



Baseline Measurement Report:

The
Principles
of Public
Administration

ALBANIA
April
2015

Authorised for publication by Karen Hill, Head of the SIGMA Programme

This document has been produced with the financial assistance of the European Union. It should not be reported as representing the official views of the EU, the OECD or its member countries, or of beneficiaries participating in the SIGMA Programme. The opinions expressed and arguments employed are those of the author(s). This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS	2
OVERVIEW	4
STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM	6
1. State of play and main developments: 2014-April 2015	6
2. Analysis.....	7
POLICY DEVELOPMENT AND CO-ORDINATION.....	18
1. State of play and main developments: 2014 - April 2015	18
2. Analysis.....	19
PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT	43
1. State of play and main developments: 2014-April 2015	43
2. Analysis.....	45
ACCOUNTABILITY	62
1. State of play and main developments: 2014-April 2015	62
2. Analysis.....	63
SERVICE DELIVERY.....	73
1. State of play and main developments: 2014-April 2015	73
2. Analysis.....	74
PUBLIC FINANCIAL MANAGEMENT	82
1. State of play and main developments: 2014-April 2015	82
2. Analysis.....	84

LIST OF ABBREVIATIONS AND ACRONYMS

ADISA	Agency for Delivery of Integrated Services
AKSHI	National Agency for Information Society
ASPA	Albanian School of Public Administration
ATRAKO	Concession Treatment Agency
CA	Contracting Authority
CAF	Common Assessment Framework
CAP	Code of Administrative Procedure
CHU	Central Harmonisation Unit
CoG	centre of government
CoM	Council of Ministers
COSO	Committee of Sponsoring Organisations
CSL	Civil Service Law
DoCM	Decision of the Council of Ministers
DoPA	Department of Public Administration
DU	Delivery Unit
EFQM	European Foundation for Quality Management
EI	European integration
EU	European Union
EUD	European Union Delegation
FMC	financial management and control
GAWP	Government Annual Work Plan
GDP	gross domestic product
HR	human resource
HRM	human resource management
HRMIS	Human Resource Management Information System
HSC	High State Control
IA	internal audit
IIWG	Inter-Institutional Working Group
IMF	International Monetary Fund
IPA	Instrument for Pre-accession
IPA	Instrument for Pre-accession Assistance
ISSAI	International Standards for Supreme Audit Institutions
KKNIE	Inter-Institutional Coordination Committee for European Integration (KKNIE)
KNIE	National Council of European Integration
LGAP	Law on General Administrative Procedures
MBS	Management of Budget Systems

Albania
List of Abbreviations and Acronyms

MEDTET	Ministry of Economic Development, Trade and Entrepreneurship
MEI	Ministry of European Integration
MIPA	Minister of Innovation and Public Administration
MoF	Ministry of Finance
Mol	Ministry of Interior
MoJ	Ministry of Justice
MP	Member of Parliament
MTBF	Medium-term Budgetary Framework
MTBP	Medium-term Budget Programme
NEC	National Economic Council
NGO	non-governmental organisation
NPEI	National Plan for European Integration
NRC	National Registration Centre
NSDI	national strategy for development and integration
OPM	Office of the Prime Minister
PAR	public administration reform
PEFA	public expenditure and financial accountability
PFM	public financial management
PIFC	Public Internal Financial Control
PIM	Public Investment Management
PM	Prime Minister
PP	public procurement
PPA	Public Procurement Agency
PPC	Public Procurement Commission
PPL	Public Procurement Law
PPP	public-private partnership(s)
RIA	Regulatory Impact Assessment
RoP	rules of procedure
SAI	Supreme Audit Institution
SDP	Strategic Development Plan
SMART	Specific, Measurable, Assignable, Realistic and Time-bound
SOE	state-owned enterprise
SPU	Strategic Planning Unit
SSA	Stabilisation and Association Agreement
TMC	Top Management Corps
TWG	Technical Working Group
ULPM	Unit of Legislation and Programme Monitoring
UPDSP	Unit of Policy Development and Strategic Planning

OVERVIEW

The European Commission (EC) has strengthened its focus on public administration reform in the “Enlargement Strategy and Main Challenges 2014-2015” by outlining six key issues of reform. Based on the Enlargement Strategy, the Principles of Public Administration were developed by SIGMA in co-operation with the EC¹. The Principles cover six areas: strategic framework for public administration reform, policy development and co-ordination, public service and human resource development, accountability, service delivery and public financial management (PFM) including public procurement; they define what good governance entails in practice and outline the main requirements to be followed by countries during the EU integration process. The Principles also feature a monitoring framework enabling regular analysis of the progress made in applying the Principles and setting country benchmarks.

This Country Report sets the baseline values for the indicators included in the monitoring framework and provides analysis on where the country stands against the Principles. It covers the period from January 2014 to April 2015, which is shortened to April 2014 to April 2015 in areas where a SIGMA assessment was conducted in 2014. The analytical report is complemented by the Methodological Annex, which defines the indicators included in the monitoring framework.

General state of play in Albania

On 23 June 2014, the Council of the European Union agreed to grant Albania candidate status, which was endorsed by the European Council on 27 June 2014. A High Level Dialogue on the key priorities for opening accession negotiations was launched in November 2013, with subsequent meetings in March, June and September 2014. In November 2014, the Government and the Opposition joined forces to adopt a resolution on EU integration and have continued to support the process since then.

The decision of the European Council of June 2014 to grant Albania candidate status is recognition for the reform steps undertaken. It is also an encouragement to step up the pace of reforms. The Government has shown concrete action and sustained political will in the area of EU related reforms, covering a broad range of issues.

Candidate status brings new responsibilities in all areas covered by the Country Report and Albania needs to deliver concrete results on the reform agenda and ensure ownership of reforms.

Ensuring adequate administrative capacity is essential for properly implementing the *acquis communautaire* and strategic frameworks. It is also crucial that appropriate institutional independence is guaranteed, especially in those cases where transparency and accountability are essential.

Albania will have to provide effective institutional structures for implementation of the adopted legislation and strategies, while ensuring inter-institutional co-operation for proper implementation.

¹ See *The Principles of Public Administration* and relevant background information on the SIGMA website: <http://www.sigmaweb.org/publications/principles-public-administration-november-2014.htm>.

1

Strategic Framework of Public Administration Reform

STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

While the key central-planning documents feature the Government of Albania's commitment to pursue public administration reform (PAR) objectives, they are not coherent as only civil service reform is featured in all documents, while references to other areas are scattered among the documents. The Government has recently established a comprehensive strategic framework for PAR. The majority of PAR-related measures are costed, however, since the link with the Medium-Term Budget Programme² has not been established, financial sustainability is not ensured.

There is a separate PAR co-ordination structure at the political and administrative levels, with clearly defined functions. However, the discussion in these bodies focusses on service delivery, public service and human resource management issues, to the detriment of other PAR areas.

The Minister of Innovation and Public Administration (MIPA) has been designated to co-ordinate PAR. Nevertheless, the officials in charge of PAR co-ordination, from both the Minister's cabinet and the Department of Public Administration (DoPA) are not regularly trained (defined as at least twice per year)³ on PAR-related issues.

1.2. Main developments

In 2014, the Inter-Institutional Working Group for the Cross-cutting Public Administration Reform Strategy (IIWG) was established by the Prime Minister's Decree No. 180, dated 19 June 2014⁴. The IIWG has been given the mandate to co-ordinate government policy for PAR and to draft and monitor the implementation of PAR strategy.

A technical Working Group was also established by the Order of the Minister of Innovation and Public Administration No. 3664, dated 29 September 2014⁵, to assist the IIWG in achieving PAR progress.

The Albania Public Finance Management Strategy was approved by the Council of Ministers in December 2014⁶. The Cross-cutting PAR Strategy 2015-2017 and its Action Plan⁷, as well as the Cross-cutting Strategy "Digital Agenda of Albania 2015-2020"⁸, were approved in April 2015. Both documents clearly designate the institutions responsible for implementing individual reform actions.

In early 2015, the staff in charge of PAR was strengthened by the appointment of one official to the cabinet of the MIPA, who has specific responsibilities for PAR co-ordination.

² Draft Medium-term Programme Budget 2015-2017, Ministry of Finance, 2014, Tirana, <http://www.financa.gov.al/al/raportime/buxheti/programi-buxhetor-afatmesem-ne-vite>.

³ It is expected that staff responsible for PAR co-ordination undergo at least two PAR-related training courses a year, according to the Principles of Public Administration.

⁴ Prime Minister's Order on the establishment of the Inter-Institutional Working Group for the Cross-cutting Public Administration Reform Strategy 2014 – 2020, No. 180, June 2014.

⁵ Minister of State for Innovation and Public Administration Order On the establishment of the Inter-institutional Technical Working Group for the Cross-cutting Public Administration Reform Strategy, No. 3664, September 2014.

⁶ Albania Public Finance Management Strategy 2014-2020, Ministry of Finance, December 2014.

⁷ Cross-cutting Public Administration Reform Strategy 2015-2020, Decision of the Council of Ministers No. 319, April 2015.

⁸ Cross-cutting Strategy "Digital Agenda of Albania 2015-2020", Decision of the Council of Ministers No. 284, April 2015, Official Gazette No. 56.

2. ANALYSIS

This analysis covers the five Principles for the area of strategic framework of public administration reform, grouped under two key requirements⁹. Under each key requirement, a baseline value for each indicator of the monitoring framework of the Principles is provided. The Principles cover an analysis of Government central planning, as well as specific PAR planning document(s), including their links to Government financial-planning documents. The Principles also look into the set-up and organisation of the PAR management and co-ordination mechanisms, both at the political and administrative levels.

2.1. Key requirement: The leadership of public administration reform is established and the strategic framework provides the basis for implementing prioritised and sequenced reform activities aligned with the Government's financial circumstances.

Baseline values

The leadership and strategic framework of public administration reform is examined through eight indicators, which describe the country's general approach to defining reform objectives and actions, the comprehensiveness of the scope of PAR, links to financial planning, and the rate of implementation. The PAR reporting and monitoring system is also assessed. Two of the eight indicators are qualitative and the rest quantitative, based on an analysis of data and documents that the responsible institutions of the country provided.

In Albania, the strategic framework for PAR has been established. PAR priorities in government-planning documents are not well-aligned, however, owing to their emphasis on civil-service reform areas with only scattered references to other PAR areas. The implementation costs of the PAR framework are known, but it is difficult to confirm their alignment with the financial circumstances of the Government as there are no clear links to medium-term or annual financial-planning documents.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of PAR central planning document(s) is complete.	2014	4
	2	Extent to which a comprehensive PAR reporting and monitoring system is in place.	2014	1
Quantitative	1	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	2014	40%
	1	Share of public administration development activities and reforms from all activities in PAR planning documents.	2014	79%
	2	Annual implementation backlog ¹⁰ of public administration development activities and reforms.	2014	64%

⁹ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 9-17.

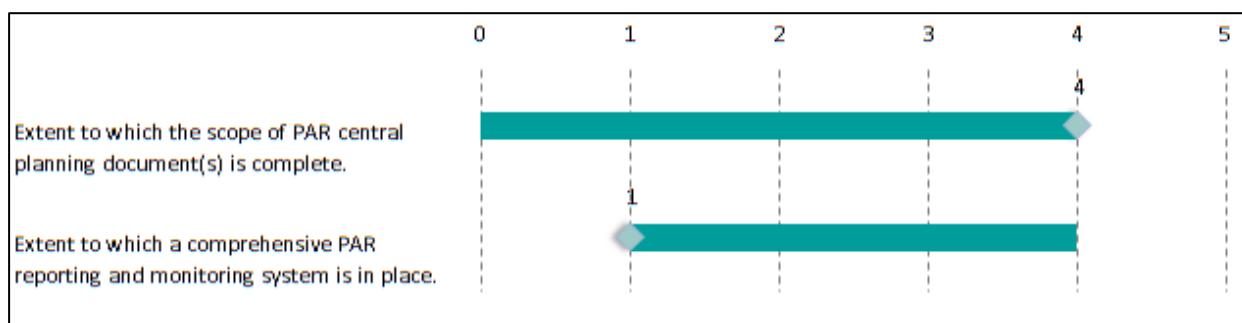
¹⁰ The indicator looks at the implementation rate of public administration development activities and reforms within the particular year.

Albania
Strategic Framework of Public Administration Reform

	2	Percentage of fulfilled PAR objectives.	2014	Not available ¹¹
	3	Share of resourced and costed activities related to PAR measures.	2014	81%
	3	Ratio between planned PAR Instrument of Pre-accession Assistance (IPA) funding in the IPA sectoral programme and the national planning documents.	2014	100%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

The central-planning documents of the Government of Albania – the Government Programme 2013-2017¹², the Government Priorities (Innovative Governance)¹³, the Medium-term Budget Programme 2015-2017 (MTBP)¹⁴, the Road Map on Five Key Priorities¹⁵, and the National Plan for European Union Integration 2014-2020¹⁶ – broadly acknowledge the need for public administration reform. However, the scope and focus of the PAR agenda is not coherent with the documents listed. Only civil service reform is featured equally in all of the planning documents. Other areas – such as service delivery, results-based management, public financial management (PFM), organisation of the state administration and capacity of PAR institutions – are fragmented across the different documents. Therefore, the ratio of central-planning documents featuring PAR objectives and priorities uniformly and coherently is 40%, sending a mixed message on which objectives in the PAR area are high priorities.

¹¹ The value of the indicator cannot be set for 2014 as national level documents in the area of PAR that have clear performance indicators and targets aligned with the policy objectives have been adopted only recently and no monitoring data on the implementation of policy objectives exist.

¹² Alliance for European Albania. Government Programme 2013-2017, Government of Albania, 2013.

¹³ Strategic Planning Committee 22/01/2014. Strategic Planning Committee meeting material provided by the Delivery Unit of the Prime Minister's Office.

¹⁴ Draft Medium-Term Programme Budget 2015-2017, the Ministry of Finance, 2014.

¹⁵ Road Map on Five Key Priorities, the Government of Albania, May 2014.

¹⁶ National Plan for European Integration, Government of Albania, 2014.

The Government of Albania has recently launched a comprehensive Strategic Framework for PAR, which addresses all aspects by adopting the Cross-cutting PAR Strategy 2015-2020¹⁷ and Albania Public Finance Management Strategy 2014-2020¹⁸, as well as the Cross-cutting Strategy “Digital Agenda of Albania 2015-2020”. An additional PAR area-planning document – the Local Government and Decentralisation Strategy – is being finalised.

While the Cross-cutting PAR Strategy and Albania Public Finance Management Strategy provide for a comprehensive PAR agenda, the links between the two documents are not described in detail. The IIWG should ensure compliance of the Cross-cutting PAR Strategy with the other sectoral strategies of the participating ministries¹⁹. The Cross-cutting PAR Strategy describes the connections with other strategies, but is silent on how the public financial-management agenda is linked to the PAR. All these factors led to the setting of a value of 4 for 2014 on the indicator assessing the completeness of the scope of PAR planning documents.

PAR objectives will be implemented through the Action Plans of the Cross-cutting PAR Strategy and Albania Public Financial Management Strategy, as well as through the Action Plan of the Cross-cutting Strategy “Digital Agenda of Albania 2015-2020”. These Action Plans clearly designate the responsible institutions, the financial resources, the sources of funding and implementation deadlines; they also address all areas typically associated with PAR.

It is important to mention that the National Strategy for Development and Integration 2014-2020 (NSDI) is still in preparation. Under provisions for the set-up of the integrated planning system²⁰, this key central-planning document is intended to guide the development of sectoral and cross-sectoral policies. However, the development of strategies in some sectors, including PAR, Anti-Corruption and PFM, will supersede it.

While the Albanian Government’s commitment to pursue PAR objectives is stated in the key central-planning documents, it is not done coherently. A comprehensive strategic framework for PAR has been recently established with clearly identified responsible institutions, and it defines the funding needs associated with each action.

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

The Cross-cutting PAR Strategy defines priorities, objectives and performance indicators linked to objectives and activities. It is envisaged that the implementation of the Strategy will be based on the use of a number of performance indicators related to inputs, processes, outputs and outcomes from the Action Plan. Based on these indicators, the DoPA will produce annual reports on the progress of public administration reform. There is a commitment that these reports will be made public²¹. The Cross-cutting PAR Strategy provides a general framework on how the monitoring, reporting and data-collection system will operate, based upon which a more specific and detailed mechanism will be created²².

The recently approved Albania Public Finance Management Strategy provides for an elaborate implementation and monitoring system. For each Strategy objective and action there are aligned outcome- and process-level performance indicators, along with 15 key performance indicators

¹⁷ Cross-cutting Public Administration Reform Strategy 2015-2020, Decision of the Council of Ministers No. 319, April 2015.

¹⁸ Albania Public Finance Management Strategy 2014-2020, Ministry of Finance, December 2014.

¹⁹ Prime Minister’s Order on the Establishment the Inter-Institutional Working Group for the Cross-Sector Public Administration Reform Strategy 2014 – 2020, No. 180, June 2014.

²⁰ Integrated Planning System Manual, Council of Ministers, Department of Strategy and Donor Co-ordination.

²¹ Cross-cutting Public Administration Reform Strategy 2015-2020, Decision of the Council of Ministers No. 319, April 2015, p. 33.

²² Ibid, pp. 33-36.

featuring targets for 2017 and 2020. A comprehensive hierarchical oversight structure is also envisaged within the Strategy. This structure includes a ministerial-level PFM Reform Steering Committee established by the Prime Minister²³, the PFM Reform Secretariat, the PFM Reform Technical Committee, and Pillar Co-ordinator Committees. The PFM Reform Secretariat will produce semi-annual reports summarising deliverables and outcome results and will submit these to the Steering Committee.

The Cross-cutting Strategy “Digital Agenda of Albania 2015-2020” foresees that the Strategy will be monitored by the Inter-Institutional Working Group for the Drafting of the Cross-cutting Strategy “Digital Agenda of Albania 2015-2020”²⁴. The monitoring will be based on a number of performance indicators related to inputs, processes, outputs and outcomes from the Action Plan. The responsible institutions will collect data and evaluate performance against set indicators, based upon which the responsible ministry will draft annual reports.

Therefore, the comprehensive Strategic Framework for PAR is formally in place; however, it has been established only recently and is not yet implemented. In 2014, PAR-related implementation and monitoring focussed exclusively on the Government’s priorities – the PAR-related Innovative Governance priority and the Roadmap on Five Key Priorities. It covered only two areas – civil service reform and service delivery/administrative procedures. The Government priority system has well-established planning, management and monitoring processes, with a wide use of indicators and targets²⁵. Weekly Dashboards allow the Prime Minister and Ministers to see real-time data on the implementation of each priority²⁶. There is no evidence on how the Government priority management system is working in practice, however, since specific Delivery Agreements and implementation information are not made public. The basis for implementation of PAR-related activities in 2014 was the Roadmap on Five Key Priorities²⁷, which includes PAR as a priority. While the Roadmap uses general government reporting systems, it is not based on the use of performance indicators and targets. The implementation rate of public-administration development activities and reforms from the Roadmap in 2014 was 64%. The fulfilment of PAR objectives cannot be established for 2014 as there were not performance indicators and targets linked to specific PAR objectives.

Based on the above analysis, the value for the qualitative indicator on the monitoring and reporting framework is set at 1. The main reasons for the given value are that previously applied monitoring systems did not provide a comprehensive overview on PAR implementation, and the envisaged system in the Cross-cutting PAR Strategy and other relevant national planning documents in the area of PAR are not yet functioning and have not produced any outcomes.

There is a recently established PAR implementation and monitoring system based on the use of performance indicators and targets. However, the system is not yet applied in practice. In 2014, the PAR implementation and monitoring focussed exclusively on government priorities that did not cover the whole PAR area.

Principle 3: Financial sustainability of public administration reform is ensured.

In Albania, the PAR and Digital Agenda of Albania Strategies provide information on the financial resources required to implement them. The PFM Strategy indicates financial resources for each activity year by year. The Action Plans of the Cross-cutting PAR Strategy and the Digital Agenda of Albania indicate financial needs for each activity for the entire implementation period.

²³ Albania Public Financial Management Strategy 2014-2020, Ministry of Finance, December 2014, Chapter V.

²⁴ Cross-cutting Strategy “Digital Agenda of Albania 2015-2020”, Decision of the Council of Ministers No. 284, April 2015, Official Gazette No. 56, p. 42.

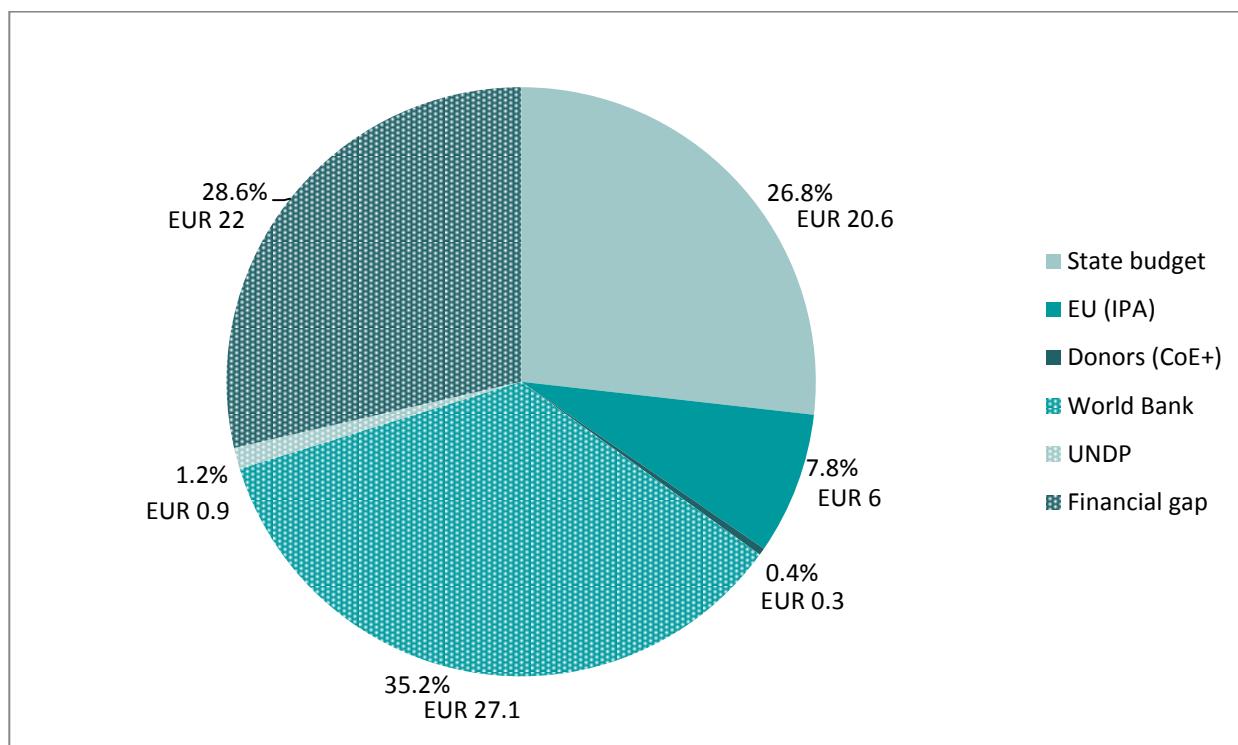
²⁵ Guidance Note on Delivery Agreements, Prime Minister’s Office Delivery Unit.

²⁶ Ibid.

²⁷ Road Map on Five Key Priorities, Government of Albania, May 2014.

There is also some information on the sources of funding. The Cross-cutting PAR Strategy clearly identifies the costs of reforms that require national, European Union (EU) and other donor funding. The national funding is estimated to be about EUR 20.6 million, which is 26.7% of the total budget envisaged for PAR reform during 2015-2017. The EU Instrument for Pre-accession Assistance (IPA) assistance required for implementation of the PAR agenda is calculated to be about EUR 6 million. The Cross-cutting PAR Strategy envisages a huge financial gap, of nearly EUR 22 million, for 2015-2017, and there is no clear explanation of how the Government of Albania intends to address it.

Figure 2. Funding sources for implementation of PAR Strategy 2015-2017
(in percentage and EUR million)



Source: Public Administration Reform Strategy 2015-2020.

The IPA support foreseen in the Albania Country Strategy Programme²⁸ for the year 2014 is EUR 6 million and the Cross-cutting PAR strategy also envisages EUR 6 million. Therefore, the indicator value set for the relevant indicator is 100%.

The Cross-cutting Strategy “Digital Agenda of Albania 2015-2020” identifies the costs of digital reforms that require national, donor and other funding. The national funding is envisaged to be about EUR 144.8 million, which is 69% of the total budget envisaged for digital reforms during 2015-2017. Donor funding is calculated to be EUR 13.8 million and other sources (e.g. concessions, World Bank) to be EUR 49.8 million.

The MTBP 2015-2017 does not address the issue of PAR funding in a medium-term perspective. Nor does it provide for any objectives or programmes related to PAR. Therefore, it is impossible to determine the amount of resources allocated for PAR in the medium term.

Comparing the annual budgets for 2014²⁹ and 2015³⁰, there is an increase in funding allocated to information society services and to development and management of the public administration. The

²⁸ European Commission Implementing Decision adopting the Albania Country Action Programme for the year 2014, December 2014. Instrument for Pre-Accession Assistance (IPA II) 2014-2020, Albania Support to Public Administration Reform, 2015.

²⁹ Annual Budget Law 2014, Nr. 185/2013.

³⁰ Annual Budget Law 2015, Nr. 160/2014.

budget allocations for these areas have consistently increased, which is in line with the Government priority to improve public services through the use of IT. Nevertheless, as the medium-term and annual budgets of the ministries in charge of these specific activities do not provide budget allocations for them, it is impossible to identify the amount of funds allocated for the implementation of other PAR activities, for example, in the areas of policy making or financial management.

Table 1. Annual budget allocation for PAR activities in 2014 and 2015 (EUR)

Institution	2014 approved	2014 revised	2015 approved
Government institutions	1 383 495	1 667 510	1 991 395
Government services	117 000	117 000	106 500
Public procurement services	86 500	83 000	83 000
Services for information society	779 500	1 121 348	1 309 033
Other services	188 235	175 235	177 635
Services for technology and innovation	118 360	60 900	101 900
Development and management of public administration	93 900	110 027	121 327
Digital Albania	0	0	92 000

Source: Approved Budget 2014, Revised Budget 2014 and Approved Budget 2015.

Overall, there is a practice of costing PAR activities, determining the funding sources and the financial resources needed. Funding for some Government priority PAR areas (e.g. information society and public administration) is steadily increasing each year. There is no available evidence to indicate that the required resources will be allocated to all PAR areas in the medium-term, however, as the MTBP does not provide for any planned allocations to tie into PAR objectives.

Key recommendations

Short-term (1-2 years)

- 1) The Minister of Innovation and Public Administration and the Department of Public Administration should establish a clear PAR monitoring and reporting mechanism (through development of instructions, guidance or similar means) as envisaged by the Cross-cutting PAR Strategy, with appropriate resources allocated for its functioning wherein, *inter alia*, the following could be specified:
 - a. Clearly defined responsibilities for the lead and other institutions involved in implementation;
 - b. Clear time frames for the institutions involved to provide PAR reporting information to the lead institution, for both general monitoring and finalising the PAR annual report;
 - c. Clear guidance on the reporting template and the type of information (analytical, not process-oriented; achievement of objectives and performance indicators, not just implementation of actions) to be provided to the institutions involved.
- 2) The Ministry of Finance should include a clear section on policy priorities in the MTBP document to ensure alignment of medium-term budget decisions with set policy priorities (e.g. PAR, public-financial management) to guarantee financial sustainability for their implementation.

- 3) The Minister of Innovation and Public Administration and the Ministry of Finance should establish a mechanism through which information on the implementation of the PFM reform agenda is fed into the PAR monitoring process.

Medium-term (3-5 years)

- 4) The Minister of Innovation and Public Administration should evaluate the implementation of the PAR action plan in 2017 and ensure that more reform and development activities are planned in the second PAR phase.

2.2. Key requirement: Public administration reform management enables guiding and steering reforms, determines the accountability for implementation and ensures the professional administration needed for reform implementation.

Baseline values

The functioning of the public administration reform management and co-ordination mechanism is examined through five indicators, one of which is qualitative. These indicators provide information on the operation of the mechanism and address the capacity of the leading PAR unit to support its functioning.

In Albania, the PAR management and steering mechanism has been recently established. However, the lines of accountability for the institutions involved and interaction with PAR reform areas outside the scope of the Cross-cutting PAR Strategy and its Action Plan are not yet well defined. There is specially designated staff for the PAR co-ordination in the leading institution and staff in the technical secretariat. Nevertheless, the officials in charge of PAR co-ordination do not regularly engage in capacity-building activities.

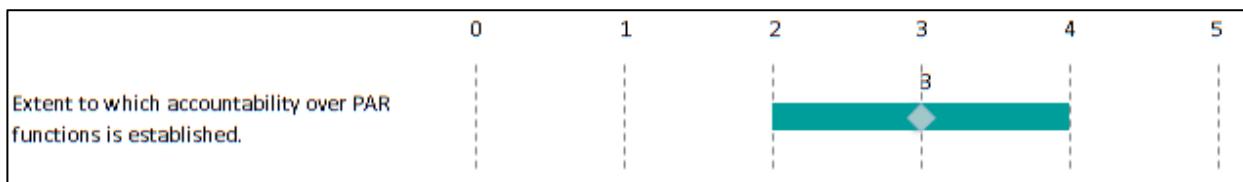
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which accountability over PAR functions is established.	2014	3
Quantitative	4	Frequency of PAR-related political discussions.	2014	6 ³¹
	4	Implementation rate of decisions made by political and administrative-level PAR co-ordination forums.	2014	Not available ³²
	5	Annual staff turnover in leading PAR unit.	2014	33%
	5	Proportion of leading PAR unit staff that has undertaken at least two PAR-related trainings during the last year.	2014	0%

³¹ This value shows the total number of the PAR-related discussions held in 2014. It is a quantitative, not qualitative, indicator and therefore should not be regarded as an indicator for scale.

³² The meetings of political and administrative PAR co-ordination fora were held in 2014; however, the responsible institution did not take the minutes of the meeting and decisions made. Therefore, the information to calculate this indicator is not available.

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicator in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

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

A well-established formal PAR co-ordination structure exists in Albania, where three main political bodies – the Government, the Strategic Planning Committee³³ and the Inter-Institutional PAR Working Group³⁴ – discuss PAR-related matters. In 2014 these bodies convened six times specifically to discuss PAR-related issues, although attention focussed mainly on the management and steering of planning and implementation of Government priorities (including the service-delivery aspect), as well as public financial management matters, but not other PAR areas³⁵.

The main co-ordination body specific to PAR – the IIWG on PAR – was established by a Prime Minister's order in June 2014³⁶. The principal mandate of the IIWG is to:

- Co-ordinate Albanian government policy at a high level on public administration reform;
- Co-ordinate the preparation, implementation, monitoring and reporting in relation to the PAR Strategy;
- Ensure coherence between the PAR Strategy and other strategies;
- Ensure alignment of the PAR Strategy with the MTBP³⁷.

The most important institutions involved in implementing the PAR agenda – the Prime Minister's Office, the Ministry of Finance, the Ministry of Justice and the Ministry of European Integration – are represented on the IIWG. In 2014, the IIWG met once to discuss the preparation of the PAR Strategy and, more specifically, the initial set of priorities and objectives.

The PAR co-ordination body at the political level is supported by a Technical Working Group (TWG) and the Department of Public Administration as a technical secretariat of the IIWG. The TWG was established by an Order of the Minister of Innovation and Public Administration in September 2014³⁸. The TWG has a mandate to draft the PAR Strategy and assist the IIWG in decision making. The TWG

³³ The Prime Minister's Order on the Establishment of the Strategic Planning Committee, No 18, January 2014.

³⁴ The Prime Minister's Order on the Establishment the Inter-Institutional Working Group for the Cross-Sector Public Administration Reform Strategy 2014-2020, No. 180, June 2014.

³⁵ The analysis is based on the materials provided by the Delivery Unit of the Prime Minister's Office: PowerPoint presentation material to the Strategic Planning Committee meetings dated 22 January 2014, 15 April 2014, 23 July 2014, and 30 July 2014.

³⁶ The Prime Minister's Order on the Establishment the Inter-Institutional Working Group for the Cross-Sector Public Administration Reform Strategy 2014 – 2020, No. 180, June 2014.

³⁷ Ibid, Point 5.

³⁸ The Minister of Innovation and Public Administration Order “On the Establishment of the Inter-Institutional Technical Working Group for the Cross-cutting Public Administration Reform Strategy 2014- 2020”, No. 3664, September 2014.

met three times in 2014 to discuss the preparation of the PAR Strategy, objectives, activities and costing.

There is no practice in Albania of documenting decisions of the PAR co-ordination bodies, which makes it impossible to follow-up on their implementation. Moreover, there is no record of implementation of the decisions taken during 2014 by the political and administrative-level fora; accordingly, a rating of “not available” has been set for the relevant indicator.

Overall, PAR has a formally established co-ordination structure at the political and administrative, levels with clearly defined functions. However, within these bodies in 2014 the political attention focussed mainly on steering service delivery and creating IT infrastructure, as well as managing public finance, but not so much on the other PAR areas.

Principle 5: One leading institution has responsibility and capacity to manage the reform process; involved institutions have clear accountability and reform implementation capacity.

One lead institution, the Minister of Innovation and Public Administration, has been assigned the responsibility to co-ordinate and manage PAR policy within the scope defined by the PAR Strategy³⁹. The Department of Public Administration is providing secretarial support to the PAR process⁴⁰. The PFM reform is co-ordinated by the Ministry of Finance through a separate PFM Reform co-ordination mechanism⁴¹. The Cross-cutting Strategy “Digital Agenda of Albania 2015-2020” is co-ordinated by the Minister of Innovation and Public Administration through the Inter-ministerial Working Group on the Drafting of the Cross-cutting Strategy “Digital Agenda of Albania 2015-2020”.

There are designated staff members tasked with co-ordinating the PAR process: one official in the office of the Minister of Innovation and Public Administration and three officials in the Department of Public Administration’s Project and Donor Co-ordination Unit. The official in the office of the Minister of Innovation and Public Administration with specific responsibility for PAR was appointed only in early 2015.

In 2014, the turnover of staff was 33%, as one staff member of the Department of Public Administration’s Project and Donor Co-ordination Unit left. There is no record that the responsible staff members of the Department of Public Administration were trained on PAR-related topics in 2014. For this reason, a value of 0% has been set for the relevant indicator.

Overall, the Minister of Innovation and Public Administration is responsible for co-ordinating the PAR, while the Department of Public Administration is providing secretarial support. Through a separate mechanism, the Ministry of Finance co-ordinates the PFM area, which is not covered by the PAR Strategy. The Minister of Innovation and Public Administration co-ordinates digital reforms. There are specially designated officials tasked with PAR co-ordination in the lead institutions; however, they do not undergo regular PAR-related training.

Key recommendations

Short-term (1-2 years)

- 1) The Minister of Innovation and Public Administration should ensure that IIWG meets regularly to discuss PAR-related issues, including developments in the public financial-management area. Discussions should be documented and published.
- 2) The Minister of Innovation and Public Administration, in co-operation with the Prime Minister’s Office, should more actively use the Strategic Planning Committee political-level forum to discuss the most important PAR issues, including in the public financial-management area.

³⁹ The Law on Ministry of Innovation and Public Administration and PAR Strategy, Section IV, p. 32.

⁴⁰ The Prime Minister’s Order on the Establishment of the Inter-Institutional Working Group for the Cross-Sector Public Administration Reform Strategy 2014 – 2020, No. 180, June 2014, point 4.

⁴¹ Albania Public Finance Management Strategy 2014-2020, December 2014, Chapter V.

Albania
Strategic Framework of Public Administration Reform

- 3) The Minister of Innovation and Public Administration and the Department of Public Administration should analyse the training needs of, and provide training to, staff tasked with PAR co-ordination and monitoring in order to strengthen PAR-related capacities (e.g. communication, teamwork, conceptual and analytical thinking, planning and organisation).

Medium-term (3-5 years)

- 4) In the longer term, based on a thorough analysis of the functioning of the PAR co-ordination and monitoring mechanisms, as well as the overall implementation of the PAR agenda, the Minister of Innovation and Public Administration and the Department of Public Administration should review their staff numbers and capacity levels.



2

Policy Development and Co-ordination

POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014 - APRIL 2015

1.1. State of play

Albania has in place the legal framework for policy development and co-ordination, including for European integration (EI). The Albanian administration performs well on several aspects that are set out in key laws and the Government Rules of Procedure (RoP), notably inter ministerial consultation and the organisation of the policy development process within ministries. The implementation capacity and the quality of Government output remain challenged in all areas, particularly related to the four areas of monitoring the Government's performance; costing of strategies and EI-related reforms; the use of analytical tools in policy development; and practices with regards to public consultation. The overall challenge for Albania lies in applying the current legal framework consistently and effectively, with the aim to increase the quality of the policy development and co-ordination process.

1.2. Main developments

In 2014, the Government introduced various mechanisms to better monitor its own performance. Three separate units within the Office of the Prime Minister (OPM) are engaged in monitoring; however, monitoring reports are not published and therefore play no role in informing the public about the Government's performance. Recently, the Government made public its 300 Days Plan and the corresponding report, as well as all EI reports provided to various bodies.

Albania adopted the National Plan for European Integration 2014-2020 (NPEI) in July 2014⁴². The NPEI is the basis for medium-term planning and monitoring of the EI process.

A new law on the role of the Assembly in the EI process was also recently adopted⁴³. The new legislation regulates the co-ordination between the Government and the Assembly on EI matters and establishes new forums for wide-range consultation on the integration process.

