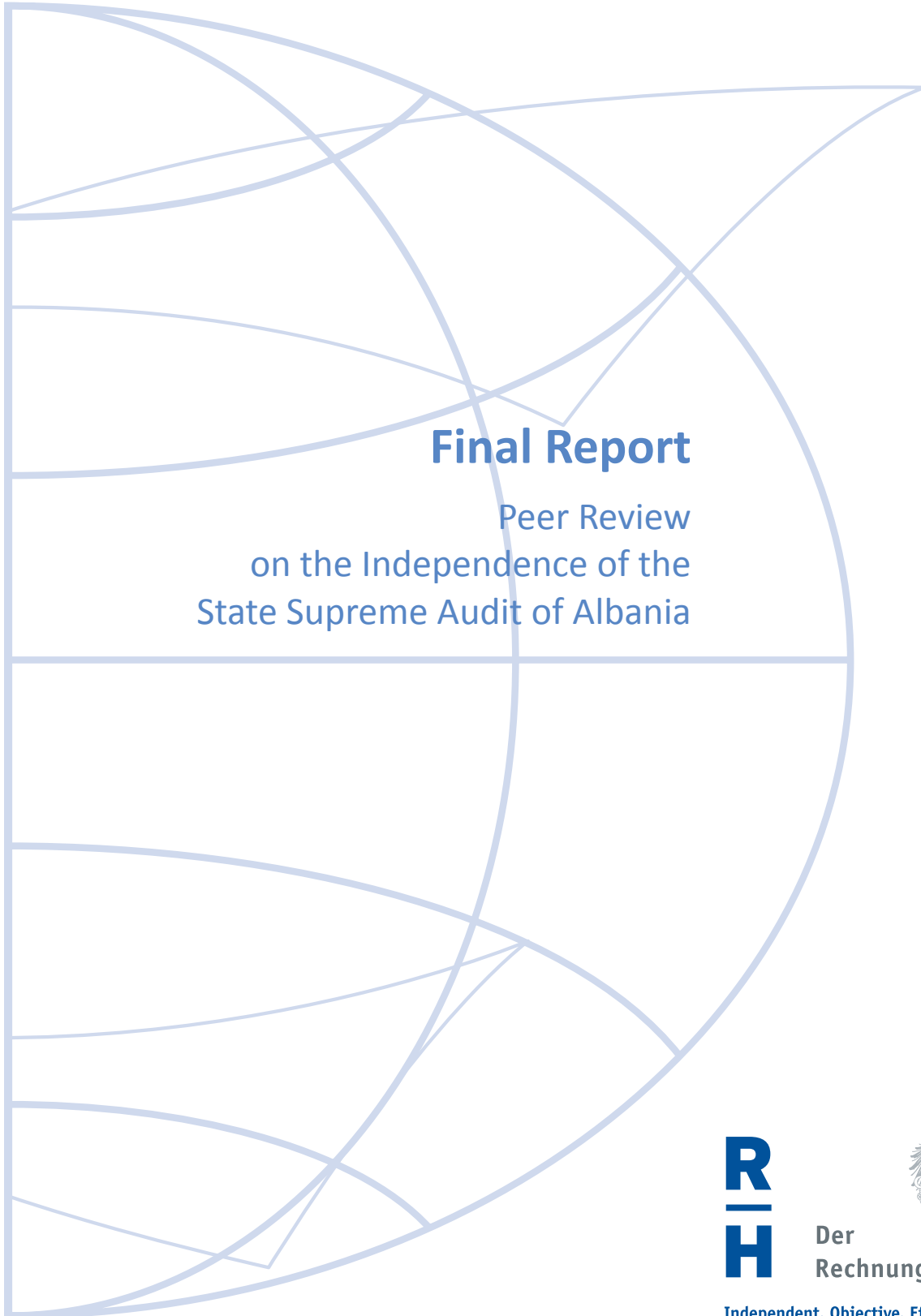




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Final Report

Peer Review
on the Independence of the
State Supreme Audit of Albania



Der
Rechnungshof

Independent. Objective. Effective.

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LIST OF ABBREVIATIONS

ACA	Austrian Court of Audit
ALL	Albanian Lek
ALSAI	State Supreme Audit of Albania
Art.	Article
e.g.	exempli gratia; for example
et seq.	et sequens; and the following (pages or items)
EUR	Euro
GDP	Gross Domestic Product
INTOSAI	International Organisation of Supreme Audit Institutions
IPA	Instrument for PreAccession Assistance
ISSAI	International Standards for Supreme Audit Institutions
Mio.	Million(s)
NGO	Non Governmental Organization
No.	Number
para.	Paragraph
resp.	respective
SAI	Supreme Audit Institution
US\$	United States Dollar



Introduction and Background Information

As underlined by the Declaration of Lima (1977) and the Declaration of Mexico (2007) as well as the United Nations General Assembly Resolution A/66/209 (2011) and the recently adopted Resolution A/69/228 (2015), the independence of a Supreme Audit Institution (SAI) is crucial to ensure its ability to carry out its work in a free and impartial manner, thus contributing to good governance, transparency and accountability.

To this effect the partners, the General Secretariat of the International Organisation of Supreme Audit Institutions (INTOSAI), the State Supreme Audit of Albania (ALSAI), the Austrian Court of Audit (ACA) and the Court of Accounts of Moldava agreed to perform a peer review on the subject of independence. The agreement on the peer review was based on the principles of voluntariness, partnership and mutual trust.

Peer Review Objectives

The objective of the peer review was to provide the State Supreme Audit of Albania with an assessment of compliance with the International Standards of Supreme Audit Institutions (ISSAI) related to SAI independence (ISSAI 10: Mexico Declaration on SAI Independence; ISSAI 11: Guidelines and Good Practices Related to SAI Independence) as well as to make recommendations for action to promote the SAI's independence. In doing so, also central elements of ISSAI 12: The Value and Benefits of Supreme Audit Institutions – Making a Difference to the Lives of Citizens were reviewed. The significance of these issues was endorsed by the United Nations (Resolution A/69/228 adopted in 2015) to promote and foster the efficiency, accountability, effectiveness and transparency of public administration by strengthening SAIs.

The assessment focused on the eight principles of independence according to the Mexico Declaration:

- existence of an effective legal framework
- independence of SAI heads and members
- broad legislative mandate and full discretion in the discharge of SAI functions
- unrestricted access to information
- right and obligation to report on audit results
- freedom to decide the content and timing of audit reports
- existence of a follow-up mechanism
- financial/managerial/administrative autonomy and appropriate resources



