

Adoption: 29 October 2020
Publication: 3 December 2020

Public
GrecoEval5Rep(2019)5

FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in
central governments (top executive functions) and
law enforcement agencies

EVALUATION REPORT

ALBANIA



Adopted by GRECO
at its 86th Plenary Meeting (Strasbourg, 26-29 October 2020)



Group of States against Corruption
Groupe d'États contre la corruption

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	4
II. INTRODUCTION AND METHODOLOGY	5
III. CONTEXT	6
IV. PREVENTING CORRUPTION AND PROMOTING INTEGRITY IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)	8
SYSTEM OF GOVERNMENT AND TOP EXECUTIVE FUNCTIONS	8
<i>System of government.....</i>	<i>8</i>
<i>Status and remuneration of persons with top executive functions</i>	<i>10</i>
<i>Integrity checks.....</i>	<i>11</i>
<i>Remuneration and other advantages.....</i>	<i>12</i>
ANTICORRUPTION AND INTEGRITY POLICY, REGULATORY AND INSTITUTIONAL FRAMEWORK	13
<i>Anticorruption and integrity policy.....</i>	<i>13</i>
<i>Legislative framework</i>	<i>14</i>
<i>Code of conduct.....</i>	<i>15</i>
<i>Awareness</i>	<i>16</i>
TRANSPARENCY AND OVERSIGHT OF EXECUTIVE ACTIVITIES OF GOVERNMENT	17
<i>Transparency of the law-making and budgetary process.....</i>	<i>17</i>
<i>Access to information</i>	<i>18</i>
<i>Third parties and lobbyists.....</i>	<i>19</i>
<i>Control mechanisms</i>	<i>20</i>
CONFLICTS OF INTEREST	21
PROHIBITION OR RESTRICTION OF CERTAIN ACTIVITIES	23
<i>Incompatibilities, outside activities and financial interests</i>	<i>23</i>
<i>Contracts with state authorities</i>	<i>24</i>
<i>Gifts</i>	<i>24</i>
<i>Misuse of public resources.....</i>	<i>25</i>
<i>Misuse of confidential information</i>	<i>25</i>
<i>Post-employment restrictions.....</i>	<i>25</i>
DECLARATION OF ASSETS, INCOME, LIABILITIES AND INTERESTS.....	25
<i>Declaration/disclosure requirements</i>	<i>25</i>
<i>Review mechanisms.....</i>	<i>26</i>
ACCOUNTABILITY AND ENFORCEMENT MECHANISMS.....	27
<i>Non-criminal enforcement mechanisms.....</i>	<i>27</i>
<i>Criminal proceedings and immunities</i>	<i>28</i>
V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES.....	30
ORGANISATION AND ACCOUNTABILITY OF LAW ENFORCEMENT/POLICE AUTHORITIES.....	30
<i>Overview of various law enforcement authorities.....</i>	<i>30</i>
<i>Organisation and accountability of selected law enforcement authorities.....</i>	<i>31</i>
<i>Access to information</i>	<i>33</i>
<i>Public trust in law enforcement authorities</i>	<i>34</i>
<i>Trade unions and professional organisations.....</i>	<i>34</i>
ANTI-CORRUPTION AND INTEGRITY POLICY, REGULATORY AND INSTITUTIONAL FRAMEWORK	35
<i>Anti-corruption and integrity policy.....</i>	<i>35</i>
<i>Risk management measures for corruption prone areas</i>	<i>35</i>
<i>Handling undercover operations and contacts with informants and witnesses.....</i>	<i>36</i>
<i>Ethical principles and rules of conduct</i>	<i>36</i>
<i>Advice, training and awareness.....</i>	<i>37</i>
RECRUITMENT, CAREER AND CONDITIONS OF SERVICE	38
<i>Recruitment requirements.....</i>	<i>38</i>
<i>Appointment procedure and promotion to a higher rank</i>	<i>38</i>
<i>Performance evaluation</i>	<i>39</i>
<i>Rotation.....</i>	<i>42</i>
<i>Termination of service and dismissal from office</i>	<i>42</i>
<i>Salaries and benefits.....</i>	<i>42</i>

CONFLICTS OF INTEREST	43
PROHIBITION OR RESTRICTION OF CERTAIN ACTIVITIES	43
<i>Incompatibilities, outside activities and financial interests</i>	<i>43</i>
<i>Gifts</i>	<i>43</i>
<i>Third party contacts, confidential information</i>	<i>44</i>
<i>Post-employment restrictions.....</i>	<i>45</i>
DECLARATION OF ASSETS, INCOME, LIABILITIES AND INTERESTS.....	46
<i>Declaration requirements.....</i>	<i>46</i>
<i>Review mechanisms.....</i>	<i>46</i>
OVERSIGHT AND ENFORCEMENT.....	46
<i>Internal oversight and control, disciplinary proceedings.....</i>	<i>46</i>
<i>External oversight and control.....</i>	<i>47</i>
<i>Complaint system</i>	<i>48</i>
<i>Reporting obligations and whistleblower protection</i>	<i>48</i>
<i>Criminal proceedings and immunities</i>	<i>50</i>
<i>Statistics</i>	<i>50</i>
VI. RECOMMENDATIONS AND FOLLOW-UP.....	51

I. EXECUTIVE SUMMARY

1. GRECO assesses the legal framework for preventing corruption among persons entrusted with top executive functions (PTEFs) and the State Police in Albania as being comprehensive but somewhat disjointed and overly complex. The focus should now be put on its overall coherence and effective implementation, on improving the capacity of the bodies responsible for its enforcement and on adopting a proactive approach to investigations. A handbook compiling the different standards and regulations, offering guidance on PTEFs and police staff's obligations and on the role of each body responsible for enforcement would facilitate the actual application of the rules and effective supervision.

2. The Inter-Sectorial Strategy against corruption and the Action Plan for its implementation foresee the adoption and implementation by each ministry of an Integrity Plan. However, these plans have not been drafted yet. GRECO calls for their swift adoption and for taking into account the specific integrity risks that ministers and their political advisers may face in the exercise of their duties.

3. A Ministerial Code of Ethics was adopted in 2013 but GRECO doubts whether it is applied in practice and whether the Ethics committee it foresees is in operation. It recommends addressing this gap and coupling the measures to be adopted with systematic awareness-raising activities on integrity-related matters for all PTEFs, including political advisors. Particular attention should be paid in this context to clear post-employment rules and their enforcement. The general framework for declaring private interests, both regularly during the exercise of functions and on a case-by-case basis, has been set up. However, there are no examples of PTEFs having been obliged to withdraw from a specific file or discussion because of an ad hoc conflict of interests, which casts doubts on the efficacy of the system in practice.

4. The High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) is responsible for receiving and reviewing asset and interests' declarations by PTEFs and police staff. For efficiency's sake, the e-platform for declaring and publishing these declarations must become operational as soon as possible and HIDAACI must improve its monitoring capacity and procedures. In turn, the cases forwarded by HIDAACI to the prosecution service need to be given proper follow-up. This calls for the effective functioning of the Special Anticorruption Prosecutor (SPAC) and the establishment of effective cooperation with HIDAACI.

5. As regards the State Police, a specific concern lies with the current transitional vetting. It is likely to result in a significant number of qualified staff leaving the force, making the exercise of core police functions difficult. The fairness and effectiveness of the process are also in question, as it does not adequately capture all possible integrity risks. It should, therefore, be replaced with regular integrity checks over the course of the careers of police staff. Adequate post-employment rules also need to be reviewed in this context.

6. A critical concern regards the current practice that the State Police may receive private donations and sponsorship, which – if such a practice should be allowed at all – need to be strictly regulated to limit any risk of corruption and conflicts of interest. Similarly, the possibility for the Police to provide additional services in return for payment needs to be strictly regulated.

7. Politicisation in the Albanian Police is also an issue of concern. In order to reduce it, measures must be taken to increase the stability of top managers in their positions, irrespective of political changes in the country and the middle management positions ought to be appointed by the General Director of the State Police as opposed to the Minister of the Interior. Ethical rules must be complemented with practical guidance, as well as awareness, training and counselling measures – including as regards whistleblower protection, in order to increase trust in the system.

II. INTRODUCTION AND METHODOLOGY

8. Albania joined GRECO in 2001 and has been evaluated in the framework of GRECO's First (in April 2002), Second (in October 2004), Third (in November 2008) and Fourth (in October 2013) Evaluation Rounds. The resulting Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website (www.coe.int/greco). This Fifth Evaluation Round was launched on 1 January 2017.¹

9. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of Albania to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the actors concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of Albania, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, Albania shall report back on the action taken in response to GRECO's recommendations.

10. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Albania from 18 to 22 November 2019, and reference was made to the responses by Albania to the Evaluation Questionnaire (Greco(2016)19), as well as other information received, including from civil society. The GET was composed of Mr Adnan DLAKIĆ, Expert Adviser for Combating Corruption, Ministry of Security, Department for Combating Organised Crime and Corruption (Bosnia and Herzegovina), Ms Anca JURMA, Councillor of the Chief Prosecutor, National Anti-corruption Directorate, Prosecutor's Office attached to the High Court of Cassation and Justice (Romania), Mr Aleksejs LOSKUTOVS, Former head of the Corruption Prevention and Combating Bureau (KNAB) (Latvia), and Mr Björn THORVALDSSON, Public Prosecutor, Head of the Economic Crimes Prosecution, District Prosecutor's Office of Reykjavik (Iceland). The GET was supported by Mr Stéphane LEYENBERGER and Ms Sophie MEUDAL-LEENDERS from GRECO's Secretariat.

11. The GET interviewed representatives of the Prime Minister's Office, the Ministry of Justice, the Ministry of Finance, the Department of Public Administration, the General Directorate of State Police, the Internal Affairs and Complaints Service and the External Evaluation Commission for the State Police. It also met representatives of Parliament, the Ombudsman, the Supreme State Audit, The High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest, the General Prosecutor's Office, as well as academics and representatives of NGOs and media.

¹ More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's [website](http://www.coe.int/greco).

III. CONTEXT

12. Albania has been a member of GRECO since 2001 and has undergone four evaluation rounds focusing on different topics related to the prevention and fight against corruption. At the closure of the compliance procedures, 93 % recommendations of the first, second, third and fourth evaluation rounds had been fully implemented. The compliance procedure in respect of the fourth evaluation round covering members of parliament, judges and prosecutors was terminated on 25 September 2020, with one out of ten recommendations remaining partly implemented.

13. The level of corruption remains high in Albania. According to the corruption perception index published by Transparency International, Albania occupied the 106th rank out of 180 countries in 2019, whereas it was 99th in 2018, 91st in 2017 and 83rd in 2016. Overall, corruption is prevalent in many areas of public and business life and remains an issue of concern. It challenges public trust in public institutions and political life.

14. On 25 March 2020 the Council of the European Union decided to open accession negotiations with Albania - subject to endorsement by the Council members in the intergovernmental conference. The Council stressed that prior to the first intergovernmental conference, Albania should inter alia ensure transparent financing of political parties and electoral campaigns, ensure the continued implementation of the judicial reform and finalise the establishment of the anti-corruption and organised crime specialised structures and further strengthen the fight against corruption and organised crime².

15. There is in Albania strong awareness at political level of the need to effectively address corruption. Under the pressure in particular of the European Union and the Council of Europe – within the framework of Joint Programmes and GRECO’s reports - a number of measures have been taken in the last years to reduce corruption in the country. The Albanian Constitution was amended in 2012 to restrict the immunity of politicians, public officials and within the judiciary. A full set of laws has been adopted since 2011 to strengthen the integrity of the public sector, prevent and fight corruption, as well as a new Action plan 2018-2020 for the implementation of the Inter-sectoral Strategy against Corruption. A Code of Conduct for Members of Parliament and a Ministerial Code of conduct have been adopted. The establishment of an Anti-corruption Task Force is due to increase the proactivity of administrative investigations.

16. Some high-level state officials have been convicted for corruption offences (including judges, prosecutors, and a former secretary general of the Ministry of Justice)³. However, concrete enforcement of this overall framework still needs to be increased. “Success stories” in combatting corruption which would increase public trust in the system are lacking. Procedures for establishing the specialised anti-corruption bodies, composed of the Special Anti-Corruption and Organised Crime Structure (SPAC), the National Bureau of Investigation (NBI), and the Court to address high-level corruption have been finalised⁴.

17. Several cases involving politicians have hit the headlines, for instance on corruption and drug-smuggling allegedly used for financing electoral campaigns⁵, money laundering and

² <https://data.consilium.europa.eu/doc/document/ST-7002-2020-INIT/en/pdf>

³ <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>

⁴ This information was given by the Albanian authorities after the on-site visit.

⁵ <http://en.rfi.fr/wire/20190618-courts-cannabis-corruption-albania-struggles-against-old-demons>

falsification of state documents⁶ and payment of lobbying contracts through offshore companies⁷. A British journalist was targeted by a smear campaign in March 2019 following her articles about corruption, vote rigging, violence at protests and the government's links to organised crime and money laundering⁸.

18. The political situation in Albania remains tense. In March 2019, thousands of Albanians protested to demand the resignation of the Prime Minister's government and called for snap elections, pointing out inter alia corruption, the rising cost of education, alleged vote buying at the 2017 elections and accusations of government links to organised crime. Having previously boycotted Parliament, opposition parliamentarians gave up their mandates completely, prompting criticism from the European Union and the United States of America. Serious tensions continue between the Government and the President of the Republic. The President cancelled and postponed the June 2019 elections, which led the Venice Commission to conclude that the President had "exceeded his competences under the Constitution"⁹. The issue of appointment of constitutional judges has also led to tensions between the Government and the President, and the Constitutional court has not been set up so far. The Enquiry Parliamentary Committee initiated a procedure against the President of the Republic's actions vis-a-vis local elections, and its scope was later extended to the President's role in nominating Constitutional Court judges. The President of the Republic organised a big rally on 2 March 2020 accusing the ruling majority of violating the constitution. Several international initiatives have been taken in the past months to resume dialogue between the opposition and the majority in Parliament, where the finalisation of the electoral reform and composition of the Constitutional Court have constituted two key priorities - including within the framework of the EU accession process.

19. The judicial reform is complex, involving legislative reforms, a new composition of the main judicial bodies and a vetting process of judges and prosecutors. Significant steps have already been achieved. However, the pace of the judicial reform could be sped up in order not to weaken the judicial control of law enforcement. The vetting process of judges and prosecutors is still going on and the High Court has not been set up so far. The capacity of the administrative court system to deal with the backlog of cases has improved at the first-instance level, but a backlog persists at the appeal-court level since Albania has only one administrative court of appeal. The legislation for protecting the right of citizens to seek compensation is in place, but court cases remain rare due to the public's limited awareness of their rights.

⁶ <https://balkaninsight.com/2019/06/14/albania-opposition-leader-faces-money-laundering-charges/>

⁷ https://www.coe.int/en/web/corruption/bilateral-activities/ukraine/-/asset_publisher/plqBCeLYiBJQ/content/albanian-opposition-leader-accused-of-money-laundering

⁸ https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-4&p_p_col_pos=2&p_p_col_count=3&sojdashboard_WAR_coesojportlet_alertId=45633886

⁹ <https://wires.coe.int/#/news/show/349964>

IV. PREVENTING CORRUPTION AND PROMOTING INTEGRITY IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

System of government and top executive functions

System of government

20. Albania is a unitary and parliamentary Republic. The government, led by the Prime Minister, is the actual holder of top executive authority.

21. The *President of the Republic* is elected for five years by the Assembly and can be re-elected once. S/he may address Parliament, exercise the right of pardon, grant citizenships and honorary decorations and high military ranks. Upon the proposal of the Prime Minister, s/he proceeds to various appointments (diplomats, Director of intelligence services, highest academics) and enters into international agreements. The President of the Republic sets the date of the elections for the Assembly, local authorities, referendae. S/he can request written information from the directors of State institutions and may issue decrees.

22. As agreed by GRECO, a Head of State would be covered in the 5th evaluation round under “central governments (top executive functions)” when s/he actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/regulatory decrees, taking decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions.

23. The GET notes that the functions of the Head of State of Albania are to a large extent of a formal, representative and ceremonial nature and s/he does not actively and regularly participate in governmental functions and does not advise the government on such functions. The President of the Republic takes some decisions on appointments; however, such decisions follow a pre-selection process in which s/he is not involved and the role to propose a candidate for Prime Minister follows the results of elections and has to be endorsed by the National Assembly. It follows that the functions of the President of the Republic of Albania do not fall within the category of “persons entrusted with top executive functions” (PTEFs).

24. Law no. 90/2012 “On the organisation and functioning of state administration” defines the organisation of the state administration, under the responsibility of the Council of Ministers which exercises top executive functions at national level. It is composed of the Prime Minister, and currently one Deputy Prime Minister, 3 ministers of State (without portfolio; 2 men and 1 woman), ministers (7 men and 8 women) and 31 deputy ministers (19 men and 12 women). The Prime Minister and the ministers are the highest state administration bodies. The Council of Ministers determines the main directions of state policy. It can propose laws to Parliament. It takes decisions upon the proposal of the Prime Minister or the respective minister. It issues decisions, instructions and guidelines.

