



Kingdom of the Netherlands



POLICY PAPER

Albania's path towards European Integration: Financial control and the process of opening negotiations for Chapter 32

June, 2022

The document was drafted by AIS, with the support of the Embassy of the Kingdom of the Netherlands in Albania, in the frame of the C1-EU-NPA project



The Policy Paper “Albania’s path towards European Integration: Financial control and the process of opening negotiations for Chapter 32” was drafted by the Albanian Institute of Science AIS / Open Data Albania, during the implementation of C1 - EU – NPA Project “*Improving the Debate on Policies and Accountability to Fulfill Basic Rights*”, through the creation of the Cluster 1 Albania Negotiation Platform.

This project is being implemented by four Albanian organizations: the Center for the Study of Democracy and Governance CSDG, the Institute for Political Studies ISP, the Albanian Helsinki Committee AHC and the Albanian Institute of Science AIS, with the support of the Embassy of the Kingdom of the Netherlands in Tirana.

The policy paper “**Albania’s path towards European Integration: Financial control and the process of opening negotiations for Chapter 32**” is being presented in Tirana as part of civil society’s initiatives, aiming to contribute to the country’s EU integration.

The Findings, Opinions or Recommendations expressed at this document represent the views of experts and the AIS organization and do not necessarily reflect the responsibilities of the partners or supporters of the C1-EU-NPA Project.



Introduction

“Finance without strategy is just numbers. Strategy without finance is merely a dream”

- **Goal:** This document aims to support Albania's negotiation process for the European Union (EU) membership, through the improvement of public debate and transparency concerning Chapter 32 "Financial Control", in order to strengthen the overall role and visibility of civil society.
- **Objectives:** The Document seeks to inform about the EU membership procedures, Albania's obligations in relation to Chapter 32 negotiations, the progress made during the preparation phase and then, after the signing of the Stabilization and Association Agreement (SAA), as well as address recommendations for the negotiations' phase until Albania's membership in the EU.
- **Situation Overview:** Albania is in the process of implementing the Stabilisation and Association Agreement. On 25 March 2020, the European Council decided - and members of the Council endorsed the decision - to open accession negotiations with Albania. The Council tasked the Commission to report on a number of issues to be addressed by Albania prior to the first Inter-governmental Conference on accession negotiations¹. Two years earlier, in December 2018, the Government started the analytical review of the legislation for Chapter 32 (screening) in line with the EU *acquis*, a process which has not been completed. Due to its importance, Chapter 32 is included in the first negotiating cluster "Fundamental Rights, First", which opens first and closes last in the negotiation process with the European Commission (EC)². Sufficient progress must be made in the first cluster, and consequently in Chapter 32, before the other negotiating clusters can be opened³. Financial control aims to improve the financial discipline of the public administration, ensure transparency in the use of public funds and protect the EU's financial interests. Fulfillment of obligations is a priority for the Albanian Government (Government), not only as a condition for EU membership, but as an internal obligation of the country's good governance, in order to achieve financial stability, prevent misuse of funds, and spending with efficiency and transparency of public funds⁴.

¹ Albania Progress Report 2021. https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en

² The first cluster includes: Chapter 23 - Judiciary and Fundamental Rights; Chapter 24 - Justice, Freedom and Security - Economic Criteria - Functioning of Democratic Institutions - Public Administration Reform; Chapter 5 - Public Procurement; Chapter 18 - Statistics; and Chapter 32 - Financial Control.

³ EC (2018), *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, p. 4, https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

⁴ PLANI KOMBETAR PER INTEGRIMIN EUROPIAN (PKIE 2021–2023), DCM Nr. 90, dated 17.2.2021, <http://planifikimi.gov.al/index.php?eID=dumpFile&t=f&f=6170&token=5fde9f7a2fd7e514f53b853364e79ca24f397160>



- **EU's Opinion** EC's Progress Report⁵ estimates that Albania is "**moderately prepared**" and has made "**partial progress**" in the area of Financial Control. The opinion on the preparation and progress made for Chapter 32 is the same and unchanged since 2015. Progress has been made during 2020, in particular with regards to the adoption of the policy for further strengthening of Public Internal Financial Control (PIFC), the instructions on the delegation of financial accountability, the instructions on monitoring and reporting the follow-up of the internal audit recommendations' implementation, as well as the review of the procedures of the Supreme State Audit (KLSH) on quality control and ensuring the external audit security. However, the Commission considers that the proper and effective functioning of the internal control framework of public finances has not yet been guaranteed in all budget units.⁶ The EC recommendations, carried over from last year, relate to the implementation of the principle of **delegation of responsibility and managerial accountability**, to monitoring and implementation of the recommendations of the **internal control of public finances** report, and to strengthening of the role of **parliamentary control on the audited units** in the implementation of the external audit recommendations, through more frequent parliamentary hearings and the establishment of a parliamentary monitoring framework to regularly evaluate the Government's next measures.

Key issues to be addressed in relation to Chapter 32

- *“Setting the right tone at the fore...”*

The key issues addressed by the EC, carried over the years in Albanias' Progress Reports, converge on **the urgent request to strengthen parliamentary control**, to monitor the internal control system in all budget structures at central and local level, especially for acceptance and addressing for the implementation of the recommendations of SAI. The need to establish a new parliamentary subcommittee to better address budget, public finance management and financial control issues is appreciated.

- *“Fundamental Rights, first...”*

The Ministry of Finance, the leading institution for Chapter 32, should assess and address the reasons why the EC opinion has remained unchanged since 2015: “Albania is **moderately prepared** and has made **partial progress** in the area of Financial Control⁷”. The process of analytical review of legislation (screening) should be completed as soon as possible, to facilitate the negotiation phase for Chapter 32. The fundamental rights cluster, which includes the Financial Control, is a conditional criterion for opening negotiations for other chapters.

