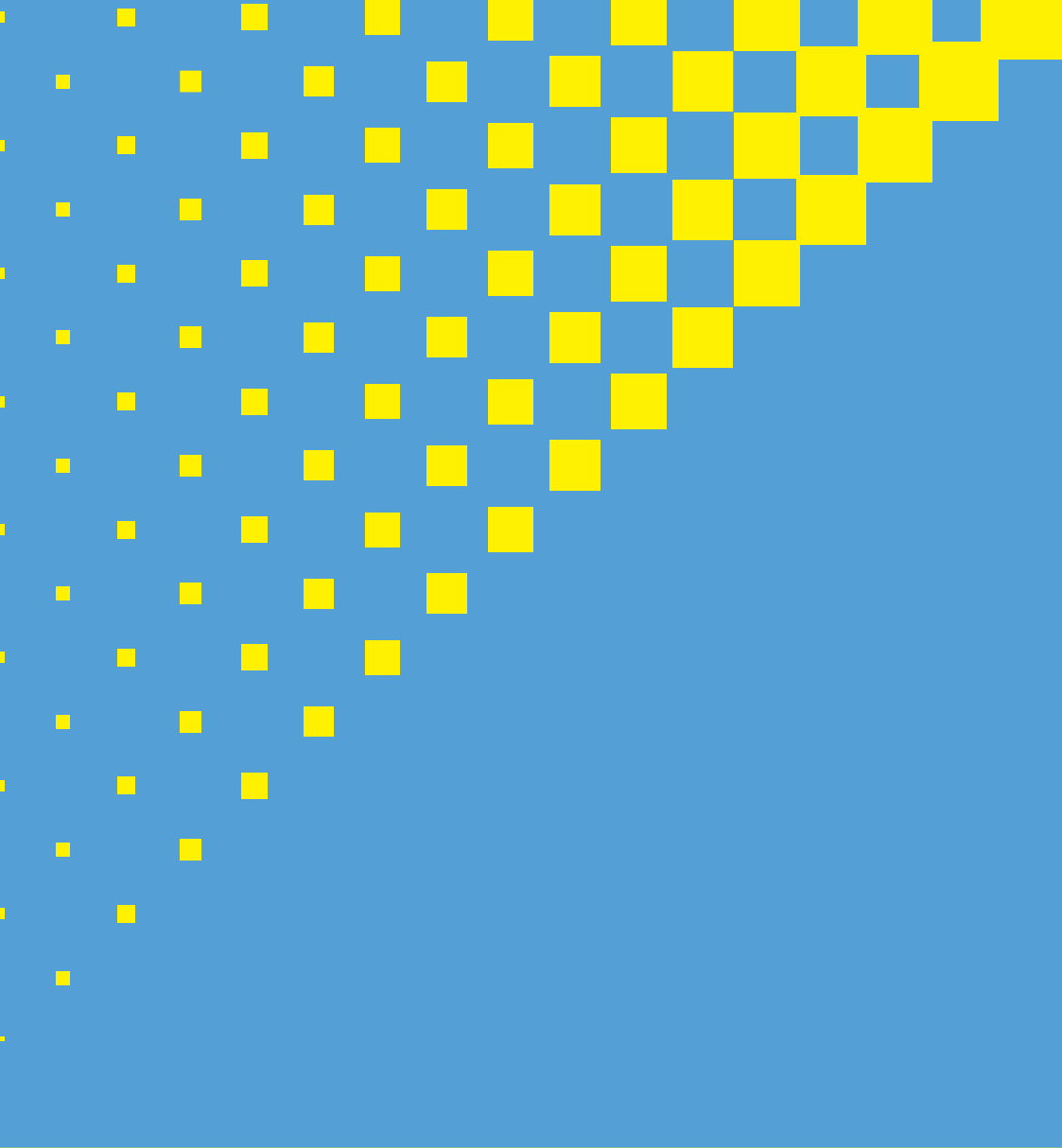




Funded by the
European Union

MINISTRY OF JUSTICE

National Coordinator Against
Corruption



"This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of Cowater International and do not necessarily reflect the views of the European Union"







MINISTRY OF JUSTICE

National Coordinator Against Corruption

As of 2017, the Ministry of Justice has assumed the capacity of the National Coordinator against Corruption (NCAC). In this role, the Ministry of Justice coordinates all strategic and policy efforts based on a three-old approach: Prevention, Repression, Awareness-raising. NCAC administers inspections and controls to corruption-prone sectors, and oversees the investigative work of the Anticorruption Network Coordinators that are based in 44 central institutions and at regional level for the local offices of 4 of them.