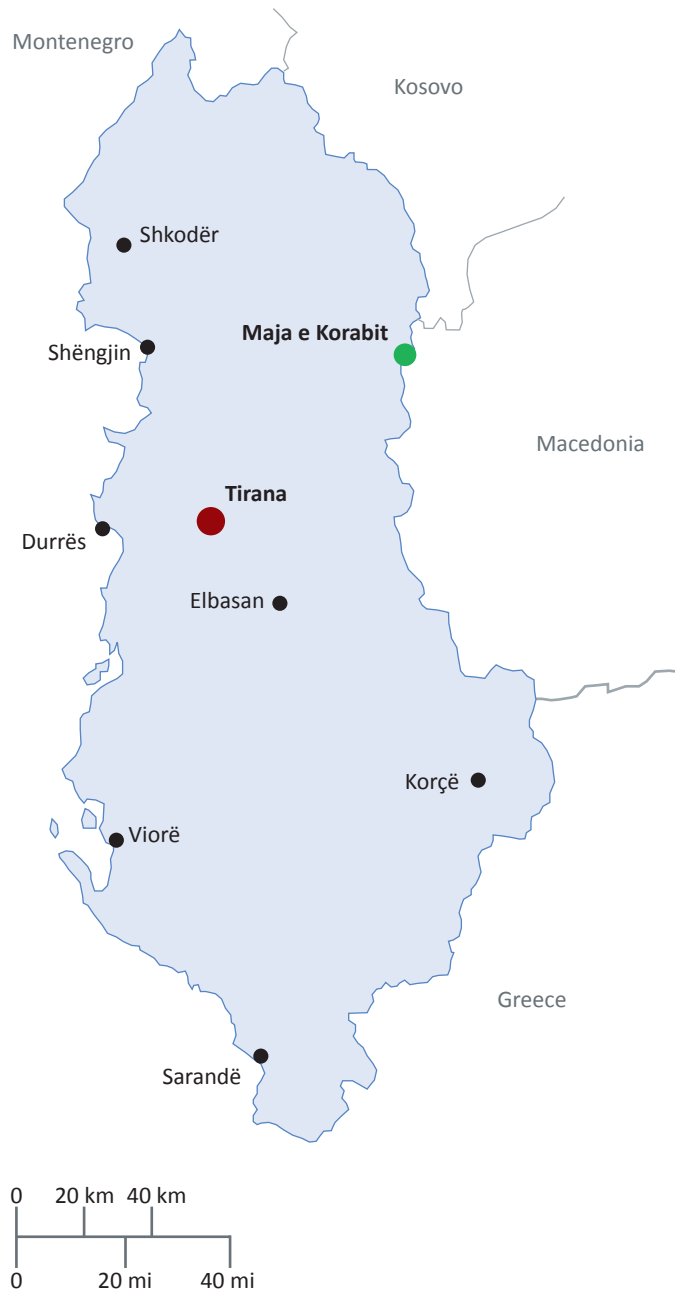
The onsite visit of the peer review team was carried out in February 2016. The peer review team focused on the current situation and on the developments over the years 2013 to 2015. The facts were collected via a questionnaire, through discussions with representatives of ALSAI and by studying documents and data provided by ALSAI. As only the most important sources of written information such as legislation were available in English, interviews and discussions with ALSAI staff constituted therefore the main source of information for the peer review team. The findings were complemented by discussions with external stakeholders (see Annex I).

The report is structured as follows:

- (.1) quotes the respective principle of the Mexico Declaration;
- (.2) outlines the facts established by the peer review team;
- (.3) contains the assessments of the findings of the peer review team and the view of the reviewed SAI.



Figure 1: Map of Albania





Key Data

Albania			
Land area	27,400 km ²		
	2012	2013	2014
Population	2.90 Mio.	2.90 Mio.	2.89 Mio.
Population growth	- 0.1 %	- 0.1 %	- 0.1 %
GDP	12,320 Mio. US\$	12,781 Mio. US\$	13,212 Mio. US\$
GDP per capita	4,248 US\$	4,411 US\$	4,564 US\$
Inflation, consumer prices	2.0 %	1.9 %	1.6 %

State Supreme Audit of Albania			
Established	1925		
Legal Basis	Constitution of Albania		
	Law No. 154/2014 Organization and Functioning of State Supreme Audit Institution (ALSAI Law)		
SAI head - term of office	7 years		
Appointed/elected by	Parliament, on proposal of the President of the Republic		
Re-appointment is possible	Yes, once		
	2013	2014	2015
State budget per year	2,924 Mio. EUR	3,260 Mio. EUR	3,260 Mio. EUR
SAI budget per year	2.08 Mio. EUR	2.65 Mio. EUR	2.50 Mio. EUR
SAI budget share of state budget	0.07 %	0.08 %	0.06 %
SAI staff (full-time equivalent)	161	166	171 ¹⁾
Male/female staff	109/52	101/65	101/65
Average age	46.2	46.1	43.8
Auditors (full-time equivalent)	106	111	122
Staff budget per year	1.58 Mio. EUR	1.64 Mio. EUR	1.71 Mio. EUR
Staff budget share of SAI budget	76 %	62 %	68 %
Code of ethics existing and in use	Yes		
Days in training per person	22	26	27
Audits per year	150	159	155
Reports per year	2	2	2
Publication of audit results	Yes		
Average duration of audit	3.5 month		
Average cost of audit	14,803 EUR		
Performance audits	Yes		
Financial audits	Yes		
Compliance audits	Yes		

1) 166 Staff + 5 Vacancies

Sources: ALSAI (exchange rate: 1 Euro = 140 Albanian Lek); World Bank



Observations on the Eight Principles of Independence According to the Mexico Declaration

Principle 1

The existence of an appropriate and effective legal framework and of de facto application provisions of this framework

1.1 Legislation that spells out, in detail, the extent of SAI independence is required.

1.2 (1) The independence, mandate and organization of the Supreme Audit Institution of Albania (High State Control) have been enshrined in and protected by the Constitution and by the Law No. 154/2014 «Organization and Functioning of State Supreme Audit Institution» (hereinafter referred to as the ALSAI Law).

(2) The Constitution of the Republic of Albania was approved by referendum on 22 November 1998 and amended on 13 January 2007. According to the Constitution, the High State Control (Albanian Supreme Audit Institution, hereinafter referred to as ALSAI) is the highest institution of economic and financial audit. It is subject only to the Constitution and laws. The Albanian Constitution contains provisions regarding Principles 2, 3 and 5¹ of the Mexico Declaration.

(3) The details of the ALSAI's organizational structure as well as its powers and duties, including its audit mandate, are stated in the ALSAI Law. This new ALSAI Law entered into force in February 2015 and replaced the previous law from 1997².

(4) The ALSAI Law contains the following provisions:

- Chapter I entitled “General Provisions” includes the scope and principles of activity of the ALSAI, definition of terms, rules on budgetary autonomy, on cooperation with other institutions and the way of resolving disputes over the powers of the ALSAI. Article 4 of the ALSAI Law sets out the ALSAI's independence and states that it exercises its powers according to the Constitution and the law. Article 4 also stipulates that the ALSAI is an apolitical body and not affiliated with any political party. (see Principle 8)

¹ The Constitution also includes the right of the Chairman of the ALSAI to initiate proceedings before the Constitutional Court.

² Law „On the State Supreme Audit Institution“ No. 8270, dated 23 December 1997



- Chapter II entitled “Powers, Rights and Duties” defines that the ALSAI decides independently on its audit plan. The mandate of the ALSAI and the types of audits (financial, performance, compliance and IT audit) are contained in that chapter. It also sets out the rights, competences and duties of the ALSAI, the relationship with internal audit and control systems. The ALSAI has the right to recommend changes or the abolishment of legal acts, which are in contradiction to each other or not in accordance with a higher-ranking legal act or the Albanian Constitution³.
- The ALSAI also has the right to inform the leaders of the audited entity or higher institutions of material breaches of laws and to issue recommendations, e.g. to undertake structural and organizational measures including the launching of administrative or disciplinary procedures. Furthermore the ALSAI has the right to address the criminal prosecution bodies or courts with lawsuits.
- This chapter also provides the legal basis for an annual report on the implementation of the state budget and the ALSAI’s follow-up mechanism. (see Principles 3, 5 and 7)
- Chapter III entitled “The Chairman of the ALSAI” contains the election and term of office of the Chairman, the selection criteria, the immunity, the mandate and the responsibilities of the Chairman. (see Principle 2)
- Chapter IV entitled “The Right to Access Documents and Information” defines the rights that the ALSAI has in relation to the audited entities regarding the access to information and documentation considered necessary in the performance of its work. This chapter includes specifications on handling cases that involve state secrets or confidential information. The ALSAI has the right to have access to all official documents considered necessary in order to exercise its legal powers and duties. In the incidence of acts or omissions in violation of these rights or in the case that the ALSAI is obstructed in the performance or its work, the ALSAI has the right to address those issues to the highest administrative body or to the juridical bodies. (see Principles 3 and 4)

³ The rights of the ALSAI to initiate proceedings before the Constitutional Court are spelled out in Article 134 of the Constitution of the Republic of Albania.



