheless, the process of harmonising legislation with the CAP has been slow. General awareness, guidance and support on how to integrate different perspectives (such as legal, technological and user-centric service design) into a coherent approach for simplifying administrative procedures, would make harmonisation less of a legalistic exercise. **It could also strengthen the application of the “once only” principle.**

The Government maintained its effort to establish several enablers to ensure the quality of public services. This resulted in good progress overall, although some potential, in terms of interoperability and electronic payment, remains untapped. Monitoring service delivery is functioning well and has proved useful in providing information about the need to make corrections at the level of individual public institutions. Digitalisation of services is well-supported by the interoperability platform and by an increasing number of interoperable information systems, which allow forms to be filled in automatically. Digital signature take-up could be increased. Although online payment is technically possible through the Government Electronic Payment Platform, it is still not available for all services, which makes it difficult to transform services into a fully digital format. The use of quality management tools in state administration is still sporadic and could contribute to the spread of a user-centric service delivery culture.

Improving accessibility to administrative services has been a major policy objective of the Government in recent years. This has been accomplished through the network of 22 front offices of the Agency for the Delivery of Integrated Services in Albania (ADISA) in 21 municipalities and a mobile office. During the COVID-19 pandemic, the digitalisation and provision of services through the e-Albania portal was increased. The e-Albania portal provides a full overview of and access to the digital services offered, and includes information about non-digital services. **Albania scores above the regional average in citizen satisfaction with different aspects of service delivery. The legal, policy and institutional framework for accessibility of citizens with special needs is in place but is not fully implemented on the ground.**

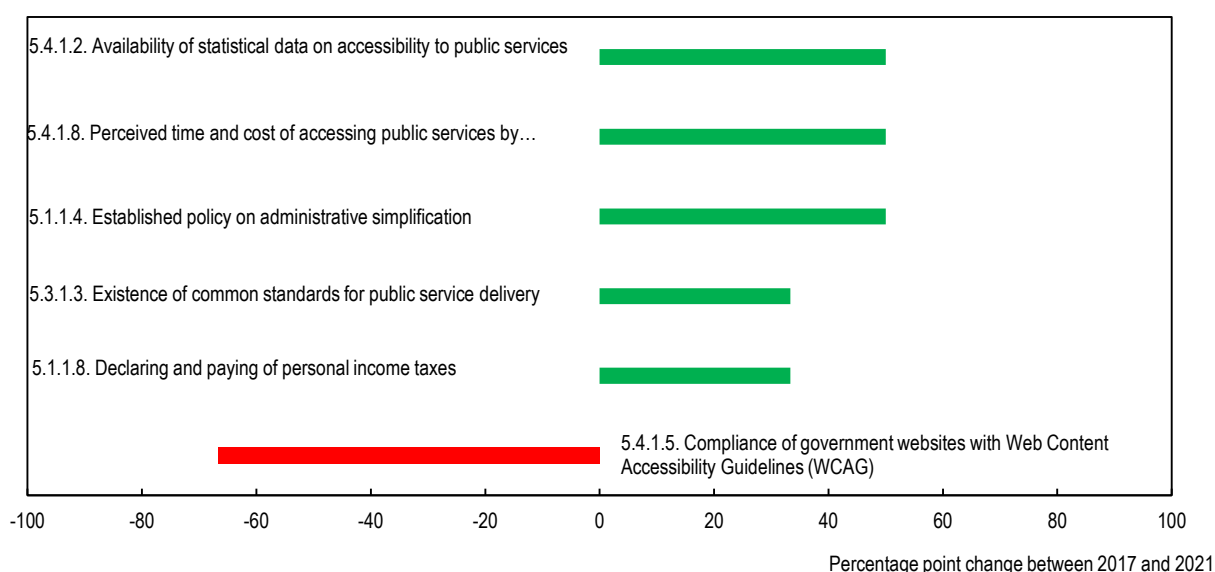
Short-term recommendations (1-2 years)

- 1) The National Agency for Information Society (NAIS) should upgrade the e-Albania portal to include information about non-digital services provided by local and central government. An approach that presents life-event-based categorisation of information would also be useful in making the otherwise rich information content more easily accessible.
- 2) The Government should make it a priority to complete the harmonisation of special legislation with the CAP, based on the agreed methodology and providing the necessary resources. The Ministry of Justice (MoJ), in co-operation with ADISA and NAIS, should also use this opportunity to simplify and re-engineer administrative procedures.
- 3) The Government should establish web accessibility standards. NAIS should then implement these standards for all government webpages and support public bodies, to improve accessibility for all, including for people with disabilities.
- 4) ADISA should consider introducing service design frameworks and toolkits, as well as assistance to public bodies, with the goal of helping them to introduce practices that would improve the service experience for users.
- 5) The Government should continue to make digital signatures and e-payment more appealing by introducing convenient solutions for individual citizens (e.g. smartphone-based options) and by promoting their use among private sector service providers, as well as across the administration, and informing the citizens of their benefits.

Medium-term recommendations (3-5 years)

- 6) ADISA should make plans for completing the policy framework on quality management, including developing an operational roadmap on how to increase the use of quality-management instruments and tools in public institutions, including awareness raising, promotion, knowledge sharing, recognising good practices and capacity building.
- 7) Following the activities of the working group in place, ADISA and NAIS, in co-ordination with the Ministry of Health and Social Welfare and the National Council of Accessibility, should complement the general policy on accessibility of public services for special-needs users, with concrete policy measures and metrics to improve the situation.

The five highest percentage point increases and decreases for all sub-indicators in the area compared to 2017. Progress in services delivery monitoring and data, only backsliding in the quality of government websites



service delivery integration, as well as the development of delivery channels; 3) digitalisation of archives and registers, interoperability among ICT systems and online services; and 4) obtaining citizen feedback and monitoring the performance of public administration in service delivery. Reducing the administrative burden is one of the objectives of the PAMS.

The policy leadership in the service delivery area is secured over time and vested in a Deputy Prime Minister until September 2021 when the Minister of State for Service Delivery and Standards was appointed, and the commitment over the last few years has shifted towards digitalisation of administrative services, particularly during the COVID-19 pandemic. NAIS has assumed a pivotal role in assisting the state agencies with bringing their services online to the e-Albania portal, while ADISA continues to improve the service delivery network, as well as service standards. Moreover, in the course of 2019-2020, ADISA has supported the government agencies with a large-scale re-engineering exercise. This resulted in 70 “to-be” maps (of re-engineered processes) that were developed and implemented³³⁰.

The Government introduced a system of *ex ante* analysis of regulatory proposals through RIA in 2019³³¹. If implemented fully and consistently, RIA can also help control the flow of new regulatory costs and administrative burdens on citizens and business. The system proves to function well in practice, as RIA reports were prepared for all the sample cases assessed for this report³³². However, as discussed in the Chapter 2, the RIA reports are not of high quality. Furthermore, RIA is not yet being done on secondary legislation.

On behalf of the Prime Minister, the Situation Operational Room (ZOS) of the Prime Minister’s Office provides necessary oversight to all the ministries on their performance on the Prime Minister’s priorities, including service delivery performance, which are reported on weekly basis.

95% of the services have been brought online by NAIS, in co-operation with the service owners. 1 207 electronic services in the e-Albania portal are of level 3 or 4, according to the UNPAN classification, of which 830 are electronic services of level 3 that can be applied online and 377 are electronic services of level 4, where the procedure begins and ends online. Meanwhile, NAIS is working on the transition to level 4 of the 830 electronic services that are currently level 3, so that the final answer can only be obtained online with an electronic signature or stamp. The goal is that by 2022, all electronic services are fully digital. Recognising the results and progress made, the sample of services assessed are open for some improvement. Applying for the ID card requires several institutional contacts and the service fee cannot be paid online. Exchanging the ownership of a vehicle requires obtaining and submitting different official forms, but because of the innovations and improvements implement by the DPSHTRR (General Directorate of Road Transport Services) over the recent years, the application form can be submitted digitally and the appointment is made online. As a result, the waiting time at the counter has significantly decreased. Again, a stamped payment slip from a bank must be produced. Declaring and paying personal income tax has been shifted from citizens to employers if the salary is the only source of income, which means that most citizens need not submit the declaration. If they do need to submit it, the data on salary and taxes is pre-filled by the system³³³. It is important to note that the individual service improvement is limited to legal and technical restrictions. For example, to improve and simplify the vehicle registration process, the requirement of physical presence at the counter would need to be removed and electronic payment introduced.

³³⁰ Validation of Use of Business Process Re-engineering Final Report.

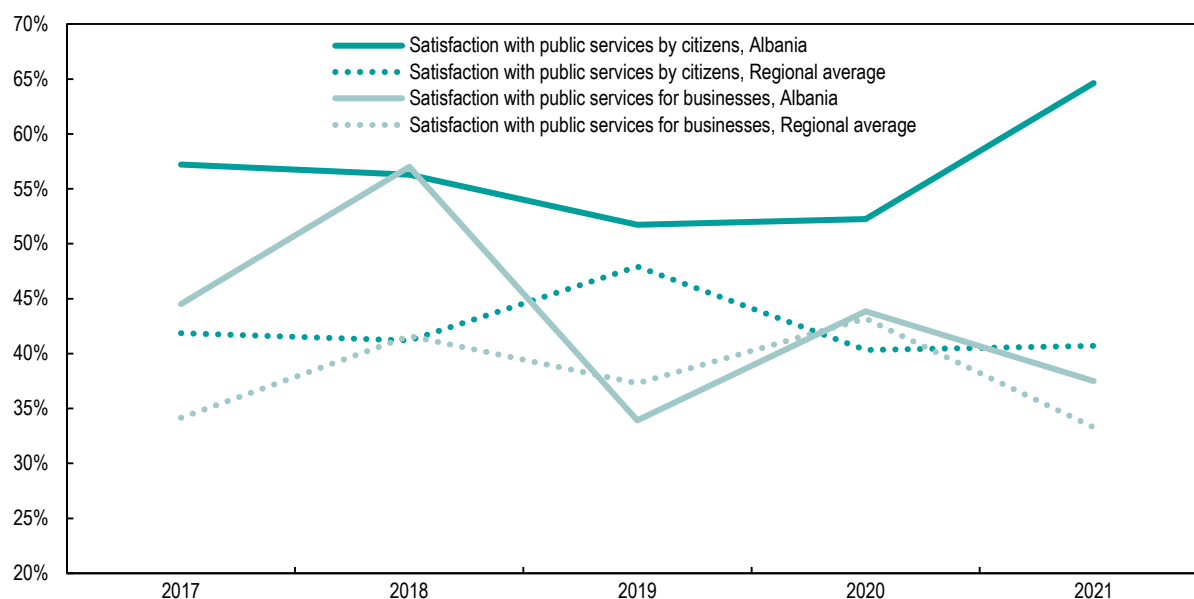
³³¹ See Chapter 2, Policy Development and Co-ordination, Principle 10, for more details on the RIA system.

³³² The following draft laws were checked: “Placing on the market and supervision of pyrotechnic articles”, “Cultivation, collection, processing, production and trade of tobacco and its products”. “The division of the company Albanian Railways JSC”, “The profession of real estate broker” and “Open data and reuse of public sector information”.

³³³ Interview with the Tax Administration, 17 March 2021.

Citizens in Albania report that they enjoy a relatively high level of public service delivery, as measured by the Balkan Barometer and confirmed by the World Bank³³⁴. This also counters the general trend of decline in the Western Balkans during the COVID-19 period.

Figure 1. Trends in satisfaction with public services in Albania, 2017-2021.



Notes: The respondents were asked “Could you please tell how satisfied you are with each of the following in your place of living? The percentage shows the share of citizens and businesses who “strongly agree” or “tend to agree” in relation to the following statements: “Administrative services from central government (such as passports and personal identification [ID])” and “Public services for businesses”. Only those respondents who have been in contact with central government services in the past year are included.

Source: Regional Cooperation Council, Balkan Barometer Public and Business Opinion databases (<https://www.rcc.int/balkanbarometer>).

The satisfaction of businesses with the quality of public service delivery and administrative burden has declined over the last year but is still higher than in 2019. Businesses’ satisfaction with digital services is relatively high, but the businesses are not happy with licensing and permits, which at least 35.5 % see as a moderate obstacle³³⁵.

Business-related services, such as starting a business or declaring and paying taxes, such as corporate income tax (CIT) or value-added tax (VAT), are conducted digitally by an increasing number of companies as a result of the Tax Administration’s awareness campaign encouraging businesses to pay online. The number of businesses making online payments increased in 2020 (doubling by comparison with 2018 and 46% more than in 2019)³³⁶. Application for VAT reimbursements for companies has been fully electronic since April 2021³³⁷. Obtaining a commercial construction permit is still cumbersome, involving 19 procedures and taking on average 324 days to process³³⁸, although the application is online only on the e-Albania portal. It is also more expensive than in other countries³³⁹.

³³⁴ World Bank’s “Final Assessment National Household Survey”, in the link <https://www.adisa.gov.al/wp-content/uploads/2021/06/Final-Assesment-Final-Report.pdf>.

³³⁵ Balkan Barometer, 2021.

³³⁶ Explanations given by the Tax Administration, 14 June 2021.

³³⁷ Interview with the Tax Administration, 17 March 2021.

³³⁸ World Bank Doing Business report 2020, available at: https://www.doingbusiness.org/en/data/exploreconomies/albania#DB_dwcp.

³³⁹ *Ibid.*

The National Business Centre was established by Law No. 131/2015 of 26 November 2015, by the merger of the National Registration Centre and the National Licensing Centre. The National Business Centre functions as a single window, where an entrepreneur can complete company registration, tax registration, social and health insurance, using a single application procedure. This means that at the moment of the application for initial business registration, the registration is completed both by the Labour Inspectorate and the Tax Administration. Since January 2020, under the reform, services for registering physical persons, as well as some services for registration of legal entities, are carried out only online, through the government portal, e-Albania. Meanwhile, NAIS has made it possible for these services to be technically developed in the e-Albania portal for the registration of all legal forms of entities, but it is the decision of the institution to publish them. So far, the National Center of Business has not provided feedback for the publication of these services.

Conclusion

Albania continues to make progress in the area of citizen-oriented service delivery. The focus in recent years on digitalisation of administrative services has resulted in 95% of administrative services becoming available online, although not all are at the highest level of digital maturity. The benefits of RIA in monitoring and controlling the flow of the new administrative burden on citizens and businesses is not yet fully utilised. The country's policy framework is solid, consisting of three major policy documents, an institutional set-up well suited to the task, and strong political leadership. However, individual services still tend to suffer from cumbersome procedures. Despite all the positive developments in the institutional and strategy framework, the value of business-related indicators has not changed since 2017, and citizens in general are more satisfied with the quality of public service delivery than businesses are.

Principle 2: Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.

Overall, the value for the indicator 'Fairness and efficiency of administrative procedures' is 4. Compared with the 2017 assessment, the value of the indicator has not changed, although the total amount of points increased by two. This is due to improved public perception of efficiency of administrative procedures and a lower rate both of first-instance administrative court repeals and of decisions changed by administrative bodies.

Indicator 5.2.1 - Fairness and efficiency of administrative procedures						
The indicator measures the extent to which the regulation of administrative procedure is compatible with international standards of good administration and good administrative behaviour. This includes both the legal framework for administrative procedure and its practical applications.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points		Change from
				2021		2017
Legal framework for administrative procedure						
1. Existence of legislation on administrative procedures of general application				3/3		=
2. Adequacy of law(s) on administrative procedures to ensure good administration				7/7		=
Fairness and efficiency of administrative procedures						
3. Perceived efficiency of administrative procedures in public institutions by the population (%)				4/4		+1
4. Repeals of, or changes to, decisions of administrative bodies made by the administrative courts (%)				1/4		+1
Total				15/18		+2

The Code of Administrative Procedure (CAP), which came into force in May 2016, recognises all the key principles of good administrative procedures. The MoJ estimates that about 100 laws need to be harmonised with the CAP³⁴⁰. A working group for harmonisation has been set up, consisting of directors of General Directorates, on the legal issues concerning all the ministries. An initial view of all legal and sub-legal acts in need of harmonisation has been completed, but the actual work of harmonisation has not yet begun. The ministries are expected to play an active role in the process by drafting amendments to the relevant sectoral legislation, while the MoJ's (codification department) will co-ordinate and review the drafts prior to sending them to the Government for decision making.

A substantial methodological advice and commentary on the new CAP³⁴¹ has been prepared in recent years, and initial training has been provided to civil servants by the Albania Institute of Public Administration. However, it was generally expressed in the interviews carried out during the assessment that more training and awareness-raising is needed to operationalise the principles of CAP in the service delivery practice. For example, according to the CAP, the "once only" principle must be applied, regardless of the existence of interoperability solution or electronic registers. The government has made clear what applying the "once only" principle entails in practice, by creating two lists of documents for each administrative service: those required from the applicant and those that the administration will compile on its own, by exchanging data between government institutions. Examples of unnecessarily burdening the citizens with paperwork persist, however. A recent SIGMA study³⁴² revealed that a competent authority for deciding on social benefits uses the Economic Assistance Information Management System to verify information the applicant supplies, but still requires the applicant to submit information that originates in the same register. Applicants for construction permits are required to provide documents (the development permit and the terms of construction) that have previously been issued as part of the same administrative procedure and, in some cases, even by the same municipality.

This indicates that it will not be sufficient simply to harmonise the special laws with the CAP, nor to digitalise the administrative services as they are. Making the administration user-centric also requires involving the re-engineering and user-centric design perspective of administrative services. To get the best results, in fact, the different perspectives need to be combined.

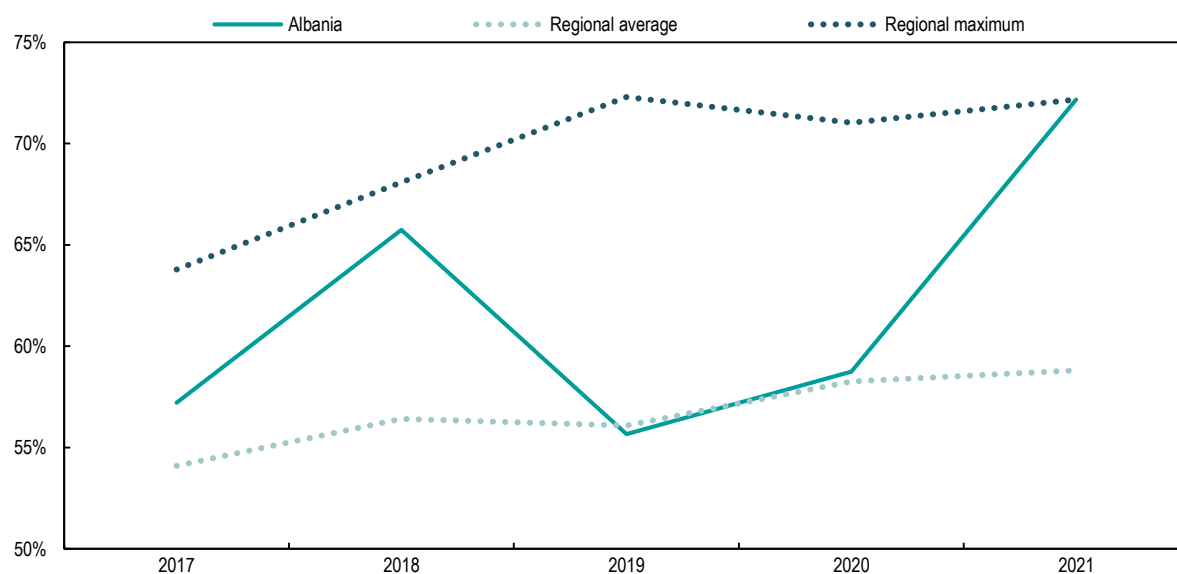
Citizens are appreciative of governments' efforts to improve administrative procedures, with 72% of respondents agreeing that administrative procedures in public institutions are efficient, compared to 54% in the 2017 Balkan Barometer survey. Meanwhile, the rate of repeals or changes to decisions of administrative bodies by the administrative courts has fallen from 52% to 33%, indicating that the quality of administrative decision making has improved.

³⁴⁰ Interview with the MoJ, 23 April 2021.

³⁴¹ A commentary on CAP has been prepared with the SIGMA Support, both in English and Albanian versions: [Legal-Commentary-by-SIGMA-on-the-Code-of-Administrative-Procedures-of-the-Republic-of-Albania-April-2018-edition.pdf \(sigmaweb.org\)](#). SIGMA has also provided methodological support for planning the legal harmonisation work (2020).

³⁴² Ligi, T. and Kmecl, A. (2021), "Implementation of the laws on general administrative procedure in the Western Balkans", SIGMA Papers, No. 62, OECD Publishing, Paris, <https://doi.org/10.1787/e5162057-en>.

Figure 2. Perceived efficiency of administrative procedures has increased above the regional average, 2017-2021



Note: The share shows the average share of citizens who “strongly agree” or “tend to agree” to the following question: “Do you agree that the administrative procedures in public institutions in (country) are efficient?” Only respondents who have been in contact with central government services are included.

Source: Regional Cooperation Council, Balkan Barometer Public Opinion database (<https://www.rcc.int/balkanbarometer>).

Conclusion

Harmonisation of special legislation with the CAP has been slow. In general, the administration requires more awareness-raising, training, guidance and support on how to integrate different perspectives (e.g. legal, technological and user-centric service design), into a coherent approach to simplification of administrative procedures, most notably by the application of the “once only” principle. Of citizens surveyed, 72% agree that administrative procedures in public institutions are efficient and that the rate of repeals or amendments to administrative decisions has decreased substantially.

Principle 3: Mechanisms for ensuring the quality of public service are in place.

Overall, the value for the indicator ‘Existence of enablers for public service delivery’ is 4. While the overall indicator value has not increased, compared to the 2017 assessment, the results have improved in two areas (common standards and monitoring service delivery performance) out of seven, meaning that Albania excels in three areas.

Indicator 5.3.1 - Existence of enablers for public service delivery						
This indicator measures the extent to which citizen-oriented service delivery is facilitated by enabling tools and technologies, such as public service inventories, interoperability frameworks, digital signatures and user feedback mechanisms. It evaluates how effective the central government is in establishing and using these tools and technologies to improve the design and delivery of public services.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
Central and shared mechanisms to better enable public service provision are in place						
1. Central monitoring of service delivery performance					3/3	+1
2. Adequacy of interoperability infrastructure					3/3	=
3. Existence of common standards for public service delivery					3/3	+1
4. Legal recognition and affordability of electronic signatures					2/3	=
Performance of central and shared mechanisms for public service delivery						
5. Use of quality-management tools and techniques					1/4	=
6. Adoption of user engagement tools and techniques					3/4	=
7. Interoperability of basic registers					3.5/4	=
Total					18.5/24	+2

Note: The point allocation in 2017 for sub-indicator 7 was revised retrospectively from 4 to 3.5 due to miscalculation.