Another competence of the NCAC is to raise awareness on corruption and informing and educating the citizens in Albania on what they can do to prevent and fight corruption. Within this competence, this guiding publication provides some essential information on corruption and on how to report corruption.



This information will help you to answer the following questions?

- What does the term “corruption” mean?
- What is the difference between “dishonest” and “illegal” with regard to corruption?
- In what way does corruption act against the public interest?
- Which are the major spheres where acts of corruption are encountered?
- Which are the spheres where corruption causes more harm and which of them are most widely spread?
- Where and how can I denounce corruption?
- Which corruption denunciation channel is better for which sphere of corruption?



WHAT DO WE UNDERSTAND UNDER "CORRUPTION" AND WHERE WE FIND IT?

Corruption has long been recognised as one of the main obstacles to development. It corrodes the rule of law and democratic institutions. It hinders economic development by distorting markets and damaging the integrity of the private sector. It can destroy people's trust in the country's political leadership and, eventually, in the fundamental principles of democratic governance.

Defining corruption - in search of a definition

Definitions of corruption vary across the literature.

- **Etymology** – from the Latin word corruption - putrefaction, obsolescence, immorality or falsity, venality.
- **Common definition:** "the use of public office for private gain." This definition encompasses a wide range of behaviours that include embezzlement, self-dealing, and selective law enforcement. –However, it exclusively focuses on behaviour of government officials, omitting corruption in the private sector.
- **Definition encountered in International Law:** The Council of Europe, Civil Law Convention on Corruption definition- "requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof."

- ***The performance of corruption entails the availability of the following elements:***

- a. an official (or group of officials) in the public sector (administrative officials, politicians, magistrates, employees in the budgetary sphere of service provision, etc.);
- b. discretionary power (the opportunity to take autonomous decisions at one's own discretion);
- c. abuse of public power on the part of official;
- d. acquisition of personal or group benefits (financial, material, a favour) on the part of the official/officials.

The different combination of the abovementioned elements leads to different types, forms, spheres, scale and mechanisms of performance of corruption.



Types and forms of corruption

The classifications below show that corruption offences occur when there is a striving for obtaining certain benefits or for avoiding certain expenses/sanctions.

There are at least two parties in an act of corruption, and they are the 'giver' and the 'taker'. In other words, the one who is bribing another (active corruption), and the one who is receiving the bribe or who is benefiting from the bribe (passive corruption). Both commit a crime. Both have to face imprisonment.

It does not matter whether a manager in the private sector, a person exercising public functions, a senior state official, an elected official or a member of a foreign institution receives a benefit for themselves or a third person. What matters is that they still face punishment.

Institutional corruption – activities that discredit the relevant public institution as a whole.

Individual corruption – activities undertaken by a certain deviant person.

Grand corruption – unfair activities performed by high-rank officials being in a position to take decisions and allocate significant resources. Very often "large-scale" corruption is associated with corruption in the high ranks of power. In this case, heads of state, senior administrators and politicians use their position to make large personal, political or corporate benefits. This type of corruption entails the operation of more complex and fine mechanisms where mediators play a key role. Since here the abuses and the benefits

gained, as well as the social and economic effects are of a much greater scale, there is no clear boundary between its active and passive form. The process is running at a minimum transparency following the direction of the contracted mutual benefits.

Petty corruption – unfair activities performed by administrators of lower rank being in direct contact with citizens, clients and enterprises. In this case, the benefits (payments, presents, favours) are less but large in scale and received daily. The corruption can be fulfilled in several ways.

