Transparency and citizen participation are key tools in the development of good local governance. Both help create the conditions for citizens to understand and evaluate the decisions which the government is taking on their behalf, as well as make their own needs and views known to government as it takes those decisions.

Effective transparency and participation can help to drive out corruption and government malpractice. They are also more positive tools as they help produce the conditions for increased trust. Finally, they also help governments to draw on the skills and experience of citizens to enable better decision-making and the delivery of more effective public services.

To that effect, this handbook aims to support local and regional authorities in Albania in their efforts to make communities more open, ethical and citizen-oriented. It provides practical guidance on transparency policies and citizen participation mechanisms, includes a concise assessment of the most prevalent corruption risks in the country and incorporates actual examples of best practices.

The Council of Europe is the continent’s leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. The Congress of Local and Regional Authorities is an institution of the Council of Europe, responsible for strengthening local and regional democracy in its 47 member states. Composed of two chambers - the Chamber of Local Authorities and the Chamber of Regions - and three committees, it brings together 648 elected officials representing more than 200,000 local and regional authorities.

https://www.coe.int/congress

Working together to strengthen local governance
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Governments can only function effectively if they enjoy the trust of their citizens. Local governments, municipalities and their civil servants have a crucial role in trust-building and participatory decision-making, since they have a certain degree of autonomy over the distribution of resources, play an intermediary role with regard to national governments, and represent the first interface between citizens and elected representatives. The professionalism and integrity of these governments and local administrations and their ability to function in a transparent, responsive and accountable manner will doubtlessly lead to enhanced, fair and equitable services to citizens. Local and regional elected representatives therefore must act as role models in the areas of public ethics, transparency and participatory decision-making.

However, we cannot ignore the fact that local authorities, as any public authority, are susceptible to corruption, which poses a major threat to the legitimacy of democratic institutions, as well as to the degree of trust that citizens place in their representatives. Threats such as the lack of transparency and poor public ethics are problems faced by all levels of government, including the local and regional levels. They affect citizens, governments and businesses alike and pose a threat to the universal access to basic services and local development. The fight against corruption needs to remain a long-term priority for local and regional governments and their associations. Concerted preventive action is paramount in order to foster economic growth, improve living conditions and develop citizens’ trust.

As the decentralisation of power advances, the quality of local governance becomes even more decisive. Therefore, along with the introduction of criminal law provisions against corruption, it is essential to promote public ethics, transparency and participatory decision-making in order to reduce the risk of corruption and boost the citizen confidence in local and regional authorities. The Congress of Local and Regional Authorities of the Council of Europe took a firm step in the promotion of ethical governance by adopting, in 1999, the European Code of Conduct for the political integrity of local and regional elected representatives. An advisory group revised this Code, which has been adopted as the European Code of Conduct for all persons involved in local and regional governance in November 2018. The updated text addresses the new challenges, including new forms of communication, the impact of digital technology, the respect for the privacy of data, and enlarges the scope of its application to all actors involved in local and regional governance, and not just elected officials.

The Congress is committed to promote ethics and transparency at local and regional levels as an essential component of enhancing the quality of local and regional democracy, one of the key priorities for the period 2017-2020. With that aim it set “Ethics and Transparency at local and regional level” as the theme for its two plenary sessions in 2016, and in October 2016 adopted a “Roadmap of activities for preventing corruption and promoting public ethics at local and regional levels”. One of the objectives of this
roadmap is to deepen our understanding of the various risks and forms of corruption that exist at the local and regional levels. In that perspective the Congress recently adopted reports on the abuse of administrative resources in election campaigns as well as on preventing corruption in public procurement, and is currently preparing reports on conflicts of interests, the protection of whistle-blowers, nepotism in the recruitment of staff, and transparency and open government.

As a sign of its political determination to tackle this issue, the Congress has appointed a spokesperson on promoting public ethics and preventing corruption at the local and regional levels. In 2017, during the 33rd session of the Congress, it also brought to the fore the important perspective of young people and open government in the fight against corruption. This is a comprehensive and long-term approach to corruption prevention, including through the co-operation activities of the Congress of which this Handbook and those prepared for Armenia, Georgia, the Republic of Moldova and Ukraine are just a few examples, which sends a clear signal of our intention to make this a priority activity for the years to come.

The attitudes and expectations of our citizens with regard to public governance are changing. We are witnessing a growing mistrust toward public institutions and their representatives. In this regard, effective mechanisms for the implementation and compliance with standards of conduct are essential to renew the confidence in public administration. Preventing corruption, reducing its risks, and developing effective, accountable and transparent institutions at all levels are key components of just and inclusive societies.

With this in mind, this Handbook on Transparency and Citizen Participation in Albania is aimed at local authorities, mayors, local councillors and civil servants, to support them in their efforts to improve the quality of local governance in their villages, towns and cities. The Handbook will provide local authorities with practical guidelines on transparency and citizen participation, identifying the relevant international standards and national legislation, and providing case-law examples and best practices which it recommends be applied and promoted by all Albanian local authorities.

Andreas Kiefer
Secretary General
Congress of Local and Regional Authorities
FOREWORD

Local governments play a crucial role affecting the development of the social and economic life of their communities by providing local solutions for citizens. Albania has undertaken a series of local self-government reforms, aiming to create an enabling framework with the principle of decentralisation in the core of the establishment and operation of local government.

This process has led to larger administrative units equipped with greater authority and responsibility, along with increased finances, with the aim to strengthen the efficiency of services and improve the distribution of investments. These transformational changes contribute to the consolidation of local democracy and greater opportunities for citizens to participate in local matters.

With the decentralisation of powers, the quality of local governance becomes even more decisive. The European Commission has highlighted the progress that Albania has made on policy co-ordination through the establishment of inter-institutional working groups and the adoption of the new Law on the Organisation and Functioning of Local Government. In addition, several complementary laws and cross-sectorial strategies related to the fight against corruption have been approved with the purpose of addressing the lack of transparency, accountability and responsiveness in local government. Despite the great progress made in the legal and regulatory framework, the financial and administrative consolidation of newly created local government units is still weak and poses an additional threat to the integrity and legitimacy of democratic institutions.

Transparency, integrity and accountability in local government are key priorities of Partners Albania’s agenda, particularly during the reformative changes at the local level. In addition, Partners Albania combines a top-down and bottom-up approach to foster local democracy to integrate and support all drivers of change.

Strengthening the capacities of local officials to meet citizens’ needs, monitoring the efficiency of local public services and the effective implementation of relevant legislation at the local level, constitute significant interventions from Partners Albania. In order to prevent and fight corruption, Partners Albania assists municipalities to design and implement comprehensive strategies to tackle this scourge of democracy, in particular by applying the renowned Islands of Integrity methodology.

Acknowledging the importance of public participation for good local governance, Partners Albania assists communities, civil society organisations and other local stakeholders to implement participatory processes and effectively advocate for enhanced accountability at local decision-making. ‘LevizAlbania’ is one of the flagship initiatives in that regard.
In the same line with other interventions, the *Handbook on Transparency and Citizen Participation in Albania* aims to provide local authorities and relevant stakeholders a practical guidance to drive out corruption and improve the quality of local governance.

Juliana Hoxha  
Director  
Partners Albania
Chapter 1

PURPOSE AND STRUCTURE OF THE HANDBOOK

Transparency and citizen participation are key tools in the development of good governance. Both help to create the conditions for citizens to understand and evaluate the decisions which the government is taking on their behalf, as well as to ensure that their own needs and views are taken into account in the decision-making process.

Effective transparency and participation can help to drive out corruption and government malpractice. They are also more positive tools as they help produce the conditions for increased trust. Finally, they also help governments to draw on the skills and experience of citizens to enable better decision making and the delivery of more effective public services.

This Handbook on Transparency and Citizen Participation in Albania aims to support local authorities in their efforts to improve the quality of local governance in line with the principles of the European Charter of Local Self-Government (ETS No. 122) and its Additional Protocol on the right to participate in the affairs of a local authority (CETS No. 207). It provides them with practical guidance on transparency and citizen participation, based on the Council of Europe principles and with reference to the general international standards and particular national legislation.

To fulfil its purpose as a practical reference guide to support local authorities in their daily work, the Handbook on Transparency and Citizen Participation in Albania includes country-specific information about anti-corruption legislation, transparency policies and citizen participation mechanisms. In particular, the user of this Handbook is provided with a straightforward look at relevant national legislation, a concise assessment of the most prevalent corruption risks, and a set of best practices to introduce and implement transparency and citizen participation mechanisms.

Furthermore, the implementation of the mechanisms included in this Handbook will help local authorities contribute to the Sustainable Development Goals (SDGs)\(^1\) of the 2030 Agenda for Sustainable Development,\(^2\) namely the goals 5 (gender equality), 11 (sustainable cities and communities), 16 (peace, justice and strong institutions) and 17 (partnerships for the goals).

The Handbook is structured in four main chapters:

- **CHAPTER 2 – Ethics and Public Accountability**

  This chapter highlights the importance and challenges of ethics and public accountability in Albania. Moreover, it is emphasised how essential they are for an effective, transparent and participatory governance.
CHAPTER 3 – Corruption Risks

This chapter introduces the most common corruption risks identified in Albania and outlines relevant international anti-corruption standards, along with the national legal framework for each form of corruption. In addition, this chapter is supported with examples of case law related to each corruption risk.

CHAPTER 4 – Transparency

This chapter introduces five transparency mechanisms, which have been selected to represent the diversity of approaches to transparency. Each mechanism includes an introductory description and an outline of international standards. This is followed by four sections summarising key national laws and presenting practical guidelines and best practices which may serve as examples for local authorities in their efforts to enhance transparency.

CHAPTER 5 – Citizen Participation

This chapter introduces five citizen participation mechanisms, which have been selected to represent the diversity of approaches to citizen participation. Following the same structure as in the previous chapter, it includes an introductory description for each mechanism and outlines relevant international standards. This is followed by four sections summarising key national laws and presenting practical guidelines and best practices which may serve as examples for local authorities in their efforts to foster and improve inclusive citizen participation.
2.1. INTERNATIONAL CONTEXT

Ethics and public accountability are essential features of an effective local or regional authority. They refer to the culture, processes, structures and rules that ensure those in public office act in the wider public interest, rather than their own self-interest. They are an essential feature of good governance, and apply equally to organisations in the private and civil society sectors, as well as public authorities.

Ethics are the rules that define the conduct of public officials in order to ensure that the public is treated fairly and with equality. Ethics can help officials make better decisions in the public interest, as well as help people evaluate the decisions taken on their behalf by public officials.

Public accountability ensures that officials are openly answerable for the decisions they are taking on behalf of the public.