Albania has continuously improved the enablers ensuring the quality public services. The process for monitoring service delivery was already set in place in 2017, and this task lies with two institutions: ADISA collects data on service delivery performance from 12 key agencies³⁴³, as part of the monthly ZOS report³⁴⁴. NAIS sends ZOS the report on digitalisation of services and their provision, such as data on the number and share of online applications, through the e-Albania portal. The reports are delivered to the Deputy Prime Minister and the Prime Minister³⁴⁵. During the intense period of COVID-19 pandemic, reporting was very frequent. Following the trends from those reports, as well as the information from the complaints mechanism, the institutions with the lowest level of performance received the most attention, not just at the central level but also at the district level³⁴⁶. Information on average transaction costs is also available for a large number of services.

The use of quality management tools in government is still sporadic. Some institutions use quality management tools and techniques at their own initiative (13% of sample institutions). ADISA was the first public institution in Albania to implement the Common Assessment Framework in 2020, and is also taking steps to become ISO9001 (on overall quality management) and ISO37001 (on anti-corruption). If the experience proves successful, it would also be responsible for helping to introduce the tool to other public institutions³⁴⁷. As of 2018, AKSHI is certified with ISO 27001 for managing information security. Also as of

³⁴³ Council of Ministers’ Decision (DCM) No. 640, dated 2 October 2019.

³⁴⁴ Guide to public institutions for disposal of data on performance indicators, ADISA.

³⁴⁵ Interview with ZOS, 15 March 2021.

³⁴⁶ *Idem*.

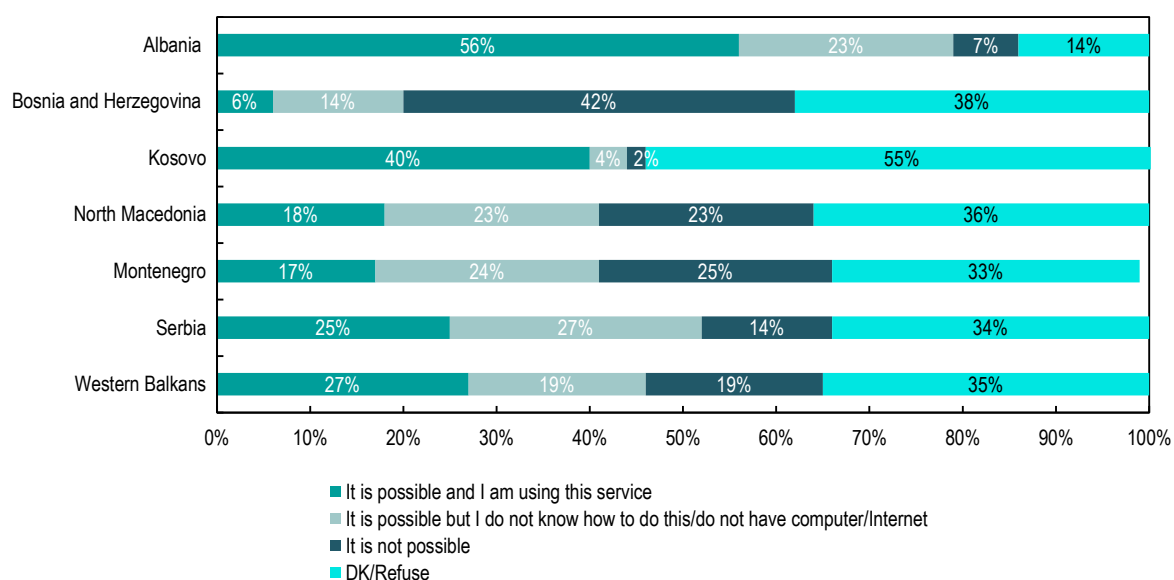
³⁴⁷ Information from ADISA, 14 June 2021.

2020, AKSHI is certified with ISO 9001:2015 - Quality management systems and ISO/IEC 20000-1:2018 - Information technology.

The use of user engagement and satisfaction measurement tools is often with several institutions conducting satisfaction surveys on a regular basis. The report on *Mystery Shopper 2019. Assessment of performance in central government service delivery in Albania* reveals that the overall score of 72%, based on 18 institutions involved in the study, on their service delivery performance can be considered 'fair'. Of this, interaction between the employees and citizens was rated the highest (89%) while quality of services provided was scored the lowest (60%). ADISA stands out as the best-performing institution, with the Directorate of Civil Registry at the bottom of the list.

Through the government interoperability framework, 55 electronic registers are interoperable in real time and this resulted in 66% of forms are filled in automatically in e-Albania without requiring the citizen or business to contribute the information³⁴⁸. That has resulted in a total of 1 207 e-services, from which 49 are fully digitally signed, 377 e-services are 4th level of digitisation and 830 e-services are 3rd level of digitisation. NAIS' role is also to oversee that there is no duplication of datasets in different databases³⁴⁹. According to Balkan Barometer perception data, Albania has the highest number of users of digital services in the Western Balkan region. On the question 'if it is possible to get personnel documents (birth certificate, citizenship, etc.) online', 56% of the respondents replied positive and are already using the system. The online service proved to be an asset during the pandemic, and 61% of respondents in the most recent Balkan Barometer survey indicated that they switched to online services during the pandemic, compared to only 38% in the Western Balkan region.

Figure 3. High public satisfaction with online availability and uptake of e-services



Note: Data refer to a question: Is it possible to get your personal documents (birth certificate, citizenship, etc.) or any other personal document - online?

Source: Regional Cooperation Council, Balkan Barometer Public Opinion survey 2021 (<https://www.rcc.int/balkanbarometer>).

About 1 400 services were inventoried by July 2014, and later underwent a thorough process of EU-standard-based classification and codification, as the basis for standardisation³⁵⁰. The inventorying process was based on a detailed questionnaire for all central government institutions to catalogue the

³⁴⁸ Interview with NAIS, 21 March 2021.

³⁴⁹ Law No. 10325 on State Databases of 23 September 2010.

³⁵⁰ Hart, C. and Mullahi, R. "Delivering Customer Care and Cutting Corruption in Public Services. A case study on citizen-centric service delivery reform from Albania", 2017.

administrative services that they provide to citizens and businesses. As a result, a service inventory was created³⁵¹, each service has a service passport covering standardised information on each of them, based on which ADISA has also developed standardised document formats (such as for applications)³⁵². This, in turn, has made it possible to create front-office customer servicing standards and back-office uniform processing standards³⁵³.

A digital signature in Albania is equivalent to a handwritten signature³⁵⁴. The Albanian governmental Public Key Infrastructure technology is compliant with the eIDAS Regulations. More work is being done regarding the law of trusted services for it to also be fully compliant with eIDAS. Digital signature is free of charge for citizens provided with the ID card. According to the National Authority for Electronic Certification and Cyber Security (NAECCS), there are two trusted operators in Albania: ALEAT, a private company that gives citizens the personal identification documents, and NAIS, which provides trusted services to civil servants but also to the private sector³⁵⁵. More than 2.2 million electronic certificates have been issued on ID cards to citizens, and about 172 000 successful electronic transactions have been made³⁵⁶. NAIS has issued 18 838 qualified electronic certificates to public bodies and 69 088 certificates to private sector entities. Mostly, digital signature is used in the e-health system, e-construction permission process (all documents signed electronically), Tax Administration systems and e-notary³⁵⁷. More services will require digital signature in the near future. Online payment is still not available for most of the services, which makes it difficult to transform services into a fully digital format.

Overall, Albania continues its positive digital transformation efforts, resulting in steady progress in the latest United Nations e-gov report³⁵⁸. Albania has advanced 15 places (to 59th) on the E-gov development index compared to 2018, and together with Serbia (which ranks 58th) leads the Western Balkan region, but lags behind all EU27 countries. On the e-participation index, Albania has advanced 23 places (to 36th), ranking ahead of 16 EU27 countries. Despite all the progress in this area, the EU eGovernment Benchmark 2020 places Albania in the lowest decile in “User centricity” in the list of the EU27 Member States plus some accession countries³⁵⁹, indicating that there is ample untapped potential.

Conclusion

The Government has maintained its effort to establish several enablers ensuring quality of public services. This resulted in good progress overall, although some potential remains untapped. Monitoring service delivery is functioning well and has proved useful for providing information about the need to make corrections at the level of individual public institutions. Digitalisation of services is well supported by the interoperability platform and an increasing number of interoperable information systems, which allows forms to be filled in automatically. More services require a digital signature in the near future. Although online payment is technically possible through the Government Electronic Payment Platform, it is still not available for all services, which makes it difficult to transform services into a fully digital format. The use of quality management tools in state administration is still sporadic.

³⁵¹ DCM No. 522 from 13 July 2016 on the Creation of the State Database “Public Services Information Cards Management System”.

³⁵² DCM No. 584 of 27 July 2016 on the Standardisation of the Approach of the Public Services Classification and Codification and Development of Application Forms and Services.

³⁵³ DCM No. 648 from 31 October 2018 on Information Passports for Public Services Provided to Citizens.

³⁵⁴ Law No. 9880/2015 on Legal Value of Electronic Signatures.

³⁵⁵ Interview with NAECCS, 22 March 2021.

³⁵⁶ *Ibid.*


³⁵⁷ *Ibid.*

³⁵⁸ [United Nations E-Government Survey 2020](#).

³⁵⁹ European Commission 2021 eGovernment Benchmark 2020. Insight Report, p. 21. <https://digital-strategy.ec.europa.eu/en/library/egovernment-benchmark-2020-egovernment-works-people>.

Principle 4: The accessibility of public services is ensured.

Overall, the value for the indicator 'Accessibility of public services' is 3. This is an improvement from 2017 when the value was 2. The results have improved in five out of eight sub-indicators, but deteriorated on the compliance of government websites with Web Content Accessibility Guidelines (WCAG).

Indicator 5.4.1: Accessibility of public services						
This indicator measures the extent to which the access to public services is promoted in policy formulation and implementation. It evaluates whether this policy framework leads to measurably easier access for citizens, measures citizens' perceptions of accessibility to public services and tests the actual accessibility of government websites. Dimensions covered are territorial access, access for people with disabilities and access to digital services.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
Policy framework for accessibility						
1. Existence of policy for the accessibility of public services				3/3	=	
2. Availability of statistical data on accessibility to public services				1.5/3	+1.5	
3. Adequacy of policy framework for public service users with special needs				4/4	+1	
4. Existence of common guidelines for government websites				1/2	=	
Government performance on accessibility						
5. Compliance of government websites with Web Content Accessibility Guidelines (WCAG)				0/3	-2	
6. Perceived satisfaction with public services across the territory by the population (%)				1/3	+1	
7. Perceived accessibility of digital public services by the population (%)				2/3	+1	
8. Perceived time and cost of accessing public services by the population (%)				3/3	+1.5	
Total				15.5/24	+4	

Improving accessibility to administrative services has been a major policy objective of the Government through the Long-Term Policy Document on the Delivery of Citizen-Centric Services by Central Government Institutions in Albania (LTPD). Improved access has been accomplished by the network of ADISA front-offices, which has consolidated services of other public institutions. The ADISA network of one-stop shops consists of 22 offices in 21 municipalities (two in Tirana), and a mobile office (a minivan) was successfully piloted in rural areas in 2019, and is now currently on rent to the Ministry of Health³⁶⁰.

A policy objective of the Government, which became an even higher priority during the COVID-19 pandemic, has been the digitalisation and provision of services through the e-Albania portal, as well as getting rid of unnecessary document requirements. 95% of services have been digitalised³⁶¹ and the e-Albania portal contains information about non-digital services. Moreover ADISA, has created a platform for public institutions to upload information on their services³⁶². Since the project to classify municipal services is ongoing, information on applying for a construction permit is available in municipalities, but not on the ADISA website. To improve customer service, ADISA and DPSHTRR (General Directorate of Road Transport Services) has also created an online chat service.

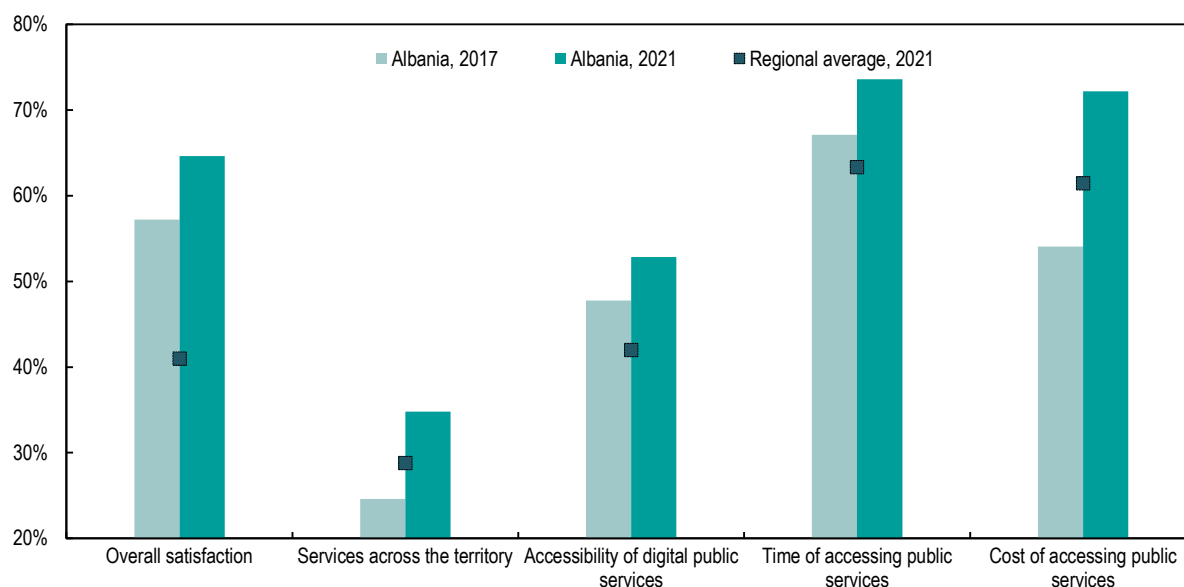
³⁶⁰ Interview with ADISA, 5 March 2021.

³⁶¹ Interview with NAIS, 26 March 2021.

³⁶² Information on 1 143 services is available.

Perceived satisfaction with public services throughout Albania is the weakest aspect of service delivery, with 35% of the respondents reporting they were mostly or very satisfied³⁶³. Perceived accessibility to digital public services throughout the population is 53%. Finally, perceived time and cost of accessing public services by citizens was rated good or very good respectively by 74% and 72% of respondents. Overall, these results are all above the mean scores of the Western Balkan region and have considerably improved since 2017.

Figure 4. Citizen satisfaction with different aspects of service delivery in Albania



Note: The average share of citizens who answered “mostly satisfied” or “completely satisfied” to the statements: “Could you please tell how satisfied you are with each of the following in your place of living?” in relation to: “Administrative services from central government (such as passports and personal identification [ID])”, “Accessibility to public services” and “Accessibility to public services via a digital channel”. The average share of citizens who answered “good”, “very good” and “excellent” to the following question: “How would you grade the following issues?” in relation to: “Time required to obtain public services” and “Price of public services”. *Only those respondents who have been in contact with central government services in the past year are included.

Source: Regional Cooperation Council, Balkan Barometer Public Opinion database (<https://www.rcc.int/balkanbarometer>).

The Ministry of Health and Social Welfare has the leading role in managing policy on people with special needs. It drafted a new National Action Plan on Persons with Disabilities 2021-2025 after the plan for 2016-2020 expired³⁶⁴. The Ministry has convened the National Council of Accessibility to help it to understand the issues of people with disabilities, and each ministry that executes the Action Plan also has a co-ordinator for accessibility issues. Accessibility relates not only to physical access, but also to access to information (e.g. focusing on the use of Braille at the local and state level)³⁶⁵. An assessment of the situation on the ground, however, recognises the difficulties in implementing the policy framework, leaving people with disabilities discriminated against in all spheres of life³⁶⁶. The report also notes that buildings of public institutions are extensively inaccessible. This often means that even a ramp in the entrance is missing. In addition, the needs of the people with visual and hearing impairments are often not properly taken into consideration³⁶⁷.

³⁶³ Of respondents who have been in contact with central government services.

³⁶⁴ Interview with the Ministry of Health and Social Welfare, 18 March 2021.

³⁶⁵ *Ibid.*

³⁶⁶ The Network of Disability Organisations, 2019, “Alternative report to the UN Committee on the Rights of Persons with Disabilities”.

³⁶⁷ *Ibid.*

ADISA offices are well-suited for servicing people with disabilities, with ramps, floor markers, signs and accessible washrooms set up³⁶⁸. These improvements were made after focus group discussions with marginalised groups and interviews with customers in ADISA service centres. Its Citizen Charter is also available in Braille³⁶⁹. ADISA is currently training its clerks on how to serve people with disabilities. Sign language is officially recognised³⁷⁰, but there are not enough interpreters, which limits accessibility.

The compliance of government websites with the Web Content Accessibility Guidelines is poor, with 35 errors on average (up from 14 errors in 2017), which limits accessibility for users. The Ministry of Health and Social Welfare also notes that government websites are not readily accessible for people with visual impairment³⁷¹. NAIS has set up a working group that is setting the standards to be met by each institution with a web presence. Once ready, these standard guidelines will be approved by a legal act and will be forwarded to all state institutions to be implemented.

Conclusion

The Government has improved access to administrative services, through the continuous expansion of ADISA front offices, and digitalisation of services has resulted in 95% of services becoming available through the e-Albania portal. The perceived overall satisfaction with public services is high, at 65%. Although the Government has established a sound policy and institutional framework, the buildings of public institutions are often not accessible, and the needs of those with visual and hearing impairments are not adequately considered. The compliance of government websites with Web Content Accessibility Guidelines is low.

³⁶⁸ Interview with ADISA, 5 March 2021.

³⁶⁹ *Ibid.*

³⁷⁰ Prime Minister's Decision No. 837 of 3 December 2014 on the Recognition of Sign Language in the Republic of Albania.

³⁷¹ Interview with the Ministry of Health and Social Welfare, 18 March 2021.

Public Financial Management

The Principles of Public Administration

Public Financial Management

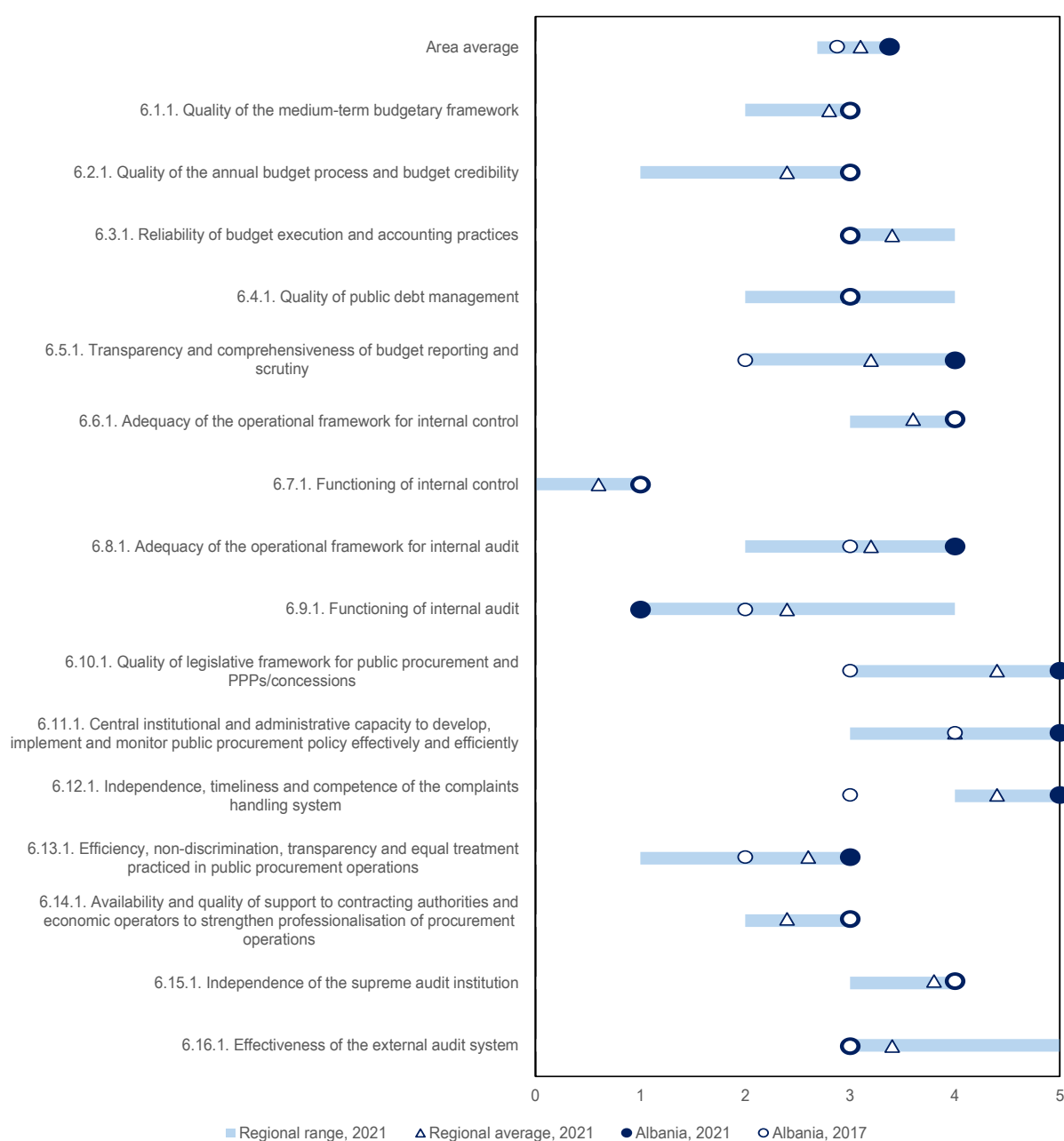
Budget Management	
Principle 1	The government publishes a medium term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum period of three years; all budget organisations operate within it.
Principle 2	The budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium term budgetary framework and are observed.
Principle 3	The ministry of finance (or authorised central treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.
Principle 4	There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected and debt servicing costs are kept under control.
Principle 5	Transparent budget reporting and scrutiny are ensured.
Internal audit and control	
Principle 6	The operational framework for internal control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and the public administration in general.
Principle 7	Each public organisation implements internal control in line with the overall internal control policy.
Principle 8	The operational framework for internal audit reflects international standards, and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.
Principle 9	Each public organisation implements internal audit in line with the overall internal audit policy documents, as appropriate to the organisation.
Public Procurement	
Principle 10	Public procurement regulations (including public private partnerships and concessions) are aligned with the European Union acquis, include additional areas not covered by the acquis, are harmonised with corresponding regulations in other fields, and are duly enforced.
Principle 11	There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.
Principle 12	The remedies system is aligned with the European Union acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.
Principle 13	Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.
Principle 14	Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.
External audit	
Principle 15	The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.
Principle 16	The supreme audit institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

Public Financial Management

Summary and recommendations

The overall trajectory for Albania in public financial management (PFM) is upwards, from 2.8 in 2017 to 3.3 in 2021, and is now above the regional average of 3.1. Compared to the regional average, performance is similar or stronger in each indicator in the PFM domain, except for the functioning of internal audit (IA). Most pronounced is the strong performance in the domains of public procurement and the foundations for the functioning of financial management and control (FMC), IA and external audit (EA).