- The official plays the active part by directly stating the “price” for the required activity or favour;
- The official does not state directly that he/she requires a bribe but puts formal and non-formal barriers, “implies” that the problem could be possibly solved at which the other side is forced to suggest some “corruptive alternative”;
- The person willing to obtain a kind of favour undertakes active measures by directly suggesting a corruptive “reward” of some kind to the corresponding official.

Compliant with the law – a public official whose duty is to perform certain activity or to provide administrative services, illegally gains personal benefit. The person offering the bribe often views it as a “lubricant” that ensures a better /faster/ solving of the problem.

Non-compliant with the law – the public official performs activities providing benefits to the person offering the bribe to which he is not legally entitled.

Nepotism – the showing of favoritism toward relatives and friends, based upon that relationship, rather than on an objective evaluation of ability, meritocracy or suitability. For instance, offering employment to a relative, despite the fact that there are others who are better qualified and willing to perform the job, would be considered nepotism.

Spheres of corruption

Corruption can be encountered practically in all spheres of public life. It is a complex phenomenon depending on the specifics of the socio-cultural history of given society, its political and economic development, bureaucratic traditions and governing practices.

Corruptive behaviour has its own specifics depending on the specific sphere where it occurs. In accordance with this, we can differentiate between several basic spheres where occurrence of corruption is most frequently observed:

- Corruption in the sphere of public administration (government, public institutions, local authorities, etc.).
- Political corruption (Parliament, political parties).
- Corruption in the judicial system (courts, prosecutor's office, investigating authorities, police office).
- Corruption in the sphere of social services (healthcare, education, social welfare service, etc.).
- Corruption in the private sector (cross-national companies, local business organisations, media, etc.)
- Corruption in the tertiary sector (civil society associations, non-governmental organisations, etc.).

Corruption is basically characteristic of the public sector. The institutions and structures that fulfil the major functions of the state are basically affected by corruption. The major reason for the occurrence of corruptive activities in the public sphere is the clash between personal and public interests of the empowered officials. Due to the power conferred on them and the opportunity to use it they can operate mechanisms leading to illegal use of rights and power to gain personal or group benefits. In cases when the legal mechanisms in the public sector are not effective, corruption is the preferred and sometimes the only alternative for citizens. Each successful act of corruption strengthens and nourishes the belief that this is the “normal” way to achieve your personal goals.

Amongst the most frequent areas of acts of corruption in public sector are mentioned: health sector, education sector, property issues, customs and taxes. The economic sphere identified by representatives of the business are privatization, public procurement, the issuance of licenses and permits for business activity, the collection of taxes, customs duties and fees, nepotism (appointment of relatives and friends at managing positions). Other spheres where corruption is well spread are the judicial power and legal institutions, corruption in legislation (State Capture), the financing of political parties.

Criminalized forms of corruption in the Albanian Legislation

The Criminal Code of the Republic of Albania provides for punishable forms of corruption which differentiate between active corruption and passive corruption as forms of corruption, specifying between the actions of each party:

Active corruption – the promising, offering or giving, directly or indirectly of any undue advantage to a public official for himself or for anyone else to act or refrain from acting in breach of his duties.

Passive corruption – the request or receipt, directly or indirectly, by any public official of any undue advantage for himself or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in breach of their duties.

The Criminal Code provides the sphere, corruption differentiation, the specific categories of persons accused of committing such criminal acts, and the respective sanctions.





CORRU



RUPTION

ACTIVE CORRUPTION

IF A PERSON...

...BRIBES SOMEONE

...promises something to...

...a person (for his/her own benefit or the benefit of a third person

...in order to act or not contrary to his/her own duty...

...offers something or gives something to...

...a judge, prosecutor or any other employee of judicial institutions (for his/her own benefits or the benefit of a third party

...performing or not an action related with his/her own duty

...proposes something to...

...proposes, offers or gives something to...

...a witness, an expert, an interpreter (for his/her own benefits or the benefit of a third party...)

