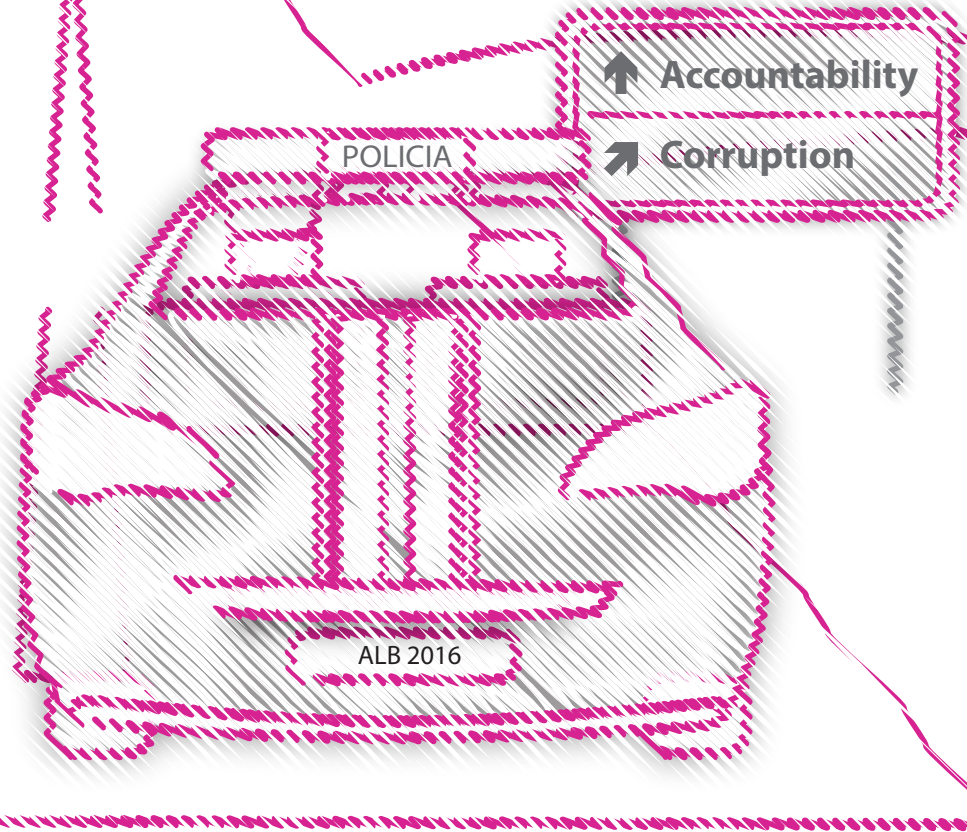


The European Union's "Civil Society Facility" programme
for civil society organizations associations



ASSESSMENT OF POLICE INTEGRITY IN ALBANIA



The publication is supported
by the European Union

POINTPULSE 
WESTERN BALKANS PULSE FOR POLICE INTEGRITY AND TRUST



**ASSESSMENT
OF POLICE
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ALBANIA**

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About the Report

The Report is published as part of the Action “Western Balkans Pulse for Police Integrity and Trust: POINTPULSE”. The Action is supported by the European Union through the program “Civil Society Facility” under the Instrument for Pre-Accession Assistance (IPA). The contents of the Report are the sole responsibility of the Institute for Democracy and Mediation and views expressed in this document are not necessarily those of the European Union.

About the POINTPULSE

The POINTPULSE aim to contribute to increased trust in the law enforcement agencies in the Western Balkans by promoting police integrity. Seven civil society organizations are members of the POINTPULSE: Analytica, Belgrade Centre for Security Policy, Balkan Investigative Reporting Network, Centre for Security Studies, Institute Alternative, Institute for Democracy and Mediation and Kosovo Centre for Security Studies.

Tirana, 2016

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LIST OF ABBREVIATIONS

CEF	Committee on Economy and Finance
CEI	Committee on European Integration
CLIPAHR	Committee on Legal Issues, Public Administration and Human Rights
CNS	Committee on National Security
DPS	Department of Professional Standards
GSPD	General State Police Directorate
HIDAACI	High Inspectorate on Declaration and Audit of Assets and Conflict of Interest
IACS	Internal Affairs and Complaints Service
Mol	Ministry of Interior
NBI	National Bureau of Investigation
NCAC	National Coordinator on Anti-Corruption
PsA	The People's Advocate
SP	State Police
SAI	State Audit Institution
TP	Transparency Program

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SUMMARY

The adoption of the judicial reform package in July 2016 has been marked as the first concrete step in strengthening the rule of law and progress towards the European pathway. It goes without saying that the judicial reform is considered a panacea in the fight against corruption at all levels. Yet, in Albania, experience has proved that the enactment of legislation does not always match its implementation and that political will does not always coincide with genuine commitment to overcome the status quo. Hence, the focus on the judicial reform has virtually eclipsed police integrity concerns. Corruption is still largely widespread in many areas despite the anti-corruption measures in place. In this regard, this report aims to assess police integrity and examine its compliance with the principles of good governance and accountability. During this year police integrity has been compromised by problems of bribery and misuse of office, excessive use of force, passive professional behaviour and allegations of links to drug trafficking. Therefore, police integrity must become one of the priority areas of further strategic development of this service.

There is a complex system of internal and external controls of the State Police (SP) in place, but it is characterised by insufficient cooperation and information exchange between the authorities in charge of oversight as well as insufficient implementation of their conclusions and recommendations. Moreover, the citizens tend to be confused about the proper channels and authorities to whom to report corruption or misconduct, as a consequence of presence of too many actors. Although some progress has been achieved, mainly with regard to the adoption of the legal framework on anti-corruption, oversight authorities have not yet achieved necessary efficiency in the implementation of their powers.

The Law on SP of 2014 has been followed by the endorsement of a legislative package including the new State Police Regulation (2015), the Strategy on Public Order 2015-2020 and its Action Plan 2015-2017 that lay down statutory guarantees concerning the prevention of corruption within the State Police. Moreover, the Law on Internal Affairs and Complaints Service, enacted in 2014, repealed the former Law on Internal Control Service. This Law had provided explicit provisions with regard to the fight against corruption in the police.

In this context, this report examines the level of institutional integrity of the SP based on the analysis of the work and results of all the actors in charge of internal and external control of police work for the time period from the end of 2015 to the end of 2016. Five fields of observations are explored: (1) external oversight, (2) internal



accountability, (3) human resource management, (4) financial management, and (5) criminal prosecution. In this regard, major focus was dedicated to the three phases of the integrity cycle: political commitment, implementation, monitoring and reporting. Each chapter is followed by recommendations for improvement of the specific field of observation. Overall, this report aims to contribute to the improved functioning of the SP and oversight of its work. A qualitative approach was employed for the purpose of preparing the report. The review of the most relevant reports and documents and legal and policy frameworks was supplemented with primary data from semi-structured interviews and group interviews conducted with key interlocutors from relevant public institutions.

The report points out five main findings.

1. Although there has been some progress in the parliamentary openness to the public, the application of control mechanisms with regard to police work is sporadic and the impact of the conclusions and recommendations of the committees of the Assembly is scarce. Despite the fact that parliamentary oversight is provided in the primary laws governing the main security institutions, there is still a need for amendments and clear provisions in this respect. Due to high political polarisation and limited human resources, parliamentary oversight remains a weak link in police oversight. The other independent oversight bodies are generally understaffed and underresourced, and at times lack the necessary expertise for democratic control of the police. This is evident when new responsibilities are attributed without additional budgetary support.
2. The institutional framework for control of police work has been developed and is now almost complete; however, there is still much room left to introduce a number of additional mechanisms to ensure enforcement of preventive and repressive measures to raise the level of police integrity.
3. Important measures have been taken with intent to address the problem of corruption in the State Police. Some of the measures related to public transparency and improvement of police services include the establishment of one-stop-shops at the police commissariats, the installation of cameras in mobile police patrols and body cameras in the sector of traffic control to reduce petty corruption, as well as introduction of new channels for citizens to report corruption or file complaints regarding police misconduct. Nevertheless, a long-term strategic approach to the State Police human resource management is not yet in place. This is due to the recent organisational changes within the state police. Moreover, Ministry of Interior (MoI) and SP should further update publicly available data and information on the



State Police activity, without limiting it to the enactment of the legal framework but also providing information concerning implementation.

4. It remains important to increase transparency regarding the status of the financial management and control and internal auditing in the State Police sector. Budget execution is constrained by the low performance in investment; better planning capacity is thus required, as well as timely implementation of procurement procedure. Internal audit staff lacks capacities, audit engagements are not systematically risk-based, and the audits performed by the internal audit units within the State Police are still transaction-based rather than systematic. There is still overlapping of responsibilities among the internal control systems, and overlapping of internal audit services between superior and subordinate institutions.
5. There are no available results concerning the prosecution of high-level corruption in the police, nor is there follow up in the higher court instances. Given that a variety of sources of information can trigger a corruption investigation, coordination of all actors is crucial. The total number of cases reviewed by first instance courts for the period 2014-2016 is: 61 employees, first instance court decision – pleaded guilty and sentenced; 22 employees, cases still pending in first instance courts.



EXTERNAL OVERSIGHT

This section will examine the institutions that are organisationally and operationally independent from the police (the Parliament, specialised oversight bodies including civil society and media) and vested with the mandate to monitor and supervise police integrity. In fulfilling their mandates, these institutions deal with the high level of politicisation and are generally understaffed and underresourced. Also, at times they lack the expertise necessary for democratic control of the police.

Parliament

Legal provisions on parliamentary oversight

In the last couple of years parliamentary activity has focused predominantly on the judicial reform package and the resulting Constitution amendments adopted in July 2016. Decriminalisation and integrity issues of those appointed to public functions were also high on the agenda of parliamentary work. This process was fueled by the extensive assistance of the international community.

For the purpose of this report, parliamentary control and oversight of the security sector is regulated by the Constitution¹ and the Rules of Procedure of the Assembly.² The Constitution of the Republic of Albania stipulates that the Parliament is the highest authority which controls the budgets of state institutions, constituting a key mechanism in the financial control regarding the process of preparation of draft budgets of the security sector institutions as well as in the phase of controlling the expenditures and the realisation of the budget.

Regarding security sector oversight, it falls mainly within the remit of the standing Committee on National Security (CNS), Committee on Legal Issues, Public Administration and Human Rights (CLIPAHR), Committee on Economy and Finance (CEF) and Committee on European Integration (CEI)³. The Committee on National Security

1 Article 80, Constitution of Albania. The heads of state institutions, at the request of the parliamentary committees, give explanations and information about specific issues of their activity to the extent that the law permits.

2 Decision No. 95/2014 of 27 November 2014 "Assembly's Rules of Procedure", as amended.

3 Article 18, Tasks of the Standing Committees, Decision No. 95/2014 of 27 November 2014, Assembly's Rules of Procedure", as amended. The standing committees of the Assembly examine, according to the field of responsibility, draft laws, draft decisions and other issues represented in the Assembly, carry out studies on the efficiency of the applicable laws, control implementation of laws and audit the activity of the ministries and other central bodies, proposing concrete measures to the Assembly or the Council of Ministers; they also propose the Assembly enactment of draft laws, draft declarations or draft resolutions.



ty (CNS) is responsible for evaluating, scrutinising and analysing every aspect of the security and defence sector in Albania. The areas of responsibility of CNS include organisation of national defence and the Armed Forces, military cooperation, internal affairs, civil emergencies, public order and intelligence services. Thus, CNS is also the principal parliamentary body in charge of control and oversight of the activity of the State Police (SP).