Albania's performance is strong in many PFM indicators, and its national average exceeds the regional average



In the domain of budget preparation, **the quality of the Medium-Term Budget Programme (MTBP) has been improved**, with additional relevant content to inform decisions. The budget calendar is orderly and adhered to, and the **budget proposal that is submitted to Parliament is comprehensive and reasonably transparent**.

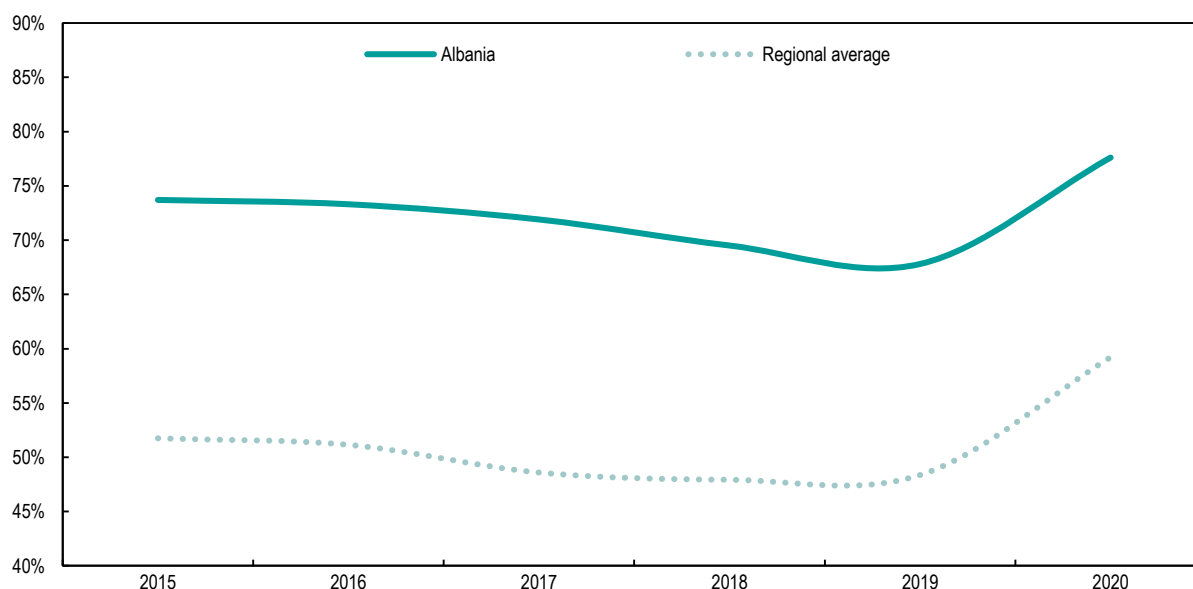
However, the credibility of revenue estimates in the MTBP remains weak. The average deviation between estimates and outturns for revenues was 14.5%. This signals challenges for the Albanian authorities in estimating the revenues more realistically or collecting the revenues effectively. Both are not helped by the complex and fragmented tax system and frequent *ad hoc* changes.

For expenditures, the MTBP could be more supportive of the operations of line ministries, with stable sector ceilings on a medium-term basis. The substantial deviations among the main spending ministries between the MTBP and the annual budget expenditure ceiling add uncertainty and instability to the budget process, and as a consequence, the delivery of public services.

A fiscal council could help to insist on rigor in the budgeting process, but Albania has not yet established one. Parliament does not take an active role in the process. Large capital investment decisions generally lack independent and transparent appraisal of the costs and benefits, which is likely to put further strain on the budgeting process in future years.

Notwithstanding the shortcomings in the budget preparation process, **the fiscal performance in Albania has been stable. From 2015 to 2019, public debt was on a downward trend.** As a result of the economic contraction caused by the pandemic, it increased to 76% in 2020. Sound fiscal policy is needed to re-establish the situation that prevailed before the pandemic. The weaknesses in monitoring the fiscal risks from the borrowing and debt of state-owned enterprises (SOEs) is a concern in this respect. There was no progress on SOE debt reporting, which appears *ad hoc* and lacking a systematic approach. The same applies for the monitoring of local government debt, although the urgency is still low, given that local government debt is not high.

Development of general government gross debt in Albania, 2015-2020



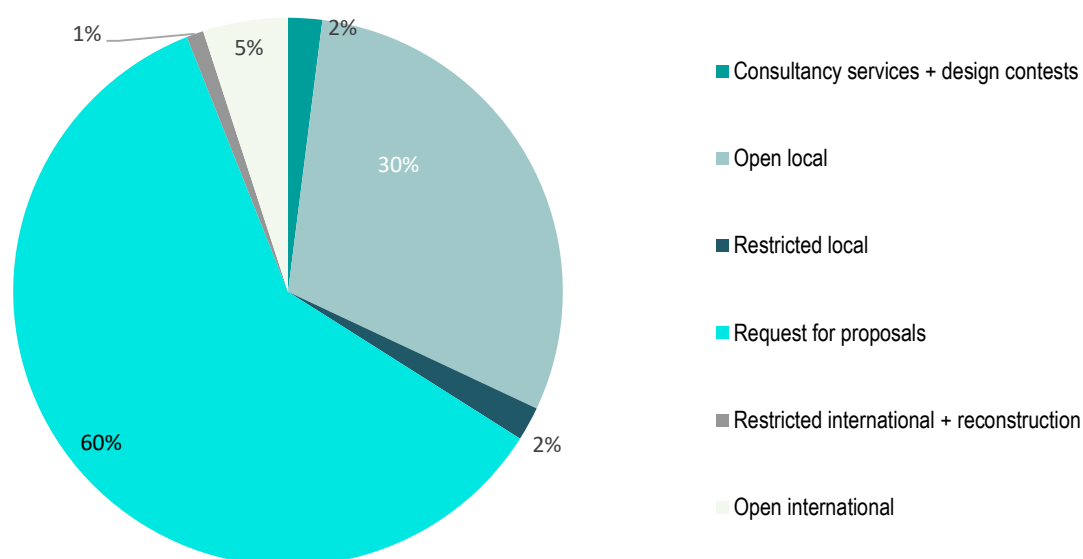
Source: IMF (2021), World Economic Outlook Database.

Otherwise, the Albanian authorities have **established a fairly complete legal and operational framework for internal control (IC) and internal audit (IA)** by introducing further improvements, such as the guidance on delegation and external quality assurance for IA. This progress has been supported by the Public Administration Reform (PAR) Strategy 2015-2020 and the Public Financial Management (PFM) Strategy 2019-2022. In 2020, another element to enhance IC and IA, the Public Internal Financial Control (PIFC) Strategy 2021-2022, was added.

As observed in the previous monitoring report, **the implementation of IC and IA at the institutional level still lags behind the progress made in the overall legislative framework.** Although more use is being made of delegation within organisations and risk management, there are still outstanding concerns in a number of areas, including the management of arrears, the procedures to address potential irregularities and the arrangements for managerial accountability between ministries and subordinated bodies. For IA, the gains of the external quality assurance will need to be reaped in the years to come. However, the downward trend in the proportion of systematised IA posts filled and the proportion of IA staff who hold a certificate are not conducive to a higher quality of IA. Meanwhile, improvement in IA quality is required, since SIGMA's analysis of the operations of a sample of IA shows that they have not clearly demonstrated that IA can improve the functioning of the public entities that they serve.

A national strategy dedicated specifically to public procurement was adopted by the Government on 4 November 2020. The strategy envisages a comprehensive set of activities in the field of public contracts, concessions and public-private partnerships (PPPs) for both the legal and institutional framework to be undertaken in 2020-2023. On 23 December 2020, the Parliament adopted a new Public Procurement Law (PPL). Its purpose was to align provisions in the field of public procurement with the European Union (EU) *acquis*. **The new PPL contains provisions to a very great extent harmonised with the EU Public Procurement Directive and Utilities Procurement Directive. A few cases remain, however, of provisions that are not fully compliant with the *acquis* or in direct conflict with it.** Concessions and PPPs continue to be regulated by the Concessions and Public-Private Partnerships Law (CPPPL) No. 125/2013, which, in many important respects, was modelled on EU Directive 2014/23/EU. The CPPPL was last amended in July 2019. Although the CPPPL incorporates **most of the requirements of the recent Concessions Directive, harmonisation is not complete.** On 26 November 2019, north-western Albania was struck by a 6.4-magnitude earthquake, which caused numerous casualties and considerable damage. In the aftermath, in December 2019, in order to facilitate the reconstruction process in affected areas, the Government adopted Normative Act No. 9, "On Addressing the Consequences of Natural Disasters". The Normative Act contains specific provisions used in procurement procedures for reconstruction. They are based on the principle of transparency and competitiveness but set relatively short time periods for submission of tenders and very short time periods for submission of appeals. **The Defence and Security Procurement Directive 2009/81/EC was fully implemented by Law No. 36/2020 on Public Procurement in the Field of Defence and Security of 16 April 2020.** Relevant implementing provisions were adopted in December 2020, and standard bidding documents were published in April 2021. The Government also introduced a series of measures and legislative changes related to public procurement contracts awarded as a result of the COVID-19 pandemic. **In the field of review and remedies, the number of appeals fell by comparison with previous years. The performance of the Public Procurement Commission (PPC), has significantly improved,** expressed in median duration of review procedures and number of review procedures in which the statutory time period for review was exceeded. A new PPC website was put into operation in April 2021. The PPC also successfully introduced a new e-appeals system which should be completed by November 2021.

Distribution of procurement methods in 2020



Source: PPA Annual Report for 2020.

As for **the functioning of the State Supreme Audit Institution (SSAI) as an external oversight body on the functioning of the PFM system, no significant changes to the constitutional and legal framework** have been implemented since 2017. The framework is still closely aligned with international standards and continues to be applied and respected in practice. The SSAI has updated all its audit methodologies and quality assurance procedures, in full conformity with international standards. Much work remains to be done, however, to embed these methodologies in working practice and to improve audit quality. While resources are being switched to financial and performance audit, the bulk of the work remains focused on compliance audit. **The absence of sustained and structured engagement by Parliament to support the work of the SSAI is a significant limitation** on the overall effectiveness of the external audit system. While public awareness of the independence of the supreme audit institute (SAI) and its operations has greatly increased since 2017 (from 26% to 39%), the SSAI's audit reports are still not widely used, as they should be, in parliamentary debates.

Short-term recommendations (1-2 years)

- 1) The Ministry of Finance and Economy (MoFE) should improve the MTBP by including a general government fiscal outlook and establish a Fiscal Council mandated to review the MTBP.
- 2) The MoFE should strengthen the monitoring and reporting of SOE debt and borrowing and develop policy proposals to limit the fiscal risks linked to SOE loans. The dedicated unit for monitoring fiscal risks within the Directorate of Budget Management in the MoFE should be given the proper mandate and resources to carry out this task.
- 3) The MoFE should make further efforts to reduce the stock of arrears in expenditures. It should use the observations of the SSAI to analyse the reasons behind the current incompleteness of the records.
- 4) The MoFE should eliminate the outstanding bank accounts that are not in control of the MoFE/Treasury and ensure that all bank accounts are part of the Treasury Single Account (TSA).
- 5) The Council of Ministers (CoM) should complete the harmonisation of public procurement legislation by removing the remaining inconsistencies in the PPL and CPPPL and revising the system of financial thresholds (particularly the high ones), adjusting high financial thresholds to the EU threshold levels.
- 6) The Public Procurement Agency (PPA) should review the provisions on procedures for small value procurement and remove unnecessary burdens.

- 7) The CoM should revise provisions on appeal fees in public contracts and PPP/concessions, to avoid any risk of abuse by economic operators submitting frivolous complaints, on the one hand, and also so that they do not constitute a barrier to access of infringed bidders.
- 8) The PPC should improve the content of its new website by providing information on the requirements applied in review procedures in public procurement that could be important for appealing or potentially appealing parties, to finalise the implementation of the e-appeal system.
- 9) The PPA should finalise enforcement of the new PPL by producing comprehensive and updated public procurement manuals, covering not just the use of the electronic public procurement system but all procedures and all stages of the procurement process. Article-by-article commentary for the PPL and for the Directive of the Council of Ministers (DCM) would also be a useful tool.
- 10) ATRAKO should improve its website, in particular the information about provisions concerning concessions and PPP, starting with an update of the relevant legal provisions. ATRAKO should also develop manuals and other material supporting application of the CPPPL taking into account modified provisions in the field of public procurement.
- 11) The SSAI should build on its Memorandum of Understanding of 2017 with the MoFE on following up the implementation of audit recommendations and enhance engagement with Parliament to explain the benefits of its work.
- 12) The Parliament should consider the draft amendments to the SSAI Law to clarify the full extent of the SSAI's mandate, to avoid disputes between the SSAI and any legal entity on the mandate of the SSAI.

Medium-term recommendations (3-5 years)

- 13) As institutions strengthen their internal control processes and demonstrate effective management of their resources, the MoFE should move away from centralised control to a more decentralised management of resources. This should be reflected in a reduction of the number of first-level budget organisations to ministries and constitutional bodies. This would at the same time increase the role of sector ministries in the budget cycle and increase their responsibility for the sectors under their charge.
- 14) The medium-term budget should be further developed as a strategic document which requires that the indicative sectoral or ministry ceilings in the next two years must be respected.
- 15) The MoFE should consider organising IA at the sectoral level by sector ministries. This would ensure that the IA are familiar with the sectors in which they work, while building sufficient capacity in the IA units to organise quality control and cater to specialist technical areas such as information technology (IT), performance audit and the audit of major capital projects.
- 16) Parliament should take a more active role in the budget cycle, especially regarding the MTBP and the audit reports of the SSAI.
- 17) Although the amount of local debt is still small, the MoFE should increase the room for manoeuvre, while at the same time including local debt in debt management strategy and strengthening the monitoring and audit arrangements of local government.
- 18) The CoM should revise and remove administrative burdens that are not required by EU law and do not bring added value by increasing the participation of foreign companies.
- 19) The PPA should reconsider its involvement in the mandatory exclusion of economic operators from participation in public procurement procedures and propose adjustments of law and practice to that effect to EU standards, as interpreted by the case law of the Court of Justice of the European Union (CJEU).
- 20) The MoFE should make further efforts to develop accounting standards consistent with international standards. However, rather than adopting full accrual basis International Public Sector Accounting Standards, it should consider a gradual approach and make decisions based on a comprehensive and realistic cost-benefit analysis of adopting new accounting standards.

Analysis

Budget management

Principle 1: The government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum period of three years; all budget organisations operate within it.

Overall, the value for the indicator ‘Quality of the medium-term budgetary framework’ is 3. The value of the indicator remains the same as in 2017, balancing some upward and downward movement in the underlying sub-indicators.

Indicator 6.1.1 - Quality of the medium-term budgetary framework						
This indicator measures how well the medium-term budgetary framework (MTBF) is established as a fiscal plan of the government, focusing on the process of budget preparation and four areas that influence the quality of the budget documents. A good MTBF should increase transparency in budget planning, contribute more credible forecasts and ultimately lead to a better general government budget balance.						
Overall 2021 indicator value	0	1	2	3	4	5
			Points 2021	Change from 2017		
1. Strength of the medium-term budgetary framework			10/12	+3		
2. Strength of the fiscal rules			4/5	=		
3. Credibility of medium-term revenue plans (%)			1/4 ³⁷²	-1		
4. Credibility of medium-term expenditure plans (%)			3/4 ³⁷³	+2		
Total			18/25	+4		

The Law on Management of the Budgetary System in the Republic of Albania (MBS) sets the main aspects of the medium-term budgetary framework. Implementation of the amendments to the MBS that were approved in 2016 are reflected in positive developments in the strength of the medium-term expenditure framework.

Based on the MBS, the Government prepares two main medium-term budget strategies. The Macroeconomic and Fiscal Framework is approved by the Government in January and provides macroeconomic and budgetary assessments. It defines aggregate expenditure ceilings for the Medium-term Budget Programme (MTBP). Following a process of meeting the budget needs of first-level budget users in the aggregate fiscal framework, the Minister of Finance issues the final expenditure ceilings of the MTBP. These ceilings are approved by the Cabinet of Ministers³⁷⁴. The Parliament is not engaged in this part of the budgetary process and is informed only during deliberation on the annual budget law.

The second phase presents the Government’s budgetary plans for three years but focuses on the annual budget bill. It should be noted that MTBP focuses on central budget considerations and still lacks a general government fiscal outlook. In line with the amended MBS, progress has been made in the development of the MTBP content. It now includes policy-based and non-financial information.

³⁷² The sub-indicator was determined on the basis of 2019 data due to the COVID-19 pandemic in 2020.

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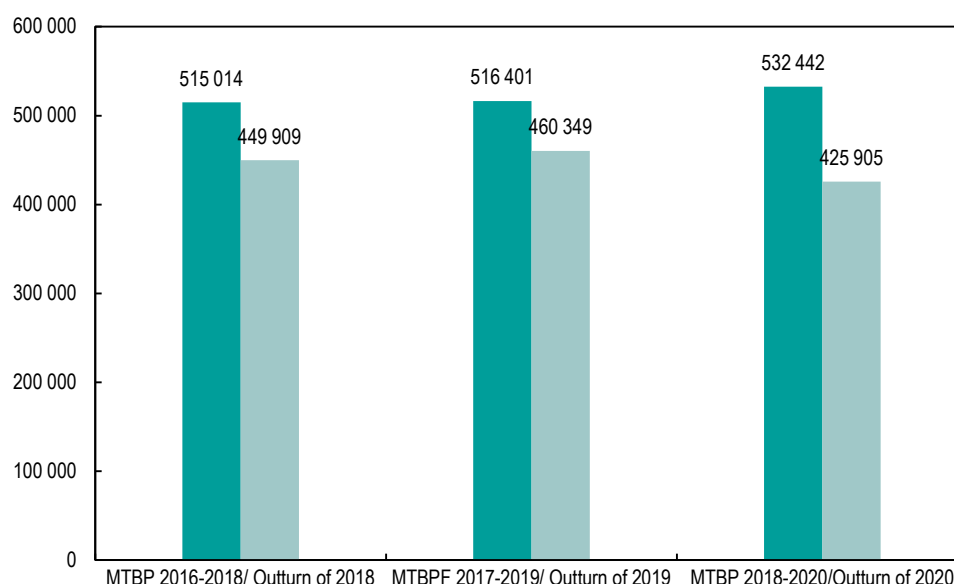
³⁷⁴ MBS Law, Article 27.

The MBS includes several fiscal rules for the public debt and budget balance³⁷⁵. The budget balance rule has been improved by adding the provision that the budget deficit shall not exceed the amount of capital expenditures for a given year. However, a consistent mechanism to monitor and enforce the fiscal rules has not yet been established, and the plan to set up a fiscal council is still a work in progress.

The credibility of the medium-term revenue plan remains weak. The average difference between the planned revenues in the MTBP approved in 2018 and the outturn of the fiscal year 2019 is 14.5%³⁷⁶. The indicator fell below the 2017 baseline, which can partly be explained by incidental exogenous fluctuations (the aftermath of the November 2019 earthquake). However, there are also inherent systemic weaknesses. According to the International Monetary Fund (IMF) report³⁷⁷, “Albania’s tax system is complex and fragmented, and frequent *ad hoc* changes have undermined the stability and transparency of the system”. Albania’s tax revenue (as a percentage of GDP and excluding social contributions) is about 10% lower than the average in the Western Balkans³⁷⁸.

The credibility of medium-term revenue plans is presented in Figure 1. It shows that the Albanian authorities systematically overestimate the revenues in the MTBP.

Figure 1. Planned revenues in the MTBP vs. annual budget outturn, in millions of ALL



Note: ALL = Albanian lek.

Sources MTBP 2016-18, 2017-19, 2018-20, Annual Budget Execution Reports 2018, 2019, 2020.

The credibility of medium-term expenditure plans has improved since 2017. The percentage difference between the aggregate estimates for 2019 in the MTBP 2018 and the outturns in 2019 was only 3.3%. The progress is a result of efforts to strengthen the MTBP role in the budget process, through legislative amendments, new administrative initiatives and increased discipline in budget execution.

³⁷⁵ Article 4.1 requires that each annual budget law demonstrate a reduction in the ratio until the debt level reaches the threshold of 45% of GDP. It also sets the general government balance to a maximum deficit of 2% when the real growth of GDP is above 5% (as forecast in the respective, IMF World Economic Outlook Report).

³⁷⁶ The percentage is an average percentage of the deviations of 3 periods: MEFF 16-18 and outturn of 18: 12.7%, MEFF 17-19 and outturn of 19: 10.9% and the MEFF 18-20 and outturn of 20: 20%.

³⁷⁷ Albania: IMF Country Report No. 20/309 of November 2020.

³⁷⁸ Albania: IMF Country Report No. 20/309 of November 2020, p. 10.

Conclusion

The quality of the medium-term budgetary framework has been improved by enhancing the content of the MTBP, the introduction of new fiscal rules and by giving the MTBP a stronger role in the budget process. However, without a fiscal council to provide independent scrutiny of the fiscal framework, the credibility of medium-term revenue plans is still weak. Further engagement from the Parliament could increase the importance of the MTBP as a strategic planning document.

Principle 2: The budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.

Overall, the value for the indicator ‘Quality of the annual budget process and budget credibility’ is 3. Although positive developments were observed in some of the sub-indicators, they could not raise the overall indicator value to a higher level. The value is unchanged by comparison with 2017.

Indicator 6.2.1 - Quality of the annual budget process and budget credibility					
This indicator analyses the process of budget preparation and the level of transparency and quality of the budget documents. Quality parameters include the link between the multi-annual and annual budget, the budget preparation process, selection of priorities for new expenditures, comprehensiveness and transparency of budget documentation, scrutiny and oversight of the budget proposal and rules for in-year budget adjustment.					
Overall 2021 indicator value	0	1	2	3	4 5
				Points 2021	Change from 2017
1. Operational alignment between the MTBF and the annual budget process				2/4	-1
2. Reliability of the budget calendar				4/4	+2
3. Transparency of the budget proposal before its adoption in parliament				6/8	=
4. Quality in the budgeting of capital investment projects				4/5	+1
5. Parliamentary scrutiny of the annual budget				1/5	=
6. Transparency and predictability of procedures for in year budget adjustments				2/4	=
7. Credibility of revenue plans in the annual budget (%)				3/4	=
8. Credibility of expenditure plans in the annual budget (%)				3/4	=
Total				25/38	+2

Note: The point allocation in 2017 for sub-indicators 7 and 8 were revised retrospectively due to miscalculations.

The national legal framework for budget formulation is laid down in the MBS (last amended in 2016). There are 44 first-level budget organisations in the state budget, which provide comprehensive inputs both to the MTBF and to the annual budget proposal. The preparation of the budget is done in an orderly manner. Chapter IV of the MBS clearly sets out the deadlines for the public expenditure management process, submission and the publication of budget documentation, and these were met during the 2020 budget preparation process. As a result, the budget calendar was more reliable than in 2017. A persistent shortcoming is that the time allotted to the Parliament to deliberate the draft budget is less than two months after it is presented³⁷⁹. Nevertheless, the draft 2021 budget was discussed in six committees and resulted in written opinions and conclusions.