...in order to secure false statements or testimony, expertise or translation/interpretation duties, or leading in avoidance of obligation of someone to the organs of prosecution, or court...

...promises, proposes or offers any irregular profit to...

...HE/SHE WILL BE PUNISHED WITH IMPRISONMENT	...DEPENDING ON THE SECTOR	...ACCORDING TO CRIMINAL CODE ART. #
...three months to three years	Private sector	Article 164/a
... six months to three years	Public sector	Article 244
... six months and up to three years	Foreign public institutions	Article 244/a
... one to five years	High-level state officials & elected local representatives	Article 245
... one to four years	Judiciary system	Article 319
...up to four years	prosecuting authorities and judge	Article 312

PASSIVE CORRUPTION

WHEN A PERSON IS...

...ASKS FOR OR ACCEPTS A BRIBE/ BENEFITS FROM A BRIBE

Managers or employees in the private sector

...to act or not contrary to his/her own duties ...

Public Official

Asks, receives undue benefits, or any such promises

High- ranking state official & elected locally elected representative

...accepts an offer or promise deriving from an undue benefit...

... to take or not a certain action related to his/her job position...

Judges, Prosecutors and other officials of the judiciary

...HE/SHE WILL BE PUNISHED WITH IMPRISONMENT	...DEPENDING ON THE SECTOR	...ACCORDING TO CRIMINAL CODE ART. #
... from six months to five years	Private sector	Article 164/b
...two to eight years	Public sector	Article 259
...two to eight years	International organisation	Article 259/a
...four to twelve years	High-level state officials & elected local representatives	Article 260
...three to ten years	Judiciary system	Article 319/ ç

WHAT CAN YOU DO TO FIGHT CORRUPTION?

Fighting corruption is one of the biggest challenges for any country governed by the rule of law and democratic principles, including high integrity standards and good governance.

The fight against corruption needs the support of every single citizen, and that means you too.

This publication provides guidance on how to report corruption. If you have observed or suspect an act of corruption, examine the box below. The box helps you pinpoint the act of corruption you have witnessed and tells you how to address it accordingly. Here's a guide on how to read this table: on the left-hand side you must choose the place in which the corruption took place (e.g. was it at work, at customs checks or elsewhere). The next column indicates the responsible institution, i.e. the body you can get to in order to report the case. The third column provides the contact details that will be needed in order to report the case to the authorities.

HOW TO DENOUNCE CORRUPTION?

CORRUPTION SPHERE	GENERAL INFORMATION ON INSTITUTIONS THAT PROCESS AND HANDLE DENUNCIATIONS	DENOUNCE VIA :
<p>Any public authority position...</p>	<p>Contact the responsible unit of your institution</p> <p>If your institution has no anti-corruption unit, contact the Ministry of Justice http://www.drejtesia.gov.al</p>	<p>Ministria e Drejtësisë, Blvd. Zog I, Tiranë email: koordinatori.ak@drejtesia.gov.al</p>
<p>If you suspect or are aware of a particular corruptive practice, you also may refer the case to:</p>	<p>The General Directorate of Anti-corruption</p>	<p>Ministria e Drejtësisë, Blvd. Zog I, Tiranë email: koordinatori.ak@drejtesia.gov.al</p>
<p>The Network of Anti-Corruption Coordinators have been expanded to 44 institutions.</p> <p>In the central level, these institutions are:</p> <ul style="list-style-type: none"> - Agency for the Administration of Seized and Confiscated Assets; - Concentrated Purchasing Agency; - National Agency for Drugs and Medical Devices; - National Coastal Agency; - The National Agency of Natural Resources; - National Environment Agency; - National Agency of Protected Areas; - Agency for Quality Assurance in Higher Education; 	<p>The Network of Anti-Corruption Coordinators</p>	<p>Ministria e Drejtësisë, Blvd. Zog I, Tiranë e-mail: koordinatori.ak@drejtesia.gov.al</p>

CORRUPTION SPHERE

GENERAL INFORMATION ON INSTITUTIONS THAT PROCESS AND HANDLE DENUNCIATIONS

DENOUNCE VIA :