- Chapter V entitled “Audit Reporting” addresses issues related to the rights of audited entities to submit their comments and observations and the ALSAI’s reporting to Parliament or other interested institutions. (see Principles 3, 5, 6 and 7)
- Chapter VI entitled “Organization, Structure and Status of Employees” addresses issues relating to the rights and obligations of employees of the ALSAI, criteria and procedures for admission of these employees, the right to temporarily employ foreign experts and the rules to avoid conflicts of interests. (see Principles 3 and 8)
- Chapter VII entitled “Final Provisions” includes provisions related to the approval of certain regulations, manuals, guidelines, the Code of Ethics, the abolishment of the previous Law No. 8270 and also the entering into force of the ALSAI law. (see Principle 3)

(5) To sum up the above, the Constitution and the ALSAI Law cover every Principle of the Mexico Declaration on the Independence of Supreme Audit Institutions. The de facto application of provisions of this framework was well established. The details will be elaborated in the passages covering the specific principles.

1.3

The peer review team noted that the independence, mandate and organization of the ALSAI were legally and de facto established and protected by the Constitution and by the ALSAI Law. With the entry into force of the ALSAI Law in 2015, the ALSAI saw a significant improvement of its independence compared to the stipulations of the previous law. The peer review team found that an appropriate and effective legal framework was in place and stood in compliance with the Mexico Declaration.

However, the peer review team observed that some key issues that guaranteed the independence of the ALSAI were rather stated in the ALSAI Law than enshrined in the Albanian Constitution. Issues like the unrestricted access to information, the independence in selecting audit topics, reporting requirements or the financial independence were not laid down in the Constitution, but in the ALSAI Law.

As the Constitution is less prone to modifications due to stricter majority requirements, the peer review team recommended that all prerequisites considered indispensable for the independence of the ALSAI be laid down in the Constitution, as called for in Section 5 para. 3 of the Lima Declaration.



Principle 2

The independence of SAI heads and members (of collegial institutions), including security of tenure and legal immunity in the normal discharge of their duties

- 2.1 The applicable legislation should specify the conditions for appointments, reappointments, employment, removal and retirement of the head of SAI (and members of collegial institutions), who is (are)
- appointed, reappointed, or removed by a process that ensures his (their) independence from the Executive;
 - given appointments with sufficiently long and fixed terms, to allow him (them) to carry out his (their) mandates without fear of retaliation; and
 - immune to any prosecution for any act, past or present, that results from the normal discharge of his (their) duties as the case may be.

- 2.2 (1) Article 162 para. 2 of the Constitution provides for the appointment and dismissal of the Chairman of the ALSAI by Parliament upon proposal of the President of the Republic. The Parliament takes decisions on the appointment of a Chairman of the ALSAI by a simple majority vote⁴.

The ALSAI Law, in its Articles 20 to 25, sets out further rules for the appointment, the rights and duties and the dismissal of the Chairman; Article 23 does not explicitly state the exact majority of votes necessary.

(2) The selection criteria for the Chairman stipulate a certain educational and professional experience as well as having a clean criminal record and high moral and professional integrity. The law does not provide for a formal procedure to ascertain whether these criteria are fulfilled, but leaves this assessment to the members of Parliament.

(3) The ALSAI Law also states that the function of the ALSAI's Chairman is incompatible with holding a political function or employment with any public or private entity, except for narrowly defined exceptions with regard to teaching, publishing and cultural and sports activities insofar as these do not affect the Chairman's independence and impartiality.

(4) Article 19 of the ALSAI Law specifies further that the Chairman manages and represents the ALSAI and that his salary is equal to the salary of the Head of the Supreme Court, effectively making the Chairman's salary equal 120% of a minister's salary.

⁴ Article 78 of the Constitution also provides for a quorum of half of the 140 members of Parliament being present.



(5) The end of the Chairman's mandate is specifically regulated in Article 23 of the ALSAI Law, with the first paragraph stating the reasons for the automatic end of the mandate⁵ and the second paragraph stating the reasons in which the Parliament could, upon proposal of the President, discharge the Chairman⁶.

The legal provisions are similar to the ones on the discharge of judges of the Supreme Court, however there are notable differences: Article 23 para. 1 of the ALSAI Law contains an overlap insofar as it provides for a Chairman's mandate ending automatically when being convicted of a crime by a final court decision, yet Article 23 para. 2 of the ALSAI Law also gives the Parliament the right to dismiss the Chairman in such a case.

Article 23 of the ALSAI Law also provides for the end of the Chairman's mandate in case of absence from the office without reason. However, the provision does not specify a time period for such an absence without reason, whereas the Constitution and the Law on the Constitutional Court set a time period of six months of failure to appear for duty for judges of the Supreme Court and the Constitutional Court.

(6) Article 162 of the Constitution provides for a seven-year term of office of the Chairman, which is renewable once. In comparison, the term of a regular legislative period is four years, and the President of the Republic is elected by the Parliament for five years, with the possibility of one reelection. Judges of the Albanian Constitutional Court and the judges of the Albanian Supreme Court are elected for nine years without the possibility of reelection.

After the expiration of his mandate the Chairman stays in office until the election of a new chairman. He has the right to return to this previous professional position or to an equivalent position (Art. 24 of the ALSAI Law).

(7) According to Article 22 of the ALSAI Law, the Chairman enjoys the same kind of immunity as a judge of the Supreme Court, further adding that the Chairman's immunity extends to the opinions expressed and decisions taken in the exercise of the Chairman's professional functions. According to the law,

⁵ The reasons for such an automatic end of the mandate are expiry of the seven-year term of office, a final conviction by a criminal court, absence from the office without reason, resignation of the Chairman, a final court decision declaring the Chairman incapacitated, the reaching of retirement age, death.

⁶ Such a decision could be taken if a Chairman violated the Constitution or seriously violated the law, if a final court decision declared the Chairman unable to perform his duties, if a final conviction by a criminal court was issued, if the Chairman committed an act or behaved in a manner seriously discrediting the Chairman's position or image and in cases of incompatibilities of the functions held by the Chairman.



the Chairman cannot be arrested or deprived of his liberty except when apprehended at the commission of a crime or directly thereafter; in such cases, the Constitutional Court has to be notified immediately for giving consent to the arrest within 24 hours. The Constitutional Court's failure to give consent lead to the release of the Chairman.

(8) The previous two Chairmen of the ALSAI had served their 7-year term for the entire duration; no instances of a premature end of the mandate or discharge by Parliament occurred so far. Furthermore, none of the previous two Chairmen had been appointed for a second term.

2.3

The peer review team noted that the legal framework covered all the aspects of the appointment, carrying out and termination of the function of the head of the ALSAI as well as his further professional career after the expiration of his mandate. The rules on appointment, removal and duration of the term, and immunity of the Chairman were contained in the Constitution, thus on the highest legal level, with the ALSAI Law having specified further aspects of the Chairman's position and mandate. The peer review team noted that the rules on incompatibility of the position of a Chairman with other political and economic positions were also capable of strengthening transparency and the people's trust in the independence of the Chairman of the ALSAI.

The legal provisions for the appointment, reappointment and removal of the Chairman by vote by Parliament upon the proposal of the President provided for the Chairman's independence from the Executive. The peer review team noted that the ALSAI law did not specify the majorities required for the removal of a Chairman. However, the ALSAI considered that the Chairman enjoyed the same kind of immunity as a Supreme Court judge, whose removal required a qualified majority vote.

Regarding the duration of the term of office, while a term of seven years, renewable once, was longer than a regular legislative period, the terms of the judges of the Constitutional and Supreme Courts were nine years, albeit non-renewable. However, with the Mexico Declaration calling for a sufficiently long and fixed term, the peer review team found that the term of office of the Chairman of the ALSAI was in compliance with the Mexico Declaration.

The peer review team noted that the rule according to which a Chairman could return to his previous position after the expiry of the full term of his mandate seemed to be a measure to further a Chairman's independence.