25. The *Prime Minister* represents the Council of Ministers and chairs its meetings. S/he outlines and presents the main directions of state policy and is responsible for them. S/he ensures the implementation of legislation and policies, coordinates and supervises the work of the ministers and other institutions of the central state administration. The Prime Minister resolves disagreements between ministers. Three Departments involved in integrity issues have been set up within the Office of the Prime Minister: The Department of Good Governance, which works in

close cooperation with the Cabinet, the Legal Department and the Department of Transparency and Anticorruption.

26. Law no 9000/2003 "On the Organisation and Functioning of the Council of Ministers" provides that the Office of the Prime Minister is the public legal entity that supports the activity of the Council of Ministers, the Deputy Prime Minister and the ministers of State. It includes the apparatus of the Council of Ministers, the cabinet of the Prime Minister, the cabinet of the Deputy Prime Minister and the cabinet of the ministers of State. The structure and organic personnel structure of the Office are determined by order of the Prime Minister, upon the proposal of the General Secretary.

27. The *minister* directs, under his/her responsibility, actions under his/her powers. S/he issues orders and instructions. S/he exercises other duties entrusted by the Council of Ministers or by the Prime Minister. The Ministry carries out all administrative functions within the respective scope of state responsibility, except those explicitly delegated to specific institutions or autonomous agencies. The scope of activity is determined by a decision of the Council of Ministers, upon the proposal of the minister.

28. Ministries are public legal entities, represented and led by the minister, which support the activity of the ministers. Ministers are responsible before the Council of Ministers and the Assembly for the whole activity of the ministry, the dependent institutions and autonomous agencies. Ministries and dependent institutions may have territorial branches. Ministers may delegate their authority to political functionaries and senior civil servants for the fulfilment of functional duties¹⁰. Deputy ministers replace the ministers according to the Code of Administrative Procedure. They are part of the administrative hierarchy only when they replace the ministers.

29. Each member of the Council of Ministers has the right to present his/her opinion at the meeting of the Council of Ministers and to exercise the right to vote for draft acts. Once decisions have been taken, they should refrain from any expression of disagreement and advocate for or support the decisions, whether or not they attended the meeting or whether they voted for or against them. Estimates, debates and reports remain confidential.

30. The exercise of the discretionary power of members of the Council of Ministers is organised by law¹¹. When exercising discretionary powers, administrative acts must be explicit and include the reason for exercising discretion.

31. Decision of Council of Ministers no. 893/2014 provides for the organisation and functioning of *cabinets*, which support the ministers. They are not part of the hierarchical structure of the ministry. Cabinet officials do not exercise managerial or administrative competences over ministerial staff. They are composed of the Director and advisors (maximum 9, including the Director and secretaries – no more than 2 secretarial staff). *Political advisors within the cabinets* (hereafter "political advisors") advise the ministers on public policies and subsequent implementation decisions. They have relationships with the ministries' administration as they can request information from the respective directorates on day-to-day activities and issues of particular importance to ensure functioning relationships and cooperation between the directorates, as well as proper articulation between the management functions of the minister and the ministry's structures. Political advisors also cooperate with the directorates regarding procedures and legal deadlines in the exercise of administrative activity. Therefore, they are considered as PTEFs in the sense of this report.

¹⁰ Law no. 90/2012, "On the Organisation and Functioning of the State Administration".

¹¹ Law no. 44/2015, "Code of Administrative Procedures".

32. In addition to political advisors, only the Prime Minister can have external advisors. Such advisers are not employed full time within the cabinet but are appointed on an *ad-hoc* and personal basis and work part-time or on a given topic for advising the Prime Minister. Some of them can work *pro bono*. They can be foreign advisors. The GET considers that external advisors are to be considered as PTEF in the sense of this report, as they participate in decision-making regarding public policies. Such external advisors are comprised in the terms “political advisors” used in the paragraphs and recommendations below.

33. The *General Secretary of the Council of Ministers* is the highest civil servant of the Council of Ministers¹². S/he organises and assists in the proper conduct of meetings of the Council, follows and verifies the process of decision-making until the acts take legal effect, prepares programmes of activity of the Council, directs its apparatus, administers the budget and is the head of the procurement entity of the Office of the Prime Minister. The GET considers that the General Secretary is a high-level civil servant and it recalls that civil servants have already been evaluated within the framework of GRECO’s Second Evaluation Round. Therefore, the Secretary General of the Council of Ministers, as well as *secretaries general within individual ministries*, who head the administrative structures of the ministries, do not fall within the category of PTEFs for the purposes of this report.

Status and remuneration of persons with top executive functions

34. The *Prime Minister* is appointed by the President of the Republic on the proposal of the party or coalition of parties that have the majority of seats in the Assembly (Article 96 of the Constitution).

35. The *Government* is elected by the Assembly (majority of members) on the basis of the Prime minister’s proposal. Ministers are dismissed by the President of the Republic, upon proposal of the Prime Minister, within 7 days. Deputy Ministers are appointed and released from office by the Council of Ministers, upon the proposal of the Prime Minister. Members of the Council of Ministers may at the same time be members of Parliament.

36. The *ministers* are responsible before the Council of Ministers and the Assembly for the whole activity of the ministry, as well as of the institutions and autonomous agencies attached to the ministry, within the respective scope of state activity. The Prime Minister can also ask the responsible ministers for explanations, statements and administrative verifications. S/he can suspend the implementation of the acts of the ministers and directors of central institutions, on his/her own initiative or on the request of interested subjects, when s/he finds violations of the Constitution, the laws, or the acts of the Council of Ministers

37. Meetings of the Council of Ministers are held *in camera*. They are valid when more than half of its members are present.

38. The Prime Minister and any other member of the Council of Ministers must answer to interpellations and questions of the parliamentarians within three weeks. In addition, interpellations on urgent issues may be addressed by the Chair of a parliamentary group (with a maximum of two interpellations per month) or seven members of Parliament (every member can sign a maximum of two interpellations per month), which then appear as the first point on the agenda in one of the week’s plenary sittings. A member of the Council of Ministers can take part in meetings of the Assembly or of its committees; s/he is given the floor whenever s/he requests it.

¹² Law no. 152/2015 “On the Civil Service”

39. The appointment, release or discharge of *political advisors* is done by order of the Prime Minister/ministers, on the proposal of the Head of Cabinet. Political advisors enjoy the status of “political functionaries”. They are not civil servants, they are hired based on the Labour Code, but they are subject to all other rules applied to public administration (Law 90/12 on state administration applies to political advisors), in particular as regards integrity and ethics: they are subject to the decriminalization law (no. 138/2015), to the law on conflict of interest (no. 9367/2005), to Decision no. 714/2004 of the Council of Ministers on external activities and gifts, as well as the Law on the Rules of ethics in the public administration (no. 9131/2003) - see below.

40. Based on Law No 119/2014 “On the right to information” all the institutions have to publish data on the education and qualifications of the political advisors who are subject to the obligation to declare their assets according to the law, as well as a description of the selection procedures applied, their powers and tasks and the procedure they follow to make the decisions.

41. The list of political advisors is public and accessible on the internet. However, the GET noted that such lists do not mention their responsibilities. Since political advisors may be given a wide variety of work by the ministers, may handle confidential information and be part of the political decision-making process, the GET is of the opinion that a wider transparency of their status and competences needs to be ensured. The same rules regarding incompatibilities and prevention of conflicts of interest should be applied to the Prime Minister’s external advisors. **GRECO recommends that, for the sake of transparency, the names of political advisors are published online and that information on their main job and ancillary activities is easily accessible online.**

Integrity checks

42. Criminal offenders are prohibited from being appointed to the public functions of members of the Council of Ministers or of cabinets¹³. The duration of the prohibition is defined by law, according to the offences and the functions concerned. Therefore, the candidates for a PTEF position must complete and sign an integrity self-declaration form, which states the non-existence of causes not to be elected or appointed. The Assembly approves the detailed rules and deadlines for completing, handing over, administering and publishing the self-declaration, as well as taking measures for the implementation of the prohibitions provided by this law. Members of the Council of Ministers must submit their integrity self-declaration forms to the Central Election Commission - if they have not submitted a self-declaration before as candidates to Parliament, while political advisors submit them to the Human Resources Unit in each line ministry and at the Prime Minister’s Office.

43. Specific procedures exist to verify data declared in the self-declaration forms. The bodies entrusted with the verification and the procedure to initiate it vary according to the functions concerned: the members of the Council of Ministers are controlled by the Central Electoral Commission, the forms of the Deputy ministers are checked by the Prime Ministers’ Office, political advisors are subject to the control of the Minister they are working for. The General Prosecutor’s office is also competent for verifying the self-declaration forms. Data protection measures are included in these procedures. Any State body or legal entity, including the courts, has the obligation to cooperate with the bodies entrusted with the verification of data. Non-cooperation or refusal to cooperate in the verification process constitutes a criminal offence. If the self-declaration forms are considered incomplete, they are returned with a new five-day deadline to complete them. If the person concerned fails to submit the completed self-declaration form, it is considered that the form has not been submitted. False self-declarations are subject to

¹³ Article 3 of Law no. 138/2015.

criminal sanctions. According to the information given to the GET, no cases concerning PTEFs have been addressed to the Prosecutor office so far.

44. Self-declarations may be made public, in full, at any time at the request of interested parties, according to the Law on public information. The request for obtaining information from the self-declaration forms may not be refused or limited - refusal or restriction to disclose such information constitutes a criminal offence. Some ministers have made public on their websites the self-declarations of the political advisors, however, the GET points out that it does not seem that this practice has been followed by each ministry. The GET encourages the Albanian authorities to envisage such systematic publication.

Remuneration and other advantages

45. The salaries of the Prime Minister and ministers are calculated based on law¹⁴. The salaries of deputy ministers and political advisors are defined in a Decision of Council of Ministers¹⁵. The levels of monthly remuneration are the following (gross / net):

- Prime Minister: ALL 228 730 (€1 810)¹⁶ / ALL 171 091 (€1 355).
 - Deputy Prime Minister: ALL 187 610 (€1 486) / ALL 141 772 (€983).
 - Director of Prime Minister's Cabinet: ALL 162 900 (€1 290) / ALL 124 154 (€982).
 - Advisor to the Prime Minister: ALL 153 300 (€1 213) / ALL 117 309 (€928).
 - Minister: ALL 174 760 (€1 383) / ALL 132 610 (€1 049).
 - Deputy Minister: ALL 153 300 (€1 212) / ALL 117 309 (€928).
 - Director Cabinet of the Minister: ALL 138 540 (€1 096) / ALL 105 639 (€835).
 - Political advisor: ALL 121 100 (€958) / ALL 91 461 (€723).
 - The monthly payment of the Prime Minister's external assistants is up to 40% of Category I-b salary. The amount of payment is determined by the Prime Minister.
- Some of these categories may be granted qualification supplements of ALL 20 000 –30 000 per month if they hold scientific titles.

46. Other benefits are defined by Decisions of the Council of Ministers as follows:

- Ministers, Deputy Ministers, Cabinet Directors, political advisors receive the total/partial reimbursement of mobile telephone expenses.
- Ministers and Deputy Ministers, political advisors to the Prime Minister, Deputy prime ministers receive a payment for attendance at the National Council of Territory meetings.
- The above-mentioned positions also benefit from bonuses between ALL 5 000 (€40) and ALL 20 000 (€160) for participation in boards or various commissions of the central administration, limited to 2 committees/boards.

47. The law defines the monthly financial benefits related to transport expenses for the exercise of the functional duties:

- Prime Minister, Deputy Prime Minister, ministers: available means of transport and driver.
 - Director of the Prime Minister's Cabinet: ALL 35 000 (€276) per month.
 - Advisor to the Prime Minister: ALL 35 000 (€276) per month.
- Other functions do not benefit from such arrangements.

¹⁴ Law No.9584/2006 "On Salaries, Remuneration and Structure of Independent Constitutional Institutions and Other Independent Institutions, Established by Law".

¹⁵ Decision of the Council of Ministers No.187/2010.

¹⁶ The average monthly gross wage during the first quarter of 2019 is ALL 51 531 (€421) per month.

48. All the institutions must publish data on the salaries of the persons subject to the obligation to declare their assets according to the law¹⁷. The allowances are monitored by internal and external audits.

49. The GET notes that some PTEF's salaries, in particular those of political advisors, are relatively low compared to the average monthly wage in Albania, which remains a difficulty when it comes to preventing corruption

Anticorruption and integrity policy, regulatory and institutional framework

Anticorruption and integrity policy

50. In 2018, Albania adopted the Action Plan 2018-2020 for the implementation of the Inter-Sectorial Strategy against Corruption 2015-2020¹⁸. A Coordination Committee is composed of the Minister of Justice (as National Coordinator Against Corruption - NCAC) and 10 Deputy Ministers (anti-Corruption network at political level). It meets every 4 months to discuss and approve the report monitoring the implementation of the anticorruption strategy. The same year, a Passport of Indicators was adopted, intended to become the main monitoring tool for use by the NCAC and policymakers in order to effectively implement the Strategy.

51. According to the Action Plan, each ministry must draft, adopt and implement its own Integrity Plan. The GET was told that the Albanian Ministry of Justice, as NCAC¹⁹, had recently created a network of anti-corruption coordinators in each public institution. According to the Ministry of Justice, the anti-corruption coordinators are supposed to develop a corruption risk assessment mechanism in each public body, which will identify and assess the occurrence of corruption risks and draft a risk assessment report which will later be used by the Ministry of Justice when drafting periodical national reports. A programme carried out with the technical assistance of UNDP is due to support the preparation of these integrity plans.

52. The GET commends the initiative of the Ministry of Justice and the programme developed with the technical assistance of UNDP as regards the integrity plans. The Integrity Plan and the Methodology for the Integrity Risk Assessment for the central administration of the Ministry of Justice were adopted after the on-site visit, on 7 October 2020. They include rules for PTEFs on their behaviour and actions during the exercise of their functions, taking into account the existing integrity-related rules. The plan and methodology are published on the Ministry's website²⁰.

53. However, such Integrity Plans have not been drafted yet for other ministries. The integrity plans are supposed to be based on an anticorruption risk assessment that should identify the major corruption risk factors. Risk management is due to be managed by every public unit - Albania counts 120 audit units with 400 auditors. As of November 2019, the only risk assessment performed at the level of the public entities is done on the basis of Law no. 10296/2010 "on Financial management control", as well as of the "Manual for Financial Management and Control" adopted by order of the Minister of Finances in 2016. According to the representatives of the Ministry of Finance met by the GET, the current risk assessment mechanism developed on the basis of Law no. 10296/2010 does not include the identification and monitoring of corruption risks.

¹⁷ According to Law No 119/2014 "On the right to information".

¹⁸ The Action Plan on anticorruption 2020-2023 has entered into force on 1 July 2020, including 84 measures regarding a preventive approach, a punitive approach and public awareness and education. The GET has not been able to analyse it.

¹⁹ Decision of Council of Ministers no. 506/2017.

²⁰ www.drejtesia.gov.al

In addition, the GET notes that these integrity plans will have to include rules on preventing corruption of the PTEFs. The draft plan elaborated within the Ministry of Justice, which also involves the assessment of the ethical behaviours of the Minister, Deputy Minister, Chief of Cabinet and political advisors, could serve as an example for other ministries.

54. GRECO recommends that i) concrete integrity plans be adopted and implemented within all ministries, including a systematic analysis of integrity-related risks that ministers and political advisors might face in the exercise of their duties and monitoring and compliance mechanisms and ii) that appropriate remedial measures aimed specifically at PTEFs be designed and implemented.

Legislative framework

55. In Albania the anti-corruption and integrity legislation and framework is comprehensive, but rather complex. Many pieces of legislation have been adopted for different aspects of the prevention and the fight against corruption and several institutions have a role in implementing them, while since 2018 the Ministry of Justice has acquired the role of national anti-corruption coordinator. Law no. 9367/2005 “on the prevention of the conflicts of interest in the exercise of public functions”, defines the rules, means, procedures, responsibilities and competencies for the identification, declaration, registration, treating, resolution and punishment of cases of conflicts of interest, applicable to all public officials, including PTEFs. Decision of the Council of Ministers no. 714/2004 “on external activities and gift giving during the activities of public administration employees” is also applicable to all public administration employees. This framework is completed by Law no. 9049/2003 “on the Declaration of Assets”, Law no 138/2015 “on guaranteeing the integrity of persons elected, appointed or exercising public functions” (so-called decriminalisation law), plus the laws and decisions adopting rules of ethics, such as Law no. 9131/2003 “on the Rules of ethics in public administration”, Decision no. 830/2013 “on the Ministerial Code of Conduct” and Decision no. 61/2018 of the Assembly “on the Code of conduct of the deputies of the Assembly”.

56. The GET appreciates this comprehensive and ambitious legal framework which covers the most important aspects of the fight against corruption. The focus should now be put on its overall coherence and the effective implementation of these norms, on improving the capacities of the bodies responsible for their enforcement and on adopting a proactive approach to both administrative and judicial control. Some interlocutors considered that the various norms are somewhat scattered and difficult to work with by all the relevant stakeholders. There is a concern that not all the subjects of this legislation are properly aware of the norms they need to apply.