Although the process is clear and orderly, the alignment between the estimates in the MTBF and the annual budget is weak. The aggregate ceilings approved in the MTBF are largely sustained, but sector ceilings reflect substantial deviations for various ministries. This introduces uncertainty and instability into the budget process. Table 1 illustrates the deviations in expenditure estimates among the main spending ministries between the MTBP and the annual budget.

³⁷⁹ According to the Organic Budget Law, Articles 29, 30, the draft budget should be presented by 20 October and approved by 15 December.

Table 1. Ministry expenditure in the MTBP vs. Annual Budget bill (in thousands of ALL)³⁸⁰

Ministry	2019 Estimate in the MTBP 2019-2021	2019 Estimate in the Budget bill for 2019	%	2020 Estimate in the MTBP 2020-2022	2020 Estimate in the Budget bill for 2020	%
Ministry of Health and Social Protection	62 279 988	60 900 377	-2.2	63 578 680	62 969 940	-1.0
Ministry of Agriculture and Rural Development	9 387 000	9 903 962	+5.5	10 070 900	11 112 000	+10.3
Ministry of Education Sports and Youth	39 306 043	39 135 143	-0.4	42 753 043	41 979 763	-1.8
Ministry of Justice	11 871 296	12 201 758	+2.8	12 618 216	10 846 000	-14.0
Ministry of Infrastructure and Energy	51 438 581	46 703 704	-9.2	51 467 219	40 850 630	-20.6
Ministry of Interior	20 454 410	20 755 335	+1.5	20 414 410	20 545 000	+0.6
Ministry of Tourism and Development	2 370 630	2 626 840	+10.8	2 180 730	2 241 030	+2.8
Ministry of Culture	2 125 000	2 165 867	+1.8	1 995 000	2 256 204	+13.1

Note: ALL = Albanian lek.

Source: MTBP 2019-2021, MTBP 2020-2022, Annual Budget Bills 2019 and 2020.

Progress has been made in making the budget documentation that is submitted to the Parliament more comprehensive. New policy initiatives are explicitly presented, and fiscal risks are identified by an explanatory note to the draft budget 2021³⁸¹. However, the transparency of the budget process is hampered by the relatively large leeway for re-allocations to the budget allocations without parliamentary approval during budget execution (more than 5%).

Capital budgeting has been an integral part of the annual budget management process since the mandate for public investment planning was moved to the MoFE in 2016. Investment project proposals are prepared and submitted by the budget institutions to the Department of Public Investment Management at the MoFE. Although this procedure should improve information for selecting investments, the review of the department usually focuses on the extent to which the investment project proposals comply with the MTBP-approved ceilings. The MOFE's capacity to conduct quality checks on the project appraisals done by the budget institutions is an ongoing concern.

For large projects with high cost and impact, the review of investment proposals includes the Strategic Planning Committee chaired by the Prime Minister. Large projects must contain a full feasibility study and should be submitted for review and approval to the committee, but the analysis does not require independent assessment, which limits the information base on which decisions on major investments are made.

The credibility of the revenue and expenditure estimates in the annual budget have proven to be satisfactory. The average difference between the planned revenue in the original annual budget bill and the actual outturn in 2018 and 2019 was 4.3%. For expenditures, the deviation was slightly higher, at 4.8%. It is worth noting that these indicators were calculated on the basis of the budget performance in

³⁸⁰ <https://www.financa.gov.al/programi-buxhetor-afatmesem-ne-vite-2/>; <https://www.financa.gov.al/buxheti-ne-vite/>.

³⁸¹ Explanatory note to the draft budget of 2021, Section 7, Fiscal risks, pp. 55-62.

2018 and 2019. The fiscal year 2020 was not considered, given the unusual pressure on the budget due to the COVID-19 pandemic.

Conclusion

Annual budget preparation improved, with more content presented in the budget documentation and greater discipline in complying with the calendar. The credibility of annual budget revenue and expenditure remains satisfactory at the aggregate level. The process could be further improved by closer alignment between the disaggregated ceilings for the two outer years included in the MTBF and the ceilings for the annual budget. The large deviations limit the predictability for line ministries. The capital budgeting process also has room for improvement, to increase efficiency in allocation.

Principle 3: The ministry of finance (or authorised central treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.

Overall, the value for the indicator 'Reliability of budget execution and accounting practices' is 3, unchanged since 2017.

Indicator 6.3.1 - Reliability of budget execution and accounting practices						
This indicator measures the quality of cash and commitment management, controls in budget execution and accounting practices. These aspects ensure reliable information on government spending and thus a foundation for management decisions on government funds.						
Effective cash flow and planning, monitoring, and management of commitments by the treasury facilitate predictability of the availability of funds for budgetary units. Reliable accounting practices that include constant checking and verification of the recording practices of accountants are important to ensure good information for management.						
Overall 2021 indicator value	0	1	2	3	4	5
	Points 2021		Change from 2017			
1. Presence of a treasury single account (TSA)	0/2		=			
2. Frequency of revenue transfer to the TSA	1/1		=			
3. Frequency of cash consolidation	1/1		=			
4. Credibility of cash flow planning	2/2		+0.5			
5. Budget classification and chart of accounts	1/2		=			
6. Frequency of bank account reconciliation for all central government bank accounts	2/2		=			
7. Availability of data on the stock of expenditure arrears	2/2		=			
8. Expenditure arrears (%)	0/3		-1			
Total	9/15		-0.5			

The TSA is established in accordance with the MBS provisions and Government Decision No. 298, dated 23 May 2018, "On establishing, organizing and functioning of General Directorate of Treasury". Despite the progress, however, the TSA is still not in control of all bank accounts of budget organisations.

The credibility of cash flow planning was improved by involving cash forecasts of budget users in the process more actively. Bank account reconciliation is being executed according to the "Technical manual for Albanian Government Financial Information System (AGFIS) users" issued by the MoFE, and reconciliation of bank account and accounting data takes place at least monthly.

The coverage of the AGFIS to execute the payments of general government expanded from 60% of total budget expenditure in 2016 to 74% in 2020. The expectations for expanding the coverage of the AGFIS were higher, but progress was affected by the COVID-19 pandemic.

The functionality of AGFIS to register multiyear commitments was introduced in 2016. Ideally, this would have helped to prevent unfunded financial commitments and the creation of expenditure arrears. This has not materialised, and arrears have continued to build up in the period of the assessment. After the expenditure arrears rose to 3.3% of the total budget of 2019, the MoFE issued a new instruction, No. 37 of 6 October 2020, “On monitoring and periodic publication of arrear’s stocks of general government units”, intended to strengthen arrears reporting. The instruction has improved transparency, since the data is published quarterly and the arrears declined in 2020 to 2.7% of the total budget, but it is too early to ascertain whether this reflects a systematic improvement. Moreover, the reliability of the data is not unquestioned. The report on the execution of the 2019 budget by the State Supreme Audit Institution (SSAI) notes that “the stock of arrears reported based on the declarations of budget units in the amount of ALL 17 279 million is incomplete and inaccurate, as there are differences in the reporting of payments for arrears in 2019”³⁸².

Conclusion

Improvements in cash management include the establishment of a TSA and the increased coverage of the AGFIS. However, both reforms are ongoing and the coverage of both needs to be broadened. A major problem in cash management remains the build-up of arrears in expenditure. The Government’s efforts to clear old arrears and prevent new ones are still not satisfactory. The effectiveness of a new instruction with that purpose has yet to be demonstrated.

Principle 4: There is a clear debt management strategy in place and implemented so that the country’s overall debt target is respected and debt servicing costs are kept under control.

Overall, the value for the indicator ‘Quality of public debt management’ is 3. This is the same value as in 2017 and reflects minor variations in the sub-indicators. It is noted that the measurement year for the sub-indicator 5 was 2019, since performance in 2020 was affected by the COVID-19 pandemic.

Indicator 6.4.1 - Quality of public debt management					
This indicator measures the procedures and organisation established for the management of public debt and the outcomes achieved, in terms of debt risk mitigation practices, the share of public debt to gross domestic product (GDP), and the difference between public sector debt outturn and target.					
Overall 2021 indicator value	0	1	2	3	4 5
			Points 2021	Change from 2017	
1. Existence of requirements and limitations for borrowing in the legal framework			2/3	=	
2. Existence and minimum content of a public debt management strategy			4/4	+1	
3. Clarity of reporting on public debt			4/4	+1	
4. Risk mitigation in the stock of public debt			1/6	=	
5. Difference between public sector debt outturn from target (%)			3/3	=	
6. Public debt as a share of GDP (%)			1/2	=	
Total			15/22	+2	

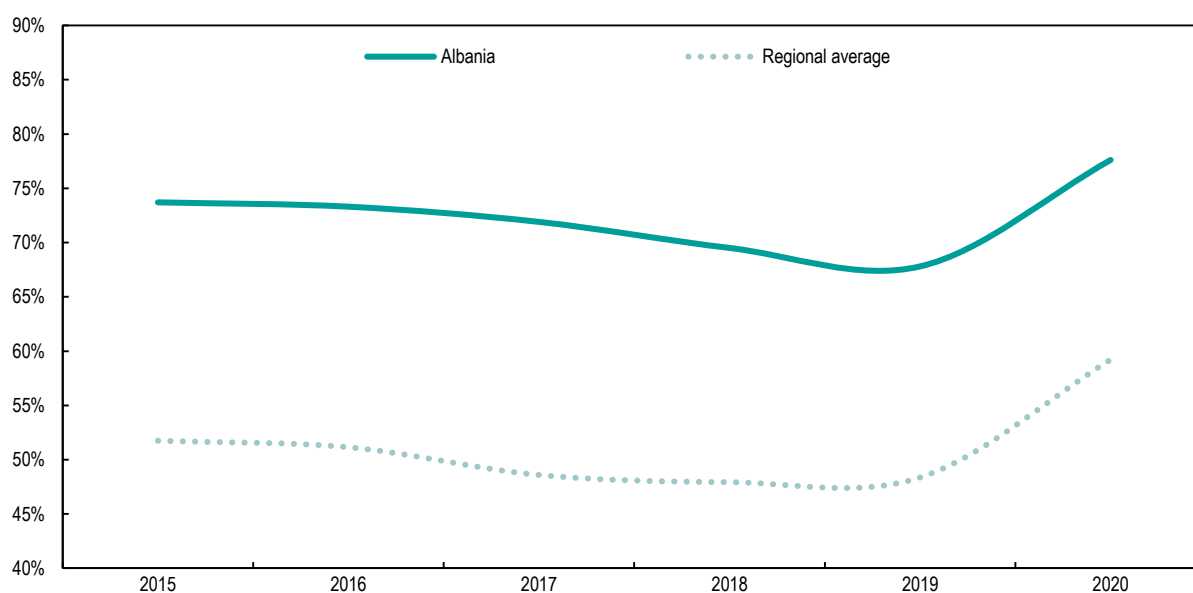
Chapter IV of the MBS provides the main legislation on state borrowing and guarantees in the public sector. Article 58 sets the borrowing limits that are in place and the need to approve them in the annual budget laws. The medium-term debt management strategy (MTDS) is prepared annually by the MoFE and published at the beginning of the year. The strategy covers the central government’s debt situation, state debt and guaranteed debt portfolio, debt costs and risks, as well as its debt management strategy.

³⁸² SSAI report on budget 2019 implementation, p. 16.

Debt from local governments is still not included in the scope of the MTDS, given that local debt in Albania is still marginal. Social security funds are not allowed to issue debt.

The reporting on public debt improved on the 2017 assessment, mainly due to the provision of more information on debt development and deviations from defined targets. The debt is reported quarterly in the “Debt Statistical Bulletin” issued by the MoFE. In 2019, the public debt rate was 66.3% of GDP, on a downward trend from 67.7% in 2018. The economic contraction and the need for economic stimulus increased the deficit, which is expected to raise public debt to 81.5% of GDP in 2021³⁸³.

Figure 2. Development of general government gross debt in Albania, 2015-2020



Source: IMF (2021), World Economic Outlook Database.

The MTDS 2021-2023³⁸⁴ shows a more balanced risk portfolio compared to the observations in the monitoring report of 2017. While in 2017 the use of external debt instruments with variable interest was creating increasing interest rate risks, 70% of the government debt portfolio in 2020 constitutes of instruments with fixed interest rates. However, the debt management practice leaves Albania vulnerable to exogenous shocks and mismanagement by its SOEs. Debt reporting from SOEs is still *ad hoc*, without a systematic approach. The IMF staff report in 2020 pointed out that fiscal risks from SOEs, especially the state-owned electricity sector, are increasing and need to be carefully monitored and managed. The recent establishment of a dedicated unit for monitoring fiscal risks within the Directorate of Budget Management in the MoFE can be considered a step forward.

Conclusion


Public debt was on a declining trend and sustainable, but it has significantly increased due to the global economic contraction caused by the COVID pandemic. Debt management is done in a systematic manner both in terms of policy making and reporting. Nevertheless, the profile of the debt portfolio reflects a medium to high appetite for risk. The unsystematic monitoring of SOE debt and borrowing poses an additional risk to the country's fiscal stability.

³⁸³ Albania: IMF Country Report No. 20/309.

³⁸⁴ Medium Term Debt Management Strategy for 2021-2023, p. 13.

Principle 5: Transparent budget reporting and scrutiny are ensured.

Overall, the value for the indicator ‘Transparency and comprehensiveness of budget reporting and scrutiny’ is 4. Compared to the indicator value of 2 in 2017, the value reflects notable progress in the reporting on budget execution both in in-year reports and in the annual report.

Indicator 6.5.1 - Transparency and comprehensiveness of budget reporting and scrutiny						
This indicator measures the extent to which the government facilitates external monitoring of the execution of the budget through the publication of relevant information, as well as the credibility of that information and whether it is used effectively to ensure accountability. The degree of budget scrutiny on the basis of the published information is also assessed.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Comprehensiveness of published information						
1. Quality of in year reports of government revenue, expenditure and borrowing					5.5/7	+2
2. Quality of the annual financial report of the government					6/7	+4
3. Quality of annual reports of state owned enterprises, extra budgetary funds and local government					2/5	-1
4. Clarity of national accounting standards and consistency with international standards					2/4	+1
5. Existence of reporting on fiscal risks identified in the budget					1/1	=
Scrutiny and oversight using published information						
6. Quality of the annual financial reporting on the use of public finances					3/3	+2
7. Timeliness of submission of the SAI report to parliament					2/2	=
8. Timeliness of parliamentary discussion on the report of the SAI					1/3	-2
Total					22.5/32	+6

The frequency of the publication of the in-year reports of government revenue, expenditure and borrowing on the MoFE website has increased from quarterly to monthly³⁸⁵. More comprehensive in-year budget implementation reports are published as Fiscal Bulletins on a quarterly basis. These bulletins also include information from the extra-budgetary funds. The annual Budget Execution Report has an improved format, so that the reporting mirrors the budget documents. The SSAI is auditing the report on time. Its audit opinion has turned from a qualified opinion in 2016 into an unqualified one since 2018.

Accounting is regulated by the MoFE instruction No. 8 dated 9 March 2018, “On the procedures for the preparation, publication and reporting of the annual financial reports of the general government units”. Albania has not yet adopted international public sector accounting standards. A remaining weakness in the reporting on government operations concerns the lack of information on state assets and liabilities and information on transfers and disposal. Another weakness is the lack of analytical explanations on variations from the original spending and revenue estimates.

Another critical shortcoming is the reporting on SOE activities and their financial positions. No single regulation on SOE reporting exists, and the practice is unsystematic. The SSAI report on the Budget Execution Report 2019 observed various cases of poor SOE performance and recommended additional measures to strengthen monitoring of state-owned enterprises³⁸⁶.

As for local government, the annual financial reports for all local governments are submitted and published on time, but they are not audited by external auditors.

³⁸⁵ <https://financa.gov.al/statistika-fiskale-mujore/>, <https://www.financa.gov.al/buletini-fiskal/>.

³⁸⁶ SAI report on budget 2019 implementation, Chapter 6 on administration of SOE, p. 211.

Conclusion

The transparency of the government on budget execution has improved by more frequent and comprehensive in-year and annual reports. Weaknesses in the reporting framework concern the absence of accounting standards that are consistent with international standards, the lack of an audit framework for financial statements of local governments, and the absence of a single regulation on SOE monitoring and reporting.

Internal control and audit

Principle 6: The operational framework for internal control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and the public administration in general.

Overall, the value for the indicator 'Adequacy of the operational framework for internal control' is 4. Although positive developments were observed, the overall indicator value is unchanged since 2017.

Indicator 6.6.1 - Adequacy of the operational framework for internal control						
This indicator measures the extent to which the operational framework for internal control (financial management and control) is established, in terms of policy and strategic content, the regulatory framework, and adequate review and reporting mechanisms.						
A separate indicator measures the implementation of the operational framework for internal control.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Existence of policy for the development of internal control					6/6	+1
2. Completeness of the regulatory framework for internal control					4/5	=
3. Comprehensiveness and regularity of the annual review and reporting on internal control					3/5	=
Total					13/16	+1

Note: SIGMA has revised the 2019 Methodological Framework and removed the sub-indicator on alignment between national budget management and control systems and those for European Union (EU)-funded programmes. The total number of points has therefore fallen from 20 to 16.

The legal basis for development of internal control remains the Law on Financial Management and Control 2010 (FMC Law)³⁸⁷. This legislation provides a sound legal framework for the development of internal control and is consistent with the MBS Law³⁸⁸. The FMC Law requires that internal control principles be applied in all general government units, as well as other organisations owned, controlled, financed or financially guaranteed by a general government unit³⁸⁹. Further development of the framework is envisaged in a Public Internal Financial Control (PIFC) Policy Paper for 2021-2022 developed by the Central Harmonisation Unit (CHU/FMC) and approved by the Government in December 2020. The specific objectives in this paper, such as "2.1.1. Efficient Control Environment" and "2.1.2. Strengthening Managerial Accountability", are broad and usually require legislative support beyond the mandate of the MoFE/CHU.

A detailed and up-to-date analysis of the coherence of internal control legislation with other horizontal legislation can identify problems that need to be resolved. The CHU/FMC acknowledges that there is no specific analysis of the coherence of PIFC legislation with other horizontal legislation.

In addition to the development of the PIFC Policy Paper, the CHU/FMC³⁹⁰ provides guidance and support to all general government units (currently 152 institutions) required to implement internal control. In 2020,

³⁸⁷ Law No. 10296 of 8 July 2010, amended by Law No. 110/2015 of 15 October 2015.

³⁸⁸ Law No. 9936 of 26 July 2008 on Budgetary System Management in Republic of Albania.

³⁸⁹ FMC Law 2010, Article 3.

³⁹⁰ Established under the FMC Law 2010, Article 26.

this included the issue of guidance on delegation³⁹¹, the provision of training for managers and support to three pilot institutions to work on audit trails and risk registers³⁹².

The CHU also co-ordinates the monitoring of internal control implementation at the organisational level. It conducts three types of activity, all of which are reported in the PIFC Annual Report³⁹³:

- First, it has developed a set of 18 indicators for monitoring the performance of 165 budget users³⁹⁴. These indicators combine data from the Budget and Treasury directorates within the MoFE as well as the CHU/FMC and the CHU/IA. The indicators are combined to provide a single overall score for the institutions involved, which is then used to create a series of league tables for different classes of institution. The league tables show the change in position from the previous year, and the CHU explained that this presentation has increased interest in internal control.
- Second, an annual self-assessment survey on the status of internal control implementation is used. 93% of general government units complied with the survey requirements and all the results are included in the PIFC Annual Report.
- Third, there is a programme of institutional visits to assess the quality of the information provided in the self-assessment questionnaire³⁹⁵. This estimates that 85% (as compared with 80% in 2019) of the self-assessment responses were reliable.

The PIFC Board, chaired by the Minister of Finance, has a programme of meetings that includes a review of the PIFC Annual Report and monitoring internal control developments. The PIFC Annual Report is submitted to the Government each year, at the same time as the annual budget statement, and both documents are also tabled in the Parliament. The report ensures that the Government is aware of the state of development and includes recommendations for improvement based on the findings. However, the decision of government after receiving the report does not include any specific actions that might assist the CHU/FMC in pursuing these recommendations.

Conclusion

The legal and operational framework for internal control is largely in place, with further improvements such as the guidance on delegation. Further progress in the coming years is guided by a new PIFC Policy Paper 2021-2022, which lays out measures to enhance internal control and managerial accountability. The CHU is actively monitoring developments in the PIFC domain across the 152 general government units that currently fall within its scope.

³⁹¹ Instruction No. 4, of 29 January 2020 on delegation of tasks and responsibilities in public units.

³⁹² MoFE, the Ministry of Infrastructure and Energy and the Ministry of Health and Social Protection. The Ministry of Justice was selected but was unable to follow planned activities. Activities in three municipalities selected, Kukës, Elbasan and Vlora, were suspended due to COVID restrictions.

³⁹³ Report on the Functioning of the Public Internal Financial Control System in the Government Units General for 2020, May 2021.

³⁹⁴ Comprising 152 general government units and 13 spending units with large budgets.

³⁹⁵ For 2020, a sample of five institutions (17 in 2019) was assessed, which was fewer than the 17 planned, because of COVID restrictions.

Principle 7: Each public organisation implements internal control in line with the overall internal control policy.

Overall, the value for the indicator ‘Functioning of internal control’ is 1. Notwithstanding improvement in the sub-indicators on the delegation of decision-making authority and risk management, the overall indicator value is the same as in 2017, reflecting that for most areas, there were minor changes in performance.

Indicator 6.7.1 - Functioning of internal control						
This indicator measures the extent to which internal control systems are implemented in practice within the budget organisations and between ministries and their subordinate organisations, and the immediate results in terms of improved managerial accountability and governance arrangements between ministries and subordinated bodies.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021		Change from 2017
1. Number of first-level budget organisations that are neither ministries nor constitutional bodies				1/3		-1
2. Alignment between management and budget structures (%)				0/3		=
3. Credibility of controls for avoiding commitments above the expenditure ceilings				0/2		=
4. Availability of reporting of total cost and physical progress of major investment projects				0/2		=
5. Effectiveness of basic managerial accountability mechanisms for central government bodies				0/4		=
6. Delegation of decision-making authority within ministries				3/4		+2
7. Regularity and completeness of risk management practices				3/3		+1
8. Existence of reporting on irregularities				0/2		=
Total				7/23		+2

The CHU monitors implementation of internal control on the basis of the 18 criteria noted earlier. The PIFC Annual Report for 2020 includes an analysis of the performance of 152 public bodies³⁹⁶. Concentrating on the 11 ministries whose performance was better than any of the other groupings, the league table shows an increase in average scoring from 46 in 2019 to 53 in 2020. The increase in the average value masks significant variations between ministries, some of which improved by twice the average, and one ministry achieving a much lower value.