Despite the fact that parliamentary oversight is provided in the primary laws governing the main security institutions, there is still a need for amendments and clear provisions in this respect. In this regard, the Law on SP does not provide an explicit role for the Parliament. Nevertheless, the MoI is the body in charge of reporting to the Parliament, and CNS on the work of SP. Oversight of the SP is ensured through parliamentary instruments such as hearings and questions to the Minister of Interior, hearings with the Police Director and the establishment of inquiry committees.

In order to fulfil the security sector oversight mandate, the standing committees have the right to summon Ministers at any time and request necessary explanations of problems in the fields for which they are individually responsible, on the implementation of laws, decisions or declarations, or concerning the resolutions approved by the Assembly. Upon requests of the committees, heads of state institutions provide explanations and information on issues related to their activity. Moreover, within their respective fields of responsibility the standing committees can control or request documentation they consider necessary for specific issues. Having performed control the committees must draw a report, which is delivered to the Speaker of the Parliament and announced publicly, including the opinion of the minority.⁴

Additionally, the standing committee responsible for the security sector institutions may organise public hearings with the members of the Council of Ministers, high representatives of the state or public institutions, experts, representatives of the civil society, representatives of interest groups or other stakeholders, as well as during the legislative process.⁵

Upon a proposal of the Conference of the Chairmen, a sub-committee may be established on special issues.⁶ Moreover, the provisions laid down in the Rules of Procedure envision MPs' use of questions, interpellations and motions as instruments conducive to control and oversight of the institutions.⁷

4 Article 102 Control from the committees of the Assembly, Assembly's Rules of Procedure.

5 Article 36 Public hearings, Assembly's Rules of Procedure.

6 Article 19, Assembly's Rules of Procedure.

7 Article 89, Assembly's Rules of Procedure.



In terms of budgetary control of the security sector institutions, the Committee on National Security works in close collaboration with the Committee on Economy and Finance. These committees examine the expenditures and estimates given by the Ministers. They also discuss and evaluate any supplementary request and any change in expenditure the budget can offer. A Minister must be able to support his budget plan by explaining every detail of it and by answering any scrutiny questions that might be posed by members of the opposition. The Committee on National Security recommends amendments to the budget, which are then forwarded to the Committee on Economy and Finance which does most of the work concerning the budget.⁸ Despite the role of the CNS in exercising its oversight tasks through budgeting, its authority appears to be undermined by political influences and affiliations. In the past year the opposition objections and requests were not reflected, having been overwhelmed by the power of the majority.

The Draft Law on Parliamentary Oversight of Intelligence and Security Institutions, initiated in 2013, is now all but forgotten. At the time, this Law aimed specifically at ensuring effective oversight of the legal framework and activity, financial expenditures and budget of the security sector institutions and democratic control over the executive.

In principle, the current parliamentary regulations allow for a certain degree of police oversight. However, vague legal provisions and the complex institutional setting also allow wide margins of discretion by the executive, thus hampering effective parliamentary control and oversight. Moreover, the Law on Internal Affairs and Complaints Service (IACS) stipulates parliament oversight of its activity among other institutions.⁹

The Rules of Procedure provide the opportunity for the opposition to establish an inquiry committee. With regard to police oversight for the period 2014-2016, three inquiry committees were established at the request of an opposition group. The inquiry committee on the staff turnover in the SP, established in February 2014, failed to produce any results or any policy recommendations on improving the transparency and accountability of career decisions in the State Police.¹⁰ Nonetheless, the analysis of evidence relating to appointments and dismissals in the Albanian State Police suggests

8 Parliamentary Oversight of the Security Sector through Budgeting, 2011, http://idmalbania.org/wp-content/uploads/2014/11/PARLIAMENTARY-OVERSIGHT-OF-THE-SECURITY-SECTOR-THROUGH-BUDGETING_June-2011.pdf.

9 Article 23 Law No. 70/2014 "Internal Affairs and Complaints Service".

10 Transparency International "National Integrity System (NIS)", 2016, p. 122.



that the level of the executive's discretion is higher in this institution.¹¹ As a rule, replacements in the ASP take place after a new government takeover, as was the case in 2013. The bodies responsible for the top appointments in the State Police - to the positions of Director and Vice Director of the State Police - are the MoI and the Council of Ministers which approves the MoI's proposal.

The other inquiry committee, which still operates, was established to address the case of the electronic device "IMSI Catcher" at the State Police, alleged to have been used to illegally intercept communications.

The Parliament's role has generally been weak in terms of effecting policy change or higher transparency in the functioning of accountability mechanisms within the police.

As per regulation, parliamentary activity is supported by the services of the Assembly, which perform advisory, informative, organising and technical tasks needed by the MPs, the Assembly and its organs. These services include: legislative services, which include the service of the plenary sitting; judicial service; service on the examination and oversight of the State Budget Implementation and the service of the committees of the Assembly.¹² The committees are allowed to engage part-time experts from various fields.¹³

Regardless of this provision, based on the information provided for the purpose of preparing this report, the standing Committee on National Security is understaffed. Its activity is mainly based on support provided by the legislative services. Moreover, the EC report on Albania pointed out that research and analytical capacity has remained limited.¹⁴ There are no official data available for 2016 on the engagement of experts in police integrity issues. Also, the annual report issued by the Parliament does not provide specifics on the human resources of each standing committee.

In terms of parliamentary transparency, the Parliament has renewed its website and has largely updated information on its activity. Since 2013 the Parliament has published three annual activity reports. No parliamentary reports from the earlier period are publicly available. However, the annual parliamentary reports could be further en-

11 Monitoring and Evaluation of the Security Governance in Albania, 2014. http://idmalbania.org/wp-content/uploads/2015/01/monitoring_and_evaluation_of_security_sector_governance_in_albania_2014.pdf, p. 42..

12 Article 120, Services of the Assembly, Rules of Procedure.

13 Article 41, Engagement of part time experts, Assembly's Rules of Procedure.

14 EC Albania 2016 Report, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_albania.pdf, page 8.



riched with specific information on administrative and human resources of the MPs, the Assembly and its organs. The increased transparency of the Parliament's work was highlighted in the 2016 European Commission Report for Albania. According to the report, additional transparency is needed at the committee level. Parliamentary committees continued their consultations with relevant stakeholders,¹⁵ but improvements are required concerning early notification and follow-up.¹⁶

Moreover, compared to the Balkan region, the report on Parliamentary Openness Index 2016 ranks the Parliament of Albania fourth, after those of Montenegro, Serbia and Croatia.¹⁷ The categories evaluated for this Index include: transparency of parliamentary information, promoting a culture of parliamentary openness, and access to parliamentary information.

The committees' minutes from meetings and plenary session discussions are publicly available on the website of the Parliament. By regulation, parliamentary activity is broadcasted by the Albanian Public Television. Live Parliament has also been introduced and can be accessed online through the webpage.

In terms of the evaluation of police oversight, in 2015 CNS held only two hearing sessions with the Minister of Interior on the engagement of State Police structures, one concerning the Lazarat events where a person was shot dead and two others were wounded,¹⁸ and another on the measures used to fight terrorism.

In 2016 CLPAHR held hearing sessions with the Minister of Interior on the draft Law "On Border Control"¹⁹ and draft Law "On Additional Measures on Public Order"²⁰. Moreover, CNS conducted hearings with the State Police Director and the Minister of Interior on the allegations concerning the electronic device "IMSI Catcher" at the State Police, alleged to have been used to illegally intercept communications.²¹

15 Law No. 146/2014 "On Notification and Public Consultation".

16 EC Albania 2016 Report, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_albania.pdf, page 8.

17 Parliamentary Openness Index 2016 – Serbia and Region, <http://crra.rs/wp-content/uploads/2016/09/PARLIAMENTARYOPENNESSINDEX-1.pdf>.

18 Online portal Shqiptarja.com: Vritet efektiviteti i RENE-s në Lazarat "Grupi i zjarrit" me 21 persona, <http://shqiptarja.com/aktualitet/2731/vritet-efektiviteti-i-renea-s-ne-lazarat---grupi-i-zjarrit-me-21-persona-300972.html>.

19 Minutes from the meeting of the Committee on Legal Issues, Public Administration and Human Rights, 31 May 2016, <https://www.parlament.al/komisioni-per-ceshtjet-ligjore-administraten-publike-dhe-te-drejtat-e-njeriut-shqyrton-projektligjin-per-kontrollin-kufitar/>.

20 Draft Law "On the Supplements on Public Order," Committee on Legal Issues, Public Administration and Human Rights, 26 January 2016.

21 CNS meeting minutes from 18 May 2016, <https://www.parlament.al/wp-content/uploads/2016/06/Komisioni-i-Siguris---dat---18-05-2016.pdf>.



Following these discussions, upon a request of the Democratic Party MPs, the Assembly established an inquiry committee with a mandate to control the implementation of legislation on the use and administration of the "IMSI Catcher" device by the structures of the Ministry of Interior and the State Police, and the illegal wiretappings.²² So far the inquiry committee has held only one formal meeting. *See more on this issue below.*²³ The 2016 EC report for Albania pointed out that the work of inquiry committees remained highly conflictual and lacked results.²⁴ Moreover, the use of other oversight mechanisms in the police oversight is still low. In 2015 and 2016 discussions on the judicial reform, the enactment of bylaws on the National Bureau of Investigation (NBI)²⁵ and the Vetting Law were highly politicised. The National Bureau of Investigation (NBI), whose main activity is to trace and investigate corruption-related criminal offences.²⁶ The Constitutional Court, however, overturned the establishment of NBI on grounds that this Bureau was in conflict with the Constitution.²⁷

The ruling majority has claimed that the opposition was obstructing the Government's reforms. Parliamentary ping-pong is still prominent, for laws bounce back and forth between the opposing political parties.

In November 2016, CNS reviewed and approved in principle the MoI draft budget for 2017 introduced by the Minister of Interior. The MoI budget also includes, as a separate part, the budgets of SP and IACS. The new budget proposes an increase of salaries of the State Police employees and investments in the police organisation. At present there are no specific reports on issues related to police integrity. The work of the inquiry committee is still ongoing.

Specialised oversight bodies

The independent oversight bodies play a crucial role in the democratic governance of the security sector institutions. For the purposes of this report, the analysed independent institutions include: The People's Advocate (PsA); The Commissioner for

22 Assembly Decision No. 66/2016 of 6 October 2016.

23 In June 2016 the Director of SP was suspended at the request of prosecutors who were investigating him for abuse of office regarding the suspicion that police were illegally using a wiretapping device, which they said entered the country "without proper authorisation. The investigations were opened to clarify the suspicions regarding the electronic equipment in the police headquarters, which the President and opposition have claimed is being used for wiretapping. Upon the decision of the Court of Appeals in July 2016, the Director of State Police resumed office.

24 EC Albania Report 2016 http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_albania.pdf.

25 Law No. 108/2014 of 31 July 2014, 'On State Police'.

26 Law on State Police, 2014, Article 27.

27 Constitutional Court of the Republic of Albania, 26 June 2015.



Personal Data Protection and Right to Information; The State Supreme Audit Institution (SSAI); The High Inspectorate on Declaration and Audit of Assets and Conflict of Interest (HIDAACI); National Coordinator on Anti-Corruption (NCAC).