57. For instance, it was rather difficult for the GET to find out what are the respective roles and responsibilities of the various bodies entrusted with the control of the self-declarations made by PTEFs on their private interests.

58. The complexity of the system is said to be the reason for wavering in procedures which are not always concluded. There is no “success story” to highlight as regards the supervision of PTEFs’ integrity. This weakens public trust in the whole anticorruption system.

59. A more coherent presentation and articulation of the existing set of norms aimed at guaranteeing PTEFs’ integrity would make it easier for PTEFs, for the public authorities entrusted with supporting and monitoring their application and for the public at large to get an overview of the applicable rules. This would facilitate a concrete application of these norms in a smoother way,

efficient supervision of them and, where appropriate, effective application of sanctions for violations.

60. Therefore, **GRECO recommends to harmonise and increase the inherent coherence of the legal and institutional framework on the fight against corruption and integrity of public officials, in particular as regards PTEFs, for instance by compiling the norms and regulations into a handbook and providing guidance on the obligations of each category and on the role of each responsible body.** This is also relevant for the State police.

Code of conduct

61. The replies to the questionnaire refer to the Code of Conduct for parliamentarians²¹, which applies to the Prime Minister, the Deputy Prime Minister and the ministers when they are at the same time members of Parliament. It contains rules on conduct during the parliamentary and non-parliamentary activities. It applies to all aspects of a parliamentarian's public life and defines the general principles of ethics, including a duty to avoid conflicts of interest with the office and not use the position for personal interest²². The Code was completed in September 2018 by a Handbook on conduct in Parliament approved by the Parliament Bureau. However, outside the sessions or committees of Parliament, this code does not concern members of the Council of Ministers who are not at the same time parliamentarians, or political advisors.

62. A Ministerial Code of Ethics was approved by the Council of Ministers in 2013, based on the above-mentioned legislation²³ and providing in particular detailed rules on transparency and accountability, conflicts of interest, prohibited acts related to personal integrity, use of public property, law-making process, incompatibilities and limitations, acceptance of gifts and other favours, post-employment restrictions.

63. The Code sets up an Ethics Commission to be established by an order of the Prime Minister. However, the GET has been able to assess neither this Order nor the composition of the Commission and the way it has been appointed. The Ethics Commission can initiate a case for possible violation of the Code of Ethics based on information made available by the media, complaints or any other lawful source and interpret the Code and the legal norms governing the conduct of members of the Council of Ministers. A member of the Council of Ministers can request an advisory opinion on conduct or actions to be followed in the performance of his/her duties - this interpretation may be used by the PTEF within the framework of disciplinary proceedings but is not binding in the framework of other similar cases. The Ethics Committee can propose to the Council of Ministers amendments to the Code.

64. The Code provides for disciplinary measures for violation of the Code. They are applied by the Prime Minister, informed through a written act by the Ethics Commission concluding that the Code of Ethics has been violated.

65. On the face of it, and provided that the Ethics Commission operates effectively and that its composition guarantees its fairness, the Ministerial Code of Ethics appears to the GET to be a pertinent instrument for promoting integrity among the members of the Cabinet, with the exception of the Prime Minister. Indeed, the GET points out that no provision is made for the case in which the Prime Minister him/herself would violate the Code, as s/he is entrusted with the application of the disciplinary measures.

²¹ Assembly Decision no 61/2018

²² See GRECO's Reports for the Fourth Evaluation Round.

²³ See para. 53 above.

66. However, the GET points out that this Code was not mentioned in the replies to the assessment questionnaire, among the main references of the regulatory framework, and was only anecdotally referred to in the course of the interviews held on site. No information was provided as regards the functioning of the Ethics Commission and the outcome of its work. The law professors met by the GET were not aware of the existence of this Code. Therefore, the GET wonders whether this essential text, published in the Official Journal in September 2013, is actually brought to the knowledge of members of the Council of Ministers and properly applied, and whether the Ethics Commission regularly meets, examines cases and takes disciplinary decisions.

67. It was confirmed to the GET by the authorities that political advisors were covered by the rules applied to public employees as defined in particular in Law 9131/2003 “On the rules of ethics in public administration” and others laws (see para. 38 above). However, as in the case of ministers, no information on the practical implementation of the normative framework was provided to the GET, for example on how often the personnel units of the public administration institutions receive in practice requests by the political advisors for advice in case of ethical dilemmas or how many violations of the normative framework they have ascertained.

68. GRECO underlines the need to support both members of the Council of Ministers and political advisors in achieving the integrity standards and, at the same time, to make the public aware of the conduct they can expect of them. Therefore, **GRECO recommends that i) the existing Ministerial Code of Ethics be complemented with concrete guidance for its implementation regarding conflicts of interest and other integrity-related matters (e.g. gifts, third party contacts, lobbying etc); ii) the effective functioning of the Ethics Commission, or any other credible mechanism of supervision and sanctions, be ensured, including with respect to the Prime Minister, and iii) the ethical rules be complemented by illustrative examples and enforcement mechanisms for political advisors.**

Awareness

69. Training and awareness-raising programmes and activities for promoting integrity and preventing conflicts of interest and corruption, aimed at high-level public officials of the central government administration, are organised by various bodies, in particular the Ministry of Justice, the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) and the Albanian Public School of Administration. Since September 2016, Albania has implemented a 3-year EU funded Twinning Project: “*Support to the formulation, coordination and implementation of Anti-Corruption policies*”. However, it seems that such training and awareness-raising programmes do not concern the members of the Council of Ministers and the political advisors. According to information gathered by the GET, some of them have on occasion participated in some of these activities but a systematic training programme, aimed at PTEFs, has not been set up yet. Such a programme should include proper training on the existing Ministerial Code of Ethics and the anti-corruption and integrity legislation and framework.

70. Furthermore, the GET notes that individual and confidential counselling to PTEFs on integrity-related issues, conflicts of interest, etc. is lacking. Indeed, the legal amendments of 2014 introduced a division of powers between HIDAACI and the responsible authorities in public institutions as regards direct support, training and advice to officials subject to the duty to declare private interests and assets. Consequently, HIDAACI only conducts training for the responsible authorities and not for individual officials who should get such assistance from their respective authorities. Units in charge of counselling public administration on integrity-related matters are due to be established in each institution, including the Prime Minister’s Office and the ministries. It seems that such institutions do not function effectively and regularly.

71. **GRECO recommends that members of the Council of Ministers and political advisors be subject to systematic awareness raising on integrity-related matters, including the Ministerial Code of Ethics and the anti-corruption and integrity legislation and framework, via regular training, dedicated guidance and confidential counselling.**

Transparency and oversight of executive activities of government

Transparency of the law-making and budgetary process

72. The ministers can take decisions of a normative nature (by-law acts), decisions of an individual nature (sub-legal acts), decide on guidelines of an explanatory nature and internal rules. Their publication is provided for by law. All draft acts (except those of an individual character) are sent to the Minister of Justice, who assesses the legality of their form and content.

73. In case of urgency the Prime Minister may issue normative acts equal to law, in order to take interim measures that must be approved by the Assembly within 45 days (Article 101 of the Constitution). A specific decision by the Constitutional Court specifies how this procedure can be used²⁴.

74. The procedure for drafting legislation is organised by Law no. 9000/2003 *"On the organisation and functioning of the Council of Ministers"*, from the preliminary assessment by the services of the ministry concerned to the approval by the Council of Ministers. The procedure includes a consultation process (see below).

75. There are rules of confidentiality as regards the debates at the Council. Minutes of meetings of the Council of Ministers are signed by the Secretary General but are not public. After each meeting, the Secretary General drafts a final report on the general issues reviewed at the meeting and this final report becomes public and is easily accessible.

76. The publication of the *budget* of each public institution is organised by the law *"On the right to Information"*. The annual budget is approved by the Assembly on December 15 of the previous year. Following the adoption of the budget law, line ministries detail the funds for the spending units of general government, in accordance with the allocation of budgetary funds, approved by the Minister of Finance and the priorities of the general government units. With the adoption of the Annual budget Law, expenditure by the line ministries and central budget institutions is authorised. Each general government unit is obliged to receive confirmation from the Ministry of Finance, prior to the start of one or several year procurement procedures in order to ensure that the funds which are intended to be procured are within the agreed limits for commitments. In 2020, Parliament set up a subcommittee to monitor the implementation and control of the state budget. Chapter III of Parliament's Regulation defines the procedure for the scrutiny of the state budget and financial bills.

77. There are no official discretionary funds available to PTEF. All the funds available for each institution are distributed based on the Annual Budget Law. Budget funds for extraordinary needs are part of the reserve fund of the Council of Ministers. Transparency in the allocation of such funds is ensured through a Government decision for their use and oversight by the High State Audit.

²⁴ Decision by the Constitutional Court no. 5 dated 05 February 2014.

78. Transparency and supervision of central government activities are provided through the preparation, approval and publication²⁵ of the enacted budget, in-year reports, mid-year reports, year-end reports. The budget monitoring reports on financial performance, products and policy objectives, carried out for each ministry, are submitted quarterly and annually to the Ministry of Finance and published on their website and on the website of the Ministry of Finance and Economy.

Access to information

79. Access to public information is guaranteed by the Constitution²⁶. Information on the conduct expected from PTEFs is made available to the general public, based on the law²⁷. Public sector bodies must implement *institutional transparency programmes*, using websites in particular. Every ministry must publish the basic information on its organisation and functioning on its own web site. Such information must include the organisational structure of the bodies, the relevant norms, the procedures to file an application for information, the appeal procedures against the respective decisions, data on officials (including their salary when subject to the obligation of declaring their assets), description of the selection procedures, powers and tasks of the senior officials, monitoring and controlling mechanisms, budgetary data. There is also a procedure for providing public information upon request, without this request needing to be motivated. Public sector bodies are obliged to inform the applicant whether they hold the requested information or not, and refusals are to be reasoned in writing and are to include instruction on the right to appeal²⁸. Public sector bodies must also create and archive a digital copy of their official internet site.

80. However, according to some of the GET's interlocutors, the scarcity of the information provided by some ministries and the quality of the websites, in terms of content, are not satisfactory.

81. The process of public disclosure and *public consultation on draft laws*, national and local strategic project documents, and policies of high public interest is regulated by Law N° 146/2019 "on public consultation". It is monitored by the Office of the Prime Minister. The Electronic Register for Public Announcements and Consultations makes public all draft laws. Direct consultations and public meetings with interested parties (often civil society) can be set up. Upon completion of the public consultation process, opinions and recommendations are gathered by the public consultation coordinator of the relevant public body in a structured and transparent manner. Their review is carried out by the public body responsible for drafting the act.

82. Apart from this system, Parliament holds public consultations involving stakeholders and civil society (81 hearings on legislative process took place in 2019). The authorities indicate for instance that the Committee on Legal Issues, Public Administration and Human Rights heard 166 representatives of civil society in 2019 and that about 70% of the amendments proposed by stakeholders and civil society had been considered by this Committee.

83. It was confirmed to the GET that the Register had started functioning: 222 acts were published in the period 2017 – 2020, consulted by more than 145 000 visitors. However, the GET was told by some interlocutors from civil society that this system should be used more frequently. For the sake of the efficiency of the consultation process, the usual stakeholders (especially NGOs

²⁵ <http://www.financa.gov.al/al/legjislacioni/buxheti-thesari-borxhi/buxheti>

²⁶ Article 23.

²⁷ Law No 119/2014 "On the right to information"

²⁸ Law no. 44/2015 "Code of Administrative Procedures".

who are specialised in a certain field of activity) would prefer to receive announcements and be involved in the consultation more directly. Moreover, the same interlocutors alleged s that the legal deadline of 20 working days (which can be extended to 40 days if the act is particularly complex or of a particular importance) for consulting on draft laws is not always respected in practice, and that there are situations when the texts are made available to the relevant stakeholders 2-3 days before the deadline or before a consultation meeting is announced.

84. The law provides for the possibility of implementing the public consultation process for some individual or normative administrative acts and makes this process mandatory for bylaws that approve strategic documents. According to the authorities, bylaws are published on the websites of the relevant public authorities. However, a specific concern was expressed by members of civil society with regard to access to secondary legislation. According to the GET's interlocutors, part of the relevant draft secondary legislation is not published and there is no public consultation process in this respect. This may lead to contradictions among the norms. Moreover, some issues covered by bylaws could be of high public interest.

85. Therefore, **GRECO recommends that complementary measures be taken to make the consultation process of the draft primary and secondary legislation of specific public interest more effective for the particularly concerned stakeholders, including through more user-friendly official websites.**

Third parties and lobbyists

86. Accreditation of lobbyists, interest groups and civil society organisations is foreseen at the level of Parliament by the Code of ethics²⁹. However, Albanian legislation does not regulate the contacts of the PTEFs with lobbyists and other third parties seeking to influence the government's decision-making process, nor is there any known legislative initiative to cover this issue. The GET found a perception amongst the representatives of the Government that there is no need to regulate the relations of government members with third parties. The understanding was that, since the Government does not adopt laws, they cannot be influenced by third parties. On the other hand, the members of civil society pointed out the lack of transparency on private sector influence on governmental policies, projects or draft laws and expressed the need for this matter to be regulated. The GET got a clear impression that, in the world of business, direct contacts could easily occur between representatives of private companies wishing to develop their business and government members who are responsible for managing the various sectors of the economy and society, by regulating them, taking decisions that involve budget prioritisation and expenditure, drafting legislation, etc. Also, other types of advocacy groups, representing diverse social needs, not necessarily related to business, may well try to influence government members to promote certain policies for their particular benefits.. In any case, what is important is to provide for transparency of such contacts and avoid the occurrence of conflicts of interests and for this purpose, regulation is required.

87. **GRECO recommends that i) detailed rules on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence governmental legislative and other activities be established and that ii) sufficient transparency be ensured about the purpose of these contacts (formal and informal), the identity of the person(s) with whom (or on whose behalf) the contacts have been taken and the specific subject-matter(s) discussed.**

²⁹ See GRECO's Fourth Round Reports.

Control mechanisms

88. The person or entity that claims the violation of a right or a legitimate interest has the right to *appeal to the Prime Minister*, against the act of a minister or the head of a central institution under the responsibility of the Prime Minister³⁰. The Prime Minister may, at his/her own initiative or upon the request of interested parties, ascertain violations of the Constitution, laws or acts of the Council of Ministers, suspend the implementation of acts of a minister or of a head of a central institution.

89. Article 131 of the Constitution provides that the Constitutional Court decides, *inter alia*, on the compatibility of normative acts with the Constitution and with international agreements; disagreements between governmental powers, as well as between the central government and the local government, and adjudicates the complaints of individuals against any act of public authority that violates the fundamental rights and freedoms guaranteed by the Constitution. Normative acts of the Council of Ministers may be appealed to the *Administrative Court of Appeal*, with the exception of disputes which relate to normative subordinate legal acts that are within the competence of the Constitutional Court³¹. Disputes arising from individual administrative acts, normative legal acts and public administrative contracts falls within the competence of the *administrative courts*³².

90. The *Minister of finances* is responsible for overall coordination, harmonisation and monitoring the internal auditing activity at the public sector units. It is supported by the Public Internal financial Control Board and the structure responsible for harmonising the internal auditing of the Ministry of Finance. The structures responsible for harmonising the internal auditing and the internal auditing units must cooperate with the High State Audit based on the principles of continuous cooperation, commitment, understanding and mutual trust. The Ministry of Finances reports annually to the Government.

91. The main external oversight of the state budget and the effective performance of state bodies is carried out by i) the *High State Audit* which reports annually to Parliament³³ and by ii) the subcommittee, part of the Standing Parliamentary Committee on Economy and Finance established with the only purpose to monitor and control and implementation of the state budget. The High State Audit supervises the economic activity of state institutions, presents to the Assembly a report on the implementation of the state budget and its opinion on the Council of Ministers' report about expenditure and inform the assembly about the results of audits. The audit covers the areas of compliance, legality, regularity, financial management, accounting, and the economy, efficiency and effectiveness of the management of public or state property funds. The High State Audit publishes its audit findings and recommendations³⁴. Moreover, a mechanism that follows how the budget is used in accordance with the recommendation of the High State Audit and through its annual reports has been set up (see also paragraph 94).

92. In addition to its essential role in monitoring individual declarations of assets and private interests (see below), the *High Inspectorate of Declaration and Audit of Assets and Conflict of Interest* (HIDAACI) exercises oversight competences upon the responsible authorities for the

³⁰ Code of Administrative Procedure.

³¹ Article 8 of Law No. 49/2012 "On the organisation and function of administrative courts and adjudication of administrative disputes", as amended.

³² Article 7 of Law No. 49/2012.

³³ Law no. 154/2014.

³⁴ www.klsh.org.al

fulfilment of their duties and responsibilities, in order to improve the performance of the administrative bodies in the exercising of these duties.

