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Monitoring Report:

The
Principles
of Public
Administration

ALBANIA

**May
2019**

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LIST OF ABBREVIATIONS AND ACRONYMS

CoG	centre of government
CoM	Council of Ministers
DDGG	Department for Development and Good Governance
DoPA	Department of Public Administration
EDI	Education Development Institute
EI	European integration
EU	European Union
GAWP	Governmental Annual Work Programme
GSG	Secretary General of the Council of Ministers
HRM	human resource management
ICCEI	Inter-institutional Co-ordination Committee for European Integration
ICEI	Interministerial Committee for European Integration
IIWG	Inter-institutional Working Group for European Integration
IPRO	Immovable Property Registration Office
IPSIS	Integrated Planning System Information System
IT	information technology
MEFA	Ministry for Europe and Foreign Affairs
MEI	Ministry of European Integration
MoF	Ministry of Finance
MoFE	Ministry of Finance and Economy
MoH	Ministry of Health
MoJ	Ministry of Justice
MoSRP	Minister of State for Relations with Parliament
MTBP	Medium-term Budget Programme
NPEI	National Plan for European Integration
OPM	Office of the Prime Minister
OECD	Organisation for Economic Co-operation and Development
PM	Prime Minister
RCD	Regulatory and Compliance Department
RIA	regulatory impact assessment
RoP	rules of procedures
SCEI	State Committee for European Integration
SEI	State education inspectorate
WRMA	Water Resources Management Agency

INTRODUCTION

This 2019 SIGMA Monitoring Report focuses on selected Principles in the policy development and co-ordination, and accountability areas of the *Principles of Public Administration*¹. Comprehensive assessment of all areas of public administration reform (PAR) in 2017 showed that Albania had made steady progress in many PAR areas, but it also highlighted challenges and shortcomings in the implementation of reforms, particularly in the policy planning, policy development and overall organisation and accountability arrangements in public administration. This report assesses progress made in centre-of-government functions, co-ordination mechanisms and planning for EU integration (EI), as well as the overall organisation of public administration.

The report first provides an overview of the state of play and main developments for each of the two main areas, followed by detailed analyses of the four Principles in the policy development and co-ordination area, and one Principle in accountability. The assessment is based on the *Methodological Framework for the Principles of Public Administration*² and covers the July 2017–March 2019 period. Key short- and medium-term recommendations are provided at the end of each section.

Indicator values are compared with the results of the 2017 Monitoring Report³. Although this report is part of a regional series, no regional averages are presented for the 2019 indicator values because this round of assessments was designed to perform detailed evaluations on a limited number of areas only, rather than to carry out full comparative overviews⁴.

Despite some improvements in selected sub-indicator areas, no significant progress has been made overall since 2017. Indicator values for most of the Principles analysed remain unchanged. Although organisation and co-ordination mechanisms for EI have been undergoing major changes, actual practices and implementation of the EI plan have not improved. No substantive changes have been recorded in the legal framework for public administration organisation and accountability. The subordinated agency reorganisation initiated in late 2017, has slowed down; stronger central management, planning and steering is needed to ensure the successful completion of reforms. Many recommendations from 2017 are still relevant for 2019.

SIGMA draws on multiple sources of evidence for its assessments and wishes to thank the Government for its collaboration in providing the necessary administrative data and documentation, as well as for its support during fact-checking of the draft reports.

Focus areas for the 2019 Monitoring Report were selected jointly by the Organisation for Economic Co-operation and Development (OECD) and the European Commission (EC). The policy development and co-ordination area, particularly EI planning, monitoring and co-ordination mechanisms, are relevant for the current stage of EU integration process. Similarly, analysis of the organisational and accountability arrangements of public administration is important because of the ongoing reforms of subordinated agencies. These areas are also relevant to policy dialogue relating to the European Reform Agenda and the Stabilisation and Association Agreement, as well as the EC's overall Enlargement perspective⁵. Although analytical findings and recommendations are addressed to the Government, they are also designed to contribute to this policy dialogue.

¹ OECD (2017), *The Principles of Public Administration*, OECD, Paris, <http://www.sigmapublications.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>.

² OECD (2019), *Methodological Framework for the Principles of Public Administration*, OECD, Paris, <http://www.sigmapublications.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-May-2019.pdf>.

³ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, <http://www.sigmapublications.org/publications/Monitoring-Report-2017-Albania.pdf>.

⁴ Recent Monitoring Reports are available at <http://www.sigmapublications.org/publications/monitoring-reports.htm>.

⁵ https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf.



Policy Development and Co-ordination

POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: JULY 2017-MARCH 2019⁶

1.1. State of play

All critical functions for ensuring and supporting effective policy development, policy planning and co-ordination, including those for co-ordination of the European integration (EI) process, have been formally established and assigned to various institutions in the centre of government (CoG). The responsibility for implementation of many of the CoG functions are assigned by legislation to the Secretary General of the Council of Ministers (CoM), who performs these functions through different organisational structures and units of the Office of the Prime Minister (OPM). However, the responsibilities of the various OPM units and their internal procedures and co-operation arrangements are not defined clearly in existing regulations. Detailed guidance is available to line ministries to support implementation of many critical CoG functions. There is insufficient guidance for organising and carrying out public consultation on new policy proposals and for monitoring performance and preparing reports on Government's legislative plan.

The EI co-ordination mechanisms are formally established and regulated at both the political and administrative levels. However, these mechanisms have not been functioning fully, as evidenced by the infrequent meeting of the relevant Government committees for co-ordinating the EI. The Ministry for Europe and Foreign Affairs (MEFA) is the main responsible institution for EI co-ordination. A new regulatory and methodological framework for co-ordination of accession negotiations was established in December 2018, but it is not yet fully completed and operationalised, and several by-laws required for operationalisation have yet to be adopted. The National Plan for European Integration (NPEI) is the main Government planning document for EI. It is updated and published annually by the Government. The overall quality of the NPEI and its implementation level remain weak, as evidenced by the low level of implementation and significant number of items carried forward from one year to the next. The NPEI is also not fully aligned with the Government's annual legislative plan (the Analytical Programme).

The institutional roles and responsibilities concerning legal harmonisation and transposition of the European Union (EU) acquis are defined and established in the existing legislation. Mandatory internal consultation, checks and conflict resolution mechanisms for EI transposition cases are embedded in the main policy-making rules and working procedures of the Government, and these rules are implemented in practice. The procedures for translating EU legislation are sufficiently regulated, but the actual translations are not planned, organised and made available in advance to ensure an informed and timely transposition process from the early stages of the legislative drafting.

1.2. Main developments

Following the parliamentary elections of June 2017, the organisational structures of the Government and ministries changed. The Ministry of European Integration (MEI) was abolished, and the functions for EI were transferred to the Ministry of Foreign Affairs, which was renamed the MEFA. The Government introduced new internal organisational structures of ministries in 2017, which resulted in the abolition of the designated EI units; relevant functions were transferred to other departments.

The Government introduced new organisational structures of the OPM and the MEFA as part of these organisational changes. The number of OPM departments was reduced. Functions and activities of the former Department of Communication and Relations with the Citizens, which used to perform certain functions related to co-ordination of Government communication activities, were partly transferred to

⁶ The state of play and main developments cover only the Principles 1, 2, 4 and 9 of the Policy Development and Co-ordination area of the Principles of Public Administration.

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Albanian Telegraphic Agency and partly to a newly established Agency for Dialogue and Co-Governance⁷. Most of the functions performed by the former MEI structural departments and units were transferred and allocated to one directorate under the General Directorate of Political and Strategic Issues, and two directorates reporting to the Secretary General of MEFA⁸.

The organisational structure and composition of Government changed again in December 2018. The Government re-introduced the position of Minister of State for Relations with Parliament (MoSRP), abolished as part of the September 2017 reshuffle, in January 2019⁹. The MoSRP has a formal role to act as the spokesperson of the CoM¹⁰.

In April 2018, the Government introduced amendments to the rules of procedures¹¹ (RoP) of the Government and formally introduced RIA in the legislative drafting process. It also introduced a comprehensive RIA methodology, and full RIA implementation started from January 2019, initially for primary legislation.

In December 2018, the CoM approved a decision aimed at establishing a new EI co-ordination system. But several additional regulations have yet to be approved in order to make the new co-ordination structures and working arrangements for EI fully operational¹². A State Committee for European Integration (SCEI) and other co-ordination structures are in the process of establishment to prepare and lead EU accession negotiations. A Secretariat for EI will also be created within the MEFA to provide further administrative-level co-ordination to the EI process within the new structure.

⁷ The current structure of the OPM was approved by Order of the Prime Minister No. 6 of 16 January 2019 on Approval of the Organisational Structure of the Prime Minister's Office. This replaced the OPM structure that was introduced by Order of the Prime Minister No. 165 of 1 November 2018. During the current monitoring period, the organisational structure of the OPM was also changed in October, 2017, by the Order of the Prime Minister No. 176 of 10 October 2017.

⁸ Order of the Prime Minister No. 159 of 5 October 2017 on Approval of the Organisational Structure of the Ministry for Europe and Foreign Affairs.

