



Republika e Kosovës
Republika Kosova-Republic of Kosovo
Qeveria - Vlada - Government

Ministria e Drejtësisë - Ministarstvo Pravde - Ministry of Justice

**GUIDELINE ON THE SUPERVISION OF PRIVATE
ENFORCEMENT AGENTS¹**

¹ The Guideline is approved by the Decision No.53/2017 of the Minister of Justice dated 29.03.2017.



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Ministry of Justice, pursuant to Articles 4, 21 and 22 of the Law No.03/L-189 for the State Administration of the Republic of Kosovo, pursuant to Article 8 (paragraph 1.4) of the Regulation No.02/2011 for the fields of the administrative responsibility of the Office of the Prime Minister and Ministries and pursuant to Article 7 of the Administrative Instruction MoJ-No.05/2015 on Methods of Inspection and Control of the private enforcement agents, the Ministry of Justice, adopts this:

DECISION

1. Hereby the Guideline for the Supervision of the Private Enforcement Agents is approved and it is attached to this Decision.
2. Decision enters into force upon the day of signature.

Dhurata HOXHA

Minister of Justice

Sent to:

- Secretary General
- Department of Free Professions
- Inspection Committee
- Archive of the Ministry of Justice.

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1. Purpose of the Guideline

The purpose of this Guideline is to provide a framework for organizing and implementing a system of supervision over private enforcement agents in Kosovo.

This Guideline will serve as a practical tool for the supervision of the work of the private enforcement agents. *First Section* is about the basic principles of the supervision of the work of the private enforcement agents. This section provides the foundations through the discussion of the purposes and the functions of the proper supervision system for the private enforcement agents.

Second Section introduces the private enforcement agent supervision institutions in Kosovo and examines the legal basis for supervision.

Third Section establishes the logic of the supervision function and explains how information about private enforcement agent performance is gathered and analyzed, including the analysis of the information off site of the private enforcement, including the onsite inspection of the private enforcement agents

Fourth Section sets out in detail the implementation steps and processes that should be followed for effective private enforcement agent supervision in Kosovo.

It is important to understand that effective supervision involves broad access to performance information, a standardized approach in collecting and analyzing that information, and professional experience of the supervisor in order to draw conclusions and recommendations.

2. Basic Principles of Supervision

The scope of supervision should cover not only the *legality* of PEA actions but should also support *effective and ethical performance* by PEAs. A supervisory system is intended to ensure that the behavior of private enforcement agents aligns with their legal and professional responsibilities, so that private enforcement agents become aware that misconduct can be discovered and sanctioned.

Such a system should follow several basic principles:

- **Voluntary compliance.** The goal of a modern and effective supervision system is to facilitate an environment of voluntary compliance with legal and ethical standards. Modern supervision systems cannot catch and sanction – such a system would both require an enormous budget to support a large force of inspectors and create a restrictive environment that stifles, rather than promotes, effective enforcement. A risk-based approach instead focuses on “smart” inspections, relying on risk factors appearing from the data. The existence of

more risk factors, and more substantial risk factors, for a private enforcement agent suggests a higher likelihood of misconduct, and therefore results in greater scrutiny of that private enforcement agent. Information about these risk factors is collected from multiple sources, including regular and detailed private enforcement agent reports, that together create an indelible inspection trail. Using effective reporting requirements that evolve with experience, supervisors are able to concentrate resources where greater attention is required, and initiate a special issue-based inspection where the record justifies it. The essence of the system is deterrence, combining a reasonable risk of discovery with meaningful sanctions.