93. The *Ombudsman* defends the rights, freedoms and lawful interests of individuals from unlawful acts or omissions of public administration bodies³⁵. S/he can initiate an investigation of individual cases on its own initiative or on request in relation to violations of rights and freedoms or legitimate interests that stem from irregular acts of public administration. The Ombudsman can submit recommendations to the public administration institutions and to address the violations found. In 2018, the Ombudsman addressed 171 recommendations to the public administration bodies (central and local authorities). According to the information gathered by the GET, delayed and inadequate responses remain problematic for the Ombudsman.

94. An *inter-institutional mechanism* composed of 24 constitutional independent commissions monitors central government and provides recommendations through Parliament. An Online Inter-Institutional Platform has been set up to provide information on the level of implementation of the recommendations addressed to the executive power.

95. *Parliament* exercises direct oversight on the members of the Government through the parliamentary control instruments provided for by the Constitution and in the Rules of Procedure of the Assembly, including as regards the prevention and fight against corruption. Parliament can ask parliamentary questions, adopt motions for debate, organise hearings of the members of the Council of ministers or their political advisors and address requests for information to central and public institutions. Parliament is entitled and, at the request of one fourth of its members, is obliged to appoint an inquiry commission to examine special issues³⁶. Their conclusions are not binding but can be notified to the prosecutor's office. The authorities gave the example of an inquiry commission set up in 2016 to investigate the implementation of the privatisation procedures, which concluded that a number of senior officials committed illegal acts and submitted the cases to the prosecutor's office – the case is currently pending before the court of appeal. The authorities also referred to the establishment of two inquiry commissions regarding former ministers to look into integrity related issues in the context of their ministerial duties³⁷. The authorities communicated that these inquiry commissions did not function, due to the resignation of some parliamentarians.

96. The GET notes that parliamentary control procedures have not always been carried through to reach a final decision, as the work of the commissions was, in some cases, cancelled for political reasons (resignation of some MPs for instance). Some interlocutors of the GET underlined that this contributes to challenging public trust in the anticorruption policies. The GET can only conclude that the parliamentary control, as applied, appears rather weak in its present form.

Conflicts of interest

97. Law no. 9367/2005 "*on the prevention of conflicts of interest in the exercise of public functions*" defines the notions of private interest and conflict of interest. The law covers public officials who have direct or indirect private interests that affect, might affect or seem to affect in an incorrect way the performance of their public responsibilities and duties. Restrictions with regard to private interests can also apply to the spouse, cohabitant, adult children, parents of the official and those of the spouse and cohabitant.

³⁵ Article 60 of the Constitution.

³⁶ Article 77 of the Constitution and Article 25 of the Rules of Procedure of the Assembly.

98. The law provides for four occasions on which public officials must file a declaration on private interests. Every official, including PTEFs and some high-level categories of police staff, must fill in a declaration when entering the function, yearly on duty, and when leaving the function. Self-declarations of interests are sent to the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIDAACI). In addition, self-declarations must be made on a case by case basis (ad hoc declarations), when a private interest exists that might lead to a conflict of interests. A case by case declaration must also be done by the public official when requested by his/her superior or the superior institution. Data collected in the declarations are made available to the public – while respecting the legislation on personal data protection. Private interest declarations are due to be published on the website of HIDAACI (www.ildkpkj.al). The system is due to be fully operational in 2021 (see para 119 below).

99. The law provides that a member of the Council of Ministers may not take part in the examination of a matter, if s/he has a personal interest in it, or when serious reasons for bias are confirmed. The request not to participate in the decision-making on the matter under consideration must be submitted, prior to the meeting of the Council of Ministers or directly during the meeting to the Prime Minister by the member of the Council concerned, or by another member of the Council when he/she is aware of a potential conflict of interests. The abstention of a minister from taking part in the decision is to be recorded in the minutes of the meeting. However, the Albanian authorities indicated to the GET that there are no examples of abstentions or announced conflicts of interest recorded in the minutes of the Council of Ministers' meetings. It seems improbable to the GET that no situation of conflicts of interest regarding a member of the Council of Ministers has arisen since the law was adopted in 2005. Therefore, the GET strongly doubts that the law is effectively applied. This could also be evidence that, as mentioned above (see GRECO's recommendation in para 60), the existing legislative framework to prevent and fight corruption among PTEFs exists only on paper and is not properly implemented, resulting in a lack of coherence in the set of norms and a lack of awareness by the stakeholders.

100. GRECO recommends that the abstention of a minister or deputy minister from taking part in a decision of the Council of Ministers because of a potential conflict of interest is actually recorded in the minutes of the Council of Ministers' meetings, as required by law.

101. As the system of initial declaration is a mixed system including also the declaration of assets, the interest declarations include the obligations prescribed by law regarding the disclosure of assets and financial obligations (see below). Declarations are made in principle in writing.

102. The law provides for the procedure and dates when these declarations are verified as well as the sanctions for not declaring or for false declaration. An infringement of the obligations set out in the law, as long as it does not constitute a criminal offence, is an administrative infringement, subject to a penalty/fine, regulated by the Code of Administrative Procedures. The Criminal Code (Article 257) provides a criminal charge in case benefits illegally gained where a conflict of interest existed.

103. Various institutions have powers as regards the handling of declarations: the responsible authority or structure of each public institution, usually the Human Resources Department, has an active role and obligations to collect the declarations made by officials and, within the deadline set by law, to transmit these declarations to HIDAACI. HIDAACI then administers, registers the declarations of private interests and performs the verification and administrative investigations on the submitted declarations. The role of the responsible authorities of each public institution is more important in the handling of case-by-case declarations; in this case, they collect information, verify its credibility and make the information collected in order to control the declarations known

to the persons concerned in order to allow them to react. As regards case-by-case declarations (ad hoc declarations), it is not clear to the GET to what extent the system is applied in practice also to members of the Council of Ministers and to political advisors, as the authorities met by the GET indicated that the Human Resources departments of the various ministries had not registered declarations of case-by-case conflicts of interest.

104. HIDAACI has drafted, approved and published the necessary instructions and orders for the implementation of the legal framework, regarding the declaration and auditing of conflicts of interest. All these materials are easily accessible on the official website of HIDAACI. During the on-site visit, the representatives of HIDAACI told the GET that, as the central authority responsible for the implementation of this law, the High Inspectorate maintains a very close relationship with the responsible bodies - human resources departments - of the public institutions, providing them with specific instructions, advice and training and issuing opinions upon request. It is then up to the responsible bodies to give advice and guidance to the public officials within each institution.

105. The GET notes that the general framework for declaring private interests, both regularly during the exercise of functions and on a case-by-case basis has been set up for members of the Council of Ministers and their advisors. However, there are no concrete examples of PTEFs having been obliged to withdraw from a specific file or discussion because of an ad hoc conflict of interests, which casts doubts on the efficiency of the system in practice.

106. The authorities have not been able to provide a clear picture of how the conflicts of interest provisions are applied in practice by PTEFs, including political advisors, whether they are provided with enough guidance and awareness, especially regarding the instances when they should file a case-by-case declaration and how to react when facing a possible situation of conflict of interest. Some interlocutors expressed the opinion that more guidance on the application of the conflict of interest rules should be provided to them. The GET is convinced that the application of the complex rules on the prevention of conflicts of interest and the disclosure of assets regarding ministers, deputy ministers and political advisors must be facilitated by proper guidance on their practical application. It refers back in this context to its recommendation in paragraph 60.

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

107. According to the Constitution (Article 103), ministers may not exercise any other state function or functions within profit-making companies. Law no. 9367/2005 “On the Prevention of Conflict of Interest in the Exercise of Public Functions” completes this framework and provides for preventing continuous conflicts of interest: ministers and deputy ministers cannot hold management functions in profit-making and non-profit organisations, trade unions or professional organisations or any other organisation, except when required by the function itself. They cannot exercise private activities that generate revenue and cannot own shares or parts of capital of a commercial company with the full exercise of rights deriving from their ownership.

108. Political advisors are full-time employees and subject to the legislation applicable to high level civil servants³⁸. The Council of Ministers specifies the rules for the classification of an outside activity as permissible or not. Political advisors cannot be engaged in outside activities that impede

³⁸ Law No. 9131/2003 “on ethics of public administration”, Law N° 152/2013 “On Civil Servants”, and Decision No. 714/2004 of the Council of Ministers “On the external activities and gift acceptance during the activities of public administration employees” which regulate incompatibilities and outside activities. Law No. 9367/2005 “On the prevention of conflicts of interest in the exercise of public functions” organises limitations or prohibitions as regards ownership of shares or parts of the capital of commercial companies.

the performance of their official duty, that are in contradiction with the purpose and objectives of their official position or that damage the image of the public administration. Moreover, they cannot engage in outside activities if a conflict of interest with their official position would result or appear to result. They cannot exercise private activities that generate revenue and cannot be members of the management organs in profit-making organisations or NGOs active in a sphere that overlaps with their sphere of jurisdiction. They can own, with the full exercise of rights deriving from their ownership, shares or parts of capital of a commercial company when the company is not active in a sphere that overlaps with their sphere of jurisdiction. External activities are in principle allowed in the sphere of teaching, culture, social activities or sport. Political advisors cannot serve as experts before courts or represent natural or legal persons, domestic or foreign organisations without specific authorisation. In any case, the performance of outside activities must be authorised by the hierarchy. Advisors are in principle not compensated for outside activities when these activities are linked to their main duties. They must inform their superior without delay in case of doubt on a possible conflict of interest.

Contracts with state authorities

109. According to Law No. 9367/2005 PTEFs cannot enter into a contract or sub-contract with any public institution when they detain, actively or passively, shares or parts of capital in the institution, when they have fundamental competence in the decision-making process in the evaluation of the providers and the offers and the determination of the terms of the contract, or other private interests. Exclusions from the prohibitions are foreseen in exceptional cases - when required by the function, controlled by HIDAACI and made public. These rules also apply to any person in relation to whom the official has an interest.

Gifts

110. The Ministerial Code of ethics includes a general prohibition on the members of the Council of Ministers from receiving gifts, favours, promises or preferential treatment in relation with their official duty, and provides for specific exceptions from this rule. Gifts of a symbolic character, as defined by law and by the Code, are excluded from this rule. The same Code contains rules on how to react in case of doubt (seek advice of the Ethics Committee or HIDAACI) and provides for the recording of the received gifts in a register kept by the Secretary General of the relevant ministry. The responsible institutions are not obliged to publish information on the gifts.

111. The GET was assured that the rules³⁹ applying to public officials as regards management of gifts also apply to political advisors. They contain a chapter on offers, gifts and favours which includes a definition of gifts and rules on prohibited as well as admissible gifts. An employee may hold permissible gifts without being obliged to declare them if they do not exceed the value of ALL 10 000 (€80). They cannot accept money in any case. In case of doubt, the value of a gift is assessed by the Human Resources unit of the institution where the official is on duty, and those worth more than ALL 10 000 are sent to the inventory unit. Law N° 152/2013 “On Civil Servants” provides for disciplinary measures in case of direct or indirect benefit, in the form of gifts, favours, promises or preferential treatments. In the GET’s view, the normative framework on gifts seems appropriate. However, it would be beneficial for PTEFs to receive further guidance on the issue of gifts, given that the line between prohibited and admissible gifts is not always easy to draw and compliance with these provisions is not easy to supervise. To that extent, the GET refers to recommendation iii (paragraph 68).

³⁹ Decision no. 714/2004 of the Council of Ministers on external activities and gift giving during the activities of public administration employees, adopted pursuant to the Law no. 9131/2003 on the rules of ethics in public administration.

Misuse of public resources

112. The Criminal Code defines a framework and subsequent sanctions for preventing PTEFs from exercising unlawful influence, misusing public money or public property in return for direct or indirect benefits, including within the framework of election campaigns.

Misuse of confidential information

113. The Ministerial Code of ethics, as well as a set of legislation - Law "on civil servants", Law "on the rules of ethics in the public administration", Labour Code, Administrative Procedure Code - define the framework to prevent PTEFs from misusing confidential information.

Post-employment restrictions

114. The Ministerial Code of Ethics (Article 37) organises the limitations for members of the Council of Ministers upon leaving their public office. They cannot be appointed to leading positions or be involved in the control of commercial, public or private companies for one year if, during the 2 years prior to the completion of their public office, they have been directly implicated in the commercial activity of these companies. The Ethics Commission can issue a formal written decision as regards exceptions to these limitations. However, the GET recalls its concerns about the concrete application of this Code and the effective functioning of the Ethics Commission (see para. 61 and following above).

115. The GET was not given clear information about post-employment restrictions for political advisors. The only legal rules in this field seem to be enshrined in Law 9131/2003 "on the rules of ethics in the public administration" which provides that public administration employees (which, according to the authorities, referring to article 2 of the Law, include political advisors) must not use the information obtained during the exercise of their duty for personal interest. For a 2 year period, after his/her release from duty, an ex-employee should not represent any person or organisation in a dispute or in trade relations with the public administration, related to the job s/he was performing or in line with it. The GET finds that these rules should be made more explicit as regards a prohibition from being hired in specific sectors during a certain time when a link can be established between the activities previously carried out by the political advisor and the activities of the given sector. A clear legal framework on post-employment restrictions for political advisors would strengthen the set of rules guaranteeing their integrity. Such rules should include monitoring mechanisms, both as regards ministers and advisors, to ensure the effectiveness of the prohibition system.

116. Therefore, **GRECO recommends ensuring that explicit rules on post-employment restrictions apply both to members of the Council of Ministers and to political advisors and that an effective enforcement mechanism regarding these rules is implemented for all PTEFs.**

Declaration of assets, income, liabilities and interests

Declaration/disclosure requirements

117. The declaration of assets and private interests is regulated by Law no. 9049/2003 "On the declaration and audit of assets, financial obligations of elected persons and certain public officials". PTEFs, as well as police employees, must declare their assets to the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) when entering the function (within 30 days), every year (by 31 March) while exercising the function, and when leaving the function (within 15 days).

118. PTEFs must declare all accumulated assets, immovable and movable properties, gifts worth more than ALL 10 000, financial liabilities and other interests, as well as engagement in activities that generate revenue. The declaration must include the assets of the PTEFs and their close family (husband/wife, cohabitant and adult children). When the property of members of the family is divided and registered as such in the bodies of the state or judicial administration, the declaration must be submitted separately by each member of the family. Officials (and their close family members) are liable for the authenticity and accuracy of the data declared. The declarations must be reflected in an official record and published on HIDAACI's website (www.ildkpkj.al).

119. The setting-up of an e-platform has been supported by the European Union and other international donors so that PTEFs can declare their assets and private interests to HIDAACI electronically. However, this platform is due to be operational only in 2021. According to the authorities met by the GET, the pilot phase was about to be finalised so that it could become operational in the course of 2020: the software is already in place, the operators trained, the crash test already successfully performed. The GET sees no obstacle to the system becoming functional rapidly, which would be of great value to support HIDAACI in its extensive range of tasks and strengthen its efficiency and its credibility. Therefore, **GRECO recommends that the e-platform which is in place for the declaration and publication of asset and interest declarations be made operational as soon as possible.**

Review mechanisms

120. HIDAACI is responsible for checking all the declarations of assets and private interests. It is an independent institution which started to function in 2003⁴⁰. Under the responsibility of the Inspector General, it administers the declaration of assets and financial liabilities, and the audit of the declarations. HIDAACI reports annually to Parliament, as well as whenever summoned by the Assembly; it may also request a hearing with the Assembly. Its annual reports are published on the Internet⁴¹, including information on its preventive and awareness-raising role. HIDAACI also manages and improves the policies and mechanisms for preventing and avoiding conflict of interests (see above para 97 and following). It monitors and advises on mechanisms aimed at managing the status of whistleblowing⁴².

121. HIDAACI is entitled to order the inspection of the accuracy of the declarations of assets and private interests. To verify declared income, it can request information from all public institutions and private legal persons. Mathematical and logical audits are performed for each declaration. This auditing process is carried out within the calendar year of submission of the declarations. A complete audit is carried out every 2 years as regards the Prime Minister, deputy prime ministers, ministers and deputy ministers and every 3 years as regards civil servants of high-management level in the public administration. HIDAACI can initiate an administrative investigation when it turns out that the sources do not cover or justify the assets, or when data is suspicious or false declaration is suspected.

122. HIDAACI has its own independent budget, set by the Assembly which decides on the number and salaries of the employees upon a proposal by the Inspector General. In order to foster and enhance the accountability and independence of the institution, the amendments made to Law no. 9049/2003 in 2017/2018 provided for a clear procedure for the selection of the General

⁴⁰ Law no. 9049/2003 "On the Declaration and Audit of Assets, Financial Obligations of the Elected Persons and certain Public Officials".

⁴¹ <http://www.ildkpkj.al/raporte-vjetore-en/?lang=en>

⁴² Law no. 60/2016 "On Whistleblowing and whistle-blowers protection".

Inspector, for a 7 year mandate, and a qualified majority of members of the Assembly for the nomination and termination of the mandate.