Having worked without a medium-term budgetary framework (MTBF) in 2013, the country has now put in place a Medium-term Budget Plan (MTBP) covering the period 2015-2017.

The Parliament adopted the Law on Consultation on 30 October 2014⁴⁴, which provides a framework for involving external stakeholders in policy development. Implementation of the Law had not yet started, as it is not in force at the time of writing of this report.

⁴² Decision No. 438 of the Council of Ministers, 2 July 2014.

⁴³ The Law No. 15/2015 on the Role of the Assembly in the European Integration Process of the Republic of Albania, 5 March 2015.

⁴⁴ The Law No. 146/2014 on Public Notification and Consultation.

2. ANALYSIS

This analysis covers the 12 Principles for the policy development and co-ordination area, grouped under four key requirements⁴⁵. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover a whole policy cycle and address: the functioning of the centre of government (CoG); policy planning, co-ordination and monitoring; Government decision making; and policy and legislation development. The Principles also cover the necessary arrangements for EI throughout the policy cycle.

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

Baseline values

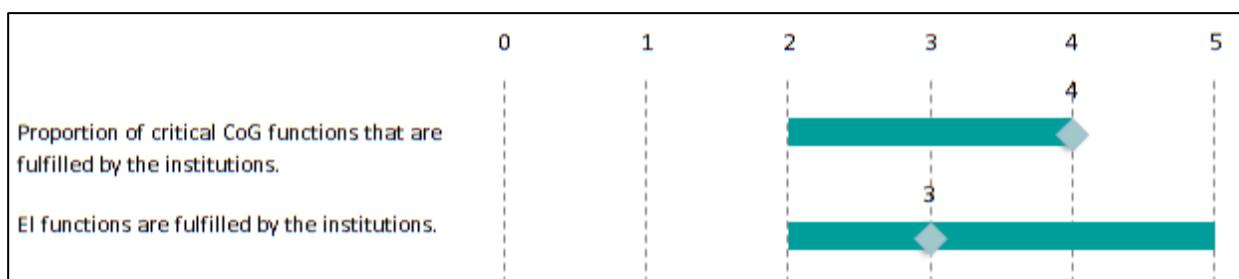
The functioning of the CoG is examined through two qualitative indicators: one covers all nine critical functions as defined in the Principles of Public Administration⁴⁶; the other specifically analyses how the administration implements key EI functions. These qualitative indicators assess both the establishment and implementation of the functions.

In Albania, all nine key functions of the CoG are established. However, in several key areas the expected level of fulfilment⁴⁷ by the institutions has not been reached. The EI co-ordination system is established and operational, but activities related to systematic *acquis* transposition are not developed. Furthermore, co-ordination of EI-related negotiations is not formally established, as this function is not required at this stage of the integration process.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Proportion of critical CoG functions that are fulfilled by the institutions.	2014	4
	2	EI functions are fulfilled by the institutions.	2014	3

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 4. Country baseline value in comparison with the regional range



⁴⁵ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 19-40.

⁴⁶ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 21.

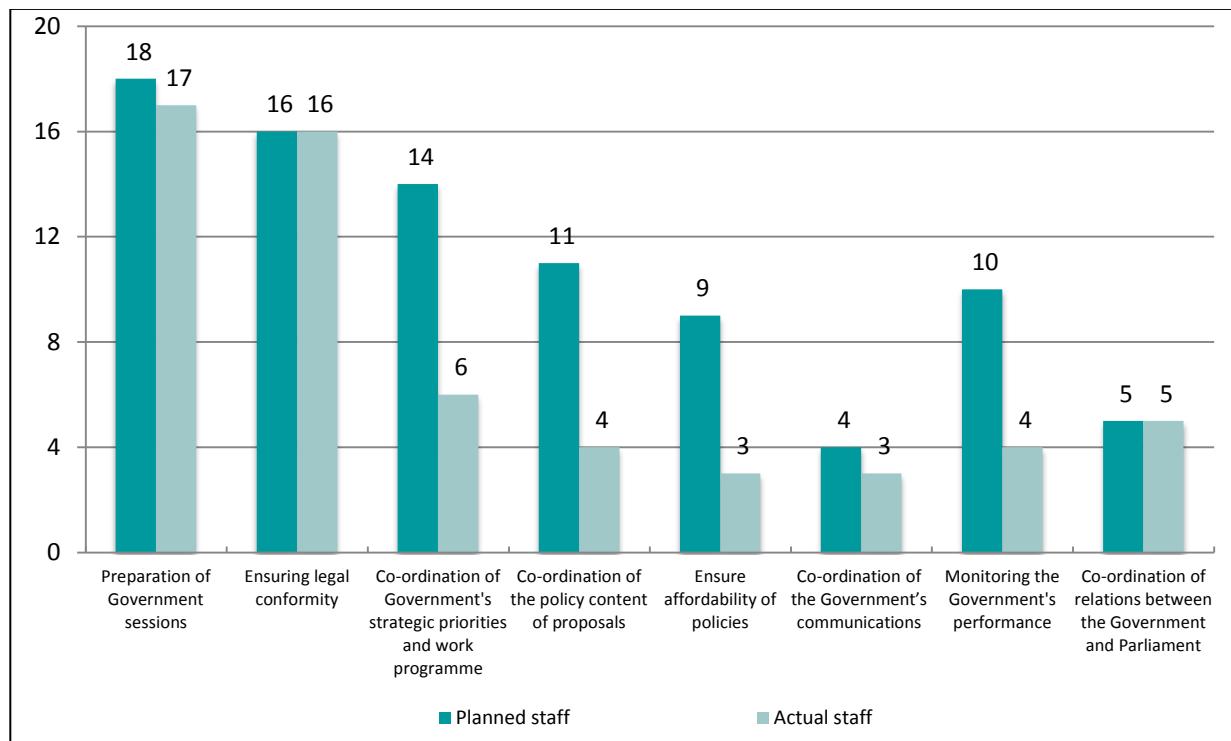
⁴⁷ As foreseen in this analysis on the basis of the Methodological Annex.

Analysis of Principles

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

The institutions fulfilling the functions of the CoG in Albania are the OPM, the Ministry of Finance (MoF), the Ministry of Justice (MoJ) and the Ministry of European Integration (MEI). Responsibilities and functions of the CoG institutions are set out in regulations on internal organisation⁴⁸. Envisaged staffing levels within CoG institutions are sufficient to fulfil the CoG functions. Staffing levels at the OPM and the MEI are not yet in line with their foreseen systematisations⁴⁹.

Figure 5. Staff allocation to critical CoG functions at the Office of the Prime Minister



Source: Office of the Prime Minister.

The basic legislative and institutional framework for policy making, including the EI process, is in place. The RoP⁵⁰ clearly regulate policy co-ordination, requirements for developing laws, and issues related to EI and Council of Ministers (CoM) decision making. All Government stakeholders are aware of and generally follow the relevant procedures⁵¹. Regular and official weekly meetings are held at the level of the Secretaries-General, and the Government works with a set of inter-ministerial co-ordination forums⁵².

Seven out of the nine CoG critical functions defined by the Principles⁵³ are established and implemented daily at the expected level. Implementation challenges remain in relation to: 1) co-

⁴⁸ Individual Prime Minister's Orders on the scope of activities of and staffing levels for the MEI, the MoF, the MoJ and the CoM.

⁴⁹ Based on staffing realisation figures from December 2014 provided by the Albanian administration.

⁵⁰ Decision No. 584, on the approval of the RoP of the Council of Ministers, 28 August 2003, and amendments after adoption.

⁵¹ Based on interviews with officials of the CoG bodies, as well as staff of line ministries.

⁵² Orders of the Council of Ministers No. 18, on the establishment of the Strategic Planning Committee, 22 January 2014; No. 162 on the establishment of the Order of the Council of Ministers, 4 August 2013; and on the Establishment of the Inter-ministerial Committee of Economic Development.

⁵³ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 21.

ordinating the preparation and approval of the CoM strategic priorities and work programme; and 2) co-ordinating the policy content of proposals.

Albania works without a formally adopted work plan or a formal set of Government strategic priorities. However, a 300 Days Plan and a matrix of Government priorities⁵⁴ exist, and serve as a basis for various monitoring activities. The so-called “analytical schedule of draft acts” serves as an annual legislative plan; it is the only annual plan that needs formal approval⁵⁵ in December for the forthcoming year. In 2014, the plan was adopted only in February, while the 2015 plan was adopted in late January. The content of policy proposals is not routinely checked against the minimal requirements for evidence-based policy making or regarding alignment with other policies already in place.

Based on the above, the baseline value set for Albania for the indicator reflecting the proportion of critical CoG functions that are fulfilled by the institutions is 4.

Seven CoG functions critical to a well-organised, consistent and competent policy making system, are established and work in practice. Implementation challenges remain regarding preparation and approval of the Government's strategic priorities and work programme; and co-ordination of the policy content of proposals.

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

The MEI's mandate covers the required EI functions. The tasks of line ministries in relation to implementing the EU *acquis* are defined in the RoP and EI-specific legal acts⁵⁶. The MEI has the authority and capacity to co-ordinate and to plan the transposition and translation of the EU *acquis*, EU assistance and overall EI policy.

Albania's adoption of the NPEI 2014-2020 in July 2014 marks a significant improvement in the EI process. By adopting the NPEI, Albania now has a medium-term EI plan that fits its new stage in the integration process. The NPEI is primarily based on the screening of integration tasks, and provides a prioritised plan for the medium term. The monitoring process has started to function but gaps are evident in the periods covered. One NPEI monitoring report, covering the period from July to September 2014, has been published. On the other hand, reporting to the Parliament on EI is regular with quarterly and annual reports, as well as *ad hoc* reports to subcommittees. To address the challenge of approximation the staffing levels for the MEI have been adjusted, resulting in a 25% increase in the maximum number of staff co-ordinating transposition matters in the MEI⁵⁷.

There are six key functions related to EI: 1) overall daily co-ordination of EI; 2) planning of EI, including costing of reforms; 3) monitoring country preparations for the EI process; 4) co-ordinating transposition of the *acquis*; 5) co-ordinating EU assistance; and 6) co-ordinating EI-related negotiations. The MEI is mandated to fulfil the first five functions; the sixth, co-ordinating EI-related negotiations is not yet required from Albania at its stage of the EI process. Challenges remain with respect to reaching the expected level of fulfilment⁵⁸ of the task of costing, as EI-related reforms are not costed.

The baseline value set for the indicator which considers the extent to which EI functions are fulfilled by the institutions is 3.

⁵⁴ According to the information provided by the Albanian administration, this matrix was developed in November 2013 when the CoM had a two-day retreat (facilitated by the World Bank) to select priority areas. Ministries were then requested to develop their own priorities in accordance with these selected priorities.

⁵⁵ As stipulated by the RoP, Article 9.

⁵⁶ The CoM Decision No. 946, 9 October 2013; Prime Minister's Orders No. 584/2003, 580/2004, 183/2013 and 22/2015 on the scope, functioning and organogram of the MEI and the CoM RoP.

⁵⁷ The Prime Minister's Order No. 22 on the Approval of the Structure and Organisational Chart of the MEI, 22 February 2015, which increased staffing levels from 90 to 104.

⁵⁸ As foreseen by the methodology of the analysis (see Methodological Annex).

The EI co-ordination functions are established, the necessary legal framework is developed and the MEI has the authority to carry out its assigned functions. Co-ordination of EI-related negotiations is not established as a task. Challenges remain regarding the costing of reforms.

Key recommendations

Short-term (1-2 years)

- 1) The Government should develop a coherent planning and prioritisation system for its activities and formally adopt its regular work plan(s). Any delays in developing and adopting the legislative plan should be eliminated.
- 2) The co-ordination, scrutiny and monitoring of the content of proposals in the OPM against the requirements of evidence-based policy development and against Government priorities should be strengthened. Clear guidance to ministries should be developed on how to align with these requirements and how to introduce procedures for rigorous scrutiny of all proposals against both this guidance and formal requirements.
- 3) Line ministries should provide accurate cost estimates regarding the most important EI-related reforms and activities. Within the CoG, the MEI and the MoF should be given joint responsibility for quality control around the financial planning of EI tasks, which should be included in a revised NPEI of the process.
- 4) The MEI should establish a comprehensive monitoring practice on the NPEI and publish monitoring reports for each quarter, as is done for other reports. In addition, the MEI should enhance its capacity for co-ordinating the transposition of the EU *acquis* and the monitoring of the EI process.

Medium-term (3-5 years)

- 5) Line ministries should provide accurate costing estimates regarding all EI-related reforms; the MEI and the MoF should together guard the quality of the costing estimates for all EI-related reforms.
- 6) The MEI and line ministries should jointly steer the transposition process to a level of executing it as a regular routine task, integrated into the day-to-day activities of the administration.
- 7) The MEI should prepare for its future task of co-ordinating accession negotiations by applying the experience it gained through co-ordinating the Stabilisation and Association Agreement (SAA) negotiations.

2.2. Key requirement: Policy planning is harmonised, aligned with the Government's financial circumstances and ensures the Government is able to achieve its objectives.

Baseline values

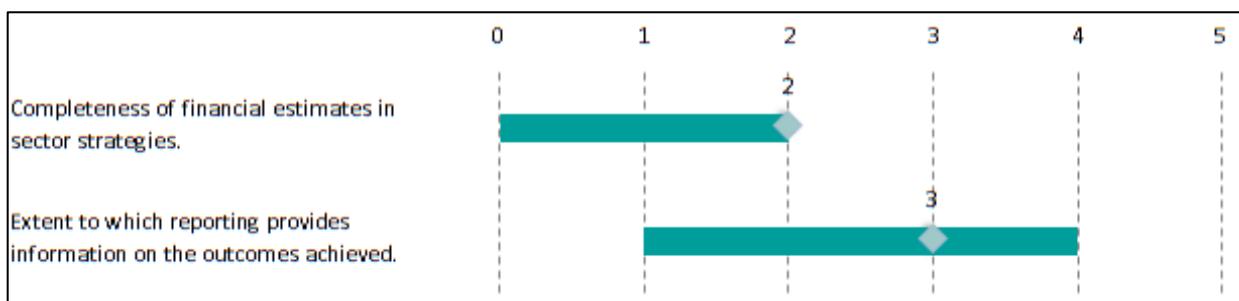
Examining whether policy planning is harmonised is measured through six indicators covering: the annual implementation backlog of planned commitments; the annual backlog in developing sector strategies; the link between funds estimated in sector strategies and those taken up in the MTBF; the completeness of financial estimates; the annual backlog of EI-related commitments; and the extent to which achieved outcomes are reported.

In Albania, assessment of the system of medium-term planning and monitoring reveals a series of challenges. Government plans and monitoring reports are not fully open to public scrutiny, and the country does not have a published full list of strategies to be adopted in a given year. Sectoral strategies, even if they include some level of financial estimates, are not fully linked to the MTBP and do not always provide comprehensive information about full costs and sources of additional funding.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Completeness of financial estimates in sector strategies ⁵⁹ .	2014	2
	5	Extent to which reporting provides information on the outcomes achieved.	2014	3
Quantitative	3	Annual implementation backlog of planned commitments in the central planning document(s).	2014	Not available ⁶⁰
	3	Annual backlog in developing sector strategies.	2014	Not available ⁶¹
	3	Ratio between total funds estimated in the sectoral strategies and total funding identified for corresponding sectors within the MTBF ⁶² .	2014	42%
	4	Annual implementation backlog of EI-related commitments.	2014	Not available ⁶³

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 6. Country baseline value in comparison with the regional range



⁵⁹ A sample of five recently adopted sector strategies is used.

⁶⁰ As the country does not have annual plans to compare for calculating backlog value.

⁶¹ As the country does not have annual plans to compare for calculating backlog value.

⁶² The ratio is calculated as a percentage (0% concurrence minimum and 100% concurrence maximum), illustrating the difference in planned funding in the last five strategies adopted and the MTBF. The outcome value of the indicator is the average of five cases. In the event it is not possible to make the calculation due to a lack of financial data in the MTBF and/or in all or some sector strategies, the ratio is determined as 0%.

⁶³ As the nature of the plan that could serve to calculate backlog has changed in 2014, it is not possible to compare it with previous plans and to calculate a backlog value.

Analysis of Principles

Principle 3: Harmonised medium-term policy planning, with clear whole-of-government objectives, exists 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.

Policy planning documents include⁶⁴ the Government Programme, the 300-Day Plans, the 6 cross-Government priorities, the 56 ministerial priorities, the NPEI and annual legislative plans of the line ministries⁶⁵. The MTBP, adopted in 2014 after being lacking during 2013, provides the basis regarding affordability of the Government objectives. The National Strategy for Development and Integration (NSDI), which is intended to capture the sectoral strategies in a single document, has been under development for several years and still awaits finalisation and adoption.

The RoP sets out the process for developing the Government's annual analytical schedule of draft acts, which is based on the acts proposed by ministries for submission⁶⁶, but this process is not adhered to in practice⁶⁷. There is no formal rule documenting how the Government priorities are to be set on the basis of its political programme⁶⁸. As there is no formally adopted and publicly available Government work plan or legislative plan, the indicator regarding the annual implementation backlog of planned commitments in the central planning documents could not be established.

Albania does not have a publicly available annual plan listing the strategies to be adopted in a given year. However, the annual Analytical Plan of the CoM covers the strategies ministries plan to develop and the recently published report on the planned projects of the Government in the second 300 days also lists strategies. Additionally, the framework for developing the NSDI⁶⁹ sets clear guidelines for the development of sectoral and cross-sectoral strategies in terms of both content and format, as well as the requirement for alignment between strategies and the MTBP⁷⁰. The regulation also lists the strategies that need to be adopted or updated in the course of developing the NSDI. The Unit of Policy Development and Strategic Planning (UPDSP) of the OPM keeps track of all strategies that are planned for adoption but are outside the scope of the NSDI.⁷¹

Based on the information provided by the Albanian administration, 14 out of the planned 28 strategies linked to the NSDI development were adopted over recent years, along with 14 out of 29 strategic documents not linked to the NSDI. In 2014, the Government adopted 11 strategies. As of end-April 2015, two additional strategies were adopted, bringing the total of active strategies to 28. Overall, the Integrated Planning System Information System (which was developed in 2010 and used until 2012) is a comprehensive strategic planning and management system that links strategy development with the development of the MTBP and allows for thorough monitoring. It is to be operationalised again along with the adoption of the new NSDI.

⁶⁴ Please also see information under Principle 1.

⁶⁵ The Government did not formally adopt the 300-day plans and the 56 priorities.

⁶⁶ The RoP, Article 7.

⁶⁷ The RoP requires the plan to be developed by the end of the preceding year, but in 2014 the plan was developed and adopted in only February. In 2015, the plan was adopted in late January.

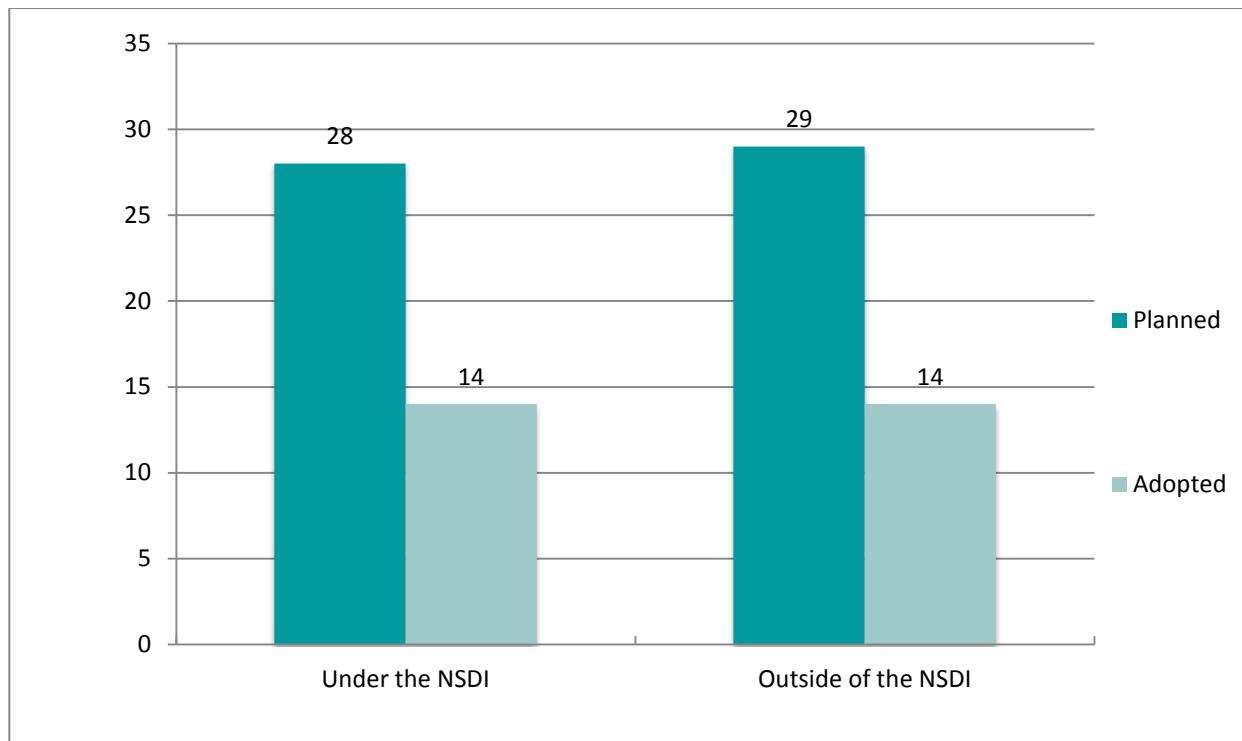
⁶⁸ Though in practice priorities are set for the Government as well as for line ministries, and the multi-annual Government Programme has also been translated into executable priority actions by the Department of Legislation and Program Monitoring.

⁶⁹ The Prime Minister's Order No. 93, 07 August 2012.

⁷⁰ The Prime Minister's Order Nos. 93, 07 August 2012 and No. 183, 23 June 2014.

⁷¹ In the framework of the development of the MTBP 2016-2018 (for better linkages among policies, budgeting and strategic coherence), the Strategic Planning Unit has provided training for the respective line ministries. In total, 100 staff was trained and 13 methodological guidelines were produced and distributed to all line ministries.

Figure 7. Number of planned and adopted strategies



Source: Office of the Prime Minister, SIGMA calculation.

The indicator for the ratio of total funds estimated in the sector strategies to total funding identified for corresponding sectors in the MTBF is set at 42%. Though some of the analysed sectoral strategies⁷² were rather well-aligned with the programmes planned in the MTBP, for other strategies the coverage was minimal and comprehensive information about additional funding was not included in the financial estimations of the strategies neither to the MTBP. It worth noting that strategies covered under the NSDI development process had better alignment with the MTBP and that the alignment was better ensured on the level of set policy objectives and goals than on the level of costed actions. This is due to the fact that the MTBP costs ministerial programmes, but the strategies did not elaborate activities with a full alignment on the level of costed programmes.

The indicator related to the completeness of financial estimates in sector strategies has a value of 2. While the majority of strategies include information about expenditure needs, this information is incomplete. Financial information is included in most of the strategies, but they do not contain clear references to the sources for financing outside of the budget. For example, references to donor financing are incomplete and lacking in detail.

Albania has a legislative framework that sets out the requirements for harmonising strategic initiatives under the development of a single strategic document (the NSDI) and also requires annual planning of the Government's legislative activities. In practice, Albania does cover medium-term planning through a variety of documents. However, many of these documents are not published and have no formal status. There is no full coherence between mid-term policy planning and the MTBP. The financial estimation for sectoral strategies is incomplete.

⁷² The five analysed strategies are: 1) National Sector Strategy of Public Finance; 2) National Strategy of Employment and Skills 2014-2020; 3) Sector Strategy of Investment and Business Development 2014-2020; 4) Strategy for the Prevention and Settlement of Arrears and the Action Plan; and 5) Cross-cutting National Strategy on Integrated Border Management and Action Plan, 2014-2020.

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

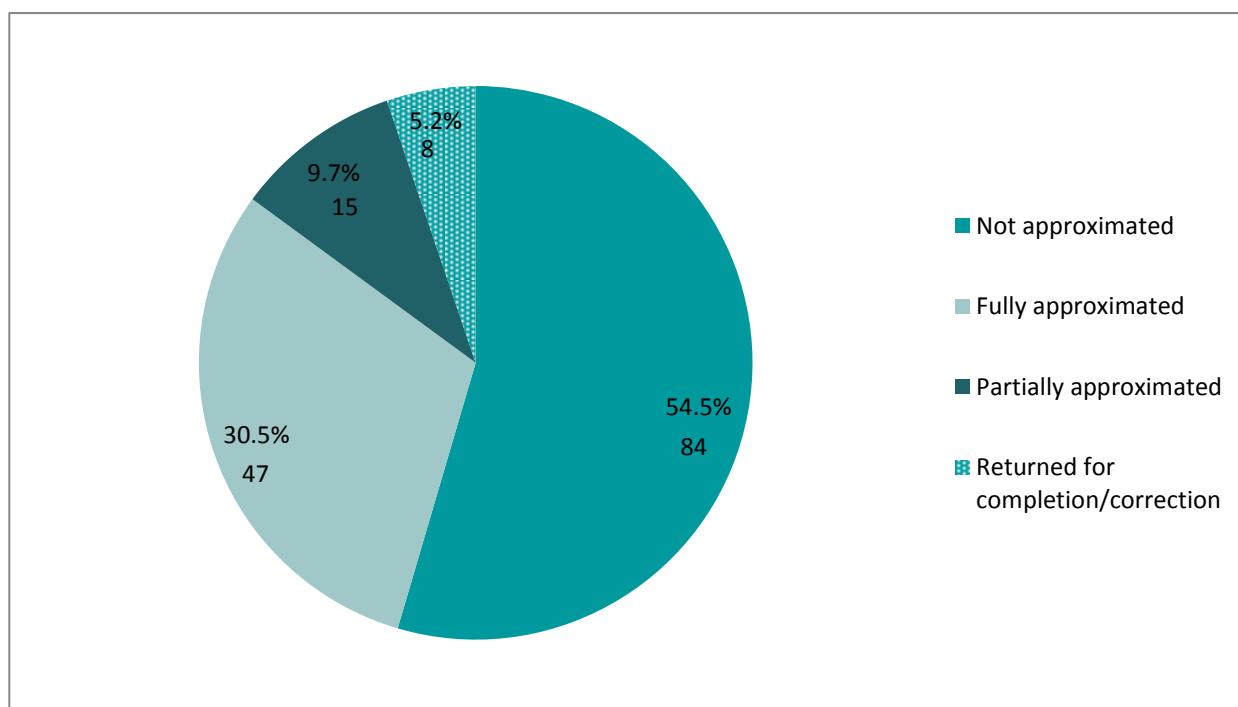
The NPEI 2014-2020 was approved in July 2014 as a medium-term planning and monitoring system. Review of the NPEI started at the end of 2014, with the aim of synchronising it with the NSDI (which is still under development) and with national/sectoral strategies⁷³.

The NPEI serves as a framework for planning and monitoring Albania's EI process; it is based on a screening exercise and also prioritises activities. Adoption of the NPEI marks a clear step forward. However, the activities it outlines are not costed and aligned with the mid-term budgetary framework through the MTBP. The intent is to update the NPEI annually⁷⁴. While monitoring of the NPEI should be done quarterly⁷⁵, only one monitoring report has been published to date, covering the period from July to September 2014. Nevertheless, the MEI also develops quarterly and annual reports on EI for submission to the Parliament.

The Government identified five priorities related to EI and set them out in a Roadmap, which was adopted in May 2014. The priorities are: 1) Public Administration Reform; 2) Judicial Reform; 3) Anti-Corruption Policy Reforms; 4) Fight Against Organised Crime and Corruption; and 5) Human Rights⁷⁶. The NPEI and the five key priorities are aligned and the implementation of these priorities is monitored⁷⁷. The Roadmap is subject to a review in 2015.

The indicator representing the annual implementation backlog of EI-related commitments cannot be calculated, as the planning system has been substantially changed in 2014. However, based on information provided by the administration, an implementation delay of 55% is seen in 2014: of 202 transpositions planned, only 91 were carried out.

Figure 8. Legal drafts analysed by the MEI in 2014, from the perspective of approximation to EU legislation



Source: The Ministry of European Integration.

⁷³ See also the NPEI Introduction chapter and Prime Minister's Order No. 183.

⁷⁴ Commitment made in the NPEI 2014-2020, see also the NPEI Introduction chapter.

⁷⁵ See also Decision No. 438, 07 February 2014.

⁷⁶ See also: Road Map on five key priorities, April 2014, adopted May 2014.

⁷⁷ See also the NPEI Introduction chapter.

With the NPEI, Albania has a mid-term planning system for EI, which carries forward the previously adopted five key priorities. However, the NPEI is not yet fully integrated with the domestic policy planning. Additionally, individual activities of the plan are not costed and alignment with the MTBP is not fully ensured.

Principle 5: Regular monitoring of the Government's performance enables public scrutiny and ensures that the Government is able to achieve its objectives.

The units responsible for monitoring the Government performance are the UPDSP, the Unit of Legislation and Programme Monitoring (ULPM), and the Delivery Unit (DU) of the OPM. The MEI monitors EI matters and provides regular updates and reports on developments to the Parliament. The MoF is responsible for monitoring and reporting on the budget. Detailed public reporting on execution of strategies is not stipulated, but is indicated in the relevant Prime Minister's Order⁷⁸.

The monitoring system for the whole-of-government planning documents is fragmented and not properly co-ordinated: three different units of the OPM review progress through three unaligned systems. One stream of monitoring is conducted by the DU according to the six Government priorities. The ULPM monitors performance of the Government according to the so-called "promises"⁷⁹ made in the Government's programme and according to the annual legislative activities proposed by line ministries. Even though the Government has not officially approved the basis for these monitoring activities, guidelines and an IT system for carrying out the regular monitoring are well-established. The monitoring results are used to discuss progress of individual ministries within the setting of the CoM⁸⁰ and monitoring data is now published⁸¹. The monitoring overviews are updated weekly. When the NSDI is in place, the UPDSP will be assigned to monitor the implementation of sectoral strategies. Monitoring of EI-related commitments is not integrated into the overall mechanism for monitoring the Government's commitments and obligations; however, those activities linked to EI are also indicated in the regular reports developed by the ULPM.

Budget reports are publicly available, along with reports on the Government's achievements in its first 100 days, first 300 days and second 300 days, and also other EI-related reports⁸². But the monitoring system does not ensure full and comprehensive public access to information on the Government's work⁸³. Moreover, the monitoring reports provided for analysis include information only about fulfilment of output; they do not cover indications of achievement of the intended policy objectives. Therefore, the value of the indicator measuring the extent to which reporting provides information on the outcomes achieved is 3.

The Government's activities are monitored by different units of the CoG through various, unaligned systems. The monitoring reports produced include only the achievement of outputs, but not outcomes. Except for strategy implementation reports, monitoring reports have recently been made publicly available, but some reports do not ensure a full and comprehensive understanding of the planned and executed work of the Government.

⁷⁸ The Prime Minister's Order No. 93. on drafting the National Sector and Cross-sector Strategies for the Period 2013-2020 and Sector Strategic Documents 2013-2020 in the Frame of the National Strategy for Development and Integration, 2013-2020, 07 August 2012.

⁷⁹ The ULPM translated the Government Programme into these promises in order to make the policy objectives stated in the Programme executable and measurable internally.

⁸⁰ Based on interviews with officials of the OPM.

⁸¹ The monitoring report on the second 300 Days Plan of the Government was published in April 2015.

⁸² Since April 2015.

⁸³ The recent publication of the report on the second 300 Days Planned projects of the Government is a commendable initiative, but it does not make clear what the different projects actually cover and how their implementation rate was developed.

Key recommendations

Short-term (1-2 years)

- 1) The OPM should review its planning systems with a view to rationalising and streamlining the system of planning documents, and to co-ordinating and aligning the different monitoring processes. Also, it should formally adopt and publish central planning documents, publish the data with regard to the monitoring of Government achievements, and link the planning of achievements to the budget.
- 2) The UPDSP should finalise the NSDI. Also, it should ensure constant monitoring and public reporting on achievements of all strategy implementation against the adopted objectives.
- 3) The MEI should align the NPEI with the MTBP as required by the regulation, publish NPEI monitoring reports every quarter as originally envisaged, and prioritise the transposition of directives in line with the existing capacities for EI.
- 4) Line ministries should improve cost estimates for each strategy, including full costs and clearly identifying donor funding needs, and then fully harmonising the costs of strategies with the MTBP. The OPM and MoF should improve their level of scrutiny and quality control for strategies.

Medium-term (3-5 years)

- 5) The OPM should develop a comprehensive monitoring approach that co-ordinates current monitoring practices and thereby enables the Parliament and the public to assess the achievement of outcomes of Government strategies, EI progress, Government work plans and the Government legislative programme.
- 6) Line ministries should provide detailed total cost estimates for all activities to be pursued under a strategy. National budget provisions and donor funding needs should be highlighted separately.

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

Baseline values

Six indicators distributed over two Principles assess whether Government decisions and legislation are transparent, legally compliant, accessible to the public and scrutinised by the Parliament. The indicators cover the ratio of regular agenda items submitted on time for Government sessions; the transparency of Government policy making; the number of laws with court rulings against the Government in a given year; the ratio of laws initiated by the Government and approved by the Parliament within a year; the extent to which a forward-planning mechanism exists between the Government and the Parliament; and the number of law implementation reports discussed in the Parliament. The precise methodology and scales for these indicators can be found in the Methodological Annex.

In Albania, transparency in the Government's decision making is ensured by regular prior legislative scrutiny by the Parliament. The exchange of information between the Government and the Parliament is extensive, with three-month forward planning in place. Also, the Parliament discusses law implementation issues in some of the key policy areas.

	Principle no.	Indicator	Baseline year	Baseline value
Quantitative	6	Ratio of regular agenda items submitted on time ⁸⁴ by ministries to the Government session.	2014	Not available ⁸⁵
	6	Transparency of Government policy making ⁸⁶ .	2014	4
	6	Number of laws with court rulings ⁸⁷ against the Government during the year.	2014	3
	7	Ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission.	2014	100%
	7	Extent to which forward planning mechanisms between the Government and the Parliament exist ⁸⁸ .	2014	3.5
	7	Number of law implementation reports discussed in the Parliament.	2014	13

Analysis of Principles

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

The legal framework in Albania provides a robust system for the management of the legislative process by the CoM. The organisational structure provides a basis for a strong CoG and a functional policy making system focused on implementing procedures, with appropriate levels of monitoring and intensive scrutiny of the Government's performance. However, no information was provided regarding the timeliness of submission of proposals to the CoM⁸⁹.

The CoG is tasked with highlighting the shortcomings of legislative proposals with particular regard to unclear legislative phrasing and legal inconsistencies⁹⁰. The Secretary General of the CoM has the power to return drafts which are submitted to the CoM when quality criteria are not met. The General Secretary of the CoM is also entitled to correct legislative techniques and terminology used in a draft⁹¹. While the CoM also has the right to check the quality of drafting in terms of overall policy content, only

⁸⁴ “On time” is understood as within the procedural criteria set by regulation(s).

⁸⁵ Data was not provided by the administration as this information is not collected in a systematic way.

⁸⁶ World Economic Forum Competitiveness Index, minimum score of 1, maximum 7.

⁸⁷ Rulings by the Constitutional Court.

⁸⁸ OECD SEE 2020 indicator, minimum score of 0, maximum 5.

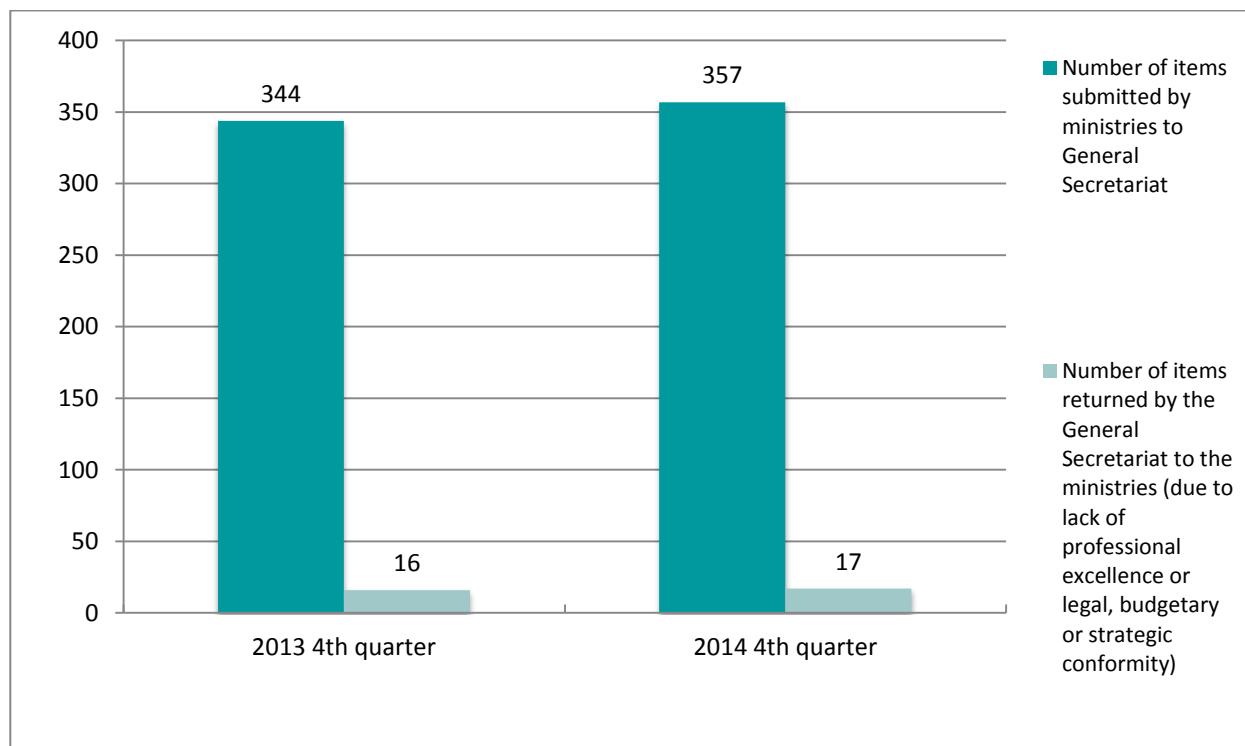
⁸⁹ According to the Albanian administration, it is technically impossible to release the arrival deadlines of Acts in the CoM, as the system in use does not record such information. Generally, however, the 10-day term provided for in CoM Decision No. 584 “On approval of the Council of Ministers Regulation” is respected because the legal department uses the Acts in reviewing and preparing the draft Act for the meeting of CoM.

