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Parliamentary oversight of anti-corruption in Albania: Solution or part of the problem?

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Parliamentary oversight of anti-corruption in Albania: Solution or part of the problem?

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Introduction

The Albanian Parliament is responsible for overseeing the government and ensuring its accountability. The current research shows that the existence of legislative oversight mechanisms contributes to the increase of quality of governance, but their effectiveness in curbing corruption is dependent on contextual factors. This policy brief examines the role and effectiveness of the Parliament in fighting corruption.

It includes three main sections based on the Parliamentary Oversight Capacity Index¹ indicators: contextual factors that include political parties' dynamics, executive dominance and public trust, internal legislative oversight mechanisms and external oversight institutions such as the Supreme Audit Institution (SAI) and the High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI).

Contextual Factors

The parliamentary activity in Albania is carried out in a highly polarized and conflictual environment. Unprecedentedly, as of March 2019 the opposition parties relinquished their parliamentary mandates. More than half of the relinquished parliamentary mandates have now been reassigned by the Central Election Commission and the quorum for the full functioning of Parliament is maintained.² The current configuration of the Parliament consists of 122 out of 140 MPs and the existence of the so-called the extra-parliamentary opposition.

As a result, this new configuration has hampered the parliamentary oversight capacity on draft laws and reforms crucial to the efforts of anti-corruption. The decisions on the appointment of the High State Audit, the amendments in the law on the mandate of the High Inspector for the Control and Declaration of Assets and other legislation of crucial importance in the fight against corruption, were just adopted with simplified procedures and without further ado.³

¹ Stapenhurst et al. (2020). Anti-corruption Evidence: The role of parliaments in curbing corruption, Studies in Public Choice 34, Springer Nature Switzerland AG, p. 9.

² European Commission, Albania 2019 Report, Brussels, 29 May 2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>, p.4.

³ Krasniqi, A. (2019). Parliamentary Boycotts in the Western Balkans: Case Study, Albania. Westminster Foundation for Democracy (WFD), <https://www.wfd.org/wp-content/uploads/2019/07/WFD-WB-Boycotts.pdf>, p. 9.

Also, this extreme measure taken by the opposition showed another critical factor - that of the strong executives. The 2008 constitutional amendments affected the checks and balances mechanisms, offered more space for the PM to control the parliamentary majority using a confidence vote – failure of which would dissolve the Parliament, and allowed for a simple majority to elect the President of the Republic, an institution whose independence provided for some of the checks and balances instruments.⁴

The party cohesion that exists in Parliament combined with the disruption of the checks and balances leads to the promotion of the party interests, thus restraining the parliamentary mandate to control the executive. Therefore, in general, corruption allegations exposed by the opposition are often viewed with the lenses of the political party debate or as a means to 'attack' certain individual MPs.

Moreover, if oversight is to be effective, public trust in Parliament is essential. In this respect, the Albanian Parliament is generally perceived to be part of the problem of corruption, despite the endorsement of the Code of Conduct and declaration of assets by the MPs and efforts to improve citizens outreach. The latest public

perception data shows that the Parliament and the political parties are rated amongst the least trusted institutions in Albania. Accordingly, the public trust in the Parliament is (28.4%), and political parties (22.5%).⁵

Parliament's oversight activity: potential vs. political will

While the presence of oversight mechanisms is necessary, they are insufficient in the absence of political will to make them useful as it is 'a concept standing at the crossroads of politics and policy and implicating the most political parts of the policy process'.⁶ The Rules of Procedure of the Albanian Parliament provides an extensive array of oversight mechanisms that can be exercised in exposing and weakening the opportunities for corruption. Thereby, some of the oversight mechanisms include: submission of questions or requests for information, interpellations; motions of debate, no-confidence motion, motion of confidence (trust vote), hearing sessions, inquiry committees, etc.⁷

⁴ Vurmo, Gj. (2020) Tailor-Made Laws in the Western Balkans: State capture in disguise, CEPS, Brussels. <https://www.ceps.eu/ceps-publications/tailor-made-laws-in-the-western-balkans/>

⁵ Vrugtman, L., Bino, B. (2020) Opinion Poll 2019: Trust in Governance. Tirana, Albania: Institute for Democracy and Mediation, p. 28, <https://idmalbania.org/download/7379/>

⁶ R. Stapenhurst et al. (eds.), Anti-Corruption Evidence, Studies in Public Choice 34, https://doi.org/10.1007/978-3-030-14140-0_1 стр. 165.