123. The Annual budget allocated to HIDAACI has increased: ALL 106 824 240 (€840 000) in 2014 vs. ALL 142 700 000 (€1 122 000) in 2019. Staff has been increased by the National Assembly from 35 members in 2003 to 70 in 2019 and the number of inspectors has increased from 12 to 28, including 12 assisting inspectors. However the work of the inspectors is intense, having in mind that HIDAACI's competences have been extended: in addition to the monitoring of asset declarations, conflicts of interest and the whistle-blowers' law, it is involved in the vetting process for judges, prosecutors and police. Between 2014 and 2019, HIDAACI has managed 240 verification processes, which represents around 60 files of full control per inspector per year).

124. HIDAACI claims it benefits from good cooperation with the tax authorities and the Financial Intelligence Units for obtaining the necessary data for its verifications. However, some of the interlocutors met by the GET pointed out that the quality of its reports could be improved. According to the GET's interlocutors, a significant part of the cases forwarded by HIDAACI to the prosecution service is not given proper follow up. Difficulties are encountered by both institutions, including the insufficiency of the resources needed by HIDAACI to fulfil the full range of tasks it has under the law, as well as the lack of proactiveness and effectiveness of the prosecution. It is hoped that the recent setting up of a specialised anti-corruption prosecution office (see para 134 below), that should benefit from highly specialised prosecutors and proper human and technical resources, will bring an increase in the effectiveness of the treatment of criminal cases, including those sent by HIDAACI. For its part, HIDAACI needs to further strengthen its capacity to perform verifications and administrative investigations of declarations of interest, including for PTEFs and police employees.

125. GRECO recommends that the necessary legal, human, financial and other resources, be provided in order for HIDAACI to improve its capacity to perform efficient verification of the declarations of assets and private interests.

Accountability and enforcement mechanisms

Non-criminal enforcement mechanisms

126. Corruption cases are administratively investigated by the Inter-institutional Anticorruption Task Force (ATF) which is responsible for inter-institutional inspections under the Action plan of the Cross-cutting Strategy against Corruption. It is chaired by the Minister of Justice and composed of representatives of the Cabinet of the Prime Minister, General Director of the Public Procurement Agency, Inspector General of Central Inspectorate, Director of the Department of Resources, Transparency and Administration, within the office of the Prime Minister. The ATF is entitled to undertake inspections in institutions that provide services to citizens, based on information from complaint handling structures, internal control bodies and the Portal of Co-Government, through inter-institutional inspection groups. ATF recommends disciplinary actions and refers criminal cases to the prosecution service. Based on these inspections, legislative and administrative measures are recommended. The Minister of Justice organises a press conference each week to present the results of the ATF. It has not been confirmed to the GET that measures taken by the ATF have concerned PTEFs so far.

127. For the period 2014-2018, HIDAACI has applied 1.812 administrative fines for non-declaration of private interests, conflicts of interest, as well as for violation of Law no. 60/2016 "On Whistleblowing and Whistle-blowers Protection". As regards PTEFs, 37 administrative fines

have been given in the last five years. The Administrative Court has confirmed the majority of the fines imposed by HIDAACI.

128. According to the representatives of HIDAACI met by the GET, the inspectors have found no case of non-submission of interest declarations. However, HIDAACI's verifications in 2015-2019 resulted in several referrals to the prosecution services or to the tax authorities for suspected concealment of assets involving a minister of education in 2015, a deputy minister and an advisor in 2017, 4 advisors in 2018, 4 advisors and 4 deputy ministers in 2019. A former Minister of Labour was convicted for the criminal offense of "theft by abuse of office" and sentenced to two years imprisonment.

129. The Government has provided instruments that facilitate interaction with the public for the transparent and efficient delivery of public services, and also for the receipt of reports on suspected acts of corruption involving all public officials, including ministers, deputy ministers and political advisors. The scope of its monitoring and assessment tools has been expanded through the co-governance platform: www.shqiperiageduam.al, to deal with the quality of public services provided, as well as create the possibility to hear the issues and concerns of citizens and to provide feedback. The platform is managed by the Agency for Dialogue and Co-governance under the authority of the Prime Minister. As of June 2020, almost 69 000 petitions had been registered and more than 40 000 (58 %) had been solved (both at central and local level).

130. Law no. 60/2016 "On whistleblower and whistleblower protection" applies to alleged acts or practices of corruption in the public and private sector, including the activity of PTEFs. This issue is addressed below, in the section dealing with law enforcement agencies.

Criminal proceedings and immunities

131. Controls of self-declarations on private interests and assets, as well as specific controls operated by relevant bodies may lead to criminal prosecution. There is no immunity for PTEFs, except for the members of the Council of Ministers who are also parliamentarians; in that case, the immunity regime for parliamentarians applies : they may not be arrested or deprived of liberty without the Assembly's consent, except when apprehended in flagrante delicto; MPs can voluntarily restrict their immunity for the duration of the mandate by consenting in writing to the launch of a criminal prosecution for active and passive corruption.

132. According to the information provided to the GET, none of the cases referred to the prosecution services or other law enforcement institutions by HIDAACI has involved members of the Council of Ministers or political advisors. The Ministry of Justice gathers and analyses statistical data according to the Criminal Code, but this information is not focused on PTEFs specifically.

133. During recent years, several PTEFs have resigned due to suspected corruption, public accusations, or other offences.

134. As mentioned above (see para 124), a significant proportion of the cases forwarded by HIDAACI to the prosecution is not given proper follow up. The lack of proactiveness and effectiveness of the prosecution services has been highlighted by several interlocutors of the GET as an explanation for the weak level of concrete enforcement of HIDAACI's reports. This hampers HIDAACI's role in investigating false declarations or cases of corruption, including among PTEFs. Within the Office of the Prosecutor General (serious crime prosecution office), only one prosecutor, supported by one legal assistant and one administrative secretary are entrusted with the follow up to the control of integrity procedures. The institutions of the Special Prosecutor Against Corruption (SPAC) and the subsequent Special Court against Corruption and Organised

Crimes have been set up and SPAC started to operate in December 2019 and counts 12 prosecutors (out of 15 planned). It is supported by a technical team, including 13 judicial police officers, and 36 administrative staff. Moreover, the Director of the National Bureau of Investigation assists the work of the Special Prosecution and the appointment process of 60 prosecutors is currently ongoing. SPAC has submitted several requests for adjudication of criminal cases to the Anti-Corruption and Organised Crime Special Court. Institutional cooperation between HIDAACI and SPAC has been established, in particular through the on-going formalisation of a Memorandum of Understanding.

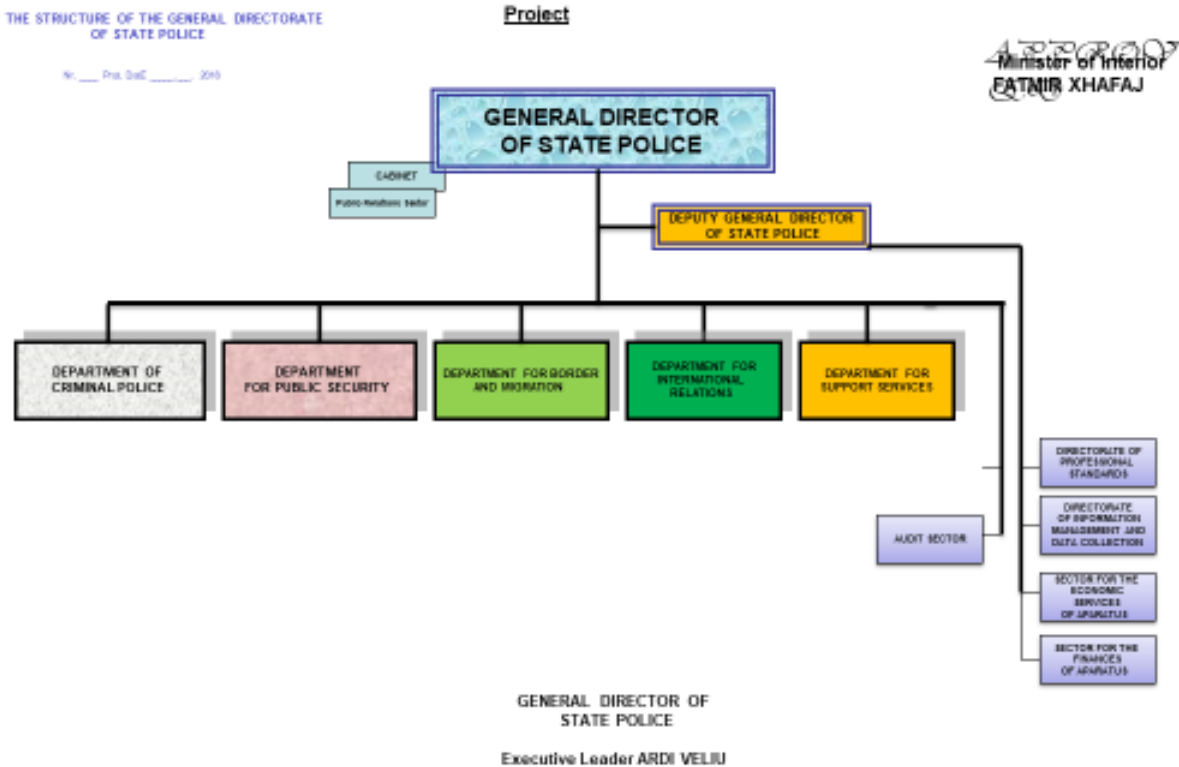
135. GRECO recommends that i) the recruitment of prosecutorial and technical staff to the office of the Special Anti-corruption Prosecutor (SPAC) is completed as a matter of priority and that its members are provided with adequate human and technical resources and prosecutors benefit of highly specialised training, and ii) proper cooperation with HIDAACI is effectively carried out in order to increase the effective enforcement of HIDAACI's reports in the case of infringement by PTEFs and police employees of the laws on conflict of interests and asset declarations.

V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

Organisation and accountability of law enforcement/police authorities

Overview of various law enforcement authorities

136. The State Police is the single body of law enforcement in Albania. It performs the country’s basic law-and-order functions, including migration and border control, under the administrative supervision of the Ministry of the Interior. It is composed of the General Directorate of State Police at central level and of local state police directorates. The statutory framework of the Police is provided under the Law on the State Police (No. 108/2014, as amended in 2018, hereafter “LSP”) and the State Police Regulation (2015). The Public Order Strategy (State Police Program) 2015-2020 aims at improving the efficiency of the State Police, following up on a wide-ranging reform of the police.



137. The police is a civil organisation, which is hierarchically organised. At national level, the General Directorate of State Police, based in Tirana, is headed by the General Director of State Police. At local level, there are 12 Local Police Directorates and 7 Directorates dealing with migration, each led by a director who is accountable to the General Director of State Police. Additionally, some special structures, such as the National Bureau of Investigation, operate on part or all the territory of Albania under the authority of the General Director of State Police. The yearly budget of the State Police was ALL 17 352 246 000 (approximately €138 million) in 2019.

138. As of July 2020, the State Police employs 11 645 persons, of whom:

- 10 537 are employees with police status and
- 1 108 are civil servants.

Employees with police status:

- 7 815 inspectors, including 387 vacant positions;
- 2 525 persons in the first management line (deputy commissioners, commissioners and chief commissioners), including 281 vacant positions;
- 189 persons in the middle management line (directors and first directors), including 16 vacant positions;
- 8 persons in strategic management positions;

Civil employees:

- 392 civil servants;
 - 704 administrative employees;
 - 12 employees are academic staff at the Security Academy.
- There are 1 562 female employees in the State Police, of which 979 have police status and 583 are civil employees.

139. The GET notes that the proportion of female staff in the State Police is about 13%. Despite several measures to improve female demographics – meetings with NGOs and the public, training activities, actions to promote a safe environment at work – the authorities recognised that attracting female staff was a challenge, especially in the traffic and border police. The GET encourages the Albanian authorities to pursue their efforts towards a better gender balance in the State Police, as diversity is a key instrument to preventing groupthink and in turn corruption.

140. The State Police underwent a reform in 2014, during which its legal framework was amended, the Security Academy was reopened, and a case management system introduced. The National Bureau of Investigation was created, as a separate structure from the State Police, in 2016. Some of the objectives of the reform were to enhance the fight against corruption and to tackle politicisation of the police, but this also led to a lack of capacity. Many police officers were dismissed or left the force; others were transferred. Staff turnover in the State Police is high – an issue that the State Police attempts to address - and the transitional vetting that is currently taking place (see below) is likely to result, as it did in the judiciary, in further staff dismissals or departures.

141. Against this background, several of the GET’s interlocutors pointed out a lack of experience and technical capacity for the investigation of corruption and economic crime. Although the State Police reportedly plans to recruit 500 new staff members every year, it is unsure whether this will be sufficient to meet the current staffing needs and those that will stem from the vetting process. Finding enough qualified candidates may also prove to be challenging. The GET underlines that insufficient structural resources can impede the implementation of integrity policies (for instance the generalisation of so-called “4-eyes” based routines and procedures, increased training efforts, etc.). It encourages the Albanian authorities to ensure that the resources allocated to the State Police are sufficient to enable it to carry its work effectively, particularly as regards the actual implementation of integrity-related policies.

Organisation and accountability of selected law enforcement authorities

142. The General Director is responsible for organising, leading and controlling police activities. S/he manages human resources and the budget, issues administrative acts as defined in the Police Regulation and represents the police. S/he is directly accountable to the Minister of the Interior.

143. The Minister of the Interior determines and supervises the implementation of the policies, strategic directions and budget management of the police, but s/he does not interfere with the police's operational independence and is not involved in its operational direction (art. 4 SPL). In particular, the Minister is not informed of investigations and information obtained through them, or of the identity, operation and information obtained by witnesses or informers (art. 8 SPL). The operational independence and political neutrality of the State Police are foreseen in art. 5 SPL.

144. Instructions of a political nature are not permissible. A police employee having doubts about the lawfulness of an order must immediately inform his/her supervisor and ask for the order to be given in writing if possible. Supervisors are under the obligation to provide the order in writing when requested. If the employee still has grounds to doubt the lawfulness of the order, s/he must object to it and inform immediately his/her supervisor's superior (art. 86 SPL).

145. Funds for the State Police are provided by the State Police Budget, which is a separate chapter within the budget of the Ministry of the Interior, managed by the General Director (art. 137 SPL). A special fund is foreseen for special operations, informants and witness protection, which is also managed by the General Director (art. 138 SPL). In addition, the State Police may accept private donations and sponsorship (art. 139 SPL), which must be brought to the knowledge of the General Director. Information on such financing is available to the public.

146. All data regarding budget allocation and financial administration is public. It is reported to the Minister of the Interior and the Minister of Finance and is subject to auditing legislation and inspection by the Ministry of Finance and the High State Audit.

147. The issue of private donations and sponsorship was discussed at length during the visit and the GET received conflicting information. Art. 139 of the SPL only provides that the State Police may accept donations. The authorities clarified after the visit that the acceptance of donations is based on Law no. 7892 of 1994 on sponsorships as amended and on regulations issued by the ministry of finance and the General Director. According to the information received by the GET, donations must be approved by the DG at central level, but this authority can be delegated to local directors. Donations may only be in kind. A list of donations provided to the GET showed mostly equipment for the police (cars, surveillance equipment, IT and office furniture etc.). Donors may be natural or legal persons, domestic or foreign. The General Directorate of State Police maintains a database where all accepted donations are registered, but this database is currently not accessible online. According to figures provided to the GET, donations represented around 2-3% of the budget of the State Police in 2017 and 2019, but as much as 12% in 2018. Sponsorship reportedly also occurs at local level based on needs but the GET received no precise information or figures on this phenomenon.

148. The GET understands that private donations represent welcome additional resources for the State Police in a context of budgetary scarcity, but they raise numerous questions from the perspective of the prevention of corruption. Donors are not only public entities, such as foreign states or international organisations, but also private national companies and some are private persons. Some private companies donated equipment worth several hundred thousand euros per year. As these donations are apparently accepted at local level, this inevitably raises suspicion or makes it appear that quid pro quos have occurred. The manager who accepted a donation may be expected in return to turn a blind eye to some activities or to use police resources to protect private premises. It may also be difficult to differentiate donations from gifts, which are prohibited in principle. The GET is critically concerned about the State Police receiving donations and sponsorships at all. Allowing for this kind of funding is very risky and controversial from the point of view of maintaining independence and neutrality of the State Police. If private donations are to

be accepted in some form, the GET is of the strong view that these must be strictly regulated, controlled and transparent, in order to provide proper safeguards for police independence against conflicts of interests and possible corruption. The use of such donations must cast no doubts about the objectivity of police activity.