The SIGMA indicator is based on eight sub-indicators addressing different aspects of internal control and managerial accountability. A first sub-indicator measures managerial accountability at the highest level by looking at the MoFE’s scope of budgetary control across the government. This has increased, since it now has more first-level budgetary organisations reporting directly to it. This is interpreted as a reduction of managerial accountability at the government level, since sectoral ministries are bypassed.

A second indicator reviews the alignment between the budget structure and management structure. If the budget structure is different, managers have less control over their budget allocations. In Albania, based on Law No. 9936, “On the Management of the Budget System in the Republic of Albania”, the budget programmes of each line ministry/institution correspond to the organisational structure, which in theory implies a high level of alignment. The head of each budget programme is responsible for identifying the objectives to be achieved within the budget limits. However, the requested evidence to support this alignment was not provided.

³⁹⁶ Of the sample of 152 institutions, 142 entities submitted data used in the analysis. Of a total of about 2 300 organisations required to implement internal control, the sample reflects 6.2% of the total.

The third sub-indicator reviews whether the internal control system can successfully restrict financial commitments to the funding available. Although commitment controls are incorporated in the financial management system, AGFIS, arrears continue to accrue (see PFM Principle 3). Action is being taken, since the MoFE has set up an Arrears Working Group to help tackle the problem and has issued an Instruction on monitoring and publicising arrears. In addition, the CHU/IA has co-ordinated work by IA units in 2020 to establish the extent and causes of the arrears, with 64 IA units reporting back.

The fourth sub-indicator focuses on capital investment projects, given the high inherent risk. There is extensive financial reporting at Government level for these projects, including multi-year commitments, on a regular basis. However, there is no reporting on the physical progress of major investment projects, and the financial and physical progress are not presented side by side.

A next sub-indicator assesses the accountability arrangements between central government bodies and their parent ministry. The assessment was based on a sample of four ministries and a total of eight of their subordinated bodies. None of the annual reports submitted by the subordinated bodies included any information on reaching the targets set. Five of the subordinated bodies explained that they were autonomous in setting objectives, while two others seemed to have little direction from their parent ministry in such matters. Overall, this indicates poor development of the accountability arrangement.

A sixth sub-indicator considers the level of delegation of operational decisions below the level of minister or general secretary to line managers. Delegation of authority is permitted within the framework for internal control in Albania, and the matter was the subject of additional guidance in 2020³⁹⁷. The assessment found a significant increase in the use of delegation, with all the ministries allowing some delegation in relation to procurement, salary payments, and replies to public information requests. Progress needs to be made in other areas, however, especially in recruitment, where only one ministry has delegated any authority.

A seventh sub-indicator focuses on risk management. Article 21 of the FMC Law 2010³⁹⁸ outlines the process for risk management in public sector bodies, requiring the head of an institution to approve a strategy every three years and the authorising officer to update the related controls at least annually. The sub-indicator 6.7.1.7 assessed the risk registers for 2020 from a sample of five institutions. All the institutions met each of the criteria, resulting in a score on this sub-indicator that was higher than in 2017.

The last sub-indicator assessed the ability of institutions to detect, investigate and report irregularities. Although the FMC Law³⁹⁹ requires all public employees to report any suspicion of fraud within their organisations, ultimately reaching the Principal Authorising Officer, the law gives no detailed guidance on how such suspicions should be escalated, and there is no requirement that organisations develop further guidance in this area. It is thus no surprise that none of the five sample organisations provided for assessment of internal procedures to deal with irregularities, and that only two reported that irregularities had occurred in 2020.

Conclusion

Implementation of internal control at an institutional level still lags behind the progress made with the overall legislative framework. However, there has been progress on delegation within organisations and with the implementation of risk management. Nevertheless, progress needs to be made in a number of areas, including the management of arrears, the procedure for reporting irregularities, and the arrangements for managerial accountability between ministries and subordinate bodies.


³⁹⁷ Order No. 321, on Delegation of Authorities, 29 December 2020.

³⁹⁸ Law for Financial Management and Control, No. 10296 of 8 July 2010, amended by Law No. 110/2015 of 15 October 2015.

³⁹⁹ FMC Law 2010, Article 17.

Principle 8: The operational framework for internal audit reflects international standards, and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.

Overall, the value for the indicator ‘Adequacy of the operational framework for internal audit’ is 4. This is an improvement on the value of 3 in 2017. The increased performance results from the adoption of audit charters and a quality assurance framework.

Indicator 6.8.1 - Adequacy of the operational framework for internal audit						
This indicator measures the extent to which the operational framework for internal audit (IA) has been established, assessing the adequacy of the regulatory framework, the institutional set-up, and co-ordination and quality assurance mechanisms.						
A separate indicator measures the implementation of the framework and the results achieved.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Adequacy of the regulatory framework for internal audit					4/5	=
2. Organisational capacity for internal audit					3/5	+1
3. Co-ordination, development and guidance of the internal audit system					4/5	=
4. Existence of a system for quality assurance for internal audit					3/3	+2
Total					14/18	+3

The legal requirement for the development of IA is set out in the Law on Internal Audit in the Public Sector (IA Law) 2015⁴⁰⁰. The legislation is applicable to all general government units and other institutions that carry out public functions and rely on public funds. However, IA units are required to be set up only above certain revenue and staffing thresholds⁴⁰¹. For organisations where resources are below the thresholds, IA should be provided by the parent body or on a contractual basis. Further development of IA is guided by the PFM Strategy 2019-2022 and the PIFC Policy Paper 2021-2022.

The CHU/IA has issued extensive guidance on the methodology to be applied by IA units, as well as professional guidance like the Code of Ethics. This material needs to be consistent with the legal framework and with international standards as set out in the International Professional Practices Framework⁴⁰². This is largely the case in Albania⁴⁰³. Previous inconsistencies between the IA Manual and the Institute of Internal Auditors standards have now been largely addressed⁴⁰⁴.

A total of 135 organisations are currently required by legislation to set up IA units. This number has not changed since the last monitoring report, but the number of IA units that have been set up has risen to 129 (from 114 in 2017). As for staffing, a minimum staff of three for each IA unit is required to allow for effective internal review and quality assurance. Of these units, 81% (75% in 2017) comply with this requirement, a slight improvement. Overall, IA units have 469 systematised posts, of which 414 are filled (88% as compared with 92% in 2015), indicating that staffing levels are relatively stable.

⁴⁰⁰ Law No. 114/2015 on Internal Audit in the Public Sector.

⁴⁰¹ DCM No. 83 of 3 February 2016, amended by DCM No. 353 of 11 May 2016 on Adoption of Criteria for the Establishment of Internal Audit Units in the Public Sector.

⁴⁰² This framework is set out by the Institute of Internal Auditors.

⁴⁰³ The IA Manual, however, does not reflect the requirement for Internal Audit Committees to ensure the independence of IA or assess the adequacy of resources (IA Law No. 114/2015, Article 13 on Internal Audit Committees).

⁴⁰⁴ Order 4 of 10 January 2020, Approval of Some Additions and Changes to the IA Manual.

The CHU/IA manages a training and certification programme for IA staff, and 318 of the 414 staff in the posts have national or international certificates (77% in 2020 compared with 90% in 2017). A further 50 IA unit staff were in training in 2020. There is also a programme of continuing professional development for internal auditors. The regular meetings of heads of IA units were replaced in 2020 by email exchanges.

During the year, the CHU/IA monitors progress with the development of individual IA units through a system of regular information gathering, including strategic and annual plans, as well as annual reports. In addition, a self-assessment questionnaire on the structure of the unit, as well as a series of spreadsheets covering staffing, the audits completed, and the recommendations made. These data provide the factual basis for the IA element of the PIFC Annual Report and provide the basis for the calculation of four of the indicators included in the league tables mentioned under Principle 6. The findings in the PIFC Report for 2020 are backed up by information from the sample of organisations. Each had approved Audit Charters covering, for example, independence and reporting.


A key CHU/IA activity is external quality assessment of individual IA units according to methodology established in 2017⁴⁰⁵. In 2020, 19 units were assessed and rated on a four-point scale, with one unit assessed in the top category and two in the bottom category. All these ratings are listed in the PIFC annual report, with summary findings and recommendations.

Conclusion

The legal and operational framework for IA has been improved, by updating the guidance, while the PIFC Strategy 2021-2022 seeks to enhance the framework and training. A full programme of external quality assurance is now operational, and the findings are used to provide recommendations for all IA units. The proportion of IA systematised posts filled and the proportion of IA staff with certificates have both slipped since the last assessment, but overall staffing levels are stable.

Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents, as appropriate to the organisation.

Overall, the value for the indicator 'Functioning of internal audit' is 1. The value has deteriorated since 2017, when it was 2. The reason is that the quality of the planning and audit arrangements of IA units could not be confirmed in the sample of five IA units.

Indicator 6.9.1 - Functioning of internal audit						
This indicator measures the extent to which internal audit is implemented and whether activities effectively contribute to improved management of public finances within the budget organisations.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021		Change from 2017
1. Strength of planning of internal audit in budget organisations				3/7*		-2
2. Quality of audit reports				0/6*		-1
3. Follow-up and implementation of audit recommendations (%)				2/3		+1
Total				5/16		-2

Note: *Data not available or provided.

IA manuals and guidance require all units to prepare a three-year strategic plan and an annual plan, both based on an assessment of risk, to prioritise audit activity. These plans are used by the CHU/IA to compile

⁴⁰⁵ Methodology for external evaluation of quality of the internal audit activity in the public sector, internal document, Government of Albania, 2017.

the Consolidated Strategic Plan explaining the coverage of all the IA units in the public sector⁴⁰⁶. This shows the overall balance of audit work with the number of audits by type and, for some of the largest units, the priority systems and activities, allowing the units to make comparisons with their own activity. The document is shared with the SSAI in an effort to eliminate overlapping of audit activity in particular institutions. For 2020, the spreadsheets supporting the consolidated report⁴⁰⁷ show a good level of compliance, with 96% of all IA units having prepared both strategic and annual plans (96% in 2017).

A sample of five institutions submitted strategic and annual plans for assessment by SIGMA. They showed that IA plans had been prepared in each case, although not always fully observing the guidance. For one IA in the sample, the strategic plan did not meet a minimal quality standard for describing the objectives, priorities and risk assessment in question. This brought down the related sub-indicator score, which was lower than the 2017 assessment, even though the remaining plans met these requirements.

The PIFC Annual Report for 2020 shows that IA units intended to conduct 1 070 individual audit assignments in 2020 but completed only 926, due to COVID restrictions. However, both figures were below the levels planned and achieved in 2019, which were 1 187 and 1 210. In addition, 3 consultancy assignments were planned and 5 completed in 2020.

Table 2. Audit and consultancy assignments planned and completed in 2020

	Compliance	Performance	Financial	IT	Combined	Requested	Consultancy	Total
Planned	310	33	86	5	633	0	3	1 070
Actual 2019	390	56	115	9	495	103	42	1 210
Actual 2020	333	19	80	3	431	55	5	926

Source: MoFE CHU/IA PIFC Annual Report 2020. "Requested" refers to audits specifically requested by the head of institution outside the original audit plan. "Consultancy." refers to consultancy assignments, which are not designed to provide audit assurance.

Through training, the CHU/IA has encouraged IA units to move on from audits focused largely on compliance and to pay more attention to the effectiveness of IC systems. The significant number of combined audits that might contain elements of compliance, financial or other audits makes it hard to assess real progress on this issue.

There is a limited amount of performance audit work that is appropriate, given the present emphasis on improving IC systems. However, it is clear that there continue to be few Information Technology (IT) audits, even though this is a significant area of risk for some of the institutions, such as MoFE, with its complex Treasury systems, and the Tax Directorate, with its sensitive tax collection systems. The IA manual includes a detailed annex on IT audit, made up almost entirely of checklists, such as physical access controls, logical access controls and processing controls. IA staff in Albania, however, may not have the technical knowledge or experience to interpret checklist results. Also, there is no reference to interrogation procedures or to running test software, which are essential for effective IT auditing. This continues to be an area where IA units have limited resources.

These findings were supported by our more detailed assessment of a sample of IA units that had planned 88 separate assignments for 2020. More than half of these were described as "combined", while only one of the assignments was a performance audit and none was described as an IT audit. The five sample institutions were asked to provide an example of an audit assignment report for assessment, but only three reports were submitted. Although the IA reports received met four of the five assessment criteria, the sub-indicator value is lower than in the 2017 monitoring report, owing to the failure of two IA units to present reports.

⁴⁰⁶ Strategic and annual plan 2020-2022 on internal audit activity in the public sector (consolidated).

⁴⁰⁷ Information provided by MoFE CHU/IA.

Implementation of IA recommendations is used as a measure of success for IA units, and the IA manual prescribes the process IA units should follow. Table 3 shows the performance on this aspect over time. The lower performance in 2020 is likely to have been affected by COVID restrictions. Nevertheless, overall implementation levels fall below the 60% implementation rate, showing that organisations are not sufficiently benefiting from the improvements in controls or compliance recommended by IA.

Table 3. Implementation of Internal Audit recommendations

	2018	2019	2020
Recommendations made	7 897	8 294	7 889
Recommendations implemented	4 501	4 941	4 137
Percentage	57%	60%	52%

Source: MoFE CHU/IA PIFC Annual Report 2020.


Conclusion

Most IA units comply with the requirements to prepare strategic and annual plans, but not all. The audits increasingly combine financial, compliance and performance aspects, as they should, but the quality of the audit reports is mixed. More attention to IT risks is necessary given the increased importance of IT systems. The current implementation rate of recommendations from IA suggest that further attention is needed for institutions to benefit fully from the work of IA.

Public procurement

Principle 10: Public procurement regulations (including public private partnerships and concessions) are aligned with the European Union *acquis*, include additional areas not covered by the *acquis*, are harmonised with corresponding regulations in other fields, and are duly enforced.

Overall, the value for the indicator ‘Quality of legislative framework for public procurement and PPPs/concessions’ is 5, a significant improvement on the 2017 value of 3. This progress is mainly due to the adoption of the new PPL, which is harmonised, with only a few exceptions, with the 2014 Procurement Directives and the Law on Public Procurement in the Field of Defence and Security, implementing the Defence and Security Procurement Directive.

Indicator 6.10.1 - Quality of legislative framework for public procurement and PPPs/concessions						
This indicator measures the quality of the legislative framework for public procurement and public private partnerships (PPPs)/concessions, above and below EU thresholds. Opportunities for participation of small and medium-sized enterprises (SMEs) in public procurement are assessed, as well as whether practical measures are taken to allow proper implementation of the legislation. The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Compliance of public procurement legislation with the <i>acquis</i> above EU thresholds						
1. Level of alignment of public procurement legislation with the EU Directives					4/6	+1
2. Scope of public procurement legislation					6/6	+3
3. Public procurement procedures					4/4	+3
4. Publication and transparency					5/5	=
5. Choice of participants and award of contracts					3/5	+1
6. Availability of procedural options					4/4	+3
Public procurement procedures below EU thresholds						
7. Advertising of public procurement procedures					3/3	+1
8. Contract award procedures					6/7	=
Opportunities for participation of SMEs in public procurement						
9. Opportunities for participation of SMEs in public procurement					5/5	+2
Availability of measures for the practical application of the legislative framework						
10. Availability of measures for the practical application of the legislative framework					4/5	=
Quality of legislation concerning PPPs/concessions						
11. Coverage of legislation on PPPs/concessions					2/2	=
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions					7/8	+1
Total					53/60	+15

The regulatory system for public procurement and concessions/PPPs is based primarily on the new PPL, Law No. 162/2020, which replaced the previous PPL that had been in force since 2007, and CPPPL No. 125/2013. The legal framework reflects the fundamental EU treaty principles of transparency, equal treatment and non-discrimination, as well as value for money, free competition, mutual recognition and proportionality. It also contains provisions supporting integrity in public procurement. The new PPL and the new secondary legislation were subject to extensive public consultations.

The legislators had envisaged a short period, of less than three months, between the entry into force of the new PPL (15 days after publication in the *Official Journal*) and the beginning of its application (the end of March 2021). After its adoption, the PPL was vetoed by the President. The veto was eventually overturned by the Parliament, but the publication of new provisions was delayed, which significantly reduced the time for preparing its introduction. The PPL was finally published only at the end of February 2021, entering into force in mid-March and taking effect on 31 March 2021. Considering the extent of the changes introduced by the new provisions, the period between entry into force and the application of the new PPL was too short to ensure a smooth switch from the old to the new rules. The most important piece of secondary legislation (public procurement regulations – DCM) was adopted by the Government on 19 May 2021. Before that, in the transitional period, contracting authorities simultaneously had to apply both the new PPL and the old DCM. The regulation on the Common Procurement Vocabulary was adopted at the end of July 2021. Mandatory standard bidding documents were prepared and published by the PPA between April and July 2021.

The new PPL contains provisions that are to a great extent harmonised with the EU Public Procurement Directive and Utilities Procurement Directive. Both the personal and material scope of the PPL are compliant with the EU requirements. The list of exemptions does not go beyond what is allowed by the EU directives. A few provisions, however, are not fully compliant with the EU *acquis* or are in direct conflict with it such as the limitations concerning the maximum share of the awarded contract which may be subject to subcontracting (maximum 50% of the contract value), an additional ground for exclusion of economic operators⁴⁰⁸ or provisions on the calculation of a duration of exclusion of economic operators due to a conviction for specific crimes (mandatory grounds)⁴⁰⁹.

Another issue worth noting is the financial thresholds for application of relevant provisions of the PPL. The system of thresholds is extremely complex. The new PPL, like the one before it, envisages three types of thresholds⁴¹⁰, amounts for which are set in implementing regulations adopted by the Government that are required to take into account the provisions of European legislation in the field of public procurement⁴¹¹: These are⁴¹²: 1) the threshold for small value procurement (more than EUR 820/ALL⁴¹³ 100 000, but no more than EUR 8 200/ALL 1 million per year), 2) low thresholds (EUR 98 00/ALL 12 million for works contracts and EUR 82 000/ALL 10 million for supplies and services contracts) and 3) high thresholds (EUR 5.3 million/ALL 650 million for works and EUR 327 000/ALL 40 million for supplies and services). No fewer than five types of procurement, in terms of value, can be distinguished. First, contracting authorities need not apply any public procurement provisions if the value of the contract is, for similar goods or services, no more than ALL 100 000 within a calendar year⁴¹⁴. Second, if the value exceeds ALL 100 000 but is less than ALL 1 million during a calendar year, the “small value procurement” procedure can be used⁴¹⁵. Third, if the value exceeds the small value threshold but is below a low threshold, the simplified procedure can be used⁴¹⁶. Fourth, standard procurement procedures are required above the low threshold value, and finally, the most formal rules apply above high thresholds. While the

⁴⁰⁸ Due to having declined to sign the contract, economic operators are excluded from access to public procurement contracts for a limited time period of no longer than three years, based on the decision of the PPA.

⁴⁰⁹ A period of exclusion in the Albanian PPL is probably longer than maximum 5 years from date of conviction by a final court judgement as allowed by the Public Procurement Directive (Article 57 (7) - in the case the PPL exclusion lasts for a period of five years from “the date of execution of the sentence” (PPL Article 76, paragraph 1) which means that duration of exclusion covers the duration of a penalty and period of five years since conclusion of the sentence.

⁴¹⁰ PPL, Article 33.

⁴¹¹ PPL, Article 33, paragraph 2.

⁴¹² DCM, Article 11.

⁴¹³ Albanian lek

⁴¹⁴ DCM, Article 11 (3).

⁴¹⁵ DCM, Article 56 (1).

⁴¹⁶ PPL, Article 41 (2) and DCM, Article 55 (1).

EU-compliant procedures are, according to the PPL, basically applied for low thresholds, minimum time periods in procurement procedures, as well as deadlines for submission of appeals in review procedures, are equal to EU time periods only in the cases above the high thresholds. The current “high” thresholds are significantly lower than in the case of the Public Procurement Directive. The explanation provided by the PPA during the assessment meeting, as a reason why the threshold for supplies and services contracts had not been adjusted to the EU threshold, was that to lower the threshold further would lead to a drastic increase of so called “international” procurement procedures. For these, implementing provisions require publication of the procurement documentation in English. This compliance gap resulting from lack of adjustment of thresholds is not negligible. In 2020, for example, 516 procedures concerning contracts above EU threshold values⁴¹⁷ were launched, and the total number of procedures above the high thresholds was 372⁴¹⁸. This meant that some EU-relevant contracts were in fact awarded in procedures that were not fully harmonised with EU directives. The compliance gap will be reduced, due to lowering of the high threshold for works contracts under the new rules, but will not disappear until thresholds for supplies and services are also adjusted. To conclude, the system of thresholds and obligations resulting from reaching relevant values requires thorough revision.

The PPL provides for grounds for exclusion, implementing both mandatory and optional grounds from the Directive, and making all of them obligatory for contracting authorities/entities⁴¹⁹. It does this, however, in a way that is not fully harmonised with EU law. More specifically, the PPL provides for obligatory exclusion in situations not provided in the EU law⁴²⁰. Furthermore, and some grounds for exclusion in Albania are also stricter for economic operators than they are in EU law. Additionally, the PPL provides for exclusion from the procurement procedures on the basis of a decision of the PPA⁴²¹. An “automatic” exclusion of this kind, with no possibility for contracting authorities to conduct a case-by-case assessment, is not consistent with CJEU case law.

Open competition with the publication of tender notices is generally required for the award of any contract, irrespective of its value and including low and small value purchases. Contract notices and contract award notices are published in the electronic system of public procurement, in a shortened version in the Bulletin of Public Announcements and, if they exceed the high threshold, also in the *Official Journal of the European Union*⁴²². The new PPL is intended to cover all procurement procedures and tools regulated in the EU directives. Basic award procedures and restricted procedures are open, while other procedures, including those without publication of bidding opportunities, can be applied only in strictly defined conditions, based on the EU requirements. It is noted, though, that in the case of the implementing rules for restricted procedures, some conditions restrict the freedom of contracting authorities to choose this procedure⁴²³. The national procurement framework has also for many years had a specific procedure, which EU directives do not allow, applied only in the case of consultancy services⁴²⁴. This procedure was apparently modelled on the EU restricted procedure, but the implementing rules provide for negotiations

⁴¹⁷ According to information provided by the PPA on statistics for 2020.

⁴¹⁸ SIGMA’s calculation, based on the PPA Annual Report for 2020, of the total number of “international” open and restricted procedures.

⁴¹⁹ PPL, Article 76.

⁴²⁰ Article 76, paragraph 3, point h), “the economic operator has withdrawn from the signing of the contract in a procurement procedure conducted by the contracting authority or entity itself. This condition applies within one calendar year of withdrawal”.

⁴²¹ PPL, Article 78.

⁴²² Although, in accordance with implementing regulations, this obligation applies only if derives from obligations of Albania towards EU institutions; DCM Article 24, paragraph 3.

⁴²³ DCM, Article 48, paragraph 2.

⁴²⁴ “Consultancy contracts” are defined as public contracts for consultancy services, of an intellectual and advisory nature, excluding other types of services, where the physical aspects of the activity prevail.

with qualified candidates⁴²⁵, in what appears to be an error in drafting legal rules, which should be corrected⁴²⁶. Utilities procurement is regulated in a separate chapter of the PPL. Unlike the earlier PPL, the new provisions give utilities contracting entities more flexibility in awarding contracts⁴²⁷.