- **Dual supervision bodies.** Dual supervision bodies provide more effective scrutiny of the profession. A key method to enhance the effectiveness of supervision over the profession of private enforcement is to provide multiple institutions with supervision powers over the profession. Legal mandates may differ between institutions as well; thus, each institution may have some investigative powers or resources that the other lacks, and will develop specialized skills in processing and analyzing information that the other does not examine. The Chamber of the Private Enforcement Agents (hereinafter: the Chamber) in its role as a supervisory body may be tempted to emphasize the protection of private enforcement agents, rather than protecting the rights of third parties or society as a whole. Ministry of Justice (hereinafter: the Ministry) may assess the the public protection more than the promotion of the efficiency and effectiveness of the profession. These two independent supervising bodies help in achieving a balance, relying in their natural interest.
- **Fair process.** Effective private enforcement supervising systems allocate roles and responsibilities appropriately to create a fair and unbiased process in supervision and decision-making. The roles of collecting and analyzing information (whether offsite reports, inspections, complaints, or other sources of information) should be separated from both the decision-making and adjudication functions. The separation of roles helps assure fairness and objectivity in the process, and reduces the risk of prosecutorial “tunnel vision” or unduly harsh penalty for trivial violations.
- **Constant evolution.** Modern supervision systems are designed to evolve with the profession, gaining from experience and improvements in technology and benefitting from lessons learned. Risk factors and inspection processes should be examined each year in light of performance in the profession and newly identified problems and opportunities. Ongoing professional training should be offered to both the supervisors and the professionals in the system. Therefore, those vested with supervision powers should review and revise the processes they employ to improve performance.

3. Supervising Institutions to the work of private enforcement agents in Kosovo

Based on Law on Enforcement Procedure¹, the institutions for supervising PEA, are as following:

- the Ministry of Justice; and
- the Chamber of Private Enforcement Agents

3.1. Supervision by the Ministry of Justice

The Ministry holds the power to organize a general program of supervision that would reach all private enforcement agents with a general examination of the legality of their behavior, at a schedule determined by the Ministry. The Ministry is also granted legal power to gather a wide array of information about the agent's business, with no restrictions as to time or frequency.²

In undertaking the program, the Ministry would follow best practices for the supervision of the private enforcement agents.

3.2. Supervision by the Chamber of Private Enforcement Agents

The Chamber's powers³ to take action against a private enforcement agent include actions that exactly parallel the Ministry's powers, including the actions from:

- the power of the Chamber President to propose the initiation of disciplinary proceedings before the Disciplinary Committee⁴;
- the Chamber's authority under Art. 363(4) of the LEP to order the private enforcement agent to "eliminate all the deficiencies in his/her work";
- the power to bring a complaint against the private enforcement agent before the Ethics Committee of the Chamber; and
- the power of the Ethics Committee is to bring actions before the Disciplinary Committee, which is independent of the Chamber⁵.

¹Law No.04/L-139 on the Enforcement Procedure (published in the Official Journal of the Republic of Kosovo, No.3/31 January 2013)

²Ibid, Article 359 (2)

³Ibid, Article 363 (4)

⁴Ibid, Article 366

⁵Interim Code MD-07/2014 of Ethics of Private Enforcement Agents

Organization of the supervision of the private enforcement agents is presented in Annex No.1, which as an integral part of this Guideline.

4. Information Sources and the Logic of Supervision

Effective supervision of private enforcement agents involves two core functions.

The first is **supervision** - the collection and analysis of information that may reveal misconduct by private enforcement agents. The monitoring function includes processes for periodic private enforcement agent reporting of performance information, collection of information from other sources, including party complaints, and analysis of that information based on risk factors to determine target areas for inquiry by supervisors, and inspection of the agent's business.

The second core function is **control** or correction of misconduct, including the disciplinary system. Once potential areas of misconduct have been identified, the information suggesting misconduct should be examined by authorized officers of the Ministry, respectively from the Chamber.

4.1. Actions in the supervision in investigation process

A central task of the two supervisory institutions– the Ministry of Justice and the Chamber of Private Enforcement Agents – is to collect information to ensure against violations of law, ethics, or good professional practice by private enforcement agents and their staffs. In order to do this, both institutions must have the power to engage in the collection and evaluation of information relevant to such concerns.

The critical sources of information in nearly all monitoring systems for private enforcement agents are:

1. **Periodic reports** that the private enforcement agents are obligated to provide to both the Chamber and to the Ministry;
2. **Inspections** of the private enforcement agent by both the Chamber and the Ministry, including both **regular inspections** that function as a general system of identifying problems performed regularly for all private enforcement agents, and **special inspections** performed when potential disciplinary issues or other issues have been identified in the practice of a specific private enforcement agent and further information is collected to verify the presence and nature of the concern;
3. Information that comes to the supervisory institutions as a result of **complaints** by parties or participants in an enforcement proceeding, or by the courts; and

4. Other sources, including such possible sources as news reports, polling or survey data collected by the institution, focus group discussions among appropriate parties, and so on. This category also includes information resulting from possible criminal and civil litigation.