149. In view of the above, **GRECO recommends i) that a broad analysis be carried out on the legal framework and practice of private donations and sponsorship to the State Police and that, in light of its findings, rules are adopted to abandon private donations/sponsorship to the Police or, as a minimum, limit the risks of corruption and conflicts of interest in this respect; and ii) that donations and sponsorship received are published on a regular basis (including on-line), indicating the nature and value of each donation as well as the identity of the donor⁴³.**

150. The GET has to some extent similar concerns as regards article 81 of the LSP, which provides that the state police can provide, upon request, additional services to legal and natural persons, either public or private, in return for payment. According to information received after the on-site visit, services currently provided by the State Police are linked mostly to the granting of licenses for private security companies and their staff, for the use of weapons and for the civil use of explosives, pyrotechnics and fireworks. The allowed services and detailed payment fees are determined by three joint instructions of the Ministry of Interior and the Ministry of Finance. The authorities stress that these services are provided by the State Police structures and that police employees cannot themselves provide services outside of official hours against payment. However, the GET also learned during the visit that additional services and fees are to be defined by a decision of the Council of Ministers which is currently under preparation. The GET underlines that the provision of additional services by the police in return for payment entails risks of conflicts of interest and corruption. It is important that these risks are taken into account in the design of the system, in particular as regards the kind of services to be offered, the possible recipients, the deciding authority and decision process, as well as the management and financial control of the fees received. The GET wishes to keep this issue under review. Therefore, **GRECO recommends ensuring that the policy for provision by the State Police of additional services in return for payment duly takes into account risks of corruption and conflicts of interest.**

Access to information

151. The State Police is subject to the Law on the right to information (No. 119/2014). Information to be provided *ex officio* includes budgetary and expenditure data and information on procurement or competition procedures. Moreover, the SPL stipulates that the police must inform the public and the media about its activities. To that end, there is a sector for communication with the media and the public in the General Directorate and one trained police spokesperson in each local directorate. The State Police and the local directorate also disseminate information about their activities on social media.

152. According to the LSP, each local police directorate has to appoint a contact point for communication with the media and the public, which performs the role of information

⁴³ During the plenary meeting, the Albanian authorities explained that an Order of the General Director No. 856 “on the establishment of the working group for the preparation of the standard procedure for the acceptance and administration of donations to the State Police” was approved on 19 October 2020. The order is related to the online publication of donations made to the State Police, which is reportedly already occurring (see for instance <https://www.asp.gov.al/donacion-per-femijet-e-punonjesve-te-policise-se-shtetit/>, <https://www.asp.gov.al/kisha-ortodokse-autoqefale-e-shqiperise-donacion-per-policine-e-tiranes/>, <https://www.asp.gov.al/kompania-gjirofarm-donacion-per-policine-e-tiranes/>).

coordinator in the region and coordinates actions with the coordinator appointed by the General Director, who represents the entire State Police..

Public trust in law enforcement authorities

153. The Institute for Democracy and Mediation (IDM) carried out several surveys on police integrity in Albania. Most recently, an assessment report of state police ethics and integrity of June 2019⁴⁴ carried out on the basis of hypothetical scenarios distributed to members of the State Police found that:

- Breaches of police integrity have been largely understood to take the form of bribe taking and opportunistic theft, although the types of violations that harm the integrity of the police organisation are numerous;
- Dual employment of police officers is not reported as serious misconduct in breach of the integrity of the police organisation and has been welcomed and accepted among colleagues due to the poor remuneration of police officers;
- Willingness to report violations remains low. Exceptions to this trend include the most serious integrity violations;
- Young police officers (with less than 5 years' experience in the State Police) and female police officers report a more relaxed attitude towards integrity violations and less willingness to report them;
- The culture of silence when it comes to reporting fellow officers' corrupt acts continues to prevail in the State Police and the will to report violations is persistently low.

154. According to a public opinion survey carried out by IDM in 2017⁴⁵, the police force is the most trusted institution in Albania, with 61% percent of respondents trusting it (46% of respondents have trust in the Albanian institutions). Trust has been increasing compared to the previous 2016 study, with 66% of respondents satisfied that police recruitment is conducted through public competitions, compared to 56% in 2016. Yet, the vast majority of respondents (69%) believe that politicians influence the operational work of the police (79% in 2016). 52% believe that corruption in the police force is widespread (62% in 2016), and the Minister's closest associates (52% of respondents believe they are corrupt), followed by the border police (49%) are perceived as the most corrupt police units. Perception of corruption among traffic police has markedly improved, being perceived as corrupt by 63% of respondents in 2016 and by 43% in 2017.

Trade unions and professional organisations

155. The General Directorate of State Police cooperates with the following trade unions and organisations:

- Union of State Police Employees⁴⁶: has over 7 000 members. Among other tasks, it monitors the recruiting tests for new candidates at the Police Academy and provides legal assistance to police employees. It has notably assisted 500 of the 700 police employees expelled from the police since 2014;
- International Police Association (IPA);
- Institute for Democracy and Mediation (IDM);
- Institute of Public Legal Studies (ISPL);

⁴⁴ <http://idmalbania.org/report-on-assessment-of-state-police-ethics-and-integrity-june-2019/>. See also <http://69.175.61.114/~policeintegrity/>

⁴⁵ <http://idmalbania.org/pointpulse-perceptimi-publik-mbi-policine-e-shtetit-2017/>

⁴⁶ <http://sindikatapolicise.com/anglisht/>

- International Association of Police Chiefs (IACP);
- Association of South East European Police Chiefs (SEPCA).

Anti-corruption and integrity policy, regulatory and institutional framework

Anti-corruption and integrity policy

156. The Public Order Strategy (State Police Program) 2015-2020 incorporates the principles of transparency, accountability and community policing to bring the Albanian police closer to EU standards.

157. Albania's overall anti-corruption policy is contained in the Inter-Sectoral Anti-Corruption Strategy 2015-2020, which contains 18 objectives. The Ministry of Justice and the National Anti-Corruption Coordinator coordinate and oversee the implementation of this strategy. To this end, an Action Plan 2018-2020 was approved by the Council of Ministers on 20 April 2018. It contains 97 anti-corruption measures to implement the 18 objectives of the strategy and is accompanied by a "Passport of Indicators". The General Directorate of State Police provides regular reports on the implementation of the Anti-Corruption Strategy, as well as consolidated statistics and track records on corruption to the European Commission. The Anti-Corruption Strategy, Action Plan and implementation reports are published on the website of the Ministry of Justice⁴⁷.

158. The GET was informed that, at the time of the evaluation visit, the State Police was one of the first institutions in Albania developing an integrity plan to implement the anti-corruption strategy, with international and civil society assistance. This plan contains 74 measures that will apply to all commissariats. The GET welcomes this initiative as a necessary step in better assessing vulnerabilities in existing processes and practices, so as to implement targeted measures to prevent and fight corruption. After the on-site visit, it was informed that the integrity plan was adopted on 12 October 2020. The GET stresses that enforcing an integrity plan at the level of the State Police will be instrumental in strengthening its integrity management system and it wishes to keep this process under review. Consequently, **GRECO recommends that the integrity plan for the State Police be implemented as a matter of priority.**

Risk management measures for corruption prone areas

159. A matrix of corruption risks in the State Police has been developed under an EU-funded technical assistance project, with the participation of representatives of the State Police, the Service for Internal Affairs and Complaints, the Ministry of Interior and the Ministry of Justice. It is based on international standards and methodologies in this area, in particular ISO standards. According to this matrix, the areas most exposed to corruption were identified in crime investigation, recruitment and career, petty corruption in traffic police and law enforcement, the border police and the procurement process. Data from the risk-analysis matrix have been included in the integrity plan which is in the final stages of approval.

160. Another EU-funded assistance project aims at establishing a risk analysis system for the border police. The assessment visit took place in July 2019 and an assessment report was prepared. However, the adoption of the action plan based on the recommendations of the assessment report was postponed due to the COVID-19 pandemic.

⁴⁷ <https://drejtesia.gov.al/strategjia-ndersektoriale-kunder-korrupsionit/>

161. An analysis “on the phenomena of illegality identified in the State Police” carried out by the Service of Internal Affairs and Complaints (SIAC) revealed the following phenomena:

- tendency of abuse of power and passive corruption to favour the cultivation of narcotic plants mainly by law enforcement officers, first and middle management, law enforcement agencies, but also for the crime investigations, in co-operation with local government employees;
- tendency to favour illegal construction and passive corruption, mainly by public order officers in cooperation with the staff of the Local Urban Construction Inspectorate;
- tendency to abuse office and passive corruption to favour illegal border crossing and smuggling by border police officers, mainly those of the state land border;
- tendency of corruptive behaviour and abuse of office by employees of road traffic structures.

162. Some measures are being implemented to counter certain identified risks. For instance, checks on access to information technology are carried out by the Information Technology Directorate and the Division of Management, Encryption and Data Protection. The Department for Border and Migration prohibits the use of mobile phones by police officers on duty at border control checkpoints. These staff members are also subject to regular rotation.

Handling undercover operations and contacts with informants and witnesses

163. Undercover operations are authorised by the prosecutor’s office and controlled by it. They are carried out in accordance with the Criminal Code, Criminal Procedure Code, guidelines and standard procedure.

164. Contacts with third parties, such as informants and witnesses, are subject to confidentiality according to the RSP. Informants who become collaborators of justice by signing an agreement with the prosecutor are entitled to special protection, together with their families. A special law regulates the protection of witnesses and justice collaborators⁴⁸. The Directorate for the Protection of Witnesses and Justice Collaborators is a dedicated central structure of the State Police and is responsible for preparing, following and implementing the protection programme.

Ethical principles and rules of conduct

165. Part III of the State Police Regulation (art. 105 to 124) contains the ethical principles governing police activity and the rules of conduct applicable to police employees. Among them are the principles of legality, accountability, protection of public and citizen interests, equality and non-discrimination, proportionality of the use of force, impartiality, integrity and confidentiality. Rules of conduct include *inter alia* authority and respect, behavioural ethics and norms of behaviour during and off duty. These principle and rules are binding according to art. 94 of the SPL. Employees must accept them. Internal and external control – mainly by the Professional Standards Department and the Service of Internal Affairs and Complaints (see below under enforcement) is foreseen to guarantee compliance with these rules, which are enforceable (art. 123 and 124 SPR).

166. The GET notes that the ethical principles and rules of conduct contained in the SPR are for the most part worded in a very general manner. Some principles and rules, like legality, accountability, confidentiality in the use of social media, behavioural ethics and others would

⁴⁸ [Law No. 10 173 of 22 October 2009 on the protection of witnesses and justice collaborators](#)

certainly benefit from being further explained and exemplified with comments and concrete cases. Guidance should be understood as a manual including practical examples, notably based on experience in Albania, to illustrate the complexity of the situations covered by these principles and steps to be taken to avoid or defuse corruption threats⁴⁹. This should start with the very notion of conflict of interest, which should be made plainly clear and be properly illustrated. This manual should be the backbone of initial and continuing training and should be a living instrument that takes stock of recent developments. **GRECO recommends that the ethical principles and rules of conduct contained in the State Police Regulation are complemented with a manual containing practical guidance that takes into account the State's Police specificity, variety of duties and vulnerabilities.**

Advice, training and awareness

167. The Security Academy provides initial and in-service training to all employees of the State Police. Training on the ethical principles is one of the topics covered during in-service training, with modules dealing with “police ethics and integrity”, “police ethical code” and “ethics and integrity in the State Police”. During initial training, some ethics-related topics are covered in the general policy module, namely: code of conduct (two hours), police ethics (three hours) and summary on ethics (five hours).

168. According to the authorities, police employees can turn for advice to the Department of Public Administration or the Human Resources Department, depending on the topics. However, there is no specific counselling mechanism on integrity issues.

169. The GET considers that more efforts could be done to ensure that ethics and integrity issues are kept in the spotlight during initial and in-service training. Moreover, it has already noted that the ethical principles and rules of conduct currently contained in the SPR are both insufficiently detailed and lack complementary guidance in the form of a manual containing illustrations, which would offer a reference point and a truly operational tool. In that respect, it refers to its earlier recommendation in paragraph 166. Training needs to cover in no uncertain terms all areas of concern by using this manual and identified corruption risks as the primary reference materials. Moreover, the GET heard from several interlocutors that police staff were not always sufficiently trained to tackle complex corruption and economic crime cases. For this reason, it considers that efforts should be made to strengthen ongoing training of staff dedicated to corruption and economic crime-related investigations in order to increase their capacity for leading investigations into this type of cases.

170. Furthermore, the GET notes that there is currently no advice procedure for police staff to obtain confidential counselling on integrity matters. Although the Department of Public Administration and the Human Resources Department can provide informal advice, there are not easily accessible and specially trained persons of trust to whom any police member can turn in confidence in order to obtain information on integrity issues. This would be important, for instance, where police officers want to report what they perceive as misconduct, for example involving their direct superiors, and want confirmation before blowing the whistle and seeking protection.

⁴⁹ After the on-site visit, the authorities referred to a 2015 Handbook on “Police Ethics and Integrity – on Police Ethics Training”. While this document is worthwhile, the GET highlights that it is a manual for trainers, which is “designed to support the training and management structures of the State Police in building and implementing the ethics training programs.” As such, it is therefore no substitute to a manual containing practical guidance designed specifically for police staff.

171. In view of the preceding paragraphs, **GRECO recommends (i) enhancing the initial and in-service training of police officers on integrity matters, as well as the specialised training for investigators dealing with corruption and economic crime cases; (ii) the setting up of a system and the appointment of trained persons of trust in order to provide confidential counselling on ethical and integrity matters to all police staff.**

Recruitment, career and conditions of service

Recruitment requirements

172. State Police employees are recruited based on the provisions of the LSP, the RSP, the Law on Civil Service for civil service staff and the Labour Code for administrative staff.

173. Recruitment is done through admission to the Security Academy, following an open competition. Among the conditions for admission are Albanian citizenship, completion of secondary education, a certificate of reliability and a clean criminal record. For functions where specific knowledge is required, there is an additional condition of 5 years' work experience in the relevant field. The Human Resources unit verifies that these criteria are met.

174. The competition for admission to the Security Academy is announced in at least two national newspapers and on the State Police website. Applicants compete for the needs of local directorates where they have their residence. The competition, which is organised by the Security Academy, comprises among others a written test, an oral interview, and psychological testing. A final verification is carried out by the local police human resources structures, with the aim of verifying that neither the applicant nor members of his/her family are involved in criminal activities. Both the list of candidates eligible to participate in the competition and the final list of admitted candidates are published on the State police website. Applicants have a right to appeal at all stages of the procedure to the Appeals Review Commission or to the external police oversight institutions.

175. Successful candidates undergo basic training for one year at the Security Academy, after which they are admitted to the police, subject to a 1-year probationary period, during which they are regularly evaluated. Final appointment is subject to obtaining an acceptable result in these evaluations.

Appointment procedure and promotion to a higher rank

176. The General Director of State Police is appointed by the Council of Ministers upon the proposal of the Minister of the Interior for a term of office of 5 years, renewable once.

177. The Minister of the Interior appoints the Deputy Director General of State Police (for a term of office of 4 years, renewable once), department directors and the Head of the National Bureau of Investigation upon proposal by the General Director. The Minister also appoints the Director General of the Service for Internal Affairs and Complaints. All other employees of the State Police are appointed by the General Director.

178. Promotion occurs through a ranking system, following a competition. Conditions for applying for a higher rank include a seniority period and an acceptable result in performance evaluations. Competitions are organised by the Security Academy and candidates are assessed by ranking commissions, composed of three police officers, appointed by the General Director. The

decision-making authority cannot refuse the candidates put forward by the ranking commissions. Candidates have a right to appeal at each stage of the procedure.

179. Conditions for appointment to higher positions all include integrity requirements, such as “integrity and a clean moral personality” for the General Director and her/his deputy.

180. The GET is of the opinion that the recruitment and promotion modalities foreseen in the LSP and RSP seem satisfactory on paper. According to some of its interlocutors, they have contributed to better qualification and less politicisation of lower and middle-rank police officers, although some concerns were expressed regarding the possibility to admit military personnel into the police. However, politicisation is still widespread at the higher levels of the police structure. The GET was told by several interlocutors of a sizeable high-level staff turnover at each change of government. None of the Directors and Deputy Directors General appear to have finished even their first term of office, resigning for “personal reasons” when a new Minister of the Interior was appointed. State police top managers are also perceived by police officers themselves as being politicised⁵⁰. The GET is convinced that the State Police’s operational independence can only be reinforced if senior managers remain in their functions irrespective of political changes in the country. Any depoliticisation at lower levels is bound to fail if senior managers themselves do not lead by example. Increased stability would also help them carry through the long-term policies that are necessary in order to bring about organisational changes in the State Police. Therefore, **GRECO recommends that measures be taken to increase the stability of the State Police senior management, irrespective of political changes in the country**⁵¹.

181. Another obstacle to the State Police’s operational independence is the fact that department directors are appointed by the Minister of the Interior, according to the same criteria as the Deputy Director General of the State Police. While it is understandable that the Director General and the Deputy Director General are appointed by the Minister, the GET finds that the fact that this appointment power extends down to heads of department unnecessarily encroaches upon the State Police’s operational independence. It points out that the SPL (art. 7 paragraph 3) prescribes that the Minister must not interfere in the operational independence of the police and must not get involved in its operational management. This seems at odds with a nomination of heads of department by the Minister, which can only reinforce politicisation. The GET also notes that heads of department are accountable to the General Director of State Police. Therefore, it seems only logical that s/he also appoints them. It is the authorities’ position that the power of appointment of the Minister is only formal in the case of heads of department, as candidates are proposed by the General Director. In the GET’s opinion, this is yet another reason to remove this formality. Consequently, **GRECO recommends that the heads of department of the State Police be appointed by the General Director.**

Performance evaluation

182. Police employees undergo two types of regular assessment: i) an individual professional skills assessment managed by the Human Resources Directorate and ii) the performance evaluation of police structures by the Professional Standards Directorate.