⁵ Albania's Progress Report 2021, 19/10/2021 https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en

⁶ Idem.

⁷ Mark of 3, in a scale from 1 to 5.



The preparation and progress made in this chapter should be a priority for the Government, to accelerate the opening of negotiations for other chapters.

- *“Focus on the implementation, above the approximation of legislation...”*

The legal framework governing Financial Control matters is considered to be generally in line with international standards. However, the implementation and quality of control systems need continuous improvement. The progress made for Chapter 32 should not be treated only in form (adoption of legal acts), but mainly in content (implementation). The internal control system should be treated as a **comprehensive PIFC reform**, in full harmony and mutual support with the public administration (PAR) and public financial management (PFMR) reforms. If one of them is not complete, the implementation of the other two remains partial.

- *“Transparency as a success factor towards the promotion of European values...”*

Transparency, responsibility and managerial accountability of public institutions extend to several levels of control, ranging from internal control within the framework of public financial management, external audit, parliamentary control and finally, the general public. **The role of civil society** in strengthening the mechanism of public financial control is essential, as it can and should carry out continuous monitoring of important processes that have an impact on the economic, social and political life in Albania.

1. Key dates and facts: Albania - EU Relations / Stages and obligations of the SAA

The Albanian state has been officially part of the Stabilization and Association process since 2000, but relations with the EU have been strengthened since 2006, with the signing of the Stabilization and Association Agreement (SAA).

Article 70 of the SAA sets out the obligation for Albania to engage in the approximation of the national legislation with the EU *acquis*, a process that was supposed to be completed in two 5-year phases, within 2019⁸, but which is still in progress. In 2009, after the entry into force of the SAA, Albania submitted its application for EU membership, which was approved by the EC in June 2014, paving the way for the formal fulfillment of the strategic objective of European Integration⁹, through:

- Analytical review of the respective legislation (screening), a process that started in 2018;
- Formal opening and development of negotiations for 35 chapters;
- Conclusion of negotiations for each chapter and signing of the Accession Treaty.

Based on the Government’s Program for the 2021 – 2025 period, the priority of Albania’s foreign policy is for the country to advance faster towards the EU accession. The Government’s short-term priority, for 2022, is to receive a positive verdict on the concrete

⁸ Albania - EU Agreements <http://integrimi-ne-be.punetegashtme.gov.al/anetaresimi-ne-be/dokumente/marreshjet-shqiperi-be/>

⁹ Chapters of the *Acquis Communautaire*, <http://integrimi-ne-be.punetegashtme.gov.al/negociatat/>



start of negotiations through the organization of the first Intergovernmental Conference, after the political decision of March 2020 on the formal opening of the negotiations.¹⁰

As a candidate country for EU membership¹¹, Albania has the obligation to fully meet the "**Copenhagen Criteria**"¹².

With the opening of membership talks in March 2020, Albania is waiting for the decision of the CEEC, for the official opening of negotiations with the EU, a phase which aims to assess the progress made and the preparation of the Albanian State in meeting the membership criteria:

- Approximation of domestic legislation with the EU *acquis*;
- Establishment of institutions and enhancement of administrative capacities for the implementation of legislation;
- Proving, through consistent performance track record, the implementation of approximated legislation.

Thus, the successful conclusion of the negotiations aims to assess not only the formal approximation of legislation, but also **to come up with sufficient evidence that Albania has the necessary legal and institutional capacity to implement the *acquis* and other EU economic, political and social reforms**. Only after the conclusion of negotiations for all negotiating chapters, Albania will be ready for EU membership.

2. Structure of the Chapter 32 “Financial Control”

For negotiation purposes, the EU *acquis* is divided into 35 negotiating chapters, grouped into 6 clusters. Due to the importance, Chapter 32 is included in the first negotiating cluster "Fundamental rights, first"¹³, which opens first and closes last in the negotiation process. Chapter 32 covers issues that constitute the main pillars of building a sound public financial system, the foundations of which are transparency, responsibility and managerial accountability for public finances. The main objectives of Chapter 32 are to establish financial stability for Member States, to prevent the misuse of financial resources, and to make spending more efficient, successful and accountable, as an important mechanism for curbing corruption.

“The EU promotes the reformation of national governance systems to improve managerial accountability, sound financial management of revenues and expenditures, and the external audit of public funds. Financial control rules further protect EU financial interests against fraud involving the management of EU funds and against counterfeiting of the euro.”

Chapter 32 covers four main issues, which will be considered in the following sections:

¹⁰ National Plan for European Integration 2022 – 2024, pg. 9, http://integrimi-ne-be.punetejashtme.gov.al/wp-content/uploads/2022/02/NPEI_2022-2024_EN-.pdf

¹¹ Council conclusions of 24 June 2014 on Albania, <https://data.consilium.europa.eu/doc/document/ST-8288-2014-INIT/en/pdf>

¹² Member States should provide: institutions that guarantee democracy, the rule of law, human rights and respect for and protection of minorities (**Political Criteria**); functional market economy capable of withstanding competition in the EU market (**Economic Criterion**); and administrative and institutional capacity.

¹³ *European Commission (2018), A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, p. 4, communication-credible-enlargement-perspective-western-balkans_en.pdf (europa.eu)*



- Public Internal Financial Control (PIFC),
- External Audit (EA),
- Protection of EU Financial Interests, and
- Protecting the *Euro* from counterfeiting.