⁷ Albanian Assembly Rules of procedure, Part III, Parliamentary Oversight Mechanisms, Articles 89-104, <https://www.parlament.al/Files/sKuvendi/rregullorja.pdf>

(Decision No. 166, dated 16.12.2004 as amended by Decision no. 15, dated 27.12.2005, Decision no. 193, dated 7.7.2008, Decision no. 21, dated 04.03.2010, Decision no. 41, dated 24.6.2010, Decision no. 88, dated 24.2.2011, Decision no. 41 dated 30.05.2013, Decision no. 95 dated 27.11.2014, Decision no. 88 dated 14.9.2017, Decision no. 85 dated 18.7.2019 and Decision no. 12/2020)

No.	Type of oversight mechanism	2013	2014	2015	2016	2017	2018
1.	Interpellations	6	11	4	2	3	5
2.	Questions/ Requests for information	30	66	73	73	57	175
3.	Standing committees Hearings	64	63	57	60	42	86
4.	Reports of independent institutions	7	16	15	18	13	21
5.	Motion of debate	1	1	0	0	1	2
6.	Inquiry Committee	1	6	2	4	0	1

Data compiled by the author. Data source: Albanian Parliament,
<https://www.parlament.al/RaporteStatistika?statusId=1>

The data shows that the questions and the hearings are the most used parliamentary oversight mechanisms. Other oversight mechanisms remained generally underused.⁸ Supposedly, the standing committees constitute the primary avenue through which effective legislative oversight against corruption can be carried out. Among other things, they are mandated to enact laws, hold hearings, conduct site visits, engage with citizens and stakeholders, etc. Within this

framework, one of the challenges that a former MP has noted as a challenge in the implementation of these mechanisms is the limited and timely access to official information albeit there is a law on the right to information in place. Despite the provisions of the law, no administrative measures are taken to address this issue. Also, there are no provisions in place to address the cases when the government representatives do not comply with the parliamentary oversight tools.⁹

⁸ European Commission, Albania 2019 Report, Brussels, 29 May 2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>

⁹ Interview with a former MP of the VI Legislature, 24. 8. 2020.

Currently, there are eight standing committees, one ad hoc committee and seven subcommittees. None of these committees deals exclusively with anti-corruption. The fight against corruption is considered to be a cross-cutting issue of the existing committees. The most proactive committees on matters of anti-corruption are the Committee on Legal Issues, Public Administration and Human Rights and Committee on Economy and Finances, although with limited results in uncovering corruption

Moreover, despite having the legal provisions, the MPs should not just view oversight as just merely a procedural parliamentary activity. Anti-corruption should be explicitly a high priority in the agenda of the parliamentary oversight.¹⁰ In many cases, the inquiry committee's activity on corruption allegations or other wrongdoings are suspended or do not deliver concrete findings that can be followed up by the prosecution. These weaknesses can be addressed through the establishment of a subcommittee on anti-corruption that is headed by the opposition, that is given greater representation of the opposition spectrum and is well-resourced with support staff. Additionally, its reports need to be binding for further investigation by SPAK.¹¹

The politicization of the parliamentary processes creates little room for the opposition and MPs to carry out effective oversight. After the relinquished of the opposition parties' mandates, the effectiveness of the standing committees in uncovering corruption appears to have declined. This may be because the new parliamentary opposition lacks the necessary capacities and knowledge to carry out oversight as well they lack public legitimacy. In this respect, the parliamentary activity in Albania has adopted more of a 'rubber stamp' approach that endorses the executive's initiatives.

External oversight institutions: lack of a 'joined-up' oversight

Unlike many of the Western Balkans countries, Albania does not have an independent specialized anti-corruption agency. The anti-corruption set-up comprises many institutions that operate independently from each other. The executive branch, through the National Coordinator on Anti-

¹⁰ Interview Erida Skendaj, Executive Director, Albanian Helsinki Committee, 25. 8. 2020

¹¹ Interview with a former MP of the VI Legislature, 24. 8. 2020.