183. The employee’s individual professional assessment is performed by his/her direct superior. It relates to the achievement of work objectives and to evaluating professional behaviour and it serves to make objective decisions regarding the probation period, promotion, transfer,

⁵⁰ <https://idmalbania.org/wp-content/uploads/2016/11/Police-Integrity-and-Corruption-in-Albania-2.0.pdf>

⁵¹ During the plenary meeting, the Albanian authorities stated that staff turnover had decreased by 26% between 2013 and 2019 (police staff turnover of 39.8% in 2013 and 13.4% in 2019).

training and dismissal. This assessment occurs at the end of each calendar year as well as during the probationary period, after transfers, promotions in grade, when disciplinary proceedings are initiated, on special occasions, such as the granting of awards or medals or at the request of the employee him/herself. In 2018, about 9 558 police employees underwent an individual professional assessment, as well as 1 071 civil servants. 1 929 employees were assessed further to a transfer.

184. The performance assessment of police structures is done periodically, according to an annual plan approved by the General Director of State Police. It aims at assessing whether the work is carried out in line with established policies and procedures, measuring the achievement of short-term and long-term goals, documenting any conflict between legal acts, sub-legal acts and standard operating procedures and assessing the use of equipment, weapons and other resources and technical equipment. Regular evaluations are conducted through on-site assessments and analysis of performance reports, information and other data, at the end of each calendar year. Recommendations are issued, which are followed-up on in the next evaluation. Exceptional evaluations are also carried out in response to a particular situation, event or problem.

185. Police officers from the rank of “inspector” to the rank of “commissar” are subject to physical and professional testing every year. Test programs are designed by the Security Academy (art. 154 SPR). 7 577 police officers were tested on their professional skills in 2018.

186. The Service of Internal Affairs and Complaints (SIAC) is also competent to administer integrity tests to verify the ethics and integrity of police employees.

187. In addition to these regular processes, a transitional vetting process is currently on-going in the State Police according to Law no. 12/2018 “on the transitional and periodic evaluation of State Police Officers, the Guard of the Republic and the Internal Affairs Service and Complaints in the Ministry of the Interior”. This vetting process comprises:

- An assets assessment directed at the legitimacy of assets and fulfilment of financial obligations, including private interests of employees and their relatives;
- A background assessment aimed at verifying employees’ declarations and identifying employees having inappropriate contacts with persons involved in criminal activities; this is done by means of cross-checks with information held by relevant bodies, such as the Classified Information Security Directorate, the General Directorate for Prevention of Money Laundering, etc.;
- A proficiency assessment checking that the education and training level is adequate for the occupied position, as well as compliance with ethical rules and performance of duties.

188. All the State police employees have submitted the necessary documentation for the vetting process, except around 200 police officers, including some of high rank, who chose to resign instead, as provided for by Law No. 12/2018. This comprises an asset declaration, a declaration form for background assessment and a professional self-evaluation form. According to the law, criminal records, financial statements, assets, references from previous employers, integrity tests and drug tests are subject to review. All employees are required to pass exams/tests including on ethical matters.

189. The vetting process is currently carried out by an External Evaluation Commission (EEC), organised in five evaluation bodies of three members each – who carry out the vetting of higher officials and of SIAC staff – and will soon be carried out in parallel by the SIAC for middle and lower

rank staff once its own staff has been vetted, according to amendments to the law decided in June 2020.

190. The EEC is composed of 15 members:

- 5 members appointed by the High Inspectorate of Declaration and Audit of Assets and Conflicts of Interests (HIDAACI) from among its employees;
- 10 members selected by a board composed of 5 members, representing the Ministry of the Interior (whose representative chairs the board), the Ombudsman, the Commissioner for the Protection against Discrimination, the State Intelligence Service and the Commissioner on the Right to Information and Protection of Personal Data. Among those 10 members, 5 are pre-selected by 10 professors of the University of Tirana and 5 by open competition.

191. The EEC is assisted by a technical secretariat of 15 employees, selected through an open procedure by the selection board.

192. The EEC and SIAC have access to all necessary information for carrying out the vetting process and public institutions and law enforcement agencies are required to cooperate with them. Due process is guaranteed, and the vetted employee is invited to a hearing prior to the evaluation decision. The EEC and SIAC may decide to: confirm the employee in his/her duties; require him/her to attend a training program; require the head of the institution to re-appoint a former employee; dismiss the employee. The evaluation decision is reasoned and may be appealed to the competent administrative court.

193. The transitional vetting process by the EEC was initially due to be completed within 2 years from the entry into force of the law in March 2018, but the Parliament decided in June 2020 to delete this deadline. After the transitional vetting process is completed, the staff subject to the law will undergo a periodic evaluation every three years, “based on the risk analyses for specific structures or units as well as different information or data”.

194. The transitional vetting process, which is a priority for the State Police and the government, was discussed at length during the on-site visit. The GET has strong misgivings about this process in terms of feasibility, appropriateness and possible consequences for the proper functioning of the police in the coming years; its doubts were shared by many interlocutors. Vetting some 12 000 police employees will put a huge strain on the State Police and will take years, probably much longer than is foreseen in the law⁵². It is likely to result, as it currently does in the justice system where judges and prosecutors have been undergoing a similar process, in a significant number of qualified staff leaving the force, either voluntarily or further to dismissal following a negative vetting result – around 200 police officers have already resigned prior to the beginning of the vetting process. Against the background of an already high staff turnover, this could make the exercise of core police functions difficult and may do more harm than good.

195. Doubts have also been raised about the fairness of the process. Unlike in the vetting process currently applied to judges and prosecutors, the verification of assets is not done by HIDAACI itself, which has the necessary know-how and independence, but by staff detached by HIDAACI to the evaluation commissions and by the SIAC. This setup offers less guarantees. Furthermore, the GET is concerned that the transitional vetting process does not adequately capture all possible integrity risks, such as those linked to substance abuse, gambling, etc. Such risks may be picked up during the initial recruitment process at the Security Academy but no

⁵² As an illustration, in the period November 2019 to 7 February 2020, only 8 persons were vetted by the EEC. By July 2020, 20 persons had been successfully vetted.

regular control process takes place later over the course of an officer's career. The GET also takes the view that assessing professional qualifications and assessing integrity should be two separate processes.

196. Therefore, the GET is convinced that the current transitional vetting process should be replaced by a mechanism for assessing the integrity of staff on a regular basis throughout their career and for the purposes of promotion. In the meantime, and at the very least, transitional vetting should focus on the functions more exposed to integrity risks. **GRECO recommends i) that the functions more exposed to integrity risks are prioritised during the vetting process, in relation with the integrity plan and other existing risk management tools; and ii) that checks on candidates' integrity are carried out in the context of changes of post and promotion and at regular intervals over the course of police staff's careers.** The Albanian authorities' position is that Law No. 12/2018 ensures adequate standards for conducting a fair process based on all due process criteria, that the prior mechanisms failed to properly address integrity issues and that the vetted judges and prosecutors should be assisted by police officers who have successfully undergone a similar process. Based on these reasons, they oppose the recommendation.

Rotation

197. There is no rotation system in the State Police. That said, the highest officials are appointed for a fixed term.

Termination of service and dismissal from office

198. The LSP and the SIAC law list the reasons for termination of service, e.g. retirement, redundancy if no suitable alternative function can be found, sentence for the commission of a criminal offence, dismissal as a disciplinary measure.

199. Dismissal can also occur as a result of negative performance results in evaluations. Additional reasons linked to poor performance or problematic behaviour are foreseen for the highest officials in the State Police: the General Director, his Deputy, directors of departments, directors of local directorates and chiefs of commissariats are discharged from duty when "strategic objectives are not met because of [their] poor performance". In the period 2017-2019, 11 chiefs of commissariats and 3 directors of local police directorate were dismissed for this reason.

200. The head of the National Bureau of Investigation is discharged from duty for "violation of the Constitution or serious violation of the law during the exercise of duty" or for "conduct that seriously discredits his position and reputation". The Director and Deputy Director of the Service for Internal Affairs and Complaints are dismissed further to two negative performance evaluations, with documented arguments by the Minister.

Salaries and benefits

201. Salaries vary according to rank and seniority. Allowances are made for extra service and distance from residence. Gross monthly salaries in the State Police range as follows:

- Inspector: from ALL 65 800 to 82 919 ALL (approx. €533 to 672);
- Sub-commissar and chief commissar: from ALL 90 500 to 94 600 (approx. €733 to 767);
- Chief Commissar: ALL 105 500 ALL (approx. €855);
- Leading degree: from ALL 117 500 to 128 500 (approx. €952 to 1 041);

- First leading degree: from ALL 128 500 to 131 000 (approx. €1 041 to 1 062);
- Highest rank: ALL 98 936 (approx. €802);
- Major leader: ALL 171 000 ALL (approx. €1 386).

202. As already pointed out in respect of PTEFs, the GET notes that some police staff salaries are relatively low compared to the average monthly wage in Albania, which remains a difficulty when it comes to preventing corruption.

Conflicts of interest

203. The same rules apply to police employees as those described regarding PTEFs (see section on conflicts of interest in part IV of this report). According to HIDAACI, case-by-case declarations of private interests by police employees are to be received by the Human Resources Department of the State Police. However, the GET was informed by representatives of the police that no such declarations had been received in practice. This points to a lack of efficacy of the system, already highlighted by the GET as regards PTEFs. The clarification of the system recommended in paragraph 60 is also relevant in respect of the State Police.

204. Reference is also made to chapter III of Law no. 12/2018 on the transitional vetting process. Accordingly, employees have to declare, as regards themselves and related persons, personal income, expenditure, private travel abroad, children's education, immovable and movable property, investments and other financial instruments, bank accounts, financial obligations to natural and legal persons, as well as all legal relations with an economic-asset value and the sources of these assets. The assessment procedure carried out by the SIAC or the EEC aims, among other things, at identifying conflicts of interest and may result in the employee's dismissal.

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

205. According to the LSP (art. 91), employees of the State Police are not allowed to have any outside activity, except teaching, for which they must obtain written permission from their supervisor. According to some of the GET's interlocutors, the unauthorised exercise of outside activities, linked with low salaries and the non-payment of overtime, is common. However, both the representatives of the State Police and of the Service of Internal Affairs and Complaints assured the GET that reports of such facts were being acted upon and resulted in the guilty officers being sanctioned. The GET encourages the police authorities to implement stringent controls to ensure that all cases of unauthorised outside activities come to light, even in the absence of reports.

206. The LPCI (art. 31) foresees that mid- and high-level officials of the State Police may own shares or parts of capital in a commercial company without any limitation, except when the company exercises activity in the same sphere or overlaps with their sphere of jurisdiction. In such a case, shares and parts may not be owned with the full exercise of rights deriving from their ownership.

Gifts

207. There are different rules on gifts in various legal texts.

208. The Regulation on State Police states that “police officers shall not accept gifts due to [their] official duty”. They must declare all the gifts received in the context of official activities on the basis of reciprocity. Accepting any gift constitutes a serious disciplinary violation.

209. Decision No. 714 of October 22, 2004 of the Council of Ministers “on outside activities and rules on gifts during the activity of public administration servants” enables civil servants to keep “permissible gifts” up to a value of ALL 10 000 ALL (approx. €80) without declaring them. Gifts above this value must be declared to their superior and the human resources department. In case of doubt, the employee must declare the gift and ask the human resources department to value it. The human resources department inventories the gifts declared, which are used for the purpose of the institution’s activity, as well as “gifts that cannot be returned under art. 11 of the law no. 9131 of 8 September 2003 on the rules of ethics in public administration.” The decision also specifies that “if the employee wishes to keep a gift received in excess of ALL 10 000, s/he must pay the difference of its value”.

210. Law No. 9367 of 7 April 2005 “on the prevention of conflict of interest in the exercise of public functions” also contains rules relating to gifts. Gifts above ALL 10 000 must be declared, within 30 days, to the employee’s direct superior and to the human resources department.

211. Moreover, the GET was made aware of practical guidance regarding the acceptance of gifts in the police. This guidance contains examples of acceptable symbolic gifts that do not need to be registered and cases in which gifts cannot be accepted, such as gifts from crime victims or journalists, gifts related to the procurement of goods and services, etc. This guidance is welcome and needs to be incorporated in the manual to be adopted as recommended in paragraph 166. However, all interlocutors indicated that gifts were not declared in practice, although this ought to be the case according to Decision No. 714 of the Council of Ministers and the LPCI. On 7 October 2020, the General Director adopted Order No. 820 “on determining the rules regarding the acceptance and declaration of gifts” which has been forwarded to all central and local police structures in order to ensure full supervision and enforcement by all State Police employees. The GET welcomes this positive step but wishes to keep this issue under review. Therefore, **GRECO recommends that rules on the acceptance and declaration of gifts by police staff be subject to adequate supervision and enforcement.**

Misuse of public resources

212. Police employees must manage correctly the property they use during the exercise of their functions and use it only for purposes defined by law and the SPR (art. 88 LSP). Computers and e-mails have to be used only for business purposes (art. 80 SPR). Damages to police property constitute disciplinary offences, as does the use of police property for political purposes (art. 202, 204, 205 and 212 SPR).

Third party contacts, confidential information

213. The RSP contains rules on preserving the confidentiality of service and related documents (art. 34 and 35), which apply to all police employees. Confidentiality is also applicable in contacts with third parties.

Post-employment restrictions

214. After the end of her/his term of office, the General Director of State Police does not return to the State Police, but s/he can carry out advisory and educational functions. There are no post-employment restrictions applicable to other police employees.

215. During the on-site visit, the GET was made aware of the creation in 2019 of a private security company, the Illyrian Guard, which is 100% state-owned and managed by the Ministry of the Interior. According to Decision 177 of the Council of Ministers of 4 April 2019, it “offers paid services to third parties in the field of public order and security [...It] provides support services to the Ministry of Interior and its subordinate institutions, for the implementation of the competences attributed to the Ministry of Interior, according to the scope of state responsibility”. The GET has strong misgivings about the creation of the Illyrian Guard. Concerns regarding the conclusion of procurement contracts and nepotism in the hiring of personnel have been raised by the public. Moreover, creating a commercial company which is 100% state owned – and on which public money is thus spent – with attributions in the field of public order and security, functioning under the control of the Ministry of the Interior, but without the legal guarantees of transparency, integrity and corruption prevention mechanism that apply to public office raises serious concerns with regard to the prevention and fight against corruption. Therefore, **GRECO recommends ensuring that the employees of the Illyrian Guard are subject to the same legal and regulatory measures (including enforceable rules of conduct and transparency rules in public procurement procedures) as employees of the State Police.** The Albanian authorities’ position is that the Illyrian Guard does not carry out policing tasks, that the procedures undertaken by it are done in full compliance with public procurement rules and that staff recruitment has been carried out by open procedure, respecting recruitment legislation and procedures in place. For these reasons, they oppose the recommendation.

216. Furthermore, considering the current, ongoing transitional vetting process in the police, there are concerns that the Illyrian Guard and other security companies may offer an employment opportunity for police officers who choose to or have to leave the force due to integrity issues⁵³ - or for other reasons. As the Deputy Minister of Interior declared, “the main source of staff recruitment [for the Illyrian Guard] will be the State Police. There are many experienced people in the State Police who, for one reason or another, have not had that career advancement.” The authorities stressed that none of the police officers who have been dismissed for integrity issues have ever been hired by the Illyrian Guard and that being dismissed for integrity issues is a disqualifying criterion for obtaining the licence required to be part of the Illyrian Guard. This rule is useful, provided it is adequately enforced and subject to oversight. Moreover, police employees should be covered by clearly regulated post-employment restrictions, in order to prevent those who investigated certain companies or persons to be hired by them or to provide legal advice to them during a sufficient period of time after they left office. Consequently, **GRECO recommends developing explicit rules on post-employment restrictions, accompanied by an effective enforcement mechanism, for police employees.** For the reasons stated above, the Albanian authorities oppose the recommendation.

⁵³ See for instance the [article](#) published in exit news on 13 August 2019.

Declaration of assets, income, liabilities and interests

Declaration requirements

217. The same rules apply to police employees as to PTEFs. They must submit to HIDAACI declarations of assets and interests when taking up their functions, yearly and after the end of their functions. The system is described in detail in Chapter IV of this report and the GET refers to its findings and the recommendation contained in paragraph 119.

Review mechanisms

218. The same rules apply to police employees as to PTEFs. Declarations are reviewed by HIDAACI, as described in Chapter IV of this report (see paragraphs 120 and following).

Oversight and enforcement

Internal oversight and control, disciplinary proceedings

219. The Human Resources Unit of the State Police is responsible for the enforcement of rules of conduct by employees.

220. The Professional Standards Department (PSD) regularly assesses the performance of central and local police structures. It also investigates disciplinary violations committed by State Police employees. It periodically exchanges information with the SIAC on the investigation of complaints against police officers.