⁹ Decree of the President of the Republic of Albania No. 11038 of 5 January 2019 on the Appointment of Mrs. Elisa Spiropali, Minister of State for Relations with Parliament. The presidential decree was confirmed by the Parliament on 16 January 2019.

¹⁰ Decision of the Council of Ministers (DCM) No. 27 of 23 January 2019 on the Responsibilities of the Minister of State for Relations with the Parliament.

¹¹ DCM No. 197 of 11 April 2018 on Some Additions and Amendments to Decision No. 584, dated 28 August 2003, of the Council of Ministers, "On the Approval of the Council of Ministers Regulation".

¹² DCM No. 749 of 19 December 2018 on the Establishment, Organization and Functioning of the State Structure Responsible for Conducting the Negotiations and Concluding the Treaty of Accession of the Republic of Albania into the European Union.

2. ANALYSIS

Policy planning and co-ordination

This analysis covers Principles 1, 2, 4 and 9 for the policy development and co-ordination area. It includes an analysis of the indicator(s) and sub-indicators¹³ used to assess the Principle, and an overall summary of the state of play. Short- and medium-term recommendations are presented at the end of the section.

Overall, the indicator values of three of the four Principles analysed have remained unchanged since 2017. The value for the indicator on government capability for aligning national legislation with the EU *acquis* declined from 4 to 2, primarily due to the lower values for the sub-indicators measuring the implementation rate, quality of the NPEI, the number of items carried forward from one year to the next, and absence of Albanian translations of the relevant EU *acquis* planned for transposition. Several sub-indicator areas, such as the formal establishment of the CoG and EI functions in the relevant regulations, have improved. However, these improvements were not sufficient to increase the aggregate values of indicators.

Indicators	0	1	2	3	4	5
Fulfilment of critical functions by the centre-of-government institutions						
Fulfilment of European integration functions by the centre-of-government institutions						
Quality of policy planning for European integration						
Government capability for aligning national legislation with the European Union <i>acquis</i>						

Legend:  2017 indicator value  2019 indicator value

¹³ OECD (2019), *Methodological Framework for the Principles of Public Administration*, OECD, Paris. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

Analysis of Principles

Principle 1: Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.

The legislative framework regulating the work of the Government and ministries, which includes the Law on Organisation and Functioning of the Council of Ministers¹⁴ and the RoP of the CoM¹⁵, establishes all key CoG functions¹⁶. These functions are assigned to the following CoG institutions: the OPM through the Secretary General of the CoM, the Ministry of Finance and Economy (MoFE), the Ministry of Justice (MoJ), the MEFA and the MoSRP.

The Secretary General of the CoM, who performs the functions through various OPM structural units, is responsible for co-ordinating the preparation of governmental sessions¹⁷, leading the preparation¹⁸ and monitoring¹⁹ the implementation of the Governmental Annual Work Programme²⁰ (GAWP), and co-ordinating the policy content of proposals submitted to the Government²¹.

The MoJ is responsible for ensuring the legal conformity of Government decisions²². In addition, the Regulatory and Compliance Department (RCD) of the OPM carries out legal scrutiny of draft decisions of the CoM²³. The regulatory framework assigns the MoFE the functions of co-ordinating public resource planning and ensuring the affordability of policies²⁴. The relationship between the Government and the Parliament is assigned to the MoSRP (without portfolio). The position of MoSRP in the Cabinet was abolished in September 2017, following the parliamentary elections of June 2017. The Government re-instated the position in January 2019, with an enhanced mandate to act as the official spokesperson of the Government and to co-ordinate the Government's communication activities²⁵.

All critical CoG functions are now fully established in the existing regulations. However, because many functions are formally assigned to the Secretary General of the CoM, assisted by different structural units of the OPM, there is a need to further clarify roles and responsibilities in leading and performing these critical functions. There is no formal statute or "rulebook" that defines and clarifies the mandate, roles and responsibilities of individual OPM departments²⁶. Although information about the main functions of each OPM unit can be derived from the job descriptions of relevant officials, the absence of a formal rulebook for the OPM and the lack of clarity regarding the roles and functions of its organisational units do not ensure full and effective co-ordination and coherence of all OPM activities. There is also a need to clarify roles and improve co-ordination between the OPM structural units and the Cabinets of the

¹⁴ Law No. 9000 on Organisation and Functioning of the Council of Ministers, adopted on 30 January 2003.

¹⁵ DCM No. 584 of 28 August 2003 on the Approval of Rules of the CoM, with subsequent amendments by DCM No. 201 of 29 March 2006, DCM No. 4 of 7 January 2009, DCM No. 233 of 18 March 2015, DCM No. 653 of 14 September 2016 and DCM No. 197 of 11 April 2018 (RoP).

¹⁶ The critical functions of the CoG as defined in OECD (2017), *The Principles of Public Administration*, OECD, Paris, <http://www.sigmapublications.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>.

¹⁷ Law No. 9000, Article 9, and RoP, Article 52.

¹⁸ Law No. 9000, Article 27, and RoP, Articles 7, 9 and 10.

¹⁹ Law No. 9000, Article 27.

²⁰ The Analytical Programme of the Government, as defined by Law No. 9000, Article 27, and RoP, Articles 7-10. This is also the main legislative plan of the Government.

²¹ Law No. 9000, Article 9, and RoP, Chapter 5 on Co-ordination of Draft Acts.

²² Law No. 9000, Article 24, and RoP, Article 22.

²³ Although it was one of the recommendations of the 2017 assessment, the Government has not yet clarified the roles and responsibilities of the MoJ and the OPM in the process of legal scrutiny and compliance checks of draft policy proposals.

²⁴ Law No. 9936 on Management of Budgetary System in the Republic of Albania, adopted on 26 June 2008, with amendments by Law No. 25, adopted on 2 June 2016; and RoP, Articles 23-24.

²⁵ Law No. 9000, Article 27, and DCM No. 27/2019.

²⁶ Order of the Prime Minister No. 6 of 16 January 2019 on Approval of the Organisational Structure of the Prime Minister's Office establishes only the internal organisational structure and staff numbers.

Prime Minister (PM) and the Deputy Prime Minister, which play important roles in ensuring implementation of several key CoG functions²⁷. Last, structural and organisational changes in the OPM do not appear to consider the potential impact on the formal allocation and implementation of critical CoG functions. For example, the Department of Communication and Relations with the Citizens previously carried out the Government's communication activities. The Department was abolished when the new OPM structure was introduced in 2017, and responsibility was transferred to Albanian Telegraphic Agency. It is not clear how effective implementation of the communication function will be with these new arrangements, under the new leadership of the MoSRP. Similarly, it is not clear how monitoring of Government performance is carried out and co-ordinated between the OPM structural units and the Cabinet of the PM²⁸.

Detailed guidance is in place to support line ministries in drafting law²⁹, developing the annual work plan³⁰ and sector strategies³¹, and monitoring implementation of the state budget³² and public investments³³. However, there are no detailed guidelines on how to monitor and report on implementation of the GAWP (the Analytical Programme). Policy development guidance was enhanced in 2018 by a new RoP provision requiring that a RIA report accompany all draft acts submitted to the CoM for approval³⁴, and by the subsequent adoption of a detailed RIA methodology³⁵. However, the methodology and the RIA regulations currently only apply to draft laws; RIA is expected to be required for all decisions approved by the CoM from 2020³⁶. There is a need for ministries to start using the RIA methodology as guidance for the development of all types of policy proposals and, more importantly, to start the process much earlier in the policy development cycle, well before the decisions to introduce new legislation are made. Detailed guidance on how to prepare, organise and carry out public consultation is not yet available. Although the Law on Public Notification and Consultation³⁷ provides some basic general guidance on how to organise and carry out public consultation through a central electronic platform, it does not contain guidance on all types of public consultation and how the actual process should be prepared, planned and carried out by ministries. There is guidance on how to develop sector strategies, but it needs to be updated and strengthened³⁸.

The RCD of the OPM leads and co-ordinates the preparation of the GAWP (the Analytical Programme). The RCD supports line ministries by issuing special guidelines at the beginning of the process (normally

²⁷ The Cabinet of the PM performs important functions, such as monitoring implementation of Government priorities. Based on assessment interviews with officials.

²⁸ Based on assessment interviews with the OPM and PM Cabinet officials.

²⁹ *Law Drafting Manual: A Guide to the Legislative Process in Albania*, Ministry of Justice, Tirana, <https://ial-online.org/wp-content/uploads/2018/05/Rep.-Albania.pdf>. Assessment interviews confirmed that this manual is still in use across the Government as a tool for drafting laws, despite not being formally approved.

³⁰ The basic rules for the preparation of the annual work plan of the Government are set by Law No. 9000, Article 27, and RoP, Articles 7-9. The RCD provides further detailed guidance each year. In 2018, such guidelines ("Udhëzues për hartimin e programit analistik të projektave") were issued in July, when the planning process started.

³¹ Order of the Prime Minister No. 93 of 7 August 2012 on the Preparation of the National Sector and Cross-Sector Strategies for the Period 2013-2020, as well as of the Sector Strategic Documents for 2013-2020, in the Frame of the National Strategy for Development and Integration 2013-2020 and Order of the Prime Minister No. 183 of 23 June 2014 on the Preparation of the National Strategy for Development & Integration 2014-2020.