⁹⁰ A shared responsibility between the OPM and the MoJ.

⁹¹ The RoP, Article 48.

17 out of 357 items submitted to the CoM were actually returned to the proposing ministries with identified shortcomings in the last quarter of 2014 (the ratio was the same in 2013)⁹².

Figure 9. Number of submitted and returned items by the General Secretariat in the last quarters of 2013 and 2014



Source: Office of the Prime Minister.

The value of the indicator for transparency of Government policy making is 4 on a scale of 1 to 7. This figure is derived from the Competitiveness Index of the World Economic Forum and reflects the ease with which businesses can obtain information about changes in government policies and regulations which will affect their activities. However, it should be pointed out that the agendas of formal Government sessions are not made public. As a general rule, after the Government session on a Wednesday, the Secretary General of the CoM is expected to publish the Government's decisions on the Government webpage⁹³.

The indicator value for the number of laws with court rulings against the Government during the year is 3 for 2014. The comparative figures for this indicator are 3 in 2012 and 1 in 2013⁹⁴. Parliament adopted 185 laws in 2013, out of which only three were not proposed by the Government, and 184 laws in 2014, out of which 11 were proposals of individual MPs. The Parliament adopted all laws that were submitted by the Government.

The process of developing Government decisions is well developed with adequate powers provided for checking the quality of drafts from a procedural, as well as from a legal perspective. While Government internal stakeholders are well informed about the decision making process, adherence to timelines cannot be assessed as it is not tracked in the CoM. The agendas of Government sessions are not public, but information about the decisions is routinely provided.

⁹² Based on the information provided by the Albanian administration. According to the staff of the OPM, despite the competence of the Secretary General to carry out the evaluation of Legislative Technique and Terminology on the proposals, it provides coordination between ministries, which in many cases has provided visible results in amending and improvement the initiative of proposer without the need for this initiative to be withdrawn or returned.

⁹³ However, the webpage being up to date and complete was challenged by NGOs interviewed.

⁹⁴ The numbers on the court rulings against the Government have been provided by the Albanian administration.

Principle 7: The Parliament scrutinises government policy making.

The relationship between the Government (as the primary body initiating the legislation) and the Parliament, in the context of adopting legislative drafts, is covered in the Parliamentary RoP under “The Legislative Procedure”⁹⁵. The office of the State Minister responsible for relations with the Parliament facilitates effective co-ordination of Government and Parliament relations. Ministers are expected to attend discussions in the Parliament on issues that fall under their responsibility and attendance levels are high. The State Minister for Relations with the Parliament attends all Parliamentary sessions⁹⁶.

The Parliament's Commission of Laws, which is responsible for protecting the quality of the legislative process during Parliamentary deliberations, convened 78 times in 2013 and discussed 112 items, while it met 139 times in 2014 and deliberated on 307 materials in 2014⁹⁷. This indicates that the Parliament is sufficiently fulfilling its role in safeguarding the quality of legislative drafting in Albania.

A new Law on the role of the Assembly in the EI process has recently been adopted⁹⁸. The new legislation regulates the co-ordination between the Government and the Assembly on EI matters, including the provision that the Assembly shall have an annual session on the implementation of the NPEI. The Law also establishes a new body, the National Council on European Integration, as the highest body of consultation on EI issues in the Assembly, with a wide range of members from the Assembly, as well as from various independent institutions.

The indicator relating to the ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission is set at 100%. All legislation proposed is approved by the Parliament within one year and, in fact, most of the legislation proposed is adopted within four to six weeks.

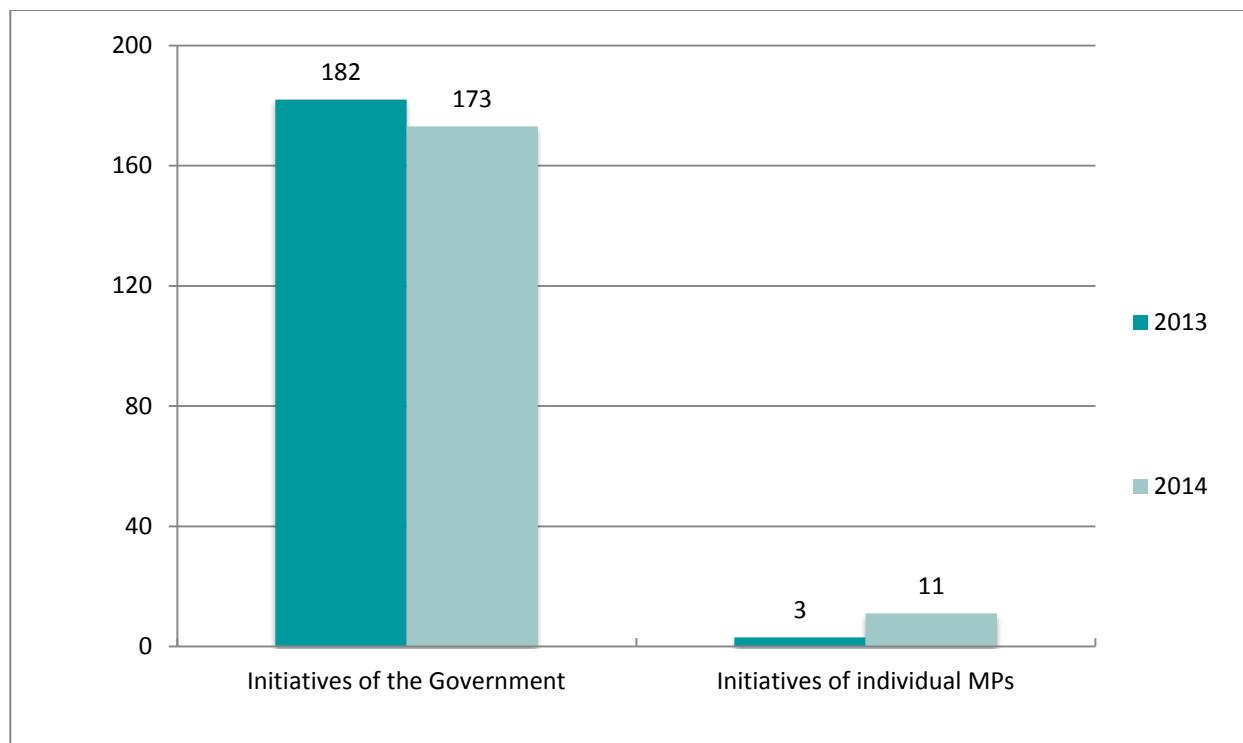
⁹⁵ The Rules of Procedure of the Assembly, Articles 68-77.

⁹⁶ This finding is based on information provided by the office of the State Minister for Relations with the Parliament.

⁹⁷ Data provided by the office of the State Minister for Relations with the Parliament.

⁹⁸ The Law No. 15/2015 on the Role of the Assembly in the European Integration Process of the Republic of Albania, 5 March 2015.

Figure 10. Laws adopted by the Parliament, 2013 and 2014



Sources: Office of the Prime Minister; the Albanian Parliament.

The value for the indicator addressing the extent to which forward planning mechanisms between the Government and the Parliament exist is 3.5. The Parliament and the Government interact closely on the Parliament's rolling agenda which comprises a three-month time horizon⁹⁹. Occasionally, the Government shares legislative drafts with the Parliament before the CoM decides on the final version of the draft¹⁰⁰. However, this process is not properly regulated.

The indicator value for the number of law implementation reports discussed in the Parliament is 13. This value shows that the Parliament does scrutinise the Government's performance on the implementation of specific legislation occasionally. In addition, the Parliament organises public hearings on various topics. In 2014 the Parliamentary Committee for European Integration organised six such sessions on EI matters alone, and the implementation of the new Civil Service Law was also regularly discussed at public hearings.

The relationship between the Government and Parliament is regulated and procedures are adhered to. The State Minister responsible for Relations with the Parliament is the key conduit for information exchange. Ministerial participation in the Parliament's work is comprehensive. While the Government and Parliament interact effectively on the short-term planning of the Parliament's rolling agenda, Parliament is not apprised of mid-term legislative and policy planning. The Parliament adopts most of the legislation proposed by Government within four to six weeks. The Parliament occasionally discusses law implementation reports and organises public hearings as a means of oversight of the Executive.

Key recommendations

Short-term (1-2 years)

- 1) The Government should send its annual legislative agenda to the Parliament before the start of a new legislative year and the document should be subject to Parliamentary scrutiny.

⁹⁹ As regulated by Article 26 of the Rules of the Assembly.

¹⁰⁰ This information is based on interviews.

- 2) The Government should pro-actively send law implementation reports to the Parliament on a routine basis for all major legislation and discuss these with the Parliament.

Medium-term (3-5 years)

- 3) The Government should provide the Parliament with detailed information on the actual implementation of sectoral strategies along with important laws and policies.
- 4) The Parliament should fully integrate its control function on the implementation of Government proposals and commitments within its oversight and scrutiny role for policy development and implementation.

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

Baseline values

Assessing whether policy and legislative development are inclusive and evidence-based, and thus achieve the intended goals, is done based on ten indicators. These cover the extent to which ministries are oriented towards policy development; the backlog of transposition; the number of annually transposed directives; the extent to which policy development makes the best use of analytical tools; the extent to which public consultation is used; the extent to which the interministerial consultation process occurs; the ratio of staff participating in legal drafting trainings; the number of laws annulled due to legal inconsistency or unconstitutionality; the number of laws sent back to the government by the Parliament; and the extent to which legislation is made publicly available. The precise methodology and scales for these indicators can be found in the Methodological Annex.

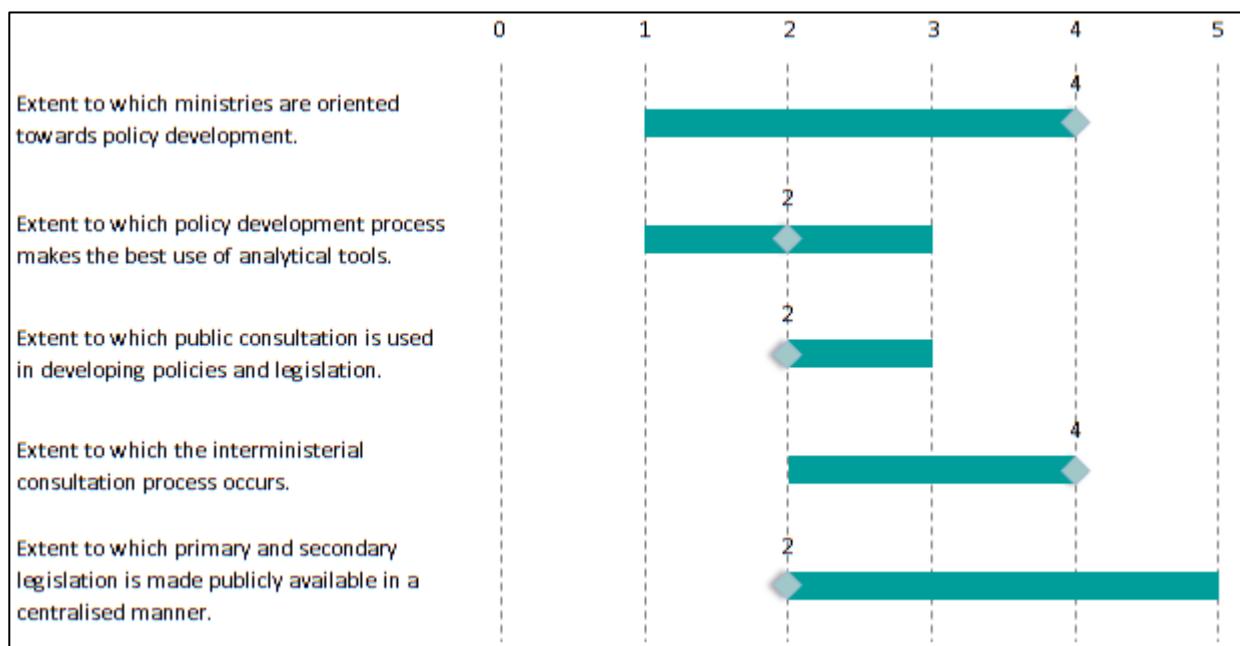
In Albania, inclusive and evidence-based policy and legislative development is in the early stages, having severe challenges with regards to implementing tools for evidence-based policy development, clear procedures within the ministries and between the administration and stakeholders, as well as with regards to interministerial consultation, resulting in shortcomings in translating the policy development structures and procedures into high-quality policy and legislative proposals.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which ministries are oriented towards policy development.	2014	4
	10	Extent to which policy development process makes the best use of analytical tools.	2014	2
	11	Extent to which public consultation is used in developing policies and legislation.	2014	2
	11	Extent to which the interministerial consultation process occurs.	2014	4
	12	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	2014	2

Quantitative	9	Backlog of transposition ¹⁰¹ .	2014	Not available ¹⁰²
	9	Number of annually transposed directives.	2014	91
	12	Ratio ¹⁰³ of staff participating in legal drafting training or mentoring over the past year.	2014	0%
	12	Number of laws annulled on the basis of legal inconsistency or unconstitutionality in a given year.	2014	3
	12	Number of laws sent back to the Government by the Parliament.	2014	0

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 11. Country baseline value in comparison with the regional range



Analysis of Principles

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

¹⁰¹ Backlog is analysed as the comparison of documents consisting of commitments: the Government Annual Work Plan (GAWP) and the EI plan - from two consecutive years, taking into account items carried forward from one year to the next.

¹⁰² As the nature of the plan that could serve to calculate the backlog changed in 2014, it is not possible to compare it with previous plans and to calculate a backlog value.

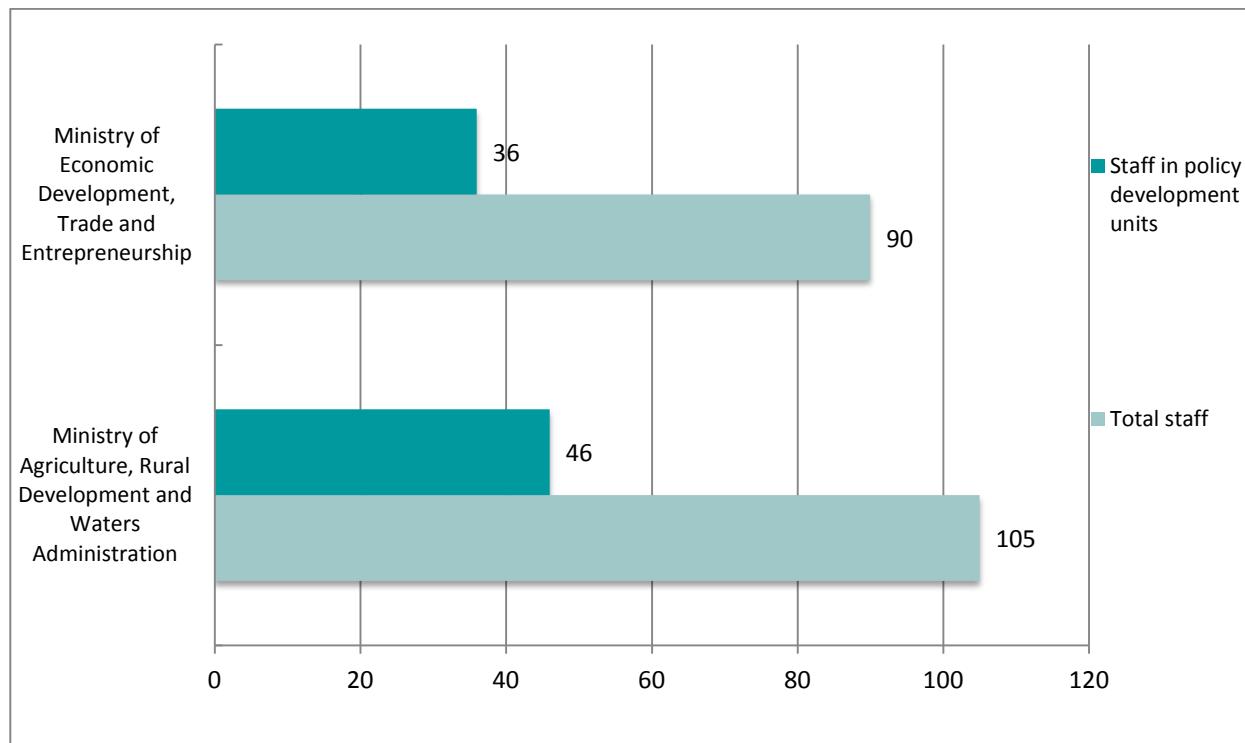
¹⁰³ The ratio is calculated on the number of staff trained against the total number of ministerial staff dealing with legislative drafting.

Albania Policy Development and Co-ordination

Albania has 16 ministries and 3 Ministers of State. The structures and tasks of the ministries were established through adopting individual Prime Minister (PM) Orders. Policy responsibilities of the ministries are clearly defined. Individual PM Decisions are supported by ministerial organigrams indicating the titles and intended staffing levels of the different ministerial units. The policy development process in Albania involves the preparation of legislative files by policy units, with legal units transforming policy and legislative demands into actual legislative proposals. As a general rule, policy development is not delegated to subordinate bodies.

The indicator which measures the extent to which ministries are oriented towards policy development has a value of 4, as four out of the five elements required are in place¹⁰⁴. This is because there are no internal rules which regulate, in detail, the procedures and processes of policy development and legal drafting within the ministries. However, the ratio of staff participating in policy development is sufficiently ensured.

Figure 12. Staff allocated to policy development in sample ministries



Sources: the Ministry of Agriculture, the Rural Development and Waters Administration; the Ministry of Economic Development, Trade and Entrepreneurship.

The challenge lies in the administration's capacity to develop high-quality policies and legislation coupled with its capacity to implement the EU *acquis* properly and effectively. These issues are covered under the following three Principles.

Ministries have clear organisational structures and policy responsibilities among them are clearly attributed. The overall system for policy development is supported by appropriate rules. While the basic framework for policy development has been established, internal rules for steering the policy development and legislative drafting process within ministries are lacking. A challenge remains with regard to the substance of policies and legislation, along with the overall quality of the output generated by the administration.

¹⁰⁴ See the Methodological Annex.

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

The EI framework and the roles/responsibilities of the different actors are defined. The legislative framework establishes rules for transposition of the *acquis*, including authority for quality control and supervision by the MEI in addition to requirements for ministries in the transposition process. Tables of concordance facilitate monitoring and quality control by the MEI, which provides its opinion in all transposition cases. The MEI has the authority to make changes or reject the draft submitted by the responsible ministry. Horizontal procedures for *acquis* transposition and responsibility for translation of the *acquis* are in place. The transposition of EU directives is an integral part of the domestic policy development process. However, the impact of transposition cases is not properly analysed and the implementation requirements are not costed¹⁰⁵.

The legal framework and institutional arrangements for interministerial co-ordination and handling of EI issues in the ministries are robust. The ministerial EI departments co-operate closely with other policy co-ordination and legal departments. The capacity of the EI units within the line ministries is insufficient with respect to both the number of staff involved in EI activities and the competence of this staff¹⁰⁶.

The functions and mandate of the interministerial forums at the political (KNIE), administrative (KKNIE) and expert levels are clearly set¹⁰⁷. This provides a good basis for the efficient functioning of the system, including the resolution of conflicts among ministries. However, these formal forums are used infrequently. The KNIE met once in 2014 and the KKNIE twice.

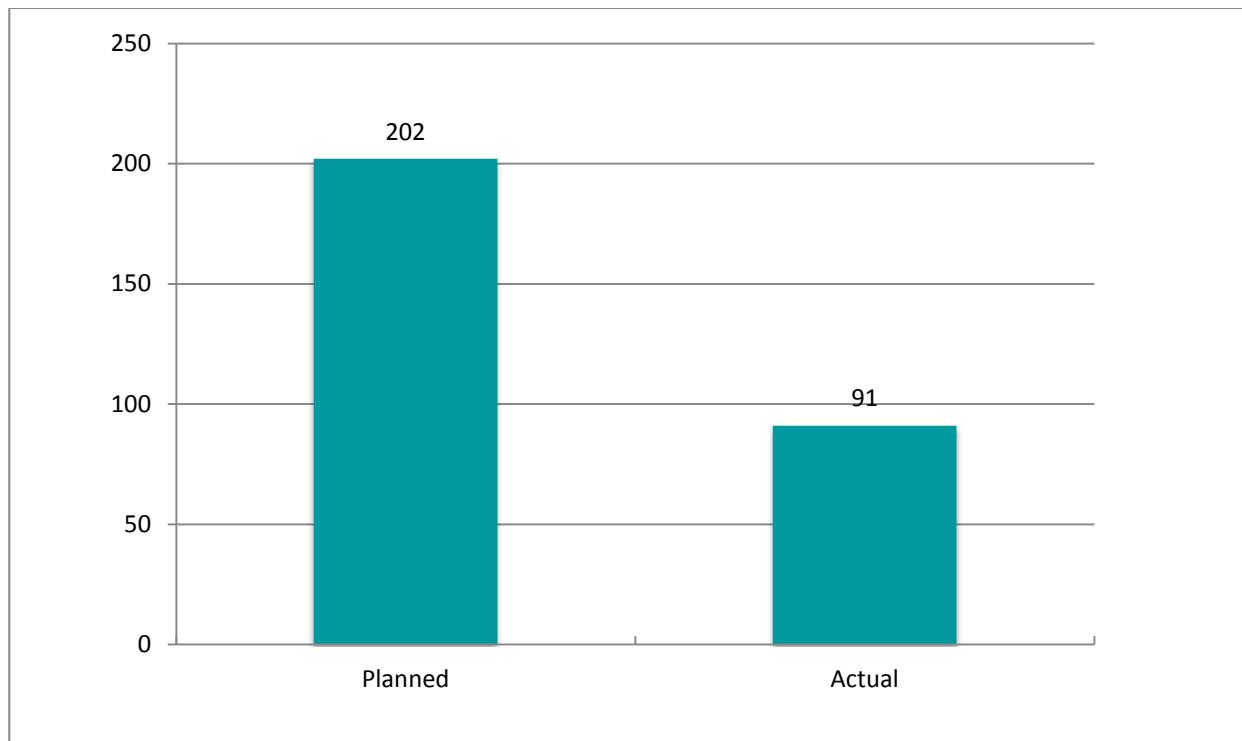
The indicator representing the backlog of transposition cannot be calculated as the planning system substantially changed in 2014. However, based on information provided by the administration, an implementation delay figure is available which shows a 55% delay in 2014. Of the 202 transpositions planned for 2014, 91 were actually transposed.

¹⁰⁵ Conclusions based on the analysis of three transposition cases submitted by the MEI related to directives covering late payments, asylum and health risks related to noise.

¹⁰⁶ These conclusions are based on interviews and Instrument for Pre-accession Assistance (IPA) proposals related to increasing the quality of EI units in the line ministries.

¹⁰⁷ The Prime Minister's Order No. 183 on the establishment, composition and functioning of the inter-institutional working groups for each chapter of the *acquis*, including the chapters of political and economic criteria, 11 December 2009.

Figure 13. Number of transposed Directives in 2014



Source: The Ministry of European Integration.

The procedural framework and the institutional set-up for EI are well defined but the official EI forums are underused. The transposition planning is unrealistic and no costing of transpositions is undertaken. Challenges remain with regard to the capacity of staff involved in the EI process.

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

The RoP and the Law Drafting Manual¹⁰⁸ set out the requirements which must be followed when proposals are being sent for approval to the CoM. Any draft decisions submitted by a ministry to the Government should be accompanied by an explanatory note, an estimation of fiscal effects and the opinions of ministries which also have responsibilities in the policy area covered by the draft law¹⁰⁹.

The Ministries of Justice, Finance and EI are entrusted¹¹⁰ with a horizontal role for checking issues of legality, fiscal impacts and compliance with the *acquis* respectively. The OPM has the role of guaranteeing quality control in the final version of Explanatory Memoranda, which includes policy analysis, consultation and other general policy development-related activities. Responsibilities have not yet been assigned for the training of ministry officials in the drafting of Explanatory Memoranda, the management of stakeholder consultation, the process of policy analysis or the drafting of Fiscal Impact Assessments. Albania does not have a Regulatory Impact Assessment (RIA) process.

The value of the indicator measuring the extent to which the policy development process makes the best use of analytical tools is 2. Albania only uses rudimentary tools for policy development. For each

¹⁰⁸ "Law Drafting Manual: A Guide to the Legislative Process in Albania" (second revised version from 2009).

¹⁰⁹ See also *Rules of Procedure of the Council of Ministers of the Republic of Albania*, Chapter III, "Drawing up of the draft law".

¹¹⁰ Decision No. 584 on the Approval of the Rules of Procedure of the Council of Ministers and amendments after adoption, 28 August 2003; Council of Ministers Decision No. 946, 9 October 2013; Prime Minister's Decisions Nos. 584/2003, 580/2004, 4/2009, 201/2006, 183/2013, and 22/2015 on the scope, functioning and organogram of the MEI and the CoM Rules of Procedure and individual Orders on the roles and responsibilities of individual institutions (ministries).

proposal only one policy option is provided. While this option is accompanied by an estimation of budget costs and/or benefits, the basis for calculating costs and benefits is unclear and linkages to the MTBP are not established. Proposals lack information on key issues such as the implementation of the proposed measure, additional (temporary) staff needs and/or staff training needs. The approaches employed for evaluating progress and identifying potential obstacles to successful implementation are not properly identified¹¹¹.

Albania applies a basic approach to policy development which employs a certain level of consultation and limited analysis without proper costing or alignment to the MTBP. The roles for improving policy development through training have not been properly assigned. The evidence supporting draft proposals is incomplete. Monitoring and analysis of the implementation of policies is not carried out on a regular basis.

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

General principles for consultation with external stakeholders are embedded in the RoP and the Law Drafting Manual. Consultations conducted by the ministries differ widely in the way they are implemented¹¹².

To improve consultation practices, the Government created the National Economic Council (NEC) to establish dialogue with the business community. The Parliament adopted the Law on Consultation on 30 October 2014, which enters into force in May 2015¹¹³. The Law stipulates rules and requirements which line ministries must adhere to when they are preparing policies and legislation. They will be obliged to publish draft acts on the electronic register for public notification, which will serve as the central point of consultation of external stakeholders. Every public body will have to appoint a co-ordinator for public notification and consultation. All comments and recommendations received through the public consultation process will have to be published and a commentary provided on how the comments and recommendations have been taken into account. The Law on Consultation provides a significant impetus for improving consultation practices in Albania. However, there are concerns regarding the practical implementation of the measure, as the plans for implementation are not sufficiently clear and line ministries are not yet aware of the Law's implications¹¹⁴.

The indicator value for the extent to which public consultation is used in developing policies and legislation is 2. While public consultation is defined in the Law on Consultation, the Law has not yet been implemented and current consultation practice is sporadic and varies in quality¹¹⁵. The analysis of legislative proposals shows that consultation is not an integral part of policy development in Albania at this juncture. Proposals are not accompanied by a consultation report covering interactions of the proposing ministry with interested external stakeholders and/or those likely to be affected by the proposed Law. Nevertheless, it is worth mentioning that the consultation process of sector strategies has been steered and monitored by the Strategic Planning Unit (SPU) of the OPM as sector strategies are considered as priority policy proposals of the Government.

The indicator showing the extent to which the interministerial consultation process occurs has a value of 4. Interministerial consultation is a well-embedded procedure, routinely undertaken, and forums for

¹¹¹ The analysis is based on 1) the draft Law on the medals for the armed forces of the Republic of Albania; 2) the draft Law on writing off the interest rates and fines for the compulsory contribution of social insurance that have not been paid by self-employed persons in agriculture; 3) the draft Law on the foreign service of the Republic of Albania; and 4) the draft Law on the right to information.

¹¹² The finding is based on interviews, the analysis of legislative proposals under Principle 10 and the public consultation for the Open Government Initiative for Albania.

¹¹³ The Law No. 146/2014 on Public Notification and Consultation.

¹¹⁴ This finding is based on interviews and the lack of an implementation plan for Law No. 146/2014 on Public Notification and Consultation.

¹¹⁵ Based on information received from NGOs as well as from the Office of the State Minister responsible for Relations to the Parliament.

conflict resolution have been established. Legislative proposals are widely distributed between line ministries before a draft proposal is placed on the agenda of the Government. Legislative proposals are supported by opinions from the MoJ and MoF. Other ministries, such as the MEI and the Ministry of Economic Development, Trade and Entrepreneurship (MEDTET), provide their opinion when deemed necessary. As a rule, ministries are consulted on draft proposals which have relevance for them¹¹⁶. The Secretaries-General of the line ministries meet weekly on an informal basis and discuss the items placed on the Government's agenda, although the usefulness of this engagement in conflict resolution cannot be assessed. The fact that the KNIE and KKNIE met infrequently indicates that interministerial consultation forums are not fully utilised for conflict resolution.

Consultation with external stakeholders in Albania is sporadic and consultation practices differ significantly. The Law on Consultation, adopted in October 2014, aims to improve consultation practices. The full implementation of this Law will require further attention, as currently no unified preparatory process is outlined and preparation of ministries is not monitored centrally. Interministerial consultation procedures on policy and legislative proposals are well developed, but their potential use in resolving conflict is unclear.

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

The Law Drafting Manual is a detailed guide on how a law should be drafted. It provides an explanation on the need for well-structured and clear laws. Albania has a clear procedure for checking the quality of legislation, in which both the MoJ and the OPM have a role. The Parliament's committee on Laws met 139 times in 2014, while the Council of Legislation, a body which discusses more general legislative quality matters, met twice in 2014.

The consolidated versions of legislation, i.e. updated texts in which amendments have been integrated, are not published. However, the rules which underpin the functioning of the Official Publication Centre, adopted in 2014, stipulate that all amendments are to be integrated into new working versions of acts¹¹⁷.

In 2014 no staff from line ministries was trained on legal drafting¹¹⁸. As a result, the indicator measuring the ratio of staff participating in legal drafting training or mentoring over the past year has a value of 0%.

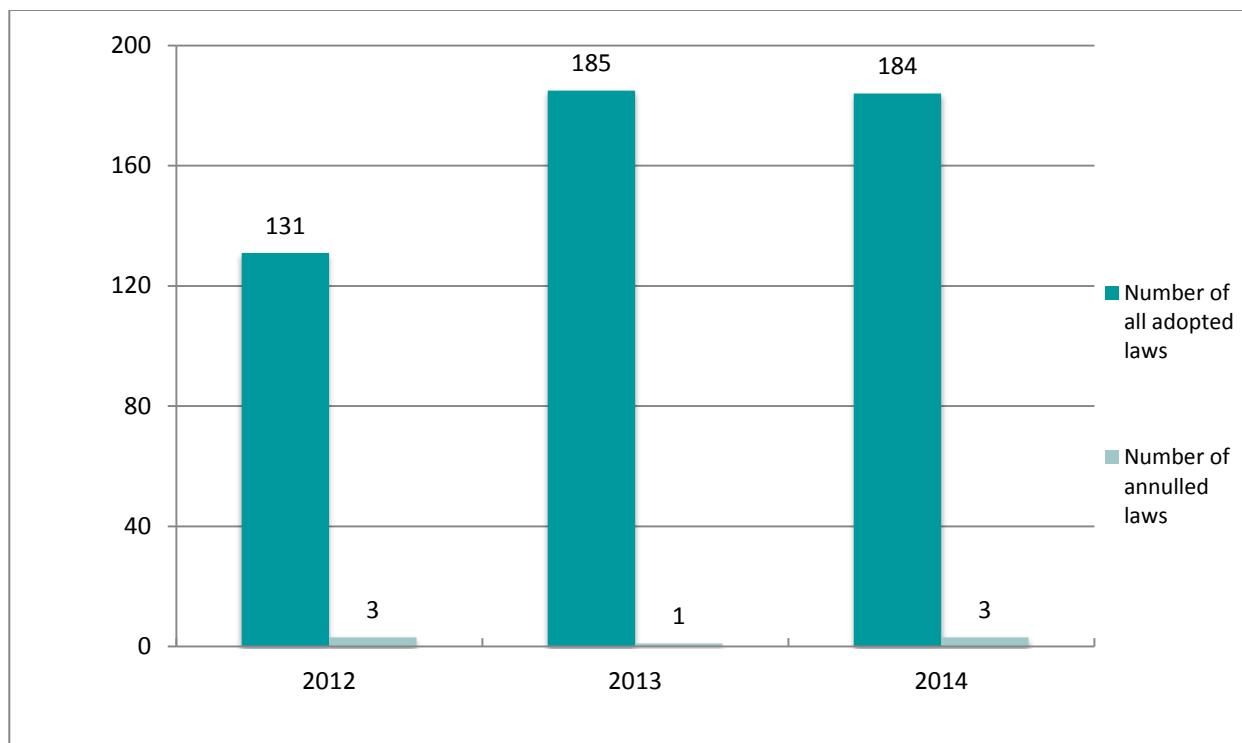
The value of the indicator showing the number of laws annulled on the basis of legal inconsistency or unconstitutionality in 2014 is 3. This level has remained stable over the past few years, the value for 2012 was 3 and in 2013 it was 1. The number of laws adopted was also stable, with 185 in 2012 and 184 in 2013.

¹¹⁶ This finding is based on replies received during interviews.

¹¹⁷ The Law No. 78/2014 on the Organisation and Functioning of Official Publication Centre from 10 July 2014.

¹¹⁸ Based on information provided by the MoJ and the OPM.

Figure 14. Number of laws annulled by the Constitutional Court



Sources: Office of the Prime Minister; the Albanian Parliament.

In 2014, the Parliament did not send any laws back to the Government. Therefore, the indicator covering the number of laws sent back to the Government by the Parliament has a value of 0.

The indicator measuring the extent to which primary and secondary legislation are made publicly available in a centralised manner has a value of 2, as all primary and secondary legislation is available, albeit not always online. Currently, over 75% of legal texts are available online through a central registry¹¹⁹. This number is set to grow, as legislation must be sent to the Official Gazette for publication in order to become legally binding. Sub-legal Acts are published in the Official Gazette as well. The Gazette is published in both electronic and print form.

The rules for drafting legislation are clear and adhered to. No training on legal drafting was provided in 2014. All primary and secondary legislation are available centrally, although electronic provision is not yet comprehensive. Albania does not publish the consolidated versions of legislation.

Key recommendations

Short-term (1-2 years)

- 1) The MEI and the line ministries should improve the capacity of the EI units in the line ministries. The MoJ and the MEI should ensure that staff members in legal departments are trained on legal drafting and the transposition of EU directives.
- 2) The OPM should improve policy development practices by developing the tools for comprehensive *ex ante* analysis and providing guidance on costing, consultation and policy analysis to line ministries.
- 3) The Government should assign responsibilities for the provision of training on the different aspects of policy development to the appropriate CoG institutions, and the regular training of staff dealing with policy development should be ensured.

¹¹⁹ Based on information provided by the OPM.

- 4) The OPM and the MoJ should ensure proper and consistent application of the Law on Consultation and monitor the progress made.
- 5) The Government should steer the full utilisation of all interministerial consultation forums to resolve issues of conflict before the sessions of the Government, by stipulating their regular occurrence and entrusting them with the right to make decisions on conflicting issues that do not require the consideration of the Government.
- 6) The MoJ should ensure that any legislation not yet electronically available becomes accessible through the online registry for legislation.

Medium-term (3-5 years)

- 7) The OPM should establish a comprehensive support structure and training curriculum for policy development.
- 8) The MoJ should ensure that consolidated versions of primary and secondary legislation are publicly available for all legislation which is in force.
- 9) The OPM should establish a RIA system to be employed by all line ministries to ensure high-quality practices for *ex ante* policy analysis.

3

Public Service and Human Resource Management

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

Law 152/2013, “On the Civil Servant” (CSL), adopted in 2013 and largely in line with European standards, entered fully into force in February 2014.

The enforcement of the CSL has expanded the scope of the public service, although the process of declaring civil service status according to Article 67 – i.e. issuing an individual administrative act declaring the employment status for all previous public employees and civil servants who are entitled the status of civil servant on the basis of the new CSL – is unfinished.

Primary and secondary legislation represent good first steps in the use of merit for recruitment. The two-pool recruitment processes conducted in 2014 supports merit-based recruitment. However, concerns remain about the declaration of civil service status for some positions within the CSL and about the use of termination, downgrading and other instruments to dismiss public servants. The legislation and its implementation suggest that merit is applied for recruiting senior public servants, but recruitment within the new system is still in the implementation phase as of spring 2015. It is therefore too early to say that merit is properly rooted in the system.

Although salaries are comparable for similar positions under the current job classification, there is a need to develop and apply analytical evaluation tools for the positions in order to ensure a fairer salary system.

There have been improvements in both the quality and quantity of training, but more needs to be done to make training effective. The experience with performance appraisal is still limited under the system introduced in the new CSL, and the percentage of good/very good appraisals is extremely high (over 95%).