221. Disciplinary regulations for the State Police are contained in Part V of the RSP. Disciplinary violations are categorised as either minor or serious. Minor violations include easy discretionary behaviour, disobedience, negligence in duty etc. Serious violations are for instance serious discretionary behaviour, unauthorised disclosure of police information or corruption. The right to initiate disciplinary proceedings is given to the employee's superior with sufficient rank, employees of central structures of the State Police and employees of the PSD when disciplinary violations have been identified during the performance assessment of police structures. If the case contains elements of a criminal offence, it is also sent for review to the SIAC.

222. Minor violations are investigated locally while serious ones are investigated by the PSD. The employee enjoys the rights of defence and is heard during the procedure. The investigation is concluded by a report containing the violations, the facts and evidence and the disciplinary measures recommended. Disciplinary measures are issued by the employee's superiors – General Director, Deputy Director, Directors of Central Department, heads of local police structures – depending on the employee's place of work and the seriousness of the measure. The RSP contains a range of disciplinary measures, from a remark to dismissal.

223. The employee has the right to appeal the measure, within 5 working days for minor measures or within 10 working days for serious ones. The appeal is heard by a central or local appeal commission appointed each year by the General Director or the heads of structures at local level. Appeal meetings are open to police employees unless the issue considered is secret. They may also be open to the press if the measure is the result of a complaint by a citizen or institution. The statute of limitation for disciplinary investigations is one year from the commission or knowledge of the offence.

External oversight and control

224. The Service for Internal Affairs and Complaints (SIAC) is the oversight institution for the State Police (as well as the Guard of the Republic and the Police for Fire Protection and Rescue). It is independent from these structures. It has a staff of 126 persons, of which 62 are police officers and 64 are civil servants. All staff members have personal security certificates, which entail a reinforced background verification. The SIAC is tasked with preventing, detecting and investigating criminal offences and violations of the law committed by police employees in the exercise of their duties, handling citizens' complaints against police staff, maintaining the integrity of staff, verifying the assets of police employees subject to complaints and issuing general recommendations on the functioning of the police.

225. The SIAC is established within the Ministry of the Interior by Organic Law No. 70/2014 "on the Service for Internal Affairs and Complaints". Its operational staff has the education of senior police officers or an MSc in law and at least three years of relevant work experience. They are subject to the transitional vetting process as described above.

226. The SIAC initiates administrative or criminal investigations based on complaints, denunciations or public information received through all available channels: green telephone line, official and electronic mail, direct citizen approach to the Appeals Office, contact from other public and private institutions, observation of media and social networks, as well as planned and unplanned inspections. Its operational staff has judicial police attributes. If the SIAC identifies administrative violations by a police employee, it sends the findings of its investigation to the head of relevant structures of the State Police, with a recommendation to initiate disciplinary investigations. It can also recommend any administrative measure to avoid the risks and eliminate consequences of violations. The SIAC's recommendations have to be accepted. Disciplinary investigations are then carried out by the PSD (see above). In case a criminal violation is identified, the case is referred to the prosecutor's office. The SIAC follows up on the implementation of its recommendations through information received from the PSD and its own inspections and feedback requests. According to the information provided to the GET, 99% of recommendations received had been implemented by the relevant bodies. Failure to do so is a reason to launch an inspection by the PSD and at the same time inform the Minister of Interior.

227. The Ministry of the Interior, Ministry of Finance and the High State Audit oversee the management of public funds by the State Police. The Ministry of Finance reports annually to the government and the High State Audit to the Parliament. Parliament exercises oversight over the government and has the authority to oversee implementation and oversight of the law. It conducts regular hearings with various stakeholders.

228. HIDAACI exercises control over asset declarations and conflicts of interests (see paragraphs 120 and following).

229. The Ombudsman has a broad mandate around the protection of human rights. This Office may submit to the government, Parliament or any public body, on a consultative basis, at their request or through the exercise of its investigative power, opinions, recommendations, proposals and reports on any issue related with the promotion and protection of human rights. In 2018, the Ombudsman handled 146 complaints against the Ministry of the Interior and State Police bodies (91 in 2017) on varied subjects, such as physical or psychological mistreatment at the time of arrest, escort or interrogation by the police; illegal escorts; not receiving or following up on reports or complaints; failure to keep and provide records of actions committed by police officers; not providing information, etc. The Ombudsman also noted a fear of retaliation from citizens for

denouncing cases of violence. It was at the time of the visit investigating the free movement of migrants following some complaints received.

230. In addition, the Commissioner for Information and Protection of Personal Data and the Commissioner for Non-discrimination have an oversight role connected to their respective fields of competence.

231. Finally, the Prosecutor's Office oversees the investigations and activity of the judicial police. Each police employee has judicial police attributes in accordance with the code of criminal procedure and the law on the organisation and functioning of the judicial police. In this framework, the Prosecutor's Office may issue general instructions in writing to judicial police officers and require the initiation of investigations on disciplinary misconducts and complaints against judicial police officers.

Complaint system

232. The SIAC has special units for receiving and handling complaints against police employees for corruption or unethical behaviour, namely the Directorate of Inspection and Handling of Complaints, consisting of the Complaints Handling Section and the Reception Office. The Reception Office is open to the public from 8 a.m. to 10 p.m. on Monday to Saturday. It also has a "green telephone line". Complaints may be made anonymously. Complaints are also received by electronic service stations located at the local police directorates. The SIAC has its own website⁵⁴, posters with the green telephone number and contacts at all border crossings and at the public reception offices in local police directorates. The SIAC occasionally conducts promotional campaigns.

233. The Complaints Handling Section records, logs and assesses complaints. It then addresses them for further verification to the local police structures. In case administrative violations are identified, it sends the case to the competent police structures and in case of criminal violations, to the prosecutor's office. The SIAC notifies the complainant in writing of the way in which the complaint has been handled and informs him/her of the right to appeal to the competent institution.

234. All local police structures and secretariats have reception offices that may receive complaints. Complaints against police officers are registered in a complaint register which is held in each police structure. Complaints may be addressed in person, by all communication means or anonymously. Every structure must report monthly to the PSD about complaints received. A Citizens' Complaint Sector at the General Directorate of State Police also records and handles complaints.

235. The government has also launched a co-governance platform⁵⁵ managed by the Agency of Dialogue and Co-governance under the authority of the Prime Minister's Office to deal with the quality of public services and receive complaints

Reporting obligations and whistleblower protection

236. All State Police employees have the obligation to report to their superior any suspected misconduct by a colleague they come across, either on or off duty (art. 89 LSP, art. 217 RSP).

⁵⁴ www.shcba.gov.al

⁵⁵ www.shqiperiaqeduam.al

237. Law No. 60/2016 on whistleblowers and whistleblower protection⁵⁶ applies to any alleged act or practice of corruption in the public and private sectors. It created a new mechanism under the Office of the Inspector General of HIDAACI to investigate cases and encourage the reporting of corruption cases.

238. The law foresees the establishment of internal reporting mechanisms in all central and local public authorities with more than 80 employees (163 reporting units have been established, including in the State Police), while HIDAACI functions as an external reporting mechanism. A whistleblower may be any individual who is or has been an employee of any public or private entity. Reports may be made through any means of communication and the whistleblower may remain anonymous. To be valid, reports have to be made in good faith and include: the whistleblower's identity and contact details; the relevant facts of the case; the relevant reference of the alleged corruption action to the Criminal Code to the extent possible; in case of external whistleblowing, the justification for using this mechanism.

239. Besides functioning as an external reporting mechanism, HIDAACI is tasked with: monitoring and issuing guidelines on the internal and external mechanisms of whistleblowing; determining the administrative offences and issuing fines under the law on whistleblowers; receiving and investigating requests for protection against retaliation measures imposed to whistleblowers and guaranteeing their protection against such measures; providing assistance and support regarding the implementation of the law on whistleblowers; raising public awareness about whistleblowing.

240. HIDAACI investigates reports received and transmits them to the Prosecutor's Office or the State Police if they are substantiated. The protection measures it may grant to whistleblowers are either general, like the protection of his/her identity, or more specific like protection against retaliation. Employees who have suffered retaliation are entitled to compensation.

241. HIDAACI is currently working at increasing capacity, raising awareness and assisting institutions for implementing the law on whistleblowers. It has received 161 annual reports from public authorities from which it appears that 7 units have registered and treated whistleblowing cases under the law. HIDAACI also acted as an external reporting mechanism in 8 cases in 2017, 16 cases in 2018 and 14 cases in 2019. Five requests for protection were handled in the period 2017-2019 and it was concluded that no retaliation measure had been taken by the whistleblower's employer.

242. The law on whistleblowers and whistleblowers' protection is still relatively recent and its effectiveness was questioned by several of the interlocutors met on site. The GET noted a lack of trust in the system, based on a fear that the identity of whistleblowers is not fully protected. This prevents the available reporting channels from being used to report misconduct. It would appear that this is especially true for the State Police, where a culture of silence is still prevalent. No instances of external whistleblowing concerning police staff have been reported to HIDAACI and the GET received no indication that the internal whistleblowing mechanism was effective. The GET believes that in order to encourage reporting of corrupt practices within the State Police and change negative perception about the effectiveness of protection measures, it is critical that the management level provide strong messages to staff, encouraging them to report misconduct and to ensure identity protection of the whistleblowers. Moreover, it is also crucial to train and raise awareness of all police staff to this end. This subject ought to be included in any practical guidance on ethical conduct in the State Police. In view of the foregoing, **GRECO recommends that the**

⁵⁶ <http://www.ildkpkj.al/legjislacioni-section3-en/?lang=en>

effectiveness of the implementation of the law on whistleblowers is ensured, including through regular training and information of police staff about whistleblowing protection measures.

Criminal proceedings and immunities

243. Employees of the State Police enjoy no immunity from criminal prosecution. They are investigated and adjudicated according to the Code of Criminal Procedure. Corruption offences, regardless of the person or entity who committed them, are prosecuted by the Special Prosecution Office and adjudicated by a Special Court. The GET refers to its concerns and the recommendation contained in paragraphs 134-135.

Statistics

244. Disciplinary measures applied for ethical violations in the State Police:

- 2015: 11 dismissals, 56 postponements for up to two years of the period for getting a higher grade, 22 minor disciplinary measures;
- 2016: 11 dismissals, 28 postponements for up to two years of the period for getting a higher grade, 17 minor disciplinary measures;
- 2017: 15 dismissals, 55 postponements for up to two years of the period for getting a higher grade, 23 minor disciplinary measures;
- 2018: 24 dismissals, 59 postponements for up to two years of the period for getting a higher grade, 29 minor disciplinary measures;
- 2019: 11 dismissals, 33 postponements for up to two years of the period for getting a higher grade, 32 minor disciplinary measures.

245. The SIAC's administrative investigation indicators for the period January-September 2019:

- The SIAC's Inspection Sector received and handled 1 437 public complaints and 4 993 calls on the green telephone line;
- The SIAC's General Inspection Sector carried out 10 planned inspections, 14 unplanned inspections and 27 complaint handling inspections.
- At the conclusion of the administrative investigation of complaints and inspections, files concerning 8 employees were referred to the respective district prosecution offices for the commencement of criminal proceedings; files of 296 employees were referred to the Directorate of Professional Standards in the General Directorate of State Police for the initiation of disciplinary proceedings.

246. The SIAC's criminal investigation indicators for the period January-September 2019: 195 cases were referred to the prosecutor's office, concerning 3 middle-level police officers, 95 police officers of the first management level and 252 law enforcement officers.

VI. RECOMMENDATIONS AND FOLLOW-UP

247. In view of the findings of the present report, GRECO addresses the following recommendations to Albania:

Regarding central governments (top executive functions)

- i. **that, for the sake of transparency, the names of political advisors are published online and that information on their main job and ancillary activities is easily accessible online (paragraph 41);**
- ii. **that i) concrete integrity plans be adopted and implemented within all ministries, including a systematic analysis of integrity-related risks that ministers and political advisors might face in the exercise of their duties and monitoring and compliance mechanisms and ii) that appropriate remedial measures aimed specifically at PTEFs be designed and implemented (paragraph 54);**
- iii. **to harmonise and increase the inherent coherence of the legal and institutional framework on the fight against corruption and integrity of public officials, in particular as regards PTEFs, for instance by compiling the norms and regulations into a handbook and providing guidance on the obligations of each category and on the role of each responsible body (paragraph 60);**
- iv. **that i) the existing Ministerial Code of Ethics be complemented with concrete guidance for its implementation regarding conflicts of interest and other integrity-related matters (e.g. gifts, third party contacts, lobbying etc); ii) the effective functioning of the Ethics Commission, or any other credible mechanism of supervision and sanctions, be ensured, including with respect to the Prime Minister, and iii) the ethical rules be complemented by illustrative examples and enforcement mechanisms for political advisors (paragraph 68);**
- v. **that members of the Council of Ministers and political advisors be subject to systematic awareness raising on integrity-related matters, including the Ministerial Code of Ethics and the anti-corruption and integrity legislation and framework, via regular training, dedicated guidance and confidential counselling (paragraph 71);**
- vi. **that complementary measures be taken to make the consultation process of the draft primary and secondary legislation of specific public interest more effective for the particularly concerned stakeholders, including through more user-friendly official websites (paragraph 85);**
- vii. **that i) detailed rules on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence governmental legislative and other activities be established and that ii) sufficient transparency be ensured about the purpose of these contacts (formal and informal), the identity of the person(s) with whom (or on whose behalf) the contacts have been taken and the specific subject-matter(s) discussed (paragraph 87);**

- viii. **that the abstention of a minister or deputy minister from taking part in a decision of the Council of Ministers because of a potential conflict of interest is actually recorded in the minutes of the Council of Ministers' meetings, as required by law (paragraph 100);**
- ix. **ensuring that explicit rules on post-employment restrictions apply both to members of the Council of Ministers and to political advisors and that an effective enforcement mechanism regarding these rules is implemented for all PTEFs (paragraph 116);**
- x. **that the e-platform which is in place for the declaration and publication of asset and interest declarations be made operational as soon as possible (paragraph 119);**
- xi. **that the necessary legal, human, financial and other resources, be provided in order for HIDAACI to improve its capacity to perform efficient verification of the declarations of assets and private interests (paragraph 125);**
- xii. **that i) the recruitment of prosecutorial and technical staff to the office of the Special Anti-corruption Prosecutor (SPAC) is completed as a matter of priority and that its members are provided with adequate human and technical resources and prosecutors benefit of highly specialised training, and ii) proper cooperation with HIDAACI is effectively carried out in order to increase the effective enforcement of HIDAACI's reports in the case of infringement by PTEFs and police employees of the laws on conflict of interests and asset declarations (paragraph 135);**

Regarding law enforcement agencies (Police and Border Guard)

- xiii. **(i) that a broad analysis be carried out on the legal framework and practice of private donations and sponsorship to the State Police and that, in light of its findings, rules are adopted to abandon private donations/sponsorship to the Police or, as a minimum, limit the risks of corruption and conflicts of interest in this respect; and (ii) that donations and sponsorship received are published on a regular basis (including on-line), indicating the nature and value of each donation as well as the identity of the donor (paragraph 149);**
- xiv. **ensuring that the policy for provision by the State Police of additional services in return for payment duly takes into account risks of corruption and conflicts of interest (paragraph 150);**
- xv. **that the integrity plan for the State Police be implemented as a matter of priority (paragraph 158);**
- xvi. **that the ethical principles and rules of conduct contained in the State Police Regulation are complemented with a manual containing practical guidance that takes into account the State's Police specificity, variety of duties and vulnerabilities (paragraph 166);**
- xvii. **(i) enhancing the initial and in-service training of police officers on integrity matters, as well as the specialised training for investigators dealing with corruption and economic crime cases; (ii) the setting up of a system and the appointment of trained persons of trust in order to provide confidential counselling on ethical and integrity matters to all police staff (paragraph 171);**

- xviii. that measures be taken to increase the stability of the State Police senior management, irrespective of political changes in the country (paragraph 180);**
- xix. that the heads of department of the State Police be appointed by the General Director (paragraph 181);**
- xx. i) that the functions more exposed to integrity risks are prioritised during the vetting process, in relation with the integrity plan and other existing risk management tools; and ii) that checks on candidates' integrity are carried out in the context of changes of post and promotion and at regular intervals over the course of police staff's careers (paragraph 196);**
- xxi. that rules on the acceptance and declaration of gifts by police staff be subject to adequate supervision and enforcement (paragraph 211);**
- xxii. ensuring that the employees of the Illyrian Guard are subject to the same legal and regulatory measures (including enforceable rules of conduct and transparency rules in public procurement procedures) as employees of the State Police (paragraph 215);**
- xxiii. developing explicit rules on post-employment restrictions, accompanied by an effective enforcement mechanism, for police employees (paragraph 216);**
- xxiv. that the effectiveness of the implementation of the law on whistleblowers is ensured, including through regular training and information of police staff about whistleblowing protection measures (paragraph 242).**

248. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Albania to submit a report on the measures taken to implement the above-mentioned recommendations by 30 April 2022. The measures will be assessed by GRECO through its specific compliance procedure.

249. GRECO invites the authorities of Albania to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: www.coe.int/greco.