In the absence of ethics and public accountability, corruption and malpractice is able to thrive. As outlined in the following section, corruption is damaging to individuals, society, the economy and government in a number of respects. Ethics and public accountability can help curb the worst excesses of power, and encourage more responsible and fairer decision making by local authorities.

Even where corruption is not endemic, the absence of ethics and public accountability can be corrosive to public trust in government, public institutions and officials. While the relationship between both ethics and public accountability is complex, when done well, they can help to build and strengthen trust between the public and government.

On the other hand, ethics and public accountability can also play a much more positive role. They recognise that citizens and other stakeholders have much value to offer in decision making. They can help to ensure that their personal experiences, expertise, knowledge and scrutiny add value to, and strengthen, decisions taken by government and public officials.

Finally, effective ethics and public accountability are also key elements of improving public services. This is based on the idea that public services that are more responsive and accountable to people - and benefit from their insights, ideas, energy and scrutiny - will work better for people.

Taken together, ethics and public accountability help to ensure that decision making and resource allocation are fair, efficient and effective, which in turn helps to enable a flourishing democracy, economy and society.

Transparency and citizen participation are important mechanisms for promoting ethics and public accountability in national and local government. A recent report for the European Committee of the Regions on “Preventing Corruption and Promoting Public
Ethics at the Local and Regional Level in Eastern Partnership Countries” found that lack of transparency was the main vulnerability in all of the cases assessed. This handbook outlines a range of transparency and citizen participation mechanisms that can be adopted by local and regional authorities.

2.2. NATIONAL CONTEXT

Albania has undergone transformational changes regarding the local government system. One of the major changes was the administrative and territorial reform of 2014, reducing the number of Local Government Units (LGUs) from 373 “urban municipalities” and “communes” to 61 new Municipalities (the “communes” were abolished as an administrative division of Albania). In this regard, the National Crosscutting Strategy for Decentralisation and Local Governance 2015-2020 fits the new context of local government organisation and puts forward a comprehensive approach to decentralisation and strengthening of local governance, in line with the principles of the European Charter of Local Self-Government.

According to the European Commission’s 2016 progress report for Albania, the financial and administrative consolidation of the newly created municipalities has been slow, posing an additional challenge in the fight against corruption (European Commission, 2016). Albania has recently adopted some measures that aim to tackle corruption, such as the Inter-Sectoral Strategy against Corruption 2015-2020, and its Action Plan for 2015-2017, and the Law No. 9508 “On Public Co-operation in Combating Corruption”. In addition, the new Law No. 60/2016 “On Whistle-Blowing and Whistle-Blowers’ Protection”, which aims to protect and prevent corruption in the public and private sectors, is also applicable to local governments.

Despite the measures taken, Albania remains vulnerable to corruption because of political interference and lack of independence at key oversight institutions (Transparency International, 2016). Almost 89% of the general public thinks corruption is either “widespread” or “somewhat widespread” among public officials (IDRA, 2016). In terms of levels of corruption, the citizens’ perception of corruption at the local government level is rated as average (IDRA, 2017a).

Regarding transparency and citizen participation, Albania has adopted the Law No. 119/2014 “On the Right to Information” and the Law No. 146/2014 “On Notification and Public Consultation”. However, there is a high discrepancy between the standards of the laws and strategies and their actual implementation. Only 43% of the citizens perceive that local government is transparent and 33% of them perceive that municipalities are accountable. Moreover, citizen participation is the weakest in the governance dimensions of Albanian municipalities (IDRA, 2017a). This is evidenced by the 67% of citizens, who perceive not to have sufficient opportunities to participate in decision-making and consultation processes at local level (IDM, 2016b).

With regard to ethics, the Albanian public administration has failed to implement fully effective anti-corruption mechanisms and the level of implementation of codes of ethics and their adoption are generally poor (IDM, 2016a).
In the absence of ethics and public accountability, corruption and malpractice is allowed to thrive, which undermines the foundations of a peaceful, prosperous and just society.

Corruption is a major challenge to democracy and the rule of law. It results in decisions and resource allocation that do not reflect the interests of the public and concentrates political power in the hands of the few. It in turn causes political leaders and institutions to lose legitimacy and public trust, which reduces their ability to govern.

Corruption also causes local and regional authorities to be inefficient and ineffective in exercising their duties. It results in decisions being made not on the basis of what is in the interests of society at large, but what is in the self-interests of the decision maker and their associates. It leads to public money being misspent, with contracts being awarded to inferior providers and budgets being misallocated. At its worst, it enables public officials to misappropriate money and resources, using their position to get rich to the cost of those they have a duty to serve.

Corruption can also result in public officials being appointed on the basis of favouritism rather than merit, meaning that local and regional authorities do not have access to the brightest and best talent. This in turn creates a fertile environment for further corruption and reduces even more the efficiency and effectiveness of the administration.

Inefficient and ineffective organisations, staffed by individuals who gained their position on the basis of something other than merit, result in poor quality public services and infrastructure, thereby eroding public trust and the legitimacy of public institutions. More importantly, however, it results in significant human costs, including poverty, deaths, illness, and restricted life chances.

Finally, corruption harms economic development. It leads to public money being directed to uncompetitive businesses, rather than those that offer more innovative or cheaper products and services. Uncompetitive markets, coupled with the negative impact of corruption on the quality of local public services and infrastructure, means that businesses do not have a solid foundation (of staff, security, investment, etc.) on which to build. In the end, this may cause private and international investors to avoid investing in an area.

3.1. BRIBERY

Bribery is the promise, offer, acceptance or solicitation of a personal advantage (e.g. gift, loan, reward, favour, etc.) in exchange for an unethical or illegal action. Bribery results in decisions not being taken in the public interest, which reduces public trust in institutions and leads to poor public services.
International standards

The following international conventions and standards relate to bribery:

- The **OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions**\(^{14}\) establishes legally-binding standards to criminalise bribery of foreign public officials in international business transactions. It is the first and only international anti-corruption instrument focused on the ‘supply side’ of the bribery transaction.

- The **International Anti-Bribery Standard 37001**\(^{15}\) specifies a series of measures to help organisations prevent, detect and address bribery.

- The **OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance**\(^{16}\) which supports the convention on combating bribery.

National context

Less than half of Albanian citizens (44%) claim to have had experience with bribery in 2015 (IDRA, 2016). Bribery is more prevalent in rural areas than in urban areas and bribes are exclusively given in the form of cash. Mostly, bribes are paid to facilitate bureaucratic procedures, deficiencies and bottlenecks in the public sector (UNODC & INSTAT, 2011). The Government has launched several online portals to report bribery and other forms of corruption.

National legislation

Based on Article 244 of the Criminal Code,\(^{17}\) the active corruption of persons exercising public function is defined as «promising, direct or indirect proposal, offer, or giving, to a person, who exercises public functions, of any irregular benefit for himself or a third person in order to act or not act in relation to his duty, is punished by imprisonment from six months up to three years».

As per Article 245 of the Criminal Code, the commission of this same offence by high state officials and local elected representatives is considered an aggravating circumstance, and thus the penalty in this case is imprisonment from one up to five years.

As regards passive corruption committed by persons that exercise public functions, it is defined in Article 259 as follows: «Soliciting or taking, directly or indirectly, by a person who exercises public functions, of any irregular benefit or of any such promise for himself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in the exercise of his duty, is punishable by imprisonment of from two up to eight years». As with active corruption, and as stipulated in Article 260, the penalty for passive corruption by high state officials or local elected officials increases from four up to twelve years.
Examples of case law

In 2016, the police announced the arrest of the mayor of Bërzhitë. He was found guilty of passive corruption for accepting a bribe of €4,500 for the issuance of a parking permit to one of the hotels of the area. An arrest warrant was issued for him, who was later on found guilty in absence and sentenced to 5.4 years in prison.\textsuperscript{18} under original jurisdiction.\textsuperscript{18}

3.2. CONFLICT OF INTEREST

A conflict of interest is where an individual is in a position to derive personal benefits from the actions or decisions they take in an official capacity. Conflicts of interest – either if they are actual, perceived or potential\textsuperscript{19} – result in decisions that are, or are considered to be, unfair and self-interested. This reduces public trust in institutions and results in worse outcomes for the public.

International standards

As one type of corruption, extortion is covered by the following international standards and guidelines:

- The Committee of Ministers of the Council of Europe’s Recommendation on Codes of Conduct for Public Officials\textsuperscript{20} and the European Code of Conduct for all Persons Involved in Local and Regional Governance\textsuperscript{21} cover the general issues normally thought to be necessary for avoiding such conflicts.

- The Congress of the Council of Europe’s Resolution and Recommendation on Conflicts of interest at local and regional level\textsuperscript{22} propose a set of measures to mitigate the risks of conflict of interest and ensure that it is identified at an early stage.

- The OECD Guidelines for Managing Conflict of Interest in the Public Service\textsuperscript{23} identify principles and standards for developing policies.

- The Congress of the Council of Europe’s Resolution and Recommendation on Making public procurement transparent at local and regional levels\textsuperscript{24} and the OECD Checklist for Enhancing Integrity in Public Procurement\textsuperscript{25} provide guidance for enhancing transparency and promoting integrity in procurement.

Conflict of interest is also covered by the following international standards and guidelines:

- The United Nations Convention against Corruption\textsuperscript{26} is the only legally-binding universal anti-corruption instrument.

- It is supported by this Technical Guide to the Convention.\textsuperscript{27}
The Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)\(^{28}\) aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.

The Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)\(^{29}\) defines common international rules for effective remedies for persons affected by corruption.

The European Union’s Convention against Corruption Involving Officials\(^{30}\) aims to fight corruption involving officials from the EU or its Member States.

**National context**

Study findings suggest that the management and prevention of conflict of interest in Albania has been deficient due to the frequent amendments of the regulatory framework. The reported cases of conflict of interest focus almost exclusively on the conflicts of interest of financial or economic nature. Local governments, as a result of the decentralisation process and their increased interactions with the public, have been increasingly exposed to the risk of conflict of interest. The cases of conflict of interest are mostly related to building permits, procurement, and use of public spaces (IDM, 2014). One of the efforts to address this issue is the Inter-Sectoral Strategy against Corruption 2015-2020.\(^{31}\) In 2014, legislative amendments in laws related to the declaration of assets and the conflict of interest were approved, increasing the number and frequency of audits from the High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI).

**National legislation**

According to Article 3 of the Law No. 9367 “On the Prevention of Conflicts of Interest in the Exercise of Public Functions”,\(^{32}\) conflict of interest is a «situation of conflict between the public duty and the private interests of an official, in which he has direct or indirect private interests that affect, might affect or seem to affect the performance, in an incorrect way of his public responsibilities and duties».