People's Advocate (PsA)

The PsA is entitled to “defend the rights and freedoms of individuals from unlawful or improper actions or failures to act of the organs of public administration.”²⁸ Apart from the mandate provided in the Constitution and the organic law,²⁹ PsA is also responsible for overseeing the implementation of the Law on the Rights and Treatment of Detainees³⁰ and operates as the National Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment.³¹

Independence in exercising its duties is envisioned in the Constitution. The PsA is elected by the Parliament by three-fifths of its members. The PsA may be discharged from duty only by the Parliament, by vote of three-fifths of all its members, on grounds of reasoned complaint filed by not less than one-third of its members.³² In order to ensure PsA's full independence, it has its own budget which is approved by the Parliament.³³ The PsA issues annual reports to the Parliament that are publicly available. As provided by the law, the PsA is authorised to:

1. Issue recommendations to the organs vested with legislative initiative to propose amendments and improvement to the statute;
2. Propose to the Administration to amend and improve bylaws;
3. Put the Constitutional Court in motion to invalidate those acts.³⁴

The PsA may request the Assembly to hold hearings on important issues. It is also authorised to make recommendations and propose measures in case of violations of human rights and freedoms by the public administration. Public institutions are obliged to provide the People's Advocate with all the documents and information requested.³⁵

28 Constitution of Albania, Part II, Chapter VI, Article 60.

29 No. 8454 of 4 February 1999, supplemented by the law No. 8600 of 10 April 2000, amended by the Law No. 9398 of 12 May 2005, supplemented and amended by the Law 155/2014 of 27 November 2014 “On the People's Advocate”.

30 Law No. 9888 of 10 March 2008 “On the Rights and Treatment of Detainees”; as amended.

31 Law 155/2014 of 27 November 2014 “On the People's Advocate”, Article 31/1.

32 Constitution of Albania, Article 62.

33 Constitution of Albania, Article 60.

34 Article 24.

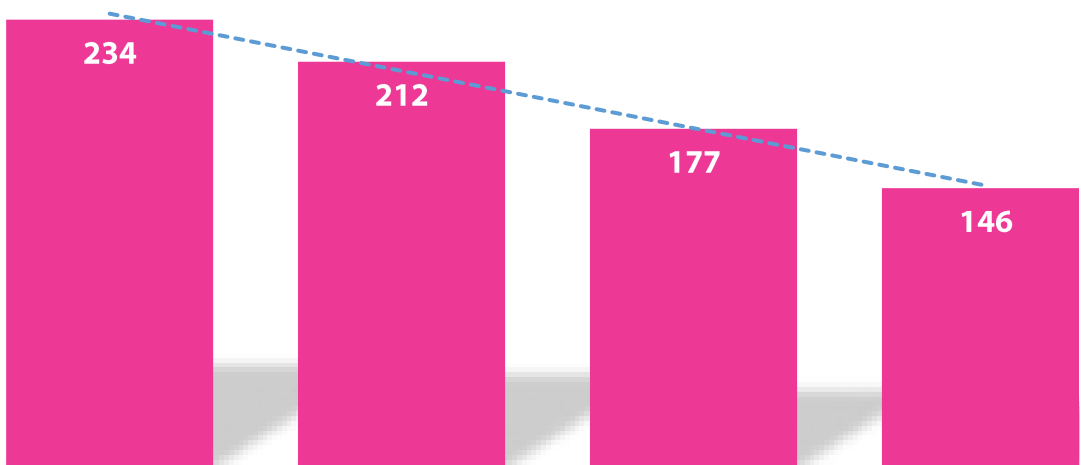
35 Constitution of Albania, Article 63.



The law on the PsA lays down several provisions that serve to facilitate the oversight of the security sector, including that of police. First, it provides for the establishment of a section responsible for overseeing the police, the intelligence service, the Prisons Police, the Armed Forces and the judiciary.³⁶ The section is headed by one of the five Commissioners elected by the Parliament. The total number of staff in this section is five. Second, in the course of an investigation the PsA is granted unlimited access to documents, including classified information, to premises, staff members and other persons with no immunity from prosecution. Third, in the event of non compliance with the PsA request, the latter may initiate an administrative proceeding, propose sanctions against civil servants, or propose to the Parliament to take specific measures. It can also recommend to the Prosecutor's Office to initiate an investigation if he finds that a criminal offence has been committed, or re-start a dismissed or suspended investigation. In the annual reports for 2015, emphasis was placed on excessive use of force and violence by police officers.

In this respect, the PsA handles complaints, reports or notifications concerning violations of human rights arising from the administration of the judiciary and the enforcement of judicial decisions. In line with this provision, the graph below shows complaints submitted to the Ombudsman concerning State Police officials in the period 2012-2015.

Graph 1: Complaints on State Police officials submitted to the Ombudsman during the period 2012-2015 Source: Annual reports of Ombudsman, 2012, 2013, 2014, 2015³⁷



36 Law on PsA, Article 31.

37 Study "Police Integrity and Corruption in Albania 2.0" (2016), Institute for Democracy and Mediation, <http://idmalbania.org/wp-content/uploads/2016/11/Police-Integrity-and-Corruption-in-Albania-2.0.pdf>, p. 42.



The complaints submitted to the PsA include, but are not limited to, torture and physical and psychological ill-treatment during arrests or while being escorted to the police station; illegal detention; illegal control of domestic or private premises; issuance of unfair administrative measures, etc.³⁸

Following these complaints the PsA has issued several recommendations to the State Police Director. To mention some of the recommendations: there is a need to carry out a thorough analysis of the causes of these phenomena; improve the curricula of the Basic Police School and the Security Academy to focus more on the respect of human rights; organise more trainings on ethics and clarification of the right of police officers to use force in compliance with the legal requirements and with respect of the proportionality principle, as well as trainings on national and international legislation.

In terms of follow up regarding PsA's recommendations to the General Police Directorate in 2015: 6 were accepted, 4 went unanswered, and 2 were rejected.

It is pointed out that cases of police violence to citizens are hard to prove, mainly because in most cases violence occurs in closed places, inside the police premises, in offices, with no present witnesses. Even when there are witnesses, it is still difficult for people to go against police employees.³⁹

Moreover, unjustified use of force is considered a form of corruption, because it is carried out by police officers in their official positions. This problem however does not occupy a prominent place, and is not reported in IACS documents.⁴⁰ In 2015, the National Preventive Mechanism and the Ombudsman's Office handled 42 complaints about the disproportionate use of force and violence by police officers and prison guards, of which 10 were found to have valid grounds.⁴¹

The Commissioner for Personal Data Protection and Right to Information

Since its establishment in 2008 the Commissioner for the Protection of Personal Data and Right to Information (hereinafter: the Commissioner) has been vested with several new oversight responsibilities concerning public and private bodies.

38 PSA Report 2015, p. 47.

39 PsA Report 2015, p. 51.

40 Study "Police Integrity and corruption in Albania 2.0" (2016), Institute for Democracy and Mediation, <http://idmalbania.org/wp-content/uploads/2016/11/Police-Integrity-and-Corruption-in-Albania-2.0.pdf>, p. 42.

41 EC Albania Report 2016 http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_albania.pdf, p. 36.



The Commissioner is elected by the Parliament⁴² upon a proposal of the Council of Ministers. It has a five year term of office and is subject to reappointment. The Commissioner is the authority responsible for supervising and monitoring, in accordance with the law, the protection of personal data and right to information by guaranteeing the fundamental human rights and freedoms. The Parliament approves the budget and the administrative structure of the institution.

The Commissioner submits annual reports to CLAIPHR. Besides control of the implementation of the Law on the Protection of Personal Data,⁴³ in the last couple of years the mandate of the Commissioner has been significantly broadened to include control of the implementation of the Law on the Right to Information⁴⁴ and the Law on Notification and Public Consultation.⁴⁵ The latter regulates the relations arising in a public consultation process, transparent, comprehensive, timely and effectively conducted among the central and local public authorities and stakeholders in the decision making process concerning bylaws, draft-laws, national and local strategic documents and policies of high public interest.⁴⁶ The role of the Commissioner consists of handling the complaints and mediating between the public bodies.

Moreover, in accordance with the law, the Commissioner is entitled to: conduct administrative investigations; issue recommendations, orders, decisions on the data controllers; provide opinions on draft laws and bylaws;⁴⁷ gain access to personal data processing and collect all the information necessary to perform its oversight duties; but also to order blocking, deletion, destruction or suspension of unlawfully processed personal data.

In line with new responsibilities, the Law on Public Order stipulates that the Minister responsible for public order and safety shall set up, in cooperation with the Commissioner on Freedom of Information and Protection of Personal Data, and within 6 months from the entry into force of this Law, the establishment and functioning of a registry as a central or local database, in which the entities will be registered and receive additional public safety measures under this Law.

42 Decision of the Parliament No. 211 of 11 September 2008 "On the Appointment of the Commissioner for the Protection of Personal Data".

43 Law No.120/2014 "On the Protection of Personal Data," as amended.

44 Law No. 119/2014 "On the Right to Information," as amended.

45 Law No. 146/2014 "On Notification and Public Consultation", Article 21.

46 See: <http://idp.al/index.php/en/home/106-press-releases/291-law-no-146-2014-on-notification-and-public-consultation>.

47 Article 31/1, Law No. 120/2014 "On the Protection of Personal Data," as amended.



The entities that install camera systems or high tech electronic devices are obliged in each case to notify the Commissioner on Freedom of Information and Protection of Personal Data.⁴⁸

Last but not least, the Commissioner has been vested with some tasks regarding the implementation of the Law on Whistleblowers Protection⁴⁹ and the Law on Border Control.⁵⁰

The State Police is subject to the oversight of the Commissioner. The law provides that public authorities have the obligation to notify data processing in the framework of crime prevention and prosecution activities, in the cases of criminal offences against the public order and other violations in the field of criminal law, defence and national security. Nevertheless, the Commissioner's activity does not cover issues concerning police oversight of the protection of personal data and right to information.

Administrative investigations into police structures, with regard to the protection of personal data, date back to 2010, when two recommendations were issued to the Regional Border and Migration Directorate and Rinas Border Police Commissariat.⁵¹ In the years that followed the Commissioner had not carried out any administrative investigations in the police.

As regards the monitoring of the right to information, in 2015 the Commissioner has handled two complaints against the General State Police Directorate (GSPD). Both complaints were filed by the Respublica Centre. The Commissioner has accepted the complaint on grounds of "refusal to provide information and allow copying of official documents by SP upon a request for information concerning the number of persons intercepted during the period 1 January 2014 – 30 October 2014."⁵² After reviewing the complaint the Commissioner ordered GDP to revise the procedures on classified information and notify the claimant. In the other case, after the administrative investigation the Commissioner rejected the complaint of the Respublica Centre stating that GSPD had already replied to the request for information.⁵³

48 Law No. 19/2016 "On Additional Measures on Public Order," Articles 5 and 12 <https://www.parlament.al/wp-content/uploads/2016/09/ligj-nr.-19-dt.-22.9.2016.pdf>.

49 Article 16, Protection of personal data, Law No. 60/2016 "On Whistleblowing and the Protection of Whistleblowers".

50 Chapter III Administration of Personal Data, Law No. 71/2016 "On Border Control".

51 See: <http://www.idp.al/index.php/sq/hetimi-administrativ-mbrojtja-personale-te-dhena?id=130:rekomandime-inspektimi-2010&catid=80>.