³² Instruction of the MoFE No. 22 of 17 November 2016 on Standard Budget Monitoring Procedures for Central Government Units.

³³ DCM No. 185 of 29 March 2018 on Management Procedures of Public Investments, Annex 2: Methodology "On Monitoring and Reporting of Public Investments".

³⁴ RoP, Article 18; the changes were introduced by DCM No. 197/2018 in April 2018.

³⁵ The methodology was issued by the Government in March 2018.

³⁶ Part III, Transitional Provisions, DCM No. 197/2018 in April 2018.

³⁷ Law No. 146/2014 on Public Notification and Consultation, adopted on 30 October 2014.

³⁸ The Government is developing a new integrated information technology platform for policy planning: Integrated Planning System Information System (IPSiS). As part of the process, the Government plans to update the methodological and regulatory framework that will provide additional new guidance. Information provided by OPM officials during assessment interviews.

in June/July). However, there was no evidence of institutionalised co-ordination mechanisms between CoG bodies, including between MoFE, MEFA and OPM units, which would ensure that the views and comments of all CoG institutions on draft ministerial proposals are consistently discussed and consolidated, before the work plan is finalised. This affects the alignment and coherence between various Government planning documents, such as the GAWP and the NPEI.

The RCD also leads the co-ordination and preparation of final packages of policy proposals for CoM approval. The process of consolidating opinions of CoG institutions and units on individual policy proposals is managed and organised through an electronic platform (the e-Acts system). Other OPM units are consulted when necessary³⁹. However, the working process and actual co-ordination arrangements are not formalised within the OPM, largely because the roles and responsibilities of various OPM units, and their internal co-ordination and working arrangements, including with other CoG institutions, is not clearly established. As such, the decision to consult other CoG institutions and bodies at the final stage of the policy approval process is left to the relevant RCD lead officer/lawyer reviewing the case, and final consolidation of opinions is carried out on the e-Acts system.

Overall, the value for the indicator on fulfilment of critical functions by the centre-of-government institutions is 3. This owes to the lack of institutionalised and regular co-ordination between the CoG bodies and units and the absence of detailed guidance on public consultations or how to monitor performance and prepare regular reports on the work plan.

Fulfilment of critical functions by the centre-of-government institutions						
Overall indicator value	0	1	2	3	4	5
Sub-indicators						
1. Critical functions are assigned to CoG institutions by legislation				8/8		
2. Availability of guidelines to line ministries and other government bodies				2/4		
3. Institutionalisation of co-ordination arrangements between the CoG institutions				2/4		
Total⁴⁰				12/16		

³⁹ Examples of internal co-ordination and consolidation of opinions from various CoG units on selected policies were presented during the assessment.

⁴⁰ Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-12=3, 13-14=4, 15-16=5.

All key CoG functions are established and assigned to relevant institutions by the existing regulatory framework. The MoSRP is assigned to lead the Government external communication function as the Government spokesperson. There is guidance to line ministries in several key areas necessary for successful implementation of CoG functions. An RIA methodology has been adopted, which provides guidance on policy making, but it currently applies only to primary legislation and the actual RIA process starts late in the policy-making cycle. Full guidance on how to carry out public consultation, monitor performance and report on the implementation of the GAWP (the Analytical Programme) is not available. Co-ordination between various OPM units exists, but further institutionalisation and strengthening of co-ordination mechanisms, including with other CoG institutions for the preparation of key Government planning documents, is needed.

Principle 2: Clear horizontal procedures for governing the national European integration process are established and enforced under the co-ordination of the responsible body.

All critical functions required for effective co-ordination and management of the EI process are established in the existing legislative framework. The MEFA is the designated CoG institution responsible for overall daily co-ordination of EI; planning EI-related activities (including costing) and monitoring implementation; and co-ordinating alignment of legislation with the EU *acquis* and co-ordinating EU assistance⁴¹. The MoFE, in co-ordination with the MEFA, is assigned to check and ensure that the costs of foreseen EI activities and reforms are included in the state budget⁴². In the new EI co-ordination system which is being established⁴³, the function of co-ordination of accession negotiations is assigned to the SCEI, supported by the MEFA. The SCEI will be responsible for “overseeing the negotiations structure and [co-ordinating] the negotiating position regarding each Chapter of the *Acquis* prior to its approval by the Council of Ministers⁴⁴”. A European Integration Secretariat will be established within the MEFA to co-ordinate the national policy with the EU and provide technical and administrative assistance to the SCEI and other EI co-ordination mechanisms⁴⁵.

There are central guidelines to support line ministries in implementation of EI functions. There are specific guidelines for preparation, monitoring and reporting of EI planning documents⁴⁶; planning and monitoring of EU assistance⁴⁷; approximation of national legislation with the EU *acquis*⁴⁸; and translation of the relevant EU legislation⁴⁹. The MEFA issued several of these guidelines, although some are not yet formally approved⁵⁰. Although the new EI co-ordination mechanism establishes key roles and

⁴¹ DCM No. 500 of 13 September 2017 on Defining the Areas of Responsibilities of the Ministry for Europe and Foreign Affairs; DCM No. 32 of 19 January 2018 on Defining the Functions of the Ministry for Europe and Foreign Affairs and for the Structures of the Foreign Service in the Process of EU Integration of the Republic of Albania; DCM No. 246 of 9 May 2018 on the Approval of NPEI, 2018-2020; and RoP, Article 25.

⁴² DCM No. 246/2018, Article 5.

⁴³ New EI co-ordination bodies and mechanisms are being created based on the DCM No. 749/2018. However, the necessary regulatory framework for ensuring full functioning of these new structures is not yet completed.

⁴⁴ DCM No. 749/2018, Chapter III, paragraph 1.

⁴⁵ DCM No. 749/2018, Chapter VII, paragraphs 1, 2 and 3.

⁴⁶ *Methodology for Drafting and Monitoring of the National Plan for European Integration*, prepared by an EU Technical Assistance (TA) project in April 2018; and *Guidelines on the Compilation of Albania's Input to the EU Commission's Annual Report*, issued by the MEI in 2016.

⁴⁷ *Programming Manual for IPA II Country Action Programmes* and *Monitoring Manual for IPA II Country Action Programme*, both issued by the MEFA (Directorate for EU funds) in April 2018.

⁴⁸ RoP, Articles 7, 12/1, 18, 19, 21/1 and Annex: Template of the Explanatory Note and Table of Concordance of the Draft Normative Act with the EU *Acquis*.

⁴⁹ DCM No. 119 of 7 March 2007 on Proceedings of Translation of the European Union Legislation in Albanian Language and Translation of Albanian Legislation in One of the Languages of the European Union.

⁵⁰ *Methodology for Drafting and Monitoring of the National Plan for European Integration*, prepared by an EU Technical Assistance (TA) project in April 2018. The MEFA has suggested ministries use it as a formal guidance document. But it is not formally approved.

responsibilities of various institutions and mechanisms in the negotiation process, there are no detailed guidelines on how to manage, co-ordinate and participate in the EI-related negotiation⁵¹.

A co-ordination structure for managing the EI has been formally established at both the political and administrative levels but those structures have not been functioning fully in recent years. A new system of EI co-ordination is being created based on a decision of the CoM (DCM)⁵². In addition, the Government has also confirmed the structure of Government bodies that will be involved in negotiations, which include: SCEI, State Delegation, Negotiating Team, Mission of the Republic of Albania to the EU, European Integration Secretariat, Inter-institutional Working Groups (IIWGs), and European Integration Partnership Platform⁵³.

In the new co-ordination system, the SCEI will become the top political-level co-ordination body for EI, replacing in this role the Interministerial Committee for EI (ICEI)⁵⁴. The ICEI is led by the PM, and its membership included ministers. The Inter-institutional Co-ordination Committee for EI (ICCEI), led by the Minister for Europe and Foreign Affairs and with Deputy Ministers as members, assisted the ICEI in providing political co-ordination of EI. Neither the ICEI nor the ICCEI met regularly during the reporting period, despite regulation requiring that the ICEI meet every quarter and the ICCEI meet twice per month. Neither of the committees met in 2017 or 2018⁵⁵. The regulatory framework necessary for the full functioning and operation of the new EI co-ordination system is not yet fully established and functional.

Administrative-level co-ordination has mainly been organised through IIWGs⁵⁶, which are established for all 33 relevant chapters⁵⁷ of the *acquis*. The overall work of IIWGs is co-ordinated by the MEFA⁵⁸. IIWGs are responsible for providing input and co-ordinating activities with the MEFA for the development of the NPEI, the EU progress report and monitoring reports⁵⁹. The activities of the IIWGs are regulated by the rules of procedures which were approved in August 2016. The groups are chaired by the relevant deputy ministers and involve representatives from MEFA to ensure co-ordination with the overall EI activities. Each IIWG is supported by a secretariat provided by the relevant Government institution. However, the level of activity of IIWGs, as measured by the number and frequency of their meetings, has decreased since 2016. In 2016, various IIWGs met 238 (documented) times⁶⁰, while there were only 89 meetings in 2018. Some IIWGs did not meet at all⁶¹.