The rules on the removal of a Chairman appeared not sufficiently clear and precise in the case of a Chairman's absence from the office and in the case of his criminal conviction. An automatic end of a Chairman's mandate in the case of an unjustified absence for an unspecified duration appeared problematic due to the legal uncertainty following an absence, whatever its duration, from the office. Furthermore, the legal consequences of a criminal conviction of a Chairman would lead to an automatic end of the mandate, but at the same time give the Parliament the right to dismiss the chairman. With a view to greater legal certainty, the peer review team recommended that the ALSAI should raise awareness of this ambiguity in order to seek more clarity of these provisions.

The rules of immunity of a Chairman corresponded to those of Supreme Court judges and met the requirements of Principle 2 of the Mexico Declaration.



Principle 3

A sufficiently broad mandate and full discretion in the discharge of SAI functions

3.1

The SAI should be empowered to audit the

- use of public monies, resources, or assets, by a recipient or beneficiary regardless of its legal nature;
- collection of revenues owed to the government or public entities;
- legality and regularity of government or public entities accounts;
- quality of financial management and reporting; and
- economy, efficiency, and effectiveness of government or public entities operations.

Except when specifically required to do so by legislation, the SAI does not audit government or public entities policy but restricts itself to the audit of policy implementation.

While respecting the laws enacted by the Legislature that apply to it, the SAI is free from direction or interference from the Legislature or the Executive in the

- selection of audit issues;
- planning, programming, conduct, reporting, and follow-up of its audits;
- organization and management of its office; and
- enforcement of its decisions where the application of sanctions is part of its mandate.

The SAI should not be involved or be seen to be involved, in any manner, whatsoever, in the management of the organizations that it audits.

The SAI should ensure that its personnel does not develop too close a relationship with the entities they audit, so they remain objective and appear objective.

The SAI should have full discretion in the discharge of its responsibilities, it should cooperate with governments or public entities that strive to improve the use and management of public funds.

The SAI should use appropriate work and audit standards, and a code of ethics, based on official documents of INTOSAI, International Federation of Accountants, or other recognized standard-setting bodies.

The SAI should submit an annual activity report to the Legislature and to other state bodies – as required by the constitution, statutes, or legislation – which it should make available to the public.



3.2

(1) The duties of the ALSAI are laid down in the Constitution and also determined in the ALSAI Law. Article 163 of the Constitution states that the ALSAI has to audit and review:

1. the economic activity of state institutions and other legal entities of the state;
2. the use and protection of state funds by organs of central and local government;
3. the economic activity of legal entities in which the state owns more than half of the interest, or whose debts, credits, and obligations are guaranteed by the state.

(2) The mandate is specified in Article 10⁷ et seq. of the ALSAI Law. For details see the table below:

-
- ⁷ Article 10 of the ALSAI Law specifies that ALSAI has the authority:
- a) to audit the budget implementation by the units of general government, including annual budget accounts;
 - b) to audit public revenues collection;
 - c) to audit the use, management and protection of public funds and public or state property of general government units;
 - c) to audit the annual financial statements for the general government units and provide opinion on them;
 - d) to audit internal audit systems in the public sector;
 - dh) to audit the users of public funds provided by the European Union or other international organizations, except as otherwise provided by law;
 - e) to audit the use and management of funds and property owned by the state, and the protection of economic and financial interests of the State in legal entities in which the State has more than half of the quotas or shares or the loans, or loans and obligations are guaranteed by the State;
 - e) to audit, in order to protect public interests, activities or sectors regulated by concession contracts;
 - f) to audit political parties, public entities or associations for funds that were granted them by the state budget;
 - g) to audit entities defined in other special laws.

The State Supreme Audit institution, each year, provides an opinion on the annual report of the implementation of the consolidated budget, which includes the assessment made pursuant to Article 15 of this Law.



Table 1: The mandate of the ALSAI regarding Principle 3 paragraph 1 and 2 of the Mexico Declaration

SAIs should be empowered to audit the...	Adoption & Reflection	Description	Implementation
...use of public monies, resources, or assets, by a recipient or beneficiary regardless of its legal nature;	Article 15 of ALSAI Law	(...) entities where government has more than 50% of shares	depending on type of audit, see the Manuals mentioned below
...collection of revenues owed to the government or public entities;	Article 10 of ALSAI Law	it is under ALSAI's competence to audit the collection of public revenues	depending on type of audit, see the Manuals mentioned below
...legality and regularity of government or public entities accounts;	Article 12 of ALSAI Law (Compliance Audit)	ALSAI shall determine: a) whether the income and expenses were in line with the law of the state budget, with the relevant legal acts of legislation and the principles of law for financial management and control; b) whether the general principles of financial management in the public sector and the behavior of public sector officials have been implemented.	Compliance Audit Manual already approved. Translation, publication and distribution of ISSAIs
...quality of financial management and reporting	Article 11 of ALSAI Law (Financial Audit)	financial audit means an independent evaluation, which results in an opinion with reasonable assurance, as the reported financial situation of an auditee, the results and the use of recourses are fairly presented and in compliance with legal and financial reporting framework.	existing Financial Audit Manual (not in full compliance with international standards); New Financial Audit Manual already approved, but not implemented. Translation, publication and distribution of ISSAIs
...economy, efficiency, and effectiveness of government or public entities operations	Article 13 of ALSAI Law (Performance Audit)	the ALSAI must assess whether programs, work organization and processes, operations and systems management of public sector entities are operating in accordance with the principles of economy, efficiency and effectiveness.	Performance Indicators in 2015, Performance Audit Manual; Translation, publication and distribution of ISSAIs
Except when specifically required to do so by legislation, SAIs do not audit government or public entities policy but restrict themselves to the audit of policy implementation.	ALSAI does not audit government or public entities policy.	the ALSAI Law does not contain any specific provisions regarding the audit of policies	in its auditing activities, the ALSAI is focused on auditing the implementation of policies

Source: ALSAI , Mexico Declaration



(3) Restrictions regarding the mandate can be found in Article 26 of the ALSAI Law:

The mandate does not cover audits of legal entities in which the State has less than 50% of the shares. Consequently, the ALSAI cannot audit public-private-partnerships of state entities with private companies. In these cases the ALSAI can only audit the contracts pertaining to the public-private-partnership, the contracting state institution and the performance and accounting of the contract. Furthermore, in Albania some public services are handed over to private companies via contract.

The ALSAI's mandate covers the audit of tax administration. Auditing individual tax cases is excluded. The ALSAI's mandate also covers the audit of topics containing state secrets. For further details see Principle 4.

(4) The ALSAI started performance audits in 2012, which resulted in the establishment of the department of performance audit. This department was implemented as an expert unit assigned directly to the Chairman to strengthen its position within the ALSAI.

The ALSAI started to perform IT audits only recently.

Furthermore the ALSAI does not audit political parties, although this is covered by the mandate.

(5) For further details regarding the mandate and the audit plan see the table below:



Table 2: The mandate of the ALSAI regarding Principle 3 paragraph 3 of the Mexico Declaration

ISSAI 10 Principle 3 While respecting the laws enacted by the Legislature that apply to them, SAIs are free from direction or interference from the Legislature or the Executive in...	Adoption & Reflection	Description	Implementation
...the selection of audit issues.	Article 9 of ALSAI Law	the ALSAI decides independently, at any time of its activity plan. During the process it can take into consideration proposals made by other governmental entities.	it is an organized process. In general there is a risk-based analysis and public needs may be taken into account
...planning, programming, conduct, reporting and follow up.	planning: Article 9 conducting: Article 26 reporting: Article 31, Article 32, follow up: Article 30 of ALSAI Law	Reporting: with regard to certain audit reports, the ALSAI itself has requested the Parliament to report on its activity in terms of findings and observations presented in the report, in respect to article 31/2 Follow-up: within 6 months after final audit report is assigned, the auditee shall report to ALSAI regarding the measures taken to fulfil ALSAI's recommendations.	an internal decision of the Chairman; the ALSAI Law reflects ISSAI 1260
...organization and management of its office.	Article 25 of ALSAI Law	the Chairman has the right to decide on the structure within ALSAI and on the powers and duties of organizational units	Internal Regulation on Organization and Functioning of the ALSAI approved by Decision of the Chairman of the ALSAI, No. 85, dated 30.06.2015
...in enforcing its decisions (and sanctions, where applicable).	Article 15 of ALSAI Law	(1) the ALSAI has the right to address the topics to the prosecuting authorities if such topics are under the authority of the latter; to claim in Court; (2) the ALSAI has the right to set deadlines on reporting within 20 days after final report submission date regarding action plans on recommendations; in case of non acting to address the issue up to the highest level of state authorities; (3) to propose to the Parliamentary Committee of Economy and Finance to investigate further on special audit reports; etc	–

Source: ALSAI



(6) According to Article 9 of the ALSAI Law, the ALSAI decides independently on its plan of activities. The ALSAI may consider proposals made by units of general government but is not obliged to act on them; the Chairman has the right to decide whether the ALSAI considers these proposals.