Article 29 of the above law places restrictions on mayors and chairmen of regional councils, who cannot be chairmen of NGOs, conduct economic activities, be members in managerial organs of private or civil society sectors, and possess shares or capital in a commercial company. The central authority responsible for the implementation of this law is the HIDAACI. In its Article 44, the Law provides a range of administrative penalties. Based on the type of conflict of interest, the fines range from 30 000 to 500 000 Albanian lek (ALL), equivalent to €225 to €3 740 respectively. The Law also stipulates disciplinary measures in Article 45.

Conflict of interest is mentioned also in Article 4 of the Law No. 9131 “On the Rules of Ethics in the Public Administration”,\(^{33}\) Article 46 of the Law No. 152/2013 “On the Civil Servant”,\(^{34}\) and Article 26 of the Law No. 9643 “On Public Procurement”.\(^{3}\)
**Reported case**

The municipality of Lezhë is accused of a conflict of interest for granting a bid of ALL 100 million (€750 000) to the family of the administrator of Balldren, an administrative unit of Lezhë. The investigative media that reported this case revealed that the contract, the aim of which was the rehabilitation of the road connecting Kunë and Shëngjin, was granted without an open procurement process. However, there is no information about any legal proceedings being instituted, or about any criminal prosecution being raised against the municipality.

### 3.3. EMBEZZLEMENT

Embezzlement is the illegal appropriation of money, goods or other resources by an official to whom they have been entrusted. This results in the loss of public money, which reduces the capacity of authorities to act in the interests of the public, resulting in worse services and outcomes for people. It also undermines public trust in government.

**International standards**

As one type of corruption, embezzlement is covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**[^37] is the only legally-binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**[^38].
- The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**[^39] aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)**[^40] defines common international rules for effective remedies for persons affected by corruption.
- The **European Union’s Convention against Corruption Involving Officials**[^41] aims to fight corruption involving officials from the EU or its Member States.

**National context**

Only 8.2% of civil servants perceive embezzlement as very prevalent. In addition, according to public servants, embezzlement is one of the less witnessed corrupt practices (UNDP, 2014). Despite of this perception given by public officials in the study, the practice shows that there are many cases of embezzlement reported by Supreme...
Moreover, there are some cases reported which have been successfully prosecuted by the judiciary.

**National legislation**

As defined in Article 248 of the Criminal Code, abuse of office is understood as the «deliberate accomplishment or non-accomplishment of actions or failures to act, in violation to the law and constituting the failure of a person, who carries out public functions, to do his duties regularly, in cases when it has led to bringing him or other persons unjust material or non-material benefits or when it has brought damages to the legitimate interests of the state, citizens, and other legal entities, when it does not constitute another criminal offence, is punishable with imprisonment up to seven years».

In addition, based on article 246, «appropriating a public title or office accompanied with the actions pertinent to the holder of the title or office, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment. If the act is committed for embezzlement purposes or has encroached the freedom, dignity or other fundamental rights of the citizen, it is punishable by a fine or up to five years of imprisonment».

Embezzlement is mentioned also in Article 57 of the Law No. 152/2013 “On the Civil Servant”, and in Article 13 of the Law No. 9131 “On the Rules of Ethics in the Public Administration”.

**Example of case law**

A former chief of the Municipal Police of Tirana and of the Local Urban Construction Inspectorate was accused of abuse of office, because he had allowed the illegal construction of a multi-storey building, being aware that granting such construction permit was against the law. As stated in the decision No. 837 of 18 March 2016, the District Court of Tirana declared him guilty of abuse of office and sentenced him to one year in prison.

**Fraud**

Fraud is the use of deceit in order to gain an unfair or illegal advantage. Fraud erodes public trust in government and reduces the capacity of government to act. It often results in the loss of public money, which harms public services and the ability of governments to address the public’s needs and aspirations.

**International standards**

As one type of corruption, fraud is covered by the following international standards and guidelines:
The United Nations Convention against Corruption\textsuperscript{46} is the only legally-binding universal anti-corruption instrument.

It is supported by this Technical Guide to the Convention.\textsuperscript{47}

The Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)\textsuperscript{48} aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.

The Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)\textsuperscript{49} defines common international rules for effective remedies for persons affected by corruption.

The European Union’s Convention against Corruption Involving Officials\textsuperscript{50} aims to fight corruption involving officials from the EU or its Member States.

\textbf{National context}

Based on study results, 36.7\% of civil servants perceive fraud as a more or less prevalent corrupt practice in the Albanian civil service. Men dominate among those having witnessed embezzlement, fraud and influencing of unfair decisions (UNDP, 2014). Measures to stamp out fraud are contained in the New Customs Code\textsuperscript{51}, which as regards Customs offenses and penalties, is based on the proposal of the European Commission and on best practices of EU member states. The new tax administration IT-system allows a simplification of processes and reduces the opportunities for fraud and corruption (Ministry of Finance, 2014). As per the Law No. 112/2015 “On Public Financial Inspection”\textsuperscript{52}, the Anti-Fraud Coordination Service (AFCOS) is appointed in Albania to facilitate the co-operation with relevant institutions in the EU.

\textbf{National legislation}

Based on Article 143 of the Criminal Code\textsuperscript{53} fraud is defined as «stealing property through lies or abuse of trust is punishable by a fine or up to five years of imprisonment. This very act, when committed in complicity in the detriment of several persons, or more than once, is punished by imprisonment from two to six years and, when it brings about serious consequences, it is sentenced by imprisonment from five to ten years».

\textbf{Example of case law}

In 2016, the Krujë Prosecutor’s Office indicted a former mayor of Krujë municipality and four other local public officials for theft through abuse of office. The defendants had allegedly misused emergency funds allocated by the Ministry of the Interior, amounting to ALL 20.5 million (€153 500), for the channelisation of a stream to avoid flooding. As a result of the investigation, the prosecutor informed that the real value of the project is much lower, thereby concluding that the former mayor and the private company which won the procurement process have stolen over
No sentences have been imposed on the defendants yet, since the case is still ongoing in the District Court of Krujë.

3.5. NEPOTISM

Nepotism is the exploitation of an official position to unfairly benefit a family member or friend (e.g. through giving a job or favour). Nepotism, and other forms of favouritism, results in local and regional authorities not having access to the brightest and best talent. This in turn creates a fertile environment for further corruption and reduces the efficiency and effectiveness of the administration.

*International standards*

As one type of corruption, nepotism is covered by the following international standards and guidelines:

- The *United Nations Convention against Corruption*[^55] is the only legally-binding universal anti-corruption instrument.
- It is supported by this *Technical Guide to the Convention*[^56].
- The *Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)*[^57] aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The *Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)*[^58] defines common international rules for effective remedies for persons affected by corruption.
- The *European Union’s Convention against Corruption Involving Officials*[^59] aims to fight corruption involving officials from the EU or its Member States.
- The *Congress of the Council of Europe’s Governance Committee report on Fighting nepotism within local and regional authorities*[^60] sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of European local and regional governments.

*National context*

Data show that recruitment procedures in Albania’s public sector suffer from some lack of transparency. More than 36% of applicants who did not get a job think that somebody else was employed due to cronyism or nepotism, while an additional 25% believe that somebody else was hired due to bribery (UNODC & INSTAT, 2011). Nepotism prevails among the most witnessed corrupt practices at the workplace, which may be due to the fact that Albania is a country where social networks are still prevalent (UNDP, 2014).
National legislation

In Albania, there is no specific law on nepotism. However, in Article 5 (“Private Interests”) of the Law No. 9367 “On the Prevention of Conflicts of Interest in the Exercise of Public Functions” is mentioned that the private interests of an official are those interests that conform with, contain, are based on or come from relationships of family or cohabitation, of friendship, and any other juridical civil relationship, among others.\(^{61}\)

On 27 January 2006, two decisions of the Council of Ministers were approved: the decision No. 43 “On avoiding nepotism and influence of power on the hiring and career of personnel of the public administration” and the decision No. 44 “On avoiding nepotism in the public administration”. However, the Constitutional Court invalidated the above decisions as incompatible with the Constitution.\(^{62}\)

Example of case law

The municipality of Shkodra has been repeatedly accused of its extreme nepotism in public institutions, regardless of the mayor holding office. The list of public employees in the municipality of Shkodra is composed by public officials who have family relationships among each other.\(^{63}\) Since there is no law against nepotism, no institution can investigate further on the cases reported by media.

3.6. MISUSE OF ADMINISTRATIVE RESOURCES IN ELECTION CAMPAIGNS

The misuse of administrative resources\(^ {64}\) during the electoral processes involves unlawful or abusive behaviour on the part of politicians and civil servants, who use human, financial, material, in natura and other immaterial resources to influence the outcome of elections, and thus undermine the fairness of the election itself.

International standards

Albania has ratified the following treaties and is therewith committed to abide by the following treaties and hard law instruments:

- The United Nations International Covenant on Civil and Political Rights\(^ {65}\) (Articles 19, 21, 22 and 25), further elaborated in paragraph 25 of the Human Rights Committee’s General Comment No. 25.\(^ {66}\)

- The Council of Europe’s European Convention on Human Rights (ETS No. 5), in particular Articles 10 and 11, and Article 3 of the Protocol No. 1 to the Convention (ETS No. 9).\(^ {67}\)

- The United Nations Convention against Corruption\(^ {68}\), in particular Articles 7, 17 and 19.
The misuse of administrative resources during electoral processes is covered by the following international standards and guidelines:

- The Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173).[^69]
- The Council of Europe’s Civil Law Convention on Corruption (ETS No. 174).[^70]

The misuse or abuse of administrative resources (sometimes referred to as “public resources” or “state resources”) during parliamentary and local election campaigns in Albania has been one of the most recurrent concerns over the last two decades, as reported by international election observers. In the context of the parliamentary elections of 2017, the Parliament convened an extraordinary session on 22 May 2017 to take substantive actions related to the electoral process.[^79] Among other measures, a political agreement between the two main parties led to the establishment of an inter-ministerial structure in the form of a Task Force to prevent the abuse of public officials in the electoral process.[^80] Also, in order to prevent the risks of the misuse of administrative resources, harsh penalties were introduced for public servants who might be involved in campaigning.[^81]

Although significant steps have been made at national, local and regional level, elections have their own distinguishing characteristics, which make them especially vulnerable to

[^69]: The Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173).
[^70]: The Council of Europe’s Civil Law Convention on Corruption (ETS No. 174).
[^70]: The Council of Europe’s Venice Commission and the OSCE/ODIHR Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes.
[^69]: The Congress of the Council of Europe’s Resolution on Preventing corruption and promoting public ethics at local and regional levels and its Explanatory Memorandum.
[^70]: The Congress of the Council of Europe’s Resolution on The misuse of administrative resources during electoral processes: the role of local and regional elected representatives and public officials and its Explanatory Memorandum.
[^69]: The Congress of the Council of Europe’s Checklist for compliance with international standards and good practices preventing misuse of administrative resources during electoral processes at local and regional level.
[^70]: The Congress of the Council of Europe’s booklet on Administrative Resources and Fair Elections provides practical examples and guidance.