The EC regularly monitors Albania for meeting the membership criteria and publishes an annual opinion on the progress, which identifies the measures taken, identified problems, priorities for the government, and an overall assessment of the progress made during the year. The last EC report was published in October 2021, where Albania **is estimated to be moderately prepared in the field of Financial Control**¹⁴. As part of the self-assessment, the government confirms that the strategic framework for PIFC is partially functional. Monitoring the implementation of the plan for Chapter 32 is performed by the CHU at the MFE. The main achievements are presented in **Annex 1**. Formally, the approximation of legislation with the EU *acquis* seems easily applicable, but the difficulty lies beyond the approximation, on the continuous implementation of the internal control systems, which are interrelated with the progress made in the public administration and public finance management and control reforms.

3. Existing Legal and Institutional Framework in Albania for Financial Control

The analytical review of the legislation for Chapter 32 officially started **on December 5th, 2018**. The EU *acquis* does not set out specific legal provisions to be approximated in the field of financial control, but requires member states to implement international auditing standards, as well as to adapt to existing internal financial control systems with EU best practices in the field of financial control. The updated list of laws / bylaws governing Chapter 32 is presented in **Annex 2**.

Internal Control - Implementing **an effective internal financial control system**¹⁵ is needed in order to increase confidence and ensure that public funds are managed with due care, as a mechanism to monitor the activity carried out by central and local government units, which use public funds. According to the Albanian legislation, the term **"internal control"** means *the interaction between the financial management system and internal audit, to assist public institutions in carrying out economic activities effectively and efficiently*.¹⁶

The term **"Internal Audit"** is relatively new in Albania. The legal regulation of the internal audit functioning in the public sector was achieved in 2003, with the adoption of the Law *"On the Internal Audit in the Public Sector"*¹⁷. The General Directorate of Audit at MFE was restructured in 2010 as the Central Harmonization and Internal Audit Unit (CHUIA). In the

¹⁴ Progress Report of Albania 2021, 19/10/2021 https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en

¹⁵ Law no. 8417, dated 22.11.1998 THE CONSTITUTION OF THE REPUBLIC OF ALBANIA, article 157, https://www.gjk.gov.al/web/kstruuta_e_integruar_me_ndryshimet_e_2016_1648.pdf

¹⁶ Law on "Financial Management and Control" <https://www.financa.gov.al/ligji-nr-10-296-date-08-07-2010-i-ndryshuar-me-ligjin-nr-1102015-date-15-10-2015-per-menaxhimin-financiar-dhe-kontrollin-i-unifikuar/>

¹⁷ Law No. 9009 dated 13.02.2003 "On Internal Audit in the Public Sector" <https://www.shish.gov.al/files/transparenca/pdf/Ligi%209720.pdf>



same year, the function of "**internal audit**" was separated from "**financial inspection**", in accordance with EU recommendations. With the approval of the law "**On Public Financial Inspection**"¹⁸ The Directorate of Public Inspection (DIP) was established, which plays a regulatory and coordinating role in order to control transactions carried out by units and individuals in the public sector, to determine if violations of laws and fraud were committed, to detect damage caused to property in the public sector units, as well as the identification of those responsible of committing abuse.

The new Law "**On Internal Audit in the Public Sector**"¹⁹, approved in 2015, seeks to strengthen the principle of audit independence, defines the responsibilities of the heads of public entities, heads of audit units and internal auditors, recognizing the obligation to draft basic documents for the functioning of the audit, such as **the Audit Charter and Code of Ethics**. Also in 2015, the new law "**On Public Financial Inspection**"²⁰ was approved which aims to organize and increase managerial accountability in order to increase the effectiveness and credibility of public entities and their managers.

Public Internal Financial Control System (PIFC) - is a concept developed by the EC ²¹ to assist Member States in understanding and implementing control systems matching those at EU level. Good practices in EU member states recognize two types of internal control systems²²: (i) **centralized systems** – where the internal control of the public administration is performed by special control bodies ²³, independent of the authorities and entities they control (Spain and Luxembourg); and (ii) **decentralized systems** – where internal control is implemented as a comprehensive government approach, in which managers of public entities, in a synchronized manner, create, maintain and monitor their own integrity (Denmark, the Netherlands, Sweden, etc.).

Albania reformed the internal control system in 2003, moving from a centralized system (where internal controls were performed by the Supreme State Audit and state control offices) to a decentralized system, by regulating the internal audit functioning and financial inspection. This system is regularly **established, maintained and updated by the head of the public entity and implemented by all staff**, in order to address the risks and provide sufficient assurance that the objectives of the public entity will be achieved.

In the Albanian legislation, **PIFC represents** "*the entirety of the internal control system exercised by public entities, to ensure that the financial management and control of public*

¹⁸ Law No. 10294/2010 "On Public Financial Inspection", https://www.kqk.gov.al/sites/default/files/publikime/ligji_nr._10_294_dt.01.07.2010-per_inspektimin_financiar.pdf

¹⁹ Law No. 114/2015 "On Internal Audit in the public sector", https://www.financa.gov.al/wp-content/uploads/2018/06/Ligji_114_22.10.2015.pdf

²⁰ Law No. 112/2015 "On Public Financial Inspection", https://arsimi.gov.al/wp-content/uploads/2018/02/E.1_Ligji_nr._112_-_2015_Per_Inspektimin_Financiar_Publik_Blerina_ALB.pdf

²¹ Welcome to the Global PIFC https://ec.europa.eu/budget/library/documents/overviews_others/brochure_pifc_en.pdf

²² "Internal control" in this context is understood as internal control for the executive, as opposed to external control exercised by the external auditor and parliament.