⁵¹ Additional guidance on how to manage and co-ordinate the actual negotiation process is expected to become available after the regulatory framework of the new EU co-ordination mechanism, established in December 2018, is complete.

⁵² DCM No. 749/2018.

⁵³ *Ibid.*

⁵⁴ Information provided by the MEFA during assessment interview. The ICEI and the ICCEI were established by the Order of the Prime Minister No. 46 of 1 April 2009 on the Establishment, Composition and Functions of Interministerial Co-ordination Bodies Addressing the Commitments Taken on under the Stabilisation and Association Agreement”.

⁵⁵ In addition, the Government also discontinued the work of the EU Integration Board, a specific interministerial committee established in 2015 and chaired by the PM to monitor implementation of the Roadmap on five priorities. Implementation of the Roadmap was considered complete by the end of 2016, based on information provided during assessment interviews.

⁵⁶ They were established by Order of the Prime Minister No. 107 of 28 February 2014 on the Set Up and Functioning of Inter-Institutional Working Groups.

⁵⁷ Chapter 34 (institutions) and Chapter 35 (other issues) are not yet relevant.

⁵⁸ According to the Rules of Procedures of IIWGs, approved by the MEI in August, 2016, the Directorate of Sectorial Policies of the MEI was assigned to act as the co-ordinator of the work of IIWGs. A new secretariat will be created within the MEFA to support the work of IIWGs (DCM No. 749/2018, Chapter VII, Articles 1-3).

⁵⁹ DCM No. 749/2018, Article 9.

⁶⁰ OECD (2017), *Monitoring Report: Albania*, OECD, Paris, p. 30, <http://www.sigmapublications.org/publications/Monitoring-Report-2017-Albania.pdf>.

⁶¹ Meeting documentation was provided for only 20 IIWGs, while it was reported that there are no records for the meetings of the remaining 13. The MEFA, however, indicated that more meetings took place but were not documented.

The role of the IIWGs is clarified and re-confirmed in the new structure of EI co-ordination approved by the Government in December 2018⁶². In that new structure, the ministries will be formally tasked to support the functioning of IIWGs⁶³. Before the 2017 reorganisation, EI activities within ministries were supported by designated EI units that acted as an additional layer of administrative support for implementation of all EI-related activities and programmes within ministries. The EU units ceased their existence as independent structural units, and the relevant functions were transferred and integrated into other departments.

In addition to these co-ordination structures in the Government, there is also a National Council of EU Integration (NCEI) which was established in 2015⁶⁴. NCEI acts as the highest-level national advisory structure for EI. It aims to promote inclusive co-operation among various stakeholders, political parties, government institutions, businesses and civil society organisations, and to ensure increased transparency in decision making on EU integration issues. NCEI held one meeting in 2017 and three meetings in 2018⁶⁵.

The status and the process of development of the NPEI, as the main EI planning document, are clearly established in the existing regulatory framework⁶⁶. The NPEI is updated annually. The current NPEI was approved in May 2018 and covers the period up to 2020⁶⁷. Its development is co-ordinated by the MEFA, which also regularly monitors and reports on its implementation⁶⁸. The MEFA also co-ordinates and monitors the EU assistance⁶⁹, while the Directorate General for Financing and Contracting of the EU, World Banks and other Donors funds within the MoFE manages and supervises projects funded by the Instrument for Pre-accession Assistance (those projects which were agreed to be managed by the Government)⁷⁰.

Under RoP, each draft act proposed under the NPEI must include an explanation on its conformity with the EU *acquis*⁷¹. In cases of non- or partial compliance, an explanation needs to be provided⁷². Consultation with the MEFA on new policy proposals is mandatory, and the final version of the draft act must “be sent again for a final opinion to the Minister responsible for European Integration issues before sending it to the Council of Ministers for review”⁷³, even if the MEFA already provided its opinion during interministerial consultations. These rules and procedures ensure a robust and thorough process for checking the compliance and consistency of new policy proposals and legislative initiatives with the EI plans and activities. The review of a sample of five cases dealing with legal approximation with the EU *acquis* confirmed that MEFA provides opinions on transposition cases before they are submitted to the CoM for final approval⁷⁴.

⁶² DCM No. 749/2018, Chapter VIII.

⁶³ DCM No. 749/2018, Chapter VIII, Article 8, point 4.

⁶⁴ Law No. 15/2015, On the Role of the Parliament in the Process of the EU Integration of the Republic of Albania, approved on 5 March 2015. The NCEI is chaired by the Chairperson of the parliamentary committee for EI.

⁶⁵ Based on information provided during the assessment process and interviews with MEFA.

⁶⁶ Order of the Prime Minister No. 108 of 27 March 2014 on Drafting and Reviewing the National Plan for European Integration, 2014-2020.

⁶⁷ DCM No. 246/2018.

⁶⁸ The MEFA prepared the monitoring reports for 2017 and 2018.

⁶⁹ DCM No. 500/2017, Articles 6-7.

⁷⁰ DCM No. 299 of 23 May 2018 on Establishment of the General Directorate on Financing and Contracting of the EU, World Banks and other Donors Funds.

⁷¹ RoP, Article 12/1.

⁷² RoP, Annex: Template of the Explanatory Note and Table of Concordance of the Draft Normative Act with the EU *Acquis*, point 3.

⁷³ RoP, Article 31.

⁷⁴ A sample of five cases of transposition, approved by the Government last in 2018, were reviewed. Four formal opinions of MEFA were available for the assessment. A MEFA opinion for the fifth transposition case (CM 775/2018) was not available. According to the explanatory memorandum, the draft DCM was sent to the MEFA for formal opinion, but due

Overall, the value for the indicator on fulfilment of European integration functions by the centre-of-government institutions is 4. This owes to the establishment of the necessary regulatory framework and formal structures and procedures for implementation of critical EI functions.

Fulfilment of European integration functions by the centre-of-government institutions	
This indicator measures to what extent the minimum criteria for European integration (EI) functions are fulfilled by the CoG institutions.	
Overall indicator value	0 1 2 3 4 5

Sub-indicators	Points
1. Proportion of the EI functions that are assigned to the CoG institutions by law	6/6
2. Availability of guidelines to line ministries and other government bodies	3/4
3. Government's capacity for co-ordination of EI	6/8
Total⁷⁵	15/18

All key EI functions are established and assigned by regulation to the MEFA, which acts as the lead CoG institution responsible for co-ordination of EI-related activities. Existing guidelines sufficiently support line ministries in planning and implementing EI activities. The Government is in the process of establishing a new political-level body for EI co-ordination and new structures for overall management and co-ordination of the negotiation process with the EU. But these new structures and working arrangements are not yet fully functional as the full regulatory framework is not yet approved. The old formal co-ordination mechanisms of the EI did not function effectively in 2017 and 2018, as evidenced by infrequent meetings.

to the urgency of its adoption, the MEFA's opinion/view on the proposal had to be presented orally at the meeting of the CoM.

⁷⁵ Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-13=3, 14-16=4, 17-18=5.

Principle 4: A harmonised medium-term planning system is in place for all processes relevant to European integration and is integrated into domestic policy planning.

Under existing regulation, the NPEI is the main central planning document for all EI-related activities. Its status, as well as the rules and requirements for its development, are set by Order of the Prime Minister No. 108⁷⁶. The preparatory and planning process for its development is additionally supported by the methodology for the development of the NPEI, which the MEFA suggests as an additional guiding document⁷⁷. The MEFA is responsible for the development of the NPEI, in close co-ordination with line ministries and other relevant institutions.

The NPEI, in its current format, was first prepared in 2014 and initially covered a seven-year period. It is updated annually. The current NPEI, which covers a three-year period (2018-2020), was approved by the Government in May 2018⁷⁸. The NPEI, 2018-2020 is a comprehensive document, with detailed information on the existing and foreseen policy and legal framework for all 33 relevant negotiation chapters. The Annex of the NPEI provides detailed information about the planned commitments, establishes clear deadlines (quarterly) and confirms the responsible institutions for implementation. It also indicates the type of legal approximation planned for each measure ("partial" or "full"). However, a review of some individual activities included in the NPEI revealed inaccuracies in the categorisation of "partial" or "full" approximation in the transposition plan which questions the reliability and quality of the overall plan⁷⁹.

The NPEI primarily contains legislative and regulatory measures, and there is limited information about implementation and enforcement activities. There is no assessment of administrative capacity and needs of ministries and institutions for effective implementation of the plan. Information on costing and sources of funding for the non-legislative measures in the NPEI is limited: the document does not include specific cost estimates; it only provides summary tables of total budgets per each *acquis* chapter, without indicating the breakdown of costs for each activity or the sources of funding. The methodology and process used to calculate the aggregate figures is not clear; therefore, the reliability of the costing provided in the NPEI is questionable.

The RoP requires line ministries to co-ordinate the preparation of the GAWP with the NPEI⁸⁰. RCD and MEFA officials meet during the preparation of the Analytical Programme to ensure co-ordination and alignment with the NPEI⁸¹. Despite these efforts, alignment between these two central Government planning documents (NPEI and GAWP) remains weak. Only 75% of the legislative commitments included in the NPEI were also included in the 2018 Analytical Programme (the main legislative plan of the Government)⁸². The timelines of preparation of the NPEI and the GAWP are not aligned in practice, which can also be a factor in non-alignment⁸³.