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[^77]: National context

The misuse or abuse of administrative resources (sometimes referred to as “public resources” or “state resources”) during parliamentary and local election campaigns in Albania has been one of the most recurrent concerns over the last two decades, as reported by international election observers. In the context of the parliamentary elections of 2017, the Parliament convened an extraordinary session on 22 May 2017 to take substantive actions related to the electoral process. Among other measures, a political agreement between the two main parties led to the establishment of an inter-ministerial structure in the form of a Task Force to prevent the abuse of public officials in the electoral process. Also, in order to prevent the risks of the misuse of administrative resources, harsh penalties were introduced for public servants who might be involved in campaigning.

Although significant steps have been made at national, local and regional level, elections have their own distinguishing characteristics, which make them especially vulnerable to
the misuse of administrative resources. Therefore, specific actions may be required for local and regional elections.

At the local and regional level, elected representatives usually have personal ties to the territorial community in which the election takes place. Likewise, their relation to public employees and civil servants working for the municipality is often particularly close.

Moreover, local elected representatives and/or employees frequently have particular functions which are relevant during the electoral campaign, such as the allocation of places for campaigning. Municipal employees may also have tasks related to the preparation of the elections, for instance, as members of polling station commissions. Such functions may give them certain possibilities of interference in favour of the incumbent or the party/parties in power, which may be particularly problematic in local and regional elections.82

**National legislation**

On 22 May 2017, in the above-mentioned context of reforms, the Parliament of Albania approved amendments to the election legal framework. These amendments were adopted to the Law No. 8580 “On Political Parties”,83 the Law No. 97/2013 “On Audiovisual Media”,84 and the Criminal Code.85 The amendments introduced new requirements to campaigning, campaign finance, and advertising in broadcast media, as well as established new electoral offences and increased sanctions for existing ones. However, this reform process lacked transparency and consultation with stakeholders, and the late timing created significant difficulties in the implementation of key aspects of the election administration.86

The amendments to the Law No. 8580 “On Political Parties” aimed to limit campaign spending.87 They largely constrained the use of electoral promotion materials at urban level and prohibited paid political advertising in media outlets, television and radio channels.88 Furthermore, Article 88 of the Electoral Code of Albania89 prohibits the use of public resources for the support of electoral subjects.

In line with the amendments to the Law No. 8580 “On Political Parties”, the revision of the Law No. 97/2013 “On Audiovisual Media” determined the prohibition of paid political advertising in media outlets during the electoral period. However, the legal framework still fails to regulate political advertising, paid or not, hidden or direct, beyond the electoral period, as well as in written and online media within or beyond the electoral campaign.90

As regards the Criminal Code, Articles 325-332 (Chapter X) provide for 15 criminal offences which threaten the freedom and integrity of free elections.91 The new criminal offenses introduced in 2017 include the abuse of public function for electoral activities, the use of other peoples’ identification documents, and more detailed prohibitions on vote-buying and vote-selling. Article 328/a (Using the public function for public electoral activities) is of particular relevance:

«The use of the public goods, the function or the state activity or of the financial or
human resources by an employee, who carries out a state duty, to favour a political party or a candidate in the elections [...] constitutes a criminal offence and is punishable by imprisonment of one year to three years».

Reported cases

During last year’s pre-electoral period (January-February 2017), there were some municipal councils’ decisions that raised suspicions of abuse of state resources, due to a sharp rise in the number of persons receiving social assistance benefits, which are intended for families with very low incomes, visually impaired people, para- and tetraplegic persons, disabled persons, etc.

The Central Election Commission (CEC) released the mobile phone application ‘Vote 2017’ as an instrument for reporting corruptive cases. In total, there were 22 abusive cases reported that affected vote integrity and freedom, of which 19 were submitted on the parliamentary Election Day (25 June 2017). In addition, on the telephone line also established by the CEC, the official reports confirmed that in the period from 25 to 28 June a total of 240 cases were reported. None of these reported cases was sent to the prosecution, and the CEC explained that the reported cases were incomplete.

Moreover, the majority of ministries offered alternative opportunities of reporting, such as phone lines and public officials assigned for the specific purpose of receiving reported cases of corruption in the electoral campaign and voting. In general, the number of reported cases was low, but the Ministry of the Interior was an exception, with 484 cases reported for penal offences related to electoral processes. Based on official communications with the prosecution offices of the district courts of justice, there was a low number of procedural materials submitted for criminal offences that threatened the freedom and the integrity of the election, and there is no information about the phase of the investigations or any penalties imposed.

With regard to administrative penalties for the participation of employees of local government units in electoral activities, only 45 municipalities responded to the Task Force established for the 2017 election. According to the summary report prepared by the Task Force, the municipality of Skrapar dismissed two employees and suspended one for participating in electoral activities during working hours. Other municipalities did not specify the reasons for dismissal. The Deputy Prime Minister’s Office reported 10 cases to the prosecution, which mainly were criminal offences against free elections. Only some of these cases were related to local officials, such as the mayor of Vlorë municipality, who was reported for «obstructing electoral subjects». Still, there is no information about further investigations and penalties imposed by the responsible authorities.
Chapter 4

TRANSPARENCY

4.1. ACCESS TO INFORMATION

Access to information is the legal right for citizens to request and receive information from public authorities. It is often enacted by Freedom of Information legislation.

Access to information supports accountability along with informed public participation in decisions, and is therefore fundamental for the effective functioning of democracies.

**International standards**

Access to information is a fundamental component of a number of the conventions and standards against corruption listed elsewhere in this handbook. It also underpins a number of key UN human rights documents. The following specifically relate to Access to Information:

- The **Council of Europe’s Convention on Access to Official Documents (CETS No. 205)** affirms an enforceable right to information.

- The **Congress of the Council of Europe’s Resolution and Recommendation on Transparency and open government** call upon local and regional authorities to increase the use of open data and records management by their administrations, and to publish these in comprehensive, accessible and reusable ways.

- The **Aarhus Convention** grants rights, including access to information, in decisions concerning the environment.

**National context**

Access to information is an important mechanism to address transparency and accountability. Recent studies show that the average level of transparency with regard to access to information by local governments in Albania is 57% (BIRN, 2017) and approximately half of the 61 municipalities have adopted a transparency programme (IDRA, 2017a).

**National legislation**

Article 15 of the Law No. 139/2015 “On Local Self-Government” and Law No. 119/2014 “On the Right to Information” stipulate that local self-government bodies are obliged to make all their acts and information accessible to citizens. They should be published on their official website and displayed in particular places for public announcements within the municipality. Each municipality shall adopt a transparency programme and appoint a co-ordinator for the right to information ensuring access for all to information.
Furthermore, Article 18 of the Law No. 119/2014 “On the Right to Information” establishes administrative offenses for those who fail to comply with the provisions of this Law and imposes pecuniary sanctions according to the degree of violation. The Commissioner for the Right to Information and Protection of Personal Data has the right to supervise and monitor the implementation of the Law, to conduct administrative investigations and to propose disciplinary measures against offenders.

National guidelines

To increase access to information at local level, especially for the poorest communities, local authorities shall adopt and keep updated the Transparency Programme, which shall be created in accordance with the standard format approved by the Commissioner for the Right to Information and Protection of Personal Data. By means of the Transparency Programme, local authorities should take into consideration the highest interest of the community, especially to ensure maximum access to public information and to make publicly available as much information as possible in order to reduce the need for individual requests for information.

In addition, local authorities shall create, keep and make public a register, which keeps track of the requests for information and includes the information made available in response. The register should be created in accordance with Article 8 of the Law No. 119/2014 “On the Right to Information” and as set forth in the Transparency Programme, and following the standard format of the register issued by the Commissioner for the Right to Information and Protection of Personal Data.

Examples of best practice

The municipality of Korçë stands out for its good implementation of the legal regulations on access to information. According to a report by the Centre for Public Information Issues (INFOÇIP by its Albanian acronym), Korçë is the most transparent municipality in Albania based on five indicators (INFOÇIP, 2017):

- Having an official website;
- Register of questions and answers;
- Co-ordinator for the right to information;
- Publication of the decisions of the municipal council;
- Drafting and publishing the transparency programme.

In addition, according to an online monitoring process of the Albanian municipal websites carried out by the Balkan Investigative Reporting Network, the municipality of Korçë is ranked first among all municipalities in 2017, with a level of online transparency of 69% (BIRN, 2017). The most transparent categories in the municipality of Korçë are financial transparency, implementation of the right to information and publication of municipal council meetings and decisions.
4.2. OPEN DATA

Open data is the publication of data and information in a format that may be freely used, modified and shared. The OECD states that open data is «a set of policies that promote transparency, accountability and value creation by making government data available to all». By making data generated through the activities of public bodies available, government becomes more transparent and accountable to citizens. It also supports business growth and the development of services centred on citizens.

International standards

Open data is a relatively new phenomenon without officially endorsed standards. However, a number of useful guidelines exist:

- The Congress of the Council of Europe’s Resolution and Recommendation on Open data for better public services\(^{106}\) explain its importance for improving local democracy.

- The Congress of the Council of Europe’s Resolution and Recommendation on Transparency and open government\(^{107}\) call upon local and regional authorities to increase the use of open data and records management by their administrations.


- This World Bank Toolkit\(^{109}\) starts from the basics, through to planning and implement, as well as avoiding common pitfalls.

- The Five Star Open Data Deployment Scheme\(^{110}\) provides five steps to fully opening data, explaining the costs and benefits of each.

- The International Open Data Charter\(^{111}\) sets out six principles for open, timely and interoperable government data.