²³ Psh. Intervención General de la Administración del Estado i Spanjës or the Luxembourg General Financial Inspectorate

entities is in accordance with the relevant legislation, budget requisites, as well as the principles of financial management with transparency, effectiveness, efficiency and economy”²⁴. **PIFC is estimated to be an integral part of public financial management**, which is connected to the entire budget, in particular to central and local government revenues and expenditures, including EU funds, as well as other funds. The legal framework for PIFC is defined in the Law on Budget²⁵, the law “On Internal Audit (IA)”²⁶ and the Law on Financial Management and Control (FMC)”²⁷, which provide an appropriate legal framework for the implementation of the basic elements of PIFC²⁸. The institutional framework for FMC has undergone repeated reforms over the last decade, to change the culture of financial management with a focus from “**inputs**” to “**results**”. Regarding the evaluation of the FMC system during 2020²⁹, despite the improvement of indicators and the awareness of the general government units on the implementation of internal control instruments, **the main problem remains the improper engagement of the management level** in the design and maintenance of the PIFC system of the unit.

External Audit - Financial control also includes the role of the external auditor, institutionally, operationally and financially independent, who reports to Parliament on the use of resources in the public sector, in accordance with the standards of the International Organization of Supreme Audit Institutions (INTOSAI). State Audit Institution (SAI) is the highest institution of economic and financial control in the country, which exercises control over all economic activities of state institutions and other state legal entities³⁰. The management of public finances and the activity of SAI are regulated in the Constitution of Albania. The legal basis that regulates the activity of SAI is the Law “*On the organization and functioning of the Supreme State Audit*”³¹. The substitution of the term “*control*” with “*audit*” was done in 2015, with the revision of the legal basis for further approximation with the International Standards on Auditing (ISA), a recommendation addressed by the EC to strengthen the SAI’s institutional, organizational and functional independence. In 2015, the SAI’s competencies as external auditor for public finances were defined.

²⁴ Law no. 10,296, dated 08.07.2010, amended by Law no. 110/2015, ON FINANCIAL MANAGEMENT AND CONTROL, <https://www.financa.gov.al/ligji-nr-10-296-date-08-07-2010-i-ndryshuar-me-ligjin-nr-1102015-date-15-10-2015-per-menaxhimin-financiar-dhe-kontrollin-i-unifikuar/>

²⁵ Law no.9936, dated 26.6.2008 ON THE MANAGEMENT OF THE BUDGET SYSTEM IN THE REPUBLIC OF ALBANIA, https://www.financa.gov.al/wp-content/uploads/2018/06/Ligji_114_22.10.2015.pdf

²⁶ Law No. 114/2015 “On Internal Audit in the public sector”, https://www.financa.gov.al/wp-content/uploads/2018/06/Ligji_114_22.10.2015.pdf

²⁷ Law no. 10,296, dated 08.07.2010, amended, ON FINANCIAL MANAGEMENT AND CONTROL, <https://www.financa.gov.al/ligji-nr-10-296-date-08-07-2010-i-ndryshuar-me-ligjin-nr-1102015-date-15-10-2015-per-menaxhimin-financiar-dhe-kontrollin-i-unifikuar/>

²⁸ Basic elements of PIFC: (i) Financial Management and Control (FMC), (ii) Functional Independence of Internal Audit (IA), and (iii) Central Harmonization Unit (CHU).

²⁹ Report on the Functioning of the Public Internal Financial Control System in the General Government Units, 2020, <https://www.financa.gov.al/wp-content/uploads/2021/07/Raporti-Vjetor-i-KBFP-2020.pdf>

³⁰ Law no. 8417, dated 22.11.1998 THE CONSTITUTION OF THE REPUBLIC OF ALBANIA articles 162-163, <https://qbz.gov.al/eli/ligj/2007/01/13/9675/7107091e-96b4-4853-b651-a4f2f3814b0b>

³¹ Law No. 154/2014 “*On the organization and functioning of the Supreme State Audit, revised*”, https://www.dap.gov.al/images/LegjislacioniAP/ligj_154_27.11.2014.pdf

4. EC Opinion on the Albanian Progress and Preparations Made for Chapter 32

The EC continuously supports and monitors the preparations made by Albania for the fulfillment of the membership criteria and every year publishes the report on the progress made for the fulfillment of the SAA obligations. A comparative summary of key opinions, recommendations and priorities over the years is presented in **Annex 3**. From 2015 to October 2021, the EC maintained the same assessment: **Albania is moderately prepared in the area of Financial Control**, with a 3 point Average rating, on a scale of 1 to 5. The full assessment for Chapter 32 of the latest EC Report on Albania is presented in **Annex 4**.

Table 1. Albania's Progress and Preparedness over the years for Chapter 32

Source: EC Progress Reports from 2009 - 2021³²

Year	Preparedness (scale 1-5)	Progress
2009	moderately advanced	some progress
2010	has started preparations	NA
2011	NA	progress has been made
2012	(not very advanced)	some progress
2013	(moderately advanced)	some progress
2014*	(moderately advanced)	some progress
2015	3 (moderately prepared)	some progress
2016	3 (moderately prepared)	some progress
2018	3 (moderately prepared)	some progress
2019	3 (moderately prepared)	some progress
2020	3 (moderately prepared)	some progress
2021	3 (moderately prepared)	some progress

* Candidate status was approved for Albania

Some progress is assessed to have been made each year, but not enough to improve the country's overall opinion on the approximation of legislation concerning Chapter 32. The EC considers that the proper and effective functioning of the PIFC framework is not ensured in all budget units³³. Previous EC recommendations are still valid for implementation by the Government in 2022, as follows: “**Albania must:**