⁷⁶ Order of the Prime Minister No. 108/2014 on Drafting and Reviewing the National Plan for European Integration, 2014-2020.

⁷⁷ *Methodology for Drafting and Monitoring of the National Plan for European Integration*, prepared by an EU TA project in April 2018. The MEFA and ministries have been using it during the preparation of the 2019-2021 plan. However, the status of that methodology, as a formal Government guidance document, is not formally established, and it is not clear whether the methodology, as prepared by the EU TA project, is accepted and used in full.

⁷⁸ DCM No. 246/2018.

⁷⁹ MEFA officials clarified during the assessment interviews that several measures were wrongly categorised as "full" or "partial" approximation cases in the NPEI. In addition, it should be noted that some measures included in the Annex of NPEI for implementation in 2018 are entered more than once, presumably because some of the legal instruments will be used for approximation of more than one EU law. But this is not clearly indicated in the plan which is confusing.

⁸⁰ RoP, Article 7.

⁸¹ Based on information provided by MEFA and OPM officials during assessment interviews.

⁸² Out of 120 legislative measures in the NPEI planned for implementation in 2018, 30 (25%) were not included in the 2018 Analytical Programme (legislative plan) of the Government.

⁸³ The NPEI covering the 2018 reporting year was only approved in May 2018. The EI plan for 2019 was approved on 10 April 2019.

The MEFA regularly monitors implementation of the NPEI and prepares its annual monitoring reports. These monitoring reports, however, are not published; publishing stopped in 2017, which has made the EI monitoring process less transparent⁸⁴.

A significant number of measures for implementation in the annual EI plans are carried forward to the next year. Review of the relevant annual EI plan shows that 40% of the measures planned for implementation in 2017 were carried forward to the 2018 plan⁸⁵. The implementation rate of legislative commitments, measured by the number of legislative items (draft laws) planned and approved by the Government during 2018, is 26%⁸⁶. This indicates major weaknesses in the quality of the current EI planning, resource allocation and co-ordination system.

Although the current NPEI covers a three-year period, most activities are planned for implementation during the first year, suggesting the planning process and the plan itself are unnecessarily over-ambitious. This can also explain the relatively low implementation rate and high number of items carried forward from one year to the next.

Overall, the value for the indicator on quality of policy planning for European integration is 1. This owes to the weaknesses identified in the quality of the NPEI and the low implementation rate of its planned commitments.

Quality of policy planning for European integration					
This indicator analyses the legislative set-up established for policy planning of the European integration (EI) process and the quality and alignment of planning documents for EI. It also assesses the outcomes of the planning process (specifically the number of planned legislative EI-related commitments carried forward from one year to the next) and the implementation rate of planned EI-related commitments.					
Overall indicator value	0	1	2	3	4

Sub-indicators	Points
1. Adequacy of the legislative framework for harmonised planning of EI	2/2
2. Quality of planning documents for EI	2/6
3. EI-related commitments carried forward (%)	1/4
4. Implementation rate of the government's plans for EI-related legislative commitments (%)	0/4
Total⁸⁷	5/16

The overall legislative framework for EI planning and monitoring is in place, and it is supported by guidelines for the development of the NPEI, as a central Government plan for EI. However, the quality of the NPEI, including costing and planning of non-legislative measures for ensuring successful implementation of activities, remains weak. The implementation rate of legislative activities included in the NPEI is low, and there are many items that are carried forward from one year to the next. The alignment between the NPEI and the GAWP (the Analytical Programme) is not ensured, as a significant number of legislative measures from the NPEI are not included in the GAWP.

⁸⁴ The MEI published the reports until 2017: <http://historiku.integrими.гов.ал/en/documents/reports>.

⁸⁵ Out of 137 measures planned for implementation in the 2017 plan, 55 were also included in the 2018 plan.

⁸⁶ In 2018, the Government approved only 11 out of 42 planned draft laws.

⁸⁷ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

Policy development

Principle 9: The European integration procedures and institutional set-up form an integral part of the policy-development process and ensure systematic and timely transposition of the European Union *acquis*.

The institutional roles and responsibilities of various Government bodies involved in the transposition of the *acquis* are defined and established in the existing regulatory framework⁸⁸. The MEFA is responsible for planning, co-ordinating and monitoring the *acquis* alignment process⁸⁹. The RoP establishes clear procedures and checks to ensure that all transposition cases undergo scrutiny and that the MEFA is consulted on individual cases during the policy development and interministerial consultations⁹⁰. The existing regulations stipulate that final draft proposals involving legal approximation with the EU *acquis* can only be submitted to the Government for final approval if they are accompanied by the table of concordance⁹¹, and those rules are consistently used in practise⁹².

Policy proposals dealing with alignment of the *acquis* are subject to the same policy development requirements and procedures as domestic proposals⁹³. They need to undergo interministerial and, in the case of draft laws, public consultations and contain explanatory memorandum when they are submitted to the CoM⁹⁴. The new RIA methodology, introduced in 2018, applies fully to the legislation that approximates EU law. Review of a sample of regulatory proposals and their supporting documentation confirmed that internal checks and consultations on transposition cases are routinely carried out in practice⁹⁵.

Before the 2017 reorganisation of central government, EI activities within ministries were co-ordinated and supported by designated EU units. These structural units were abolished in late 2017, and the relevant functions were transferred to other ministerial departments.

In the case of conflicting views and opinions during the *acquis* alignment process, the RoP foresees special mechanisms for further discussions through joint consultations with the MEFA and other ministries⁹⁶. If these are not successful, additional consultations can be arranged by the General Secretary of the CoM and, ultimately, by the PM⁹⁷. Discussions of EI-related issues and any interministerial conflicts can also take place during the regular weekly meetings of regulatory departments or general secretaries of the CoM and ministries.

⁸⁸ RoP, DCM No. 500/2017, DCM No. 32/2018 and DCM No. 246/2018.

⁸⁹ *Ibid.*

⁹⁰ RoP, Articles 25 and 31.

⁹¹ *Idem*, Article 12/1.

⁹² Analysis is based on the review of the last five transposition cases approved by the Government in 2018 and their supporting documentation (as confirmed by the MEFA officials): 1) DCM No. 744 of 19 December 2018 on Proposing the Draft Law on Some Amendments and Addenda to Law No. 64/2012 of 31 May 2012 "On fisheries"; 2) DCM No. 685 of 14 November 2018 on the Approval of Practices to Promote Joint Regional Investments in the Energy Sector Infrastructure; 3) DCM No. 569 of 3 October 2018 on Some Amendments and Addenda to DCM No. 513 of 13 June 2013 on the Defining the Procedures and Documents for Entry, Stay and Treatment of Foreigners in the Republic of Albania; 4) DCM No. 513 of 4 September 2018 on the Approval of the Regulation 'On the Conditions and Procedures to Grant and Authorize Certain Categories of State Aid'; 5) DCM No. 775 of 26 December 2018 on the Approval and the Official Publication of the Harmonised Nomenclature of Goods, 2019. Tables of concordance were prepared in all five cases.

⁹³ No provisions exempt EI transposition cases from the established procedures set by RoP and Law No. 146/2014 on Public Notification and Consultation.

⁹⁴ RoP, Chapter V; Article 25, 31.

⁹⁵ The requirements about explanatory memorandum, interministerial and public consultation were followed in all five sample cases.

⁹⁶ RoP Article 31.

⁹⁷ *Idem*, Article 33-41.

The requirements and procedures for translating EU legislation into Albanian and for translating the domestic legislation into one of the languages of the EU are established by DCM No. 119⁹⁸. Translations are organised by the MEFA Unit for the Certification of Translation. Having the Albanian translations of the EU legislation at the start of the actual legislative drafting process is important for ensuring an evidence-based and informed process⁹⁹. Review of supporting documentation for a sample of the five most recently adopted EU legislative acts to be transposed into the local legislation¹⁰⁰ shows that Albanian translations are not available on time to ensure an informed transposition process¹⁰¹. There is no plan for organising translation of the EU directives and regulations that would support transposition in line with the deadlines established in the NPEI.

The quality of Government planning documents for transposition of legislative measures is weak. A significant number of legislative commitments (draft laws and by-laws) are carried forward from one year to the next. Of the planned legislative commitments in the 2017 EI plan, 73% were carried forward to the 2018 plan¹⁰². The implementation rate of legislative commitments for *acquis* transposition in 2018 is 29%. This is lower than the implementation rate calculated during the 2017 Monitoring Assessment (79%, based on 2016 results)¹⁰³. This suggests poor quality planning and/or insufficient resources allocated for implementation.

Overall, the value for the indicator on government capability for aligning national legislation with the European Union *acquis* is 2. This owes to the poor quality of the EI transposition plans, low implementation rates, and weaknesses and shortcomings in ensuring timely translation of the *acquis*.

⁹⁸ DCM No. 119/2007.

⁹⁹ Interviews with line ministries confirmed that Albanian translation of EU legislation is not always available, which makes the transposition process difficult.

