

Annex I

State Measures for Strengthening Business Integrity

The secretariat is seeking information from States parties to the United Nations Convention against corruption on good practices, practical examples and lessons learned from engaging the private sector and using sanctions and incentives to strengthen business integrity in the last decade. This is in line with relevant resolutions of the Conference of the States Parties to the United Nations Convention against Corruption, including, resolutions 5/6, 6/5, 9/6 and 9/8, as well as the commitments made by Member States in the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, adopted by the General Assembly at its special session against corruption held in 2021. The answers provided by States parties will be used to update the 2013 UNODC publication “A Resource Guide on State Measures for Strengthening Corporate Integrity” ([English](#) - [Spanish](#) - [Russian](#)) with contributions from relevant international organizations and to develop an e-learning tool that will further support States parties’ efforts to strengthen business integrity.

The Resource Guide provides a catalogue of measures that States parties can adopt to promote business integrity and the reporting of corruption involving the private sector. The Resource Guide features three chapters: i) The United Nations Convention against Corruption and the private sector, which describes the articles of the Convention that frame State interaction with the private sector; ii) Engaging the private sector, which outlines the business case for countering corruption with emphasis on governance and other factors that can drive business integrity; and iii) Using sanctions and incentives, which describes the range of sanctions and incentives that have been developed to prevent and address corruption involving the private sector.

The secretariat invites States parties to disseminate this questionnaire among relevant stakeholders, with a view to identifying internal measures adopted by private sector entities to prevent and counter corruption. Respondents may choose to answer the whole questionnaire or only sections that are applicable and relevant to a State party. The secretariat would especially welcome the provision of illustrative examples.

Respondents’ contact details will be kept confidential. The secretariat may contact a respondent to seek additional information. Unless a State party requests otherwise when providing the relevant information, the secretariat may make the submissions publicly available, including through the [UNODC Business Integrity Portal](#).

The Government may wish to provide relevant information by completing the [online questionnaire](#) or by submitting its answers to the questionnaire (attached) to the secretariat by email to uncac@un.org at its earliest convenience but no later than **19 May 2023**.

Questionnaire

Chapter 1 – The United Nations Convention against Corruption (UNCAC) and the private sector

Background: It is important that States' legislative and other measures contain sufficient detail to inform the private sector of their requirements and scope of application. In line with the principle of legal certainty, it is important to have clear provisions outlining prohibited conducts and consequences to the private sector.

1(a) Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote business integrity and/or reporting of corruption in the private sector in line with the United Nations Convention against Corruption.

Legal measures:

Criminal Code of Albania, in the article 45: The Application of the criminal law on legal persons/entities:

The legal entities shall, with the exception of the state institutions, be held criminally responsible for criminal offences committed on their behalf or to their benefit by their bodies or representatives.

The local government units shall be held criminally responsible only for the actions performed during the exercise of their activity that may be exercised by delegating public services.

The criminal liability of the legal entities does not exclude that of the natural persons having committed criminal offences or being accomplices in the commission for the committal of the same criminal offences.

The criminal offences and the respective punishing measures taken against the legal entities, as well as the procedures for imposing and enforcing these measures are regulated by a special law.

The law can be accessible in the link: <https://euralius.eu/index.php/en/library/albanian-legislation/category/10-criminal-code>.

The law of criminal liability of the legal persons (No. 9754/2007), rules the cases of the non-fulfilment by the legal person of the legal obligations and in the case it does not constitute a criminal act, constitutes an administrative infringement and it is punishable by a penalty.

The law can be accessible in the link: https://www.pp.gov.al/rc/doc/ligj_pergjegjesia_penale_e_personave_juridike_38.pdf.

The law on whistleblowing and whistleblowers protection (No. 60/2016), contains rules for reporting a suspected act of corruption by whistle-blowers in the public and private sector; defines mechanisms for protection of whistle-blowers Determines obligations of public authorities and private entities in relation to whistleblowing.