- (i) *take measures to implement the guidelines for financial delegation of managerial responsibilities and issue instructions on delegation of management responsibilities, in order to improve managerial accountability;*
- (ii) *monitor and follow up the implementation of the recommendations made in the PIFC Annual Report by budgetary institutions; and*
- (iii) *increase the parliamentary scrutiny of the audited bodies in the implementation of external audit recommendations, through more frequent parliamentary hearings and the establishment of a parliamentary monitoring framework to regularly assess government's follow-up action.”*

³² Initially as a potential candidate country during 2009-2014 and then as a candidate country for EU membership during 2015-2021

³³ Albania's Progress Report, 2021 https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en



5. National Plan for European Integration / Government priorities and action plans

Albanian institutions engaged in preparing and approving plans for the approximation of Albanian legislation with the EU *acquis*, immediately after the signing of the SAA³⁴. The first National Strategy for Integration³⁵ determined that the objective for the approximation of legislation was the 2007-2013 period, but as of today it has not been met. Plans have been updated and changed several times in the 15-year timeframe. The **National Plan for European Integration (NPEI)**³⁶, in its current format, was proposed after 2014 and seeks to coordinate the approximation process, aiming at meeting the obligations of the SAA and EU membership.

This mid term plan for a 3-year period is reviewed annually. The most recently approved NPEI covers the 2022-2024 period. The Government affirms that the level of NPEI 2021 – 2023 implementation was 76%, slightly lower than the results achieved during 2020 in the framework of the implementation of the NPEI 2020 – 2022³⁷.

The updated “**NPEI 2022-2024**” was approved by the Council of Ministers in February 2022. Regarding Chapter 32, the priorities, objectives and plans for approximation of legislation are presented in **Annex 5**.

Public Internal Financial Control – PIFC measures are included in the Public Financial Management Strategy (PFM) 2019-2022 and further detailed in the Policy Document for the Development of Public Internal Financial Control 2021-2022, which was approved in December 2020. The legislation on internal audit practice is in line with international standards. The government has approved the PIFC policy document and the relevant action plan for the 2021-2023 period, whose objectives are also presented in **Annex 6**. The annual PIFC monitoring report is prepared by the CHU at the MFE and submitted to the Council of Ministers and the Assembly. Beyond reporting, **there is no formal acceptance or decision-making by institutions on monitoring and implementing the recommendations addressed by the MFE.**

External Audit - Pursuant to the EC recommendations, the SAI is committed to resubmit to the Assembly the following proposals: (i) for the **establishment of a parliamentary sub-committee, part of the Committee on Economy and Finance**, to review the SAI’s reports, as well as the periodic development of parliamentary hearings to evaluate the corrective actions taken by the audited institutions for the implementation of the SAI recommendations; (ii) for the **signing of a memorandum of understanding between the two institutions**, as well as drafting of a concrete working plan to increase parliamentary control over the implementation of the SAI recommendations; and (iii) **amending the law on SAI**³⁸, to ensure

³⁴ “National Plan for Approximation of Legislation ”and“ National Plan for the Implementation of the SAA 2007-2012 ”

³⁵ Strategjia Kombëtare për Zhvillim dhe Integrim 2007-2013, https://www.connectwith.eu.al/wp-content/uploads/2019/06/Strategjia-komb%20tare-p%20abr-zhvillim-dhe-integrim-2008_-p%20abr-periudh%20abn-2007-2013.pdf

³⁶ NPEI was drafted for the first time for the period 2014-2020, a document that is updated every year, for a period of 3 years.

³⁷ NPEI 2022 – 2024, pg. 15, http://integrimi-ne-be.punetjashme.gov.al/wp-content/uploads/2022/02/NPEI_2022-2024_EN-.pdf

³⁸ Law no. 154/2014 “On the organization and functioning of SAI”, https://www.dap.gov.al/images/LegjislacioniAP/ligj_154_27.11.2014.pdf



the continuity of institutional activity after the end of the constitutional mandate of the SAI President. SAI's proposal are still pending from two years, to be addressed by the Parliament.

Protecting the EU's financial interests - Albania must fully approximate the EU Directive against fraud against the EU financial interests, in terms of criminal provisions. The adoption of the **National Anti-Fraud Strategy** (2022), which aims to protect the EU financial interests is included in the **Public Financial Oversight Strategy 2019-2022**. The strategy will be approved by Order of the MFE, within the fourth quarter of 2024. The DIFP/AFCOS has planned administrative and legal measures for the inclusion of the Special Structure Against Corruption and Organized Crime (SPAK) in the AFCOS-AL network.

Protecting the Euro from counterfeiting – Albania is aligned with the *acquis* on the protection against counterfeiting of banknotes and coins, as well as the procedures for their collection, storage and withdrawal from circulation. A cooperation agreement between the European Commission and the Bank of Albania on coins is in force, while an agreement on banknotes with the European Central Bank is pending.

6. Institutions engaged in the European Integration process

Parliament – has a very important role in the process of approximation of Albanian legislation with that of the EU, exercising legal and political control over it. The process of approximation of Albanian legislation with the EU *acquis* is based on the Constitution, the Rules of Procedure of the Parliament and the law "*On the role of the Assembly in the process of Albania's EU integration*"³⁹. In accordance with this Law, the National Council for European Integration (NCEI) has been established and is functioning, as the highest national advisory structure for EI, which aims to promote and guarantee comprehensive cooperation between political forces, public institutions and civil society, as well as ensuring increased transparency in decision-making on integration issues⁴⁰.