¹⁰⁰ Albanian translations of the following most-recently approved EU Regulations and Directives planned in the NPEI, 2018-2020 for approximation in 2019 were requested but not provided: 1) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on Payment Services in the Internal Market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC; 2) Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the Protection of Undisclosed Know-how and Business Information (Trade Secrets) Against Their Unlawful Acquisition, Use and Disclosure; 3) Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on Certain Rules Governing Actions for Damages Under National Law for Infringements of the Competition Law Provisions of the Member States and of the European Union; 4) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and repealing Directive 95/46/EC (General Data Protection Regulation); and 5) Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data by Competent Authorities for the Purpose of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties, and On the Free Movement of Such Data, and repealing Council Framework Decision 2008/977/JHA.

¹⁰¹ Although the transposition of sample EU regulations is planned for 2019, none of the translations was available.

¹⁰² Out of 106 legislative measures planned in the 2017 plan, 77 were also included in the 2018 plan.

¹⁰³ The Government approved 31 out of 119 planned transposition-related draft laws and DCMs. The 2016 implementation rate is reported in the OECD (2017), Monitoring Report: Albania, OECD, Paris, <http://www.sigmapublications.org/publications/Monitoring-Report-2017-Albania.pdf>.

Government capability for aligning national legislation with the European Union *acquis*.

This indicator measures the adequacy of the legal framework for the *acquis* alignment process, the government's consistency in using the tables of concordance in the *acquis* alignment process and the availability of the *acquis* in the national language. It also assesses the results of the *acquis* alignment process, focusing on the planned *acquis* alignment commitments carried forward from one year to the next and how the government is able to achieve its *acquis* alignment objectives.

Overall indicator value

0 1 **2** 3 4 5

Sub-indicators	Points
1. Adequacy of the regulatory framework for the <i>acquis</i> alignment process	5/5
2. Use of tables of concordance in the <i>acquis</i> alignment process (%)	2/2
3. Translation of the <i>acquis</i> into the national language	0/2
4. <i>Acquis</i> alignment commitments carried forward (%)	0/4
5. Implementation rate of legislative commitments for <i>acquis</i> alignment (%)	0/4
Total¹⁰⁴	7/17

The regulatory framework for ensuring a consistent and effective *acquis* alignment process is fully established, and the necessary EU-related checks are embedded in the policy-making process. These rules and requirements are also followed in practice. The proposals dealing with alignment of the *acquis* are subject to the same policy development process requirements as domestic policy proposals. However, the planning and preparation of Albanian translations of the EU directives and regulations planned for approximation is not organised and implemented well. The share of *acquis* alignment commitments carried forward from 2017 to 2018 is high, and the implementation rate of draft laws and by-laws included in the NPEI is low.

¹⁰⁴ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-17=5.

Key recommendations

Short-term (1-2 years)

- 1) The Government should formally establish and clarify the roles and responsibilities of the various OPM structural units and strengthen co-ordination among their internal units and with other CoG institutions through institutionalisation of existing practices and development of new procedures and co-ordination mechanisms, where needed.
- 2) All relevant CoG institutions, including the MEFA and the various units of the OPM, should be fully and regularly consulted during preparation of the Government's annual Analytical Programme to ensure its full coherence and alignment with other Government planning documents, such as the NPEI and the Medium-term Budget Programme (MTBP), as well as its coherence and alignment with wider political commitments, priorities and previously announced Government policies.
- 3) The Government should improve the quality of the NPEI and ensure that the number of measures included in the annual plan is more realistic, considering the financial, resource and other factors affecting implementation. The MEFA should formalise the status of the methodological document on NPEI preparation and monitoring and provide stronger direction and support to ministries during its preparation and monitoring. The MEFA, together with the MoFE, should ensure that the costing of measures included in the NPEI is improved.
- 4) The Government should develop guidelines for public consultation, which should be fully aligned with existing procedures and working arrangements, including the methodology and process for developing RIA. Central oversight and support functions for public consultation should be formally established within the OPM. The RIA methodology, as a guidance document for policy development, should be used at early stages of policy cycle and for all types of policies.
- 5) The Government should develop guidance for ministries on how to monitor and prepare reports on implementation of the Government's Analytical Programme. Annual reports on the Analytical Programme should be prepared and published on a regular basis.
- 6) The MEFA should publish the monitoring reports on the NPEI to ensure external scrutiny and transparency of the process.
- 7) The Government should ensure that the relevant structures for EI co-ordination are finalised and fully established and that the relevant co-ordination bodies meet regularly.
- 8) The MEFA should improve the procedures for organising translation of EU legislation and ensure translations are available to line ministries on time to inform the preparation, public consultation and legislative drafting. The MEFA should prepare a plan for translation of the relevant EU law, in line with the timeline of planned approximation of the NPEI, so that translated versions of EU legislation are made available before the planned transposition.

Medium-term (3-5 years)

- 9) The Government should evaluate the quality and effectiveness of the new EI co-ordination mechanisms, including the new organisational structures of ministries, and make necessary adjustments.
- 10) The Government should ensure that the NPEI is fully integrated within the Government's integrated planning system and the information technology (IT) platforms under development to ensure that the NPEI is fully aligned with other Government planning documents, such as the Analytical Programme and the MTBP, through those platforms. The new systems should allow monitoring and reporting on the implementation of the NPEI.



Accountability

ACCOUNTABILITY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: JULY 2017-MARCH 2019

1.1. State of play

The legal framework for the organisation and functioning of state administration is established¹⁰⁵. However, the official typology of state administration bodies (ministries and agencies) lacks clear and comprehensive governance and accountability models for all types. Results-based management of agencies is not promoted, as Law 90/2012 on the Organisation and Functioning of the State Administration does not contain guidance on planning, monitoring or reporting on performance of agencies. Uncontrolled proliferation of new agencies is not prevented due to lack of procedure for *ex ante* analysis of proposals.

The initial attempt for evidence-based and methodological reorganisation of agencies announced by the Government in late 2017 is welcomed. However, overall vision for the organisational set-up of the agencies lacks clarity, and there is a need for stronger steering and management reforms from the centre, based on a clear and consistent methodology and strong analysis and evidence. While instigating a new typology of agencies is welcome, detailed governance and accountability models for new types have not yet been developed. The financial effects of the restructuring also raise concerns, as the dominant form of reorganisation so far is the creation of new institutions without costing the new organisational architecture.

The reform agenda misses the opportunity to introduce improvements in the governance of agencies and ministries, e.g. developing a results-based performance management scheme for agencies, establishing consistent human resource management (HRM) and financial management rules for agencies, and promoting managerial accountability within ministries. It also does not address the issue of the high number of executive bodies accountable to the Assembly.

1.2. Main developments

Following introduction of the new organisational structure of the central government and the ministries in August 2017, the Government initiated a large-scale reorganisation programme for state administration in late 2017¹⁰⁶. While the reorganisation of ministries (reduction of the number, internal reorganisation) has been completed, restructuring of agencies is at an early stage of implementation. The Steering Committee was established in October 2017¹⁰⁷. The methodological framework was completed in the first quarter of 2018¹⁰⁸. In March 2018, the detailed management structure for the process was determined, which included the responsibilities of the management group and technical working groups¹⁰⁹. Reorganisation started with the ministerial system of the Ministry of Health and Social Protection (MoHaSP). The Health Care Operator, with regional branches, was formally established in July 2018 to replace the 36 health care directorates.

Other organisational changes were introduced in parallel, including the creation of the Regional Agencies for Agricultural Extension, Regional Veterinary and Plant Protection Services, Treasury, Water Resources Management Agency, Concentrated Procurement Agency, and the General Directorate of the Financing and Contracting of EU, World Bank and other Donors Funds.

¹⁰⁵ Law No. 90/2012 of 27 September 2012 on the Organisation and Functioning of the State Administration.

¹⁰⁶ The number of ministries was reduced from 19 to 11, and the new internal structure for each ministry was established.

¹⁰⁷ Order of the Prime Minister No. 157 of 4 October 2017.

¹⁰⁸ Methodological assistance provided by SIGMA and the United Nations Development Programme.

¹⁰⁹ Order of the Prime Minister No. 59 of 26 March 2018.

The structure and composition of the Council of Ministers and the ministries were changed in December 2018, which also affected the political leadership of state administration reform and the reorganisation of the agencies¹¹⁰.

2. ANALYSIS

This analysis covers Principle 1 for the accountability area. It includes an analysis of the indicator(s) and sub-indicators used to assess the Principle, and an overall summary of the state of play. Short- and medium-term recommendations are presented at the end of the section.

Overall, the value for the indicator ‘Accountability and organisation of central government’ has not changed. The values of selected sub-indicators have changed, primarily as a result of modified samples of institutions reviewed and improved access to information and documents. There were no major changes in the legislative or policy frameworks in the assessment period.

Indicators	0	1	2	3	4	5
Accountability and organisation of central government			<input checked="" type="checkbox"/>			

Legend: 2017 indicator value 2019 indicator value

Analysis of Principles

Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.