The Human Resource Management Information System (HRMIS) is still not functional; thus, accurate information to support strategic workforce planning, management and monitoring of the public service is unavailable.

1.2. Main developments

The CSL should have entered into force in October 2013 but was postponed to February 2014, because the by-laws were not prepared and the change in the Government slowed the operational functioning of the administration.

Between 26 February and 26 March 2014, the Council of Ministers adopted 10 by-laws to implement the CSL. Additionally, in August 2014 the Director of the Department of Public Administration adopted some important guidelines to ensure consistent and coherent application of the new civil service legislation, including in the areas of recruitment, lateral transfer and promotion of executive-level public servants and admission to the Top Management Corps (TMC).

On 30 October 2014, the Commissioner for the Oversight of the Civil Service, an independent oversight body responsible for reporting to the Assembly, was appointed.

In December 2014, the Parliament amended 28 articles of the CSL¹²⁰. Some substantial changes include: a) extending the exceptions from the horizontal scope; b) filling low- and medium-level vacancies by opening the career system to external candidates; c) extending the grounds for termination of

¹²⁰ The Law 178/2014, “On some amendments and additions to Law no. 152/2013 “On the Civil Servant.”

employment and providing for quick dismissal. These extensive amendments raise some concerns about legal certainty, i.e. the reliability and predictability of the primary civil service legislation.

In December 2014, the Council of Ministers adopted two by-laws to ensure coherent implementation of Law 90/2012 “On the Organisation and Functioning of Public Administration”¹²¹.

In March 2014, the Council of Ministers adopted the Inter-Sectoral Strategy against Corruption 2015-2020 and its Action Plan 2015-2017.

The Council of Ministers adopted the Cross-cutting Public Administration Reform Strategy and its Action Plan 2015–2020 (PAR Strategy) in April 2015. One of the four key objectives of the PAR Strategy is to improve the civil service and human-resource management in a unified manner, and to enhance transparency and accountability in regard to the implementation of civil service reform across all levels of decision-making.

¹²¹ Decision of the Council of Ministers No. 867, 10 December 2014, “On the procedures for co-operation of institutions of state administration”; Decision of the Council of Ministers No. 893, 17 December 2014, “On the rules of organisation and operation of advisory cabinets, internal organisation of state administration institutions and detailed procedures for preparation, proposal, consultation and approval of internal organisation.”

2. ANALYSIS

The analysis covers the seven Principles of the public service and human resource management (HRM) area, grouped under two key requirements¹²². Under each key requirement, baseline values for the indicators of the monitoring framework of the Principles are provided. The Principles cover all relevant elements related to the public service¹²³: scope of the public service and legal framework; professionalism of public service in recruitment, training and performance appraisal; fair and transparent salary system; and promotion of integrity as well as prevention of corruption.

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

Baseline values

The scope of the public service is examined through three qualitative indicators that refer to the scope covered by the legislation, the coherence and professionalism of the policy and legal framework, and the institutional set-up enabling consistent cross-organisational HRM practices.

The new CSL has considerably clarified the vertical scope of the public service¹²⁴ and has consolidated its material scope¹²⁵. The policies for public-service development are defined in the Cross-cutting Public Administration Reform Strategy 2015-2020. The legal framework is in line with most administrative-law principles¹²⁶. Challenges relate to a lack of proper implementation of the legislation. The institutional set-up to enable consistent HRM practices across the public service has challenges related to the HRMIS which is not in place and to the limited co-ordination mechanisms for implementing the legal framework.

¹²² SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 41-56.

¹²³ In *The Principles of Public Administration* and in the Baseline Measurement, a narrow **horizontal scope of public service** is applied, covering: i) ministries and administrative bodies reporting directly to the Government, Prime Minister or Ministers, i.e. the civil service strictly speaking; ii) administrations of the Parliament, the President and the Prime Minister; iii) other administrative bodies at the level of the central administration if they are included in the scope of the public service in terms of the public/civil service law and they exercise public authority conferred by public law and are responsible for safeguarding the general interests of the state or other public bodies; iv) independent constitutional bodies reporting directly to the Parliament.

¹²⁴ In *The Principles of Public Administration*, the **vertical scope of public service** means that the law on public/civil service clearly determines the upper and lower division line between political appointees, public servants and support staff.

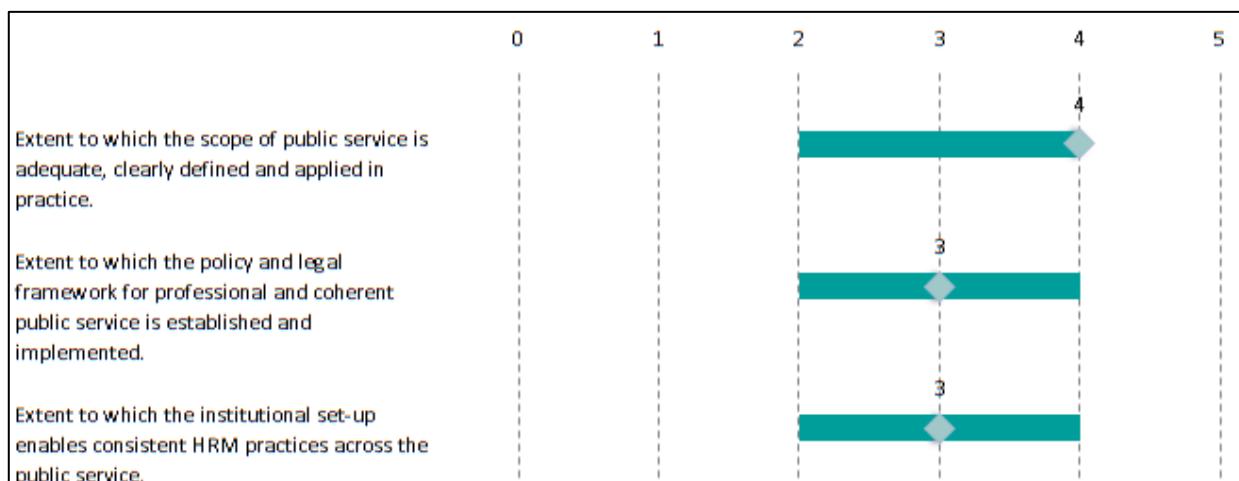
¹²⁵ In *The Principles of Public Administration*, the **material scope of public service** means that the law on public/civil service establishes all general provisions relevant to the employment relations of public servants and management of public service, such as scope and principles of the civil service; classification; recruitment and selection, including of civil servants in senior managerial positions; rights and obligations of civil servants, including the integrity system; remuneration (main principles and components of salary system); professional development, including performance appraisal, training, mobility and promotion; disciplinary procedures, including suspension of the civil service relationship; termination of employment, including demotion and redundancy; management and central co-ordination of the civil service.

¹²⁶ Openness and transparency, accountability, efficiency and effectiveness from *The Principles of Public Administration*, OECD Publishing, p. 45.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	2014	4
	2	Extent to which the policy and legal framework for professional and coherent public service is established and implemented.	2014	3
	2	Extent to which the institutional set-up enables consistent HRM practices across the public service.	2014	3

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

Compared with the past, the horizontal scope of the public service¹²⁷ now includes employees of subordinated institutions and all local self-government units, covering public servants in: a) 84 state administration and subordinated institutions; b) 19 independent institutions, including regulatory bodies; c) local self-government units. Police officers and the foreign-service officials are also public servants and the CSL applies to them, unless otherwise provided for in the special law¹²⁸. However, there are some shortcomings as regards the horizontal scope following the latest amendments of the CSL, which extends the list of personnel who are excluded from the scope of the CSL¹²⁹. An abundance of special laws and different rules may increase inequality among public servants, diminish the

¹²⁷ The CSL 152/2013, Article 2.

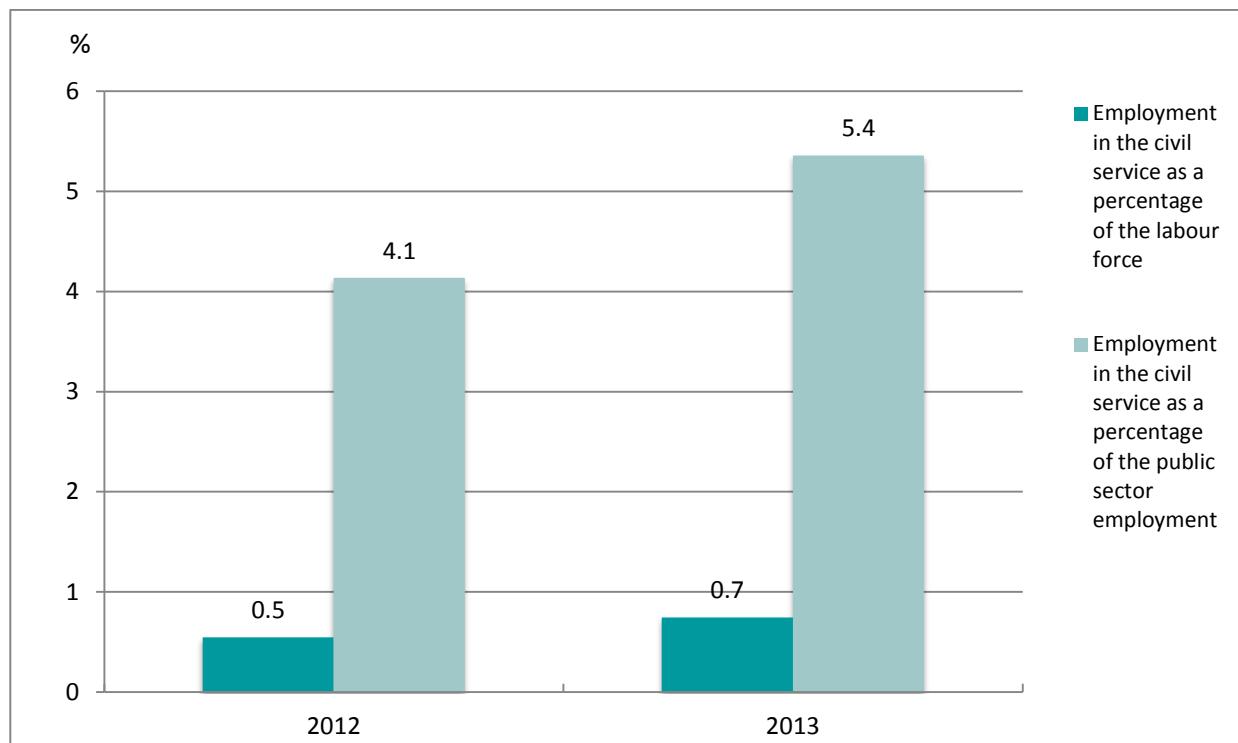
¹²⁸ The CSL 152/2013, Article 3, paragraph 1.

¹²⁹ The CSL 178/2014, Article 1.

coherent application of the new civil service legislation, and require more resources to manage and monitor the system.

The current number of civil servants in the state administration institutions is 8 764¹³⁰, which represents 5.4% of the public sector employment¹³¹ (163 545), and 0.7% of the labour force¹³² (1 175 919)¹³³. The public sector forms 13.9% of the total labour force of Albania.

Figure 2. Employment in the civil service as a percentage of the labour force and of public-sector employment, 2012-2013



Source: Institute of Statistics, Civil Service Commission, Department of Public Administration.

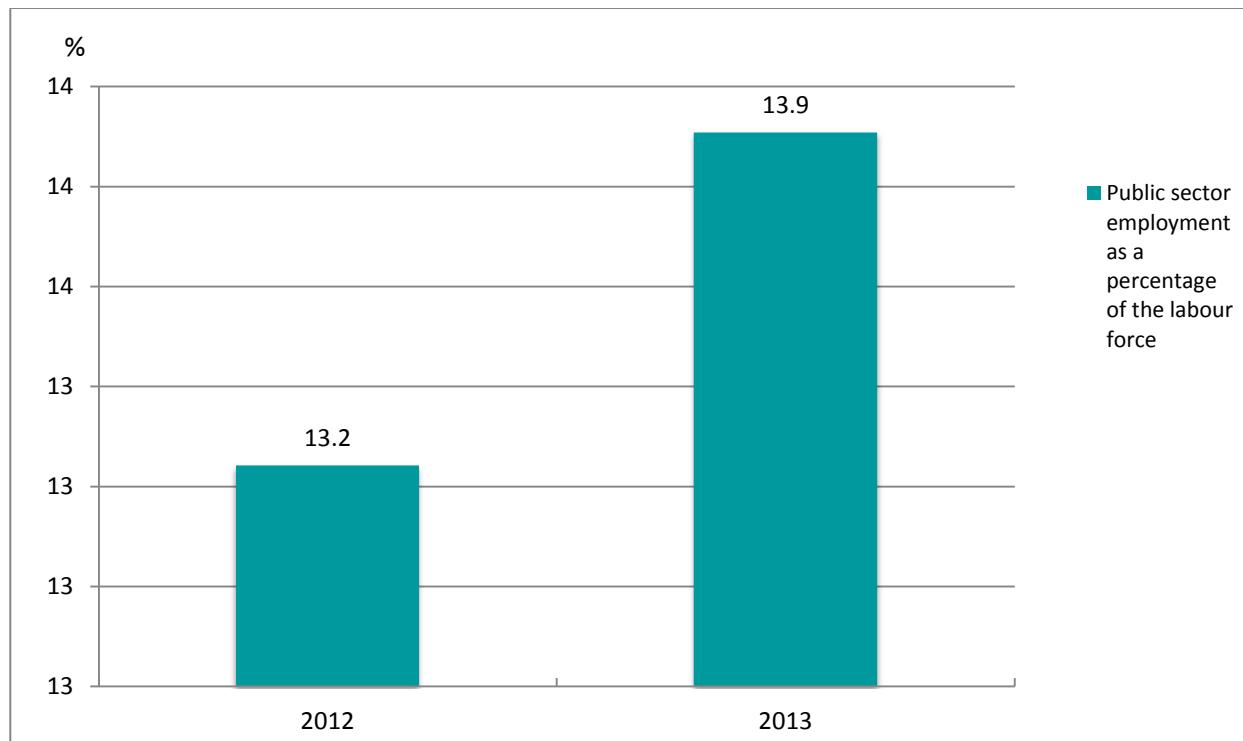
¹³⁰ The civil service scope is in reality bigger, including civil servants of independent institutions and local self-government units, but their respective number of civil servants is not available. In the Annex to the Report of the EU Albania Fourth Public Administration Reform Special Group, 4 February 2015, only the number of civil servants in the state administration institutions (ministries and subordinated institutions) was provided.

¹³¹ The public sector employment includes employed persons in the following sectors of activities: public administration, defence, compulsory social security, education, human health and social work activities.

¹³² The labour force includes the country's working-age population that engages actively in the labour market, either by being employed or unemployed.

¹³³ The Institute of Statistics of Albania, www.instat.gov.al.

Figure 3. Public-sector employment as a percentage of the labour force, 2012-2013



Source: Institute of Statistics, Civil Service Commission, Department of Public Administration.

The vertical scope clearly determines the demarcation between political appointees, public servants and support staff. Furthermore, political appointees and other political offices are clearly excluded from the scope of the public service¹³⁴.

The material scope establishes all general provisions relevant to the employment relations of public servants and the management of public service referred in the Principles¹³⁵.

The value of the qualitative indicator on the scope of the public service is 4.

The enforcement of CSL 152/2013 represents an expansion of the scope of the public service to cover the positions exercising public power. The process of declaring civil service status remains unfinished, however. The vertical and material scope is in line with the Principles, but the horizontal scope suffers from an extended list of exceptions, following the amendments to the CSL in December 2014.

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

There is a defined public service policy in the framework of the draft PAR Strategy¹³⁶, with clear and coherent measures in place to support its implementation. The relevant legislation¹³⁷ explicitly contains all administrative law Principles¹³⁸. However, there are some concerns about the principle of legal certainty (reliability and predictability of the law). The CSL was approved in 2013 and, since then, a new text amended 28 articles in 2014 (Law 178/2014). Some substantial changes include: a)

¹³⁴ The CSL 152/2013, Articles 2 and 4.

¹³⁵ SIGMA (2014) [The Principles of Public Administration](#), OECD Publishing, Paris, p. 44.

¹³⁶ Cross-cutting Public Administration Reform Strategy 2015-2020.

¹³⁷ The CSL 152/2013, Articles 42-44; Law 90/2012 on the Organisation and Functioning of the State Administration, Article 3.

¹³⁸ Reliability and predictability (legal certainty), openness and transparency, accountability, efficiency and effectiveness as described in SIGMA (2014) [The Principles of Public Administration](#), OECD Publishing, Paris, p. 45.

extending the exceptions from the horizontal scope (discussed above); b) filling lower- and middle-management vacancies by opening the career system¹³⁹ to external candidates; c) extending the grounds for termination of employment and providing for compensation; d) shortening the frequency of performance appraisals and providing for quick dismissal¹⁴⁰.

The degree of regulation in the primary and secondary legislation is adequately balanced to allow flexibility and ensure stability of the public service.

The institutional set-up establishes a clear political responsibility vested in the Minister of State for Innovation and Public Administration. The Department of Public Administration (DoPA), responsible for reporting to the State Minister, is sufficiently empowered to lead, support and monitor the implementation of the public service policy and legislation¹⁴¹. The DoPA's legal responsibilities facilitate its key tasks in a wide range of areas, provided it is adequately resourced. The DoPA's number of staff positions increased from 22 to 43 in 2014 (36 positions were filled at the time of this report)¹⁴².

The Commissioner for the Oversight of the Civil Service, an independent body responsible for reporting to the Assembly, was appointed on 30 October 2014. The Commissioner has been able to carry out its functions only since December 2014, when the Assembly adopted its organisational structure¹⁴³. The Secretariat of the Commissioner consists of 31 positions. The Regulation "On the supervision/inspection procedures", approved on 11 March 2015¹⁴⁴, defines the objective of activities and detailed procedures of the Commissioner.

The HRMIS, consisting of information about each civil servant's identity, education, position, pay structure and tenure, is in the initial implementation phase in selected ministries following the corresponding by-law¹⁴⁵. In November 2014, the HRMIS was functional in 16 ministries and in the Prime Minister's office¹⁴⁶, but it has not yet been rolled out to all institutions. Links to the registry of the Treasury (salaries) and Social Security are expected. Since the HRMIS is still not functional, accurate information on the public service is unavailable.

The co-ordination between the DoPA and the Human Resource (HR) units of administrative bodies remains limited¹⁴⁷. The application of homogeneous standards across the public service is only partially ensured by a few networking events and guidelines that the DoPA has provided. Furthermore, the system lacks proper HR planning, and the DoPA is unable to assess properly the available resources for the tasks required under the new legislation. Finally, the new legislation has created difficulties of coherent implementation among the HR units and has slowed many processes¹⁴⁸.

Considering the factors analysed above, the values for the qualitative indicators on the policy and legal framework, and on the institutional set-up for 2014, are both 3.

¹³⁹ One of the main policy choices for the new civil service system was to establish a career trajectory to enable and encourage career advancement and mobility within the civil service, as opposed to the previous position-based system (Concept Paper on a new Civil Service Law of Albania, 2010).

¹⁴⁰ The CSL 178/2014 , Articles 1, 9, 17, 22, 24.

¹⁴¹ The CSL 152/2013, Article 7.

¹⁴² Report on Implementation of the Albanian Road Map on Five Key Priorities (EU Delegation (EUD) Version 12 December 2014), p. 22.

¹⁴³ Assembly Decision No. 98/2014, "*On the approval of the structure, the organigram and the job categorization of the Commissioner for the Oversight of the Civil Service.*"

¹⁴⁴ Regulation of the Commissioner for the Oversight of the Civil Service, 11 March 2015, "On the supervision/inspection procedures".

¹⁴⁵ Decision of the Council of Ministers, 05 March 2014, "On the keeping, the procedure and the management of the personnel files and central personnel registry."

¹⁴⁶ Report on Implementation of the Albanian Road Map on Five Key Priorities (EUD Version 12 December 2014), p. 13.

¹⁴⁷ Already identified in SIGMA 2014 Assessment of Albania.

¹⁴⁸ Cross-cutting Public Administration Reform Strategy 2015-2020, pp. 12, 13.

The legal framework for a professional and coherent public service is established but has some challenges in implementation. The institutional set-up is in place; however, deficiencies remain in supporting the strategic workforce planning, management and monitoring of human resource management practices in the public service.

Key recommendations

Short-term (1-2 years)

- 1) The DoPA should ensure that Law 152/2013, “On the Civil Servant”, and its secondary legislation are consistently implemented across the new scope of the public service.
- 2) The DoPA, working with other CoG institutions, should clarify the co-ordination structure and ensure the effective implementation of the PAR Strategy and its Action Plan 2015-2020 in relation to the public service.
- 3) The DoPA should put the HRMIS into operation and, together with the relevant ministries, create inter-operability of the HRMIS with the salary and social security registries.

Medium-term (3-5 years)

- 4) The Parliament should regularly discuss and follow-up recommendations by the Commissioner for the Oversight of the Civil Service, based on the supervision and inspection of the law enforcement in the management and administration of the civil service in all institutions that employ civil servants, as well as the recommendations by other oversight institutions, including the People’s Advocate and the High State Control related to the public administration.

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

Baseline values

The professionalism of public service is examined through 8 qualitative and 16 quantitative indicators that refer to the merit-based recruitment and termination of employees in the public service, including senior public servants; a fair and transparent salary system; professional development and appraisal of public servants; and measures to promote integrity and prevent corruption in the public service.

The new recruitment regulations, especially of entry- and mid-level public servants, include a clear commitment to meritocracy. The current salary system is transparent in terms of the proportion of basic parts and other allowances and bonuses, but it lacks some fairness as similar positions in different institutions have different salaries, and there remains a need for a proper job-evaluation system. The professional development of public servants is still a challenge in two key areas. The training strategies and plans exist, but training does not reach all public servants (who are entitled to it by law). Training is under-budgeted, and there is no evaluation of its impact. For performance appraisal, there is still a need to convert a formal exercise into a real one, where there is a gradation of performance and the results are taken into account for HRM actions. Finally, there are many anti-corruption measures in place, but the perception of corruption is still very high in Albania. Disciplinary procedures are adequately regulated but have created challenges for the units implementing them.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Extent to which recruitment of public servants is based on the merit principle in all its phases.	2014	4
	3	Extent to which the termination of employment of public servants is based on merit.	2014	3
	4	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	2014	3
	5	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	2014	4
	6	Extent to which the training system of public servants is in place and applied in practice.	2014	3
	6	Extent to which the performance appraisal system of public servants is in place and applied in practice.	2014	3
	7	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	2014	3
	7	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	2014	4
Quantitative	3	Annual turnover of civil servants at the level of the central administration.	2014	Not available ¹⁴⁹
	3	Turnover of civil servants at the level of central administration within six months of a change of Government.	2014	Not available
	3	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	2014	63%
	3	Percentage of vacant positions filled by internal competition in the civil service at the level of central administration.	2014	39%
	3	Percentage of women in the civil service at the level of central administration.	2014	48%

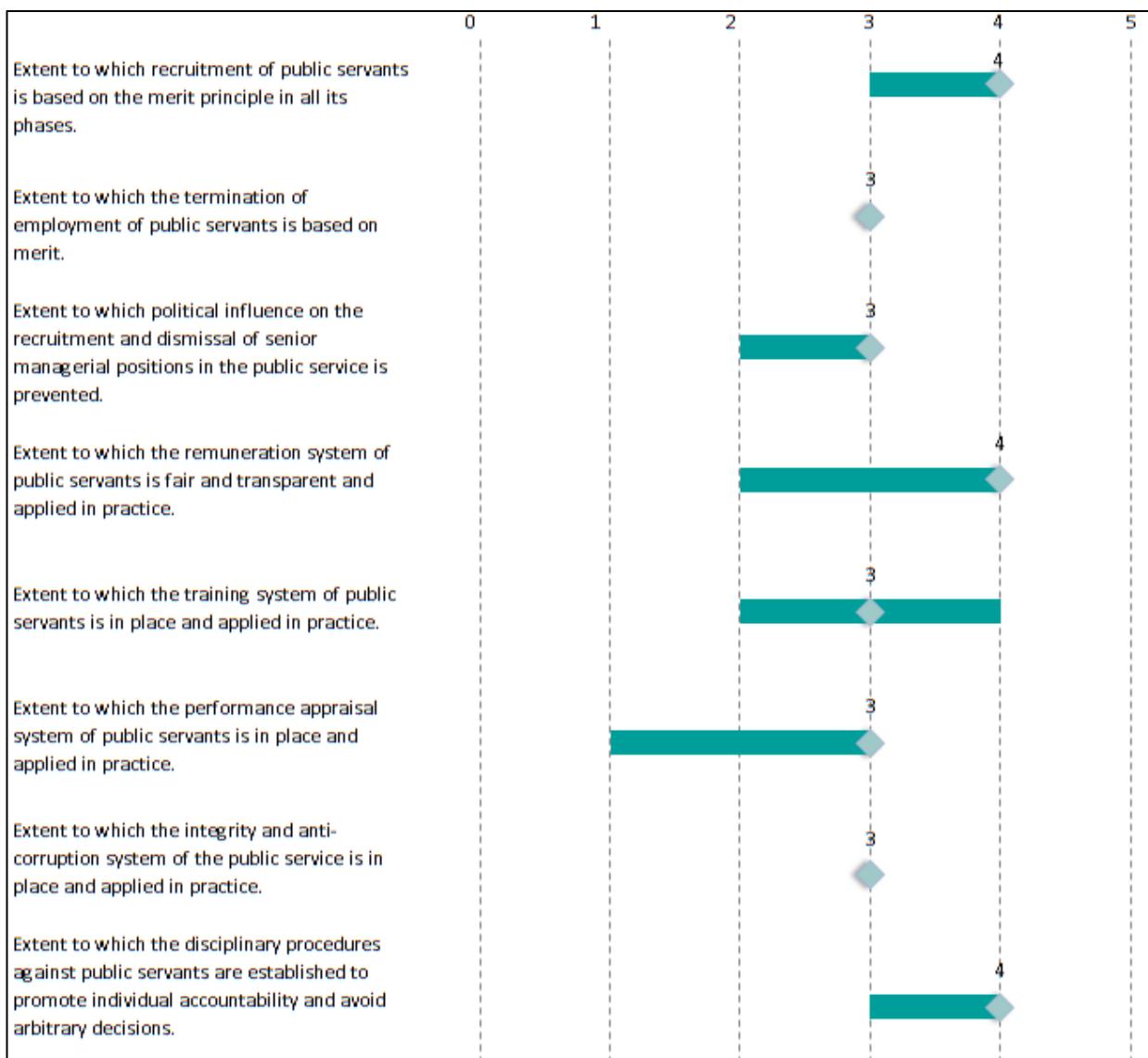
¹⁴⁹ Here and hereafter, “not available” means that the respective data was not provided upon SIGMA’s request by the administration. Under this particular indicator, data was provided on dismissed civil servants only (69 in 2014).

Albania
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
	3	Percentage of women in senior managerial positions in the civil service at the level of central administration.	2013	47%
	3	Percentage of civil servants at the level of central administration by different ethnic origin in relation to the general ethnic division in the country based on the latest census.	2014	Not available
	4	Annual turnover of senior managerial civil servants at the level of the central administration.	2014	0%
	4	Turnover of senior managerial civil servants at the level of central administration within six months of a change of government.	2014	Not available
	4	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	2014	Not available
	4	Percentage of vacant senior managerial positions at the level of central administration filled by internal competition.	2014	Not available
	5	Ratio of average annual compensation of central government senior and junior professionals to compensation of tertiary-educated workers.	2014	Not available
	5	Ratio of average annual compensation of central government senior public servants to compensation of tertiary-educated workers.	2014	Not available
	7	Transparency International Corruption Perception Index – the country score on a scale of 0-100.	2014	33
	7	Citizens' perception of the integrity and trustworthiness of the public service.	2014	Not available
	7	Number of public servants who have been criminally convicted of corruption crimes.	2014	21

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 4. Country baseline value in comparison with the regional range



Analysis of Principles

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

The recruitment and selection process is based on merit, in accordance with the legislation¹⁵⁰. Relevant secondary legislation and guidelines are in place¹⁵¹. The eligibility criteria and general provisions

¹⁵⁰ The CSL 152/2013, Article 20.

¹⁵¹ Decision of the Council of Ministers, No. 143, 12 March 2014, “On the procedures of the recruitment, selection, probation, lateral transfer and promotion of the civil servant of the expert, low and mid-level management category.” Guideline No. 4, dated 13 August 2014, “On the process of filling the vacancies in the civil service through the lateral transfer procedure and recruitment to the civil service of the expert category through the open competition.”

ensuring the quality of the recruitment are established in the CSL¹⁵², and detailed procedures are covered by secondary legislation and additional guidelines. The appointment of the Permanent Recruitment Committee and the recruitment procedure follow the principle of merit-based competition¹⁵³.

The implementation of merit-based recruitment has two contrasting sides. On one side, the new recruitment procedures, based on the criteria of merit and equal treatment, have been followed in practice as set out in the legislation. There have been external competitions for a large proportion of jobs (63% of all vacancies), while the rest have been filled through internal competitions. Two pool-recruitments took place in 2014, involving 113 and 148 vacancies, respectively, for entry-level positions. The DoPA received 5 300 on-line applications (among which 1 900 applicants were deemed qualified) for the first and 7 000 on-line applications for the second. Of the 261 vacancies, 152 (i.e. 60%) were filled¹⁵⁴. If only eligible candidates are taken into account, the average number of candidates in external competitions was 11.8. These figures are encouraging, suggesting that merit has been applied. There are two limitations of the process, however. First, the change of the system from competitions for single positions to competitions for a group of positions has increased the number of applicants, and the pre-selection electronic system has shown deficiencies¹⁵⁵. Second, the first two exercises emphasise the need for better targeting of candidates and attracting new applicants since the competitions will have to be repeated for 40% of the vacancies.

On the other side of merit-based recruitment implementation, there has been a questionable process of declaring civil service status in some institutions. Since the enforcement of the CSL, the DoPA has issued the individual act of declaration of employment status¹⁵⁶ for most public servants, including the top ones, after the verification of their recruitment procedure, which has to be competitive if civil service status is to be granted. In some cases, however, staff employed at the same job for at least one year may receive the status of civil servant without competition and subject only to a probation period¹⁵⁷. This entails a higher degree of subjective judgement by the senior civil servant of the unit in charge of the process¹⁵⁸.

In addition, the Commissioner for the Oversight of the Civil Service examined a small number of institutions between December 2014 and February 2015 and found the following: a) 167 cases are not confirmed as having civil service status in the state administration¹⁵⁹; b) some institutions have not met the deadline for (or even started) the process declaring the employment status; c) in those cases in which the institutions have finished the process, the Commissioner has identified irregularities such as a lack of appropriate job descriptions, which does not help the institution to assess the legal conditions of the civil-servant status under the law, or cases where the civil servant status has been granted when the employment condition on the job position does not appear¹⁶⁰.

¹⁵² The CSL 152/2013, Articles 21 and 22.

¹⁵³ Decision of the Council of Ministers, No. 143, 12 March 2014, “On the procedures of the recruitment, selection, probation, lateral transfer and promotion of the civil servant of the expert, low and mid level management category.”

¹⁵⁴ EU-Albania Second meeting of joint working groups on the key priorities, 15 February 2015.

¹⁵⁵ Department of Public Administration (2015), Cross-cutting Public Administration Reform Strategy 2015-2020, p. 13.

¹⁵⁶ The Law No. 152/2013, Article 67.

¹⁵⁷ Interview with the DoPA, 9 February 2015.

¹⁵⁸ Decision 116/2014 of the Council of Ministers on Status of the Existing Civil Servants and Employees Who Benefit from the Civil-Servant Status under Law No. 152/2013, “On the Civil Servant”, Chapter III ,1, b. Also, DoCM 143/2014 (Chapter V).

¹⁵⁹ 4.3% has not been certified, according to DoPA.

¹⁶⁰ Commissioner for the Oversight of the Civil Service (2015), Report on the Activity of the Commissioner for the Oversight of the Civil Service.

The principle of equal treatment ensures protection against discrimination of persons applying to the public service and those employed¹⁶¹. Regarding gender representation, respective by-laws¹⁶² establish that when there are candidates with equal points at the end of a competition (recruitment or promotion) and the candidates are of different sexes, ranking will be made by placing in first position the candidate belonging to the less represented sex in the group for which the competition was organised. As result of these measures, 63% of those recruited for the civil service in 2013 and 2014 were women. There is no equivalent data for the senior civil service.

The criteria for demotion and termination of service are explicitly established in primary and secondary legislation¹⁶³. However, the EU has repeatedly stated its concerns about cases of dismissals, downgrading and waiting lists, mainly related to the implementation of the previous civil service legislation¹⁶⁴. For instance, in May 2014 there were 95 resignations, 260 employees sent to a waiting list and 97 downgraded from a pool of 1 572 public servants in line ministries (similar proportions are identified in subordinate institutions). An assessment of missions by the European Commission took place to assess these procedures among 11 state authorities (5 of which underwent restructuring) between December 2014 and February 2015, to analyse the situation and provide measures to address shortcomings in the system¹⁶⁵. The new CSL does not establish any provisions on the downgrading and waiting lists.

Candidates who are not appointed have the right to appeal against recruitment decisions and against demotion and dismissal¹⁶⁶. In May 2014, there were 90 appeals against those procedures (of which 30% were won by the employees) in central ministries and 1 086 appeals in subordinated institutions (of which 12.4% were won by employees). The number of pending cases in the administrative courts (including regarding public servants' appeals) was some 10 000 in June 2014¹⁶⁷.

Considering the factors analysed above, the values for the qualitative indicators on the recruitment and on the termination of employment of public servants are, respectively, 4 and 3.

The primary and secondary legislation represent good steps in the use of merit for recruitment. The practice of the first pool-recruitment processes supports the idea that merit has been implemented. However, there are areas of concern regarding the declaration of civil service status and the use of termination, downgrading and other instruments to dismiss public servants.

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

The senior managerial positions, 112 in 2014¹⁶⁸, are labelled as Top Management Corps (TMC) and are adequately included in the scope of public service. These positions are: general secretary, director of department, director of general directorates and equivalent positions, e.g. heads of subordinated institutions¹⁶⁹.

¹⁶¹ The CSL 152/2013, Articles 5 and 20.

¹⁶² Decision of the Council of Ministers No. 143, 12 March 2014; Decision of the Council of Ministers No. 118, 5 March 2014.

¹⁶³ The Law No. 152/2013, Article 63; Decision of the Council of Ministers of 26 March 2014 "On the permanent and temporary transfer of civil servants, the suspension and dismissal from civil service."

¹⁶⁴ Operational Conclusions of the EU-Albania Third Public Administration Reform Special Group, 17 June 2014.

¹⁶⁵ The final report was had not been presented at the time of this report.

¹⁶⁶ The CSL 152/2013 Article 63; DoCM on recruitment of expert level civil servants and for termination; DoCM on transfer, suspension and termination.

¹⁶⁷ Report of the Third Public Administration Reform Special Group, 17 June 2014, p. 2.

¹⁶⁸ Department of Public Administration.

¹⁶⁹ The CSL 152/2013, Article 19; Decision of the Council of Ministers No. 142, 12 March 2014 "On the description and classification of job positions in the public administration institutions and independent institutions", Article 5.

The criteria for recruitment to the TMC are clearly established and disclosed in the primary and secondary legislation¹⁷⁰. These criteria differ from those for other public servants. The termination of service of the TMC is regulated¹⁷¹. The principle of merit applies both to the establishment of the National Selection Committee, which consists of nine members appointed for a two-year mandate, and to the recruitment process. In 2014, there were no external or internal competitions.

Given that there is no practical application of the new provisions related to recruitment and termination of the TMC, the baseline value of the relevant indicator is 3.

The legislation and its implementation suggest that merit is applied for recruiting senior public servants, but recruitment under the new system is still in the implementation phase as of spring 2015. It is too early to assert that merit is properly rooted in the system.

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

The main salary principles¹⁷² are established in the CSL¹⁷³. The primary rules are further specified in the Salary Law¹⁷⁴. The Council of Ministers sets the number of classes, salary rates, salary supplements and bonuses based on the job classification. In principle, average salaries for similar positions (secretary general, director general, lawyers, policy analysts) is within a range of 10%¹⁷⁵, which ensures that there is a similar salary for the same title. Moreover, the managerial discretion in assigning different elements of salary, allowances and benefits to individual public servants is limited, and the fact that all elements are explicitly established in the legislation enhances the transparency of the salary policy.

Nevertheless, there are some problems related to the current salary system, which does not advance the horizontal career of civil servants and limits the competitiveness of top public servants' salaries¹⁷⁶.

While the average salary kept pace with the rest of the economy (ALB 53 000 – EUR 378) in the last quarter of 2014¹⁷⁷, salaries of the TMC are losing competitiveness. In 2014, the average monthly salary of all public servants was ALB 52 780 (EUR 377)¹⁷⁸ and ALB 135 700 (EUR 968) for top public servants¹⁷⁹. The period 2005-2013 saw an opposite trend between these two groups, as the compression ratio decreased from 20.2 to 11.7 (the difference between the maximum and minimum wages)¹⁸⁰.

Given the transparent salary system based on job classification, albeit lacking some fairness across the public service, the baseline value of the indicator is 4.

Public servants have reasonable salaries, although declining in the case of senior public servants. Although salaries seem to be the same for comparable positions, there is a need to develop and apply analytical tools for the evaluation of the jobs in order to have a fairer salary system.