Concrete provisions of the Law on Whistleblowing are on :

- external reporting and follow-up meet requirements defined under the Chapter III, Articles 10-14 of Directive
- internal reporting and follow-up meets requirements set out in Articles 7 and 8 of Directive regarding the possibility to internally fill in reports
- protection of confidentiality are in line with Article 16 of Directive

- processing of personal data and record keeping are in line with Articles 17 and 18 of Directive
- sanctioning mechanisms for non-compliance with the provision of the Law transpose Article 23 of Directive

The law can be accessible in the link: <https://qbz.gov.al/eli/ligj/2016/06/02/60-2016>.

The law on Co-governance, (No. 107/2021), rules special measures in denouncing corruption to private sector (articles 25-26 and 28).

The law can be accessible in the link: <http://www.garda.gov.al/wp-content/uploads/2022/01/Ligj-nr.-107-dt.-4.11.2021.Per-bashkeqeverisjen.pdf>.

Other laws as the: “On public procurement” and “On the prevention of money laundering and financing of terrorism” do contains rules dealing to the private sector.

Strategic Measures :

The Inter-sectorial Strategy Against Corruption 2015-2023, has a specific measures referring to the whistleblowing units and competencies.

The ISAC can be accessible in the link: https://www.drejtesia.gov.al/wp-content/uploads/2021/04/7.-STRATEGJIA-ND%C3%8BRSEKTORIALE-KUND%C3%8BR-KORRUPSIONIT-2015-2020_EN.pdf

Structural (deregulation) Measures:

HIDAACI – High Inspectorate for Declaration of Assets and Controlling of Interests:

- Investigates administratively whistle-blower reports & claims for protection against retaliation
- monitors and issues guidelines for internal and external whistleblowing mechanisms
- ascertains administrative offences
- imposes sanctions
- raises public awareness
- draws up reports on and puts forward recommendations on the implementation of the Law

1(b) What challenges (if any) did you encounter in developing and/or enforcing such measures?

The laws are into force and in full compliance to the environment and competencies of the institutions to apply them.

1(c) Please describe the steps you took to overcome such challenges (if any).

N/A

Guidance on 1(a) and 1(b): Measures could, for example, include policies and/or laws and regulations designed to achieve the following:

- Prevent bribery of national public officials, bribery of foreign public officials and officials of public international organizations, and bribery in the private sector
- Promote private sector transparency
- Promote cooperation between law enforcement agencies and private entities
- Promote cooperation between national authorities and private entities
- Prevent trading in influence
- Prevent conflicts of interest
- Prevent embezzlement of property in the private sector
- Promote the development of standards and procedures to safeguard the integrity of companies
- Ensure that companies have sufficient internal auditing and controls to assist in preventing and detecting acts of corruption
- Introduce or strengthen the liability of legal persons
- Promote public-private communication, cooperation and partnership (e.g., with business associations, networks, individual companies, small and medium-sized enterprises)

Chapter 2: Engaging the private sector

Background: Anti-corruption programmes, commonly referred to as compliance programmes, are a primary tool used by companies to advance ethical business practices. They provide a framework for articulating the values, policies and procedures used by a company to educate its employees and to prevent, detect and counter corruption in its business operations.

2(a) Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote integrity through anti-corruption programmes in the private sector.

- A national raise-awareness campaign where stakeholders join with their initiatives to promote ethical behaviour, good governance, accountability, transparency and any effort in the fight against corruption. This campaign is initiated by private sector organization, ICC Albania, and public sector institutions such as Ministry of Justice is an active player. The initiative of the “Week of integrity” started since the 2020 and is an annual regular national awareness campaign against corruption in Albania based on the cooperation with the business.
- Albania Investment Council: Investment Council is a platform set up by the Albanian authorities with support from the EBRD to intensify the dialogue between the government and the private sector, improve the business climate and promote good governance. The work of the Council is supported by a Secretariat, an independent body of professionals selected and contracted by the EBRD to directly engage with the business community. The initial funding for the Secretariat was provided by Italy (period 2015-2018), while current funding (2019-2021) is being provided by the Swiss State Secretariat for Economic Affairs (SECO).
- Public transparency including private sector: <https://financa.gov.al/programi-i-transparences-4/> . Also, the Ministry of Justice of Albania produces monthly e-bulletins on anticorruption and delivers to a network of stakeholders, part of which are business unit and organisations. Ministry of Justice invites regularly businesses in the meeting of the Anticorruption Committee to discuss the policy documents, law proposals, programs initiatives.