Government - has reviewed several times the structures responsible for EI, given the fact that membership negotiations are complicated technical processes, which require coordination and more efficient use of institutional resources of public administration. The last revision was made in 2018, with DCM no. 749, dated 19.12.2018 "*On the establishment, organization and functioning of the state structure responsible for the conduct of negotiations and the conclusion of Albania's EU accession treaty*". Finally, with DCM no. 422, dated 6.5.2020, the **new negotiating group is defined based on chapters**.

MEF – has a key role and bears primary responsibility for conducting negotiations and implementing obligations under Chapter 32, a role fulfilled through the Central Unit for the Harmonization of Financial Management and Control (CHU/FMC), the Central Internal Unit for Audit Harmonization (CHU/IA)) and the Directorate of Public Financial Inspection. The responsibility for overseeing the implementation of reforms lies with the MFE, while **the PFM and Control strategy includes the Government, SAI and the Parliament**, whose role should be more active and supportive of the MFE for the implementation of the PIFC

³⁹ Law no. 15/2015, dated 5.3.2015 "On the role of the Assembly in the process of integration of the Republic of Albania in the EU", https://www.parlament.al/Files/Integrimi/ligji_15-2015-1.pdf

⁴⁰ The main institutions engaged in the European Integration process are presented in Annex 7.

system. The main institutions engaged in fulfilling the obligations concerning Chapter 32 are presented in **Annex 7**.⁴¹

7. Comparative overview of Albania with other regional countries

In the latest progress reports (October 2021), the EC has assessed Albania and Northern Macedonia with the same level of preparation (modest preparation), but the latter with a more limited progress during the year. Montenegro and Serbia have received the same level of preparation for Chapter 32 (modest preparation), despite the fact that the two countries have been opening membership negotiations for several years. The following comparison table certainly does not present the problems of each candidate country, but shows that **the negotiation process can be long and challenging, so a better preparation and organization of the institutions involved in the negotiations is needed** to successfully move the process forward, until the conclusion of negotiations and EU membership. Turkey has a better preparation, while Kosovo and Bosnia and Herzegovina have a lower preparation rating. A summary of the EC's opinions and recommendations for Chapter 32, for countries in the region, candidate or potential candidate for EU membership, is presented in **Annex 8**.

Table 2. Regional Comparison / Progress made in regards to Chapter 32

Source: EC Progress Reports - October 2021⁴²

Country	Status of negotiations	Year of opening of negotiations	Preparation (scale 1-5)	Progress
Albania	Opened negotiations with EC	Na	3 (Modest Preparation)	Little progress
North Macedonia	Opened negotiations with EC	Na	3 (Modest Preparation)	Limited progress
Turkey	Opened negotiations with EC	2005	4 (Good level of preparation)	Limited progress
Montenegro	Opened negotiations with EC	2012	3 (Modest Preparation)	Little progress
Serbia	Opened negotiations with EC	2014	3 (Modest Preparation)	Good progress
Kosovo	EU potential candidate	Na	2 (Low level of preparation)	Little progress
Bosnia&Herzeg	EU potential candidate	Na	1 (Initial stage of preparation)	Little progress

⁴¹ National Plan for European Integration 2021 - 2023, <http://integrimi-ne-be.punetejashtme.gov.al/anetaresimi-ne-be/plani-kombetar-i-integrimit-pkie/>

⁴² The results in the below table are based on the EC assessment of a country's readiness to adopt the obligations of EU membership, as described: 1. Initial stage, 2. Low level of preparation, 3. Modest preparation, 4. Good level of preparation and 5. Advanced.

8. Issues and Challenges Related to Chapter 32

Parliamentary Control – The Parliament has the legal obligation to review in plenary session only the SAI's two main reports⁴³. It appears that, since 2018, the Parliament has not had hearings on other SAI audit reports, as a good practice to monitor reforms in the PIFC and PFM system. **The lack of independent conclusions and recommendations from the Parliament, in support of the SAI's activities and recommendations, is estimated to weaken the role of external auditor in public finances.**⁴⁴. To address this issue, the list of institutions responsible for Chapter 32 should include the Parliament, as the lead supervisory institution and the highest link of financial control, respectively for internal control and external audit of public finances.

Quality of external Audit – The SAI in its fulfillment of the constitutional mandate as the highest institution of economic and financial control in the Republic of Albania, in order to fully align its activity with the international auditing standards of the International Organization of Supreme Audit Institutions and best practices, is working to amend the Law 154/2014 "On the organization and functioning of the Supreme State Audit". Through the amendment of the law, it is intended the implementing of the recommendation of the Annual Report of the European Commission to ensuring the continuity of the activity of the institution even after the end of the mandate of the chair of ALSAI and to fill the gaps related to the following:

- Non-restriction of SAI in the audit of public funds provided by the European Union.
- The jurisdictional competence of SAI auditors with regard to the auditing of all public or private entities, engaged, participating and parties to contracts such as concessions; public procurement; and public-private partnership, has to be defined in the law.
- The full jurisdiction of SAI in auditing the public legal entities, such as the Energy Regulatory Authority and the Central Bank of Albania has to be defined in the law.

Managerial Accountability – is not yet fully sanctioned in legislation and administrative practice. The adopted guidelines for the delegation of financial responsibilities need to be implemented and accompanied by a broader reform of the delegation of operational and administrative responsibilities, in order to have a comprehensive approach to managerial accountability. A very small number of administrative decisions are delegated in practice. The re-emergence and increase in arrears are an indicator of the still not fully effective attribution of responsibilities and commitment control. MFE submits annually to the Government the monitoring report of the PIFC system, simultaneously with the annual budget statement. Both documents are also submitted to the Assembly. Reporting by the CHU/MFE ensures that the Government and the Parliament are informed and aware of the status of the PIFC system. The monitoring report includes findings and recommendations for improving the control system, but there is no formal obligation from the Government, to accept the risks and address the recommendations made by public institutions. The internal control system provides reasonable, but not absolute, guarantees regarding financial control and good management of public funds, in order to improve services to citizens. **Establishing an effective system of internal control does not replace, but strengthens managerial**

⁴³ "State Budget Implementation Report" and "Annual Performance Report of SAI".