52 See: http://www.idp.al/images/inspektimi_di/vendim_08_pol.pdf.

53 Ibid.



Monitoring the online implementation of the Transparency Programme in public institutions is also one of the Commissioner’s tasks. In 2016 the Commissioner has monitored line Ministries, including the MoI which is relevant for this report.⁵⁴ The Commissioner has not applied the Transparency Programme on the SP, but based on the indicators publicly available data are still not updated or available. The Minister’s tasks with regard to State Police include, among other duties, supervision of the complaints process in the State Police and investigation of complaints against its Director; preparation and publication of the annual report on the objectives achieved by the State Police; overseeing the management of the budget of the State Police based on applicable financial legislation.⁵⁵

The table below presents indicators that are lacking or are partially available to the public, based on the Transparency Programme (TP). Among the 17 principles of the TP, only 5 are considered available.

Table 1: Monitoring of the Transparency Programme 2016

	TP Indicators/ Ministry of Interior	Not available	Partly available
1.	Description of the organisational structure, functions and duties of the responsible Authority.		x (Information not linked/ only the organisational chart)
2.	Full texts of the conventions, laws, bylaws, codes of conduct, of any policy document, manuals or any other document regarding the conduct of the public authority functions that affects the general public.		x (Information not linked)
3.	Information on the procedures on how to submit a request for information, mailing and electronic address for the filing of requests for information and complaints procedures for the relevant decision		x (Information not linked, not available in the TP)
4.	Data on education, qualifications and salaries of officials, who have the obligation to disclose assets, pursuant to the law, salaries structure for other employees, as well as a description of the selection procedures, competences and duties of the senior level employees of the public authority and the procedures followed for decision-making.	x (Not available in the TP)	

54 See: http://www.idp.al/images/informacione/shtyp/New_folder/2016/qershor/MONITORIM_MBI_HARTIMIN_E_PROGRAMIT_TË_TRANSPARENÇËS.pdf.

55 Article 7 Law No. 108/2014 of 31 July 2014 “On State Police”.



5.	Monitoring and control mechanisms that operate in the public authority, including strategic work plans, audit reports by the Supreme State Audit or other entities, as well as documents that contain the authority's performance indicators.	x (Information not linked)	
6.	Data on the budget and spending plan for the next financial year and previous years, as well as any annual report on the implementation of the budget. In cases where the public authority is self-financed by license fees or any other form of direct financing by its entities, the documents that show the state of discharge of liabilities by licensed entities are published as well.	x	
7.	Information on procurement procedures or competitive concession procedures / public private partnership, respectively, under the provisions of Law no. 9643 of 20 December.2006, "On Public Procurement", and Law No. 125/2013, "On Concessions and Public Private Partnership", carried out on behalf of the public authority, including: i) list of contracts awarded; ii) the amount of the contract; iii) the contracting parties and the description of the contracted services or goods; iv) information on the implementation and monitoring of contracts, as well as manuals and various policies	x (Not available in the TP)	
8.	Information on the public services offered to the public, including standards for quality of service		x (Information not linked)
9.	Any mechanism or procedure through which stakeholders may submit their views or influence in any way the drafting of laws, public policies or the performance of the public authority;	x (Not available in the TP)	
10.	A simple description of the system used by the public authority for record keeping, types and forms of documents and categories of information that are publicly available without request	x (Not available in the TP)	
11.	Frequently requested information and documents.		x (Information not linked)
12.	Any other information deemed useful by the public authority.		x (Information not linked)



n 2015, the Commissioner held a seminar with the representatives of the GSPD on the topics of collection, processing, archiving and security standards of personal data of citizens during the activity of State Police.⁵⁶ In 2015, the Commissioner was not consulted regarding the Law on Ratification of the Agreement between the Government of the Republic of Albania and the Republic of Croatia on Police Cooperation. Moreover, two important projects concerning the protection of personal data are: the online application “Digital Commissariat” and “Multifunctional System of Body Cameras of State Police Patrols.”⁵⁷

Nevertheless it is important to highlight that the institution of Commissioner is dealing with several unresolved issues such as insufficient financial and human resources to cover the new tasks imposed by the law all over the country, the need to raise public awareness on the Commissioner’s activity; the introduction of and keeping up to date with new technologies; and increasing the monitoring and administrative investigation activity. The challenges in this respect were presented by the Commissioner at the hearing session on the 2017 draft budget in CLAIPAHR.⁵⁸ The recommendation from the EU report for Albania which highlighted the need to increase the capacities of the Commissioner to allow it to perform its duties effectively is in line with these concerns.

The High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI)

HIDAACI plays an important role in the prevention of and fight against corruption. It is the main authority expected to control and provide guidance on issues of the declaration of assets, conflict of interest, public sector ethics and creation of mechanisms for the implementation of the new Law on Whistleblowing and Protection of Whistleblowers.⁵⁹ As an independent oversight institution, since its establishment in 2003 HIDAACI has been vested with additional responsibilities due to continuous amendments to the Law on the Declaration of Assets and the Law on Conflict of Interest.⁶⁰ The Law on the Declaration of Assets defines the rules for the declaration and audit of assets, the legitimacy of sources used for its creation, and the financial obligations of elected persons, public employees, their families and persons related to them.⁶¹ On

56 Annual Report 2015, http://www.idp.al/images/autoriteti/Raporte_Vjetore/Raporti_Vjetor_2015.pdf.

57 Ibid.

58 Hearing session with the Commissioner, <https://www.parlament.al/wp-content/uploads/2016/11/Procesverbal-dat--15.11.2016.pdf>.

59 Law No. 60/2016 “On Whistleblowing and the Protection of Whistleblowers”.

60 Law No. 45/2014 of 24 April 2014 “On the Declaration and Audit of Assets, Financial Obligations of Elected and Certain Public Officials,” as amended and Law No. 44/2014 of 24 April 2014 “On the Prevention of Conflicts of Interest in the Exercise of Public Functions,” as amended.

61 Article 1, Law No. 45/2014 of 24 April 2014 “On the Declaration and Audit of Assets, Financial Obligations of Elected and Certain Public Officials,” as amended.



the other hand, the Law on the Conflict of Interest defines the rules, means, methods, procedures, responsibilities and competencies for the identification, recording, handling, resolution and punishment in the cases involving conflict of interest.⁶² A new entry this year is the Law on Whistleblowing and Whistleblowers' Protection, whose implementation monitoring has been entrusted to HIDAACI.

The 2014 law amendments related to the declaration of assets and the conflict of interest, increasing the number and frequency of audits from the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest (HIDAACI), making obligatory the declaration of cash funds exceeding a specific amount, and requiring that such funds be deposited in a bank. Submission of false information has become a criminal offence, while new legislation on the protection of whistleblowers in cases of corruption and the establishment of respective structures for the implementation of this law are expected.⁶³

Competencies of HIDAACI include: direct auditing of declarations of the subjects who are under the obligation to submit them; collecting data, carrying out administrative research and investigations concerning the declarations of persons who have the obligation to make a declaration under this Law; and cooperating with the auditing organs and other structures in charge of the fight against corruption and economic crime.⁶⁴

HIDAACI has its own independent budget, and the Inspector General of HIDAACI – elected by a qualified majority of the members of the Parliament – reports annually to the Assembly on the preceding year's activities, or whenever summoned by the Assembly.

Police organisation employees are subject to the laws that fall under the purview of HIDAACI. The Law on the Declaration of Assets stipulates that directors general, directors of directorates, and sector chiefs (commissariats) in the centre, districts and regions are subject to this Law.⁶⁵ The general legislative framework on the conflict of interest and declaration of assets stipulates that only high- and middle-management officials in the SP are subject to the laws, and does not cover the entire police organisation. The report issued by HIDAACI for 2015 does not mention the audit of

62 Law No. 44/2014 of 24 April 2014 "On the Prevention of Conflicts of Interest in the Exercise of Public Functions," as amended.

63 Albania Intersectoral Strategy against Corruption 2015-2020, http://rai-see.org/wp-content/uploads/2015/08/Albania_Inter-sectoral_Strategy_against_Corruption_2015-2020_Eng.pdf.

64 Article 17 Law No. 45/2014 of 24 April 2014 "On the Declaration and Audit of Assets, Financial Obligations of Elected and Certain Public Officials," as amended.

65 Article 3, Law No. 45/2014 of 24 April 2014 "On the Declaration and Audit of Assets, Financial Obligations of Elected and Certain Public Officials," as amended. <http://www.hidaa.gov.al/ligji-nr/>.



cases involving state police officials, or any specific report in this regard. Thus, only a limited number of SP officials are part of the category of subjects that fall under this legal framework.⁶⁶ According to the Law, high- and medium-level officials, directors of public administration, other public institutions, the SP and the Armed Forces of the Republic of Albania may not engage in any type of private activity or hold any other functions. Pursuant to this Law, high and middle-level officials of the SP and the Armed Forces, a) may not be managers in profit-making organisations; b) may not be members of management organs in a commercial company or a not-for-profit organisation, c) may not exercise private activity that creates a revenue, c) may own, in an active manner, shares or parts of capital of a commercial company without any limitation, with the exception of the case when the company exercises activity in a sphere that is the same as, or overlaps, with the sphere of jurisdiction of the official and his competency to act.⁶⁷

Based on this general setting, conflict of interest is more specifically regulated through a number of internal regulations that define norms and principles of ethics and discipline in the Albanian State Police, involving the entire personnel of the organisation. Moreover, the Law on IACS has the power to verify the assets, interests, extra employment, gifts and privileges of particular officers on the basis of complaints and referrals.⁶⁸

Nevertheless, the 2016 Transparency International report highlights that the legal framework for conflicts of interest and gifts and hospitality is inadequate, that lobbying regulation is entirely lacking, and that post-employment restrictions are only in place for the Director of the State Police. HIDAACI attests that enforcement of the conflict of interest regulation is its weakest point. HIDAACI did not clearly answer questions about the full audit of asset declarations of top state police and IACS officials, and there is no other evidence to suggest that they have ever been fully audited.⁶⁹

HIDAACI's administrative, technical and financial capacity needs to be further strengthened so that it can cope with asset declaration checks and assume new powers entrusted to it under the Law on Whistleblower Protection.

66 A. Dyrmishi & E. Hroni, (2014). Conflict of Interest in the Albanian Police, Institute for Democracy and Mediation, http://idmalbania.org/wp-content/uploads/2014/11/conflict_of_interest_-_cesa_-_english1.pdf.

67 Article 31, Law No. 44/2014 of 24 April 2014 "On the Prevention of Conflicts of Interest in the Exercise of Public Functions," as amended.

68 Articles 38 and 39, Law No. 70/2014 of 10 July 2014 "On Internal Affairs and Complaints Service of the Ministry of Internal Affairs".

69 Transparency International, Albania National Integrity System Assessment 2016, http://files.transparency.org/content/download/2031/13136/file/2016_NISAAlbania_SQ.pdf.



To be more specific, with regard to the declaration of assets and prevention in SP, HIDAACI needs to provide continuous training on the rules and implementation of the current statutory and regulatory framework in practice. On the other hand, HIDAACI should contribute to the enhancement and promotion of accountability and oversight of SP through regular investigations and inspections.