The findings produced by review and analysis of private enforcement agent reports or inspections thus may or may not be of value in deciding whether further inquiry is warranted. Some information may give rise to concerns about the profession as a whole, rather than about the behavior of a specific private enforcement agent; other kinds of information may suggest that the private enforcement agent might have committed a disciplinary violation. The supervisory institution must decide whether further investigation is warranted.

Some specific pieces of information will constitute red flags, and some will not rise to that level. A growing pattern of indicators of a particular kind of misconduct, possibly collected from a variety of sources or mechanisms, will support progressively stronger conclusions about whether that misconduct is present.

4.2. Sources of information in the supervision process

4.2.1. Periodic Reports of PEA—Supervision off site of the PEA

Supervising institutions require private enforcement agents to fill out detailed *questionnaires* about their caseloads, businesses and the fees. These reports constitute a critical first step in the supervisory process. The reports should provide detailed information about the nature of the case, whereas the questionnaires are analyzed in detail. The results of this process are a central component of the inspections and are a key part of the supervisory process. Both the accuracy of the report information and the analytical questions raised by the information in the questionnaire responses, are explored in detail in the follow-on inspections.

The statistical reports related to the private enforcement agent's enforcement practice over some preceding time period are acquired from the agent before the regular inspections. The private enforcement agent generates the requested data from the record-keeping software that is used in the enforcement practice. This information includes:

- a) the size of caseloads;
- b) fees collected and income generated from the enforcement practice;
- c) expenses resulting from receiving, managing, and performing the enforcement

- caseload;
- d) amounts collected and delivered to clients and other creditors;
 - e) types of enforcement actions undertaken in the course of working on cases;
and
 - f) other information relating to the private enforcement agent's business.

4.2.2. Inspection-On-site Supervision

There are two types of onsite inspection processes of private enforcement agent offices:

- periodic inspections, which occur regularly, usually annually, and
- special inspections, which are conducted as a result of a decision by the supervision body due to signals received or complaints made, red flag indicators in reported data, or public information warranting specific investigation.

Every inspection must be adequately planned in advance.

Combined with the private enforcement agent reports, the inspection provides a picture of the private enforcement agent's professional affairs, but does not delve into every detail of the practice of examine every case or every transaction. The inspection examines a *sample* of the available data, looking for indicators that may support an inference that problems may be present in the private enforcement agent's practice. Every instance of misconduct may not be found – the data is just too massive, and the resources of the supervisory institution limited. Sampling of cases must be done, and the evidence sought in that sample is circumstantial or suggestive in nature. Finding an indicator of a problem is not determinative that a problem exists, but rather that further examination is called for.

The supervisory institution then examines the problems identified in greater detail, often through a special inspection focused on the instance in question. If the special inspection confirms the presence of a problem, the supervisory institution might determine that some form of corrective action is required – either training, or a specified modification in business practices, or (in serious cases) disciplinary sanction. The goal is to not to catch every instance of misconduct, but to promote voluntary compliance with professional rules and standards. The supervision and sanctions provide a deterrent to misconduct by providing a risk that the misconduct will be caught, and making that risk unattractive to an private enforcement agent that values his or her practice and professional reputation.

Planning the inspection requires scheduling sufficiently in advance to allow the Inspectors to review and analyze the available information in order to identify potential areas of interest, and plan strategies to collect additional information.

Information to review and analyze includes:

- Recent and previous reporting provided by the private enforcement agent;
- Results of previous inspections;
- Any complaints or other signals received regarding the private enforcement agent within the recent past, including those in private enforcement agent reports in archive;
- Search of the archive, Internet and other public sources for other available information or news about the private enforcement agent

Based on this review, the persons planning inspection should assemble a profile of information that warrants additional attention during the inspection. If the inspection is a Special Inspection, preparation should include specific inquiry related to the matter giving rise to the Special Inspection, such as case files and financial transactions related to a specific case, client, or debtor.

If the inspection is a Regular Inspection, preparation should include general review of information in the archive concerning the private enforcement agent, including recent private enforcement agent's reports and other archival material. If the inspection is a Special Inspection initiated based on complaints or signals, from data appearing in the private enforcement agent's reports, or indications from some other source, the inspection plan should center around the issues raised by the data source.