(7) As regards the lack of involvement in the management of the audited organizations, Article 21 of the ALSAI Law sets out incompatibilities of the Chairman's office with other functions. For further details see Principle 2.

To ensure that the ALSAI's personnel does not develop too close a relationship with audited entities, auditors are not allowed to take on a political mandate nor be active members of any organization or political party and must not participate in activities with political or commercial character. Exempt from this restriction are teaching, publications and cultural or sports activities, provided that these activities do not impair the dignity of the institution and not affect its impartiality and independence.

The chairman is in charge of issuing internal decisions in exceptional cases of incompatibilities with audit functions. In cases when such incompatibilities are noted, disciplinary proceedings are initiated. Auditors should perform their duties with professional skepticism, in compliance with ALSAI Law requirements, Internal Regulations of the ALSAI, Audit Standards and the Code of Ethics.

(8) Under the Code of Ethics the auditors have a notification duty. Before starting any audit, the auditor has to fill in a declaration on the lack of conflicts of interest, which is part of the audit file. The Code of Ethics is compliant with the draft of the new ISSAI 30. Every new member of the staff of the ALSAI has to read the Code of Ethics, has to discuss it with the department colleagues and the Code of Ethics is also a part of the training of new personnel.

(9) Article 164 of the Constitution⁸ and Article 31 of the ALSAI Law states that the ALSAI submits an annual activity report to the Parliament. For further details see Principle 6.

⁸ Article 164 of the Constitution states that

1. the ALSAI submits to the Assembly:
 - a. a report on the implementation of the state budget;
 - b. its opinion on the report of the Council of Ministers for the expenses of the previous financial year, before it is approved by the Assembly
 - c. information on the results of audits and reviews whenever asked by the Assembly.
2. the ALSAI submits an annual report on its activities to the Assembly.



3.3

In the opinion of the peer review team the ALSAI has a broad mandate in compliance with the Declaration of Mexico.

The peer review team referred to the possibility to audit private companies carrying out public tasks and functions and noted that this was not covered by the audit mandate. The peer review team recommended that the ALSAI should raise awareness of the legislator of the audit gap in such cases.

Since the new law entered into force, the ALSAI has had the possibility to choose between different kinds of audit-types, which made the ALSAI more independent especially regarding audit planning and the selection of audit issues. The peer review team was well aware that the ALSAI tried to strengthen performance audits and that, for this purpose, the department of performance audit was implemented as an expert unit assigned to the Chairman.

The peer review team recommended the ALSAI to continue strengthening the capacity and knowledge of the staff members to gain further knowledge and strengthen the practical experience for the new types of audits.

The peer review team noted that the ALSAI recently started to perform IT audits and that the ALSAI had not started auditing political parties although this was covered by the mandate of the ALSAI. The peer review team recommended that the ALSAI should cover its entire mandate by its audits.

The peer review team noted that the existing Financial Audit Manual is not in full compliance with international standards and that a new Financial Audit Manual in compliance with the ISSAIs was already approved but not yet implemented. The peer review team recommended that the ALSAI should implement the new Financial Audit Manual as soon as possible.

The peer review team is aware of the fact that the Code of Ethics is already compliant with the draft of the new ISSAI 30 and that the ALSAI has numerous mechanisms in place to ensure that the Code of Ethics is respected and well known by all personnel of the ALSAI.



Principle 4

Unrestricted access to information

4.1 The SAI should have adequate powers to obtain timely, unfettered, direct, and free access to all the necessary documents and information, for the proper discharge of its statutory responsibilities.

4.2 (1) The legal basis for the ALSAI's access to information is set out in Articles 26 to 28 of the ALSAI Law. These Articles state that the ALSAI has the right to access all official documents, both in written or electronic form, electronic data bases as well as any information or documentation belonging to the economic and financial sphere of the audited entities. The ALSAI also has the right to obtain information classified as state secret or confidential information if the ALSAI considers the information necessary in order to exercise its duties. The ALSAI is obliged to protect the confidentiality of the provided information if the information is protected by legislation and laws on personal data protection.

(2) Article 26 of the ALSAI Law also provides that the ALSAI can appeal to the highest administrative and/or juridical authorities if the audited entities obstruct the ALSAI's access to information. In practice, the ALSAI would complain to the audited entity's superior entity/organisation; if this does not lead to the provision of the necessary information, the ALSAI can report the entity to the public prosecutor under Article 235 of the Penal Code, which prohibits "Obstruction of a public employee carrying out a state duty or a public service".

(3) In comparison to the previous law the ALSAI Law provides for the possibility to audit all carriers of information and information media considered necessary for the ALSAI's audits.

(4) Generally, the ALSAI has access to the premises and infrastructure of all audited entities and to all documents and information considered necessary in order to carry out the audit.

(5) During an audit initiated in 2009, the tax administration obstructed the ALSAI in carrying out its audit work. The tax administration, relying on the Law "On Tax Procedures in the Republic of Albania" and its obligation to safeguard the confidentiality of information on taxpayers, refused access to certain documents required by the ALSAI. The ALSAI then brought a complaint against the refusal to be given access to information before the Court of Appeal of Tirana in 2009. The Court of Appeal turned down the ALSAI's complaint, and the ALSAI lodged a complaint against this decision to the Supreme Court.



The Supreme Court referred the case back to the Court of Appeal in 2011. In October 2013 the Court of Appeal ruled in favour of the ALSAI, stating that the tax administration's refusal to give access to information was not justified.

The ALSAI Law, which entered into force in 2015, therefore explicitly included a clarifying provision that granted access to all relevant information, and explicitly excluded individual tax cases.

(6) In May 2014 the ALSAI initiated an audit of a state-owned company. The company refused to make available the agreements it had concluded with private entities, arguing that the agreements were confidential. In July 2014 the ALSAI submitted a criminal complaint against the person acting on behalf of this company to the Prosecution Office, claiming that this behaviour was in violation of Article 235 of the Penal Code, which prohibited "Obstruction of a public employee carrying out a state duty or a public service". The case was still pending in February 2016.

4.3

Based on the last decision of the Court of Appeal of Tirana, as well as the legal improvements in the ALSAI Law, the ALSAI's right of access to information was strengthened. The peer review team noted that the legal provisions granted the ALSAI an unrestricted right of access to information. The peer review team considered that the access to information was in full compliance with Principle 4 of the Mexico Declaration.

The peer review team also noted that the possibility to complain to the Prosecution Office in cases of obstruction of an audit represented a strong remedy against interferences with the right of access to information.

The peer review team recommended that the ALSAI should continue to defend and make full use of its rights of access to information. Also based on the ALSAI's past experience, the peer review team recommended that in cases of refusal of access to information the ALSAI should make use of all the remedies available to enforce its rights and thus create precedent cases for the future.



Principle 5

The right and obligation to report on its work

5.1 The SAI should not be restricted from reporting the results of its audit work. It should be required by law to report at least once a year on the results of its audit work.

5.2 (1) The right and obligation of the ALSAI to publish an annual report are laid down in the Constitution and also determined in the ALSAI Law.