⁴⁴ Monitoring Report for Albania "Public Financial Management" - November 2021 © OECD

<http://www.sigmaxweb.org/publications/Monitoring-Report-2021-Albania.pdf>



accountability, as a direct obligation of the heads of public institutions to respect the principles of sound financial management, legality and transparency to the public. Addressing this issue requires increasing managerial accountability in addressing issues and strengthening the PIFC system.

Align management and financial control with public administration reform_ - Reform to improve public financial management places emphasis on managerial accountability within a performance-based budgeting framework⁴⁵. Financial control⁴⁶ and external audit⁴⁷ constitute two of the six objectives in the PFM 2019-2022⁴⁸ strategy, revised in 2020 to enable monitoring based on measurable results. Also, the Strategy on Public Administration Reform (SPAR 2015-2020) aims at *“developing a public administration that provides high quality services to citizens and businesses in a transparent, effective, and efficient manner ... through impartial, professional civil servants and accountable, part of efficient structures.”*⁴⁹ Government structures have undergone major changes after the 2017 parliamentary elections⁵⁰, towards an integrated planning system and cross-sectoral development. **Despite reforms to review the legal framework for public administration, Albania still does not have a clear architecture of budget structures.** In some cases, it is not clear whether agencies should focus solely on implementing policies, or have a role in designing them. Ministers are directly accountable to the legislature for relevant policy areas, while agency heads are generally not exposed to accountability mechanisms. Based on the monitoring report⁵¹, **agency restructuring reforms have revealed systemic weaknesses and risks.** A detailed and up-to-date analysis of the coherence of internal control legislation with horizontal legislation can identify problems that need to be addressed to improve financial control.

Evaluation of objectives based on measurable results – Based on the EC Progress Report on Albania⁵² *“analysis of government work is still limited, because monitoring and reporting are often limited to implementing activities and rarely evaluate their results. Most of the reports continue to present the activities implemented and do not explain the actual results and conclusions that have been achieved through the implementation of government policies.”* This conclusion also applies to Chapter 32, due to the fact that the emphasis is put on the activities performed (reforms or approximation of legislation), than on the objectives

⁴⁵ Law on “Financial Management and Control, <https://www.financa.gov.al/ligji-nr-10-296-date-08-07-2010-i-ndryshuar-me-ligjin-nr-1102015-date-15-10-2015-per-menaxhimin-financiar-dhe-kontrollin-i-unifikuar/>

⁴⁶ Specific Objective 5: Effective Internal Control - Financial Management and Control (FMC) in Public Institutions

⁴⁷ Specific Objective 6: Effective External Oversight of Public Finances - External Audit

⁴⁸ Ministry of Finance and Economy, SECTORAL PUBLIC FINANCE MANAGEMENT STRATEGY 2019-2022, <https://www.financa.gov.al/wp-content/uploads/2020/08/PFM-Strategy-2019-2022-ALB-1.pdf>

⁴⁹ CROSS-CUTTING STRATEGY OF PUBLIC ADMINISTRATION REFORM 2015 – 2022, <https://www.adisa.gov.al/wp-content/uploads/2021/03/Strategjia-Ndersektoriale-SNRAP-2015-2022.pdf>

⁵⁰ Performance Evaluation Report on Public Expenditure and Finance Accountability (PEFA) - Albania, 2017, https://financa.gov.al/wp-content/uploads/2018/06/Llogaridhenia_per_Shpenzimet_dhe_Financat_Publike_PEFA_2017_.pdf

⁵¹ OECD, SIGMA PAPER NR.63, ORGANISATION OF PUBLIC ADMINISTRATION: AGENCY GOVERNANCE, AUTONOMY AND ACCOUNTABILITY, OCTOBER 2021, <https://www.oecd-ilibrary.org/docserver/07316cc3-en.pdf?expires=1654784987&id=id&accname=guest&checksum=DF7B05BB0743C40F0C62FD2D2F1687E6>

⁵² Albania’s Progress Report, 2021 https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en



achieved for the implementation of control systems in the management of public finances. According to the PAR Monitoring Report⁵³, **the implementation of internal control at the institutional level remains deficient, despite the progress made with the overall legal framework.** The assessment of the 'functioning of internal control' indicator for 2020 is very low ("1" on a scale from 1 to 5), deteriorating from 2017, because the quality of planning and organization of audits has not been proven during field testing by SIGMA. No matter how much progress is made in the approximation of the legal framework, financial control can be neither complete nor effective if its foundations continue to be fragile, lacking transparency and managerial accountability. **The implementation of the control system is an evaluation criterion for the negotiation phase, therefore the focus should be on the results of the reforms, beyond the approximation of legislation.**

The role of civil society in improving accountability_ An important reason to pay attention to Chapter 32 is the fact that financial control policies and procedures aim to assess the situation and increase transparency on how public administration spends taxpayers' money. Performance audits aim to assess whether the money spent has been used effectively and has yielded the expected results. The accountability and managerial accountability of public institutions extends to several levels, starting from internal control, external controllers who have the authority to impose sanctions (SAI and parliamentary control), and finally the general public. **The role of civil society in strengthening the mechanism of public financial control is essential, as it can and should carry out continuous monitoring of the processes that have an impact on the economic, social and political life of Albania.**

8. Conclusions and Recommendations

Albania has a complete legal and operational framework for financial control, but implementation has significant shortcomings. The SAI has updated its audit methodologies and quality assurance procedures in full compliance with international standards, but there is still work to be done to improve the quality and impact of external audit. The priority issues addressed by the EC, carried over the years in the EC Reports, converge on the urgent requirement to strengthen parliamentary control, to monitor the implementation of the internal control system and external audit recommendations.