- There are forums on integrity with business discussing problematics on anticorruption and finding the way to facilitate denouncing of corruption in public sector.
- The 2021 national conference: Anticorruption held in June 13-15th, 2021. A special panel was composed by businesses and focused on the technical and problems of businesses in Albania. Additional information can be accessible in the link: <https://kryeministria.al/newsroom/konferenca-e-pare-kombetare-antikorrupsion-nje-bilanc-arritjesh-e-sfidash-ne-betejen-e-perditshme-kunder-korrupsionit/>.
- Establishing of channels of communication to the business via media and publications. Ministry of Justice of Albania uses the TV broadcasters (as Scan TV in Albania) to approach to the business stakeholders. Publication titles: guide to denounce corruption is delivered and can be easily accessible at the link: https://drejtesia.gov.al/wp-content/uploads/2022/02/Guida_Antikorrupsioni_-EN.pdf.

2(b) Please describe (cite or summarize) good practices and/or examples of measures you have used to encourage transparency, public reporting and/or public participation through your anti-corruption programmes (both for the public and private sectors).

- There are consultation meetings of the strategic programs (action plans) and initiatives against corruption, by making together public and private sectors. Please check monitoring report of the Ministry of Justice/National Coordinator Against Corruption referring to Approach C, at the link: <https://www.drejtesia.gov.al/raporte-monitorimi/>.
- Publication deliverables.

2(c) What was the impact of the measures described above (2a and 2b)?

The business entities are closer to the cooperation with the public administration and to be involved in the compliance of the new strategy against corruption 2023-2030. There is a new strategic objective foreseen: *integrity in the private sector*.

2(d) What challenges (if any) did you encounter in implementing the measures above (2a and 2b)?

Making the business units and entities (Chamber of Commerce's and Associations) regular counterparts

Guidance on 2(a) and 2(b): Measures and good practices could, for example, include those designed to:

- Raise awareness of business integrity
- Encourage the private sector to establish anti-corruption policies, procedures and/or programmes
- Promote training and education on anti-corruption in the private sector
- Provide trainings or guidance, or develop model anti-corruption programmes or policies for companies to use and adapt
- Provide appropriate reporting channels
- Encourage public reporting of efforts to prevent and counter corruption in the private sector

Chapter 3: Using sanctions and incentives

Background: While effective sanctions for corruption offences are required under the United Nations Convention against Corruption, the Convention also recognizes the essential role of incentives that encourage and reward corporate self-reporting and preventive efforts.

Part A - Sanctions

3(a) Please describe (cite or summarize) good practices and/or examples of sanctions used to strengthen business integrity and/or reduce corruption in the private sector in your country.

We mention sanctions foreseen in the Criminal Code (I) responsibilities in the laws liability of the legal persons (II) sanction in the law on public procurement (III) and law on public procurement (IV).

Article 45 of the Criminal Code stipulates that:

Legal entities, with the exception of state institutions, are criminally liable for criminal offenses committed in their name or for their benefit by their bodies and representatives.

Local government units are criminally liable only for actions taken during the exercise of their activity, which can be exercised through the delegation of public services.

Criminal liability of legal persons does not exclude that of natural persons who have committed or are accomplices in the commission of the same criminal offenses.

The criminal offenses and the relevant punitive measures, which are applied to legal entities, as well as the procedure for their establishment and execution are regulated by a special law.