Article 164 of the Constitution states that the ALSAI submits the following reports to the Assembly:

- a report on the implementation of the state budget;
- its opinion on the report of the Council of Ministers for the expenses of the previous financial year before the report is approved by the Parliament;
- an annual report on its activities.

Article 164 of the Constitution also provides that upon the Parliament's request, the ALSAI submits information on the results of audits and reviews.

(2) The ALSAI Law, in its Articles 10 and 31 et seq., sets out further rules for these rights and duties. Article 10 of the ALSAI Law states that the ALSAI, each year, provides an annual report of the implementation of the state budget. This report has to include the ALSAI's assessment.

Article 31 of the ALSAI Law also contains the Constitution's provisions on the reporting duties of the ALSAI and that the Chairman could decide to submit final audit reports to the Parliament and that the Parliament could request submission of final audit reports. Furthermore, Article 31 of the ALSAI Law also provides an additional clause according to which the Chairman of the ALSAI could request to be heard by the Parliament, the Committee of Economy and Finance, or any other committee of the Parliament on issues he deemed important in view of the institutional activity.

Article 32 of the ALSAI Law sets out that the ALSAI submits its individual reports to the audited entity and that the Chairman has the right to decide whether it is necessary for audit reports to be submitted to the President of the Republic, the Prime Minister, the Speaker of Parliament, heads of parliamentary groups or the Minister of Finance.



Article 32 of the ALSAI Law also contains a legal obligation for the ALSAI to make available reports, studies and other material relating to the Council of Ministers, Ministries and other central institutions, to the Council of Ministers, other government authorities, non-profit organizations with which the ALSAI has a collaboration agreement, the general public and other interested parties; however, this reporting duty is subject to the ALSAI deeming such a making available necessary and in the interest of the state and the public.

Articles 33 and 34 of the ALSAI Law provide for the information of the general public by the publication of a newsletter and the reports submitted to Parliament. Audit reports are to be published electronically; the publication of these audit reports as well as information published in press-conferences, press releases and information to the media has to exclude information and materials constituting state secrets, commercial secrets, or confidential information.

(3) Each year in the period under consideration (2013–2015) the ALSAI published two annual reports, as stipulated in the Constitution. These reports were the report on the implementation of the state budget together with the ALSAI's opinion on the report of the Council of Ministers for the expenses of the previous financial year, which are submitted to the Parliament as a single report, and the annual activity report.

For example, the ALSAI's activity report for 2014 also included, among others, chapters with descriptions of its audit activities and the usefulness of their audit results, key findings of the audits, and the ALSAI's use of its resources. The annexes contained, among others, chapters on the financial damage discovered by audits and criminal charges as a result of audit findings.

(4) The report on the implementation of the state budget together with the opinion on the report of the Council of Ministers for the expenses of the previous financial year is submitted annually to the Parliament by the Chairman of the ALSAI in September or October.

The ALSAI also submits its annual activity report to the Parliament. This report is generally presented in March each year. Once the annual activity report is submitted to the Parliament, the full report is published on the ALSAI's website and also in hardcopy.



(5) Within the Parliament, the Committee of Economy and Finance is a standing parliamentary committee, dealing especially with economic policy, the state budget and its implementation, public finances, privatization issues and the banking system and also receives the ALSAI's budget request (see also Principle 8 – Budgetary autonomy). As a standing parliamentary committee, the Committee of Economy and Finance can convene any time⁹; meetings are convened by its chairman on the request of at least a quarter of the committee members or the President of Parliament.

(6) According to Article 32 of the ALSAI Law, the ALSAI provides the audited entities with the detailed audit reports describing all audit findings, conclusions and recommendations.

The ALSAI has internal regulations in place, which also contained rules and guidelines on reporting.

(7) Article 33 of the ALSAI Law sets out that the ALSAI has to publish a newsletter on a regular basis. This newsletter contains final and annual audit reports, conclusions and recommendations of audits of particular importance, the annual accounts of the ALSAI, including the auditor's opinion on them. Moreover, Article 34 of the ALSAI Law stipulates that the ALSAI, in respect of its legal obligation to inform the public, provides information on its work through the publication of the ALSAI's reports to the Parliament, the electronic publication of audit reports, press conferences and press releases and any other information determined by the Chairman of ALSAI.

The department of performance audit of the ALSAI (but not the ALSAI as an institution) has a profile page on Facebook. There, the department of performance audit publishes information on the activity of the department and some of its reports.

(8) The ALSAI submits the full versions of individual audit reports generally only to the audited entity and to the Minister concerned. The Chairman decides if it is necessary for these reports to be submitted to the President of the Republic, the Prime Minister, Speaker of Parliament, heads of parliamentary groups or the Minister of Finance and to publish them on the ALSAI's website.

⁹ When the Parliament is in plenary session, a standing committee can only convene with permission of the President of Parliament.



5.3

Under the Albanian Constitution and the ALSAI Law, the ALSAI does not only have the right to report the results of the audit work, but also a legal obligation to do so.

In this context, the peer review team noted that the legal provisions fully included Principle 5 of the Declaration of Mexico.

The peer review team recommended that the ALSAI should continue to publish all the reports of the institution (annual activity report, annual report on implementing the state budget, full versions of audit reports) on the official website of the ALSAI to ensure a high level of transparency.



Principle 6

The freedom to decide the content and timing of audit reports and to publish and disseminate them

6.1 The SAI is free to decide the content of its audit reports.

The SAI is free to make observations and recommendations in its audit reports, taking into consideration, as appropriate, the views of the audited entity.

Legislation specifies minimum audit reporting requirements of the SAI and, where appropriate, specific matters that should be subject to a formal audit opinion or certificate.

The SAI is free to decide on the timing of its audit reports except where specific reporting requirements are prescribed by law.

The SAI may accommodate specific requests for investigations or audits by the Legislature, as a whole, or one of its commissions, or the government.

The SAI is free to publish and disseminate its reports, once they have been formally tabled or delivered to the appropriate authority – as required by law.

6.2 (1) The ALSAI, headed by its Chairman, is free to decide on the audit planning and on the content of each report. Article 29 of the ALSAI Law further specifies that the audited entity has to be afforded a possibility to comment on the draft report, i.e. before the report is finalized; the final report shall also reflect the audited entity's comments.

The ALSAI has internal guidelines and manuals for the content of audit reports in place, stating that an audit report should include the audit objectives, scope and methodology, as well as the audit results, including findings, conclusions, recommendations, reference to standards and guidelines applied, as well as the key comments by the responsible persons.

(2) Each of the ALSAI's audit reports contains recommendations, as stipulated in Article 30 of the ALSAI Law. Article 29 of the ALSAI Law sets out that the ALSAI has to send the draft report to the audited entity, to give it the opportunity to comment on the draft report. These comments and observations of the audited entity have to be reflected in the final report.



(3) The minimum reporting requirements concern the reports and the opinions the ALSAI had to submit to Parliament (see Principle 5, The right and obligation to report on the SAI's work).

(4) Article 31 of the ALSAI Law sets the only time limit for reporting by stipulating that the annual activity report has to be submitted to Parliament in the first quarter of the following year. Apart from that, the ALSAI decides independently on the period for the submission and/or publication of the reports. (see Principle 5, The right and obligation to report on the SAI's work).

The report on the implementation of the state budget is submitted to Parliament simultaneously with the opinion on the report of the Council of Ministers on the expenses of the previous financial year. The ALSAI usually submits the reports in September or October.

(5) While the ALSAI is free to consider audit requests, it is not obliged to accommodate any such requests, since Article 9 of the ALSAI Law grants it the right to independently plan its activities. (see also Principle 3 – the mandate of the SAI)

(6) The Chairman also has the right to decide whether it is necessary for reports to be submitted to the President of the Republic, Prime Minister, Speaker of Parliament, heads of parliamentary groups or the Minister of Finance. Article 33 and 34 of the ALSAI Law even provides for the ALSAI's obligation to publish audit reports with the exception of reports containing state secrets, commercial secrets or confidential information.