¹⁷⁰ The CSL 152/2013, Article 21; Decision of the Council Of Ministers, No. 142, Dated 12 March 2014, “On the description and classification of job positions in the public administration institutions and independent institutions”, Article 5, Decision of Council of Ministers, No 118, dated 5.3.2014 “On the procedures of the appointment, recruitment, management and termination of civil service relations of the top-level management civil servants and members of the TMC”. DoPA Guideline, No. 6, dated 19 September 2014, “On the process of recruitment of top level management civil servants, members of TMC.”

¹⁷¹ The CSL 152/2013, Articles 63 and 66.

¹⁷² SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 51.

¹⁷³ The CSL 152/2013, Article 34.

¹⁷⁴ The Law 10405/2011, “On the competences of setting salaries and bonuses.”

¹⁷⁵ The DoPA.

¹⁷⁶ Cross-cutting Public Administration Reform Strategy 2015-2020, p. 14.

¹⁷⁷ <http://www.tradingeconomics.com/albania/wages>

¹⁷⁸ This includes all basic parts and allowances except allowances related to overtime, holidays, or health conditions.

¹⁷⁹ Department of Public Administration.

¹⁸⁰ Data from the Ministry of Finance.

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.

Professional training is recognised as a right and duty of public servants¹⁸¹ and is applied in practice. That said, the duty of training is very generic and difficult to enforce. There is no specific requirement for training of a specific number of hours per year or every x number of years.

The DoPA, together with the Albanian School of Public Administration (ASPA), defines the policies and training plans based on requests that the institutions submit. The ASPA meets only general training needs, but is expected to put more emphasis on the public servants' special and professional development. The ASPA also plays a fundamental role in probation periods and the selection of TMC¹⁸².

The strategic training objectives are planned within the framework of the new PAR Strategy. The 2015 plan focusses on three priorities: training for TMC members, induction training for newly recruited public servants at all levels and continuous on-the-job training. The training plan for public servants is based on a needs assessment, carried out essentially through requesting the information from the state authorities and through satisfaction surveys of the courses. The latest assessment of the state administration was completed in March 2014 and of the local self-government units in December 2014. However, there has been no evaluation of the training plan and its impact.

In 2014, on the ASPA premises there were 156 training courses in 530 training days, and 3 789 public servants were trained¹⁸³ (a significant increase over 2013, with 87 training days and 874 public servants)¹⁸⁴. There has been a progressive increase over the past three years in both the number of training days and the number of public servants who have been trained.

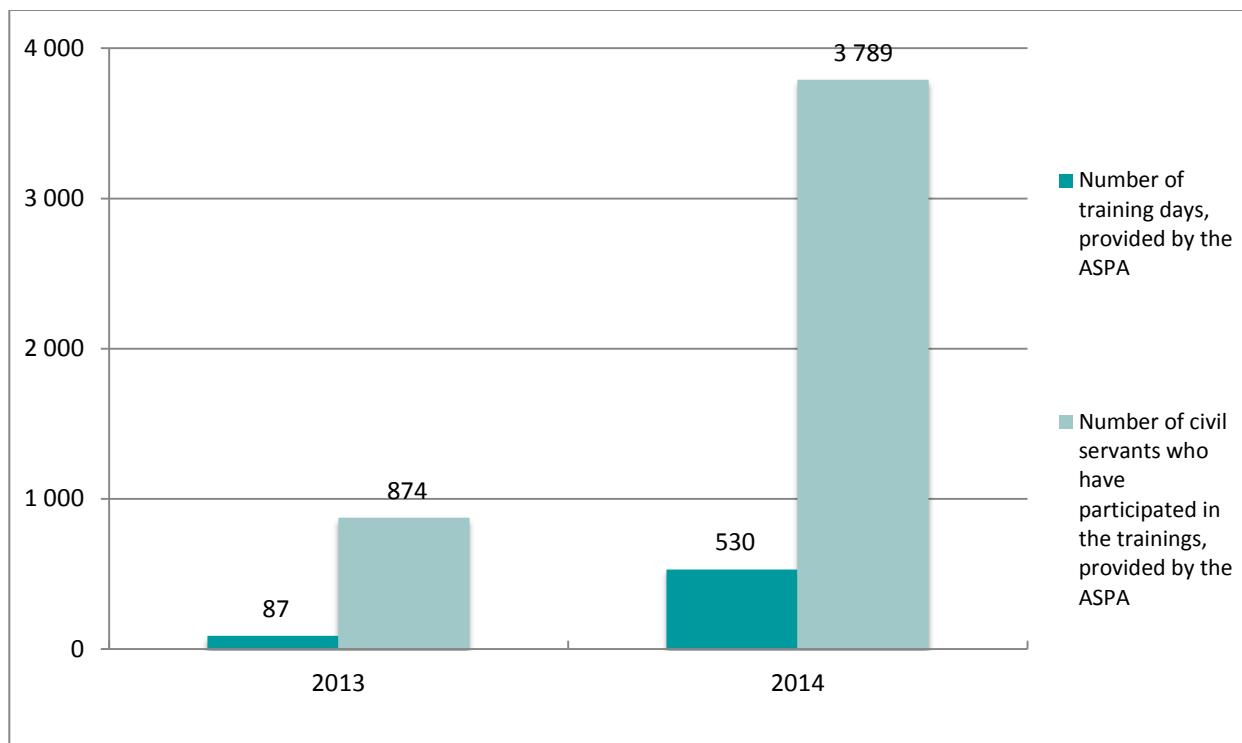
¹⁸¹ The CSL 152/2013, Article 38.

¹⁸² Decision of the Council of Ministers, No. 138 of 12 March 2014, "On rules of the organisation and functioning of the Albanian School Of Public Administration and training of civil servants", Chapter III.

¹⁸³ Report on Implementation of the Albanian Road Map on Five Key Priorities (EUD Version 12 December 2014), p. 13.

¹⁸⁴ Department of Public Administration and Albanian School of Public Administration.

Figure 5. Training of civil servants, 2013-2014



Source: The Albanian School of Public Administration.

The ASPA budget has progressively increased in the last years. It is noteworthy that the scope of the public service has also increased on the basis of the new CSL. The 2014 ASPA training budget was ALB 7 500 000 (EUR 54 000), whereas the budget approved for 2015 forecasts EUR 70 000. If addressing all 8 372 public servants who are entitled to training, the budget would imply EUR 8.4 per civil servant. Thus, without donor help, ambitious training targets cannot be met.

The principles of performance appraisal are established in the primary legislation¹⁸⁵; the detailed provisions are established in secondary legislation. In the case of an unsatisfactory marking, the civil servant may be subject to compulsory three-month training and a reappraisal and, if the performance is rated “unsatisfactory” again, the civil servant can be dismissed. This provision allows for the quick dismissal of public servants. The performance appraisal can also be used for more positive rewards, i.e. salary steps¹⁸⁶. The appraisal process is quite time-intensive, according to the procedure laid down in the secondary legislation.

Performance appraisals were carried out under the new legislation in December 2014. Some 95% received good or very good appraisal results for the year. Clearly, these results do not discriminate adequately among different levels of performance, compromising the performance appraisal process.

Given that the professional development and appraisal of public servants function formally, with some challenges in practice, the values for both of these indicators are 3.

There have been improvements in both the quantity and quality of training available in 2014, but more efforts are needed to implement the right (and duty) of public servants to be trained. The experience with performance appraisals is still limited under the new system, and the percentage of good/very good appraisals results is extremely high. The implementation of the amended appraisal provisions in the CSL (December 2014) to shorten the frequency of performance appraisals and to allow quick dismissal for unsatisfactory appraisals should be carefully monitored.

¹⁸⁵ The CSL 152/2013, Article 62.

¹⁸⁶ The CSL 152/2013, Article 34.

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

There are institutions, legislation and tools in place to promote integrity and prevent corruption in the public service: the National Co-ordinator against Corruption, responsible for drafting and monitoring the implementation of the Inter-Sectoral Strategy against Corruption 2015-2020 and its Action Plan¹⁸⁷, the Law on Co-operation of the Public in the Fight Against Corruption, Law on Access to Information, Law on the Prevention of Conflicts of Interest in the exercise of Public Functions, Law on Asset Declarations, and the Law on the Rules of Ethics in the Public Administration.

Other positive steps are a draft Law on Whistleblowing, currently in the inter-ministerial consultation, and the creation of a national online anti-corruption platform (<http://www.stopkorruptionit.al>)¹⁸⁸ which citizens can use to anonymously report cases of corruption and attach relevant documents.

In spite of all these efforts, the level of corruption in Albania is high. In 2014, the Corruption Perception Index of Transparency International was 33/100, and Albania occupied the position of 110/175 in the corruption ranking¹⁸⁹. Active and passive corruption is criminalised in the Criminal Code¹⁹⁰, and 21 officials were convicted on these grounds in 2014.

The main principles and procedural steps of the disciplinary procedure are established in the CSL and secondary legislation, and they are applied in practice. A catalogue of disciplinary sanctions is established in the law to ensure proportionality between the misconduct and respective sanctions, and the disciplinary proceedings are further elaborated in a by-law¹⁹¹. In September-November 2014, 51 public servants in the central-state institutions were released from service owing to disciplinary measures¹⁹².

Public servants have the right to appeal against allegedly unfair disciplinary sanctions¹⁹³. There is no information about the exercise of appeals.

Based on the above analysis, the value of the integrity indicator is 3, and the value for the disciplinary indicator is 4.

Many anti-corruption measures are in place, but the perception of corruption is still very high in the country. Disciplinary procedures are adequately regulated but have created challenges for the units implementing them.

Key recommendations

Short-term (1-2 years)

- 1) The DoPA, using the HRMIS, should continue to monitor and report on the human resource management in the public service in order to ensure transparency and openness of the administration.
- 2) The Parliament should provide the ASPA with an adequate budget in order for it to build a professional core of career public servants (with qualifications being a key component of the career).

¹⁸⁷ Inter-Sectoral Strategy Against Corruption 2015-2020, adopted by the Council of Ministers on 20 March 2015.

¹⁸⁸ The online anti-corruption platform was launched on 2 February 2015.

¹⁸⁹ <https://www.transparency.org/cpi2014>

¹⁹⁰ Criminal Code, 7895/1995, Articles 244-245, 259-260.

¹⁹¹ The CSL 152/2013, Articles 57-61; Decision of the Council of Ministers, 05 March 2014 “On defining the disciplinary proceedings and rules of establishing, composition and decision-making of the disciplinary committee of the civil service.”

¹⁹² The DOPA.

¹⁹³ Council of Ministers Decision on Disciplinary Proceedings in the Civil Service.

Medium-term (3-5 years)

- 3) The DoPA, in co-operation with the Ministry of Finance, should develop and apply an analytical job evaluation system linked to a new salary structure in order to advance the horizontal career of public servants and increase fairness of the salary system.

4

Accountability

ACCOUNTABILITY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The legal framework setting out overall organisation of the state administration is in place, but the rules that differentiate between agencies and subordinate bodies are not fully clear. The number of bodies that report directly to the Parliament is too high. This blurs the traditional division of powers between executive and legislative bodies, and makes it more difficult to supervise these bodies.

The new legislative framework on access to public information is coherent and complete, although some exemptions allow discretionary interpretations. As the new system has only recently started operating, it is too early to assess practical implementation.

Mechanisms for internal and external oversight of state administration bodies are in place. However, the scope of responsibility of the Ombudsman is too limited, as it does not cover issues related to military orders.

The legislation guarantees the right to internal administrative appeal and judicial review of administrative acts. However, the 2013 reform has not been fully implemented, and the required capacities of the courts have not been created. This has led to an increasing backlog and growing problems with handling cases in a timely manner.

Although the legal framework is in place, there is no reliable evidence demonstrating that the mechanisms of public liability are systematically being applied in practice.

1.2. Main developments

To clarify the distribution of functions and responsibilities in the state administration, the Council of Ministers issued Decision 893/2014¹⁹⁴. It specifies the procedure for establishing new administrative bodies and assigns the key role in the process to the Department of Public Administration (DOPA). DOPA prepares organisational proposals and submits comments on proposals made by other bodies. Within this process, DOPA must seek the opinion of the Ministry of Finance on financial effects of the creation of a new administrative body or changes in its structure. However, there is no formal detailed methodology for DOPA assessments and no mechanism in place to review the structures of previously established administrative bodies.

In 2014, the new Law on Access to Public Information was adopted¹⁹⁵. Responsibility for this area was transferred from the Ombudsman to the Commissioner for Freedom of Information and Protection of Personal Data. The process of implementation is not complete. State administration bodies are in the process of developing transparency programmes, appointing access-to-information co-ordinators and establishing registries of requests for information, as required under the new Law.

¹⁹⁴ Decision 893/2014 of 17 December 2014 on adoption of the rules of organisation and functioning of the supporting cabinets, internal organisation of the state administration institutions and detailed procedures of the preparation, proposal, consulting and approval of the internal organisation.

¹⁹⁵ The Law 119/2014 of 18 September 2014 on the right to information.

2. ANALYSIS

This analysis covers the five Principles of Public Administration that serve as indicators of the key requirement for accountability¹⁹⁶. Under this key requirement baseline values for the indicators of the monitoring framework of the Principles are provided. The Principles refer to various dimensions of public accountability, including overall organisation of the government, arrangements regarding internal administrative appeals and administrative justice, and the functioning of independent oversight bodies. The Principles also cover the legislative framework for and practice of access to public information.

2.1 Key requirement: Proper mechanisms are in place to ensure accountability of state administration bodies, including liability and transparency.

Baseline values

The system of accountability for state administration bodies is examined through a mixed set of indicators, both quantitative and qualitative. The indicators cover all areas of accountability, including internal organisation of state administration; oversight of administrative appeals and access to public information; status and activities of independent oversight institutions and administrative courts; parliamentary scrutiny; and public liability. The indicators developed for each Principle relating to accountability aim to assess not only the legislative framework, but also its implementation in practice.

The values given reflect the fact that legislation is in place for overall set-up of administration and access to information, but implementation still poses challenges. One example is the lack of data on practical implementation of access to information. Public liability is well regulated, but there is no data to verify how it is working in practice. Reform of administrative courts has not yet been fully implemented and the courts lack resources, which is reflected in the increasing backlog of cases.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2014	2
	2	Extent to which the right to access public information is enacted in legislation and applied in practice.	2014	3
	3	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	2014	3
	5	Extent to which public authorities assume liabilities and guarantee redress.	2014	4
Quantitative	1	Number of bodies reporting to the Council of Ministers, to the Prime Minister or to the Parliament.	2014	32 ¹⁹⁷

¹⁹⁶ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 58-66.

¹⁹⁷ Institutions subordinated to the Prime Minister: 19 according to data received from the DOPA; institutions subordinated to the Parliament: 13 non-constitutional bodies according to data received from a member of the Parliament.

Albania
Accountability

	1	Average number of hierarchical layers in a typical ministry.	2014	5 ¹⁹⁸
	2	Share of public information requests refused in a given year by the public authorities.	2014	Not available ¹⁹⁹
	2	Share of public information requests refused in a given year by the supervisory authority.	2014	Not available ²⁰⁰
	2	Share of public information requests upheld by the courts.	2014	Not available ²⁰¹
	2	Share of public authorities maintaining websites in line with regulatory requirements.	2014	Not available ²⁰²
	2	Share of public authorities maintaining a document registry and database.	2014	Not available ²⁰³
	3	Percentage of citizens who have trust in the ombudsman institution(s).	2014	Not available ²⁰⁴
	3	Share of oversight institutions' recommendations to state administrative bodies implemented within two years.	2013	69% ²⁰⁵
	4	Number of administrative court cases ruled per year per judge.	2014	650 ²⁰⁶
	4	Number of complaints submitted to the administrative court in a given year.	2014	21 363 ²⁰⁷
	4	Percentage of cases changed or returned for verification by the higher court ²⁰⁸ .	2014	49% ²⁰⁹
		Percentage of citizens who have trust in the court system ²¹⁰ .	2014	18%

¹⁹⁸ Minister, General Secretary, General directorate, Directorates, Divisions (Source: Organograms of the Ministries and Law 90/2012).

¹⁹⁹ According to changes in the structure of oversight over access to public information, responsibility was transferred from the Ombudsman to the newly created Commissioner. The Ombudsman was not collecting this data at all. The Commissioner has not collected the data for 2014, but will do so for 2015.

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ There is no body in charge of monitoring if all institutions maintain up-to-date registries and databases.

²⁰⁴ No credible study on this subject exists.

²⁰⁵ Annual Report of the Ombudsman for 2014. Based on responses of the institutions, not on real implementation. Relates only to the Ombudsman.

²⁰⁶ Data received from the Ministry of Justice.

²⁰⁷ Data received from the Ministry of Justice.

²⁰⁸ Court of Appeal.

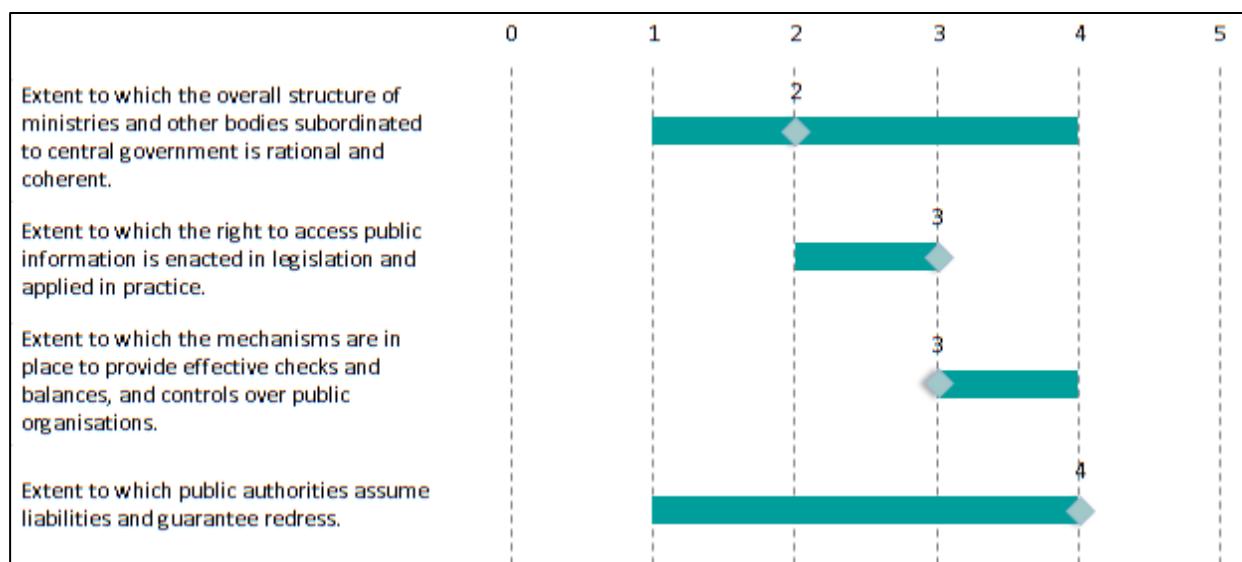
²⁰⁹ Out of 4 611 rulings, 2 260 were dismissed or changed by the Court of Appeal and 2 351 were upheld. Data received from the Ministry of Justice.

²¹⁰ Institute for Democracy and Mediation, Opinion Poll "Trust in Government", 2014 (sample: 1 200 persons).

	4	Backlog of administrative cases.	2014	2 511 ²¹¹
	5	Share of complaints resulting in payment of compensation.	2014	Not available ²¹²

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

Law 90/2012 on the Organisation and Functioning of the State Administration sets out the detailed structure of the state administration and typology of administrative bodies. Ministers are accountable for the overall activity of subordinated institutions and autonomous agencies. The distinction between subordinated institutions and autonomous agencies is not based on clear criteria, and the rules for their operation and supervision are similar. There are provisions allowing delegation of state administration functions to local government units.

Subordinated institutions and autonomous agencies are subject to supervision of the ministries under the criteria of legality and effectiveness in implementing management objectives. It should be noted, however, that Law 90/2012 does not establish any performance management scheme requiring setting of objectives and indicators for the institutions under the ministries. The Government aims to promote a culture of results-oriented management through delivery agreements with regard to key policy priorities. This initiative is at an early stage of implementation.

The overall organisation of the state administration requires further modernisation and improvements, as reflected by a value of 2 for the indicator related to the structure of the public administration.

²¹¹ Data received from the Ministry of Justice.

²¹² Data not provided by the country.

The number of institutions reporting to the Parliament is relatively high, and includes regulatory agencies, such as the Energy Regulatory Authority and the Water Regulatory Authority. Some of those institutions perform executive tasks. In other countries, they usually report to the Government, which has more technical and administrative capacity to supervise them.

The legislative framework for state administration is in place, but the typology of state administration bodies is not entirely clear and the number of agencies reporting to Parliament is too high. Implementation of results-oriented management is at an early stage.

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

Law 119/2014 established a new framework for access to public information. New provisions transferred responsibility for this area to the Commissioner for Freedom of Information and Protection of Personal Data (previously it was under the Ombudsman). The Law contains a broad definition of public information and covers all public institutions and private bodies performing state functions. The right to information may be restricted on numerous grounds, including national security, but also to protect other interests, including “counselling and preliminary discussion within or between public authorities for the drafting of public policy”, “the formulation of monetary and fiscal policies of the state”, and “conduct of inspection and auditing procedures of public authorities”²¹³. This catalogue of exemptions is extensive and includes vague terms, possibly creating grounds for discretionary refusal of access to information.

Public information requests may be submitted in person, via post or by e-mail. Access to public information is, in general, free of charge. The applicant may only be charged for reproduction of documents according to a fixed fee announced on the institution’s website. The fee must not exceed the market price of copying services (Article 13, Law 119/2014). The deadline for processing requests for public information does not create obstacles in the access to public information (Article 15, Law 119/2014).

An applicant whose request is refused may lodge a complaint to the newly established Commissioner for Freedom of Information and Protection of Personal Data. The Commissioner may order the institution to release the requested information. The applicant or the public authority may appeal the Commissioner’s decision to the administrative court (Articles 24-25, Law 119/2014).

Law 119/2014 provides an extensive list of mandatory information to be disclosed proactively on the websites of public institutions. The Commissioner is tasked with monitoring compliance, but no data is available yet.

The new legislative framework on access to public information is in line with the Principles, but with no quantitative data available, it is too early to comprehensively assess implementation. This results in a value of 3 for the indicator related to access to public information.

The new legislative framework on access to public information is coherent and complete, but exemptions to access to public information are formulated vaguely. This undermines the shift to more transparent government²¹⁴.

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

The scope of this Principle is broad. Important oversight institutions are examined under other areas of the Principles (for example, anticorruption oversight under public service and human resource

²¹³ Article 17, the Law 119/2014.

²¹⁴ Because the Institution of the Commissioner is newly established, there is no data available with which to assess implementation of the right to public information. Under previous provisions, the Ombudsman was responsible for this area, but did not monitor implementation of the Law.

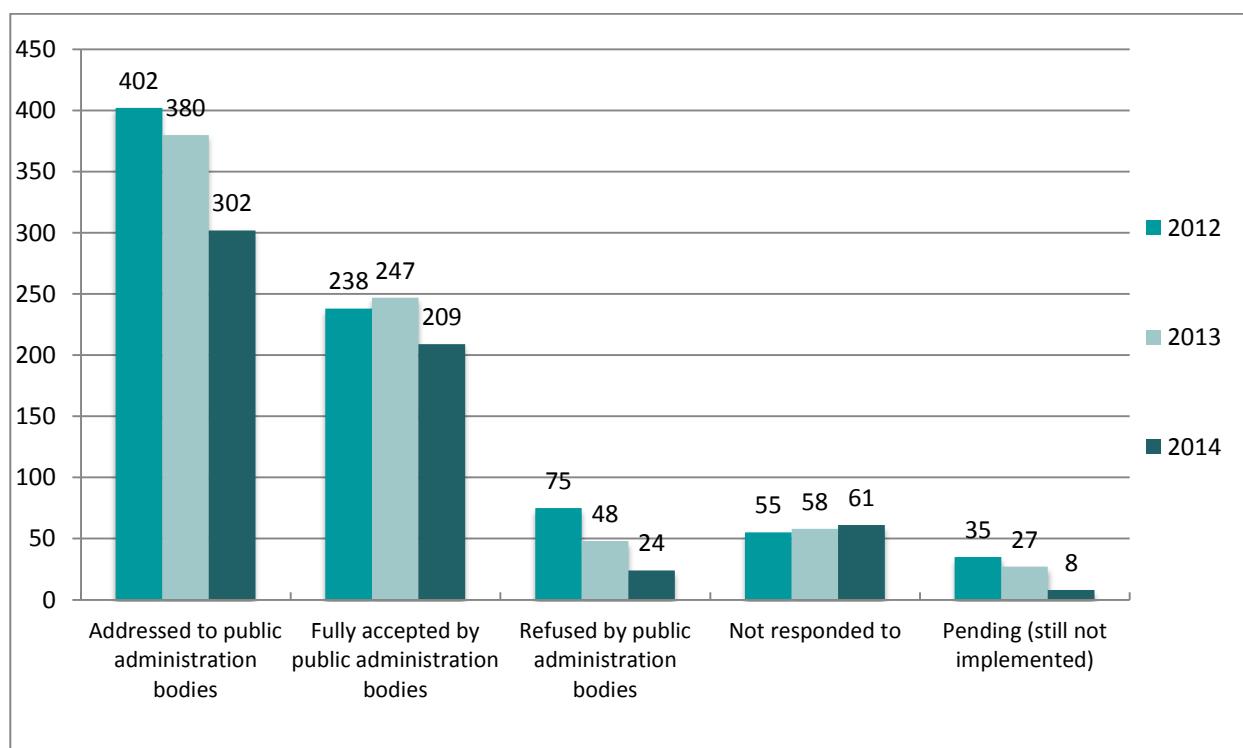
management, and supreme audit oversight under public financial management). Hence, the analysis below focuses mainly on the institution of Ombudsman.

State administration bodies are, in general, subject to scrutiny by oversight institutions, especially the People's Advocate (Ombudsman). The Ombudsman enjoys adequate constitutional guarantees of independence and reports only to the Parliament. Detailed organisation of the Ombudsman's office is set out in the legislation, which precludes the Ombudsman from adapting it to current needs and priorities.

According to the Law on the Ombudsman, the President and the Prime Minister are exempt from the Ombudsman's jurisdiction, as are military orders to the armed forces. Exclusion of the President and the Prime Minister exists in some countries, but the army should not be excluded, unless there is a specific institution of an Ombudsman for the army.

The recommendations and annual reports of the Ombudsman are published online. Both annual and special reports are discussed by the Parliamentary Committee on Legal Affairs²¹⁵. The level of implementation of the Ombudsman's recommendation is high, although not all state administration bodies comply with their legal obligation to report to the Ombudsman's office on implementation of its recommendations. The number of recommendations which are not responded to by the institutions is rising²¹⁶. The Ombudsman's office did not regularly check on implementation of the recommendations – it relied on answers from the institutions²¹⁷.

Figure 2. Recommendations of the People's Advocate



Source: Information provided by the Ombudsman.

Based on the above, the value in the area of checks and balances is 3.

²¹⁵ According to the Ombudsman, some special reports of the People's Advocate, have not yet been discussed by the Parliament.

²¹⁶ The Ombudsman reports also that sometimes he does not receive required information from public administration institutions, or prevent him from investigation of cases.

²¹⁷ The Ombudsman reports that the situation has changed recently and the institutions have started to monitor the implementation of recommendations in a regular way.

Mechanisms for internal and external oversight with regard to state administration bodies are in place. The level of acceptance of the Ombudsman's recommendations is high.

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

Administrative courts began functioning in November 2013 as a separate branch of the judiciary responsible for supervision of administrative acts. Law 49/2012 specifies detailed rules for organisation of administrative justice and procedural rules for operation of the courts. The Code of Administrative Procedure establishes procedural rules on internal administrative appeal.

Time limits for lodging complaints to the administrative courts are reasonable (45 days)²¹⁸. Court fees do not create significant barriers to access to justice²¹⁹. In addition, the Law on Legal Aid provides several exemptions from court fees based on the means of the applicant. Court procedure follows the inquisitorial principle.

Judges dealing with administrative cases are specialised in this area, with continuous training organised by the School of Magistrates. In 2014, it conducted training sessions for judges of administrative courts. Judges' engagement in professional development is subject to review within the framework of regular performance appraisals conducted by the High Council of Justice. According to Law 49/2012, judges should be supported by legal assistants. Their number for each court is determined by the Ministry of Justice, but it cannot be fewer than one legal assistant for every two judges²²⁰. However, the assistants have not yet been recruited,²²¹ and seven vacancies for judges have not yet been filled²²².

The number of incoming cases was higher than the number of resolved cases in both the first and second instances of administrative courts in 2014. This situation is most concerning in the second instance court, where the number of newly filed cases was more than double the number of resolved cases and the backlog is growing rapidly.

²¹⁸ Article 18, the Law 49/2012.

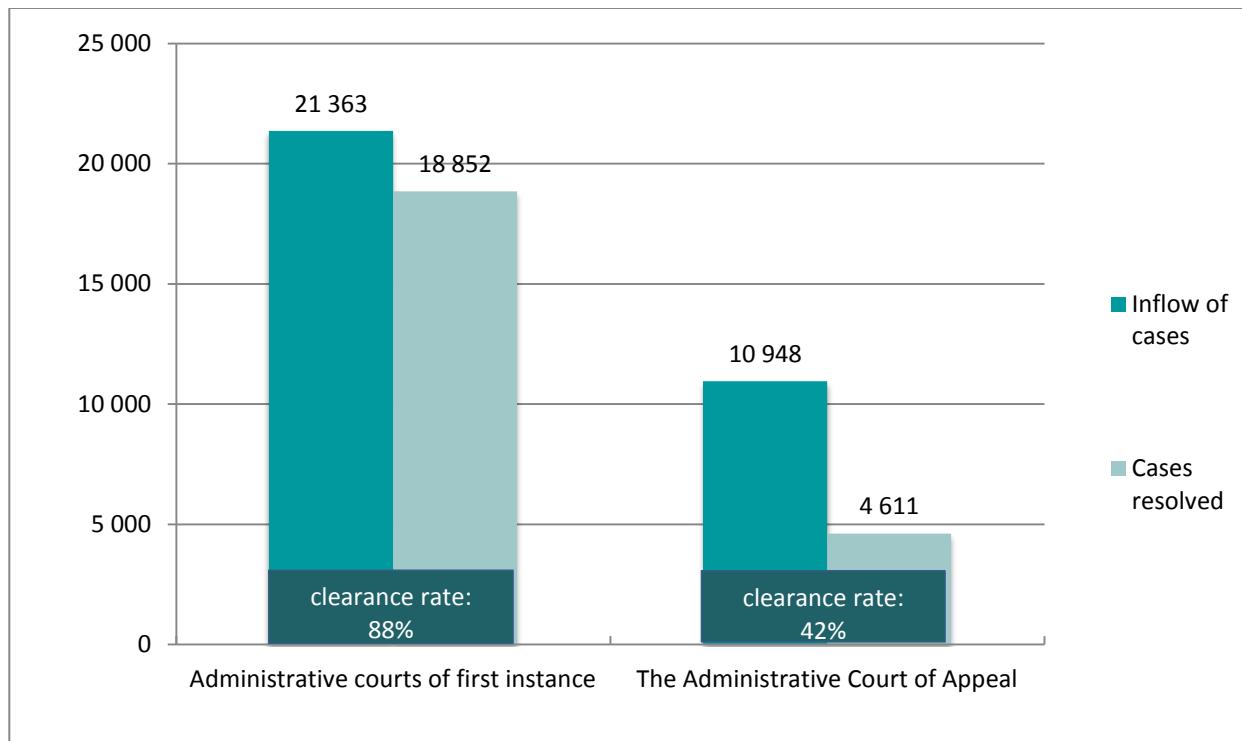
²¹⁹ According to binding guidelines issued by the High Council of Justice (Instruction no. 33 of 29 December 2014), the basic fee for initiating an administrative case is ALL 3 000 (around EUR 20).

²²⁰ According to information received from the Ministry of Justice, it issued an order in February 2015, specifying that the number of legal aid employees should be 25 and there should be 16 other employees of judicial administration.

²²¹ According to information provided by the Ministry of Justice, the recruitment process was initiated in March 2015.

²²² High Council of Justice, Evaluation Study on the workload of the Tirana Administrative Court of Appeal, 2015. Information about vacancies has been also confirmed by the Ministry of Justice during the mission.

Figure 3. Statistical data on the workload of administrative court in 2014



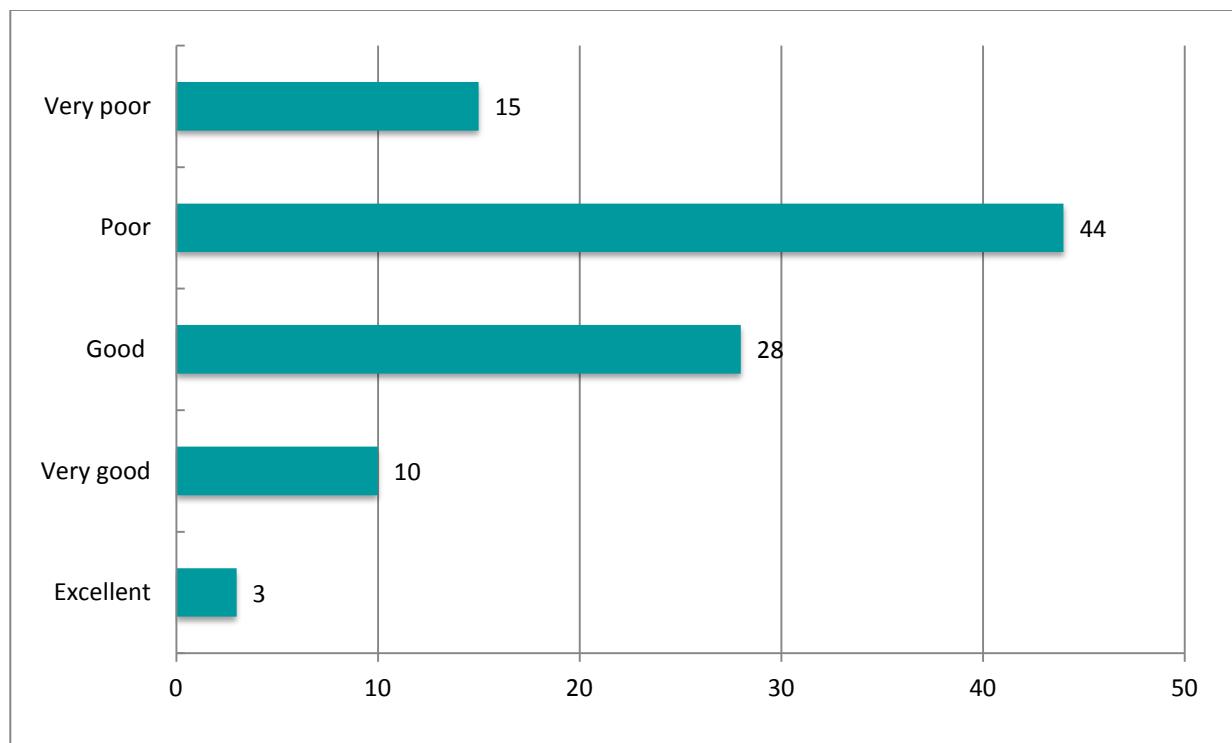
Source: Data provided by the Ministry of Justice²²³.

The electronic case management system (Informatics System for Civil and Penal Affairs Management) has been in operation since December 2014. The system should contribute to more efficient case management, but it is too early to assess its impact.

It should also be noted that, according to the opinion poll conducted within the framework of the Open Government Partnership Project, the judiciary is the least trusted public institution in Albania (18% of citizens trust the courts). Citizens are also dissatisfied with the performance of the courts (Figure 4).

²²³ In this report, SIGMA is basing its findings on data received from the Ministry of Justice. It must be underlined that the Ministry's data differs significantly from the data contained in the report of High Council of Justice (HCJ) (Evaluation Study on the workload of the Tirana Administrative Court of Appeal, 2015). According to the HCJ report, the 2014 clearance rate was 54% for administrative courts of first instance and 24% for the Administrative Court of Appeal.

Figure 4. Citizens' opinion on the performance of courts



Source: Institute for Democracy and Mediation, Opinion Poll, "Trust in Government", 2014.

The right to internal administrative appeal and judicial review of administrative acts is guaranteed in the legislation, but access to administrative justice is undermined by inefficiency of administrative courts. The low clearance rate shows that the problems are deepening.

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

The Constitution of Albania guarantees everyone the right to compensation in cases of unlawful acts or omissions of state administration bodies (Article 44 of the Constitution). The general principle of liability is also stipulated in the Article 14 of the Code of Administrative Procedure. Law 8510/1999 on non-contractual liability of state administration bodies specifies detailed rules of liability for damages caused by state administration bodies to natural or legal persons. If the damage is caused by a private entity performing functions contracted out by the state authority, the delegating authority is liable for any damage caused. After exhausting administrative remedies, the applicant may bring the case to administrative court, which may decide on compensation.

The scope of public liability defined in Law 8510/1999 is wide, including both actions and omissions of state administration bodies. Requests for compensation are to be submitted primarily to the institution that caused the damage.

The primary form of compensation is restitution. If that is not feasible, pecuniary compensation applies (Article 5, Law 8510/1999). The calculation of compensation should include lost profit and non-pecuniary damage. However, Law 8510/1999 does not regulate the procedure for lodging and considering compensation requests. It refers to the Code of Administrative Procedure in this matter. According to the Code's general principles, the burden of proof in liability cases lies with the applicant.

The legal framework for public liability is in place and covers key elements of the procedure for seeking compensation for wrongdoing of state administration. However, there is no data available to allow assessment of progress on implementation of public liability (for example, on requests for compensation or payments made by public institutions), which results in a value of 4 for the relevant indicator on public liability.

The legislative framework for public liability is in place, but there is no data available to assess how it is functioning in practice.