National context

As regards the state of open government data, Albania is ranked 37th in the 2015 Global Open Data Index.\(^ {112}\) With regard to the legal framework, laws, published acts and updated legislation are available online through the Albanian Official Publishing Centre.\(^ {113}\) Nevertheless, 59% of surveyed civil society organisations do not fully agree that draft laws, policies and laws are available to the public, and 54% of them do not fully agree that draft laws, policies and laws are published in a timely manner (Partners Albania, 2017).
Lack of awareness and understanding of open data persists both in government institutions and public officials and among citizens (IDM, 2013). That said, there are initiatives in place to address this situation, such as the promotion of Open Government Partnership (OGP) values among local authorities, which was one of the partially achieved commitments of the OGP Second Open Government National Action Plan for Albania 2014 -2016.114

National legislation

On 18 February 2015, the Council of Ministers approved the decision No. 147 “On the Approval of the Document on the Open Data Policy and the Establishment of the Open Data Portal”.115 The OGP Third Open Government National Action Plan for Albania 2016 – 2018116 foresees four major actions and 17 commitments to promote transparency and open data. Increasing the access to information and the modernisation of the public service are the two main actions that should be addressed by local authorities. A platform for transparency and innovation named OpenAlb117 has been established to ensure the successful implementation of the OGP commitments in the country.

National guidelines

In order to increase openness and transparency at local level, local authorities in Albania should engage substantially in developing open data tools in accordance with the Technical Standards for Publication of Open Data,118 which will improve public access to information and lead to greater levels of citizen participation. Co-ordination between local authorities and civil society organisations, businesses, think tanks and other actors is important to raise awareness and understanding of open data as a transparency mechanism for strengthening local governance.

Examples of best practice

Conceived in 2013 as an online one-stop shop, e-Albania119 is the governmental portal where citizens can obtain detailed information on public services and official documents electronically. The portal is administrated by the National Agency for Information Society120 and aims to improve service delivery, reduce service delivery time, avoid bureaucracies and reduce corruption of public institutions, including local self-government bodies. All of the 500 e-services offered on the portal are dedicated to a wide range of users, from unemployed citizens, business, property owners, businesses, students, elderly, Albanians living abroad, civic employees, etc. These services are classified by categories and institutions. According to the information available on the portal, the certificate services, which are administrated by local self-government bodies, are the most used electronic services on the e-Albania portal.
4.3. DISCLOSURE: DECLARATION OF ASSETS AND CONFLICT OF INTEREST

Disclosure is the act of routinely publishing certain information, sometimes required by law. It can support anti-corruption measures by requiring the routine publication of assets and declarations of conflict of interest, for example. It can also be for more positive reasons, such as to support policy making, or by ensuring that the public are better informed and therefore able to contribute more effectively.

International standards

Disclosure is an important element in the conventions and standards against corruption listed elsewhere in this handbook. Of particular relevance are:

- The Committee of Ministers of the Council of Europe’s Recommendation on Codes of Conduct for Public Officials\textsuperscript{121} and the European Code of Conduct for all Persons Involved in Local and Regional Governance\textsuperscript{122} require private interests to be declared, made public and monitored.

- The Congress of the Council of Europe’s Resolution and Recommendation on Conflicts of interest at local and regional level\textsuperscript{123} call on local and regional authorities to promote the proactive disclosure of declarations of interest prior to public request and to ensure that disclosure policies are accompanied by appropriate measures for resolving conflicts of interest.

- The OECD’s Managing Conflict of Interest in Public Service: Guidelines and Country Experiences\textsuperscript{124} provides practical instruments for modernising conflict-of-interest policies.

- The OECD’s Asset Declarations for Public Officials: A Tool to Prevent Corruption\textsuperscript{125} identifies the key elements of asset declaration systems.

National context

The system of declaration of assets and financial obligations has been one of the most important legislative steps in Albania, reflecting the key requirements of the UN Convention against Corruption. However, the legislation on the conflict of interest and its implementation has been hampered by a number of factors and, therefore, its application has been partial and fragmented. One of the main obstacles is the gap between the broad scope of the law and the inadequate capabilities to ensure its effective implementation (IDM, 2014).

National legislation

The Law No. 9049 “On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials”\textsuperscript{126} defines the rules for the declaration and audit of assets, the legitimacy of their sources, and the financial obligations for public
officials, their relatives and persons close to them. As per Article 40, any violation of the obligations set forth in this Law may constitute a criminal offense or an administrative infraction, which is punished by fines based on the nature and degree of such violation.

The High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI) administers the declaration of assets and financial obligations, and the audit of this declaration, according to the specifications outlined in the laws of declaration and conflict of interests. Moreover, based on the Law No. 9367 “On the Prevention of Conflict of Interest in the Exercise of Public Functions”, the HIDAACI, in the quality of central authority responsible for the implementation of the said Law, manages and improves the policies and mechanisms regarding the prevention of conflict of interest; offers technical assistance and advice on legal initiatives undertaken by public institutions for the prevention of conflict of interest; and monitors, audits and evaluates the exercise of this Law, among its main functions.

National guidelines

In support of local government anti-corruption efforts, the HIDAACI has developed and make available the Guide for Prevention of Conflicts of Interest in Local Governance together with its Explanatory Manual. The Guide gives information on:

- What is conflict of interest in local governance (definition, types of conflict of interest, who is involved in conflicts of interest);
- Prevention of conflict of interest;
- Limitations on local government officials for the prevention of conflicts of interest;
- Basic measures for treating and solving conflicts of interest;
- Sanctions;
- Illustrative examples of administering and solving cases of conflict of interest.

The Explanatory Manual for the Prevention of Conflicts of Interest in Local Governance aims at creating standards and unification of practices in administering and solving conflicts of interest at local level. In order to enhance disclosure and prevent conflict of interest, public authorities should act in accordance with the abovementioned Guide adopted by the HIDAACI and its Explanatory Manual.

Examples of best practice

The Municipal Council of Tirana has published its internal regulation, which lays down the rules and procedures of the Municipal Council. Article 12 of the regulation stipulates that councillors do not take part in the consideration and approval of the council’s draft acts when they or their spouse, parents, children, siblings, parents-in-law, or partners have a conflict of interest in the matter being discussed in the Municipal Council.
4.4. EXTERNAL AUDIT

External audit is the regular, independent scrutiny of accounts and financial information to ensure that public money is used appropriately and effectively. External audits are undertaken in accordance with the relevant laws and rules of the country to support those external to government to hold it to account. External audit can also look beyond finances to assessing the performance of government against its own objectives, or in providing programmes and services.

International standards

- The International Public Sector Accounting Standards focus on the accounting, auditing, and financial reporting needs of national, regional, and local governments, related governmental agencies, and the constituencies they serve.

- The International Standards of Supreme Audit Institutions website contains a complete collection of professional standards and best practice guidelines for public sector auditors.

- A number of the conventions and standards for combatting corruption include provisions and clauses relating to external audit.

National context

The external audit coverage in Albania is limited. As a matter of example, in 2013, only an 8% of public entities (accounting for 40% of budget spending) were audited. The independent State Supreme Audit publishes an annual report on the implementation of the budget. However, there is currently no certification or audit opinion on the individual financial statements of central or local budget institutions or on the consolidated fiscal statement (IMF, 2015).

National legislation

Article 13 of the Law No. 139/2015 “On Local Self-Government” stipulates that «local self-government units shall be subject to external audit by central government bodies with regard to the use of conditional and/or delegated funds provided by the State budget and/or funds of foreign aid, allocated to them according to the agreements signed by the central government». Moreover, as per Article 43 of the same Law, each local self-government unit is subject to external audit by the State Supreme Audit, and any audit report should be made available to the public. In exceptional circumstances, local executive bodies may be subject to audits conducted by specialised auditing companies.
The State Supreme Audit (SAI) is the highest external audit institution in Albania. In accordance with its functions, rights and duties, apart from the audit role, the SAI can address criminal prosecution bodies when further tracking of audit findings are part of their competence and address the highest state bodies in case of noncompliance with its recommendations, as set forth in Article 15 of the Law No. 154/2014 “On the Organisation and Functioning of the State Supreme Audit Institution”.

National guidelines

In order to increase transparency on account standards and financial statements, public authorities should establish a sound internal budgetary control regime, produce publicly-released annual reports and perform an external audit of those annual reports. Local authorities are advised to disclose and publish the external audit reports, and to adopt the Audit Reporting Guidelines published by the State Supreme Audit.

Examples of best practice

Fier is one of the largest municipalities in Albania. In 2016, with the support of the USAID Planning and Local Governance Project, the municipality has undergone an external assessment on public expenditure and financial accountability based on the Public Expenditure and Financial Accountability (PEFA) methodology, aiming to provide an analysis of the strengths and weaknesses of municipal public financial management systems.

4.5. CODE OF CONDUCT

A code of conduct sets out specific standards of professional behaviour expected in a host of situations and provides public officials with guidance for handling them. In addition, codes of conduct bring in transparency and public accountability in governmental operations.

Codes of conduct are often confused with codes of ethics, which establish basic principles to which public servants must abide, such as integrity, selflessness and openness, among others. A code of conduct applies and implements the code of ethics to the particular circumstances of an institution.

Well-designed codes of conduct and ethics will help meet the growing expectations from the public, business leaders and civil society, and places an onus on governments to ensure high ethical standards amongst public officials and elected representatives. As such, they can support the development of trust between the public and government institutions and officials.
International standards

- The Committee of Ministers of the Council of Europe’s Recommendation on Codes of Conduct for Public Officials\(^\text{141}\) and the European Code of Conduct for all Persons Involved in Local and Regional Governance\(^\text{142}\) are the reference texts for local and regional authorities in Europe for ensuring political integrity.

- The Council of Europe’s Abridged Handbook on Public Ethics at Local Level\(^\text{143}\) provides a high-level overview of good practice in public ethics.

- This Transparency International paper on Implementing Effective Ethics Standards in Government and the Civil Service\(^\text{144}\) provides practical mechanisms for institutionalising high standards of ethical integrity for elected officials and civil servants.

National context

Ethics and integrity in public administration is a precondition for a democratic, transparent and effective government, and greater responsiveness to citizens. In Albania, there is a lack of data as regards the implementation of codes of conduct at local level, and most norms affecting codes of conduct are regulated through codes of ethics, creating confusion between them. On the other hand, the practice shows that many public institutions, like the SAI and local governments have adopted their own codes of conduct and codes of ethics. With regard to the latest, there is confusion about the hierarchy of the legislation regulating ethics and the codes of ethics themselves—that often duplicate legal instruments and therefore are redundant or fail to address specific local concerns—. Besides, the lack of data on the implementation of codes of ethics demonstrates that their implementation has been limited in Albania (IDM, 2016a).

National legislation

Norms of conduct of public officials are regulated by the Law No. 9131 “On the Rules of Ethics in the Public Administration”.\(^\text{145}\) As established in its Article 1, «the purpose of this law is to set rules of conduct of employees of the public administration, according to the required standards, to help them achieve these standards and to make the public aware of the conduct that an employee of the public administration should have».