- Agency for Agricultural and Rural Development;
- State Cadastral Agency;
 - AlbControl sh.a. ;
 - Albpetrol sh.a. ;
- Civil Aviation Authority;
- National Food Authority;
- Durrës Port Authority;
- Albanian road authority;
- General Directorate of Taxation;
- General Directorate of Customs;
- General Directorate of Pre-University Education;
- General Directorate of Civil Status;
- General Directorate of Road Transport Services;
- Compulsory Health Insurance Fund;
- Social Security Institute;
- Public Health Institution;
- National Inspectorate for Territory Protection;
- State Inspectorate of Labor and Social Services;
 - State Health Inspectorate;
 - State Technical and Industrial Inspectorate;
 - Energy Distribution System Operator;
 - Transmission System Operator;
 - Health Care Services Operator;
 - Saranda Seaport sh.a.;
 - Shengjin Seaport sh.a.;
 - Vlora Seaport sh.a.;
 - Albanian Post;
- University Hospital Center "Mother Teresa";
 - Queen Geraldine Obstetric and Gynecological Hospital;
 - University Trauma Hospital;
- University Obstetric Gynecological Hospital "Koço Gliozheni";

CORRUPTION SPHERE	GENERAL INFORMATION ON INSTITUTIONS THAT PROCESS AND HANDLE DENUNCIATIONS	DENOUNCE VIA :
<ul style="list-style-type: none"> - University Hospital "Shefqet Ndroqi"; - Psychiatric Hospital "Ali Mihali", Vlova; - Psychiatric Hospital "Sadik Dinci", Elbasan; - State Social Service; - Albanian Electric Power Corporation sh.a. <p>In the regional level:</p> <ul style="list-style-type: none"> a) in any local directorate of the State Cadastre Agency; b) regional directorates of the Health Care Services Operator; c) regional directorates of Pre-University Education; ç) regional hospitals. 		
<p>If you suspect or are aware of a particular corruptive practice by the public administration or public officials</p>	<p>The Co-Governance Platform</p>	<p>E-mail: https://shqiperiaqeduam.al</p>
<p>Anyone who suspects or is aware of a corruptive practice, may refer the case to:</p>	<p>Special Anti-Corruption and Organised Crime Structure (SPAK)</p> <ul style="list-style-type: none"> a) Special Prosecution Office (SPO) b) National Bureau of Investigation (NBI) 	<ul style="list-style-type: none"> a) https://spak.al/home/ Choose: Raporto Raste Korrupsioni window b) www.bkh.al Choose: Raporto Raste Korrupsioni window

WHISTLEBLOWING AND WHISTLE-BLOWER PROTECTION

The law 60/2016 "On whistle-blowers and whistle-blower's protection" states that "any person who becomes aware of dubious corruption conduct or practices in the course of employment or in connection with his activity during employment with the organisation shall be entitled to whistle-blow on this fact with the responsible unit within his/her organisation or with HIDAACI as an external mechanism, as convenient." Whistleblowing is made by any means of communication, in writing or verbally to HIDAACI or the responsible unit and shall be documented in writing by them.



Whistle-blowers are protected in three ways:

- the right of confidentiality
- maintaining the confidentiality of the whistle-blower's source of information
- protection against retaliation.

Whistle-blowers who disclose any alleged act or practice of corruption in accordance with the provisions herein, are **protected against any act of retaliation** taken against them by the organization, including, but not limited to:

- dismissal from duty;
- suspension from duty or suspension from one or more specific tasks;
- transferring within or outside the organization;
- demotion;
- reduction of salary and/or financial remuneration;
- loss of status and privileges;
- non upgrading;
- deprivation from the right to participate in trainings;
- negative work evaluation;
- other forms of retaliation related to their duty.