Primary legislation is supplemented by mandatory comprehensive secondary and tertiary legislation, which in theory reflects the same key principles as the primary legislation and promotes sound and efficient procurement. In some cases, though, the provisions also impose additional administrative burdens on contracting authorities, without adding value in increased transparency and competition. The implementing rules are comprised of the DCM, instructions, guidance documentation, templates and standard tender and contract documentation. The DCM deals with issues not regulated or only generally regulated by the PPL⁴²⁸ and provides for further procedural details⁴²⁹ but also some additional safeguards or restrictions on the application of PPL provisions⁴³⁰. In some cases, implementing rules go further than the PPL, explicitly imposing obligations on contracting authorities⁴³¹. The implementing rules are thus not free from overregulation and unnecessarily bureaucratic approaches. A case in point is the obligation of contracting authorities to use public procurement documents in Albanian and in English in all procedures above high thresholds and to accept tenders submitted in English, regardless of specific circumstances and the needs of purchasers. This obligation, which stems not from the PPL but from secondary legislation, adds to the costs of procurement, without adding obvious benefits in the form of increased competition. As a result, in 2020, only nine foreign companies won procurement procedures in Albania⁴³². The Government adopted the Common Procurement Vocabulary, which defines codes to be used in description of objects of procurement, on 30 July 2021⁴³³. The last important piece of secondary legislation missing, the Government's decision defining rules on award of contracts for social and other special services, has not yet been adopted at the time of writing⁴³⁴, although a draft has been published on the PPA website⁴³⁵.

The Budget Law and its complementary secondary legislation under the MoFE are also important elements of the existing regulatory and operational framework for public procurement. Prior approval procedures and the ban on publication of invitations to tender between 15 October and 31 December of a given year originate from financial regulations⁴³⁶. This prohibition, however, concerns only contracts

⁴²⁵ DCM, Article 54, paragraph 7.

⁴²⁶ During the assessment clarification meeting, the PPA confirmed that negotiations with bidders before selection of the best tender were never intended to be a part of this procedure.

⁴²⁷ This includes, for example, the possibility of using qualification systems and the more flexible type of the negotiated procedure with publication of a contract notice and shorter minimum time periods in procurement procedures.

⁴²⁸ For example, definitions of services exempted from the PPL or subject to more flexible rules, minimum content of procurement forecasts, notices and documentation.

⁴²⁹ For example, more detailed rules on bond and performance securities, publication of notices and details related to tender documentation.

⁴³⁰ For example, the PPL requires limitations (conditions) on application of the restricted procedure or the obligation to use price/quality criteria in consultancy services procedures but the DCM does not.

⁴³¹ For instance, the obligation to divide contracts into lots or recommendations concerning use of other than price criteria.

⁴³² PPA Annual Report for 2020.

⁴³³ DCM No. 457 of 30 July 2021 on adoption of the Common Procurement Vocabulary.

⁴³⁴ 16 August 2021.

⁴³⁵ <http://www.app.gov.al/dokumenta-p%C3%ABr-konsultim/konsultim-mbi-p%C3%ABrcaktimin-e-sh%C3%ABrbime-ve-sociale-dhe-sh%C3%ABrbimeve-t%C3%AB-tjera-specifike-dhe-miratimin-e-rregullave-p%C3%ABr-prokurimin-e-tyre/>.

⁴³⁶ DCM No. 807 of 16 November 2016 on Disciplining the Budget Commitments.

financed with funds that must be spent in the year in which the contract is awarded, and does not apply to contracts funded by multiyear budgets.

Normative Act No. 9, “On Addressing the Consequences of Natural Disasters” contains specific provisions used in procurement procedures for reconstruction. They are based on the principle of transparency and competitiveness, but set relatively short periods for submission of tenders (10 days) and periods for submission of appeals that are shorter than required by the EU Remedies Directive.

The Defence and Security Procurement Directive 2009/81/EC has been fully implemented by Law No. 36/2020 on Public Procurement in the Field of Defence and Security. It is supplemented by implementing regulations adopted by the Government⁴³⁷ and mandatory standard documents prepared by the PPA⁴³⁸.

Award of concessions and PPP projects is regulated by CPPPL No. 125/2013, which in many important respects was modelled on EU Directive 2014/23/EU. Under the CPPPL, concessions (both works and services concessions) and PPP award procedures are required to be conducted in accordance with the provisions of the PPL for works and services contracts. Since concession award procedures have to follow the formal requirements of procurement procedures under the PPL, the award of concessions process under the CPPPL is much stricter than under the Concessions Directive⁴³⁹. The list of exemptions from the CPPPL does not go beyond those permitted by the EU law, with the exception of construction and utilisation of renewable energy sources⁴⁴⁰. PPL’s review and remedies provisions also apply to the award of concessions and PPP contracts. The CPPPL already incorporates most of the requirements of the recent Concessions Directive, but harmonisation is not complete⁴⁴¹.

Conclusion

After the new PPL was adopted in December 2020, the compliance gap was significantly reduced and is limited to only a few provisions that are not compliant. However, due to application of higher than in the EU Public Procurement Directive thresholds for supplies and services contracts, the minimum periods applied in procedures on contracts covered by the Public Procurement Directives, as well as deadlines for submission appeals, are shorter than required by the *acquis*. Overall, the national regulatory framework on public procurement is more prescriptive and rigorous than the EU Directives. Some provisions of the implementing regulations reduce the scope of application of EU-based rules under the PPL. The mandatory standard documentation used in public procurement is comprehensive, detailed and of generally high quality. At the same time, since it is so prescriptive, it limits options and solutions that should be available to contracting authorities (entities), for example as regards criteria and methods of evaluation of tenders. The CPPPL and its implementing regulations on concessions and PPPs mostly comply with the EU Concessions Directive, although the harmonisation in that field is not complete and some provisions are still not compliant.

⁴³⁷ DCM No. 1170 on Adoption of Regulations on Procurement in the Field of Defence and Security Procurement, of 24 December 2020.

⁴³⁸ <http://www.app.gov.al/legjislacioni/prokurimet-ne-fushen-e-mbrojtjes-dhe-te-sigurise/dst/>.


⁴³⁹ Where contracting authorities (entities) can define the award procedure themselves, complying only with some basic requirements set in the Directive.

⁴⁴⁰ CPPPL, Article 5.

⁴⁴¹ For example, the definition of contracting authorities provided in Article 13 of the CPPPL is not harmonised with the Concessions Directive. The CPPPL states: “1. Contracting authorities shall be the bodies, to which the law grants the authorities to undertake a procedure for awarding concessions/public private partnerships. 2. The Contracting Authorities are: a) the line ministries; b) the local governing units.” The personal scope of the law is thus narrower than that of the Concessions Directive.

Principle 11: There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.

Overall, the value for the indicator 'Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently' is 5, a significant improvement on the score of 3 in 2017. This is mostly due to adoption of a comprehensive public procurement strategy, as well as to the increased administrative capacity of the PPA and better distribution of tasks related to PPP/concessions.

Indicator 6.11.1 - Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently						
This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies is open and transparent.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Quality of the policy framework for public procurement						
1. Quality of the strategy for development of public procurement and PPPs/concessions					5/5	+3
2. Quality of the operational action plan					5/5	+3
3. Implementation of the strategy and the action plan (%)					3/5	+2
4. Monitoring of strategy implementation					5/5	=
Capability of central procurement institutions and their performance						
5. Adequacy of the legal framework to ensure capable institutions					10/10	=
6. Clarity in definition and distribution of central procurement functions in the legislation					10/10	=
7. Performance of the institutions involved, their capacity and resources					20/20	+6
Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement						
8. Presence and quality of monitoring and data collection					8/10	+2
9. Accessibility of public procurement data					10/10	=
Total					76/80	+16

A national Public Procurement Strategy covering the period 2020-2023 deals with all key aspects of the policy framework, both for public procurement and concessions⁴⁴². The Strategy was adopted after an extensive process of public consultations. It envisages a comprehensive set of activities in the field of public contracts, concessions and PPPs. The Strategy also covers issues of institutional framework, review (remedies), defence and security procurement, as well as social and environment procurement. An integral part of the Strategy is the Implementation Plan, covering the whole period and setting out the goals to achieve, the institutions responsible for relevant activities, the benchmarks to assess progress and providing information about indicative costing. Implementation of the Strategy must be monitored regularly, according to the methodology described in Part III of the Strategy.

There is a clear political and legal mandate for an entity with a policy-making function to initiate, outline, implement and monitor public procurement reform. The PPA, reporting to the Prime Minister, and financed by the State Budget⁴⁴³, is the central public procurement body. Its role is to oversee the public procurement system to ensure efficiency and transparency in the public procurement process. The PPA is led by a

⁴⁴² <http://www.app.gov.al/GetData/DownloadDoc?documentId=4b54d140-e98b-434b-abfb-d3966453b8dd>.

⁴⁴³ PPL, Article 13, paragraph 1.

General Director, appointed according to the established general terms and conditions for civil service employment.

The PPA is divided into three departments: the Legal, Verification and Integration Department, the Co-ordination and Monitoring Department and the Department of Data Administration and Publication⁴⁴⁴. There is also a Finance and Human Resources Unit that does not fall under any department but is directly accountable to the General Director. The PPA has 44 full-time employee positions at present, 6 in support functions and 38 in the performance of public procurement functions (4 of these positions are currently vacant). The number of employee positions is higher than in previous years.

The PPA has a wide range of functions. It drafts procurement legislation (both primary and secondary); provides advice and assistance in public procurement to ensure proper implementation of the legal framework for public procurement; verifies the implementation of the legality of public procurement procedures; monitors execution of contracts; imposes fines for violation of relevant rules; excludes economic operators from public procurement procedures for specific misconduct; analyses public procurement data and prepares statistical reports; co-operates with international institutions and other foreign entities on issues that relate to the public procurement system; and co-operates with contracting authorities, the PPC and other institutions, as well as the auditing bodies, on issues related to the public procurement system. In brief, the PPA is responsible for developing, implementing and monitoring public procurement policy as well as the practical functioning of the system. One of the functions of the PPA, excluding economic operators from participating in public procurement for a certain time period, does not comply with the EU standards as interpreted by the case law of the CJEU. It is because decisions of the PPA are binding for all contracting authorities and relevant provisions do not allow them to conduct case-by-case assessment whether the concerned economic operator, in the light of alleged wrongdoing, should be excluded or not from a given procurement procedure.

The PPA is also responsible for administration of data provided and exchanged within the electronic public procurement system (EPS)⁴⁴⁵, while the National Agency of Information Society (NAIS) is responsible for the operation of EPS.

The PPA is also responsible for operating the electronic public procurement system⁴⁴⁶, while maintenance is done by a private-sector contractor. This system covers public procurement, PPPs and concessions, and public auctions. The system enables the PPA to collect relevant data, which is then presented in annual reports submitted to the Prime Minister and published on the PPA website⁴⁴⁷.

The PPA performs oversight of compliance of public procurement in accordance with the PPL⁴⁴⁸ and implementing regulations⁴⁴⁹. It conducts an administrative investigation to verify the legal compliance of public procurement procedures, including exclusion of economic operators, after the conclusion of a contract by the contracting authority (entity). An investigation may be launched within three years of concluding a contract, cancellation of the procedure or exclusion of an economic operator. The PPA also monitors implementation of procurement contracts.

In the field of PPPs/concessions, the MoFE and ATRAKO are key pillars of the system, but the PPA also plays a role. The co-ordination arrangements and allocation of responsibilities and tasks between the PPA

⁴⁴⁴ The current structure and number of staff of the PPA is approved by PM Order No. 54, of 15 March 2019 "On the Approval of the Structure and Staff of the Public Procurement Agency".

⁴⁴⁵ <http://www.app.gov.al/e-prokurim>.

⁴⁴⁶ <http://www.app.gov.al/e-prokurim>.

⁴⁴⁷ <http://www.app.gov.al/rreth-nesh/analizat-vjetore>.

⁴⁴⁸ PPL, Article 129.

⁴⁴⁹ DCM, Articles 109-112.

and ATRAKO are established in the regulatory framework⁴⁵⁰ ATRAKO's role⁴⁵¹ is to encourage and assist contracting authorities in identifying, evaluating and negotiating concessions and PPPs. In particular, ATRAKO is to support contracting authorities in drafting feasibility studies, competitive procedure documents and the evaluation criteria; evaluating proposals and choosing the best tender; negotiating and signing the concession contract; and monitoring implementation of concession contracts. ATRAKO should also propose to MoFE the amendment of concessions/public private partnerships legislation, as well as guidelines to implement the provisions of this law; monitor, analyse and study the current European and global trends; share knowledge and experience in the field of concessions/PPP; co-operate with the PPA on drafting and publishing standard concession/PPP documents; submitting for approval to the Concession/PPP Projects Selection Committee requests of contracting authorities for support with specialised expertise in designing feasibility studies of concession/PPP projects; conducting the procedures of selecting external consultants, and so on. At the moment of writing, ATRAKO is composed of a Chairperson, two directors and nine specialists⁴⁵².

The MoFE has the authority and obligation to analyse the fiscal impact of project proposals to establish budget acceptability and to secure fiscal sustainability in the long term. To this end, it has the power and responsibility to integrate concessions and PPP investments into the long-term budget framework and to ensure that any contract modifications are approached with the same fiscally responsible rationale. Finally, the PPA monitors compliance with concession/PPP procedures under public procurement legislation after the contract is signed, and if violations are identified, imposes fines or proposes taking administrative action. It has the authority to exclude an economic operator from the award of public contracts on the basis of the PPL provisions; and to publish standard tender documents⁴⁵³. The PPA website publishes a set of standard tender documents on works and service concessions⁴⁵⁴.

Conclusion

The PPA is a well-established and functioning institution in the public procurement system. However, in view of the many new challenges, its role should be redesigned to focus on its efficiency and appropriateness, as well as to ensure compliance with relevant EU requirements. In particular, the PPA's involvement in excluding economic operators from participation in public procurement (by establishing a "black list") should be reconsidered, because the current model is not compliant with the EU standards as interpreted by CJEU case law. In addition, there is a need for stronger policy co-ordination and consultation functions in the overall institutional framework for public procurement. New provisions requiring co-operation between the PPA and PPC, as well as the recent practice of joint elaboration by the PPA and PPC, as well as ATRAKO, of some documents and standard forms, are good examples of such co-ordination. As for concessions and PPPs, ATRAKO's capacity and capabilities need to be strengthened.

⁴⁵⁰ Law No. 125/2013 on Concessions and Public-Private Partnership, modified in 2014, 2015 and 2019 (CPPPL).

⁴⁵¹ CPPPL, Article 12.


⁴⁵² According to the chart published on ATRAKO's website: http://atrako.gov.al/?page_id=82.

⁴⁵³ CPPPL, Article 11.

⁴⁵⁴ <http://www.app.gov.al/legjislacioni/koncesionetppp/dokumente-standarte/>.

Principle 12: The remedies system is aligned with the European Union acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.

Overall, the value for the indicator 'Independence, timeliness and competence of the complaints handling system' is 5. This is a significant improvement on the 2017 value of 3. This is mainly due to the adoption of new provisions on review and remedies in implementing the remaining rules of Procurement Review Directives, as well as the PPC's improved efficiency in dealing with appeals.

Indicator 6.12.1 - Independence, timeliness and competence of the complaints handling system						
This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed, specifically in terms of compliance with EU Directives. Then, the strength of the institutional set-up for handling complaints is analysed. Next, the actual performance of the review system is measured. Finally, the performance of the remedies system for PPPs/concessions is evaluated.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Legislative mechanisms for handling complaints in compliance with EU Directives						
1. Right to challenge public procurement decisions					5/5	+1
2. Time limit for challenging decisions taken by contracting authorities/entities					0/2	-2
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties					3/3	+2
4. Mechanisms to ensure implementation of the review body's resolutions					2/2	+2
5. Right to challenge decisions of the review body					3/3	=
Institutional set-up for handling complaints						
6. Legal provisions ensure the independence of the review body and its members					7/7	+2
7. Adequacy of the organisational set-up and procedures of the review body					3/4	=
8. Public availability and timeliness of data on the review system					4/4	+1
Performance of the review system						
9. Fairness of fee rates for initiating review procedures					1/3	=
10. Actual processing time of complaints					2/3	+1
11. Complaint submission in practice					4/4	+3
12. Quality of decision making by the review body					4/4	+2
13. Cases changed or returned after verification by the court (%)					1/2	-1
Performance of the remedies system in PPPs/concessions						
14. Right to challenge lawfulness of actions/omissions in PPP/concessions procedures					5/5	=
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members					5/5	=
16. Timeliness and effectiveness of complaints handling system for PPPs/concessions					5/5	+2
Total					54/61	+13

Economic operators are entitled to challenge decisions of contracting authorities in procedures concerning contracts both above and below the EU financial thresholds⁴⁵⁵. There is no discrimination in the PPL against economic operators as regards access to those measures on the basis of their seat or organisational form. Neither is the right to appeal limited by a type of a public procurement procedure⁴⁵⁶ (it also applies to negotiated procedures without contract publication). The PPC, as the highest

⁴⁵⁵ PPL, Article 110.

⁴⁵⁶ PPL, Article 110, paragraph 5.

administrative body in the field of procurement, reviews complaints related to public procurement procedures, as well as concessions and PPPs. It also deals with appeals that are not related to public procurement submitted in the context of public auctions⁴⁵⁷ and competition procedures for mining permits. The PPC, established in 2010⁴⁵⁸, is a collegial body composed of five members, one acting as the Chair and another as Deputy Chair. Since the amendment of the PPL in 2017, all PPC members have been appointed by the Parliament, upon proposal of the CoM, for a five-year mandate, with the right of reappointment for a maximum of one more mandate. The PPC's members are supported by a maximum of 15 inspectors and some administrative staff (the PPC's total staff at the time of writing is 24 employees)⁴⁵⁹. The organisational chart and number of the PPC's staff were approved by the Parliament⁴⁶⁰, and details of the organisation and operation of the PPC are regulated in internal rules established by the PPC⁴⁶¹. At the end of 2020, 70% of the posts in the PPC were filled⁴⁶². The new PPL explicitly stipulates that the PPA and PPC should co-operate on issues related to the public procurement system⁴⁶³.

Appeals in public procurement procedures are to be submitted simultaneously to the PPC and the contracting authority concerned⁴⁶⁴, in accordance with the relevant forms⁴⁶⁵ and with payment of an appeal fee⁴⁶⁶. The contracting authority deals with the appeal first and the PPC is only involved later, if: 1) the appeal is rejected or 2) only partly accepted by the contracting authority or 3) another participant of the procurement procedure (an "interested economic operator") submits a complaint against a decision of the contracting authority accepting an appeal that has been submitted⁴⁶⁷. Time limits for seeking review of decisions of contracting authorities above the EU thresholds are equal to those required by provisions of the Remedies Directives for those above the high thresholds under the PPL and are shorter below those thresholds⁴⁶⁸. Appeals concerning contracts valued at less than the low monetary thresholds must be submitted within two days of publication of the award notice in the electronic procurement system and are reviewed by the administrative court⁴⁶⁹.

Since the threshold for supplies and services contracts established by the DCM⁴⁷⁰ is higher than in the relevant EU rules⁴⁷¹, provisions on appeal time periods are not fully harmonised with the *acquis*. Shorter time periods are applied in Albania on some contracts which, given their value, should be covered by EU procurement directives. Another case of non-compliance with the *acquis* concerns time periods applied in

⁴⁵⁷ Public auctions are used in accordance with Law No. 9784 of 14 February 2008 "On Public Auctions", when public property or shares in public companies are sold to the public.

⁴⁵⁸ On the basis of Law No. 10170, dated 22 October 2009, "On Some Amendments and Addenda to Law No. 9643", dated 20 November 2006, "On Public Procurement", as amended.

⁴⁵⁹ Calculated on the basis of a chart published by PPC at: <https://www.kpp.gov.al/en/Organigrama>.

⁴⁶⁰ Decision No. 65, dated 29 October 2020, "On the Approval of the Organisational Chart, Staff and Classification of Job Positions of the Public Procurement Commission".

⁴⁶¹ Rulebook on the organisation and functioning of the PPC, which was approved by the Decision of the PPC, No. 596/2018, of 12 September 2018.

⁴⁶² PPC Annual Report for 2020.

⁴⁶³ PPL, Article 32, paragraph 5.

⁴⁶⁴ PPL, Article 111, paragraph 1.

⁴⁶⁵ These are published at the website of the PPC: <file:///C:/Users/Darek/AppData/Local/Temp/Formularilankeses.pdf>.

⁴⁶⁶ It currently amounts to 0.5% of the so-called limit fund for a given procurement procedure. There is no upper limit on the fee.

⁴⁶⁷ PPL, Article 118, paragraph 1.

⁴⁶⁸ PPL, Article 110, paragraphs 1 to 4.

⁴⁶⁹ PPL, Article 116.

⁴⁷⁰ ALL 40 million for supplies and services (ca. EUR 327 000).

⁴⁷¹ This issue is discussed in detail in Principle 10.

the case of contracts awarded on the basis of the Normative Act on Combating Natural Disasters. Here the time period for appeal to the PPC is only three days, far too short to comply with the EU *acquis*.

The new PPL also contains other provisions required by the EU Procurement Remedies Directives: provisions on invalidity of contracts, which transpose EU provisions on ineffectiveness of contracts⁴⁷², alternative penalties applied in the event the PPC decides not to annul the contract⁴⁷³ and suspension of the public procurement procedure until a decision is taken by the PPC⁴⁷⁴.

The PPC has to conclude its review with a decision adopted within 30 days of receiving information or documentation from the contracting authority (entity), in case of procurement above the high monetary threshold, and 20 days below this threshold. This is longer than under the previous law, where it was 15 days with the possibility of further extension for another 15 days. In 2020, the median duration of the review procedures was 20 days, an improvement on the previous periods (42 days in 2018 and 28 days in 2019)⁴⁷⁵. The PPC is entitled to adopt all types of rulings required by the Procurement Remedies Directives, including invalidation of illegally concluded contracts⁴⁷⁶. On the basis of a declarative ruling by the PPC, aggrieved economic operators may also seek court damages⁴⁷⁷. There are also provisions ensuring enforcement of rules on review: contracting authorities are financially penalised for not respecting provisions concerning the standstill period and the obligation to suspend the procurement procedure⁴⁷⁸; a financial penalty is also provided for in the PPL for lack of co-operation with the PPC⁴⁷⁹. Analysis of a sample of decisions adopted by the PPC shows that its rulings are based on the applicable provisions; reflect the principles of transparency, competition and equal treatment; contain information about resolution of complaints and sanctions with reference to legal provisions; and provided for a clear rationale. The PPC does not focus on purely formal errors or omissions, in particular those that do not affect the outcome of the procurement procedure.