Key recommendations

Short-term (1-2 years)

- 1) The Commissioner for Freedom of Information and Protection of Personal Data should continue implementation of the new law on access to public information in the whole state administration. This requires, in particular, ensuring adoption of transparency programmes, establishment of registries of requests for information and appointment of access-to-information co-ordinators.
- 2) The Ministry of Justice should undertake urgent actions to increase the capacity of administrative courts in dealing with the backlog of administrative cases. This includes, in particular, filling vacancies for judges and legal assistants, implementing a case-management system and providing judges with access to consolidated versions of legal acts.
- 3) The Law on the Ombudsman should be amended to broaden the scope of responsibility to cover all bodies of the executive branch.
- 4) The Ombudsman should introduce mechanisms to monitor real implementation of his recommendations and, together with the Parliament, undertake actions to limit the level of non-response from public institutions.

Medium-term (3-5 years)

- 5) The Government should improve the mechanism for reviewing proposals for creation of new administrative bodies by introducing uniform criteria and methodology. The Government should also extend this mechanism to review the structure of already functioning institutions.
- 6) The Commissioner for Freedom of Information and Protection of Personal Data should conduct ex post assessment of the new law on access to public information, particularly to examine how exemptions from access to public information are interpreted in practice.
- 7) The Government should include reduction of the backlog of court cases in its long-term strategic priorities and set quantitative indicators to monitor progress in achieving this objective.
- 8) The Government should introduce horizontal mechanisms to monitor court cases that result in liability for the State, with the goal of improving administrative procedures and decisions and thus reducing public liability cases in the future.



5

Service Delivery

SERVICE DELIVERY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The institutional set-up for policy making and co-ordination in the area of service delivery is fragmented, but the introduction of delivery agreements will not only allow for clear division of responsibilities, but strengthen a managerial approach towards public affairs.

The legislative framework acknowledges the general principles of good administrative behaviour, but it fails to translate them into detailed procedural rules that effectively protect citizens against maladministration. It must be however mentioned that the new Code of Administrative procedures, in line with the Principles, was adopted by the Parliament on 30th April 2015.

Citizens' satisfaction with public service delivery is moderate and is not improving, despite policies and mechanisms promoting quality improvement in public institutions.

Some services are available to businesses through one-stop-shops. The National Registration Centre and National Licensing Centre operate according to a "silent consent" principle. Efforts have been undertaken to increase service accessibility for other groups of citizens; for example, a new Albania portal was launched recently. The needs of customers with disabilities are not addressed in the Government's policy on service delivery.

1.2. Main developments

Within the framework of the process for reorganising public services, the master inventory of services has been prepared. This includes information on the procedure for obtaining services and the costs incurred by customers, with the overall goal of streamlining the services.

The new version of the e-albania.al portal was launched in 2015, offering citizens more electronic services.

The National Cross Cutting Strategy for Digital Albania 2014-2020 has been approved by the Decision of the Council of Ministers No. 284, dated 1 April 2015 (published in Official Gazette No. 56, p. 2 441).

The Cross-Sector Public Administration Reform Strategy 2015-2020 was approved on 15 April 2015, under the Decision of the Council of Ministers No. 319.

The Agency for the Delivery of Integrated Services (ADISA) has been established under MIPA, as per the Decision of the Council of Ministers No. 693, dated 20 October 2014.

The Parliament of Albania adopted the new Code of Administrative Procedures, that is in line with the Principles, on 30th April 2015.

2. ANALYSIS

This analysis covers the four Principles of the service delivery area under one key requirement²²⁴. Under this key requirement, the baseline values for the indicators of the Principles' monitoring framework are also provided. The Principles cover the policy and practice of service delivery, with a particular focus on the strategic and legal framework for service delivery and on the standards for access and quality of services. The Principles refer also to the procedural guarantees of good administration behaviour applicable to service provision.

2.1. Key requirement: Administration is citizen-oriented; the quality and accessibility of public services is ensured.

Baseline values

The policy and practice of service provision is examined through a set of 14 quantitative indicators, complemented by 3 qualitative indicators. Qualitative indicators primarily analyse the implementation of the policies and legislation in the area of service delivery. Most of the quantitative indicators are based on data provided by the country and subsequently verified for the purposes of this report. Selected quantitative indicators are based on the international comparative studies: "Doing Business"²²⁵ and "Global Competitiveness Report"²²⁶.

Public services improvement is indicated as being among the Government's priorities. Coordination mechanisms are being introduced in the delivery agreements, but the scope of responsibility for service delivery actions is still not always clearly assigned. The standards of good administration are compromised by the shortcomings of the Law on General Administrative Procedures (LGAP)²²⁷. Accessibility and quality of services for business have improved and sound initiatives are in place to extend the range of services and e-services for citizens.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which citizen-oriented policy for service delivery is in place and applied.	2014	2
	1	Extent to which policy and administrative preconditions for e-service delivery are applied.	2014	5
	2	Extent to which the legal framework for good administration is in place and applied.	2014	2

²²⁴ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 67-74.

²²⁵ The World Bank.

²²⁶ The World Economic Forum.

²²⁷ This assessment does not include the newly adopted Code of Administrative Procedures, which is still to be enforced.

Albania
Service Delivery

Quantitative	1	Expenditure on general public services as a share of gross domestic product.	2014	7.2% ²²⁸
	2	Favouritism in decisions of government officials ²²⁹ .	2014	3.1
	3	Percentage of users satisfied with public services.	2014	Not available ²³⁰
	3	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	2014	Not available ²³¹
	3	Share of public servants directly engaged in service delivery who received training in the last two years ²³² .	2014	Not available
	3	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application ²³³ .	2014	15
	3	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	2014	Not available ²³⁴
	3	Average number of days needed to set up a business ²³⁵ .	2014	4.5
	3	Average cost of setting up a business ²³⁶ .	2014	10%
	4	Number of one-stop-shops that provide the services for more than three different public institutions.	2014	3 ²³⁷
	4	Number of services provided through one-stop-shops.	2014	629 ²³⁸
	4	Percentage of wheelchair-accessible	2014	Not

²²⁸ Data provided by the Department of Public Administration.

²²⁹ According to the World Economic Forum Competitiveness Index. (Scale from 1, minimum, to 7, maximum).

²³⁰ There is no country-wide data available in Albania.

²³¹ There is no country-wide data available in Albania.

²³² There is no country-wide data available in Albania.

²³³ In days. Delivery Unit of the Office of the Prime Minister.

²³⁴ There is no country-wide data available in Albania.

²³⁵ According to World Bank Doing Business Report.

²³⁶ Percentage of income per capita, according to World Bank Doing Business Report.

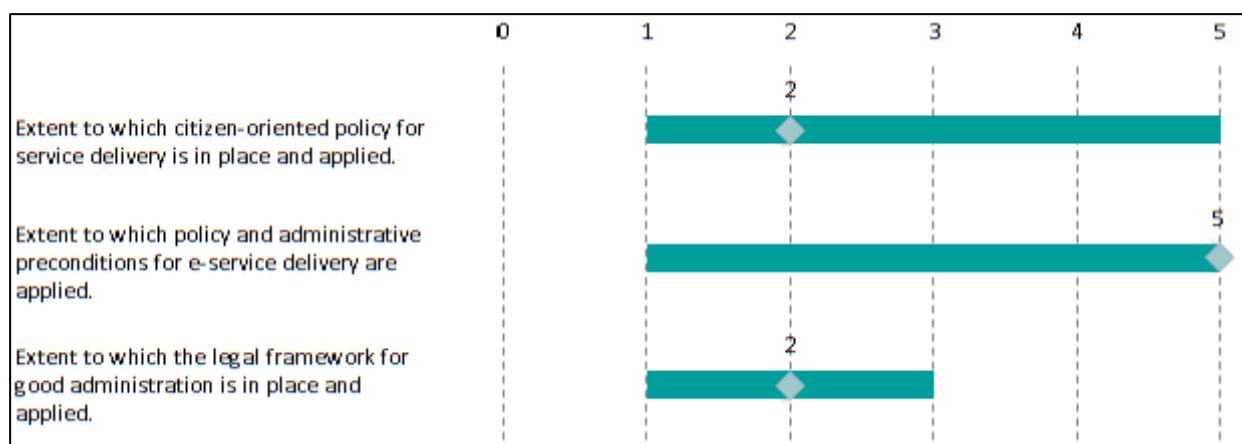
²³⁷ National Licensing Centre, National Registration Centre and e-portal.

²³⁸ Including information on 512 e-services on the e-albania portal.

		institutions.		available ²³⁹
	4	Share of citizens who submitted paperless/electronic/digital income tax statements last year.	2013	81% ²⁴⁰
	4	Share of companies that sent their tax declarations using the Internet.	2014	100% ²⁴¹

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: Policy for citizen-oriented state administration is in place and applied.

Introducing a citizen-centric model of governance is included in the Government's priorities²⁴². Other recently adopted or draft strategic documents²⁴³ reveal plans for numerous initiatives intended to encourage a citizen-oriented state administration.

The current institutional framework for implementation of policy on service delivery does not fully ensure effective coordination. Key responsibilities in this area are assigned to the Minister of Innovation and Public Administration (MIPA). However, MIPA does not have sufficient capacity (staff) to perform this role. The Agency for Delivery of Integrated Services (ADISA), which is responsible for delivery of services, is subordinate to the MIPA. MIPA works jointly with the OPM's Delivery Unit

²³⁹ There is no country-wide data available in Albania.

²⁴⁰ Data provided by Ministry of Finance.

²⁴¹ The issuance of the Decree of the Council of Ministers No. 922 dated 29 December 2014 "On the submission of mandatory tax returns and other tax documents only through electronic filing" made it obligatory to file corporate income tax returns and payments electronically for the fiscal year 2014. Source: KPMG Tax News Albania, Issue 3, March 2015.

²⁴² Government Programme 2013-2017.

²⁴³ The National Cross Cutting Strategy for Digital Albania 2014-2020, for example, has been approved by the Decision of the Council of Ministers (CoM) No. 284, dated 01 April 2015 (published in Official Gazette No. 56, p. 2441): Cross-Sector Public Administration Reform Strategy 2015-2020 was approved on 15 April 2015, at a Government meeting in April. The Decision of the CoM No. 319, National Strategy for Development and Integration (NSDI) has not yet been finalised.

(which reports directly to the Prime Minister). Although the National Agency for Information Society (AKSHI) falls into the competencies of the MIPA, it is not clear to whom it reports (whether to the Prime Minister or MIPA)²⁴⁴.

The Draft Delivery Agreement on Good Governance assigns responsibilities to different actors for various actions related to good governance, assigning a leadership role to the MIPA. However, the division of responsibilities between the MIPA and the Delivery Unit in the Prime Minister's Office is not clear. Other main actors are AKSHI and ADISA. The Delivery Agreement has not yet been signed and does not specify deadlines or specific targets. It is thus too early to assess whether this new arrangement will be effective in practice.

A reduction of the administrative burden has been identified as one of the key areas of intervention in the Delivery Agreement for the priority of good governance. However, it is too early to determine the effects of this initiative. The framework of the Regulatory Impact Assessment of the Government's proposals requires only the general impact on economic growth to be estimated. MIPA and the Delivery Unit have prepared inventories of public services, including data on procedural requirements for obtaining service and the costs incurred by customers. This should serve as a basis for structured efforts of administrative simplification.

The policy in the area of public service delivery (including e-services) is still under development, which is reflected in the indicator value of 2.

The central element of the Government's policy for e-services development is the e-albania.al portal, a gateway to electronic services. Given the relatively high percentage of internet users (over 60% of the population in 2013)²⁴⁵, expansion of e-services shows great promise.

The implementation of an interoperability framework for public institutions is well advanced but incomplete. The electronic systems of 16 state administration bodies are already interconnected within the Government's gateway platform²⁴⁶. The remaining institutions are expected to be linked into the system by the end of 2015.

Development of e-services, policy and preconditions has reached an advanced level, which is reflected in the indicator value of 5.

There is a policy on service delivery, but its implementation is fragmented and compromised by the lack of co-ordination. Progress has been achieved on ensuring interoperability of the electronic systems maintained by state administration bodies.

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

Good governance is among the Government's priorities, and the new draft law on general administrative procedures is being considered by the Parliament. The Code of Administrative Procedure (CAP), adopted in 1999, provides a general framework for state administration actions in individual cases. There is no inventory of special administrative procedures that limit the application of the general administrative procedures.

CAP stipulates the key principles of good administrative behaviour, including principles of legality, equality, proportionality and impartiality. However, detailed rules for administrative proceedings do not meet EU standards of good administration. Major shortcomings of the current regulation include:

- Provisions on discretionary action of state administration bodies that are too wide and too vague, undermining the principle of legal certainty;
- No provisions for representation of the parties in administrative proceedings;

²⁴⁴ Decision of the CoM No. 703, dated 29 October 2014.

²⁴⁵ According to UN statistics for 2013: <http://data.un.org/>

²⁴⁶ Data provided by the National Agency for Information Society.

Albania Service Delivery

- Lack of provisions for electronic communication between parties in the course of administrative proceedings;
- No requirement to inform the parties of the right to appeal against administrative acts;
- Lack of effective guarantees against excessive length of proceedings²⁴⁷.

No courses or training have been explicitly set up to lay out the principles of good administrative behaviour.

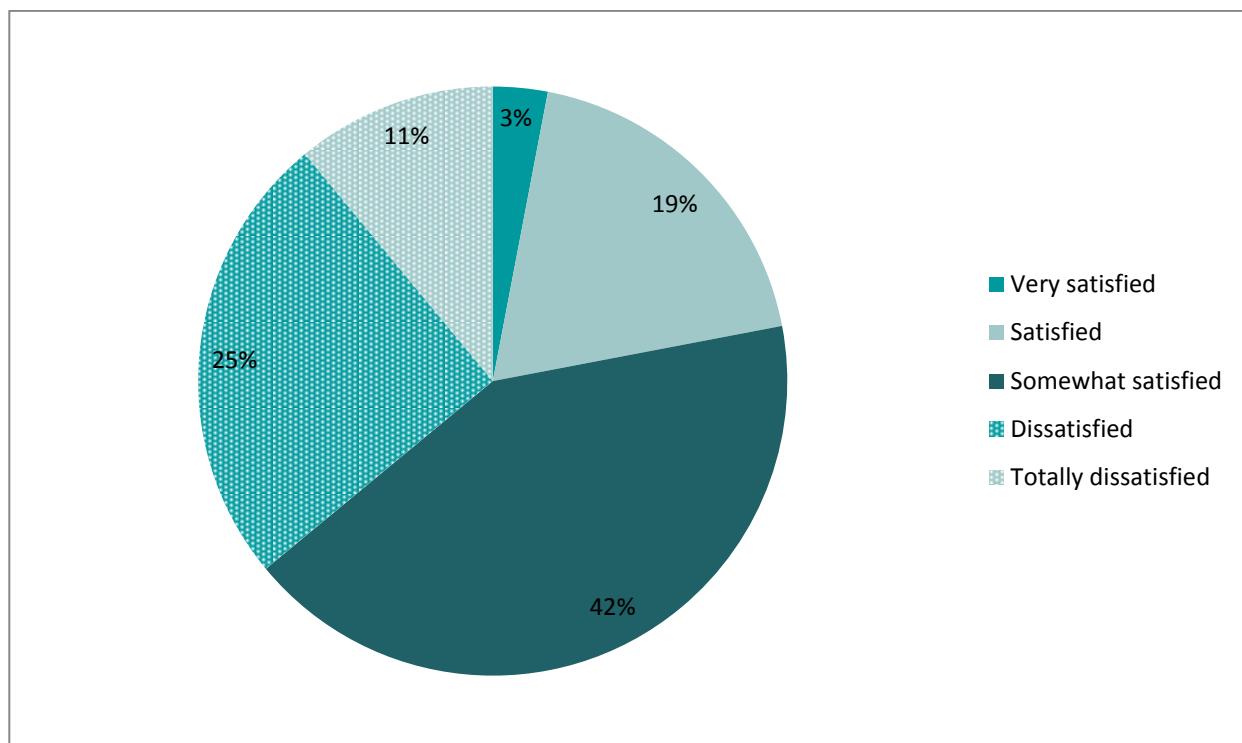
In practice, good administration is guaranteed only to a limited extent, which is reflected in the value of 2 for the indicator related to the legal framework for good administration.

The current legislative framework acknowledges general principles of good administrative behaviour, though it fails to translate them into detailed procedural rules ensuring that citizens are effectively protected against maladministration. The new Code of Administrative Procedures that is in line with the Principles, was adopted by the Parliament on 30 April 2015.

Principle 3: Mechanisms for ensuring the quality of public service are in place.

The opinion poll conducted within the framework of the “Open Government Partnership” demonstrates a moderate level of citizen satisfaction with public service delivery (Figure 2) and reinforces the need for improvements.

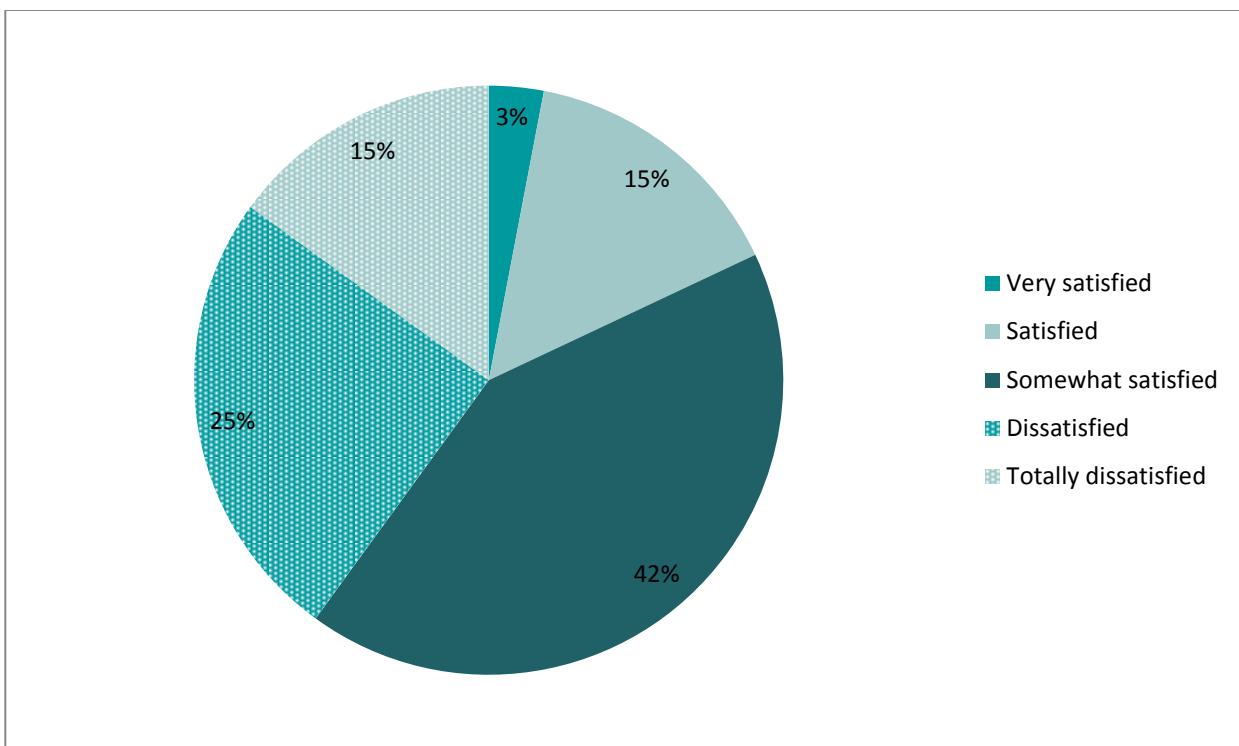
Figure 2. Citizens’ satisfaction with public service delivery in business licensing and registration



Source: Institute for Democracy and Mediation, Opinion Poll “Trust in Government”, 2014.

²⁴⁷ Based on O. Fliedner, comments on The Code of Administrative Procedures of the Republic of Albania, April 2008.

Figure 3. Citizen's satisfaction with public service delivery in Property registration



Source: Institute for Democracy and Mediation, Opinion Poll "Trust in Government", 2014.

There are several references to quality improvement in the Government's strategic documents. Improving the quality of public services and introducing tools for measuring citizens' satisfaction is incorporated into the Delivery Agreement on Good Governance. Quality assurance tools, such as Common Assessment Framework or European Foundation for Quality Management, are not in effect.

The quality and cost effectiveness of services is not subject to a regular review, and public institutions do not actively seek citizens' feedback. The services included in the inventory are under review, and the reorganisation process is progressing. Mechanisms enabling dissemination of good practices across the public sector are not in place and no institution has been made responsible for this. However, the Albanian School of Public Administration conducts training for civil servants engaged in service delivery aimed at facilitating, promoting and sharing user-friendly innovations in service delivery.

In recent years, the cost and time needed to set up a business have been significantly reduced²⁴⁸ and the registration procedure simplified, with the creation of National Registration Centres (NRCs) providing business registration in a one-stop-shop. However, the cost incurred by applicants remains high.

Citizens' satisfaction with public services delivery is moderate and has not been enhanced by policies and mechanisms promoting quality improvement in public institutions.

Principle 4: The accessibility of public services is ensured.

Business registration is available in a one-stop-shop at 32 NRC offices, where applications can be submitted online. The deadline for processing applications is one day. The National Licensing Centre also operates as a one-stop-shop handling licenses and permits at 10 offices across the country²⁴⁹. However, it does not allow online submissions. Both operate according to a "silent consent" principle,

²⁴⁸ From 36 days and 46% of income per capita in 2007 ("Doing Business 2008") to 4.5 days and 10% of income per capita in 2014 ("Doing Business 2015").

²⁴⁹ Applications for, changes to and revocation of licences and permits are stipulated in the CoM Decision No. 538 dated 26 May 2009 on licenses and permits from or through the National Licensing Center (NLC) and a few other subsidiary bodies.

i.e. in the case of a delay in processing the application, registration is considered to have been accepted²⁵⁰.

The Government plans the expansion of one-stop-shops, providing a wide range of services by establishing a Public Service Mall in Tirana and one-stop-shops in municipalities²⁵¹. A master inventory of services to be provided via Public Service Mall and municipal one-stop-shops has been prepared.

The Government portal e-albania.al is the gateway to a wide range of e-services. It primarily provides information on services, and the number of fully available online services is increasing. In 2015, the new version of the e-albania portal was launched. It offers 32 e-services, including 3 services with transaction possibilities and information on over 500 services (a number that is constantly increasing).

The accessibility of public services for customers with special needs remains a challenge. There is no policy requiring structured and adequately funded efforts for improving the accessibility of public buildings. However, NAIS has issued a regulation specifying the technical requirements for public institutions' websites. This document contains several provisions on facilitating access to websites for users with disabilities.

Selected services are available to businesses through one-stop-shops. A significant shift towards increasing the accessibility of services to other groups of users being implemented.

Key recommendations

Short-term (1-2 years)

- 1) The Government should continue efforts to progress with delivery agreements. These documents should contain Specific Measurable Assignable Realistic Time-related (SMART) targets and deadlines. The Delivery Agreement on Good Governance should be made more detailed and contain specific targets and deadlines.
- 2) The Government should ensure that preparations for the implementation of the new Code of Administrative Procedures are made, including awareness raising, training, creating an inventory of special administrative procedures and limiting their number.
- 3) The Minister of Innovation and Public Administration, in cooperation with the Delivery Unit, should continue to implement the “Public Service Mall” project and development of one-stop shops in municipalities, in order to increase the accessibility of services to individual citizens.
- 4) The number of services accessible via the e-albania portal should be further increased, as well as the number of e-services that offer communication or transaction possibilities.

Medium-term (3-5 years)

- 5) The Minister of Innovation and Public Administration should have a leading role in developing a policy and mechanisms for the regular review of the cost-effectiveness of public services, and an instrument to evaluate citizen satisfaction with those services should be introduced.
- 6) The Government should include increasing accessibility of public services for users with special needs as a policy priority in the area of service delivery.

²⁵⁰ <http://aida.gov.al/wp-content/uploads/2013/01/Albania-Calls-111111.compressed.pdf>

p. 20. <http://www.qkr.gov.al/nrc/default.aspx>.

²⁵¹ Draft strategic documents, including “National Strategy for Development and Innovation + draft Delivery Agreement for the Priority: Good Governance”.

6

Public Financial Management

PUBLIC FINANCIAL MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The operational framework for implementing public financial management (PFM) is in place. Despite this, recent Budgets have been founded on unrealistic economic and fiscal assumptions, and the general government deficit was 3.5% in 2011, 3.3% in 2012, 4.9% in 2013 and 5.1% in 2014²⁵². At the end of 2014, the debt to gross domestic product (GDP) ratio had risen to 71.8% from 59.4% at the end of 2011²⁵³.

The Budget is presented on a programme basis, but no strong links are evident between the programmes and actual expenditures. Additionally, emphasis on results and use of indicators are lacking. Furthermore, expenditure priorities may be changed within a given year, with little reference to the programmes outlined in the Medium-term Budget Programme (MTBP).

A legal framework²⁵⁴ for financial management and control (FMC) is in place, but the development and implementation of FMC has stagnated in recent years. There is no evidence of managerial accountability or delegation of authority; the emphasis is more on centralised financial control through the Treasury than on delegated financial management within the institutions.

The legal²⁵⁵ and operational framework for internal audit (IA) reflects international standards, but the development of the IA function in the public sector in Albania has stagnated since 2010. This is largely due to the downsizing, in 2013, of the Ministry of Finance (MoF) Central Harmonisation Unit (CHU), which oversees IA, and the lack of professional support to IA units in budget users.

The independence, mandate and organisation of the Supreme Audit Institution of Albania (High State Control [HSC]) are established and protected by the Constitution and by primary legislation²⁵⁶. The audit activities of the HSC, however, do not yet comply with international auditing standards. The core of the HSC audit work is a form of compliance audit, with a focus on defining irregularities; it does not yet seek to prevent the causes of those irregularities.

The legislative framework covers classic public procurement (PP), the utilities sector and concessions. Since its adoption in 2006, the Public Procurement Law (PPL) has been changed several times, including in 2014, although some of the provisions of the EU Directives were not transposed²⁵⁷. The main gaps in the legislative framework include the non-implementation of the Defence and Security Directive and several provisions of the Remedies Directive.

The institutional set-up of the procurement and concession system is well defined, but basically operates vertically without considering the horizontal needs of co-ordination. There is insufficient co-operation and consultation, with few formal co-ordination mechanisms in place among the key institutional bodies.

The e-procurement system is obligatory, including for low-value procurement. All notices and tender documentation are available on the web portal, and contractors are obliged to submit bids

²⁵² National Economic Reform Programme 2015-2017, p .80 (2013 and 2014); European Commission European Economic Forecast Winter 2015, p. 131 (2011 and 2012).

²⁵³ National Economic Reform Programme 2015-2017, p. 79.

²⁵⁴ Law on Financial Management and Control, 2010.

²⁵⁵ Law No. 9720/2007 on Internal Auditing in the Public Sector, amended in 2010.

²⁵⁶ Law No. 154/27 on the State Supreme Audit Institution, 27 November 2014.

²⁵⁷ <https://www.app.gov.al/ep/Legislation.aspx>

electronically. The monitoring done by the Public Procurement Agency (PPA) is limited in scope and focuses on law compliance.

1.2. Main developments

The Government adopted the Albania Public Financial Management Strategy, 2014-2020 in December 2014; as of end-April, none of the key objectives are yet implemented fully. The Strategy aims to ensure fiscal stability by strengthening the overall fiscal framework, eliminating unpaid arrears that were accumulated previously, creating mechanisms to ensure that forecasting is realistic, and improving the three-year MTBP preparation process.

The previously accumulated unpaid arrears are being eliminated, with significant reductions having been made in 2014.

On 26 January 2015, the 1997 Law on High State Control was replaced by a new law²⁵⁸.

On 24 December 2014, Law No. 182/2014 on amendments to the PPL was adopted.

On 29 December 2014, the Council of Ministers Decision No. 914 on Public Procurement Rules was adopted, followed by the package of six Instructions developed by the PPA. The package is now implemented and also includes instructions aimed at encouraging the use of modern procurement techniques, such as framework agreements for central purchasing²⁵⁹ and joint procurement²⁶⁰.

The newly prepared and adopted Albania Public Finance Management Strategy²⁶¹ for the years 2014-2020 includes a section on PP.

On 12 March 2014, the Council of Ministers adopted Decision No. 130 “on conducting electronically the competitive concessions public-private partnership procedures”, enabling the usage of electronic means for these procedures.

²⁵⁸ Law No. 154/27 on the State Supreme Audit Institution, 27 November 2014.

²⁵⁹ Instruction No. 1 on the conducting of PP procedures by the central purchasing body, 27 January 2015.

²⁶⁰ Instruction No. 4 for performing the joint procurement procedures by the contracting authorities (CAs) for the same supplies, services or works, 27 January 2015.

²⁶¹ www.financa.gov.al/al/raportime/strategjia-per-menaxhimin-e-financave-publike-2014-2020.

2. ANALYSIS

The analysis covers the 16 Principles of the PFM area, grouped under eight key requirements²⁶². For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover a full Budget cycle, and address all aspects of the expenditure side of the Budget, including formulation, execution, reporting and external scrutiny.

2.1. Key requirement: The Budget is formulated in compliance with transparent legal provisions and within an overall multi-annual framework, ensuring that the general government budget balance and debt-to-gross domestic product ratio are on a sustainable path.

Baseline values

The development of both the multi-annual budget framework and the Annual Budget is examined through three qualitative indicators and five quantitative indicators.

In Albania, the Budget is formulated within a multi-annual framework and in accordance with relevant legal provisions²⁶³. It is not, however, based on realistic assumptions. The general government balance and the debt to GDP ratio are not on a sustainable path, with general government deficits of 4.9% and 5.1% being returned in 2013 and 2014²⁶⁴, and the debt ratio continuing to rise (from 59.4% at the end of 2011 to 71.8% at the end of 2014²⁶⁵). This is reflected in the both the quantitative and qualitative indicators.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	MTBF strength index.	2014	2
	1	Fiscal rules strength index.	2014	1
	2	Extent to which the annual budget proposal includes full information at the time of presentation to the Parliament.	2014	2
Quantitative	1	Percentage differences between the planned budget revenues in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	-12.2%
	1	Percentage differences between the planned budget expenditure in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	-5.6%

²⁶² SIGMA (2014), *The Principles of Public Administration*, OECD/SIGMA, OECD Publishing, Paris, pp. 75-109.

²⁶³ Law No. 9936/08 on Management of the Budgetary System in Republic of Albania.

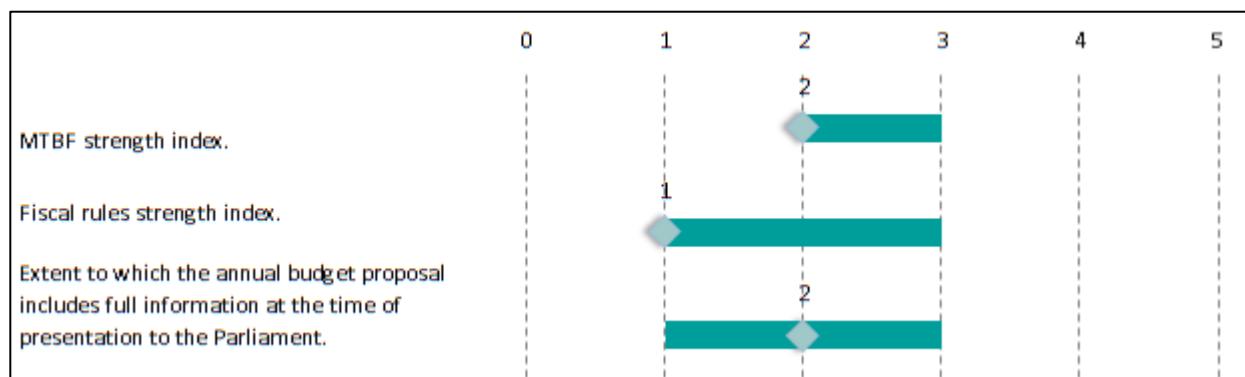
²⁶⁴ *National Economic Reform Programme 2015-2017 for Albania*, p 80.

²⁶⁵ *National Economic Reform Programme 2015-2017 for Albania*, p 7.

	2	General government budget balance.	2014	-5.1%
	2	Percentage differences between the planned budget revenues (as approved in the Budget) compared to the outturn of the latest available year.	2014	-9.7%
	2	Percentage differences between the planned budget expenditure (as approved in the Budget) compared to the outturn of the latest available year.	2014	-3.9%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The Government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum time horizon of three years; all budget organisations operate within it.

The Government publishes a three-year MTBF on a general government basis in the MTBP. Until 2012, the Law on Management of Budget Systems 2008 (MBS)²⁶⁶ provided that total public debt (including guarantees) would not exceed 60% of GDP. This provision was amended in that year so that borrowing is limited to the financing of capital expenditures. The debt ratio was 71.8% at end-2014²⁶⁷. No fiscal council has been established to monitor compliance with fiscal rules or with the MTBP.

The MTBP sets out the macroeconomic projections, as well as the revenue and expenditure forecasts, for the period. As shown by comparisons between forecasts and outturn revenues (Table 1), over-optimistic revenue forecasts, arising from over-optimistic economic growth forecasts, have led to the need for revised Budgets in recent years.

²⁶⁶ Article 58 of the Law.

²⁶⁷ [National Economic Reform Programme 2015-2017 for Albania](#), p 79.

Table 1. General Government revenues, forecast vs. outturn

	Forecast for 2013 ALL bn	Outturn for 2013 ALL bn	Forecast for 2014 ALL bn	Outturn for 2014 ALL bn
MTBP 2012-2014	392	326	418	367
MTBP 2013-2015	357	326	376	367
MTBP 2014-2016	-	-	376	367

Note: ALL bn = billion Albanian lek.

Source: Forecast data from Medium-term Budget Programmes; outturn data from Fiscal Indicators, December 2013 and December 2014.

The Government spending outlined in the MTBP is not a binding ceiling, but rather an indicative target. A comparison between the forecasts in different MTBPs and the actual level of expenditure shows significant variations. Actual Budget expenditure in 2013 and in 2014 was higher than indicated in the MTBPs (Table 2). In 2012 and 2013, corrective action was taken to prevent expenditure from being even higher. In 2014, however, despite revenue being over 9% lower than forecast for that year, no corrective action was applied.

Table 2. General Government expenditures, forecast vs. outturn

	Forecast for 2013 ALL bn	Outturn for 2013 ALL bn	Forecast for 2014 ALL bn	Outturn for 2014 ALL bn
MTBP 2012-2014	436	409	465	439
MTBP 2013-2015	386	409	411	439
MTBP 2014-2016	-	-	411	439

Note: ALL bn = billion Albanian lek.

Source: Forecast data from Medium-term Budget Programmes; outturn data from Fiscal Indicators, December 2013 and December 2014.

The MTBP is well developed at both ministerial and programme levels. For each programme, it includes a description, expenditures and targets (including indicators) for the current year and for all years of the MTBP. The information is comprehensive yet concise; the level of detail is appropriate for an MTBP document. However, as the macroeconomic and fiscal forecasts are not based on realistic assumptions, regular expenditure cuts are necessary. This prevents the MTBP from having the full impact intended.

The medium-term targets in the MTBP are indicative rather than binding. Additionally, there are no clearly defined monitoring and enforcement procedures²⁶⁸. Although the MTBP is provided to Parliament as supplementary information for the Annual Budget, the Parliament does not vote on it. Therefore, Albania's value on the MTBF strength index indicator is 2. In 2012, a fiscal rule that decreed debt could not exceed 60% of GDP was repealed, and since then the 60% limit has been significantly surpassed. No clear course of action has been defined and the debt to GDP ratio has not been stabilised. There is no regular monitoring and enforcement of the rule, and only modest interest in the media. Therefore, the value of the fiscal rules strength index indicator is 1.

²⁶⁸ On 1 April 2015, the Government decided (Decision No. 285) that the ceilings for the MTBP in 2016-2018 would be binding, but it is still too early to assess how effective this will be.

The Budget process in Albania is well established and includes an MBTF. However, the framework is not based on credible forecasts. In particular, revenue forecasts are over-optimistic, which has led to revised Budgets in recent years. Furthermore, budget users know that the fiscal framework is not reliable. This contributes to their not taking planning seriously, so that it has become just a "box-ticking" exercise.

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.

The Budget is formulated in line with the MBS, which defines the scope of the Budget, the roles and responsibilities of the key institutions (including the Parliament), and the timetable. The MBS also provides for the MoF to issue an annual circular²⁶⁹ to guide budget users in making their estimates. At present, there is no evidence that information other than the most basic calculations are sought or provided by the budget users. As revenues have not reached the anticipated targets, the Government often has to set new priorities and the Budget is revised during a given year²⁷⁰. This uncertainty undermines both budgetary discipline and a commitment to budget planning on the part of budget users.

Spending appropriations in the Annual Budget are not consistent with the figures in the MTBP (Table 3). In 2014, the Budget provisions were nearly 11% higher than the figure in the MTBP; in 2015, the provisions were just over 2% higher. Further examination of expenditures by individual institution shows that the percentage variations between the Budget and the MTBP at the institutional level do not equal the total percentage.

Table 3. Government expenditures 2014 and 2015, MTBP vs. Annual Budget

	MTBP ²⁷¹ ALL m	Annual Budget ²⁷² ALL m	Percentage difference
2014	411 740	456 404	10.8%
2015	463 124	472 697	2.1%

Note: ALL m = million Albanian lek.