National Coordinator against Corruption (NCAC)

Albania does not have a specialised anti-corruption agency that is independent from the executive branch and reports only to the Parliament. Nevertheless, the Government of Albania has since 2013 assigned the Minister of State for Local Issues the duty of National Coordinator against Corruption (NCAC). The Internal Control and Anti-Corruption Unit,⁷⁰ established within the Prime Minister's Office, was vested with the authority to conduct administrative investigations and propose administrative and disciplinary measures in ministries and other institutions under the authority of the Prime Minister's Office. The role of this Unit is, however, ambiguous and does not include prevention of corruption.⁷¹

Corruption reports – on which no information is available to the public – are submitted to the Unit for Internal Control and Anti-Corruption (UICA) within the Prime Minister's Office. Complaints of corruption can be filed using the online portal launched by the Government in 2015. Corruption statistics are collected by an inter-institutional working group that includes the Ministry of Justice, the SP, the General Prosecutor's Office, the High Court of Justice and HIDAACI. No system of sectoral risk assessment is implemented at either policy or law enforcement levels.⁷²

1,530 complaints against the police have been filed using the online portal since 2015,⁷³ and the police are among the institutions with the highest number of complaints. The trend of complaints against the police has, however, fallen in 2016 due to multiple complaints channels that were put in place. With regard to police oversight, NCAC activity consisted basically of developing a cross-cutting Anti-Corruption Strategy 2015-2020 and monitoring the implementation of its Action Plan 2015-2017. The CSAC Ac-

70 Council of Ministers Decision No. 94 of 15 February 2006 on the adoption of regulation for the functions and procedures of the internal administrative control and anti-corruption in the Prime Minister's Office.

71 A. Dyrnishi (2016). "Police Integrity and Corruption in Albania 2.0" (2016), Institute for Democracy and Mediation <http://idmalbania.org/wp-content/uploads/2016/11/Police-Integrity-and-Corruption-in-Albania-2.0.pdf>, p. 35.

72 EC Report Albania 2016 http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_albania.pdf, p.18.

73 Source of statistics: <http://stat.stopkorrupsionit.al/departament/10>.



tion Plan specifies a series of duties whose implementation is the responsibility of the State Police. These duties have been implemented partially (as presented in Table 2).⁷⁴

Table 2: Implementation of measures envisaged in the Action Plan of the CSAC under the responsibility of the State Police

Task	Implementation status
Conduct an integrity test in the police	Partially
Establish a police case management system in all police commissariats	Partially
Equip traffic police officers and mobile patrol officers with surveillance cameras to be used in the course of duty	Partially
Increase the number of operations using special investigation techniques by 5% annually; increase the number of proactive corruption investigations 5% annually	Partially

Recommendations

Parliament

- ▶ Adopt legislation to provide standard parliamentary oversight procedures of all security institutions.
- ▶ The Committee on National Security should hold regular meetings with all the actors in charge of supervision of the police and internal affairs service. These meetings should be followed by the adoption of measures for improving the functioning of the police, with particular focus on integrity.
- ▶ The Committee on National Security should control the application of secret surveillance measures by the Police Directorate at least twice per year, with special focus on legality and the results achieved by applying such measures.
- ▶ MPs should be encouraged to more actively use the instruments such as parliamentary questions, public hearings, inquiry committees or ad hoc committees.
- ▶ The Parliament should improve its administrative capacities that support parliamentary committees.

74 See: <http://idmalbania.org/wp-content/uploads/2016/11/Police-Integrity-and-Corruption-in-Albania-2.0.pdf>.



Specialised oversight bodies

- ▶ Financial and human resources should be increased to enable the bodies to perform their duties effectively. Enhance diversification of funding through absorption of international assistance.
- ▶ Cooperation with SP should be established to provide continuous training on the rules and implementation of the existing legal and regulatory framework in practice. Independent oversight bodies should contribute to the improvement and promotion of accountability and oversight of SP through regular investigations and inspections.
- ▶ Increase the capacities of oversight bodies to follow up on the recommendations provided to the police.



INTERNAL ACCOUNTABILITY

Internal Control

The anti-corruption institutional framework was put in place to ensure accountability of the State Police. The main internal mechanisms to control the work of the State Police are the Internal Affairs and Complaints Service (IACS), which is independent from the SP and reports to the Minister of Interior, and the Directorate on Professional Standards (DPS), established within the police structure, which reports to the Director of SP. DPS and IACS are supposed to coordinate their activities and exchange information regularly on investigations of complaints submitted against police officers.⁷⁵

As stipulated in the Law on IACS, the main mission of this service is “to guarantee an accountable, democratic, and transparent police service to the community.” This body is also responsible for the establishment of an effective complaints system which will encourage citizens to report police misconduct. All the State Police structures are subject to IASC control. The scope of the activities of the Service is:

1. Prevention, identification and investigation of criminal offences and other law violations committed by structures’ employees in the course of duty and because of duty;
2. Record, administer and resolve all complaints on ASP employees for failure to perform in accordance with the required standards approved by normative acts, criminal offenses and violations of the law;
3. Inspection to verify legitimacy, in compliance with legislation and standards approved by normative acts;
4. Preserve the integrity of employees;
5. Inspect unjustified wealth of persons under investigation, to combat corruptive and criminal activities;
6. Analyse conduct research and make generalised recommendations based on inspections and investigations, regarding important aspects of the organisation and functioning of the structures and public expectations in relation to public security.⁷⁶

The Law 70/2014 “On Internal Affairs Service and Complaints at the Ministry of Interior” was fully implemented in 2015.⁷⁷ What followed was the consolidation of the

75 State Police Regulation, Article 218.

76 Article 5, Law 70/2014 “On Internal Affairs Service and Complaints at Ministry of Interior”.

77 Data is available only for 2015,



legal framework for the monitoring and control of the structures through administrative investigation and penal violations, and for increasing police integrity. IACS is entitled to its own part of the MoI's budget. The service is organised at central and regional levels (12 counties) and it exercises two functions: 1) investigation of criminal offences (Department of Inquest and Investigation), and 2) inspection (Department of Inspection and Complaints).

With regard to the IACS political independence, it is still fragile even though the Service is independent from the State Police as such, and its members are obliged to sign the so-called "depoliticisation declaration." However, the Service is under direct command of the Minister of Interior who is its chief executive with the power to determine its priorities, approve its structure, and issue orders and instructions regulating the Service's activity, including inspection procedures. The Minister has exclusive power to appoint the Director of the Service. The EU-funded police assistance mission to Albania – PAMECA – has recommended that the Parliament have a role in these appointments, in line with international standards on police oversight bodies.⁷⁸

IACS issues public annual reports that should be further enriched with specific information on its activities. The annual report for 2015 is still in the Power Point presentation version. As stipulated in the Law, the activity of IACS is monitored by the Parliament, the Prime Minister and the Prosecutor General.⁷⁹ IACS is authorised to refer criminal cases to the Prosecutor's Office. Currently there is no reference to the control exercised by the above mentioned institution.

Moreover, in order to fight corruption within the police organisation, IACS is mandated to conduct integrity testing of police employees.⁸⁰ This is a very important task in the prevention of corruption; however, it is not implemented in practice. This process might take considerable time to consolidate, as it requires trained and specialised staff and standard procedures in place.

Handling of police complaints

Internal Affairs and Complaints Service (IACS)

Handling of complaints is one of IACS' main responsibilities. In this regard, the complaints media to be used by the public are fully in place. However, when it comes to sta-

78 Transparency International, Albania National Integrity System Assessment 2016, http://files.transparency.org/content/download/2031/13136/file/2016_NISAAlbania_SQ.pdf, p. 115.

79 Article 23, Law 70/2014 "On Internal Affairs Service and Complaints at Ministry of Interior".

80 Ibid.



tistics IACS is still not the main structure that reports cases of disciplinary violations committed by police officers.

During the period September 2014 - September 2016 IACS has handled 1,769 complaints received from the public through various channels (the green line number, emails, etc). After the administrative investigations carried out by IACS, a total of 20 police officers have been referred for criminal prosecution. Meanwhile, administrative violations have been identified in the cases of 115 police officers and it was thus suggested that DPS commence disciplinary proceedings.

From January 2016 to October 2016 IACS handled 657 complaints. The administrative review has concluded that 9 police officers have been referred for criminal prosecution and in the case of 79 police officers it has been recommended that DPS initiate disciplinary proceedings.

With regard to the inspection activity, in 2015 IACS has carried out 11 planned and 10 unplanned inspections, and 30 inspections were conducted based on complaints. 153 conclusions and 133 recommendations have been issued as a result.

In 2015, IACS reported 119 cases of corruptive activities which included abuse of office by receiving a bribe, unprofessional behaviour in performing professional tasks, favouritism or implication in illegal activities such as drugs trafficking, human trafficking, smuggling, unfair competition, etc. in order to obtain bribes.⁸¹

Directorate on Professional Standards (DPS)

Pursuant to the Law No. 108/2014 “On the State Police” and the legal acts and bylaws that regulate its activity, there is a Directorate on Professional Standards (DPS) within GDSP which, among other issues, deals with misconduct and non-ethical behaviour of police employees as well as cases of use of violence by the latter.

Through the Sector on Standards and Performance this Directorate carries out assessments of all the structures of the State Police, both at the local and central level, regarding the implementation of operational standard procedures, as well as the performance evaluation of SP employees.

Performance evaluation is carried out by the GDSP pursuant to the annual programme approved for police structures and includes various topics defined to address problems encountered in everyday activities. Nevertheless, it remains to be explored whether

81 Annual report 2015 IACS, <http://shcba.gov.al/images/RVP2015.pdf>.



these evaluations are assigned the right importance, i.e. whether they have caused changes in the police officers performance or if they are nothing but a formality.

Furthermore, these structures draft evaluation reports that, in addition to the identified problems, also provide recommendations to improve work procedures and initiate disciplinary investigations of employees that violate standard work procedures. These investigations are carried out by the disciplinary sector of the Directorate.

Through the Sector on Standards and Performance and the Sector on Disciplinary Investigation the Directorate on Professional Standards carries out assessments and investigates cases of violation and misconduct of police employees - cases involving alleged breaches of the regulations governing the State Police.

The Sector of Disciplinary Investigation also carries out investigations on misconducts and violations by police employees and recommends relevant measures related to identified cases.

Cases of misconduct of police employees and the ones related to corruption acts are addressed by the Sector on Complaints at the Directorate on Professional Standards. This sector verifies each complaint submitted by the public concerning police employees through different channels of communication, as well as those filed by electronic mail or via the anti-corruption portal, the digital commissariat application, or by phone. Minor disciplinary violations are addressed by police structures and in these cases light disciplinary measures are imposed.

Therefore, for the period 1 January - 6 September 2016 the Directorate on Professional Standards handled a total of 457 cases involving disciplinary violations committed by police officers, and recommended the following measures:

Table 3: Number of disciplinary measures issued by DPS in the period 1 January - 6 September 2016

Disciplinary measure	Expulsion from the Police Force	Dismissal from work	Reduced rank for up to 6 months	Deferment of promotion for up to two years	Retention of wages for up to 5 working days
No. of cases	46	2	5	114	2

Meanwhile, a total of 41 cases have been investigated under suspicion of corruption activities during the same reporting period, and the following disciplinary measures were recommended:



Disciplinary measures	Expulsion from the Police	Deferment of promotion up to two years	Recommendation for minor measure
No. of cases	21	15	5

Additionally, 29 cases of human rights violations (violence, illegal accompaniment, discrimination) committed by police officers were investigated, and the following disciplinary measures were recommended:

- ▶ "Expulsion from the Police Force" - 3 cases;
- ▶ "Reduced rank for up to 6 months" - 1 case;
- ▶ "Deferment of promotion for up to two years" - 1 case;
- ▶ "Recommendation of a minor disciplinary measure" - 24 cases.