The number of appeals submitted to the PPC has fallen since its peak in 2016 (1 393): 1 099 in 2017, 1 158 in 2018, 1 052 in 2019 and only 741 appeals in 2020. One reason for this is that many fewer appeals are submitted on procedures for the award of security services. The drop in the number of complaints allowed the PPC to better respect review decision deadlines: in 2020, the PPC's decision was made after the deadline prescribed by the PPL in 22.5% of cases (167 appeals), while in 2016, it was the case in 72%. Of a total of 741 complaints submitted in 2020, 216 (29%) concerned tender documents⁴⁸⁰ and about 525 (71%) were complaints submitted against the bid evaluation⁴⁸¹.

⁴⁷² PPL, Article 119.

⁴⁷³ PPL, Article 119, paragraphs 3 and 4.

⁴⁷⁴ PPL, Article 118, paragraph 2.

⁴⁷⁵ PPC Annual Reports.

⁴⁷⁶ PPL, Article 118.

⁴⁷⁷ PPL, Article 118, paragraph 3, point c.

⁴⁷⁸ PPL, Article 132, paragraph 1, point j.

⁴⁷⁹ PPL, Article 131.

⁴⁸⁰ Application of provisions on estimating the limit fund, selecting the type of procedure according to the respective monetary time limits for tender documents and notices related to them; technical specifications; requirements concerning qualification criteria and evidence of their fulfilment; respecting principles of equality and non-discrimination in cases when contracting authorities set quality requirements that are redundant, unnecessary or unrelated to the procurement object for national or international certification and accreditation.

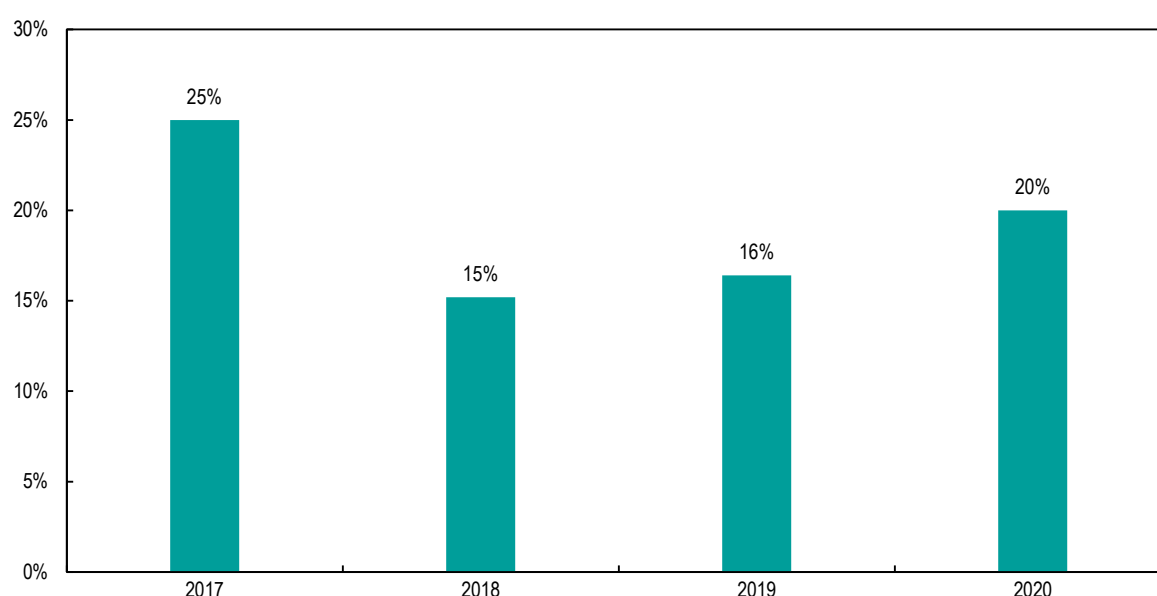
⁴⁸¹ Disqualification of the complainant; disqualification for failing to fulfil the qualification criteria and/or technical specifications, which is unfair and not based on the law and the procurement rules; qualification of other bidders other than the complainant when the qualification is unfair and is not based on the law and on the procurement rules; circumventing the requirements that the contracting authorities themselves have set to fulfil the qualification criteria and/or technical specifications; failure to respect the notification and communication rules with participants in a

Table 4. Types of decisions of the PPC 2019-2020⁴⁸².

	2019	2020
Accepted complaints	35.05%	49.06%
Complaints rejected	45.72%	48.4%
Dismissed for formal reasons	19.02%	1.9%

Source: PPC Annual Report for 2019 and 2020

Decisions taken by the Commission are administratively final but can be appealed before the Administrative Court of Appeal⁴⁸³.

Figure 3. Share of PPC decisions overturned by the administrative court

Source: PPC Annual Reports.

All decisions adopted by the PPC are published in full on its website, with a rationale, immediately after their adoption⁴⁸⁴. The new website together with the e-Albania platform will serve to access the new complaint management and filing system. The new website of the PPC⁴⁸⁵ was put in operation in April 2021. It contains the register of complaints, PPC's decisions as well as decision history. It sets new standards of data publication, based on the principle of open data as well as the principles of transparency, efficiency and de-bureaucratisation of services.

The new complaint review system, which will enable online interaction by economic operators on filing complaints as well as interaction with contracting authorities, is expected to be operational in November 2021.

procurement procedure; failure of the contracting authorities to respect the time limits and selection and qualification procedures by asking for the cancellation of the procedure.

⁴⁸² The table also includes decisions on procedures related to concessions, public auctions and mining permits.

⁴⁸³ PPL, Article 30 paragraph 2 and Article 121.

⁴⁸⁴ <https://www.kpp.gov.al/Historiku?nrVendimi=&OperatoriEkonomik=&idOperatori=0&autoritetiKotraktues=&id=#>.

⁴⁸⁵ <https://www.kpp.gov.al/>.

Tenders and awards under the CPPPL are subject to the same review and remedies system. Appeals are also reviewed by the PPC, with some differences, such as the amount of the fee required for submitted appeals⁴⁸⁶. Decisions adopted on the basis of the CPPPL represent a small fraction of the PPC's activities. In 2020, only one complaint was submitted on concessions procedures⁴⁸⁷ (which is not surprising, since only a single concession procedure was launched in 2020).

Conclusion


Appeals of economic operators are reviewed by an independent procurement review body (PPC). They can be submitted regardless of the stage and type of the procurement procedure. The new PPL implemented the remaining review provisions and requirements stemming from the relevant rules of the EU Procurement Remedies Directive. Due to the high thresholds (higher than those of the EU) the periods for appeals are not fully harmonised with the EU (in the case of supplies and services contracts). The PPC's performance has greatly improved in compliance with time periods for decision making and on the share of decisions overturned by the administrative court. The new appeal system managed by the PPC significantly increased transparency of the review process.

⁴⁸⁶ In the case of concessions, the appeal fee is 10% of the value of the bid security, in cases when it is requested by the contracting authority, or 0.2% of the estimated value of the concession contract appealed.

⁴⁸⁷ PPC Annual Report for 2020.

Principle 13: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.

Overall, the value for the indicator 'Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations' is 3, an improvement on the value of 2 in 2017. The progress is mainly due to improvements in transparency and competition in public procurement (expressed in terms of share of negotiated procedures without previous publication and average number of tenders), as well as a lower number of cancelled procedures and increased use of modern procurement techniques and methods.

Indicator 6.13.1 - Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations						
This indicator measures the extent to which public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring most efficient use of public funds. It measures performance in the planning and preparation of public procurement, the transparency and competitiveness of the procedures used, the extent to which modern approaches and tools are applied, and how the contracts are managed once they have been concluded.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
			Points 2021	Change from 2017		
Planning and preparation of the public procurement procedure						
1. Due attention is given to the planning process			5/5	+3		
2. Presence and use of cost estimation methods and budgeting			2/2	=		
3. Perceived quality of tender documentation by contracting authorities and economic operators (%)			2/4	-1		
Competitiveness and transparency of conducted procedures						
4. Perceived fairness of procedures by businesses (%)			4/4	=		
5. Contracts awarded by competitive procedures (%)			4/5	+1		
6. Contracts awarded based on acquisition price only (%)			0/5	=		
7. Average number of tenders submitted per competitive procedure			1/3	-1		
8. Contracts awarded when one tenderer submitted a tender (%)			1/2	=		
Use of modern procurement methods						
9. Adequacy of regulatory framework for and use of framework agreements			3/5	+2		
10. Adequacy of regulatory and institutional framework and use of centralised purchasing			4/5	+1		
11. Penetration of e procurement within the procurement system			5/5	+1		
Contract management and performance monitoring						
12. Presence of mechanisms requiring and enabling contract management			2/6	+2		
13. Contracts amended after award (%)			4/4	+3		
14. Use of <i>ex post</i> evaluation of the procurement process and of contract performance			3/6	+3		
Risk management for preserving the integrity of the public procurement system						
15. Existence of basic integrity tools			4/4	+2		
Total			44/65	+16		

Note: The point allocation in 2017 for sub-indicator 4 was revised retrospectively from 4 to 3 due to an error related to manual data entry.

The market for public contracts in Albania remains relatively small (EUR 1.75 billion in 2020)⁴⁸⁸ but it has doubled by comparison with the previous period (EUR 908 million in 2019). The recent increase in public expenditure is, in the PPA's opinion, directly related to the increased needs of contracting authorities in the context of the reconstruction process after the 2019 earthquake and the COVID-19 pandemic⁴⁸⁹.

In the opinion of most economic operators, the conditions for participation in public procurement procedure are fair and unbiased⁴⁹⁰. The overwhelming majority of contracting authorities and most economic operators consider standard forms of procurement documents produced by the PPA useful⁴⁹¹. When preparing tender documents, contracting authorities include inputs from market consultations, cost estimates, as well as any applicable budgetary constraints⁴⁹².

The legal and institutional frameworks of the public procurement system were designed specifically to ensure transparency, integrity and open competition in procurement operations and to exercise strong budget and transaction control, rather than to ensure efficient operation outcomes.

The e-procurement system (EPS) allows for electronic processing of public procurement and concession procedures, including publication of contract notices, downloading and uploading of tender documentation and tender submissions, and e-archiving. The platform has benefited the public procurement system in many ways, most visibly through increased transparency, easier access, simplification, lower transaction costs and improved data collection and monitoring. Contracting authorities are required to draft Annual Forecasts of public procurement procedures⁴⁹³, in the form and manner set out in the PPA guidelines⁴⁹⁴. Forecasts, and their updates, are published on the PPA website⁴⁹⁵.

All contracting authorities are required to use EPS for all transactions above the threshold of ALL 100 000, the minimum value of contracts covered by public procurement provisions. Procurement rules require publication in the EPS and also information about very low-value transactions. In 2020, a total of 37 441 "items" were registered in the EPS (4 538, or 12.12%, were later annulled).

Figure 2 shows, 75% of the information reported in EPS in 2020 concerned contracts awarded in simplified procedures or directly, without competition (below the ALL 800 000 threshold).

⁴⁸⁸ This is the total fund limit of procurement procedures published in EPPS, according to the PPA Annual Report for 2020.

⁴⁸⁹ PPA Annual Report for 2020, p. 9.

⁴⁹⁰ According to the Balkan Business Opinion Barometer, of companies that decided not to take part in public procurement procedures, only 3% stated that "The criteria seemed to be tailor-made for certain participants", while 2% attributed this to "Unclear selection or evaluation criteria".

⁴⁹¹ In the SIGMA procurement survey of contracting authorities and the Balkan Business Barometer, conducted February-April 2021, 84.4% of contracting authorities and 51.6% of businesses found the standard forms and/or models "useful" or "very useful".

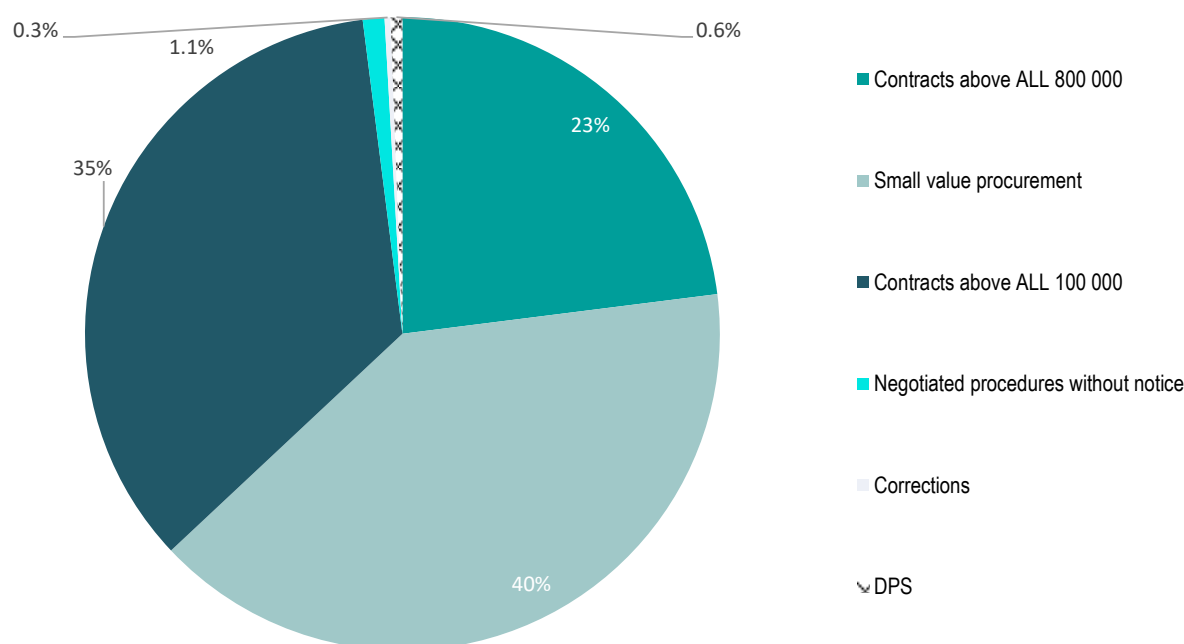
⁴⁹² The answers were provided by 52.1% of contracting authorities and economic operators participating in the SIGMA public procurement survey conducted in February-March 2021.

⁴⁹³ DCM, Article 3.

⁴⁹⁴ <http://www.app.gov.al/GetData/DownloadDoc?documentId=aae87207-13c2-432f-b734-010489513f08>.

⁴⁹⁵ <http://www.app.gov.al/regjistri-i-parashikimeve/>.

Figure 4. Distribution of types of information published in the electronic procurement system



Source: PPA Annual Report for 2020. ALL = Albanian lek.

In 2020, 6 440 contract notices were published of above the low-value threshold of ALL 800 000 (944 fewer than in 2019)⁴⁹⁶. Almost one in four contracts was awarded as a result of a procedure in which only one tender was submitted. In 2020, this was the case in 1 512 procurement procedures launched with publication of a contract notice.

Electronic instruments covered by the EU directives, such as dynamic purchasing systems and electronic auctions, are included in the new PPL, and regulated in more detail in secondary legislation, unlike it was the case in the previous PPL. Until now, only dynamic purchasing systems have been applied in practice.

To enhance participation of small and medium-sized enterprises (SMEs), the new public procurement rules promote division of procurement into lots. Contracting authorities are required to justify why they have not decided to divide procurement into lots in procurement above the high threshold (this is not obligatory in the case of utilities contracts). Implementing rules go even further, because they explicitly require division of procurement into lots wherever possible⁴⁹⁷. The PPL, in principle, provides for free choice between the lowest price and the best price/quality ratio⁴⁹⁸ and the PPL has no recommendation or obligation to use the best price/quality ratio, except in the consulting services procedure⁴⁹⁹. However, a preference for price/quality is clearly expressed in the implementing rules. Accordingly, the price as the only evaluation factor can be used in the case of works, goods or services, which have simple specifications, well-known technical standards and are easily available on the market. In practice, the “lowest price” criterion was in the past the only award criterion ever used (in 97.82% of procedures in 2020 and 98.3% in 2019)⁵⁰⁰. This will probably change, due to preferences for the price/quality criterion in new provisions, and activities of the PPA popularising use of this criterion. On the other hand, some provisions may create barriers to access to the public procurement market. A bid

⁴⁹⁶ PPA Annual Report for 2020, p. 16.

⁴⁹⁷ DCM, Article 42, paragraph 1.

⁴⁹⁸ PPL, Article 87, paragraph 2.

⁴⁹⁹ DCM, Article 54, paragraph 6.

⁵⁰⁰ PPA Annual Report for 2020.

security (at 2% of the procurement limit fund⁵⁰¹) is again obligatory for contracting authorities⁵⁰² in all public procurement procedures above the low monetary thresholds. In the previous law, it was optional, allowed in the case of procedures for contracts above high thresholds⁵⁰³. Bid securities are forfeited if the winning tenderer decides not to sign the contract. This is obviously a good solution, since the role of the bid security is to ensure that the bid is serious and binding for the bidder. However, since bidders who decline to sign the contract are currently subject to exclusion from future public procurement contracts (see above) a double penalty is imposed on the same misconduct.

As for public procurement procedures, the one most often used in 2020⁵⁰⁴ was the request for proposals (which, under the previous PPL, was the procedure that could be used for contracts valued at less than the low monetary threshold)⁵⁰⁵. This accounted for 60% of all procurement procedures. It is followed by the open “local” procedure (30%) and open “international” procedure (5%)⁵⁰⁶. In 2020, a significant increase in both the value and the number of international open procedures was noted, compared with the previous periods (332 contracts were awarded through this procedure in 2020, and only 47 in 2019)⁵⁰⁷. Other types of procedures, such as the restricted procedure or the consultancy services procedure, were applied very rarely (in 1% to 2% of cases)⁵⁰⁸.

⁵⁰¹ Limit fund is understood as the value of the contract to be awarded, without VAT, calculated by the contracting authority at the time of publication of the contract notice or at the time of commencement of the procurement procedure when publication is not required. The limit fund is obligatorily published in contract notices.

⁵⁰² It is optional in utilities contracts.

⁵⁰³ PPL 2006, Article 49, paragraph 1.

⁵⁰⁴ PPA Annual Report for 2020, p. 18.

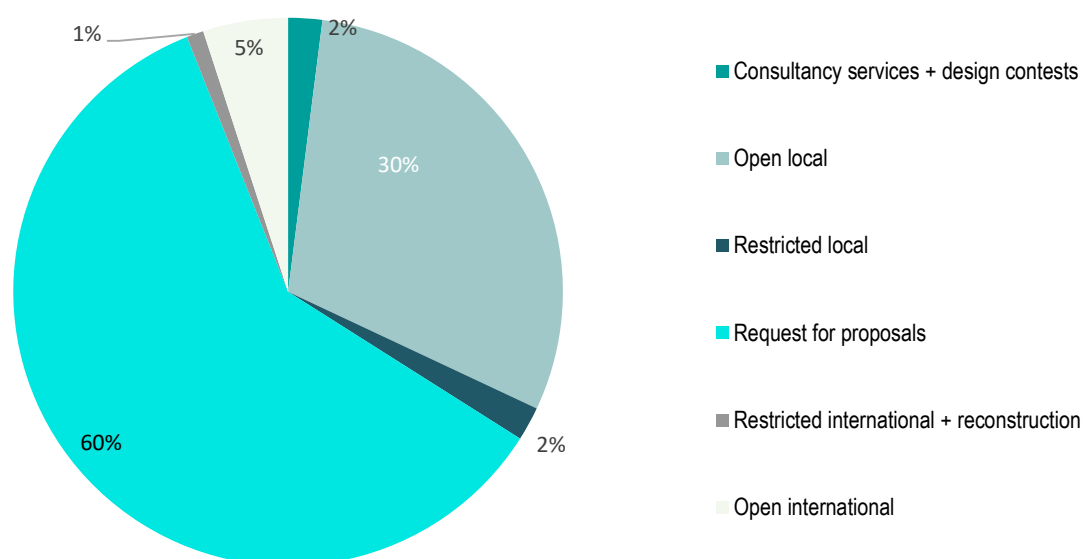
⁵⁰⁵ Under the new PPL, the request for proposal was replaced by the “simplified open procedure”, defined in detail in DCM (Article 55).

⁵⁰⁶ The terms “local” and “international” procurement procedures are not formal legal denominations used in procurement rules, but they have been used for years in statistical reports of the PPA. They refer to the distinction between procedures for award contracts above the low and below the high monetary threshold and for contracts above the high threshold. The latter require translation of procurement documentation into English and application of longer time periods for receipt of requests for participation and tenders; this distinction has been retained under the new PPL and new DCM.

⁵⁰⁷ PPA Annual Report for 2020, p. 16.

⁵⁰⁸ It is noted that in its annual reports, the PPA gives a number of consultancy services procedure together with design contests. This is not the correct way of reporting, given that the design contest is not a procurement method, since it does not lead directly to award of a contract.

Figure 5. Distribution of procurement methods



Source: PPA Annual Report for 2020.

The total number of negotiated procedures without previous publication of a contract notice in 2020 was 416, and their share in the total number of procedures amounted to 6%⁵⁰⁹, significantly more than in 2019, but less than in 2018 (respectively, 3.2%⁵¹⁰ and 9.4%⁵¹¹ of all procedures).

A significant part (45.9%) of contracts awarded in this procedure were for emergency purchase of drugs, medical supplies, disinfectants, medical equipment, food, etc. Contracting authorities also conducted 74 negotiated procedures (17.8%) without prior announcement in the framework of the Reconstruction process, to eliminate the consequences of the 26 November 2019 earthquake. In 2020, 127 procedures were published in the framework of the Reconstruction process, of which 100 were successfully conducted⁵¹².

The average number of tenders in public procurement above the ALL 800 000 threshold amounted to 2.57 in 2020 (2.37 in 2019 and 3.05 in 2018). There was much more competition in small value contracts: 11.6 tenders on average in 2020 and international restricted procedures applied in the context of the reconstruction process (23.38 bids in 2020)⁵¹³.

Detailed rules on use of framework agreements are provided in the implementing regulations⁵¹⁴. The application of framework agreements is supported by recommendations prepared by the PPA⁵¹⁵. Use of framework agreements was lower than in 2019 (677 procedures in 2020, to 812 procedures conducted in 2019) and remains at the same levels as in previous periods⁵¹⁶.

⁵⁰⁹ SIGMA calculation, on the basis of statistics published in PPA Annual Report for 2020, p. 23.

⁵¹⁰ PPA Annual Report for 2019, p. 33.

⁵¹¹ PPA Annual Report for 2018, p. 26.

⁵¹² PPA Annual Report for 2020.

⁵¹³ PPA Annual Report for 2020, 2019 and 2018.

⁵¹⁴ DCM, Articles 59-66.

⁵¹⁵ Recommendation of PPA No. 3842 of 22 June 2020, <http://www.app.gov.al/GetData/DownloadDoc?documentId=be93fa33-4f91-45f9-81e9-edefaf3615ea>.

⁵¹⁶ For example, according to the PPA Annual Report for 2017, there were 627 framework agreement procedures launched in 2017.