If you are aware of a corruption case, feel free to signal/contact HIDAACI

<http://www.ildkpci.al>

Toll-free green number:

08009999

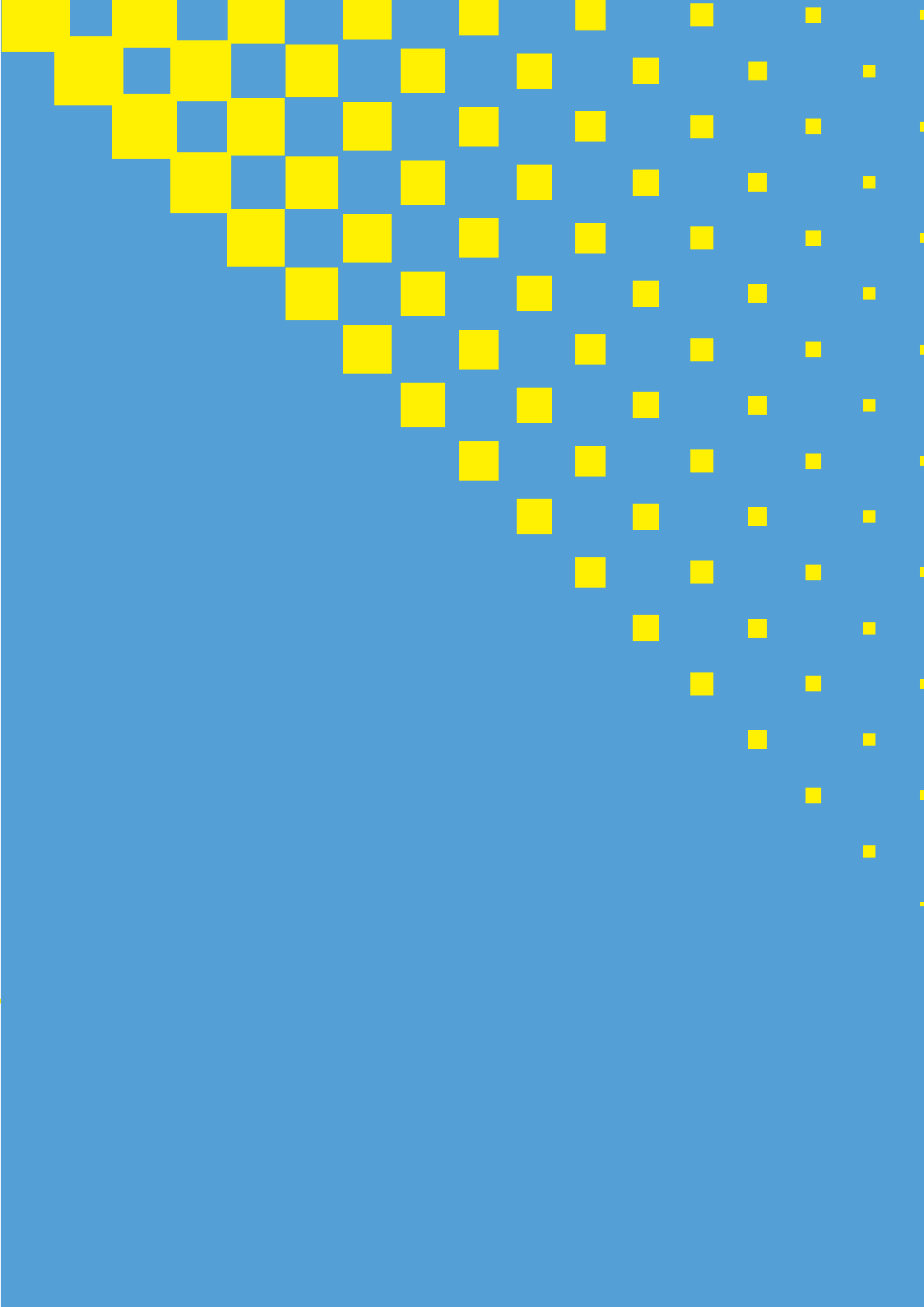
email: unedenoncoj@hidaa.gov.al

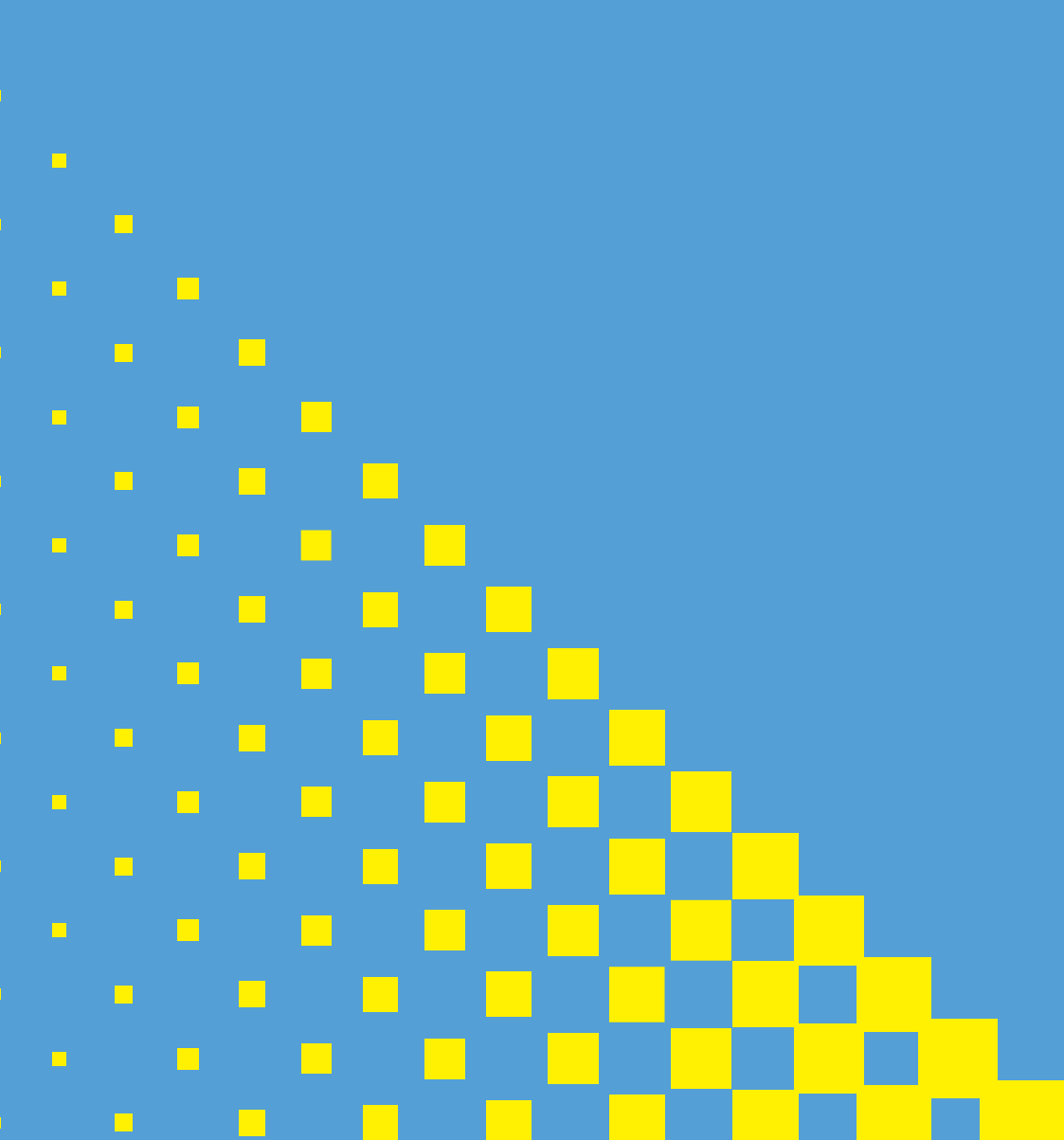


FIGHTING CORRUPTION PREVENTION – PUNISHMENT – AWARENESS

MINISTRY OF JUSTICE
NATIONAL COORDINATOR AGAINST CORRUPTION

Find more information on:
www.drejtesia.gov.al
<https://shqiperiaqeduam.al>





www.drejtesia.gov.al