Table 4: Disciplinary measures recommended, according to specific structures (Period 1 January - 6 September 2016)

	Expulsion from the police Force	Dismissal	Demotion in rank for up to 6 months	Deferment of promotion for up to 2 years	Withholding wages for up to 5 days	Total (employees)
Local Police Directorate (LDP) Tirane	13			21	2	36
LPD Durres	1			4		5
LPD Elbasan	1			1		2
LPD Korçe	2	1				3
LPD Gjirokaster				1		1
LPD Vlore	6			4		10
LPD Fier	3	1				4
LPD Berat			1	1		2
LPD Shkoder	6		2	13		21
LPD Kukes	2			1		3
LPD Diber				11		11
LPD Lezhe	2			18		20



Local Directorate on Border and Migration (LDBM) Tirane				5		5
LDBM Durres				-	-	-
LDBM Korçe	1					1
LDBM Gjirokaster	1			3		4
LDBM Vlore	1			21		22
LDBM Shkoder				4		4
LDBM Kukes	4			3		7
Directorate of State Police (D SP)			2	2		4
Autonomous Structures	3			1		4
TOTAL	46	2	5	114	2	169

The following table shows the cases of disciplinary violations by reporting structure:

Structure	No. of employees
LPD	176
LDBM	49
SIAC	91
Ministry Inspection	1
Audit	5
DSP	80
GSPD	39
Ombudsman	2
Autonomus Structures	5
Prosecution Court	9



In most cases disciplinary violations are identified and reported by the local structures (Departments of Local Police and Regional Directorates of Border and Migration), Internal Affairs and Complaints Service, Inspection of the Ministry of Interior, the audit bodies, Standards and Performance Directorate, central structures of the State Police, etc.

Table 5: Disciplinary measures, by rank

Disciplinary measure/Rank	Expulsion from the police force	Dismissals	Demotion in rank for up to 6 months	Deferment of promotion for up to 2 years	Withholding wages for up to 5 days	Recommendation of a minor measure	Total employees
First Level Management	-	-	-	-	-	-	-
Senior Management	-	-	1	3	-	-	4
Chief Commissar	-	-	1	2	-	2	5
Commissar	3	-	1	8	-	23	35
Lieutenant Commissar	10	-	2	27	-	44	83
Inspector	33	-	-	74	-	113	220
Civil personnel	-	2	-	-	2	5	9
Total	46	2	5	114	2	187	356

Recommendations

- ▶ Improve coordination and exchange of information between the internal control mechanisms; for greater efficiency, hold regular meetings focused on problems identified in the police work and propose joint measures to resolve them.
- ▶ Supplement the Law on Internal Affairs and Complaints Service to stipulate the obligation of the Service to submit an annual report on its work to the Assembly.
- ▶ Ensure exchange of information between IACS, NCAC, HIDAACI, the Commissioner on the Protection of Personal Data and Freedom of Information and the People's Advocate.
- ▶ Regularly publish brief information on citizens' complaints against police officers on the website of the Service, as well as their outcomes.



HUMAN RESOURCES MANAGEMENT

The following section provides an overview of human resource planning, recruitment and selection, police education and training, police ethics and discipline, as well as performance evaluation and promotion. It also explores the existing constraints of human resources management within the state police and the challenges in the implementation of statutory provisions.

Human Resource Planning

The law and SP regulations have paved the way to a reform and standardisation of human resources management in the police organisation. The current legislation regulates human resource planning, recruitment and selection, education and training, promotion, performance management, reward and retention, police ethics, and discipline. Police employees (uniformed personnel) are subject to the Law on Civil Servants.

The priorities of the Government with regard to SP are, among other things: further professionalisation of the police, increasing the number of police employees, improvement of working conditions, increasing the salaries, and provision of continuous training and support to the Academy of Security.⁸²

The number of police officers in Albania is claimed to be insufficient compared to the average numbers of other Balkan countries. The number of police officers has been increased to 9,894, i.e. 232.8 per 100,000 inhabitants. However, the increased number of officers should be also matched by proper police training, and be part of a long-term strategy on rationalising the human resources within the SP. A strategic approach in this aspect is important to prevent future redundancy problems and the use of police recruitment as a reward for political support.

As a result of recently introduced statutory provisions on State Police, there have been changes in the police organisational structure that the EC Report 2016 believes have improved the overall capacity of the police. Specialised units on financial and economic crime, money laundering, and investigation of assets obtained through criminal activity were also strengthened as well as the central Crime Analysis and Intelligence Directorate. However, there is still a lack of staff specialised in financial and fiscal matters. The general level of equipment and logistics has improved but is still inadequate,

82 Decision of the CM No.185 of 25 February 2015 "On the Organisation and Functioning of the Security Academy".



particularly in IT.⁸³ Moreover, the Report points out that the high rate of staff turnover continues to weaken the police's institutional and operational capacity. This is a characteristic of the changing governments that also affect the State Police. In this respect, at the request of the opposition MPs an inquiry committee was established in 2014 to review the dismissals that took place in the State Police after the new Government was formed in 2013. The inquiry committee has concluded its activity with no substantial findings concerning the claims of unlawful dismissals.

Recruitment

The recruitment process has been greatly publicised recently because the development of a new well-trained young generation of police officers was a political commitment of the Government. The recruitment process in the SP is based on public competition.

There are clear and publicly available application procedures. According to the Law on SP, GSPD is in charge of the design and implementation of the recruitment planning and the education and training of police officers.⁸⁴

The quotas for admission to SP are established by the Director of the State Police based on the needs assessment of the local police directorates and suggestions of police commissariats and police stations. In the admission phase, quotas are also envisioned for the less represented gender and minorities.⁸⁵ Moreover, the police regulation also stipulates the appeals process following a competition.

At the beginning of this year 300 new cadets were admitted to the Basic Police School, having been selected from among 5,020 applicants. Despite the fact that the admission competition is publicised in the media, there are no available data on the appeals of the results of the competition. Data on drop-out rates are not available either.

Nevertheless, the main priority in 2015 was to reform the police education system. The year was marked by the first generation of the Academy of Security students. In addition to the Basic Police School, through its Faculties the Security Academy will offer – after an absence of several years – Bachelor degrees and Professional Master's programmes as well as research.

83 EC Report Albania 2016, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_albania.pdf p. 20.

84 Article 20, ii), Law No. 108/2014 "On State Police".

85 Article 128, Decision of the Council of Ministers No. 750 of 16 September 2015 "On the Adoption of the Regulation of the State Police".



The main units of the Academy of Security are: a) Faculty of Public Safety; b) Faculty of Criminal Investigations; and c) Scientific Research Unit. The structure of the Academy was approved by the Minister of Interior upon the proposal of the Director of the State Police.⁸⁶

Performance Evaluation and Promotion

Statutory provisions foresee performance evaluation⁸⁷ and promotion⁸⁸. Performance evaluation in the police structures is carried out by the Sector on Standards and Performance which operates within the Directorate of Professional Standards. This is a relatively new procedure; therefore there is not enough publicly available data on the actual performance of police officers. Apparently, the current performance evaluation practice is mostly a formal procedure that involves little more than “ticking off the boxes.” On the other hand, promotion is generally carried out in accordance with the provisions of the law, although informal networks and connections are also very important.⁸⁹

Recruitment of women has improved as a result of the 50% quota system in the admission stage which was introduced in 2011. There has been a slight increase in the number of women in leadership positions in the police force in Albania – from 6.6% in 2012 to 9.9% today. Overall, 1,468 women now represent 14% of the Albanian State Police, which represents an increase from 9% in 2011.⁹⁰ In December 2015 a police woman was appointed Chief of Commissariat in Librazhd for the first time ever, as a result of a leadership training programme supported by the International Criminal Investigative Training Assistance Program (ICITAP) and UNWOMEN. This training was replicated in 2016 with the participation of 29 senior women police officers.

Continuous training

Police regulation stipulates continuous professional training of police employees.⁹¹ Continuous professional training is planned throughout the calendar year. It involves

86 Decision of the Council of Ministers No. 185 of 25 February 2015 “On the Organisation and Functioning of the Security Academy”.

87 Article 96, Decision of the Council of Ministers No. 750 of 16 September 2015 “On the Adoption of the Regulation of the State Police”.

88 Chapter VII of the Law on State Police and Article 125, Career promotion, Police Regulation.

89 Interview with an MoI representative,

90 UNWOMEN: <http://www.unwomen.org/en/news/stories/2016/7/steering-the-path-to-leadership-for-women-police-officers-in-albania#sthash.qdTAv1k.dpuf>.

91 Article 156, Decision of the Council of Ministers No. 750 of 16 September 2015 “On the Adoption of the Regulation of the State Police”.



a strategic approach based on the needs assessment of the police structures throughout the country. Publicly available strategies of this kind are outdated.

However, the monthly bulletin of the Ministry of Interior provides some information on the frequency and topics of trainings that have been organised. Based on the available data, integrity related trainings appear not to be held frequently.

Table 6: Trainings conducted from April 2016 to September 2016 according to the general directorates and other structures

Department/ Structure	General Directorate on Organised and Serious Crimes	General Directorate on Border and Migration	General Directorate on Public Order	General Directorate on Support Services	Other police structures
No. of participants	355	151	654	142	944
No. of trainings	26	16	35	11	48
Type of training	- Fight against narcotics; -Cybercrime; -Counterfeiting; -Crime analysis, Research and crime scenes. Basic training on surveillance techniques.	-On maritime safety; maritime legislation and related issues -The use of control devices; -canine instructor's course. -Identification and risk management.	-On the road code, -Collection of evidence in illegal activities, gambling, -Support in case of flooding and immersion program. -Minor crimes investigation.	On the Code of the Administrative Procedures	-Integrity training. -Use of MEMEX; classified information, the importance of developing a strategic plan. -Protection of victims of human trafficking in Albania; - Guarding institutions and the protection of VIPs, -Integration of female police officers in operational leadership roles.

The Academy of Security will offer training courses for further specialisation of on-duty police employees in accordance with the needs of a modern professional police service. All new police recruits will be required to complete the Basic Police School. The



so-called ‘6 month training’ will now last up to one year, and those who are selected will later continue the advanced studies at the Academy of Security. Upon successful completion, the Basic Police School qualifies a recruit for the position of general patrol officer.

Police education and training are very important for advancement up the career “ladder” of the SP and are directly linked to promotion.

The monthly bulletin of the MoI, as one of the main instruments for informing the public on the activity of MoI structures including the State Police, was updated with specific data on trainings, but only for the period from April 2016 to September 2016.⁹²

Recommendations

- ▶ Improvement of the training capacities of the Police Academy should be accompanied by a more efficient use of these capacities to enhance the role of education and training as instruments in strengthening police integrity.
- ▶ The SP should update and publish the Police Human Resource Management Strategy. The rationalisation of the organisational units and leading positions will contribute to the efficiency and accountability of the police.
- ▶ Stipulate the obligation of the police to adopt a medium-term Staffing Plan harmonised with the strategic documents for the development of the police.
- ▶ By introducing additional control mechanisms, the SP should ensure that the performance evaluation is more than a mere formal procedure.
- ▶ Conduct regular trainings on police ethics and integrity-related issues.