The ALSAI does not publish all of its reports in the full version. (see also Principle 5 – the SAI's right and obligation to report on its work)

(7) The ALSAI had a Directorate for "Communication Publication and Foreign Relations", which was in charge of publication of reports. The Directorate is situated under the Department of Audit Policies, it has five employees; there were no vacancies in January 2016.

6.3

The peer review team noted that under the current legal situation the ALSAI was free to decide on the content and timing of each report, thus complying fully with Principle 6 of the Declaration of Mexico. Moreover, the ALSAI was obliged to provide the public with information on its work and the audit reports, except when these contained confidential or secret information. The peer review team noted that the ALSAI did not publish all reports in the full version and recommended the ALSAI to consider to publish all of its reports in order to give the interested persons access to them and to enable them to get a true and fair view of the reports.



Principle 7

The existence of effective follow-up mechanisms on SAI recommendations

7.1 The SAI submits its reports to the Legislature, one of its commissions, or an auditee's governing board, as appropriate, for review and follow-up on specific recommendations for corrective action.

The SAI has its own internal follow-up system to ensure that the audited entities properly address their observations and recommendations as well as those made by the Legislature, one of its commissions, or the auditee's governing board, as appropriate.

The SAI submits its follow-up reports to the Legislature, one of its commissions, or the auditee's governing board, as appropriate, for consideration and action, even when the SAI has its own statutory power for follow-up and sanctions.

7.2 (1) Articles 15 and 30 of the ALSAI Law provide the legal basis for the ALSAI's follow-up mechanism. Article 15 of the ALSAI Law states that after the ALSAI notifies the audited entity of its recommendations, the entity has to inform the ALSAI about its plans to implement the recommendations within 20 days. Article 30 of the ALSAI Law stipulates that the audited entity is obliged to report to the ALSAI on the implementation of the recommendations within six months from the date of notification of the audit report.

In cases of default on the implementation of the ALSAI's recommendations, the ALSAI could notify the highest state body competent for the audited entity of these defaults, as provided for by Article 15 of the ALSAI Law.

(2) An internal guideline for tracking and documenting the implementation of recommendations contains more detailed information for conducting the internal follow-up mechanism.

(3) In practice, the reply submitted by the audited entities within 20 days after notification of the recommendations contained the measures the audited entity planned or had already taken in order to implement the recommendations of the ALSAI (for example, the setting up of working-groups, implementation plans, time tables, names of persons in charge).

After six months the audited entity reports on the status of the implementation of the recommendations to the ALSAI.



At the end of each year, the ALSAI performs specific audits to check whether its recommendations issued in the current year had been complied with. These audits are performed each year and are part of the activity program of the ALSAI. The goal of these audits is to monitor whether the recommendations have been implemented, partly implemented or not implemented.

Based on the results of these audits the chairman can decide to re-issue certain recommendations to audited entities, to put special issues on the next audit program or to notify defaults to the highest competent state body.

(4) The results of the follow-up audits are part of the Annual Report on the ALSAI activities which is submitted to Parliament and published within the first quarter of the following year. Further information on the level of implementation of the recommendations can also be found on the periodically published audit bulletins.

(5) The implementation of recommendations is one of the key performance indicators of the ALSAI. The table below shows the recommendations of the years 2013 to 2015 and their implementation for all types of audits:

Table 3: Level of implementation of recommendations

Type of measure	2013			2014			2015		
	recom- menda- tions	mplemen- ted recom- mendations	percent- age	recom- menda- tions	implemen- ted recom- mendations	percent- age	recom- menda- tions	implemen- ted recom- mendations	percent- age
proposed amendments to legislation	82	16	19.5 %	88	37	42.0 %	35	9	25.7 %
organizational measures	2,003	977	48.8 %	2,603	1,748	67.2 %	2,510	817	32.5 %
administrative measures	236	153	64.8 %	302	211	69.9 %	276	94	34.1 %
disciplinary measures	925	652	70.5 %	1,135	918	80.9 %	1,314	703	53.5 %
Total	3,246	1,798	55.4 %	4,128	2,914	70.6 %	4,135	1,623	39.3 %

Source: ALSAI



The table shows that the level of implementation of recommendations had increased significantly, from 55.4% in 2013 to 70.6% in 2014 and dropped to 39.3% in 2015. The average level of implementation over the years 2013 to 2015 amounted to 55%.

The decrease of the percentage of implemented recommendations in 2015 compared to the previous years seems to indicate that the Government is less willing to implement the recommendations of the ALSAI.

(6) The largest parts of audits in the previous years consisted of compliance audits and financial audits. However, one of the strategic objectives of the ALSAI's development strategy was to increase the quality and number of performance audits, and make performance audits one of the most important audit activities of the ALSAI.

7.3

The peer review team noted that the ALSAI had established a follow-up mechanism on recommendations and systematically assessed whether its recommendations had been implemented. The ALSAI verified whether the audited entities had implemented the measures it had issued, and the ALSAI documented the degree of implementation.

The ALSAI reported the results to the Parliament as a part of its annual reporting activities. The peer review team thus considered the ALSAI's follow-up mechanism as such to be an effective system, even though the implementation rates dropped in 2015.

The peer review team noted that the follow-up mechanism of the ALSAI was tailored to compliance audits and financial audits but might not fulfil the requirements of a follow-up of performance audits with their wider scope, high complexity and recommendations concerning economy, efficiency and effectiveness. As it was the ALSAI's strategy to increase the number of performance audits, the follow-up mechanism might require some adaptations to better suit the characteristics of performance audits. If, under the current system, a regular follow-up of the implementation of recommendations of all performance audits carried out is not possible, the ALSAI might want to consider adopting a risk-based approach for following up on certain performance audits only and within selected recommendations.

Furthermore the ALSAI could consider to publish the results of follow-up audits as separate reports.



Principle 8

Financial and managerial/administrative autonomy and the availability of appropriate human, material, and monetary resources

8.1 The SAI should have available necessary and reasonable human, material and monetary resources – the Executive should not control or direct the access to these resources. The SAI manages its own budget and allocates it appropriately.

The Legislature or one of its commissions is responsible for ensuring that the SAI has the proper resources to fulfil its mandate.

The SAI has the right of direct appeal to the Legislature if the resources provided are insufficient to allow the SAI to fulfil its mandate.

8.2 (1) While the Constitution does not provide any provisions on the resources of the ALSAI, Article 7 of the ALSAI Law states that the ALSAI's budget is part of the state budget and as such annually approved by the Parliament in the form of a law. These budget laws divide the budget for each institution into several budget categories and also set the maximum number of employees that each institution can employ.

(2) The ALSAI submits its annual budget request to the Parliamentary Committee of Economy and Finance, which reviews the request and submits it to the plenary. The (general) budget is then approved by Parliament in the form of a law.

The right of the ALSAI's Chairman to speak on budgetary matters before the Parliamentary Commission of Economy and Finance or in plenary session is not foreseen by law.

(3) Article 7 of the ALSAI Law also contains the provision that the ALSAI has the right to independently implement its budget.

The Ministry of Finance makes the funds available to the ALSAI.

The budget of the ALSAI, the state budget and the percentage of the ALSAI's budget of the state budget for the last three years was as follows:



Table 4: Budget of the ALSAI and the State Budget

Year	ALSAI budget (in mill. ALL)	ALSAI budget (in mill. ALL)	State budget (in mill. ALL)	State budget (in mill. ALL)	% of ALSAI budget of state budget
2013	291.61	2.08	409,408	2,924.34	0.07
2014	371.45	2.65	456,404	3,260.03	0.08
2015	350.61 (initially 380.61)	2.50 (initially 2.72)	456,437 (initially 472,697)	3260.26 (initially 3,382.69)	0.08 (initially 0.08)

Source: ALSAI, exchange rate: 1 Euro = 140 Albanian Lek

In 2013, a budget cut was approved by Parliament, leading to a reduction of the ALSAI’s budget – and the budget of all other institutions – by 5% during the year. The ALSAI’s budget of approx. 2.08 million EUR¹⁰ was approx. 35,714 EUR¹¹ lower in practice than what it should have received according to the budget law.