The general rules establishing the organisational set-up of state administration bodies, determined by Law No. 90/2012, have not changed since 2017. The typology of non-ministerial state administration bodies (agencies) established by this Law consists of subordinate institutions and autonomous agencies. However, in practice, this typology is not reflected in consistent governance arrangements. Bodies of the same type may have considerably different organisational set-ups without clear rationale. For example, Customs Administration and the Immovable Property Registration Office (IPRO) both have subordinate institution status according to the Law, but they are subject to different budgetary regimes. The Customs Administration budget is included in the state budget; the IPRO’s is not. Similar inconsistencies exist in the area of HRM. For instance, the status of staff in two bodies subordinated to the MoHaSP (the Health Care Service Operator¹¹¹ and the State Social Service) differs: civil service legislation applies only to the staff of the latter. Furthermore, the managing bodies of organisations of the same type can be appointed through different regulatory and procedural regimes. For example, the head of the State Social Service is selected from the members of the top management corps, while heads of other subordinate bodies (e.g. Customs Administration, Tax Administration) are appointed in a more flexible manner.

Following the reorganisation of the ministries, begun in autumn 2017, the Government initiated the restructuring of agencies. The preliminary objectives and policy priorities of the reforms were first presented by the Deputy Prime Minister in August 2017¹¹². They included optimisation of Government

¹¹⁰ The Deputy Prime Minister, who was responsible for co-ordinating and leading the state administration reforms and reorganisation programme in the Government, was replaced.

¹¹¹ Body managing hospitals and other public health service providers.

¹¹² *Restructuring Subordinate Agencies and Bodies. Preliminary Report*, August 2017 (document provided by the Government).

structures by merging institutions with similar functions, structuring territorial administration around four administrative regions and introducing a new typology of Government bodies.

The Government elaborated the methodological approach to reorganisation and established the management structure for the process¹¹³. Piloting on the organisational system of the MoHaSP was to be followed by an evaluation of initial results and extension of the reform to remaining ministries. In practice, piloting was accompanied by targeted reorganisations in other ministries, e.g. the Ministry of Finance and Economy (MoFE) and the Ministry of Interior (Table 2). The piloting results have not been subject to any evaluation, and progress in its implementation (e.g. recruiting staff to newly created bodies) is not monitored.

Proposals for restructuring are prepared by the working groups at the ministerial level and subsequently reviewed by the Department of Public Administration (DoPA). A proposal is then submitted to the Steering Committee, consisting of high-level Government officials and selected top civil servants¹¹⁴, for political approval (Figure 1). However, the future of this decision-making mechanism is uncertain. Since the Government reshuffle in December 2018, the work stopped: no new proposals were prepared, and the Steering Committee has not held any meetings (as of March 2019).

Figure 1. Management structure and logic of actions in the restructuring process



Source: Information provided by the DoPA.

Implementation of the reorganisation agenda so far clearly demonstrates a need for much stronger central steering and management of the reform process. Proposals for restructuring do not comprehensively analyse all associated options, risks and challenges. The adopted decentralised model for developing proposals (by line ministries instead of a central task force) also lacks strong methodological guidance and quality assurance from the centre. Otherwise, changes are inconsistent and reflect particular sectoral interests rather than an overarching vision enshrined by the Government.

The restructuring process aims to deliver a new organisational architecture of state administration based on a new typology of administration bodies. Although a praiseworthy aim, the new typology adds even more complexity and provokes more questions (Table 1). Proposed types of bodies are distinguished based on their different functions, but the typology lacks a comprehensive governance and accountability scheme for each type. It does not define how the relevant institutions are managed (status of staff, legal standing, etc.), the degree of their operational and administrative autonomy, or the supervision and control measures applicable to them.

¹¹³ Order of the Prime Minister No. 157 of 4 October 2017 and Order of the Prime Minister No. 59 of 26 March 2018.

¹¹⁴ The Steering Committee is chaired by the Deputy Prime Minister and consists of the Minister of State for Entrepreneurship Protection, the Deputy Minister of Interior, the Deputy Minister of Justice, the Advisor to the Prime Minister on security issues, the General Inspector-in-Chief, the Director of the Strategic Development and Good Governance Department in the Office of the Prime Minister (OPM), the Director of Regulatory and Compliance Department in the OPM, and the Director of the Department of Public Administration (DoPA).

Table 1. New typology of Government bodies developed for the reorganisation process

MINISTRY	• developing policies and strategies
AUTHORITY	• general responsibility for implementing policies and programs
AGENCY	• quality assurance, service management, inspections
SERVICE PROVIDERS	• providing services to the citizens

Source: DoPA, Typology of Institutions, June 2018.

Making evidence-based decisions about the most adequate organisational set-up (delivery option) for performing specific Government functions is critical in the restructuring process. Analysis of documents accompanying the three most recent Government reorganisation decisions reveals some quality issues in this regard. The methodological approach to reorganisation approved by the Government¹¹⁵ was applied, to some extent, only in case of establishment of the Health Care Service Operator as a new body integrating health service delivery functions, and in case of reorganisation of the education system. The analytical documents (prepared with the assistance of the external consultant¹¹⁶) that served as a basis for these reorganisations provided some rationale for the reform. While it does not qualify as a full-scale analysis of delivery options, it demonstrates that some analytical effort preceded decision making.

Other organisational changes were implemented without rigorous methodological guidance. These include changes resulting from the reorganisation of ministries in 2017, e.g. transforming an existing MoFE department into Treasury operating as a separate agency, and establishing Regional Agencies for Agricultural Extension and Regional Veterinary and Plant Protection Services. Analytical evidence supporting these changes was weak. There was no analysis demonstrating the ineffectiveness and inefficiency of the existing arrangements or any comprehensive analysis of all delivery options for relevant functions. Moreover, documentation supporting these decisions did not comprehend insight into international practices and standards relating to organisational set-up for delivering relevant functions.

¹¹⁵ Order of the Prime Minister No. 59 of 26 March 2018, paragraph 15.

¹¹⁶ The DoPA in the OPM, MoHaSP, Magnum Opus Group, *Sistemi Qeverisës / Shëndetësisë, (Sipas Metodologjisë Së Sigma)*, 16 April 2018; The DoPA in the OPM, Ministry of Education, Sports and Youth, Magnum Opus Group, *Sistemi Qeverisës / Arsimit*, 28 August 2018.

Table 2. Progress in the reorganisation of state administration bodies (2017-2018)

Date	Before restructuring	After restructuring
February 2018¹¹⁷	General Directorate of Concentrated Procurement as an organisational unit of the Ministry of Interior	Central Procurement Agency as a stand-alone body subordinated to the Ministry of Interior
March 2018¹¹⁸	13 Regional Agencies for Agricultural Development subordinated to the Ministry of Agriculture and Rural Development	4 Regional Directorates for Agricultural Extension 4 Regional Directorates for Veterinary and Plant Protection Services
April 2018¹¹⁹	6 regional agencies of basins subordinated to the Ministry of Agriculture and Rural Development; Directorate of Water Resources Policies as an organisational unit of the Ministry of Agriculture and Rural Development State Inspectorate of Environment, Forest and Waters – extracting the monitoring function of licences implementation in the water basins level Technical Secretariat of the Water National Council subordinated to the Prime Minister	Water Resources Management Agency (WRMA) subordinated to the Prime Minister; 4 regional directorates for water basins as part of the WRMA Functions of the State Inspectorate of Environment, Forest and Waters relating to water management transferred to the WRMA (Inspectorate continues to perform monitoring functions in other areas) Technical Secretariat of the Water National Council abolished and functions transferred to the WRMA
May 2018¹²⁰	General Directorate of Treasury as an organisational unit of the MoFE	General Directorate of Treasury as a stand-alone body subordinated to the MoFE
May 2018¹²¹	General Directorate of the Financing and Contracting of EU, World Bank and other Donors Funds as an organisational unit of the MoFE	General Directorate of the Financing and Contracting of EU, World Bank and other Donors Funds as a stand-alone body subordinated to the MoFE
July 2018¹²²	36 Public Health Directorates monitoring health centres and hospitals; health centres and hospitals subordinate in HRM matters directly to the MoH	Health Care Service Operator subordinated to the Ministry of Health and Social Affairs with 4 Regional Directorates supervising health care centres and hospitals (monitoring, HRM)
February 2019¹²³	1 State education inspectorate (SEI) 1 Education Development Institute (EDI) 13 regional directorates for education 25 local education offices	Quality Assurance Agency for the Pre-University Education System (merger of SEI and EDI) 1 General Directorate of the Pre-University Education System with 4 regional directorates

Source: Information provided by the DoPA, February 2019.

It appears that the major form of restructuring is the creation of new agencies under the ministries to perform policy implementation functions previously managed directly by the ministries. While agencification¹²⁴ might be a viable solution in some cases, it creates the risk of uncontrolled swelling of

¹¹⁷ Decision of the Council of Ministers No. 81 of 14 February 2018.

¹¹⁸ Decision of the Council of Ministers No. 146 and No. 147 of 13 March 2018.

¹¹⁹ Decision of the Council of Ministers No. 221 of 26 April 2018.

¹²⁰ Decision of the Council of Ministers No. 298 of 23 May 2018.

¹²¹ Decision of the Council of Ministers No. 299 of 23 May 2018.