The Budget documentation presented to Parliament²⁷³ sets out the macroeconomic assumptions, provides medium-term projections for general government fiscal aggregates, and links the Budget to the Government's policy objectives for the upcoming year. It also provides allocations at the institutional level and contains information on current, capital, pay and non-pay expenditures by budget users²⁷⁴. However, the documentation lacks precise details about the fiscal risks to which the Budget is exposed, such as interest rates, exchange rates, and risks arising from explicit and implicit obligations to state-owned enterprises (SOEs). It also fails to provide non-financial performance information, and lacks separate information on baseline expenditure and new policies, final outturn

²⁶⁹ www.financa.gov.al/al/raportime/buxheti/udhezime.

²⁷⁰ In 2014, the Budget was revised on 17 September 2014 and again on 29 December 2014.

²⁷¹ MTBP 2014-2016 and MTBP 2015-2017 at www.financa.gov.al/al/raportime/buxheti/programi-buxhetor-afatmeseme-vite.

²⁷² 2014 Annual Budget Law and 2015 Annual Budget Law at www.financa.gov.al/files/userfiles/Buxheti_2014/204-2013.pdf.

²⁷³ Budget documents are available at www.financa.gov.al/al/raportime/buxheti/buxheti-ne-vite/buxheti-2015.

²⁷⁴ Table at 5_shoqëruese - Shpenzimet 2015 (sipas institucioneve) at www.financa.gov.al/al/raportime/buxheti/buxheti-ne-vite/buxheti-2015.

data for the preceding year and multi-annual commitments on capital spending. Therefore, the value of the indicator on the extent to which the Annual Budget proposal includes full information at the time of presentation to the Parliament is 2.

Although Public Investment Management (PIM) procedures exist to set out a coherent appraisal and planning process for capital spending, there is no evidence to show that capital investments are carefully analysed before being approved. The most recent Public Expenditure and Financial Accountability (PEFA) report found that “not sufficient attention is being paid to implementation capacity... [Expenditure] targets for investment programmes are being set at overly optimistic levels despite poor past performance”²⁷⁵.

The Budget is formulated in line with the national legal framework, but the spending programmes are not consistent with the MTBF. Furthermore, the Budget is often based on unrealistic revenue assumptions, which leads to unplanned expenditure revisions during a given year.

Key recommendations

Short term (1-2 years)

- 1) As macroeconomic and fiscal forecasts are overly positive, the MoF should ensure that the MTBP contains comparable data from independent institutions, in order to give the forecasts credibility.
- 2) The MoF should examine and consider the adoption of a more top-down (structured) process to replace the existing bottom-up (demand-led from all Budget units) approach for drafting the MTBP.
- 3) The MoF should satisfy itself that Budget appropriations are calculated with close alignment to the operational activities of the Budget units.
- 4) The MoF should ensure that, if new policies are implemented in the Budget, their financial cost and related performance outputs are made visible within the Budget documents.

Medium term (3-5 years)

- 5) The MoF should ensure that the draft Budget contains non-financial performance information against which results in the Annual Report on the Execution of the Budget can be analysed and assessed.

2.2. Key requirement: Accounting and reporting practices ensure transparency and public scrutiny over public finances; both cash and debt are managed centrally, in line with legal provisions.

The execution, monitoring and reporting of the public finances is examined through four quantitative and two qualitative indicators.

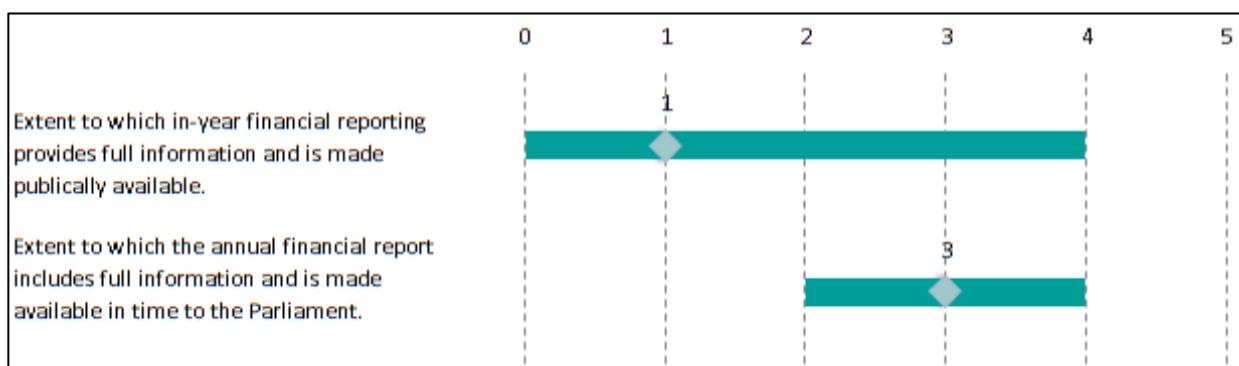
In Albania, both cash and debt are managed centrally in line with legal provisions. However, planning of cash requirements and monitoring of in-year expenditures is not in line with the Principles. The indicators show a high percentage difference between actual and projected monthly cash flow. Debt servicing costs are high at 2.8% of GDP, although the stock of debt at the end of 2014 was 4.9% lower than originally forecast. At 8.6% of total expenditure, the arrears figure is very high, but this has to be seen in the context of a significant reduction in the level of arrears during 2014. The qualitative indicators reflect weak in-year monitoring, but affirm respect for the Parliament’s role with regard to scrutiny of end-of-year reports.

²⁷⁵ Albania: Public Expenditure and Financial Accountability Assessment 2011, p. 9.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which in-year financial reporting provides full information and is made publically available.	2014	1
	5	Extent to which the annual financial report includes full information and is made available in time to the Parliament.	2014	3
Quantitative	3	Average percentage differences between cash flow projections and actual cash balance on a monthly basis.	2014	7.2%
	3	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	2014	8.6%
	4	Public sector debt servicing costs as a share of gross domestic product.	2014	2.8%
	4	Difference of public sector debt level outturn from target.	2014	-4.9%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 2. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: The Ministry of Finance, or authorised central treasury authority, centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.

The MBS provides for a central treasury single account under the control of the MoF to ensure that disbursement of funds is tightly controlled. The Treasury manages cash based on its own forecasts, which reflect three-year cash flow patterns. This profile, which is not published, is revised each month

in light of emerging actual expenditure and information received from budget users. For the latter months of the year, deviation from the original profile can be significant. For example, in December 2014, the difference between the original profile and the actual outturn was 29%²⁷⁶. Cash forecasting is weak and is recognised as such in the PFM Strategy 2014-2020, which states that poor forecasting affects the efficiency of Government operations and pushes up costs.

Over-expenditure cannot occur on a cash basis because each transaction must be within the Annual Budget allocation and the amount available for the month. However, the focus on cash liquidity and the reprioritising of spending within a given fiscal year has led to the creation of arrears through commitments that could not be met when due. The Government adopted the Arrears Prevention and Clearance Strategy in 2014, which sets out plans to eliminate the existing arrears stock by the end of 2017 and to enforce specific measures to prevent the accumulation of new arrears²⁷⁷. The stock of arrears at the end of 2014 was estimated at ALL 37.6 billion, a substantial decline after having been ALL 72.6 billion at the end of 2013. According to the MTBP 2015-2017, arrears are forecasted to be eliminated by the end of 2016²⁷⁸.

The coding structure of the Treasury system facilitates detailed analysis of expenditure and revenue at the level of individual institutions. Only five budget users have direct access to the system and can generate their own reports. The Treasury can provide information to budget users who do not have access otherwise. Although quarterly fiscal bulletins are published and show details of actual current, capital, and pay and non-pay expenditures, profiles are not published at the beginning of the year. Therefore, monthly expenditure trends cannot be analysed against original forecasts.

The MoF centrally controls disbursement of funds but on the basis of a “cash rationing” system that more closely reflects what is available than what has been planned in advance. Cash liquidity is ensured, but this led a serious arrears problem, which the Government has begun to address under the *Arrears Prevention and Clearance Strategy*, adopted in 2014.

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.

Albania has a comprehensive debt management strategy that is published²⁷⁹ in accordance with legislation²⁸⁰. The Law requires the MoF to submit to the Government a medium-term debt strategy each year, along with the medium-term budget projections. The Law also defines the responsibilities of the different bodies, including the MoF, which solely has the power to borrow on behalf of the state. The strategy includes some risk and sensitivity analysis. It also defines clear medium-term targets in order to improve debt structure, increase sustainability and improve market conditions for Government debt instruments.

Borrowing for local entities is set out in the Law on Local Borrowing²⁸¹, which indicates that the purpose and terms of debt for local governments are restricted and are subject to approval by the MoF. The level and costs of local government borrowing are not included in the quarterly debt reports published on the MoF website²⁸².

²⁷⁶ Calculated using MoF fiscal indicators at www.financa.gov.al/en/reports/economic-fiscal-program/monthly-reports-and-fiscal-statistics/monthly-fiscal-statistics.

²⁷⁷ PFM Strategy 2014-2020.

²⁷⁸ MTBP 2015-2017, p. 22.

²⁷⁹ The Public Debt Management Strategy is published (in Albanian only although an English version is being translated) at [www.financa.gov.al/files/userfiles/Borxhi/Strategjia_afatmesme_e_menaxhimite_borxhit_publik_2015-2017redaktuar_2/Strategjia_afatmesme_e_menaxhimite_borxhit_publik_\(2015-2017\).pdf](http://www.financa.gov.al/files/userfiles/Borxhi/Strategjia_afatmesme_e_menaxhimite_borxhit_publik_2015-2017redaktuar_2/Strategjia_afatmesme_e_menaxhimite_borxhit_publik_(2015-2017).pdf).

²⁸⁰ Law No. 9665/2006 on State Borrowing, State Debt and State's Loan Guarantees in the Republic of Albania.

²⁸¹ Law No. 9869/2008 on Local Borrowing.

²⁸² www.financa.gov.al/en/reports/debt/debt-indicators.

Government borrowing has not always been within the limits set in the Annual Budget. As a result of higher-than-anticipated Budget deficits, the debt to GDP ratio has increased from 59.4% at the end of 2011 to 71.8% at the end of 2014. This is despite there being a fiscal rule until 2012 that stated “the total public debt, including guarantees, should not exceed 60% of GDP”²⁸³.

Debt servicing costs have fallen from 3.2% in 2013 to 2.8% in 2014. However, the average maturity of domestic debt is 650 days, which exposes Albania to a short-term refinancing risk. The shares of total debt held are 58% domestic and 42% external²⁸⁴. To minimise exposure to exchange rate risk, a strategic objective is to not allow the share of external debt to exceed 47%. The share of debt with variable interest rates is, at 51%²⁸⁵, quite high, which also creates an interest rate risk. It should be noted, however, that all of these risks are acknowledged in the Public Debt Management Strategy and also in the National Economic Reform Programme.

Albania has a debt management strategy but the debt targets have not been respected and the previously established 60% limit on the debt to GDP ratio has been exceeded by nearly 12 percentage points. Although debt servicing costs fell both in absolute terms and as a percentage of GDP in 2014 from 2013, Albania could be exposed to a number of risks related to refinancing, interest rates and exchange rates.

Principle 5: Budget transparency and scrutiny are ensured.

The MoF publishes a one-page summary of total central government revenue and expenditure for each month, within four weeks of month end²⁸⁶. However, these reports do not offer any explanation about variations against profile. In addition, the MoF publishes the more detailed quarterly Fiscal Statistics of Government²⁸⁷ which also provides some information about local government expenditure and revenue, as well as consolidated general government data. Again, these do not provide any information on variations against profile. The basis for both monthly and quarterly reports is modified cash and both are compiled from the Treasury's own records. Neither the monthly nor the quarterly reports contain information at the level of the individual institutions, although the Treasury has this information. For these reasons, the value of the indicator about the extent to which in-year financial reporting provides full information and is made publicly available is 1.

The MBS provides for the Annual Report on the Execution of the Budget to be published before the end of October in the year following the Budget year, and also for the report to be audited by the HSC and sent to the Parliament in May of the year following. The documents that accompany the annual report are technical and comprise several hundred pages. This makes it difficult to find the key pieces of information. Despite this, there are no explanations about differences between budgeted allocation and actual expenditure. Furthermore, the Annual Report on the Execution of the Budget is not in the same format as the Budget itself, which makes comparison difficult. There is no overview or analysis of state assets. For these reasons, the value of the indicator about the extent to which the annual financial report includes full information and is made available in time to the Parliament is 3.

It is worth noting that all SOEs operate under a board of management, in accordance with the legislation that governs all commercial bodies. They are run by management boards on which senior officials from the ministries with relevant responsibility sit. The MoF does not directly monitor the financial situation of SOEs, even though the state would be liable in the event of financial difficulties emerging.

Some information is published during the year, but not in a detailed manner that allows public analysis of evolving revenue and expenditure trends compared to original expectations. The role of

²⁸³ Article 58 of the MBS.

²⁸⁴ National Economic Reform Programme 2015-2017, p. 28.

²⁸⁵ National Economic Reform Programme 2015-2017, p. 35.

²⁸⁶ www.financa.gov.al/al/raportime/thesari/treguesit-fiskal-sipas-buxhetit-te-konsoliduar.

²⁸⁷ www.financa.gov.al/al/raportime/thesari/buletini-fiskal.

Parliament is respected insofar as deadlines are met, but transparency is reduced by the fact that the Annual Report on the Execution of the Budget does not mirror the original Budget format, does not explain variations and does not provide information on state assets.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should publish a monthly profile of expected revenue and expenditure against which actual outturns can be measured.
- 2) The MoF should monitor the arrears prevention strategy and all commitments should be recorded in the treasury system; in this regard the treasury system should be made available to all budget users.
- 3) The MoF should ensure that the Annual Report on the Execution of the Budget mirrors the original Budget format and explains variations.
- 4) The MoF should ensure that the Annual Report on the Execution of the Budget (and draft Budget) contain an analysis of fiscal risks and contingent liabilities, including those presented by SOEs.

Medium-term (3-5 years)

- 5) The MoF should implement a regular monitoring system for the financial situation of SOEs.
- 6) The MoF and other ministries should make use of international education programmes for employees regarding budgeting and accounting principles.
- 7) The MoF should complete an inventory of state assets and maintain an assets register.

2.3. Key requirement: National financial management and control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout the public sector.

Baseline values

Financial management and control in the Albanian public sector is examined through one qualitative and three quantitative indicators. The qualitative indicator covers the application in practice of the legal and operational framework of FMC.

In Albania, the legal framework exists for a functional internal financial control system that supports FMC, including managerial accountability. However, the objectives and benefits of a fully operational FMC system are poorly understood throughout the administration and the FMC falls short of being fully applied.

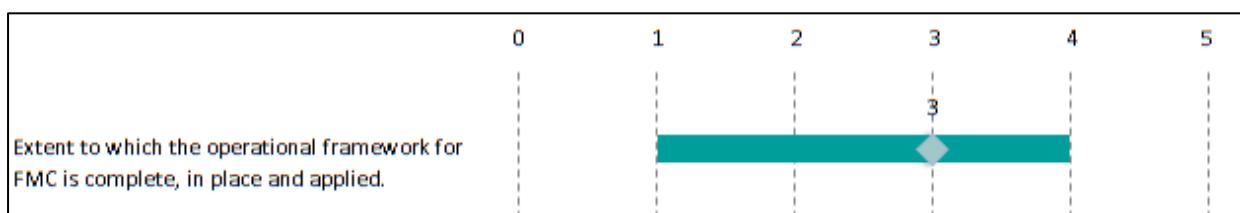
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	6	Extent to which the operational framework for FMC is complete, in place and applied.	2014	3
Quantitative	7	Share of first-level budget organisations where budget structure is aligned with the organisational structure.	2014	30%
	7	Share of first-level budget organisations where delegated budget holders below	2014	Not available ²⁸⁸

²⁸⁸ The MoF does not collect this information.

		minister or secretary-general level receive at least monthly information on financial commitments and spending against the Budget within their part of the Budget.		
7	Wastefulness of Government spending (The World Economic Forum).	2013/2014	3.3 ²⁸⁹	

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicator in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 6: The operational framework for financial management and control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and public administration in general.

Albanian has a good legal and operational framework for the development and implementation of FMC and has published a Public Internal Financial Control (PIFC) Policy Paper. The Law on Financial Management and Control 2010, which is consistent with the MBS, applies to all public institutions, including extra-budgetary funds and commercial organisations even partly owned by the state²⁹⁰. The CHU/FMC has issued several guidance documents, including a detailed Financial Management and Control Manual that reflects the Committee of Sponsoring Organisations of the Treadway Commission (COSO) model. The CHU General Directorate provides a report to the Government (in May of each year) on the application of FMC throughout the Administration²⁹¹. The report does not, however, include detailed statistics about the state of play in implementing FMC in individual public sector organisations. Also, the management and control systems for EU funds meet the EU requirements.

Despite this, developing managerial accountability within public institutions is a challenge. Although the Public Administration Reform (PAR) Strategy recognises the importance of wider civil service issues – such as merit-based recruitment and promotion, “to strengthen the trust and loyalty on which managerial accountability depends”²⁹² – managerial accountability is clearly lacking at present. Both

²⁸⁹ Albania is ranked No. 63 out of 144 countries; www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf.

²⁹⁰ Article 3 of the Law on Financial Management and Control 2010.

²⁹¹ CHU/FMC (2013,) Annual Report on the Functioning of Public Internal Control System at the General Government Units, 2013, Albania: www.financa.gov.al/files/userfiles/Drejtoria_e_Pergjithshme_rregullatore_Kontrolluese/Annual_Report_of_PIIFC_for_2013_in_english.docx. The Annual Report for 2014 is not yet available, but the CHU/FMC confirmed on 2 April 2015 that the conclusions of its 2013 report were still valid for 2014.

²⁹² PAR Strategy, p. 18.

the most recent report by the CHU/FMC²⁹³ and the PFM Strategy 2014-2020²⁹⁴ recognise that the objectives and benefits of a fully operational FMC system are poorly understood throughout the Administration. Job descriptions for senior posts state the key responsibilities, including managerial duties, but make no mention of the need to delegate.

At present, the Treasury system²⁹⁵ is used as a financial control mechanism that ensures liquidity rather than as a financial management tool. Only five institutions have direct access to the system and can use it to produce detailed financial management information at, for example, directorate general level.

The CHU/FMC consists of five staff members and is limited mainly to issuing legislation²⁹⁶ and guidelines, although some training has also been provided to line managers. Despite having made recommendations to the Government in its annual reports, the CHU/FMC has been unable to drive reform: to date, the Government has not issued any specific directions about implementing its recommendations. The PFM Strategy 2014-2020 contains seven actions to enhance financial management and managerial accountability within the public bodies, but it is too early to evaluate the effectiveness of these reform plans. Before the adoption of the PFM Strategy 2014-2020, no specific actions had been taken in recent years to ensure better implementation of the legal framework, despite the training provided by the CHU/FMC. In addition, of the public sector organisations required to implement FMC, only 30% reported to CHU/FMC in 2014 on progress made to enhance FMC during the previous year. The qualitative indicator about the extent to which the FMC operational framework is complete, in place and applied therefore has a value of 3.

The legal and operational framework for FMC is in place, but the actual application of the legal procedures is proving very difficult. The PFM Strategy 2014-2020 contains measures to improve the application of FMC within the Administration, but it is too early to judge how effective these will be.

Principle 7: Each public organisation implements financial management and control in line with the overall financial management and control policy documents.

Albania's PFM Strategy 2014-2020 states that public sector organisations are not implementing FMC in line with the required standards. Only 431 organisations out of 1 430²⁹⁷ have internal regulations and procedures for the implementation of FMC. Given that many are small organisations (such as rural schools), this may not be a significant problem as long as the major spending organisations are implementing regulations. However, among those that do not implement FMC are high-spending public institutions such as the Ministry of Transport and Infrastructure, and the Roads Administration²⁹⁸. This lack of FMC means that responsibilities within organisations are unclear, and making calculated choices among alternative means of achieving objectives is not structured (the Health Insurance Fund is noted as an exception to this shortcoming²⁹⁹).

Finance officers have been appointed in all 1 430 public institutions; in at least 80% of these institutions, they are at a senior managerial level and report directly to the authorising officer (the most senior official in the institution)³⁰⁰. To date, there is no evidence that they are establishing FMC

²⁹³ CHU/FMC (2013), Annual Report on the Functioning of Public Internal Control System at the General Government Units, 2013, Albania.

²⁹⁴ Adopted by the Government on 14 December 2014.

²⁹⁵ The Automated Government Financial Information System.

²⁹⁶ On 8 April 2015, the Law on FMC was amended with the objective of strengthening the legal framework, but it is too early to assess how effective this will be.

²⁹⁷ Data provided directly by the MoF.

²⁹⁸ SIGMA requested internal regulations and procedures for the introduction of FMC in both of these organisations but they were not available.

²⁹⁹ The Health Insurance Fund provided examples of where the more cost-effective treatments have been introduced in recent years.

³⁰⁰ CHU/FMC (2013), Annual Report on the Functioning of Public Internal Control System at the General Government Units, 2013, Albania.

throughout the organisations or that they ensure FMC information is provided to other senior managers.

If FMC had been operating well within individual institutions, Albania's arrears problem would not have become so significant. While the arrears are being reduced (see Principle 3 above for details), the problem is being addressed centrally through the Treasury system. The process is that institutions inform the Treasury of anticipated expenditures at the pre-contract stage, and the Treasury informs the institutions as to whether sufficient provision remains in their budget allocations to cover such a commitment.

Public organisations in Albania have not implemented FMC in line with the legal framework. In fact, the development of FMC has stagnated since the introduction of the Law on FMC in 2010. The PFM Strategy 2014-2020 contains a list of deliverables required before a well-functioning FMC can be implemented.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should begin to implement the Action Plan of the PFM Strategy 2014-2020 and report every six months on progress.
- 2) The CHU/FMC should be given the resources to provide training on FMC principles for all line and senior managers to ensure they understand their role in supporting and assisting the executing officer.
- 3) The CHU/FMC should analyse which major spending institutions do not have internal regulations and procedures for FMC, and recommend that the Government issue direction that these institutions adopt such measures.
- 4) The CHU/FMC should work with the Health Insurance Fund, among other institutions, to raise awareness of the cost savings that can be delivered by alternative means of service delivery.

Medium-term (3-5 years)

- 5) The MoF should complete the implementation of the Action Plan of the PFM Strategy 2014-2020.

2.4. Key requirement: The internal audit function is established throughout the public sector and internal audit work is carried out according to international standards.

Baseline values

The IA function in the public sector of Albania is examined through two qualitative and three quantitative indicators. The qualitative indicators cover elements of the legal and operational framework of IA and the quality of IA reports.

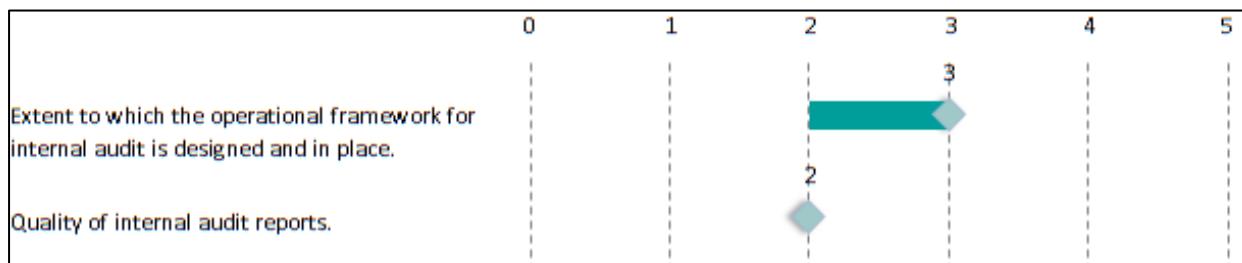
In Albania, the legal framework for an independent IA function is based on international IA standards and good EU practice. In 2014, the MoF started a revision of the Law on Internal Auditing in the Public Sector³⁰¹, which will be completed in spring 2015. The scores of the qualitative indicators reflect a stagnating implementation of IA in Albania.

³⁰¹ Law No. 9720/2007 on Internal Auditing in the Public Sector, amended in 2010.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which the operational framework for internal audit is designed and in place.	2014	3
	9	Quality of internal audit reports.	2014	2
Quantitative	8	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	2014	71%
	8	Share of internal auditors with a national or international internal audit certificate.	2014	82%
	9	Share of organisations with annual internal audit plans conforming to national legal requirements.	2014	87%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 4. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 8: The operational framework for internal audit reflects international standards and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.

The concept of IA was introduced in Albania's public sector in May 2000. In three steps (in 2003, 2007 and 2010), the IA Law has been brought more in line with international IA principles and standards. The new draft law will be a framework law, designed to create a more sustainable legal basis for IA.

The Albania PFM Strategy 2014-2020³⁰² concludes that IA has a legal basis, but the implementation of the IA Law and secondary legislation has lagged behind. To summarise, development of the IA function in the public sector in Albania has stagnated after 2010. The system-based audit approach, described in the IA manual, is not followed by most IA units. In 2014, the CHU/IA provided trainings in system-based auditing (among other subjects). In March 2015, a new continuous professional development programme started with the assistance of foreign experts. In 2014, a new initiative was launched to improve IA in the public sector with the support of twinning partners. The PFM Strategy 2014-2020

³⁰² PFM Strategy 2014-2020, December 2014, p. 61.

confirms the need to revitalise the IA function, with a focus on strengthening IA units by developing the professional skills of its IA staff.

A 2012 decree of the MoF³⁰³ set the criteria for establishing IA functions and IA units. The aim of the decree was to introduce a cost-effective IA function in the Albanian public administration. Most of the public organisations meet the requirements for establishing internal units. However, 28³⁰⁴ internal units (mostly municipalities or small agencies) still do not comply with the legal staff requirement of a minimum of three auditors. That is why the baseline value for the minimum staffing of IA units is 71%. The staffing of internal units is reasonable, with 351 out of a systemisation of 374 functions³⁰⁵. A 2010 IA manual³⁰⁶ introduces strategic risk-based systems audits, audit charters and monitoring the quality of audit work.

In 2013, the new Government downsized the driver for IA reform, the CHU/IA of the MoF, from 14 to 5 staff members³⁰⁷. The PFM Strategy 2014-2020 concludes that the CHU/IA will have to be strengthened in quantity and quality after a review of the tasks that it can realistically undertake.

In 2006, the MoF set up a certification programme for internal auditors, which was open to anyone interested in IA. Since then, about 1 800 people have obtained a certificate in internal auditing. While the share of the internal auditors with a national internal audit certificate is 82%, only 16%³⁰⁸ of the certified internal auditors actually work in public sector IA. The current certification programme requires a great deal of CHU/IA time but does not really prepare the auditors for actual audit work³⁰⁹. The PFM Strategy 2014-2020 announced a revision of the certification regulations to be implemented in 2015, stating that the certification process would be simplified and made fully transparent. It also stated that the continuous training regulation would have to be improved, and it introduced a mandatory number of training hours per year for those working as internal auditors in public sector organisations.

The indicator for the extent to which the operational framework for IA is designed and in place has a value of 3 because the percentage of internal auditors with a certificate is lower than 85% of the total of internal auditors who work in the public sector, the 2014 IA report of the MoF does not demonstrate progress in the quality of internal audit, and heads of IA units do not meet at least twice per year under the supervision of the CHU/IA.

The legal and operational framework for IA reflects international standards but implementation of the IA Law and secondary legislation has lagged behind. The driver of the IA reform, the CHU/IA, is weak. The PFM Strategy 2014-2020 announced measures to improve the professionalism of the internal audit function in general and of the CHU/IA in particular.

Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents as appropriate to the organisation.

In the IA units that SIGMA visited, audit charters (including reporting arrangements) are concluded with heads of organisations and implemented.

The share of organisations with annual IA plans conforming to national legal requirements is 87%. Reorganisations carried out in 2014 have established new IA units to replace those that were not working according to the national requirements³¹⁰. IA strategic and annual plans follow the template in

³⁰³ MoF Decision No. 212/2012 for Approval of the Criteria for the Establishment of Internal Audit in the Public Sector Organisations.

³⁰⁴ MoF.

³⁰⁵ MoF.

³⁰⁶ MoF.

³⁰⁷ MoF - PFM Strategy 2014-2020.

³⁰⁸ MoF - Statistics on PFM Data Collection Sheet.

³⁰⁹ MoF - PFM Strategy 2014-2020.

³¹⁰ MoF – CHU/IA.

the IA manual but are limited to organisational units and financial systems. Risk assessment is underdeveloped. While all IA units published audit reports in 2014, the IA reports are not always³¹¹ in line with the guidelines of the IA manual; many focus mainly on non-compliance with laws and regulations (detection of violations). Some also address weaknesses in internal control.

The 2014 annual report of the CHU/IA³¹² refers to shortcomings found in almost all IA units, which were reviewed by the CHU in 2014. The quality of audit work, for example³¹³, is below the levels required by the Albanian IA standards, and the management of public entities do not fully recognise the concept of internal control and, consequently, do not have a clear view of the role of IA. IA units are often asked to carry out activities related to financial inspection³¹⁴.

The indicator concerning the quality of audit reports has a value of 2 because the analysed audit reports do not show a system-based audit approach and do not address weaknesses in the internal control system or in achieving value for money.

Public organisations in Albania have not implemented IA in line with the overall IA policy documents as appropriate to the organisation. The development of the IA function in the public sector has stagnated since 2010³¹⁵, partly due to the downsizing of the CHU/IA in 2013 and also due to the lack of professional support to the IA units.

Key recommendations

Short-term (1-2 years)

- 1) The CHU/IA should develop new certification and continuous professional development programmes.
- 2) The CHU/IA should develop guidelines for quality assurance.
- 3) The MoF should strengthen the CHU/IA in quantity and quality.

Medium-term (3-5 years)

- 4) The MoF should implement the Action Plan of the PFM Strategy 2014-2020.
- 5) The MoF should seek co-operation with the HSC and Albanian School for Public Administration in order to develop continuous training programmes.

2.5. Key requirement: Public procurement is regulated by duly enforced policies and procedures that reflect the principles of the Treaty on the functioning of the European Union and the European Union *acquis*, and are supported by suitably competent and adequately resourced institutions.

Baseline values

The key requirement for harmonisation with the EU Principles and *acquis* ruling PP, as well as the establishment of institutional structures and arrangements, is examined through six qualitative indicators. The first two describe the extent to which the legislation is complete and enforced, covering the eight main goals as defined in Principle 10, and the openness of the administrative bodies involved in policy making to the public (participants of the market). The next two indicators concern the extent of development and implementation of the policy framework, and the existence and performance of a dedicated institution for central procurement functions.

³¹¹ An analysis of ten IA reports of ten different organisations.

³¹² MoF (2015), Draft Annual Report on Internal Audit Activity in Public Sector, 2014, March 2015, Albania.

³¹³ MoF (2015), Draft Annual Report on Internal Audit Activity in Public Sector, 2014, March 2015, Albania, p. 26.

³¹⁴ PFM Strategy 2014-2020, p. 61.

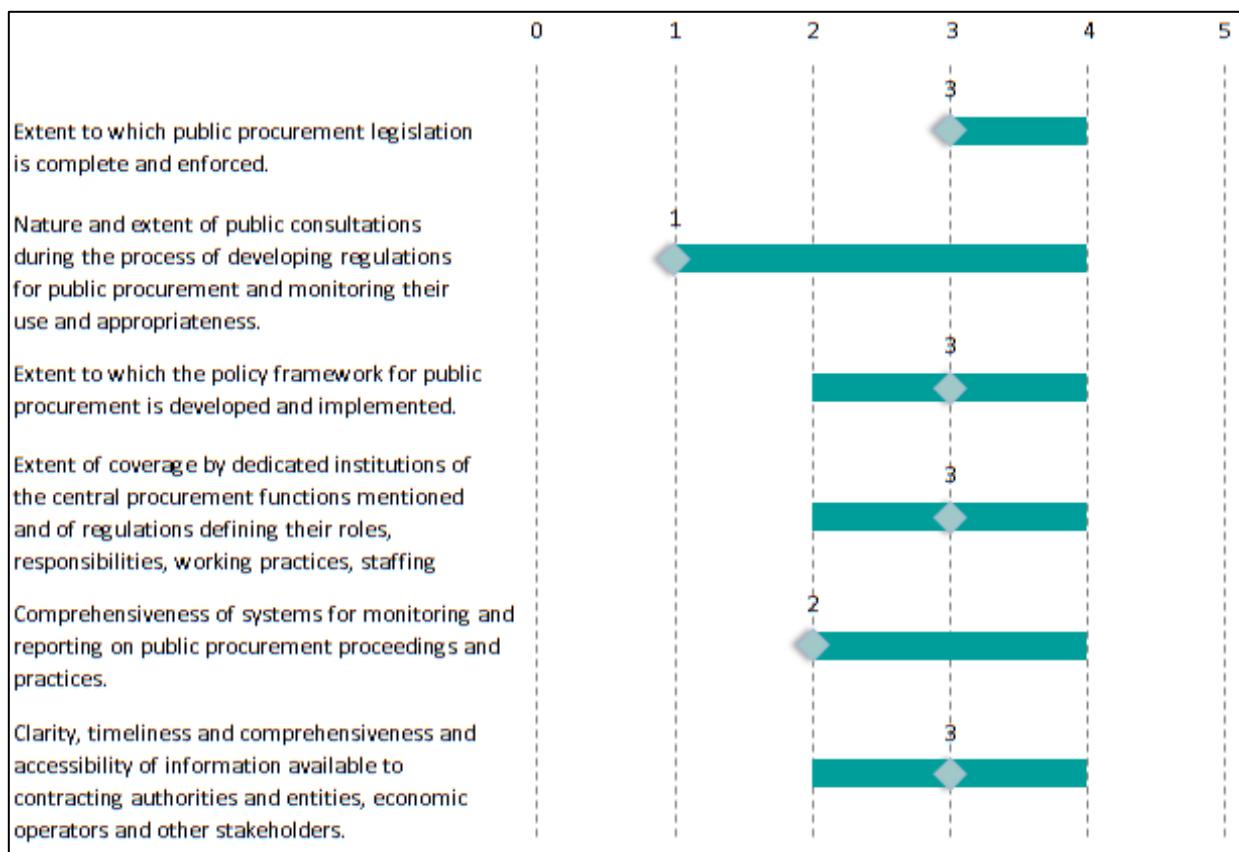
³¹⁵ PFM Strategy 2014-2020, p. 61.

The indicators are qualitative, aimed at assessing the legal basis for PP, the instruments or functions, and the implementation of the law and related rules.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	10	Extent to which public procurement legislation is complete and enforced.	2014	3
	10	Nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness.	2014	1
	11	Extent to which policy framework for public procurement is developed and implemented.	2014	3
	11	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	2014	3
	11	Comprehensiveness of systems for monitoring and reporting on public procurement proceedings and practices.	2014	2
	11	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	2014	3

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 5. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 10: Public procurement regulations (including public-private partnerships and concessions) are aligned with the acquis, include additional areas not covered by the acquis, are harmonised with corresponding regulations in other fields, and are duly enforced.

In Albania, a legal framework for PP is in place, although with some gaps in conforming with the *acquis*, especially concerning defence and security procurement. The legislative framework consists of Law No. 9 643 on the PPL³¹⁶ (amended), covering classic PP and the utilities sector, and implementing bylaws, from which the Decision 914/2014³¹⁷ on PP Rules is of special importance. Law No. 125/2013 on Concessions and Public-Private Partnership (PPP) with implementing secondary legislation (see below) regulates the awarding of concessions and PPP projects. The main gaps in the legislative framework are the non-implementation of the EU Defence and Security Directive as well as several provisions of the EU Remedies Directive (2007/66/EC).

A comprehensive set of fully operational secondary legislation – not only implementing the provisions of the law, but also operational standards, standard formats for notices, tender documentation and models for general conditions of contracts – is in place, leading to a value of 3 for the relevant indicator.

³¹⁶ <https://www.app.gov.al/ep/Legislation.aspx>

³¹⁷ <https://www.app.gov.al/ep/VKM.aspx>

Although the legal framework generally reflects the fundamental EU Treaty principles of transparency, equal treatment and non-discrimination, the national provisions are very detailed and demanding, even for low-value procurement (46 537 procedures, consuming 14.7% of the total procurement value³¹⁸), which raises questions about the efficiency of the process³¹⁹.

The CAs are obliged to prepare annual PP plans addressing, among other factors, the object and value of the procurement, and these are published on the website of the PPA³²⁰. However, the lack of a proper search function in the publication system impedes accessibility to relevant information for economic operators.

Contract management instruments remain outside the scope of the PPL. The sound execution of a contract and the potential lessons for future procurement activities depend on the awareness and capacity of the Contracting Authority (CA) officers.

CAs are not allowed to commence the PP procedure without the approval of the respective branch of the Treasury Office³²¹. The use of multi-year contracts is strictly regulated; the majority of the contracts terminate on 31 December³²².

Public consultations during the process of developing regulations and monitoring their use are limited in terms of the institutions involved. Opinions and comments are gathered from the administration and the CAs, but representatives of the economic operators, business corporations or non-governmental organisations (NGOs) are not invited to provide input³²³, leading to a value of 1 for this indicator.

The regulatory framework, including operational guidelines and standard documentation, is of a good quality. It is generally compatible – but not fully compliant -- with the *acquis*. The budget and expenditure regulations restricting the conclusion of multi-year contracts are not harmonised with good project management principles.

Principle 11: There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.

In December 2014, the PFM Strategy for the years 2014-2020 was adopted. In Pillar III, one chapter is dedicated to PP and concessions. The general description of the planned tasks, as well as limited resources, especially for activities demanding human capacity, threatens the achievement of the prescribed objectives, leading to a value of 3 for the relevant indicator.