As for centralised procurement, significant progress in that area has been made. New procurement regulations provide for specific rules on centralised (and delegated) procurement⁵¹⁷. Centralised procurement is used for standard products and services of common interest. A central procurement agency (CPA), was established in 2018 under the domain of the Ministry of the Interior, and is subordinate to the minister. The CPA is responsible for the award of contracts for 24 categories of goods and services⁵¹⁸ defined in relevant implementing provisions⁵¹⁹. In 2020, 257 procurement procedures were launched by the CPA, of which 168 were concluded with the selection of the best tender in 2020; 40 procurement procedures were in the process of bid opening or bid evaluation at the beginning of 2021⁵²⁰.

In the field of concessions/PPP only one procedure was published in 2020⁵²¹. It did not lead to conclusion of a concession contract and was cancelled in December 2020. However, in previous years, more concessions/PPP projects were launched (6 and 7 in 2019 and 2018 respectively⁵²²).

Contract management is governed by mandatory standard contract conditions for goods, services and works that are an integral part of standard tender documents. Contract management is, however, a weak segment of the procurement process: the latest available reports of the SAI indicate systemic weaknesses in management of the contracts by contracting authorities⁵²³. The situation should improve in future, since the new PPL and DCM contain provisions on the execution of contracts, and in particular on monitoring them⁵²⁴. Public procurement rules also provide for mechanisms, including rules on conflict of interest and collusive practices, to identify and address corrupt and fraudulent practices⁵²⁵.

Internal regulation adopted by the PPA deals with details of *ex post* monitoring (verification) of the procurement procedures⁵²⁶. The regulation provides risk indicators applicable to the selection of the procurement procedures to be included in the monitoring plan of the PPA.

⁵¹⁷ DCM, Article 67.

⁵¹⁸ For example, fuel, stationery, furniture and equipment for office furniture, cleaning materials, uniforms, spare parts for vehicles, for prophylactic services, toners, vehicle insurance, food, cleaning services, painting and maintenance services, repair and maintenance of vehicles, printing and printing materials, security and physical security service.

⁵¹⁹ Decision No. 82 of 14 February 2018 on the Charging of the Concentrated Purchasing Agency for Performance of Public Procurement Procedures, on Behalf and for the Prime Minister, Ministers and Dependent Institutions, for Some Goods and Services.

⁵²⁰ PPA Annual Report for 2020.

⁵²¹ For the design, construction, operation, maintenance, rehabilitation and transfer of the road segment Milot-Thumanë-Kashar-Luzi i Vogël-Fier.

⁵²² PPA Annual Report for 2019 and 2018.

⁵²³ <http://www.parlament.al/Files/Kerkese/2021043011316shkresa%20dhe%20raporti%20KLSH%202020.pdf>.

⁵²⁴ PPL, Articles 122-125, DCM Articles 107-108.

⁵²⁵ PPL, Articles 18-22; there are also numerous references to the problems of conflict of interest and corruption in the DCM.

⁵²⁶ <http://www.app.gov.al/GetData/DownloadDoc?documentId=4a322e73-94b3-41c2-b5e6-52054fd8adc0>.

Conclusion

The procurement process is generally over-regulated, and the legal framework is too stringently prescriptive. The strong focus on open competition, with mandatory publication of tender notices as of relative low thresholds, has generated a high number of procurement opportunities but also generated costly transactions in the procurement system. The objectives of transparency, integrity and competition, although fundamentally positive, have been over-prioritised, as illustrated in the rules for procurement of small value purchases. The e-procurement system is comprehensive. The increased use of framework agreements is also a positive trend, but the secondary legislation should be more flexible and user-friendly. The procurement market is open and free of regulatory restrictions on participation, but competition expressed in the participation rate remains low, with the exception of small value contracts and big procurement, conducted in the field of the reconstruction process. Contract management is a weaker component of the procurement system. The situation in that regard, however, is expected to improve once new rules on implementation of contracts are applied and monitored.

Principle 14: Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.

Overall, the value for the indicator 'Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations' is 3, an improvement on the value of 2 in 2017. This progress is mainly due to the adoption of new rules on responsibilities, qualification and capacities of procurement staff, increased focus on preparation and management of procurement contracts, as well as the activities of the PPA and the Albanian School of Public Administration (ASPA) on training in the field of public procurement.

Indicator 6.14.1 - Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations

This indicator measures the availability and quality of support given to contracting authorities and economic operators to develop and improve the knowledge and professional skills of procurement officers and to advise them in preparing, conducting and managing public procurement operations. This support is usually provided by a central procurement institution.

This indicator does not directly measure the capacity of contracting authorities and entities. The assessment is of the scope of the support (whether all important stages of the procurement cycle are covered), its extent, and its quality and relevance for practitioners (whether it provides useful, practical guidance and examples). Surveys of contracting authorities and economic operators are used to gauge the relevance and practical applicability of the support.

Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
Availability and quality of manuals, guidelines, standard tender documents and other operational tools						
1. Availability and quality of manuals and guidelines				1/5	-2	
2. Availability and quality of standard tender documents, standard forms and standard contract models				5/5	=	
Availability and quality of training and advisory support						
3. Access to quality training for procurement staff				5/5	+4	
4. Availability of advice and support for contracting authorities and economic operators				4/5	+2	
Procurement procedures cancelled						
5. Procurement procedures cancelled (%)				1/5	-3	
Total				16/25	+1	

Note: Overall 2017 indicator value and its sub-indicators were revised retrospectively due to errors related to manual data entries. Points for sub-indicator 1 changed from 2 to 3, sub-indicator 2 from 4 to 5, sub-indicator 3 from 0 to 1 and sub-indicator 4 from 1 to 2. Due to the change, the 2017 indicator value changed from 2 to 3.

Contracting authorities (entities) are required to plan their public funds and needs in a proper and timely manner, and to procure and execute contracts in accordance with the legislation in force⁵²⁷. The new public procurement rules also require that in any contracting authority (entity), at least one person responsible for procurement be appointed to continuously administer the procurement process⁵²⁸. In addition, contracting authorities (entities) should also possess a procurement unit⁵²⁹ (if they do not have sufficient staff, they can request specialised staff from other organisations or hire external experts). A procurement unit should include a person responsible for the procurement and at least one specialist in the relevant field, if specialised knowledge of the procurement object is required⁵³⁰. The person responsible is required to have a university education⁵³¹. The PPA should be notified of that person's name and contact details. Contracting authorities (entities) are obliged to promote training of the responsible persons. Detailed tasks of responsible persons and procurement units are defined in public procurement rules⁵³². In addition, provisions also clearly define responsibilities of bid evaluation committees⁵³³.

Contracting authorities have access to a wide range of implementing guidelines for most steps of preparing, planning and conducting the tendering process. The overwhelming majority of contracting authorities, as well as most of the economic operators in Albania, positively assess guidelines prepared by the PPA⁵³⁴. Contracting authorities have to use templates and standard bidding documents developed by the PPA. After changes in the legal framework, a new set of standard tender documents was adopted in June and July 2021 and published on the website of the PPA⁵³⁵. Standard tender documents cover different types of procurement and all the methods of procurement envisaged in the PPL. They require use of clear, unbiased technical specifications, with conditions (including selection and contract award criteria) proportionate to the subject matter of the contract concerned. At the same time, they are so detailed and prescriptive, without leaving much space for contracting authorities to adjust their content to their specific needs, that the documents oblige contracting authorities to rely more on decisions of the PPA, rather than strengthening their capacity.

The contract management phase is less supported and regulated than the tendering phase, although new provisions are much more detailed than the old ones⁵³⁶. Sustainable procurement is becoming more relevant, and new provisions, following EU rules, regulate environment and social considerations in public procurement⁵³⁷.

The PPA provides interpretations, explanations and advice to contracting entities on application of the regulatory framework. In providing training, the PPA co-operates with the ASPA. Training activities cover

⁵²⁷ PPL, Article 21, paragraph 1.

⁵²⁸ PPL, Article 21, paragraph 4.

⁵²⁹ *Ibid.*

⁵³⁰ DCM, Article 74, paragraph 2.

⁵³¹ DCM, Article 74, paragraph 1.

⁵³² DCM, Article 74, paragraphs 3-4.

⁵³³ DCM, Article 75.

⁵³⁴ In SIGMA procurement survey of contracting authorities and Balkan Business Barometer, conducted February-April 2021, 81.1% of contracting authorities and 51.6% of businesses found the guidelines "useful" or "very useful".

⁵³⁵ <http://www.app.gov.al/legjislacioni/prokurimi-publik/dokumentet-standarte-t%C3%AB-tenderit/>.

⁵³⁶ DCM, Chapter XIII.

⁵³⁷ As regards description of the object of procurement, definition of contract award criteria and special conditions for performance of contracts.

not only general or specific procurement issues but also use of the electronic public procurement system. The PPA provides support and assistance on a constant basis to the contracting authorities for the preparation of the tender documents and technical specifications. In 2020, assistance was also provided for 37% of the published procurement procedures. Moreover, the PPA assists the contracting authorities (entities) and economic operators on a daily basis for any question or issue, legal or technical, via e-mail⁵³⁸ or the telephone help desk, which are put at their disposal. In 2020, the PPA answered 4 510 e-mails providing technical and legal assistance to contracting authorities or economic operators. A collection of good solutions for use in procurement procedures is also available on the PPA website⁵³⁹. Contracting entities were mostly satisfied with the support provided by the PPA, although only a third of economic operators taking part in a SIGMA survey were⁵⁴⁰.

To ensure a coherent approach to procurement, the PPA collaborates closely with the PPC on various issues concerning the public procurement system. For example, a new standard form for the submission of complaints was drafted and included in the set of the standard tendering documents adopted and published on the PPA website⁵⁴¹. A joint recommendation on the execution of the PPC's decisions from the contracting authorities was issued in 2020⁵⁴². It should be noted, however, that training materials available on the website of PPA were last updated in 2018. These will need to be significantly updated, given the adoption of a new public procurement legal framework. Furthermore, no comprehensive manual or article-by-article commentary is available on the provisions of the PPL and DCM covering the whole procurement process, and all the types of procurement procedures and tools that could be used by contracting authorities (entities) and economic operators. On the other hand, mandatory standard documentation prepared by the PPA is very detailed, closely follow legal provisions and since they are so prescriptive, do not leave room for errors on the part of the contracting authorities (entities).

The lack of a developed and institutionalised system for education and training in public procurement is still a problem. The issue of strengthening of skills and qualification of procurement staff is, however, becoming more relevant. In particular, professionalisation of the public procurement system is one of the main objectives of the NSPP. Training in public procurement, which is not mandatory or a part of a certification system, is provided by the ASPA, or by the PPA, alone or in co-operation with international organisations. It deals with such topics as, for example, framework agreements or tender evaluation methodologies. In 2020, the PPA trained 970 people (446 more than in 2019). Due to the pandemic, training sessions were held online, on topics such as: planning of public procurement, technical specifications, qualification of economic operators and selection of the best tender, small value procurement, public procurement in the pandemic, framework agreements, etc. The PPA also offered basic, intermediate and advanced training on public procurement. Training offered by the PPA is appreciated both by contracting authorities and economic operators⁵⁴³.

In the field of concessions/PPP, ATRAKO's website has a manual ("User's guide") prepared and published in 2016⁵⁴⁴. It now requires an update, however, after the changes in both the CPPPL and PPL.

⁵³⁸ At info.app@app.gov.al.

⁵³⁹ <http://www.app.gov.al/legjislacioni/prokurimi-publik/rekomandime/rekomandime-2020/>;
<http://app.gov.al/t%C3%AB-tjera/trajnime/pyetje-t%C3%AB-shpeshta/>.

⁵⁴⁰ In the SIGMA procurement survey of contracting authorities and the Balkan Business Barometer, conducted in February-April 2021, 75.7% of contracting authorities reported that the answers provided were generally helpful; 28.6% of businesses shared this view.

⁵⁴¹ <http://www.app.gov.al/legjislacioni/prokurimi-publik/dokumentet-standarte-t%C3%AB-tenderit/>.

⁵⁴² <http://www.app.gov.al/GetData/DownloadDoc?documentId=64de30cd-c0c7-45e7-b5fe-af44d26c18a2>.

⁵⁴³ In the SIGMA procurement survey of contracting authorities and the Balkan Business Barometer, conducted in February-April 2021, 77.9% of contracting authorities and 76.5% of businesses found the training "useful" or "very useful".

⁵⁴⁴ <http://www.atrako.gov.al/wp-content/uploads/2016/10/Users-Manual.pdf>.

Conclusion

Complementary secondary and tertiary legislation is readily available and comprehensive, but its mandatory nature and its inadequate adaptation to various needs and market circumstances affect the quality of these supporting instruments. In addition, the lack of institutionalised and systematic training in public procurement for procurement staff may be an impediment to the efficient and professional execution of procurement functions. No comprehensive manual or article-by-article commentary on the provisions of the PPL and DCM are available, covering the whole procurement process, all types of procurement procedures and tools. This could be used by contracting authorities (entities) and economic operators.

External audit

Principle 15: The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.

Overall, the value for the indicator ‘Independence of the supreme audit institution’ is 4. Although the perceived independence of the SAI by the public has improved, the overall value is the same as in the previous assessment in 2017.

Indicator 6.15.1 - Independence of the supreme audit institution						
This indicator measures the extent to which external audit by the supreme audit institution (SAI) is conducted independently, and the internationally recognised conditions for the effective functioning of the SAI are found in law and practice.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Constitutional and legal independence of the SAI					4/4	=
2. Organisational and managerial independence of the SAI					5/5	=
3. Adequacy of the SAI mandate and alignment with International Standards of Supreme Audit Institutions (ISSAIs)					3/3	=
4. Access to information and premises					1/1	=
5. Perceived independence of the SAI by the population (%)					1/3	+1
Total					14/16	+1

The State Supreme Audit Institution (SSAI) is established under the Constitution⁵⁴⁵, which mandates its independence and defines its role in broad terms. The Law on the Organisation and Function of the State Supreme Audit Institution 2015⁵⁴⁶ sets out in more detail the SSAI’s functional, operational and financial independence and provides the legal structure for its mandate and organisation. Taken together, the Constitution and the SSAI Law provide a framework consistent with the International Standards for Supreme Audit Institutions⁵⁴⁷.

The current Chair of the SAI, who, under the Constitution, has the immunity of a Supreme Court Judge⁵⁴⁸, was appointed to a seven-year term in July 2020 following the stipulated constitutional process⁵⁴⁹. The process involved nomination by the President and confirmation by a vote in Parliament. This followed an interregnum of 18 months after the conclusion of the previous Chair’s mandate in December 2018. Throughout this period, the SSAI continued to operate effectively, in accordance with its mandate, even though the absence of a substantive Chair for such a long period inevitably led to some loss of profile and strategic direction for the SSAI.

The SSAI submits its draft budget annually directly to the Economic and Financial Committee of the Parliament, which reviews it prior to approval by Parliament. The SSAI Law⁵⁵⁰ gives full authority to the SSAI to implement its budget independently from MoFE oversight, once approved by Parliament. The

⁵⁴⁵ Constitution of the Republic of Albania, Articles 162-165.

⁵⁴⁶ Law No.154/2014, Official Gazette, 6 February 2015.

⁵⁴⁷ The INTOSAI Framework of Professional Pronouncements, www.issai.org.

⁵⁴⁸ Constitution of the Republic of Albania, Article 165.

⁵⁴⁹ Constitution of the Republic of Albania, Article 162.

⁵⁵⁰ SSAI Law No. 154/2014, Article 7.

same Law⁵⁵¹ gives the Chairman of the SSAI the broad authority to determine the organisation and management of the SAI and to determine recruitment policies and staff salaries. There were no challenges to the exercise of these authorities in the period 2017 to 2020.

The SSAI has a sufficiently broad mandate covering the authority to audit budget implementation and revenue collection by the government, as well as the use, management and protection of public funds and public or state property⁵⁵². It is also entitled to audit the users of public funds provided by the EU or other international organisations (except as otherwise provided by law), activities under concession contracts, state budget grants to political parties, public entities and associations, and loans and obligations guaranteed by the State. The audit of economic and financial interests of the State in other legal entities is limited to entities in which the State has more than half of the quotas or shares. In the assessment period, a few entities have argued that they are not subject to audit under Article 10 of the SSAI Law. In 2018 and again in 2020, the SSAI submitted to Parliament draft amendments to the SSAI Law to clarify the full extent of the SSAI's mandate, to avoid such disputes in future, as well as other administrative changes to improve the efficiency of the SSAI's operations. Parliament has not responded to these proposals.

The SAI is empowered to carry out financial, compliance, performance and IT audits⁵⁵³. Summaries of these reports are published on the SSAI's website. By law, the SSAI is required to present its Annual Performance Report and its Report on the Implementation of the State Budget. In addition, the Chair of the SSAI can propose to Parliamentary committees that they consider special audit reports.

The perception by the public of the independence of the SAI is relatively low, at 39% (2020)⁵⁵⁴, but this represents a significant improvement on the last assessment in 2017, when the figure was 26%. This positive trend is also reflected by another survey that showed that the Albanian population considers the SSAI as the most effective accountability mechanism⁵⁵⁵.

Conclusion

There were no significant changes to the constitutional and legal framework governing the work of the State Supreme Audit Institution (SSAI) in the period since the assessment in 2017. The framework is closely aligned with international standards and continues to be applied and respected in practice. Although public perception of the SSAI's independence by the public is still low, it has considerably improved since 2017.

⁵⁵¹ SSAI Law No. 154/2014, Article 25.

⁵⁵² SSAI Law No. 154/2014, Article 10.

⁵⁵³ SSAI Law No. 154/2014, Articles 11, 12, 13 and 14.

⁵⁵⁴ Balkan Barometer Public Opinion survey 2020.

⁵⁵⁵ Opinion Poll 2020, trust in governance, Institute for Democracy and Mediation, 2021.

Principle 16: The supreme audit institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

Overall, the value for the indicator ‘Effectiveness of the external audit system’ is 3. Although positive developments in some sub-indicators were observed, they could not raise the overall indicator value to a higher level as the use of SAI reports by the Parliament deteriorated.

Indicator 6.16.1 – Effectiveness of the external audit system						
This indicator measures the extent to which external audits contribute to improved management of public finances and how the supreme audit institution applies standards to ensure high-quality audits (e.g. through its manuals and quality assurance system).						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021		Change from 2017
1. Coverage of mandate by external audit				6/6		=
2. Compliance of audit methodology with ISSAIs				6/6		+3
3. Quality control and quality assurance of audits				6/6		+1
4. Implementation of SAI recommendations (%)				3/6		+1
5. Use of SAI reports by the legislature				0/6		-4
Total				21/30		+1

Using the impetus generated by a two-year EU Twinning project, which started in March 2016, the SSAI has made considerable progress towards its goal of being a professional, knowledgeable and respected audit institution working to international standards in the service of citizens, Parliament and public entities⁵⁵⁶. Revised and updated manuals for financial, compliance and performance audit, which fully reflect international standards, were adopted in June 2020.⁵⁵⁷ In the same time period, the SSAI also prepared or updated manuals on public procurement, detecting corruption, and financial fraud.

The formal adoption of the new audit manuals was delayed awaiting the appointment of the new Chair of the SSAI on 30 June 2020 and implementation of the new methodologies is ongoing. Some progress was made in piloting the new, risk-based, methodologies for financial and compliance audits in the latter half of 2020. This proceeded more slowly than anticipated, as the SSAI focused on the government’s responses to the earthquake that hit the country in 2019 and to the COVID pandemic in 2020. The impact of the COVID pandemic on working patterns in the SSAI also contributed to the delay of the manual’s full implementation.

In 2020, the SSAI completed 73 out of 143 planned financial and compliance audits, the remainder being work in progress at the year’s end. Five financial audits were conducted using the new financial audit methodology. In total, 66 audits were reported to Parliament and 29 were published in full on the SSAI’s website. Other reports are reflected in quarterly summaries of total activity. The SSAI has adopted a risk-based audit approach and prepares an annual plan of the audits to be undertaken, but it remains unclear what this represents in terms of the planned coverage of the state budget.

Since 2017, the SSAI has continued to invest in its performance audit methodology. In 2020, it conducted 20 performance audits and reported on 9, the remainder being published in early 2021. The programme was designed, within the available resources, to cover each of the five main pillars of the government’s programme: government reforms, social and economic, infrastructure, energy and environment. The SSAI’s engagement with universities and NGOs helped raise its profile more generally. All these reports were submitted to Parliament and published on the SSAI’s website.

⁵⁵⁶ SSAI Development Strategy 2018-22.

⁵⁵⁷ The INTOSAI Framework of Professional Pronouncements, www.issai.org.

Revised procedures for quality control and quality assurance following international standards were introduced in 2019. The most recent overview on quality assurance (for audits completed in 2019) reports progress in compliance with international standards from 60% to 80%. However, the quality assurance report shows that generic issues with embedding the new methodologies, such as poor documentation, failure to prioritise recommendations, poor report drafting and weaknesses in defining evaluation criteria, continue to require the attention of SSAI management.

The SSAI continues to require an intensive annual training programme of an average of more than 20 days for each staff member. It also makes extensive use of knowledge-sharing opportunities within the International Organization of Supreme Audit Institutions and the European Organization of Supreme Audit Institutions and secondment opportunities with other SAIs⁵⁵⁸. This training is focused, increasingly, on implementing the methodologies set out in the new manuals but needs to translate into improved working practice and greater impact.

The SSAI's traditional audit approach generates large numbers of audit recommendations, totalling more than 3 000 in 2019. A revised manual for "monitoring the implementation of recommendations and institutional register for the implementation of recommendations" was put in place in June 2020 and is followed closely. Of the recommendations made in 2019, 80% were accepted by auditees, but only 50% of those accepted were implemented, with the remainder reported as being "in progress". As reported in the 2017 assessment, many of these recommendations are not prioritised, remain unclear and are of low importance. Consequently, they are not always respected by auditees. The SSAI's performance audit reports mark a clear step change, containing fewer well-argued recommendations clearly supported by the evidence presented.

Parliament has formal procedures for handling the two mandatory reports of the SSAI⁵⁵⁹. It discussed these reports in 2020 but not in 2019. There have been no hearings on the SSAI's other reports since 2018, and therefore no independent conclusions and recommendations from the Parliament supporting the work of the SSAI. The SSAI participates on an electronic platform in Parliament to track the recommendations made by a number of supervisory bodies and reports on progress every four months. It is also taking part in an initiative to promote awareness of the SSAI and other institutions within Parliament.

The SSAI has been pro-active in putting forward proposals for a parliamentary sub-committee focused on its work and a draft memorandum of understanding to manage working relationships. It has yet to secure substantive engagement and action from Parliament. As the result of the lack of Parliamentary engagement, an important element contributing to the effectiveness of the external audit system is lost.

Conclusion

The SSAI has updated all of its audit methodologies and quality assurance procedures, in full alignment with international standards. Much work remains to be done, however, to embed these methodologies in working practice and to improve the quality of audits. While resources are being switched to financial and performance audit, the balance of work is focused on compliance audit. The absence of sustained and structured engagement by Parliament to support the work of the SSAI is a significant limitation to the overall effectiveness of the external audit system.

⁵⁵⁸ United States, Sweden. European Court of Auditors (EU).

⁵⁵⁹ Report on the Implementation of the State Budget; SSAI's Annual Performance Report.

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