The SAI has submitted proposals for the establishment of a parliamentary subcommittee and a draft memorandum to strengthen communication between the two institutions, which have not yet been addressed by the Parliament. Setting the right tone at the fore is a key element of the control environment, which is reflected in the exercise of integrity and ethical values throughout the PIFC system. The lack of consistent and structured engagement by the Parliament is assessed as weakening control systems and damaging to the image of the work done by SAI. As a result of the lack of parliamentary control, the effectiveness of the audits is compromised and the audit recommendations are not implemented in time by the audited entities.⁵⁴

⁵³ Monitoring Report "The Principles of Public Administration ALBANIA November 2021"

<http://www.sigmaweb.org/publications/Monitoring-Report-Executive-Summary-2021-Albania.pdf>

⁵⁴ Monitoring Report Sigma "The Principles of Public Administration ALBANIA", November 2021,

<http://www.sigmaweb.org/publications/Monitoring-Report-Executive-Summary-2021-Albania.pdf>



We recommend that the Parliament:

- (i) addresses, as soon as possible, the SAI proposals for amending the legal framework in accordance with EU recommendations and international external auditing standards, to clarify the role and scope of SAI as an external auditor of public finances.
- (ii) prioritizes the proposal for the establishment of a new subcommittee, or to extend the scope of the existing "Subcommittee for monitoring the implementation of the state budget and its control"⁵⁵, to include questions of external audit.

The preparation for the Chapter 32 is a priority, to accelerate the opening of negotiations for other chapters, as well as the eventual successful conclusion of the negotiations towards Integration. The progress made for this Chapter should be assessed as a comprehensive PIFC reform, in line with and mutually supportive of the PAR and PFM reforms. The establishment of new agencies,⁵⁶ precisely at a stage when Albania expects the opening of negotiations with the EU, adds to the ambiguities and complexity of the organizational structure in public administration. The lack of role definition makes it difficult to transparently assign responsibilities within the Government, and also poses a challenge to transparency and managerial accountability.

It is further recommended that the Government:

- (iii) accelerate the process of analytical review (screening) of the legislation to be approximated with the EU acquis concerning Chapter 32, as part of the cluster of fundamental rights (fundamentals);
- (iv) in parallel with the vertical review, conduct a horizontal cross-sectoral review of legislation, in order to avoid gaps and duplications that may affect the effectiveness of the PIFC system, including the role of newly established agencies, in order to fully catalogue policies and legal acts connected to Chapter 32.

The negotiation process for Chapter 32 is very technical, complex and comprehensive. Based on the experience of other countries in the region, maximum commitment is needed from all parties, completion of review analysis of legislation, expertise and sustainability of structures and human resources involved in the negotiation process, inter-institutional cooperation and priority support from the Government and the Parliament. The MFE, the leading institution in opening and conducting Chapter 32 negotiations, has a dedicated space on its website⁵⁷, but it lacks significant information and updates on the compliance status for Chapter 32. Lack of transparency and ongoing communication affects public confidence in the successful conclusion of the negotiations and the EU membership process.

⁵⁵ Subcommittee on monitoring the implementation of the state budget and its control, <https://www.parlament.al/Strukture?kategorie=6&strukture=2060>

⁵⁶ State Agency for Strategic Planning and Assistance Coordination, Agency for Quality Assurance of Social and Health Care Services, Agency for Dialogue and Co-Government. Agency for Cadastres, ect.

⁵⁷European Integration Partnership Platform, <https://www.financa.gov.al/platforma-e-partneritetit-per-integrimin-europian/>



Further action should be taken by the MFE:

(v) to enhance transparency and accountability to the public on the fulfillment of obligations in the process of the approximation of domestic legislation with the EU acquis for Chapter 32.

LIST OF ABBREVIATIONS



AAPAA - Audit Agency of EU Accredited Assistance Projects
IA - Internal Audit
EA - External Audit
AARD - Agency for Agricultural and Rural Development
EU - European Union
BoA - Bank of Albania
DIFP / AFCOS - Directorate of Public Financial Inspection / Anti-Fraud Coordination Service
DPI - Directorate of Public Inspection
PFI - Public Financial Inspection
INSTAT - Institute of Statistics
INTOSAI - International Organization of Senior Audit Institutions
IC - Internal Control
EC - European Commission
PIFC - Public Internal Financial Control
CEI - Commission for European Integration
NCEI - National Council for European Integration
SAI - Supreme State Audit
CM - Council of Ministers
CMEU - Council of Ministers of the European Union
MoI - Ministry of Interior
MoI / GDSP - Ministry of Interior / General Directorate of State Police
MoJ - Ministry of Justice
MEFA - Ministry of Europe and Foreign Affairs
MFE - Ministry of Finance and Economy
FMC - Financial Management and Control
PFM - Public Financial Management
SAA - Stabilization and Association Agreement
MHSP - Ministry of Health and Social Protection
IAU - Internal Audit Unit
CHU - Central Harmonization Unit
GGU - General Government Units
LGU - Local Government Units
PAR - Public Administration Reform
Government - Albanian Government
Report - EC Progress Report
SPAK/SAICOC - Special Structure Against Corruption and Organized Crime

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