The PPA performs the functions of the central administrative body responsible for PP in a timely and comprehensive manner. However, some tasks are executed in a limited way. There is scarce monitoring of procurement procedures (in both procedure control³²⁴ and in the processing of data referring to the PP market), which prevents full assessment of the practices on the PP market.

The Public Procurement Commission (PPC) is a quasi-judicial body responsible for the review of complaints in PP procedures, concessions and PPPs. The decisions issued by the PPC can be challenged in the Administrative Court of Tirana³²⁵.

³¹⁸ Data elaborated based on the *Annual Report 2014*, PPA.

³¹⁹ In 2014, 23% of low-value procedures were cancelled, mainly due to a lack of respondent tenders or mistakes in carrying out the steps of the electronic procurement system.

³²⁰ Section 2 of the Council of Ministers Decision No. 914 on Public Procurement Rules, 29 December 2014.

³²¹ *Annual Report 2014*, PPA.

³²² Article 76 of the Council of Ministers Decision No. 914 on Public Procurement Rules, 29 December 2014.

³²³ The PPA.

³²⁴ Only 82 procedures out of 37 164 conducted in 2014 were monitored (*Annual Report 2014*, PPA.)

³²⁵ Article 64/1 of the PPL.

One of the subjects of audits carried out by the State Audit Institution is PP. The external audit remains focused on compliance of the procedures with the PPL, while less attention is paid to performance (in 2014, 31 reports were adopted on compliance and 8 on performance).

The institutional framework relating to concessions is more complicated, which can negatively influence operations. According to Article 11 of Law No. 125/2013 on Concessions and Public-Private Partnership, implementation functions should be performed by the PPA. This specific role is not reflected in the PPA's organisational structure or by the employment of appropriate experts in the field³²⁶. The PPA has no capacity to accelerate the interest in concessions or PPP, or to make the necessary analysis of market trends, etc. The Concession Treatment Agency (ATRAKO), established under the previously binding Law No. 9663/2006 on Concessions, plays the role³²⁷.

As the institutional framework for concessions and PPP does not ensure the proper management of the process, the overall value for this indicator is 3.

The legal obligation of the CAs to conduct procedures electronically using the PPA's web portal³²⁸, as well as the requirement to send PP forecasts and reports on conducted procedures to the PPA, generates excessive data describing the PP system and market. This electronic data-gathering allows for analysis of the system and identification of steps necessary for its improvement. However, the PPA does not take full advantage of the opportunities presented, and limits itself to the preparation of the annual report.

The PPA portal is an important source of high-quality information for CAs, economic operators and other stakeholders³²⁹, and includes legislative acts, standard tender documentation, manuals, training materials and annual reports. Nevertheless, not all documents prepared by the PPA are disseminated – such as opinions and clarifications issued in individual cases, and monitoring reports. Concerning the concessions and PPP projects, limited expert knowledge about their preparation and management is available. The values for these indicators are 3 and 2 respectively.

The institutional set-up of the PP system is well defined, but operates largely vertically without considering the horizontal needs of co-ordination. The PPA is a well-established institution performing a crucial role for management of the system at the state level; however, there is a need for intensification of monitoring activities. In the concessions and PPP area, the dispersion of functions negatively influences the performance of involved institutions.

Key recommendations

Short-term (1-2 years)

- 1) The PPA should reconsider the regulation of low-value procedures to ensure more flexibility and a less bureaucratic approach.
- 2) The PPA should ensure the participation of representatives of economic operators and NGOs in the public consultation process for new legislation.
- 3) The Ministry of the Economy (MoE) should reconsider the institutional set-up for concessions and PPP activities.
- 4) The PPA should adopt a detailed plan for the implementation of the PP activities stipulated by the PFM Strategy 2014-2020.

³²⁶ The PPA is organised around two main directorates: the Directorate of Legal Issues, Monitoring and Publication, dealing with almost all essential tasks (11 employees), and the Information Technology Directorate, responsible for e-procurement systems and for running the web portal of the PPA (8 employees).

³²⁷ Council of Ministers Decision No. 150 on the organisation and functioning of ATRAKO, the Concession Treatment Agency, amended 22 March 2007.

³²⁸ According to the Council of Ministers Decision No. 918 on electronically conducting PP procedures, 29 December 2014, the vast majority of PP procedures must be conducted electronically.

³²⁹ <https://www.app.gov.al/ep/default.aspx>

Medium-term (3-5 years)

- 5) The Ministry of Finance (MoF) should harmonise the procurement regulations with budget and expenditure regulations to enable the launching of procurement procedures adapted to the needs of CAs.
- 6) The PPA should draft amendments to ensure the adoption of legal rules assuring an additional level of impartiality and the independence of the PPC based on best-practice models, including the appointment of PPC members by the Parliament.
- 7) The PPA should expand the e-procurement system of modules for PP plans and reports on performance so that increased data processing and analysis leads to the creation of a comprehensive system for monitoring.

2.6. Key requirement: In case of alleged breaches of procurement rules, aggrieved parties have access to justice through an independent, transparent, effective and efficient remedies system.

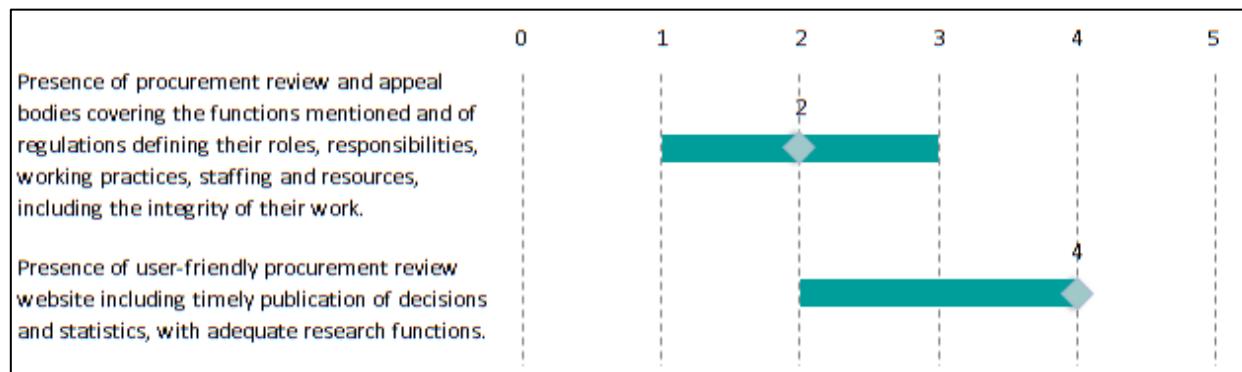
Baseline values

The key requirement for the establishment of an independent, transparent, effective and efficient remedies system is examined through six indicators. The quantitative indicators describe the timeliness of the review procedure, accessibility of the review system for economic operators and the performance of the responsible body. The last indicator assesses the level of relevant information availability.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	12	Presence of procurement review and appeal bodies covering the functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work.	2014	2
	12	Presence of user-friendly procurement review website including timely publication of decisions and statistics, with adequate research functions.	2014	4
Quantitative	12	Actual processing time of complaints related to procurement compared with the maximum legal requirement.	2014	18
	12	Number of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints.	2014	39.6%
	12	Number of complaints in relation to the number of tender notices published.	2014	15.8%
	12	Share of complaints in procurement that are challenged to the next judicial level.	2014	7.9%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 5. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 12: The remedies system is aligned with the acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.

In 2014, the PPC experienced a rise in submitted complaints – 834 in comparison to 561 in 2013³³⁰ – which not only reflects the increase in conducted procedures (5 288 procedures in 2014 from 4 152 in 2013³³¹) but also the growing interest of economic operators in review procedures.

The share of complaints in relation to the number of procedures published is 15.8%. However, as in previous years, the majority of all complaints related to one specific area: security services. It should be noticed also that the data is affected by the fact that the PPL does not allow a complaint to be lodged in negotiated procedures without publication³³²; the acknowledgement of these procedures lowers the indicator to 11%.

³³⁰ Annual Report 2014, PPC.

³³¹ Annual Report 2014, PPA.

³³² Article 63.11 of the PPL.

Table 1. Key characteristics of the remedies system.

	2012	2013	2014
Number of appeals submitted	573	561	834
Share of decisions published	100%	100%	100%
Number of appeals accepted (decision of CA changed)	246	283	338
Number of appeals rejected	329	265	496
Average time of processing the case (days)	31	27	18
Number of complaints challenged to the next judicial level	21	46	66

Source: Public Procurement Commission and Public Procurement Agency annual reports.

In 2014, 8% of the PPC decisions were challenged to the next judicial level³³³ (Administrative Court of Tirana), although the submission of a claim does not suspend the PP procedure³³⁴.

The PPC concludes the review within seven days and this can be extended to 20 days³³⁵. In about 40% of all cases, the legal maximum time for processing the complaint was exceeded³³⁶. Taking into account that a review by the PPC stays the process (the complaint in the first stage is processed by the CA³³⁷), the timeliness of processing by the institution is of special importance.

Problems with timely processing arise mainly because of a temporary surge of complaints from March to June³³⁸, resulting from an increase in launched procedures in this part of the year.

The provisions do not allow for the lodging of a complaint in negotiated procedures without publication of a notice, which excludes a significant part of the procurement from the review mechanism³³⁹.

Of 819 complaints reviewed in substance, almost 60% were found unsubstantiated³⁴⁰. Among the 424 accepted complaints, the PPC cancelled the PP procedure in 167 cases³⁴¹, which does not directly satisfy the interests of the complainant. In some cases, the PPC focuses on the formal aspect of the procedures without enough consideration to the achievement of the main goals of PP.

The complaint is to be reviewed on the condition that the fee is paid. According to the Council of Ministers Decision No. 261/2010, the sum of the fee (0.5%) depends on the estimated value of the procurement. In procedures of higher value, when the economic operator questions the activities of the contracting entity before the opening of the tenders (so there is no direct interest in obtaining the

³³³ Annual Report 2014, PPC.

³³⁴ Article 64/3 of the PPL.

³³⁵ Article 63 of the PPL.

³³⁶ Annual Report 2014, PPC.

³³⁷ According to the PPL, the whole procedure, from the submission of the complaint to the decision of the PPC, could take 44 days (7+7+10+20).

³³⁸ Annual Report 2014, PPC.

³³⁹ In 2014, 2 121 procedures without publication were conducted, with a total value of ALL 5 566 688 577 (almost EUR 40 million) (Annual Report 2014, PPA).

³⁴⁰ Annual Report 2014, PPC.

³⁴¹ Annual Report 2014, PPC.

contract, but only the possibility to bid), the amount of the fee must be perceived as a barrier to accessing PP.

As only four of the elements of this indicator are met partially or fully, a value of 2 is attributed.

All decisions issued by the PPC are available on its website³⁴², but the complaints register does not provide adequate search facilities. In addition to decisions, the most important information is accessible: legislation, instructions about fees, forms of complaints and the annual report. However, the decisions of the Administrative Court in Tirana (the second stage in the review system) are not published, leading to the general value of 4 for this indicator.

Whereas the mechanism and institutional set-up for handling complaints are in place, the performance of the system does not meet all the requirements prescribed for a sound and effective review system. Several provisions of the EU Directive 2007/66 have not been introduced to the PPL. Access to the review system is not restricted by costs.

Key recommendations

Short-term (1-2 years)

- 1) The PPA should introduce the *acquis* mechanisms for ineffective contracts and the imposition of penalties, covering the negotiated procedures without publication. The PPC should ensure the timely processing of complaints.

Medium-term (3-5 years)

- 2) The PPC should increase the capacity of the review body through training and should provide access to expert knowledge.
- 3) The PPC should develop the search function of the register of PPC decisions and publish the judgements of the courts involved.

2.7. Key requirement: Contracting authorities are adequately staffed and resourced and carry out their work in accordance with applicable regulations and recognised good practice, interacting with an open and competitive supply market.

Baseline values

The key requirement for an efficient PP system based on the availability of professional value-driven and integrity-conscious management in CAs is examined through a set of quantitative indicators describing the performance of the PP market.

Three more indicators describe the presence and performance of modern procurement tools, the existence and availability of guidelines and the professionalisation of procurement officials.

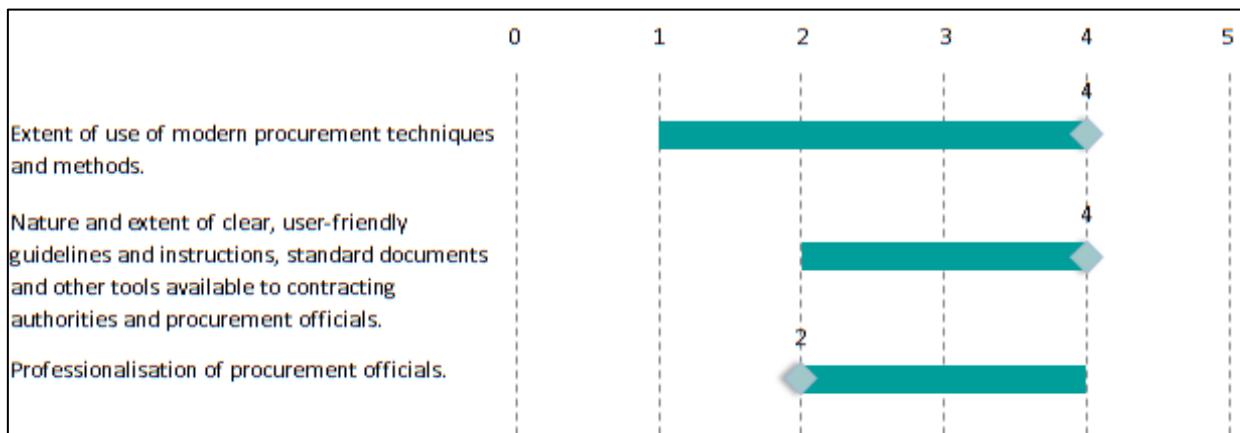
³⁴² <http://www.kpp.gov.al/ppadv/default.aspx>

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	13	Extent of use of modern procurement techniques and methods.	2014	4
	14	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	2014	4
	14	Professionalisation of procurement officials.	2014	2
Quantitative	13	Share of contracts already announced in published procurement plans or indicative notices.	2014	100%
	13	Share of contracts awarded by competitive procedures.	2014	87.7%
	13	Share of contracts awarded based on acquisition price only.	2014	98%
	13	Share of contracts amended after award.	2014	Not available ³⁴³
	13	Share of contracts subject to formal post-evaluation.	2014	under 10%
	13	Average number of tenders submitted per goods contract to be procured.	2014	Not available ³⁴³
	13	Average number of tenders submitted per works contract to be procured.	2014	Not available ³⁴³
	13	Average number of tenders submitted per services contract to be procured.	2014	Not available ³⁴³

³⁴³ No data has been collected by the administration.

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 6. Country baseline value in comparison with the regional range



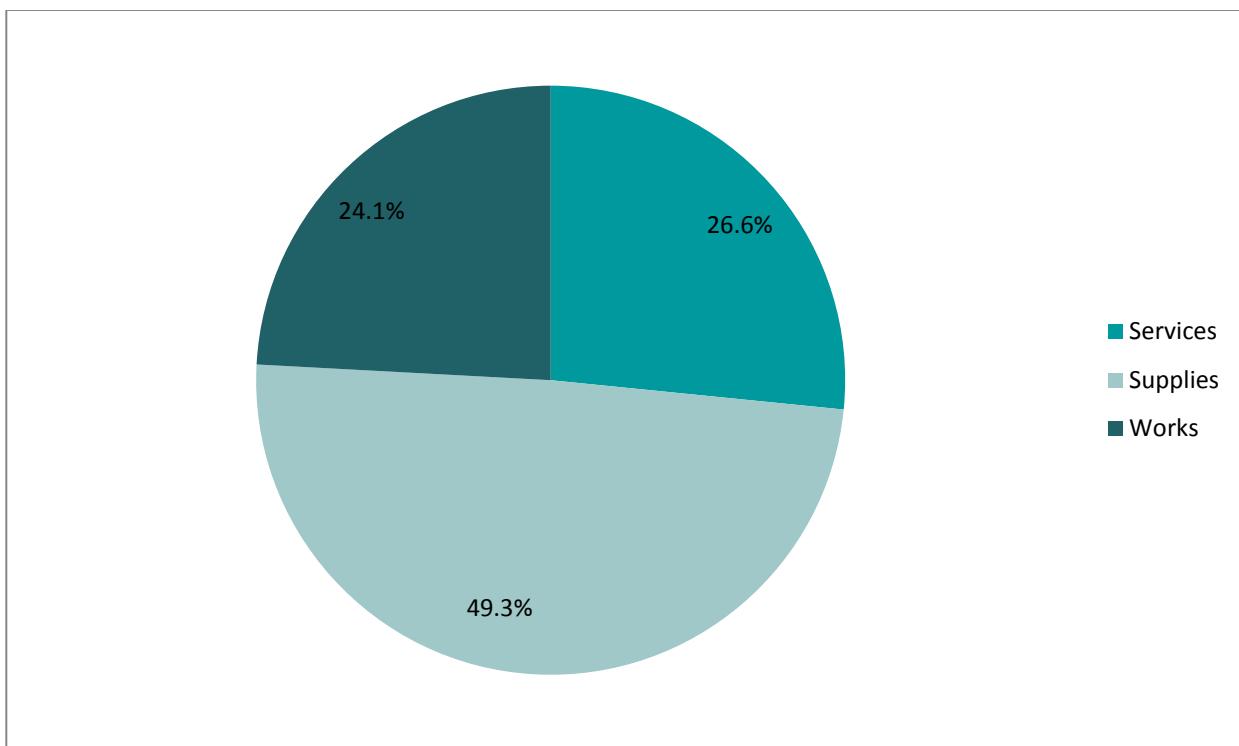
Analysis of Principles

Principle 13: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.

The PP system is designed to ensure the transparency and integrity of the procedures. Most of the procedures are conducted as procedures with publication, although the share of negotiated procedures without publication is significant (more than 12% of the value of procurement³⁴⁴). It is possible to examine the PP plans, although the electronic publications are not equipped with search functions.

³⁴⁴ Please refer to Principle 10 for an explanation. Half of all negotiated procedures without prior publication were performed from January to March 2014.

Figure 7. Types of contract by total amount of procedures



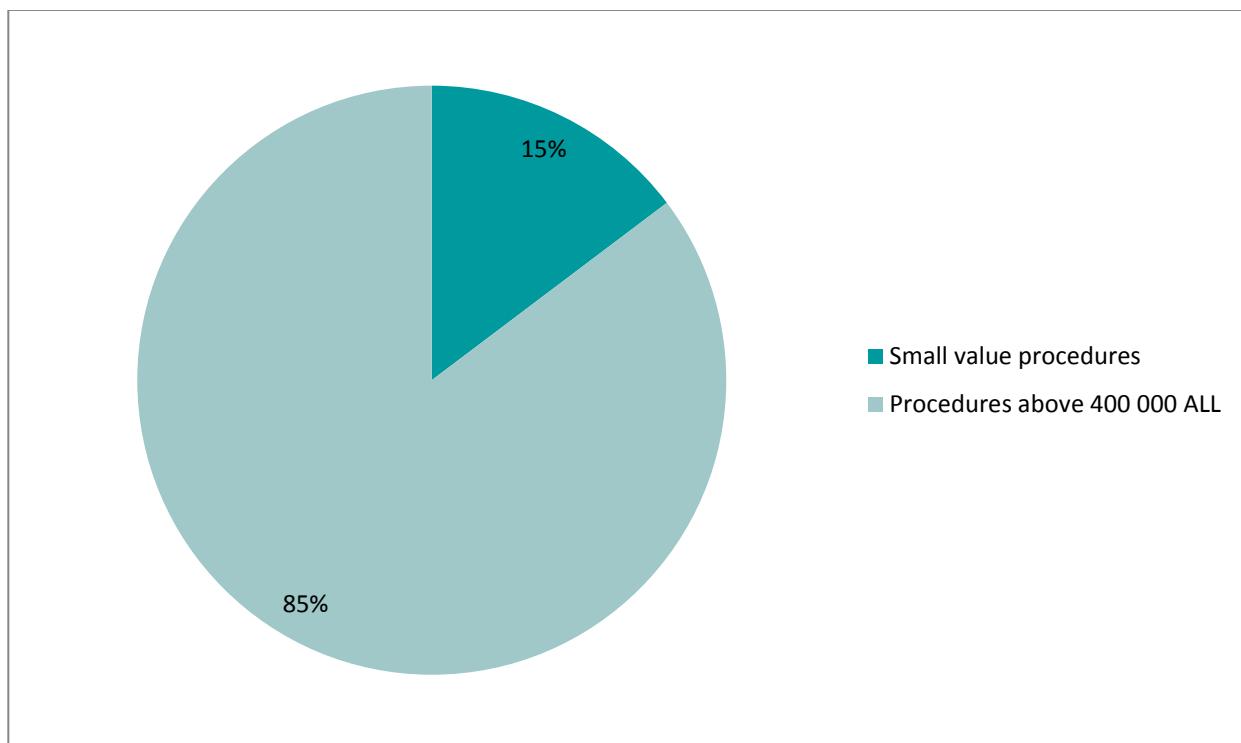
Source: *Annual Report 2014*, Public Procurement Agency.

Also of concern is the significant number of low-value procedures (below ALL 400 000 [EUR 2 800]) observed in the PP market³⁴⁵. In 2014, 46 537 procedures were launched with the awarded budget of ALL 7 846 040 916 (about EUR 5.5 million)³⁴⁶.

³⁴⁵ The threshold was raised in December 2014 to ALL 800 000 (about EUR 5 600).

³⁴⁶ Data elaborated from statistics in the *Annual Report 2014*, PPA.

Figure 8. Value of contract awarded in low-value procedures



Source: *Annual Report 2014*, Public Procurement Agency.

The number of cancelled procedures is relatively high – more than 26% of all announced procedures (33% in the case of low-value procedures)³⁴⁷, which inhibits the efficiency of the CAs. The main reason identified by the PPA for the high number of cancelled procedures, besides the lack of respondent tenders, is the technical problems CAs experience in operating the electronic procurement system (e.g. mistakes in completing forms).

Competitiveness in the procedures with prior publication is ensured. The average number of bids submitted for procedures exceeding the low-value threshold is 4, but for low-value procedures the CAs often receive an insufficient number of bids. A total of 27 656 bids were submitted in the electronic system, of which more than 48% were disqualified³⁴⁸. This significant number of disqualified bids (also observed in previous years³⁴⁹) indicates problems with the CAs fulfilling their duties. The focus on formal compliance with the law provisions is also evident when achievement of the value-for-money principle is assessed. More than 98% of the procedures were based on the price criterion exclusively³⁵⁰.

In 2014, only nine concessions/PPP procedures were conducted, of which six were completed by selection of the best tender. Thirty-six procedures launched in 2013 were cancelled³⁵¹.

The Albanian e-procurement system managed by the PPA enables electronic processing of PP and concessions procedures, including e-noticing, e-tender documentation, e-submission and, to a certain extent, e-evaluation. All CAs are mandated to use the system when sums exceed ALL 100 000 (EUR 700)³⁵². The system is fully operational.

³⁴⁷ As above.

³⁴⁸ As above.

³⁴⁹ *Annual Reports 2012, 2013, 2014*, PPA.

³⁵⁰ *Annual Report 2014*, PPA.

³⁵¹ *Annual Report 2014*, PPA.

³⁵² Council of Ministers Decision No. 918 on electronically conducting PP procedures, 29 December 2014.

Article 35/1 PPL and the relevant secondary legislation provide for framework agreements³⁵³. In practice, mainly due to the restriction in concluding multi-year contracts, the mechanism is not used³⁵⁴.

The Ministry of Interior (MoI) was appointed to execute procurement procedures on behalf of the Prime Minister, ministries and institutions subordinated to the Prime Minister and the line ministers, to purchase specified goods and services³⁵⁵. The value covered by centralised purchasing is significant (accounting for more than 7% of the total procurement). The Central Purchasing Department of the MoI is responsible only for the procedure of selecting economic operators to sign the framework agreement. Contracts are concluded between the individual CAs and the suppliers, and the purchasing of required goods or services remains at the discretion of the CA.

The overall value for this indicator is 4.

Though transparency requirements dominate the system, the number of negotiated procedures without negotiations is high. Introduced from 2013, the obligation to conduct low-value procedures electronically leads to unnecessary red tape. At the same time it does not decrease the number of cancelled procedures due to the lack of responsive bids.

Principle 14: Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.

The planning and management of the procurement process is detailed in the PPL and supporting secondary legislation³⁵⁶. The CAs are obliged to follow the standard tender documentation³⁵⁷, including not only the instructions for tenderers and technical specifications but also models of contracts and drafts of documents necessary to perform defined activities.

The models and guidelines focus mainly on the formal aspect of procedures, and do not pay enough attention to fostering professionalism and performance-oriented attitudes and practice. Materials promoting the modern approach to procurement, such as green or social procurement, the value-for-money principle or the whole life-cycle cost approach are not available.

The Council of Ministers Decision 914/2014 provides the detailed requirements for establishing the procurement unit, consisting of at least three persons, to manage the procurement process. All officers must hold a post-secondary degree and at least one must be a lawyer.

The overall value for this indicator is 4.

There is no legal requirement for the special training of officials involved in procurement procedures. However, the subject of PP is part of the training for working in the administration, delivered by the Albanian School of Public Administration (ASPA).

The growing need for the training of PP officials is not satisfied by the efforts of the PPA. In 2014, during the sessions organised by the PPA (part in co-operation with SIGMA and part with ASPA), only 315 participants were trained. The overall value for this indicator is 2.

Key materials for helping contracting entities to comply with procedural regulations, including e-procurement, are available. Nevertheless, there is still place for support in implementation of sustainable approaches to procurement, like green procurement, social procurement or innovations. The training delivered by public administration does not satisfy needs of the contracting entities due to limited access.

³⁵³ Instruction No. 6 on the use of framework agreements, 27 January 2015.

³⁵⁴ PPA.

³⁵⁵ Council of Ministers Decision No. 28 on assigning the Ministry of Interior with the task of carrying out PP procedures on behalf of and accountable to the Prime Minister, Ministers and subordinate institutions for a number of goods and services, 14 January 2015.

³⁵⁶ Council of Ministers Decision No. 914/2014 Public Procurement Rules, Instruction No. 2 on the preparation of the register of PP forecasts and the register for the realisation of PP, 27 January 2015.

³⁵⁷ Article 41 of PPL.

Key recommendations

Short-term (1-2 years)

- 1) The PPA should establish a mechanism to ensure the elimination of purchase-splitting in low-value procedures.
- 2) The PPA and MoF should enhance the use of framework agreements by eliminating restrictions for the conclusion of multi-year contracts.
- 3) The PPA should promote the modern approach to PP and foster professionalism and performance-oriented attitudes and practice by providing relevant guidelines, thematic publications and training for members of procurement units.

Medium-term (3-5 years)

- 4) The MoF should increase the funds for CAs to train PP officials.

2.8. Key requirement: The constitutional and legal framework guarantees the independence, mandate and organisation of the Supreme Audit Institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high-quality audits that impact on public sector functioning.

Baseline values

The organisation and functioning of the Supreme Audit Institution (SAI) of Albania – the HSC – is examined through three qualitative and six quantitative indicators. The qualitative indicators cover elements of the SAI's legal framework, its functioning and the impact of its work.

The legal framework for an independent and well-functioning SAI, according to the International Standards for Supreme Audit Institutions (ISSAIs), was established in Albania at the beginning of 2015³⁵⁸. The values of the qualitative indicators reflect partial implementation of the ISSAIs.

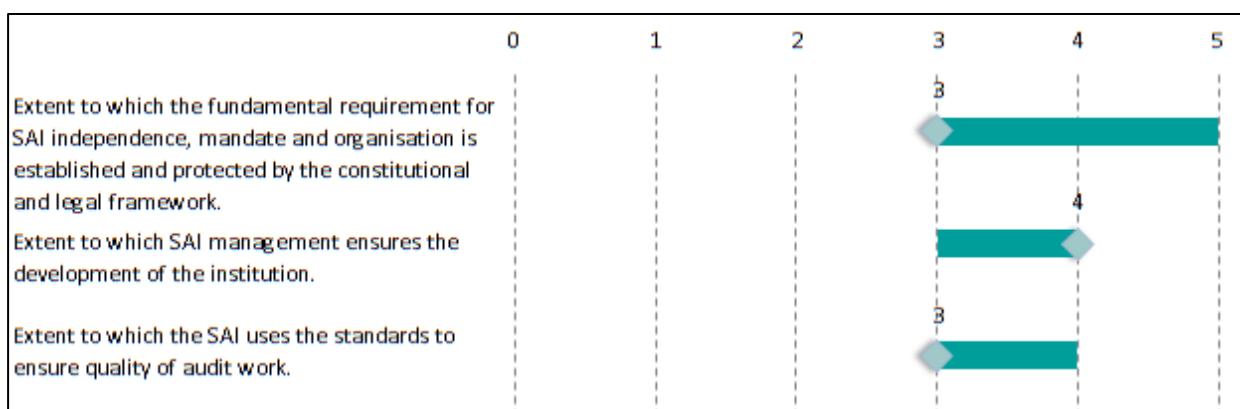
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	15	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	2014	3
	15	Extent to which SAI management ensures the development of the institution.	2014	4
	16	Extent to which the SAI uses the standards to ensure quality of audit work.	2014	3
Quantitative	15	Difference between approved budget and realised expenditure of the SAI.	2014	-16%
	15	Share of SAI budget in the state Budget.	2014	0.08%
	15	Amount of resources used for mandatory audits compared with resources for audits selected independently by the SAI.	2014	2.4%

³⁵⁸ Albanian Government (2015), Official Gazette, 6 February 2015, Albania.

	16	Proportion of audit reports published on the SAI website compared to total audit reports adopted.	2014	88.7%
	16	Share of audit recommendations accepted and implemented by auditees.	2014	75.5%
	16	Share of timely audit reports.	2014	100%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 9. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 15: The independence, mandate and organisation of the Supreme Audit Institution are established and protected by the constitutional and legal framework and are respected in practice.

The HSC is based in the Constitution³⁵⁹. On 27 November 2014, the 1997 Law on High State Control³⁶⁰ was replaced by a new law. The President of the Republic of Albania subsequently ordered, through a President's decree, that article 23 of the new law, regarding the dismissal of the Chairman of the HSC, should be changed because it was open to subjective interpretation. The Parliament did not agree and voted negatively on the decree on 26 January 2015. The November 2014 version of the new law was published in the Official Gazette on 6 February 2015.

The 2015 Law is in accordance with international standards, apart from a subjective criterion in the dismissal clause for the Chairman, which allows for dismissal if "he or she carries out acts or behaviours that damage seriously his or her position and figure"³⁶¹. The law regulates to a great extent the functional, operational and financial independence, mandate and organisation of the HSC; it also regulates some new ISSAI-based requirements (for example, financial audit, performance audit and a continuous professional development programme). In 2014, however, the HSC was restricted in carrying out its audit work and in its access to the premises of the General Tax Department. Based on the above, the value for the extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework is 3.

³⁵⁹ Articles 162-165 of the Constitution of the Republic of Albania.

³⁶⁰ Law No. 8270 on the State Supreme Audit Institution, 23 December 1997, amended 29 October 2002.

³⁶¹ Article 23.2d of the Law.

In July 2013, the HSC management adopted the Strategic Development Plan 2013-2017 (SDP 2013-2017). At present, implementation of the plan is lagging, partly due to the delay in parliamentary approval of the new HSC Law³⁶². Most of the objectives of the SDP 2013-2017 will be part of a twinning project that will start in spring 2015. The HSC management does not annually review the SDP 2013-2017. Therefore, the value for the extent to which the HSC management ensures the development of the institution is 4.

The HSC budget amounts to 0.08% of the State Budget. In former years³⁶³, the HSC almost completely absorbed its budget, but in 2014, it underspent by 16%³⁶⁴, mainly by not using funds reserved for the Instrument for Pre-accession Assistance (IPA) twinning project (ALL 30 m) and for assisting the International Monetary Fund (IMF) in auditing arrears (ALL 16 m). Other savings reflect fewer purchases and unpaid per diems to auditors (ALL 10 m).

The resources used for mandatory audits is only 2.4% because the 1997 Law, which was still applicable in 2014, regulated that the HSC had to report annually only on the budget execution of a fiscal year but did not require an opinion on the Annual Report on the Execution of the Budget. In practice, the HSC carries out a fragmented audit on the budget execution, not a financial audit according to the ISSAIs. The 2015 Law requires the HSC³⁶⁵ to submit annually an opinion on the whole budget execution statement of the Albanian Government. In future, this will undoubtedly require more HSC resources to be allocated to the audit of the Annual Report on the Execution of the Budget.

The independence, mandate and organisation of the HSC are established and protected by the Constitution and by the new 2015 Law for HSC. The HSC has developed the Strategic Development Plan 2013-2017 in order to comply with the ISSAIs. Implementation of this plan is lagging, mainly due to external factors.

Principle 16: The Supreme Audit Institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

The HSC does not yet work according to ISSAIs but is in a transition phase. Internal guidelines are being developed to ensure audit work is based on the ISSAIs. A multi-annual strategic audit plan, based on risk analysis and with priorities for audit activities, does not exist. Similarly, guidelines with responsibilities for developing, implementing and monitoring the annual plan are lacking. The annual audit planning is based on frequency where each institution is audited every three years. Consequently, the value for the extent to which the HSC uses standards to ensure quality of work is 3.

In 2014, the HSC carried out 160 audits³⁶⁶, which is one more than planned. The relative importance of the 160 audits in terms of budget coverage cannot be determined because the HSC does not record this type of statistic. In practice, it is also difficult to define the coverage. Audits are planned according to historically defined audit topics, which cover a fragmented part of the budget of the audited institution³⁶⁷. Timeliness of audit reports is 100%, but deadlines typically define the audit coverage. Auditors can ask for an extension of the deadline, but such a request is exceptional³⁶⁸.

The traditional compliance audits (131 in 2014)³⁶⁹ focus on determining economic damage (e.g. irregularities, and violations of rules and regulations)³⁷⁰. In 2014, this type of audit identified ALL 11.2

³⁶² The first draft of the HSC was sent to the Parliament on 26 November 2012.

³⁶³ 99% in both 2012 and 2013.

³⁶⁴ The HSC spent ALL 311 131 out of a budget of ALL 370 150.

³⁶⁵ Articles 10 and 31 of the 2015 HSC Law.

³⁶⁶ HSC Secretary-General.

³⁶⁷ Analysis of three audit programmes and interviews with the Secretary-General and two team leaders of the HSC.

³⁶⁸ Information from HSC, 26 February 2015.

³⁶⁹ HSC – Secretary-General.

³⁷⁰ HSC – Annual Report 2014.

billion in economic damage³⁷¹. The HSC sent 41 cases to the Prosecutor's Office.³⁷² As of 1 April 2015, five of the 41 cases have been sent to Court, 27 cases are still under investigation and nine cases have been dismissed as non-prosecutable³⁷³.

In 2014, the HSC increased the number of performance audits, conducting eight compared to six in 2013. These audits were planned and carried out in line with international good practice³⁷⁴. As yet, the published performance audit reports have not attracted much attention from the Albanian Parliament or from society³⁷⁵.

Audit reports are finalised according to planning (100%). The proportion of (summaries of) audit reports published on the SAI website compared with audit reports adopted (88.7%) lags, largely due to an internal approval procedure.

The rate of implemented recommendations is 75.5%. However, the HSC does not record the number of recommendations accepted by auditees³⁷⁶. This means that it cannot monitor the quality of the recommendations (how many recommendations were valid according to the auditees) and the implementation rate of accepted recommendations (efforts of auditees to implement the recommendations).

Until 2015, implementation of the SDP 2013-2017 focussed on training audit staff and intensifying national and international relations. In 2014, each staff member undertook 26 days of training, which is relatively high compared with SAIs in other countries and with training recommended by the International Federation of Accountants (average of five days per person, per year). This high number of training days indicates that the HSC is seriously working to improve the professionalism of its staff. In practice, however, the high number of training days – together with the constant number of audits (since 2010, an average 150 audits per year) – has affected the quality of the programmes of individual audits (which sometimes took only two days of preparation³⁷⁷) and, consequently, for the quality of the audit work.

The audit activities of the HSC do not yet comply with the ISSAIs. The SDP 2013-2017 intends to address these shortcomings and initiatives have been launched to improve the professionalism of audit staff. However, the core of the HSC audit work is still a form of compliance audit, with a focus on defining economic damages rather than on preventing such damages.

Key recommendations

Short-term (1-2 years)

- 1) The HSC should regulate that the budget coverage of each audit will be mentioned in each individual audit programme and individual audit report.
- 2) The HSC should regulate that recommendations accepted by auditees be recorded and that the implementation of these recommendations is monitored throughout the year.
- 3) The HSC should improve its public relations by organising press conferences for newly published audit reports, organising seminars, etc. in order to increase publicity regarding the importance of performance audits.

³⁷¹ HSC – Annual Report 2014.

³⁷² HSC – Legal Department.

³⁷³ Information from the General Prosecutor's office, 23 March 2015.

³⁷⁴ Performance Audit Manual, audit programmes and audit reports of three performance audits.

³⁷⁵ HSC – Performance Audit Department.

³⁷⁶ Statistics from the Secretary-General.

³⁷⁷ HSC quality control reports for 2013 and 2014.

Medium-term (3-5 years)

- 4) The HSC should improve its planning system, and introduce strategic and annual planning based on risk analysis.
- 5) The HSC should draft a long-term training strategy to improve the professional skills of audit staff in using the ISSAIs in practice.



For more information:

OECD/SIGMA
2 Rue André Pascal
75775 Paris Cedex 16
France

mailto: sigmaweb@oecd.org
Tel: +33 (0) 1 45 24 82 00
Fax: +33 (0) 1 45 24 13 05

www.sigmaweb.org