92 Monthly bulletins of MoI structures: <http://www.punetebrendshme.gov.al/al/programi/buletini-impb-se>.



FINANCIAL MANAGEMENT

The overall vision of the Albanian Government⁹³ is to ensure a public finance system that promotes transparency, accountability, fiscal discipline and efficiency in the management and use of public resources. However, the open budget survey 2015 ranked Albania 38th out of 100 regarding the transparency indicator.⁹⁴ This survey shows that the Albanian Government provides the public with minimal budget information. It also shows that the Albanian Government is weak in providing the public with opportunities to engage in the budget process.

This section will provide a broader overview of financial management, internal and external control, budget planning and execution, as well as problems that occur in public procurement procedures.

Budget Planning

As envisaged in the Commission's Progress Report for Albania, the development of a sound public finance management system leads to a more efficient public administration. To this extent public spending should be structured in a way that maximises positive impact on the national economy. Thus the Annual and Medium-Term Budget Programme (MTBP) were introduced as instruments for aligning the budget with the general and sector policies. MTBT helps to ensure sustainability of public finances by introducing a medium-term perspective to the public expenditure planning exercise. Moreover, the Integrated Planning System (IPS)⁹⁵ facilitates sectorial strategies that guide the annual budget as well as MTBT. However, this approach is not followed in practice, as strategic documents contain few assessments on which financial and human resources could possibly be available to implement them. This is typical in the case of police and public security area, which does not estimate the cost of implementation of these strategic documents.

The budgeting process in Albania is based on programmes; consequently, the Ministry of Interior administers and manages seven budgetary programmes under the state budget, specifically: "Planning, Management and Administration" programme; "State Police" programme; "National Guard" programme; "Prefectures and Local Government Functions Delegated" programme; "Civil Registry Services" programme; "State Reserves Management" programme; and "Civil Emergencies" programme.

93 Albania Public Finance Management Strategy 2014 -2020.

94 Albania's score is moderately lower than the global average score of 45.

95 Integrated Planning System in Albania was introduced in 2005.



State police programme contains several sub-programmes such as crime investigation, public security, border security and immigration as well as police training. For each of these areas, the Ministry of Interior provides specific goals as well as action plans for their implementation.

In criminal investigations the programme aims to provide an investigative service that realises the prevention, investigation, documentation and combating criminal activity through the application of measures, methods, special techniques of investigation and enforcement of the laws in order to increase security, peace and achieve a better life for citizens.

As regards public safety, the programme aims to ensure public order and peace through quality professional services and guarantee a secure environment for the community through policing with the highest performance standards.

On the other hand, the programme on border security and migration aims to develop and implement policies for control and supervision of the state border in cooperation with Albanian institutions and other foreign counterparts.

The police training programme aims to provide broad training of all police officials in accordance with the professional needs of the organisation.

However, there is lack of transparency in regard to budget execution. Regular reports are not common practice in the State police. In addition, internal audit reports are not available on the State Police website.

Budget Executions

Budget execution is a very important aspect of efficient financial management, and this report will provide some data in this regard for the first quarter of 2016.

While monitoring the budget executions for the first quarter of 2016, the Ministry of Internal Affairs realised the following indicators:

	Item	Plan 2016	Fact 2016-Q1	% realisation
1.	Current expenditure	18.011.453	3.607.305	20
1.1	Personnel	14.201.950	3.293.077	23.2
1.2	Operative	3.809.503	314.228	8.2
2.	Capital expenditure	2.012.224	121.058	6



2.1	Internal finance	1,712.224	74.137	4.3
2.2	Foreign finance	300.000	46.921	15.6
3.	Total	20.023.677	3.728.363	18.6
	Expenditure of revenues outside the limit	-	4.717	-
4.	TOTAL	20.023.677	3.733.080	18.6
In 000 ALL (Source: Ministry of Finance, 2016)				

As showed in the table above, the realisation of the budget for the first quarter of 2016 is 18.6%, compared with the adopted annual budget plan. Realisation of the current expenditures ranks at about 20%, while the realisation of capital expenditures is 6% of the annual plan, showing a very low level of execution. The main arguments presented by the Ministry of Interior for such a low level of realisation are: funds are planned for the following half of the year; postponement in the implementation of the procurement process; delays in the submission of technical and financial documentation required for the disbursement of funds.

The distribution of budget funds according to the programmes and the realisation of current expenditure and capital for each budget programme, without including the expenditure of revenues outside the limit, are presented in the table below:

Name of Programme	CURRENT EXPENDITURE			CAPITAL EXPENDITURE			Total realisation in %
	Plan	Fact	Realisation	Plan	Fact	Realisation	
Planning, Management and Administration	1.060.428	171.397	16.2	257.000	1.843	0.7	13.1
State Police	13.835.268	2.904.069	21	985.000	103.789	10.5	20.3
National Guard	1.291.944	281.548	21.8	50.000	0	0	21
Prefectures and Local Government Functions Delegated	537.294	104.755	19.5	0	15.426	0	22.4
Civli Registry Services	1.007.277	125.386	12.4	710.224	0	0	7.3
State Reserves Managment	104.238	20.150	19.3	10.000	0	0	17.6
Civil Emergencies	175.004	0	0	0	0	0	0
TOTAL	18.011.453	3.607.305	20	2.012.224	121.058	6	18.6
In 000 ALL (Source: Ministry of Finance, 2016)							



As regards capital expenditures, it is evident that there has been no progress in the first quarter of the year in the following programmes: “Prefectures and Local Government Functions Delegated,” “State Police,” and “Planning, Management and Administration,” while for the other four programmes the budget was not realised. These delays in the realisation of capital expenditure negatively impact the performance of the Ministry of Internal Affairs and the State Police.

The expenditure structure for each programme, according to initial budget and the realisation fact for the first three months of 2016, are presented in the following table:

CODE	Name of Programme	Expenditure structure	
		Initial budget	Expenditure fact
01110	Planning, Management and Administration	6.6	4.6
03140	State Police	74	80.7
03150	National Guard	6.7	7.6
01160	Prefectures and Local Government Functions Delegated	2.7	3.2
01170	Civil Registry Services	8.6	3.4
01180	State Reserves Management	0.6	0.5
10910	Civil Emergencies	0.9	0
	Total	100.0	100.0

Source: Ministry of Finance, 2016

The "State Police" represents the largest budget programme of the Ministry of Interior, and funds allocated to it amount to 74% of the approved 2016 budget for the entire institution.

As mentioned above, the State Police programme contains several sub-programmes such as criminal investigation, public security, border security and immigration, and police training. For each of these areas, the Ministry of Interior provides specific objectives as well as action plans for their implementation.

In order for the State Police to achieve its objectives, ALL 14.8 billion is allocated in annual terms. Realisation of the budget plan in the first quarter of this year is presented below:



03140	State Police	Plan	Fact	Realisation in %
1.	Current expenditure	13.835.268	2.904.069	21
1.1	Personnel	11.452.900	2.705.221	23.6
1.2	Operative	2.382.368	198.848	8.3
2.	Capital expenditure	985.000	103.789	10.5
2.1	Internal financing	685.000	72.294	10.55
2.2	Foreign financing	300.000	31.496	10.49
3.	SUM	14.820.268	3.007.858	20.3
	Revenue expenditure outside the limit	-	3.950	-
4.	Total	14.820.268	3.011.808	20.3

In 000 ALL (Source: Ministry of Finance, 2016)

As evidenced in the table, current expenditures account for about 93.4% of the total planned funds, while investments amount to 6.6% of the budget. Furthermore, around 77.3% of budgetary funds allocated in 2016 to the Ministry of Interior are planned to be spent on salaries and social and health security of the employees of the State Police. Personnel costs account for approximately 96% of the actual expenditures, while capital expenditures have a very low value realisation, only 4%. A preliminary conclusion can be drawn regarding the slow pace of capital expenditures – that it is a result of delays and procurement procedures.

With regard to investment products, several procurement procedures for materials and general office services, purchase of uniforms, supply, and cafeteria food service are yet to be implemented. Unrealised investments are noticeable due to non-procured funds for the construction of the “RENEA” premises.

Misuse of Public Procurements

Public procurement is considered an integral part of the strategic management of public funds to promote overall value for money and help prevent corruption – a phenomenon which is quite represented in the Albanian State Police. As shown in the Corruption Index Perception 2015 issued by TIA,⁹⁶ the Traffic Police are considered by Albanian citizens to be the most corrupted institution.

On the other hand, public procurement is the key aspect of public investment because it stimulates economic development. More than 22% of the Albanian state budget was

96 30% of the population believes that Traffic Police is the most corrupted institution in Albania.



dedicated to public procurement.⁹⁷ This indicator reaffirms the potential of public procurement as a key driver of investments as well as economic growth in the entire Albanian society. Thus, effective public procurement procedure constitutes an important area for the proper development of the police sector in Albania.

In the last few years public procurement in the State Police Administration has always been accompanied by heated debates and allegations between the political parties, both during and after the procurement process. Criticism targeted mainly the procurement process, the budget funds required, the selection of the contractors, and the quality of products/services purchased.

Technical specifications, together with contract management,⁹⁸ remain the most difficult topics in terms of the capacity of the State Police. In many cases of public procurement, the heated debate was followed by criminal investigation. On the other side, as showed above in the section on budget execution, public procurement management presents a major challenge to the Ministry of Interior as well as the State Police. Delays with tender procedures have limited the execution of investments envisaged in the state budget.

Internal Audit

The Internal Audit Unit within the Ministry of Interior was established based on the Law No. 9720 of 23 April 2007 “On Internal Audit in the Public Sector.” The Internal Audit Unit has scheduled 27 audits in 2015, yet it has carried out only 20. It avoided auditing the major Directorate of Central Procurement at the Ministry of Interior – the key spending unit of budget funds. Avoiding audit at the Central Procurement Directorate clearly demonstrated the weakness of internal audit and also represented a violation of the Audit Law.

Moreover, during 2015 the Unit has conducted 15 audits that overlapped with the internal audit units at the General Directorate of Police. Furthermore, from the reports on realised audits it can be concluded that there are deficiencies in the implementation of internal audit standards. Incompetence of internal audit staff is evident in most of the cases, and there is a need to define disciplinary measures and improve the internal control system.

97 Based on data available on the website of the Public Procurement Agency and the Ministry of Finance.

98 Information provided at the meeting with representatives of public institutions held on 22 September 2016.



External Audit

SAI is an independent constitutional institution designed to operate as an “agent” of the Parliament and act as guardian of public funds. The mission of the SAI is not limited to only reporting on the use of public funds in accordance with the law; being an expert body, it also provides opinions on how to use the existing funds in the best way possible. The overall mission of SAI is to contribute to the added value and save public funds by giving assurance regarding the financial accounts of their users and helping to improve Government management through audits.