4.2.3.Complaints

Complaints are a significant source of information. Opportunities to submit complaints must be open at any time during and after the proceeding to all parties and participants in the enforcement process, and to the citizens generally.

Complaints can be filed by the President of the Chamber, Ministry, and the President of the competent court in whose territory the private enforcement agent has been appointed⁶. These institutions receive complaints, and ensure their adequacy as to legibility and clarity of alleged facts.

⁶ Article 366 of the Law No.04/L-139 on Enforcement Procedure

Principles of the complaint process:

- Complaints may be filed at each body by anyone, at the same time or at any time;
- All complaints must be considered regardless of form or subject. If the Chamber chooses not to give serious consideration to a complaint, that failure to do so may become the subject of MOJ review of the Chamber;
- Complaint can be submitted against the enforcement process and private enforcement agent behavior;
- No limitations exist as to formatting, content, time limits, etc.;
- The institution receiving the complaint should provide assistance in filling out the complaint form if necessary to clarify the nature of the complaint, to create an adequate explanation of events, to cite or include evidence, and to ensure clarity;
- Complaint can be accepted over any means of communication, including the Chamber's website; website should have standard form to fill out to submit complaint;
- Complaints must be examined with care, it is the responsibility of the receiving institution to distinguish the serious and substantial complaint from the frivolous or false, and to make conclusions based upon facts and not on assumption or prejudice;
- The complaint should be considered by some formalized body within each institution;
- The Ministry and Chamber should act independently;
- Complainant should be able to submit evidence and be represented by an attorney or an alternative personal representative;
- Processing should begin immediately after filing;
- All complaints must be considered;
- A response must be submitted in writing to the complainant.

Each allegation that is determined to be plausible and for which an institutional response would be appropriate if facts are as alleged, must undertake an investigation to determine the truth of the alleged facts. If the alleged facts are determined not to be true, or to be so insubstantial as not to warrant any institutional response, the

complainant should be notified in writing and the procedure stopped; however, complainant may resubmit with additional information or evidence. Responses to minor offenses may include an order to the private enforcement agent from the Ministry, or the Executive Board of the Chamber, to modify his or her behavior in the future.

If the alleged facts of the complaint are determined likely to be true and substantial enough to warrant consideration by the Disciplinary Committee⁷, the complaint should be forwarded to the individual with authority to submit the complaint to the Committee.

In the case of the Chamber, that person is the President; in the case of the competent court, that person is the President of the Court; in the case of the Ministry of Justice, the Minister should make this determination, or should appoint an appropriate individual to do so. That individual should then make a determination whether to submit the allegations to the Disciplinary Committee for further action.

5. Detailed Supervision Processes

This section describes in detail the processes of supervision in terms of inputs, tools, and outputs. The key processes are offsite monitoring and onsite inspection, which can be periodic (ordinary) inspections or special inspection. Part of this Guideline is the process map for each supervision processes.

5.1. Misconduct and its indicators

The potential legal violations that may be looked for and discovered through supervision can be classified into a few categories. Three key violations and potential indicators which inspectors may find, either in the data reported to the Chamber are as following:

- 1. Commingling or theft of funds** – Use of funds withdrawn from private enforcement agent’s special account for the personal benefit of the agent or the agent’s business, or placement of the agent’s personal funds in the agent’s special account:

Possible red flags or indicators:

⁷Article 369 of the Law No.04/L-139 on Enforcement Procedure.

- Average balance in the agent's special account⁸, significantly higher or lower, as a percentage of collections or as a percentage of claims processed, as compared to other agents;
- Unusual or apparently unnecessary delays in the payment of funds due to a client, debtor, or another party to the enforcement proceedings;
- Abnormally large unexplained changes in the balance in the special account;
- Unexplained displays of wealth by the agent, such as purchasing luxury items;
- Large levels of debt relative to reported income owed by the agent personally, his or her spouse or family, or his or her business in the period prior to the reporting period;
- Unusually low levels of income over an extended period prior to the examination;
- Large expenditures by the agent relative to income in the recent past, whether for personal or business reasons;
- Inexplicably omitted or missing information.