While these figures also suggest that the budget for 2015 was lower than the one for 2014, the ALSAI clarified that the planned budget for 2015 had been approx. 2.72 million EUR¹². Since approx. 215,000 EUR¹³ had been earmarked for an IPA project¹⁴, the start of which was postponed to 2016, this amount was consequently transferred to the budgets for the coming years.

(4) According to Article 7 of the ALSAI Law, the ALSAI has the right to derive secondary income from international projects and its publications. No such projects were carried out and no secondary income was obtained as of February 2016.

(5) Each year’s budget law also contains the maximum number of employees the ALSAI could employ. The maximum number of employees compared to the actual number of employees of the ALSAI was as follows:

¹⁰ the equivalent of 291.61 million ALL

¹¹ the equivalent of 5 million ALL

¹² the equivalent of 380.61 million ALL

¹³ the equivalent of 30 million ALL

¹⁴ IPA stands for “Instrument for Preaccession Assistance”



Table 5: Employees of the ALSAI

Year	Max. no. of employees	Actual no. of employees	Percentage
2013	161	157	97.5%
2014	166	166	100.0%
2015	171	166	97.1%

Source: ALSAI

Within the limit of the budget law, the ALSAI has a certain further-reaching budgetary autonomy with regards to the budget for personnel: it can apply to the Ministry of Finance to change the categorization of parts of its budget so as to allow for higher budget in the personnel category. Such requests are usually granted.

Articles 37 and 38 of the ALSAI Law governs the status of ALSAI personnel, which is divided into auditors and officials, both categorized as civil servants and underlying the rules of civil servant legislation, and other support personnel, underlying the provisions of labour law. Within the framework of civil service legislation, the ALSAI is free to conduct its own selection procedures for new personnel.

(6) The ALSAI Law, in its Article 40, also allows for the hiring of external experts, the salaries for whom are covered by the budget of the ALSAI. As provided for by the law, the Chairman of the ALSAI issues a decision setting out further details for the selection and payment of such experts who are selected by an adhoc Committee and paid a salary ranging from 50% of an auditor's salary to a full chief auditor's salary.¹⁵

From December 2014 to November 2015, the ALSAI had contracted a total of 51 external experts for a total of 174 months, thus an average of 14.5 persons per month. The cost for the salaries of these experts ranged from approx. 293 EUR to 905 EUR¹⁶ per month, resulting in an average of approx. 599 EUR¹⁷ per person per month. The total cost for external experts amounted to approx. 104,200 EUR¹⁸.

¹⁵ The decision also provided for the possibility of hiring students for tasks like data collection, who were to be paid 25 % to 50% of an auditor's salary.

¹⁶ 41,000 ALL to 126,700 ALL

¹⁷ 83,860 ALL

¹⁸ 14,591,640 ALL



(7) According to Article 7 of the ALSAI Law, the financial activity of the ALSAI can be audited by independent auditors who are selected by the Parliament. Since such an audit was never undertaken, the Chairman sent three requests to the Parliament to audit the financial activity of the ALSAI in 2012, 2013 and 2014. The Chairman wanted to emphasize that the ALSAI aims to be transparent and to follow international standards. However, the Parliament has not initiated such an audit so far.

(8) According to Article 10 of the Laws on the State Budget for 2014, 2015 and for 2016, the Council of Ministers sets financial standards and norms for public expenditure, which are required to be applied by all general government units. These norms are also applicable to the ALSAI, since the ALSAI is considered a general government unit in the light of the Law on the State Budget. However, the ALSAI found this provision to be in contradiction with Article 7 of the ALSAI Law, according to which the ALSAI was independent in the management of its budget. It recommended to change the law accordingly in its opinion on the report of the Council of Ministers on the expenses of the previous financial year.

(9) One of these financial standards and norms set by the Council of Ministers concerned the per diem rates for public servants. Currently, these rates would only be granted to the ALSAI's auditors for on-site work visits that require travelling for more than 100 km from the ALSAI's location in Tirana. The ALSAI found that this provision caused financial hardships for the auditors and limited its budgetary autonomy. The ALSAI tried to encourage an amendment regarding the per diem rates by writing additional letters to the Prime Minister, the Minister of Finance, the Minister of Justice and the Chairman of the Economy and Finance Committee of the Parliament. In these letters, the ALSAI pointed out the special tasks the ALSAI had to carry out and that the current legal situation on the per diems limited the ALSAI's budgetary autonomy, the fact that onsite work of the auditors often lasted between 22 and 45 days and auditors were only reimbursed their travel expenses, and neither received per diem rates nor compensation for the time spent travelling, yet they were expected to work for 8 hours a day onsite.

8.3

While the ALSAI's budget and the maximum number of personnel were part of the state budget approved by the Parliament, the peer review team noted that the Chairman did not have the right of direct appeal before Parliament or its Commissions in budgetary matters. In order to achieve greater autonomy as regards the resources of the ALSAI, the peer review team recommended that the ALSAI should inform the legislator about the noncompliance with the Mexico Declaration in this regard in order to reach the right of direct appeal of the ALSAI to the Parliament.



The peer review team also noted that full discretion over budget allocation, such as granting the budget as a lump sum and giving the ALSAI the right of allocating it autonomously, would meet Principle 8 of the Mexico Declaration to a higher degree. While the ALSAI Law granted the ALSAI the right to manage its budget independently, the Budget Laws represented a certain degree of restrictions by the budget dividing into several expenditure categories. The peer review team recommended that the ALSAI should work towards obtaining its budget as a lump sum.

Under the ALSAI Law, the ALSAI has the right to generate its own income. While this rule appears to allow for greater budgetary autonomy, the peer review team reminded the ALSAI that despite this possibility the ALSAI should keep its primary focus on the core tasks of its mandate.

The peer review team considered it positive that the ALSAI had received an increase to hire further personnel. Together with the ALSAI's right to hire external experts and the clear rules for these processes, the ALSAI appeared to have the necessary and reasonable human resources. The peer review team recommended the ALSAI to monitor the hiring of external experts and seek to hire permanent staff if the hiring of external experts appeared to reach a certain threshold and the external experts became a substitute for regular staff.

In the opinion of the peer review team, the possibility for the Parliament to audit the financial activity of the ALSAI was an important instrument to strengthen the transparency of the ALSAI. The peer review team noted that the Parliament did not make use of this instrument so far, and further noted the ALSAI's willingness to have its financial activities audited.

The peer review team noted that while the ALSAI Law provided for the ALSAI's independence in the use of its budget, it also noted the ALSAI's concerns about the restrictions on per diem rates. The peer review team considered the solution of this problem important and recommended to upkeep its efforts towards a solution.



Annex 1: Interviewed Stakeholders

Mr. Ridvan Bode, Vice President of the Committee of Economy and Finance

Mr. Florion Mima, Member of the Committee of Economy and Finance

Mrs. Blerina Gjylameti, Member of the Committee of Economy and Finance

Mrs. Evis Kushi, Member of the Committee of Economy and Finance

Mr. Ervin Koçi, Member of the Committee of Economy and Finance

Mrs. Mimoza Dhëmbi, General Director, Budget Directorate, Ministry of Finance

Mr. Jorgji Bollano, National Accounting Council (NGO)

Mr. Artur Cani, Urban Integration (NGO)

Mr. Hysen Cela, Institute of Authorized Chartered Auditors (NGO)

Mr. Sazan Guri, G&G Group (NGO)

Mr. Sami Neza, Center for Transparency and Free Information (NGO)



Annex 2: Peer Review Team Members

Mr. Bernhard Beybel, Austria

Ms. Eva Prenner, Austria

Ms. Irmtraud Weinke, Austria

Ms. Viorica Verdes, Moldova