Therefore, SAI plays an important role in the oversight and prevention of abuse of public funds. In this context, there is an immediate need to strengthen the ability of SAI to introduce new ways and methodologies to combat corruption and fraud. Currently, SAI conducts all types of audits, but it mostly undertakes regularity/compliance audits that serve to determine economic damage and violations of rules, rather than focusing on ways to prevent such damage. Approximately 90% of the audits carried out in 2016⁹⁹ were envisaged as regularity/compliance audits. In the meantime, performance audits – introduced in 2008 – are yet to become regular practice in SAI audits. SAI’s functional, operational and financial independence is set out in the constitutional and statutory framework, in line with the INTOSAI standards. Moreover, in 2014 the new Law No. 154 “On the Organisation and Functioning of the Supreme Audit Institution” was approved by the Albanian Parliament. As regard institutional capacity, in 2015 SAI had 125 auditors (out of its approximately 170 employees), compared with 119 in 2014, and 113 in 2013. Each year the Chairman of the SSAI presents two reports to the Parliament:¹⁰⁰ an activity report in spring and a report on the execution of the budget in autumn. The reporting format and the quality of data have improved considerably since 2008. The reports contain information on financial irregularities found during the control of security institutions, as well as sanctions or recommendations proposed in each case.

The parliamentary Committee on Economy and Finance and the National Security Committee are responsible for scrutinising SAI reports on the security sector. However, active involvement of both committees in scrutinising and following up on the reports is still missing. SAI is authorised to access any information it deems necessary to be able to carry out its tasks. In addition, it has the right to pose questions to employees and gain access to premises while performing audit activities. To protect classified information, the law provides that financial activities classified as state secret may be

99 Based on data available at SAI Audit Programme for 2016.

100 The parliamentary Committee on Economy and Finance and the National Security Committee are responsible for scrutinising SAI reports on the State Police.



controlled only by staff authorised by the Chairman of the SAI,¹⁰¹ who in turn reports the findings to the permanent Committee on Economy and Finances.

The impact of audit work is still limited due to its focus on compliance audits and detection of irregularities. In 2015 SAI has completed 158 audits,¹⁰² uncovering irregularities totalling EUR 919.9 million, half of which related to the audit of the state-owned electricity distribution operator. This represents a substantial increase compared to 2014, when irregularities worth EUR 87.5 million were uncovered.¹⁰³ SAI presented 51 cases to the General Prosecutor's Office concerning 159 officials (of whom 56 were highly ranking officials), which is an increase from 41 cases involving 149 officials in 2014.¹⁰⁴ SAI's recommendations include legislative, administrative, organisational and indemnification measures, as well as recommended sanctions. The Ministry of Finance developed an action plan to follow up on SAI's findings. Out of SAI's 2,510 organisational recommendations provided in 2015, 817 were implemented in full and 335 in part.¹⁰⁵ Half the administrative and disciplinary measures were complied with. Audit reports are summarised quarterly and published on a regular basis on the SAI website. SAI 2015 annual audit was submitted to Parliament but is yet to be discussed. On the other side, the role and involvement of the civil society in the monitoring of financial management, especially in the case of State Police, is practically non-existent. Participation of civil society will definitely improve and facilitate the performance of SAI (and not only) in its mission to monitor the expenditure of public funds. The civil society should also be involved in the reporting and hearing process of the parliamentary Committee on Economy and Finance. Currently, the level of involvement of civil society in these processes is not high.

Recommendations

- ▶ Increase transparency regarding the status of financial management and control and internal audit in the state police sector.
- ▶ Budget execution is constrained by the low performance in investments; better planning capacity should thus be developed, as well as timely implementation of the procurement procedure.

101 A. Dyrmishi; B. Kuçi, E Gjakutaj; An Assessment of the Role of the Independent Oversight Bodies in Security Sector Reform in Albania, Institute for Democracy and Mediation.

102 EC Albania Report 2016, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_albania.pdf.

103 Ibid.

104 Ibid.

105 Ibid.



- ▶ Internal audit staff lack capacities, audit engagements are not systematically risk-based and the audits performed by the internal audit units within the State Police are still transaction-based rather than systems audits.
- ▶ Internal control systems and overlapping of internal audit services between superior and subordinate institutions should be avoided.
- ▶ Intensification of relations between the SAI and the parliamentary Committee on Economy and Finance in individual audits should be promoted. Involvement and engagement of the Parliament in scrutinising individual audits should be addressed in the short term.
- ▶ Systematic parliamentary follow up of SAI's audit reports needs to be established.
- ▶ Dynamic partnerships between SAI, the Parliament and the civil society should be devolved to ensure economical, efficient and effective management of public funds.



CRIMINAL PROSECUTION

Coordination and consistent actions of all state bodies are very important in criminal investigations. As there is a variety of sources of information that can trigger a corruption investigation, coordination of all the actors plays a crucial role. Reports of the supreme audit institution and information received from internal control and intelligence services are also good information sources. On the other side, media and reports coming from the public are also useful tools to help trigger investigations. Albania already has a Law on Whistleblowers in its national legal framework.

The Law encourages active participation of employees in public bodies or private entities to report and denounce corrupt acts and practices. Moreover, the Law on the creation of a specialised and independent anti-corruption body has been approved. This Law increases access to national electronic public registries for prosecutors and the police, thus improving the fight against corruption.¹⁰⁶ However, corruption remains prevalent in many areas and continues to present a serious problem.¹⁰⁷

There has been no improvement regarding legislation on interception and surveillance, time limits for investigations, and admissibility of evidence in court. Therefore, amendments to the legislation on interception and surveillance, time limits for investigations, and admissibility of evidence in courts need to be included into the Albania's legal framework in the short term period.

Independence and effectiveness of institutions in charge of the fight against corruption are still limited by political pressure and weak administrative capacity.¹⁰⁸ A solid track record of performed investigations as well as prosecutions and convictions in the fight against corruption at all levels, including asset recovery, remains a continued challenge for Albania.

Furthermore, ensuring sound investigation and prosecution of cases referred to the Prosecutor's Office by other state bodies¹⁰⁹ still remains a challenge for the Albanian authorities. This shows poor inter-institutional cooperation and exchange of information, which hampers proactive investigation and effective prosecution of acts of corruption. Financial investigations resulting in the confiscation of assets are very few, and penalties imposed in corruption cases tend to be overly lenient.

106 See: http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_albania.pdf.

107 As stated in the country report for Albania issued by the European Commission.

108 Ibid.

109 Including: the High Inspectorate for the Declaration of Audits and Assets and Conflict of Interest and the High State Audit.



However it is worth mentioning that the track record since 2010 has shown a positive trend in the number of investigations, prosecutions and convictions in the fight against corruption involving junior or mid-ranking officials. The track record, however, remains very low when it comes to corruption cases involving high-level officials.¹¹⁰ Institutions in charge of investigation, prosecution and adjudication of corruption cases are all subject to strong political pressure, including politicised appointments to key leadership positions that affect their overall functioning.¹¹¹

Career development is not merit based, and all the law enforcement institutions are among the most under-resourced public institutions. Consequently, only one in five directors of the State Police has come close to completing his regular five-year term of office in the past 13 years. The turnover in the State Police is massive, especially after government changes. The Prosecutorial Council has no real power of accountability over the Prosecutor General,¹¹² whose appointment is highly vulnerable to politicisation and who heads the highly centralised Prosecutor's Office. In the judiciary, High Court appointments are also highly vulnerable to politicisation and its members are unaccountable. The High Council of Justice features strong political and crony influences.¹¹³ To this extent, both the judicial and prosecutorial councils have failed to uphold integrity among their ranks. Judges in particular have come under focus for being inexplicably wealthy.¹¹⁴

Still, the judicial reform in Albania – already approved in 2016 – will definitely improve the current situation as regards impartiality and independence of the judicial system and the law enforcement institutions. On the other side, the reform will improve the impunity of criminal offences in the State Police and strengthen the rule of law and the fight against corruption and organised crime. The new Law 97/2016 “On Organisation and Functioning of the Prosecutor's Office” was approved in 2016 by the Albanian Parliament. In addition, a new sector on verification of integrity of public officials was established this year within the Prosecutor's Office. The mission of this sector derives from the Decision of the Parliament No. 17/2016 “Defining the detailed rules on the implementation of restrictions stipulated in Law 138/2014 to guarantee the integrity of public officials”. The legal base identifies the Prosecutor's Office as the institution responsible for verifying the integrity of officials in all public administration bodies. However, the effects of the judiciary reform are still to be seen, as the reform is still in progress.

110 EC country report for Albania 2016.

111 Ibid.

112 Ibid.

113 Ibid.

114 Based on the work of investigative journalists and HIDAACI audit of asset declarations.

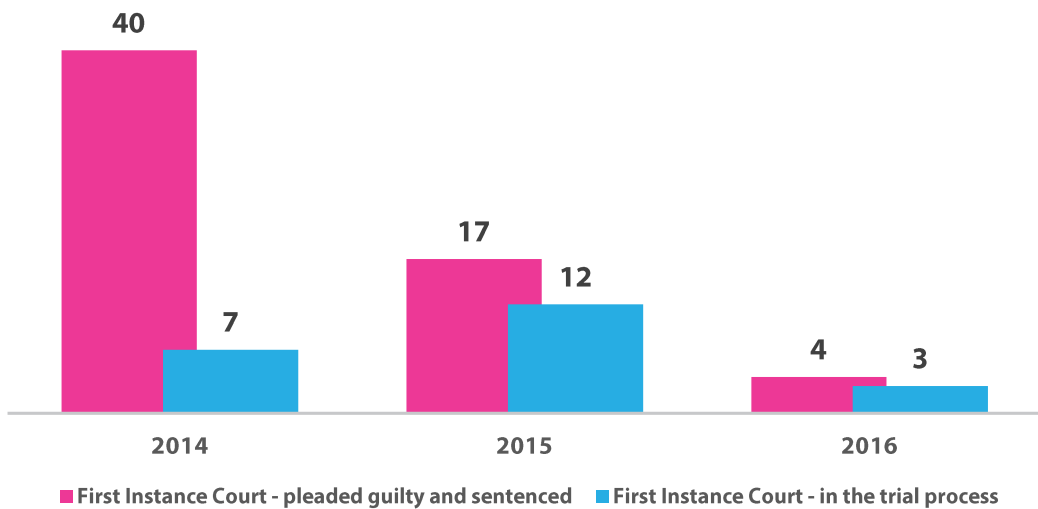


Conviction Rates

CONVICTION RATES

As discussed above, court performance is essential for the proper reviewing of criminal offence cases. Therefore some data on conviction rates and the quality of sanctions in the cases investigated during the period 2014-2016 are presented in the graph below. Based on the data provided by SIAC, a total of 554 reports involving 680 employees of the police structures were referred to the Prosecutor's Office. The total number of cases reviewed by the first instance courts during the specified time period is: 61 employees, first instance court decision - pleaded guilty and sentenced; 22 employees, pending in first instance courts.

Graph 2: First instance court decisions



These data clearly indicate that the low level of impunity with reference to criminal investigation is persistent. In this context, greater collaboration of the judicial and law enforcement agencies is of utmost importance. A judicial reform, already approved in Albania for 2016, will definitely improve the current situation as regards impartiality and independence of the courts and help fight crime and corruption in the police system.

Recommendations

- Provide transparency of complaints against police officers. Regular reports should be published on the website of the State Police.



- ▶ Because of the complexity of criminal investigations in this area, establish stronger relations between the State police and the Prosecutor's Office.
- ▶ Develop additional training of the State Police on the topics of integrity and the Code of Ethics.



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