In addition, the Law No. 152/2013 “On the Civil Servant”\(^\text{146}\) serves as a basis for adopting more specific and detailed regulations on ethics by the different segments of the public administration. Public institutions are obliged to establish a human resource department responsible for the management of the public officials of the institution. Disciplinary measures and sanctions are set for noncompliance with the law.
National guidelines

Despite the lack of specific guidelines regarding codes of conduct, ethics and conduct of public officials are regulated in different articles of the normative framework aiming to increase transparency, impartiality and non-discrimination in the actions and conduct of Albanian public servants (IDM, 2016a). The following instruments contain provisions on the conduct of public officials:

- Law No. 9643 “On Public Procurement” of 20 November 2006;
- Law No. 9887 “On the Protection of Personal Data” of 10 March 2008;
- Law No. 152/2013 “On the Civil Servant” of 30 May 2013;
- Law No. 119/2014 “On the Right to Information” of 18 September 2014;

Having a code of conduct is important not only to highlight, transmit and protect the internal value of the institution, but also to communicate these values to external stakeholders. In this regard, local authorities should adopt their code of conduct to act accountable and with desirable behaviours, and to function as a central guide to handle ethical dilemmas.

Examples of best practice

The Municipal Council of Shkodra has published a Code of Ethics which includes ethical principles in its first chapter, but also regulates the conduct of public officials. Based on it, the employees of the Municipal Council should behave in accordance with the ethical principles set forth in the first chapter of the Code, which in the subsequent chapters regulates the conduct of public officials as regards human resources; conflict of interest; access to information; prohibitions of abuse of public expenditure, working time and position; gifts and bribery; and the protection of citizens who report unlawful conduct of public officials. Finally, the Code lists a range of disciplinary measures for public officials that violate the articles of the Code when their actions do not constitute a criminal offence.
Chapter 5

CITIZEN PARTICIPATION

5.1. COMPLAINTS MECHANISMS

Complaints mechanisms allow citizens to provide feedback to public authorities on the standards of services they receive. They provide an important accountability mechanism which allow civil servants and elected officials to identify where public services are being delivered ineffectively or inefficiently. When such mechanisms deal with complaints quickly, they can help to create the conditions for increased trust. If used proactively, complaints mechanisms can also help governments to identify new ideas and increase citizen participation.

International standards

There are no specific international standards for complaints mechanisms relating to public services. However, there are a number of civil society guidelines and handbooks which are helpful. See for example:

- The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) provides an international legal guarantee to this right, including the establishment of mechanisms and procedures for dealing with and responding to citizen complaints and suggestions.

- The Danish Refugee Council’s handbook describes how to setup and manage a complaints mechanism.

- The World Vision overview of the tools and mechanisms used by development agencies to receive complaints.

- The Transparency International note on good practice in establishing community complaints mechanisms.

National context

Complaints mechanisms at local level are important to address citizens’ concerns and problems. Citizens can submit complaints through one-stop shops at local government units and address their concerns and problems through complaint letters or a dedicated phone number created for this purpose. Local government units have internal regulations that stipulate the procedures for addressing and resolving complaints, and should
provide complaint form templates to facilitate citizens’ feedback and documenting their complaints. In addition, there are online tools in place to file complaints, such as Stop Corruption (www.stopkorrupzionit.al), Ask the State (www.pyetshtetin.al) and Improve Your City (www.permiresoqytetin.al), among others. Nevertheless, there is a lack of data on citizens’ concerns towards public institution in most of those online platforms, especially towards local government units. This is due to a general lack of citizens’ trust at local level, especially in the fight against corruption (IDM, 2017).

**National legislation**

Article 19 of the Law No. 139/2015 “On Local Self-Government” stipulates that any citizen or group representing communities has the right to address requests, complaints or objections to local self-government bodies on matters pertaining to functions and competences within the jurisdiction of the local self-government unit. Local self-government bodies are obliged to consider claims, appeals or remarks, and to reply within the deadlines set by the law. The Law No. 44/2015 “On the Code of Administrative Procedures” regulates the procedure for administrative appeal in cases when the complaint is not taken into consideration. The Office of the Commissioner for the Right to Information and Protection of Personal Data also assesses complaints in cases when the mechanism of the right to information is applied.

**National guidelines**

Apart from internal procedures from local government units, the Office of the Commissioner for the Right to Information and Protection of Personal Data has created a procedure for complaints and has designed a standardised letter for complaints for those cases where the right to information is not yet exercised by local government units. In order to improve their efficiency at local level, public authorities should develop and implement a clear process of complaints procedures where each citizen’s problem and concern is considered and resolved quickly.

**Example of best practice**

‘Improve your City’ (www.permiresoqytetin.al) is an online platform that allows citizens to submit complaints to the local authorities of any of the municipalities in Albania and participate directly in local government affairs of their concern. It can be accessed online or through its mobile app, resulting in an easy-to-use tool for citizens to have a say about municipal issues such as city cleaning, infrastructure, education, public transport, public spaces, construction, and animals, among others.

Another example is the mobile application *Tirana Ime*, Albanian for ‘My Tirana’ (www.tirana.al/aplikacioni-tirana-ime), launched by the municipality of Tirana in 2015. Available for download free of charge from Apple’s App Store and Google Play Store, the application includes six main categories: traffic, transportation, pollution,
information, reports, and tourism. Under the “Report” section, the citizens of Tirana are enabled to submit online complaints and other reports on various municipal services.

### 5.2. OPEN POLICY MAKING

Open policy making is a broad term describing policy development which is transparent and participatory. It describes a way of making policy and decisions which draw on the latest analytical tools and are interactive in nature. There is no one-way to do open policy making: different policy decisions will need different approaches.

**International standards**

Although there are no specific open policy making standards, the following provide a useful starting point:

- **The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)** provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation.

- **The Council of Europe’s Guidelines for civil participation in political decision making** sets out standards for engaging with citizens and civil society.

- **The Congress of the Council of Europe’s Resolution and Recommendation on Transparency and open government** provide standards and mechanisms to enhance transparency and promote the involvement and participation of citizens in the local public life.

- **The OECD’s Guiding Principles** support the development of a culture of openness.

- **The OECD’s Focus on Citizens: Public Engagement for Better Policy and Services** explores how to put open policy making into practice.

- **The OECD’s Observatory of Public Sector Innovation** lists useful toolkits and resources.

- **The Open Government Partnerships Guide and Toolbox** provide an extensive range of support.

- **Both Australia and the UK** have both produced useful toolkits.
National context

In general, Albania has an adequate and modern legislation in most fields, but the policymaking process is conducted through closed-door policies and limited to a narrow set of actors (Bogdani & Loughlin, 2007). The process of digitalisation of services in order to improve transparency and accountability, and to bring citizens closer to government, is unfortunately associated to missing figures and scarce documentation. Regarding open policy making at local level, the relationship between citizens and public officials is almost inexistent.

National legislation

Citizens’ initiative is a legal right foreseen in Article 20 of the Law No. 139/2015 “On Local Self-Government.”168 Based on it, each community, through its authorised representatives, or not less than 1% of the inhabitants of the municipality, has the right to propose citizens’ initiatives to the municipal council on issues under the jurisdiction of the local self-government unit. In cases where proposals presented to the municipal council as citizens’ initiatives have a financial impact on the municipal budget, they shall be considered by the council according to the agenda and shall not be approved without taking the opinion of the head of the local self-government unit.

National guidelines

Article 20, paragraph 1, of the Law No. 139/2015 “On Local Self-Government” stipulates that ways and forms of presentation of citizens’ initiatives, their deliberation, and approval procedures shall be laid down in the statutes for the organisation and operation of the municipal council. In order to improve policymaking, local authorities should design and implement local action plans in order to bring new insights, perspectives, and expertise from local actors (citizens, civil society organisations, businesses, etc.). This will allow local governments to better link policymaking with the current needs and concerns of the population, and thus to better implementation of local action plans and policies.

Examples of best practice

A very successful local initiative was the establishment in 2012 of the Local Citizens Advisory Commission in the municipality of Durrës, which consists of members of local civil society organisations, businesses, youth, women and underrepresented groups. It serves as an independent advisory body for the municipality of Durrës, strengthening citizen participation and supporting the municipality’s work towards decentralisation.169 The Local Citizens Advisory Commission meets on a regular basis to discuss issues related with budgeting, the annual fiscal package, the quality and delivery of local services, territorial planning and municipal priorities and projects.170
5.3. PARTICIPATORY BUDGETING

Participatory budgeting began in Porto Alegre, Brazil in the late 1980s and has spread worldwide. It provides a way for community members to have a direct say in how public money should be spent. It creates opportunities for engaging, educating, and empowering citizens. It can also promote transparency, which in turn can help reduce inefficiency and corruption.

International standards

Although there are no specific standards for implementing participatory budgeting, the following provide a useful starting point:

- The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)\textsuperscript{171} provides an international legal guarantee to this right, including the implementation of measures that would facilitate its exercise.

- The Congress of the Council of Europe’s Resolution on Gender budgeting\textsuperscript{172} recommends introducing gender budgeting methods in the annual budgets at local and regional levels.

- The OECD Policy Brief No. 22\textsuperscript{173} provides a series of policy recommendations for how key stakeholders can contribute to successful participatory budgeting.

- The World Bank’s book Participatory Budgeting\textsuperscript{174} provides an overview of the underlying principles, analyses current practice and includes seven in-depth case studies.

- The UN Habitat’s 72 Frequently Asked Questions about Participatory Budgeting\textsuperscript{175} explores how to implement participatory budgeting.

- The UK’s Participatory Budgeting Unit has a useful list of resources and toolkits.\textsuperscript{176}

- The Subnational Open Budget Survey Questionnaire\textsuperscript{177} of the International Budget Partnership sets out a range of metrics for measuring the openness of local government budgets.

- The Principles of Public Participation in Fiscal Policy\textsuperscript{178} of the Global Initiative for Fiscal Transparency.

National context

Participatory budgeting is a process that brings local communities closer to decision making on the allocation of the municipal or public budget. In recent years, one of the
most effective mechanisms implemented by municipalities is participatory budgeting (IDRA, 2017b). According to the Open Budget Survey 2017 index, the Government of Albania made seven out of eight key budget documents available to the public online, including the year-end report and citizen budget (a less technical version of the Government’s budget designed for the public). Barring a few exceptions, local public officials are either not very used to engaging with people on technical planning and budgeting, or find them ill-equipped to do so, or simply do not see the importance of the voice of the people (IDRA, 2017a).