Law No.9754, dated 14.6.2007 "On criminal liability of legal persons" stipulates that:

Article 11: Fine

A fine, consists in the payment, in favor of the state, of a sum of money, within the limits provided in this law.

The payment of the fine is made from the assets of the convicted legal entity, according to the manner and deadlines set by the court.

In case of impossibility or obstacle in the repayment of the fine, the court, at the request of the prosecutor, decides on the obligatory execution of the sentencing decision. If the legal entity does not have the funds and assets to pay the fine, the court may replace it with the main penalty, the termination of the legal entity.

Depending on the type of criminal offense, fines are applied, as follows:

- a) for crimes that, according to the Criminal Code, provide for a sentence, minimum, not less than fifteen years of imprisonment or life imprisonment, the legal person is punished with a fine from 25 million to 50 million ALL;
- b) for crimes that, according to the Criminal Code, provide for a punishment, minimum, not less than seven years to fifteen years of imprisonment, the legal person is punished with a fine from 5 million to 25 million ALL;
- c) for crimes that, according to the Criminal Code, provide a sentence, maximum, less than seven years, the legal entity is punished with a fine from 500 thousand to 5 million.

In case of liability of the legal entity for committing a criminal offense, the legal entity is punished with a fine from 300 thousand ALL to 1 million ALL.

Law On public procurement, stipulates that:

Article 45:

The contracting authority disqualifies from a procurement procedure any candidate or bidder, when there is information that they are or have been convicted by a final court decision, for any of the following works:

- a) participation in a criminal organization;
- b) corruption;
- c) fraud;
- ç) money laundering

3(b) What were the main challenges (if any) your country faced in enforcing these sanctions?

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3(c) What steps did you take to overcome those challenges (if any)?

Guidance on 3(a): Sanctions could, for example, include any of the following:

- Monetary sanctions for legal persons (companies) liable for the participation in an offence of corruption
- Incarceration or other criminal sanction of natural persons (individuals) who have committed an offence of corruption acting on behalf of a company
- Confiscation of proceeds of corruption for both companies and individuals who acted on their behalf
- Contract remedies and other means to communicate and enforce anti-corruption contractual provisions
- Suspension and/or debarment of contractual partners from government processes
- Denial of government benefits (fiscal or otherwise)
- Liability for damages and compensation of victims of corruption
- Reputational damages to hold wrongdoers publicly accountable
- Any other type of sanctions not listed above

Part B - Incentives

3(d) Please describe (cite or summarize) good practices and/or examples of incentives used to strengthen business integrity and/or reduce corruption in the private sector in your country.

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3(e) What is the main impact of such incentives?

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Guidance on 3(d): Incentives could, for example, include any of the following:

- Penalty mitigation – encourages self-reporting of offences, credits companies' preventive efforts
- Procurement preference – rewards good practice through procurement preference
- Preferential access to benefits – rewards good practice with preferential access to government benefits and/or services
- Reputational benefits – encourages good practice through public recognition
- Whistle-blower protection and awards – encourages reporting of potential violations by individuals
- Any other types of incentives not listed above

Part C - Additional measures

3(f) Please describe (cite or summarize) good practices and/or examples of any other additional measures used to strengthen business integrity and/or reduce corruption in the private sector in your country.

Not applicable for the time, but planned in the Strategy on Anticorruption and Action Plan.

Guidance on 3(f): Additional measures could, for example, include any of the following:

- Integrity pacts – written agreements between government agencies and companies to strengthen integrity in public procurement, usually overseen by an independent monitor
- Collective action – collaborative initiatives that bring companies and other relevant stakeholders together to prevent and counter corruption and raise standards of business integrity
- Public sector reform – civil service and/or regulatory reforms that reduce the opportunities for corruption
- Public education – activities that raise public awareness of corruption and its harmful effects

Additional information

Is there any other information that you wish to share which has not been addressed by the previous questions?