Corruption, under the Ministry of Justice, is mandated with the prevention and awareness-raising tasks. Furthermore, the ongoing justice reform has established a special prosecution office (SPAK) and the court against corruption.

The existing independent external oversight institutions that deal with anti-corruption are often faced with a dual burden such as attribution of additional areas to oversee and human and budgetary constraints. In some instances, also their independence is put into question. The main independent external oversight institutions responsible for the anti-corruption are the Supreme Audit Institution (SAI) and the High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI). Both these institutions report to the Parliament, have the powers to initiate investigations and have their independent budget approved by the Parliament. Also, since 2016, HIDAACI has been tasked to oversee the implementation of the law on the protection of the whistleblowers.

The Parliament oversees their annual reports, summons their representatives in hearings on important issues, and it has established

a monitoring service that follows up on the recommendations issued by the Parliament to external oversight institutions. So far, the reporting procedure is considered to be superficial, with marginal attention to their findings.¹² Moreover, there is a lack of systemic consultation of the civil society on the activity and special reports of the external oversight institutions.¹³

Also, recent data shows that the Albanian citizens show greater confidence in the effectiveness of the SAI at holding the government into account by (63.7%).¹⁴ In several cases, SAI has raised the red flag on its audit reports on the so-called public-private partnerships (PPPs), are “outside the control of the state”, and no action seems to be undertaken by the Parliament.¹⁵ In this respect, the external oversight institutions fall short of a proactive follow up of the cases in the prosecution and court.¹⁶

It goes without saying that the strengthening of the judicial system to ensure the corrupt are prosecuted and convicted is crucial. In this sense, the Parliament should not only join forces and make use of the findings resulting from the activity of critical external oversight institutions. Likewise, it needs to support these institutions further to promote prevention and feed in with evidence for the future prosecutions.

¹² Interview with a former MP of the VI Legislature, 24. 8. 2020.

¹³ Interview Erida Skendaj, Executive Director, Albanian Helsinki Committee, 25. 8. 2020.

¹⁴ Vrugtman, L., Bino, B. (2020) Opinion Poll 2019: Trust in Governance. Tirana, Albania: Institute for Democracy and Mediation, p. 55, <https://idmalbania.org/download/7379/>

¹⁵ Exit. 'Supreme State Audit Institution: Gov't Cooked the Books, Concessions Out of Control', 22 October 2019 <https://exit.al/en/2019/10/22/supreme-state-audit-institution-government-cooked-the-books-concessions-out-of-control/>

¹⁶ Interview Erida Skendaj, Executive Director, Albanian Helsinki Committee, 25. 8. 2020.

In a nutshell

The Albanian parliamentary processes indicate that the presence of extensive oversight mechanisms alone is not sufficient, because of the lacking of the effective implementation and impact of these mechanisms in curbing corruption. The contextual factors, including the political parties' dynamics, executive dominance and public trust are critical variables when analyzing the potential of the parliamentary oversight in combating corruption. The existence of a strong Executive and high polarization of the parliamentary activity is not conducive to effective oversight. The Parliament must develop a constructive approach better to accommodate political party interests versus the public interest. Also, to improve the public trust, the Parliament needs to scale up the citizens' outreach, strengthen collaboration with the civil society organizations and transparency of its activity.

In terms of the internal legislative oversight mechanisms, their use and effectiveness remain limited in curbing corruption. Therefore, these mechanisms need to be binding to the government representatives. Moreover, it can be considered to establish a specialized subcommittee with a strong mandate on anti-corruption under the leadership of the opposition.

Regarding the external oversight institutions, the Parliament should proactively coordinate with and use the information and evidence produced by these institutions to address anti-corruption efforts better. Also, the external oversight institutions need to be better resourced to carry out their tasks in the fight against corruption.

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Interview with:

- A former MP of the VI Legislature
- Erida Skendaj, Executive Director, Albanian Helsinki Committee

For the project

Anti-Corruption Talk in Parliament is a project aimed at strengthening the oversight role of lawmakers in the fight against corruption. The project is funded by the US National Endowment for Democracy.

Information for IDSCS

IDSCS is a think tank organization that investigates the development of good governance, the rule of law and the European integration of North Macedonia. IDSCS has a mission to support civic engagement in decision-making and to strengthen participatory political culture. By strengthening libertarian values, IDSCS contributes to coexistence between differences.

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