National legislation

Articles 155 to 160 of the Constitution of the Republic of Albania and the Article 20, paragraph 2, of the Law No. 139/2015 “On Local Self-Government” state that proposals coming to the council as civic initiatives when they have a financial impact on the budget of the local self-government unit are reviewed by the council in the agenda and cannot be approved without the opinion of the mayor of the local self-government unit. Local government units are responsible to ensure that participatory budgeting is executed in accordance with the law.

National guidelines

Even though there is a positive trend in Albanian municipalities towards implementing participatory budgeting at local level, better implementation and harmonisation with the Participatory Budgeting Toolkit for Local Governments in Albania would enable more transparent and accountable local governments. In addition, this toolkit, which builds on international practices and tested participatory budgeting methodologies, provides tailored mechanisms to fit Albanian local government budget law and practices.

Examples of best practice

The municipality of Elbasan is one of the pioneer municipalities that have implemented participatory budgeting since 2004. Being aware of the low level of women’s participation in the participatory budgeting process of 2012, the municipality started to introduce gender-sensitive participatory budgeting in collaboration with two local civil society organisations. Considering the gender imbalance in the participatory budgeting process, the municipality collaborated closely with the media and local civil society organisations to discuss and stress the importance of equal participation of women and men in the process. In addition, training courses on facilitation skills were organised with municipal public officials in order to improve and elicit better feedback from women. Currently, the budgeting process works through consultation meetings organised in boroughs and villages under the jurisdiction of Elbasan, taking into account the views of women and men.
5.4. PUBLIC CONSULTATION

Public consultation is a formal, often legally required, process for citizens and other stakeholders to give their views at key stages of the policy process. It can be both online and offline, or a mixture of both. Its main goals are to improve efficiency, transparency and public involvement in important decisions. Done in a timely and effective way, public consultation will increase the quality of decision making, improve compliance, reduce enforcement costs and support greater public trust in decision making.

International standards

Although there are no specific standards for implementing public consultations, the following provide a useful starting point:

- **The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)** provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation, such as consultative processes and local referendums.

- **The OECD Background Document on Public Consultation** defines consultation and provides a summary of consultation tools.

- **The Council of Europe’s Guidelines for civil participation in political decision making** set out the different types of civil participation in decision making.

- **The Committee of Ministers of the Council of Europe’s Recommendation on the participation of citizens in local public life.**

National context

A recent study by the centre “Res Publica” on public consultation shows that there is a very limited number of draft acts published on the official webpage of public institutions (Qendra “Res Publica”, 2016). In the report, it is also stated that only 18% of the monitored institutions have a register for the publication of draft acts, in compliance with the Law No. 146/2014 “On Notification and Public Consultation”. This is reinforced by civil society organisations’ experience, where more than half of them do not fully agree that draft and approved laws and policies are publicly available (59%) and that draft laws, policies and laws are published in a timely manner (54%) (Partners Albania, 2017). Two main concerns raised by civil society organisations relate to the quality of the consultation processes themselves. Firstly, the institutions do not take into consideration the recommendations provided by civil society organisations, and secondly, there is a lack of argumentation regarding this issue. In addition, the latter is in violation with the Law No. 146/2014 “On Notification and Public Consultation”.
National legislation

The National Crosscutting Strategy for Decentralisation and Local Governance 2015-2020 stipulates that all decisions at the local level will be aimed to be taken with the participation of citizens and following equal, inclusive and transparent principles. In addition, the Law No. 146/2014 “On Notification and Public Consultation” specifies that local authorities should take all necessary measures to facilitate public consultation, including:

- Publication of the draft act, the notification of consultation and the information related to the consultation on the draft act on the electronic register;
- Publication in the transparency programme of the annual planning related to policy making, pursuant to the Law No. 119/2014 “On the Right to Information”;
- Provision of information related to all stages of the notification and public consultation process, beginning with the publication of the draft act, and continuing with the review of the comments and recommendations for its improvement, the organisation of public debates and the adoption of the act.

The same law obligates public institutions to publish all draft and adopted laws and policy documents. To this effect, an electronic register (www.konsultimipublik.gov.al) permits citizens and experts to consult draft laws and give their recommendations. The law’s requirements guarantee sufficient time (20 days) for civil society organisations to provide their opinion on the draft laws and policies. Also, the law stipulates that a summary of collected opinions should be made public and be part of the draft law package for approval. On the contrary, if the recommendations are not accepted, a summary of the reasons for non-acceptance should be made public.

Moreover, this law provides options for complaints in cases where the provisions for consultations are not respected, based on the claims by interest groups. However, the law does not foresee any administrative sanction against the public institution or the responsible person for notification and public consultation; and it does not foresee any procedure for appealing the decision of the public authority either.

National guidelines

In order to meaningfully increase citizen participation at local level, local authorities should develop a clear process of notification and public consultation in compliance with the Law No. 146/2014 “On Notification and Public Consultation”, including the review and consideration of recommendations provided by citizens and the reasons why any of the recommendations have been dismissed.

Example of best practice

In regard to public notification and consultation, the municipality of Vau i Dejës is one of the municipalities that have considerably improved this mechanism. Evidence
shows that public consultation for draft acts in the municipality of Vau i Dejës has increased considerably from 9% in 2016 to 86% in 2017 (BIRN, 2017), being one of the first municipalities to implement this citizen participation mechanism in an efficient way.

5.5. PUBLIC PETITIONS

Public petitions enable citizens to raise issues with public authorities. The number of signatures collected can indicate the level of support for the issues being raised. They aim either to raise the profile of the issue, or also to demand that specific actions are taken. Petitions are often inspired by civil society activity, but they are increasingly submitted through official, often online, platforms whereby petitions with a defined number of signatures will receive an official response.

International standards

- The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation, such as public petitions.

- The OECD’s Promise and Problems of e-Democracy provides a section on the value and challenges of establishing an online petitioning platform.

National context

Public petitions are an important mechanism for public authorities to engage with the people they serve and to protect the public interest, and for citizens to participate in the democratic process and influence the political debate and decisions. However, while public petitions are prevalent at central level, there is no official data about public petitions at the local level.

National legislation

Article 104 of the Regulation of the Parliament stipulates the right of both individuals and groups to petition the government. No later than 45 days from the date of reception of the petition, the committee chairman of the public authorities presents the petition to the commission, also proposing legal alternatives and ways for its solution, or its rejection. The petition senders are notified for the steps taken and the solution of petition issues.

National guidelines

In order to enhance and support local reforms at local level but and at the same time meet
citizens’ concerns, local authorities should develop and implement a comprehensive process on how to submit, handle and respond to public petitions in compliance with the Law No. 44/2015 “On the Code of Administrative Procedures”. The petition procedure shall be accessible for the public.

**Example of best practice**

On 3 December 2016, on the International Day of Persons with Disabilities, a group of civil society organisations organised a demonstration and signed a petition to the municipality of Tirana. They required the local authority to respect the human rights and well-being of people with disabilities and to better implement social services for this group of people. The then deputy mayor of Tirana stressed that the municipality will support their requests.
Chapter 6
CONCLUSION

Local government plays a critical role for the well-being of citizens, delivering services, and providing the first point of contact between people and public administration. The proximity with citizens can help ensure that public authorities and services are truly responsive and accountable, improving people’s lives and their trust and confidence in local institutions. However, the very qualities that make local and regional governments so important to citizens can also make it more prone to corruption.

Local governments in Albania are taking important strides in improving the legal framework towards more open and inclusive decision-making. However, on a practical level, local government units should translate laws and policies into practice and increase their efforts to ensure transparency, accountability and meaningful participation of citizens in policy- and decision-making. As well as being important qualities of local democracy, transparency and civic participation can help deliver effective public services, combat and prevent corruption, and build citizens’ trust in government.

The mechanisms outlined in this handbook present a variety of ways in which local and regional authorities can prevent corruption, reduce its risks, and develop effective and accountable institutions at all levels. Other reforms, such as protection of whistle-blowers and support for independent media and civil society, are also critical to building open government, public ethics and accountability. An effective approach to rooting out corruption could be through reporting by public officials, the media and civil society, who need to feel confident that they will be listened to and protected.

The Congress of Local and Regional Authorities of the Council of Europe and Partners Albania are committed to supporting local governments in their efforts to improve the quality of local democracy, prevent corruption, increase ethics and public accountability, and promote transparency and citizen participation.
BIBLIOGRAPHY


IDM (2014), *Conflict of Interests in Albania: Regulatory Framework and Challenges to Implementation*.


IDRA (2017a), *Local Governance Mapping in Albania*.

IDRA (2017b), *Udhërrëfyes për përfshirjen e Qytetarëve / Komuniteteve në Qeverisjen vendore*.


INFOÇIP (2017), *Implementimi i të drejtës së informimit nga Bashkitë e Shqipërisë*.


UNDP (2014), *Gender and corruption in the Albanian civil service*.

UNODC and INSTAT (2011), *Corruption in Albania: Bribery as Experienced by the Population*.
ENDNOTES

1 Sustainable Development Goals: https://www.un.org/sustainabledevelopment/sustainable-development-goals/
2 United Nations, General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1, 21 October 2015. Available at: https://undocs.org/A/RES/70/1
3 For the purpose of this publication, the term “public officials” refers to elected representatives, public authorities and civil servants (either at local, regional or national level) who hold a legislative, administrative or judicial office, and to any person exercising a public function, including for a public agency or a state-owned enterprise.
11 Public entities with more than 80 employees shall set up a responsible unit to register, conduct administrative investigations and examine the reports obtained from whistle-blowers through internal and external disclosure channels, according to the Law No. 60/2016 “On Whistle-Blowing and Whistle-Blowers’ Protection”.
“Arrestohet ish-kryetari i Komunës Bërzhitë” [The former mayor of Bërzhitë is arrested], TV KLAN, 9 January 2016. Available at: http://tvklan.al/arrestohet-ish-kryetari-i-komunes-berzhite/


Recommendation No. R (2000) 10 of the Committee of Ministers to member States on Codes of Conduct for Public Officials, Council of Europe. Available at: https://rm.coe.int/16806cc1ec

Resolution 433 (2018) on the European Code of Conduct for all Persons Involved in Local and Regional Governance, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808d3295

Resolution 434 (2018) and Recommendation 423 (2018) on Conflicts of interest at local and regional level, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808d33d0


Resolution 421 (2017) and Recommendation 405 (2017) on Making public procurement transparent at local and regional levels, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/168074cf72


Criminal Law Convention on Corruption (ETS No. 173), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173

Civil Law Convention on Corruption (ETS No. 174), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174