¹²² Decision of the Council of Ministers No. 419 of 4 July 2018.

¹²³ Decision of the Council of Ministers no. 98 and 99 of 27 February 2019.

¹²⁴ Agencification refers to the creation of stand-alone bodies to perform specific functions under the supervision of the Government or parent ministry.

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the Government apparatus¹²⁵, also resulting in an increased financial burden, as well as steering and co-ordination problems¹²⁶. Line ministries have no incentives to select the restructuring options that generate savings or reduce overhead expenditure. There is no evidence that the changes in Table 2 resulted from in-depth analysis of all available options, including alternatives to agencification. It is also concerning that the governance regime for newly created bodies is not consistent with the general framework for state administration with regard to staff or salaries. For example, the new Health Care Service Operator is fully excluded from the civil service system without clear justification¹²⁷.

The number of executive bodies accountable to the Assembly is high. Excluding the constitutional bodies, 15 agencies report directly to the Assembly. The restructuring agenda does not address the issue. It should be noted that the vast majority of regulatory bodies, including competition authority, water, energy, telecommunications and financial services regulators, report to the legislature. This hampers the Government's ability to ensure supervision over implementation of its policies and poses concerns about effective oversight of these bodies. Accountability of regulators to the Parliament does not guarantee their independence from undue political influence. According to the EU *acquis*¹²⁸ and the practice of Member States, a sufficient degree of autonomy of these bodies should be secured via adequate arrangements for administrative decision making, budgeting, accountability and supervision.

The Law 90/2012 does not establish any requirements for planning or reporting on performance of state administration organisations. It only provides boards of directors of autonomous agencies with the power to adopt the agency's action plan, financial plan and annual report. However, the content and methodology for preparation of these documents is not determined, and there is no central guidance on planning and reporting on performance of agencies. In practice, state administration bodies prepare plans and reports on an annual basis. These vary significantly in methodological approach, scope and level of detail. While annual plans specify some objectives, they are not accompanied by clear indicators, targets or costing. For example, the 2018 Annual Plan of the Tax Administration envisages provision of quality services and reduction of administrative burden in payment of tax liabilities and social contributions, but these objectives are not translated into any indicators enabling measurement of progress in achieving them. In some cases, the formulation of objectives is also inadequate. The 2017 Annual Report of the State Social Service provides for an extensive catalogue of objectives to be realised in 2018. The objectives, such as "zero corruption" or "better budget management", lack both indicators and clarity, making it difficult to investigate their actual content. The 2019 Action Plan of the Public

¹²⁵ It should be noted that the creation of new agencies under some ministries may create significant steering problems, as the number of subordinated agencies is already high. For example, prior to the restructuring process, the MoFE managed over 20 agencies and this number increased due to the creation of the standalone Treasury and General Directorate of the Financing and Contracting of EU, World Bank and other Donors Funds.

¹²⁶ This approach is also contrary to international trends in reorganisation of state administration. Massive reorganisation programmes implemented in this decade, e.g. by the United Kingdom or Ireland, led to a significant decrease in the number of agencies by merging many of them, transferring their functions to ministries, local governments or the private sector. Department of Public Expenditure and Reform (2014), *A Report on the Implementation of the Agency Rationalization Programme*, Department of Public Expenditure and Reform, Dublin; K. Dommett, M. MacCarthaigh and N. Hardiman (2016), "Reforming the Westminster model of agency governance: Britain and Ireland after the crisis", *Governance*, 29(4), Wiley Periodicals, Inc., Hoboken, NJ, pp. 535-552.

¹²⁷ Exclusion of staff of health service providers (e.g. doctors, nurses) might be justified, as their status in many countries is regulated by special laws. However, the staff of the Health Care Operator also performs managerial functions that were previously performed by the ministry and there is no clear rationale for this staff to remain outside civil service system.

¹²⁸ For example, the Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity (the Third Energy Package) requires that the national energy market regulator is legally distinct and functionally independent from any other public or private body. In particular, the Member States need to ensure that the regulatory authority can take autonomous decisions independently from any political body and has separate annual budget allocations, with autonomy in the implementation of the allocated budget, and adequate human and financial resources to carry out its duties. The members of the agency's board should be appointed for a fixed term of five to seven years, renewable once. There is no requirement to ensure that the members of this body are appointed by the legislature, and parliaments in the vast majority of EU Member States have no such powers (based on SIGMA's review of appointment procedures for selected regulatory bodies in EU Member States).

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Health Institution mixes objectives with activities: participation in workshops and seminars is listed in parallel with the objective of preventing occupational diseases.

The annual plans of some institutions (e.g. Tax Administration, Customs Administration) require approval of the parent ministry, while other bodies (e.g. IPRO, General Directorate for Prisons) only inform ministries about planning documents. There is a tendency for ministries to micromanage agencies, demonstrated by multiple reporting obligations on technical and organisational issues (e.g. HRM) and frequent orders from parent ministries to undertake specific actions. At the same time, the ministries do not provide structured feedback on the performance of subordinated bodies. Annual reports are submitted to parent ministries, but performance review is limited to formal approval of the report.

Introduction of the new architecture of ministries in 2017 has not been accompanied by reform of their internal governance. Managerial accountability is not promoted, as various technical decisions on minor management issues require the involvement of ministers and top civil servants in the ministry. This problem is not mitigated in practice by delegation of decision-making powers. The situation has not changed since 2017. In particular, there were no initiatives to promote delegation of power from the secretary general level to lower level managers, or to relieve ministers from handling organisational matters.

Taking into consideration the shortcomings on managerial accountability and stewardship of the agencies, as well as the insufficient control over institutional development of state administration, the value for the indicator on accountability and organisation of central government is 2.

Accountability and organisation of central government					
Overall indicator value	0	1	2	3	4

Sub-indicators	Points
Policy and legal framework for central government organisation	
1. Clarity and comprehensiveness of official typology of central government bodies	4/5
2. Adequacy of the policy and regulatory framework to manage central government institutions	1/5
3. Strength of basic accountability mechanisms between ministries and subordinated bodies	3/5
4. Managerial accountability mechanisms in the regulatory framework	2/5
Central government's organisation and accountability mechanisms in practice	
5. Consistency between practice and policy in government reorganisation	2/4
6. Number of public bodies subordinated to the parliament	1/4
7. Accountability in reporting between central government bodies and parent ministry	2/4
8. Effectiveness of basic managerial accountability mechanisms for central government bodies	0/4
9. Delegation of decision-making authority within ministries	0/4
Total¹²⁹	15/40

¹²⁹ Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.

The organisational set-up of state administration is undergoing major restructuring. While the need for reorganisation is well grounded, the process lacks clear objectives, strong central steering and management, and an evidence-based vision of the ultimate organisational architecture of the Government. It also fails to address such shortcomings as the lack of results-oriented management of the agencies and managerial accountability within the ministries.

Key recommendations

Short-term (1-2 years)

- 1) The Government should evaluate progress in the reorganisation of agencies (piloting and other changes) and, based on the results, relaunch the process with more focus on its policy objectives and stronger central steering and management. In particular, the Government should develop a comprehensive concept of the organisational set-up of state administration, including a new typology of administration bodies, criteria for selecting the best organisational model for relevant Government functions, and a governance and accountability model for each type reflecting the desired degree of autonomy. These issues should be addressed through a revised or new law on the organisation of state administration, which should also clearly determine targets relating to the process' impact on the number of institutions, number of staff and financial effects. More analytical capacity to support and steer the reform should be secured at the central level.
- 2) The Government should mitigate the risk of uncontrolled proliferation of new state administration bodies by ensuring that all proposals are subject to rigorous *ex ante* analysis conducted according to uniform methodology. This should also ensure that new bodies satisfy general standards for civil service, salaries and public financial management. Within this process, the DoPA might be assigned a special gatekeeping role.
- 3) The Government should adjust internal governance procedures in the ministries to promote managerial accountability¹³⁰. In particular, the political level of management (ministers and deputy ministers) should be relieved of management issues (e.g. HRM, financial management) and top civil servants (general secretaries) should be empowered to delegate some tasks to middle-level managers.

Medium-term (3-5 years)

- 4) The Government should provide adequate guidance and encourage ministries to introduce a results-oriented accountability framework for all state administration bodies, based on annual or multi-annual plans, containing specific objectives, targets, indicators, and monitoring and performance evaluation/dialogue mechanisms.
- 5) The Government, with a major role for the DoPA, should consider developing a mechanism for regular (e.g. every five years) reviews of existing administration bodies to increase the efficiency and rationality of the organisational set-up of state administration.
- 6) The Government should review the status of the executive bodies accountable to the Assembly to ensure that they enjoy required degree of autonomy; but at the same time follow general governance rules applicable to state administration bodies (e.g. on HRM or financial management); and they are accountable for implementing the policies of the Government.

¹³⁰ K. Klaas, L. Marcinkowski and M. Lazarević (2018), "Managerial accountability in the Western Balkans: A comparative analysis of the barriers and opportunities faced by senior managers in delivering policy objectives", *SIGMA Papers*, No. 58, OECD Publishing, Paris, <https://doi.org/10.1787/88be2112-en>.



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