39 Criminal Law Convention on Corruption (ETS No. 173), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173

40 Civil Law Convention on Corruption (ETS No. 174), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174


42 There are a number of cases reported by the Supreme State Audit relating to embezzlement. For further information, see “KLSH kallëzon në Prokurori Ish Kryetarin e Komunës Margegaj, Tropojë, Përgjegjësen e Financës dhe një Specialiste” [The Supreme State Audit addressed the case of the former mayor of Margegaj, Tropojë, the finance officer and a specialist to the Prosecutor’s office], Supreme State Audit, 9 December 2017. Available at: http://www.klsh.org.al/web/KLSH_kallezon_ne_Prokurori_Ish_Kryetarin_e_Komunes_Margegaj_Tropoje_Pergjegjesen_e_Finances_dhe_nje_Specialiste_3016_1-109.php


48 Criminal Law Convention on Corruption (ETS No. 173), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173

49 Civil Law Convention on Corruption (ETS No. 174), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174


54 “Ish kryebashkiaku i Krujës akuzohet për vjedhje nëpërmjet shpërdorimit të detrës” [The former mayor of Krujë municipality is accused of stealing through Abuse of Office], Reporter.al, 24 June 2016. Available at: http://pushtetivendor.reporter.al/ish-kryebashkiaiku-i-krues-akuzohet-per-vjedhje-nepermjet-shperdimit-te-dytyres/


57 Criminal Law Convention on Corruption (ETS No. 173), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173

58 Civil Law Convention on Corruption (ETS No. 174), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174

“Fighting nepotism within local and regional authorities”, Report CG/GOV09(2018)03, approved on 6 November 2018 by the Governance Committee of the Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808e5fbf


“Bashkia Shkodrës vend pune për nepotikët” [The municipality of Shkodra is a place for nepotism], Gazeta Impakt, 29 July 2017. Available at: http://gazetaimpakt.com/bashkia-shkodres-vend-pune-per-nepotiket/

For the purpose of this handbook, «administrative resources are human, financial, material, “in natura” and other immaterial resources enjoyed by both incumbents and civil servants in elections, deriving from their control over public sector staff, finances and allocations, access to public facilities as well as resources enjoyed in the form of prestige or public presence that stem from their position as elected or public officers and which may turn into political endorsements or other forms of support», as defined in: “Report on the Misuse of Administrative Resources during Electoral Processes”, Study No. 585/2010, European Commission for Democracy through Law (Venice Commission), Council of Europe, 16 December 2013, Strasbourg. Available at: http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad(2013)033-e


General Comment No. 25, Addendum to the General Comment adopted by the Human Rights Committee under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, CCPR/C/21/Rev.1/Add.7, United Nations, 27 August 1996. Available at: https://undocs.org/CCPR/C/21/Rev.1/Add.7


Criminal Law Convention on Corruption (ETS No. 173), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173

Civil Law Convention on Corruption (ETS No. 174), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174


Resolution 401 (2016) on Preventing corruption and promoting public ethics at local and regional levels, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/168071a737

Resolution 402 (2016) on The misuse of administrative resources during electoral processes: the role of local and regional elected representatives and public officials, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/168071a562

Checklist for compliance with international standards and good practices preventing misuse of administrative resources during electoral processes at local and regional level, Report CG32(2017)12, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16807000d1

Administrative resources and fair elections: A practical guide for local and regional politicians and public officials, Congress of Local and Regional Authorities of the Council of Europe, April 2018, Strasbourg. Available at: https://rm.coe.int/16807b6b94

“Observation of local elections in Albania (21 June 2015)”; CPL/2015(29)2FINAL, Congress of Local and Regional Authorities, Council of Europe, 21 October 2015. Available at: https://rm.coe.int/1680718db0


“Observation of the parliamentary elections in Albania (25 June 2017)”, op. cit.

“The misuses of administrative resources during electoral processes: the role of local and regional elected representatives and public officials”, Report CG31(2016)07final, Congress of Local and Regional Authorities, Council of Europe, page 8. Available at: https://rm.coe.int/1680718db0

Law No. 8580 “On Political Parties” of 17 February 2000. Available at: http://www.cec.org.al/sq-al/Akte-t%C3%AB-KQZ-s%C3%AB/Ligji-per-partite-politike


“Observation of the parliamentary elections in Albania (25 June 2017)”, op. cit., page 3.


The 15 criminal offences affecting free elections are: Obstructing electoral subjects (325), Falsification of election material and election results (326), Intentional damaging of electoral material (326/a), Violating voting secrecy (327), Voting more than once or without being identified (327/a), Active corruption in elections (328), Using the public function for public or electoral activities (328/a), Passive corruption in elections (328/b), Intimidation or abuse against participants in election (329), Obstructing voters (330), Abandonment of the duty by the members of electoral commissions (330/a), Violating the voting rights (331), Obtaining or using the identification documents illegally (331/a), Abuse of military authority (332), and Abuse of police authority (332/a).


“Material Përmbledhës: Për marrjen e masave dhe monitorimin e veprimtarisë, sjelljes apo përdorimit të burimeve njerëzore, financiare dhe logjistike të administratës shtetërore, gjatë procesit zgjedhor për zgjedhjet e Kuvendit të Shqipërisë për vitin 2017” [Summary Report: Taking measures and monitoring the activity, behaviour or use of financial and logistic resources of the state administration, during the electoral process for the Assembly elections of 2017], Task Force, August 2017, Tirana, page 121. Available at: https://www.scribd.com/document/356547988/Material-Pembredhesh


“Material Përmbledhës”, op. cit., page 64.

“Material Përmbledhës”, op. cit., page 96.

Resolution 435 (2018) and Recommendation 424 (2018) on Transparency and open government, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808d341c


Register of requests and responses. Available at: http://www.idp.al/regjistri-i-kerkesave-dhe-pergjigjeve/

Official website of the Municipality of Korçë: http://www.bashkiakorce.gov.al/

Resolution 417 (2017) and Recommendation 398 (2017) on Open data for better public services, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16806fbdbc

Resolution 435 (2018) and Recommendation 424 (2018) on Transparency and open government, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808d341c


5-star Deployment Scheme for Open Data. Available at: http://5stardata.info


Official website of the OpenAlb platform: http://openalb.net/


Official website of the governmental portal e-Albania: https://e-albania.al/

Official website of the National Agency for Information Society: https://akshi.gov.al/

Recommendation No. R (2000) 10 of the Committee of Ministers to member States on Codes of Conduct for Public Officials, Council of Europe. Available at: https://rm.coe.int/16806c1ec

Resolution 433 (2018) on the European Code of Conduct for all Persons Involved in Local and Regional Governance, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808d3295

Resolution 434 (2018) and Recommendation 423 (2018) on Conflicts of interest at local and regional level, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808d33d0


Ibid. Articles 41 and 42.


International Public Sector Accounting Standards (IPSAS), IPSAS Board. Available at: https://www.iasplus.com/en/resources/global-organisations/ipsasb

International Standards of Supreme Audit Institutions (ISSAI) Framework. Available at: http://www.issai.org


Official website of the State Supreme Audit: http://www.klsh.org.al/web/Kontrolli_i_Larte_i_Shtetit_79_1.php


PEFA Assessment in the Municipality of Fier. Available at: https://issuu.com/co-plan_tirane/docs/al-fier_municipality-may17-pfmrp-sn_4c581ad442201d

Recommendation No. R (2000) 10 of the Committee of Ministers to member States on Codes of Conduct for Public Officials, Council of Europe. Available at: https://rm.coe.int/16806cc1ec

Resolution 433 (2018) on the European Code of Conduct for all Persons Involved in Local and Regional Governance, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808d3295

Abridged Handbook on Public Ethics at Local Level, Council of Europe. Available at: https://rm.coe.int/1680748013


Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/207


Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/207

Guidelines for civil participation in political decision making, CM(2017)83-final, Committee of Ministers of the Council of Europe, 27 September 2017. Available at: https://rm.coe.int/16807626cf

Resolution 435 (2018) and Recommendation 424 (2018) on Transparency and open government, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/16808d341c


Observatory of Public Sector Innovation, Organisation for Economic Co-operation and Development. Available at: https://www.oecd.org/governance/observatory-public-sector-innovation/blog/page/findingtherighttools.htm


The OGP Toolbox, Open Government Partnership, 1 December 2016. Available at: https://www.opengovpartnership.org/resources/ogp-toolbox

Public Sector Innovation Network, Australian Government. Available at: https://innovation.govspace.gov.au


Fondacionit Shqëria e Hapur për Shqipërinë (SOROS), Rritja e transparencës dhe promovimi i vendimtarjes me pjesëmarrje në qeverisjen vendore në Shqipëri [Increase of transparency and promotion of decision-making participation in local government in Albania], Transparency International Albania,

Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207), Council of Europe. Available at: https://rm.coe.int/16807954c3

Resolution 405 (2016) on Gender budgeting, Congress of Local and Regional Authorities of the Council of Europe. Available at: https://rm.coe.int/1680718ce9


72 Frequently Asked Questions about Participatory Budgeting, Urban Governance Toolkit Series, UN Habitat, July 2004, Quito. Available at: https://unhabitat.org/books/72-frequently-asked-questions-about-participatory-budgeting/

Participatory Budgeting Unit toolkits and how-to guides, PB Network. Available at: https://pbnetwork.org.uk/participatory-budgeting-toolkits-and-how-to-guides/


CRNVO - Centar za razvoj nevladinih organizacija (2013), Pjesëmarrja e qytetarëve dhe bashkëpunimi mes sektorit civil dhe vetëqeverisjeve lokale në Mal të Zi dhe Shqipëri [Citizen Participation and Co-operation between the Civil Sector and Local Self-Governments in Montenegro and Albania], Studio Mouse, Podgorica. Available at: https://www.crnvo.me/sites/crnvo/files/article_files/ucesce_grajdana_alb_4_web.pdf

Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207), Council of Europe. Available at: https://rm.coe.int/16807626cf


Guidelines for civil participation in political decision making, CM(2017)83-final, Committee of Ministers of the Council of Europe, 27 September 2017. Available at: https://rm.coe.int/16807954c3


Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207), Council of Europe. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/207


Transparency and citizen participation are key tools in the development of good local governance. Both help create the conditions for citizens to understand and evaluate the decisions which the government is taking on their behalf, as well as make their own needs and views known to government as it takes those decisions.

Effective transparency and participation can help to drive out corruption and government malpractice. They are also more positive tools as they help produce the conditions for increased trust. Finally, they also help governments to draw on the skills and experience of citizens to enable better decision-making and the delivery of more effective public services.

To that effect, this handbook aims to support local and regional authorities in Albania in their efforts to make communities more open, ethical and citizen-oriented. It provides practical guidance on transparency policies and citizen participation mechanisms, includes a concise assessment of the most prevalent corruption risks in the country and incorporates actual examples of best practices.