2. Undisclosed actual conflicts of interest – a personal, family, or business relationship between the enforcement agent and the debtor, a competitor or investor of the debtor's, undisclosed to the client, that might reduce the willingness of the enforcement agent to act in the undivided interests of its client.

Possible red flags or indicators:

- Unusually slow enforcement of claims that is not clearly justified by the circumstances of the case, compared to similar claims against other debtors;
- Unusually slow movement of cash through the agent's special account;
- Unwillingness to make demands for payment to the debtor;
- Failure to utilize clearly available methods of collection against certain debtors, for example, not attempting to seize bank accounts;
- Choosing slow collection methods over faster ones without explanation or justification;

⁸Article 350 of the Law No.04/L-139 on Enforcement Procedure

- Unexplained or unjustified interest in taking action against one debtor as compared to others;
- Inexplicably omitted or missing information.

3. Churning – Performing unnecessary enforcement procedures to generate additional fees without probable result for clients:

Possible red flags or indicators:

- High ratio of administrative fees to total fees, compared to other enforcement agents;
- High ratio of total fees to total claims, compared to other enforcement agents;
- High ratio of total fees to total amounts collected, compared to other enforcement agents, in total or in a specific case;
- Longer time to resolve specific categories of cases, compared to other agents (some types of cases may take longer than others, but variations within types suggest possible problems);
- Inexplicably omitted or missing information.

This is not an exhaustive list of offenses, nor is it an exhaustive list of possible indicators of these offenses. These indicators may serve as a starting point for the investigation of a certain behavior of the agent. Supervising Institutions should evaluate the list and supplement it with experience gained over time. In general, groups of indicators of unusual behavior, especially if they occur coincidentally in time, may suggest a need for further inquiry into the explanation of this pattern. The investigator may not have a clear idea of what behavior may be motivating these events until the investigation has proceeded, through inspection and interviews with the agent and other relevant persons. It may often be the case that the pattern of events is indeed coincidental and not evidence of misconduct, but a pattern of circumstantial indicators such as these suggests more intensive investigation is warranted.

5.2. Offsite Monitoring Process – what is monitored and what are the results

The quality and effectiveness of the supervision system depends upon both accurate and up-to-date data and the ability to analyze that data to identify relevant concerns. It can serve as an effective “early warning” system for agent professional misconduct. Offsite monitoring combines quantitative data reported by the Agent and qualitative data and judgment and experience of the supervising body’s personnel. However,

poor quality data or lax review of that data will lower the quality and effectiveness of supervision and risk missing opportunities to catch small problems before they grow large. In short, if bad data goes into the supervision reporting system, it can only be expected that supervision will be ineffective and disappointing, resulting in a risk that the profession will not be serving its mission of building the public's trust and confidence in the system. The same risk exists if monitoring personnel do not effectively review the data that is provided.

Offsite Supervision Process:

- Data contained in Periodic Reports from Agents;
- Data contained in complaints and other sources;
- Data from reports provided by Agents in previous periods;
- Conclusions from previous inspections, disciplinary actions;
- Data obtained from other sources outside the supervising body.

Tools:

- Spreadsheet and computing software, such as Excel;
- Trend analysis using previously reported data;
- Qualitative analysis, combining reported data with information on file for the agent.

Outputs:

- Identification of potential performance issues and professional misconduct areas;
- Recommendations on areas for further inquiry or inspection;
- Recommended referral for institutional responses, such as immediate potential disciplinary action, where appropriate;
- Conclusions entered into supervisory body's archive for future use.

In the offsite supervision process of the agent, the periodic reports are monitored as provided by the agent, and previous records regarding the agent in the supervision institution's archive, such as any complaints received during prior periods, news stories, prior disciplinary actions. Reports provided by private enforcement agents

constitute quantitative data that can be categorized and combined with future data to identify trends and changes.

A first step of screening after receiving an agent's periodic report is to ensure that all the data is there. The supervisory body should conduct an intake review of the report immediately upon receipt of the report to ensure completeness (i.e., no data boxes are left incomplete or obviously in error) and that data is not reported in incorrect cells, which could lead to inaccurate aggregate data and difficulty integrating the report's data with other data of the supervising body. If any problems are spotted, the supervising body should immediately inform the agent in writing and suggest **corrective measures**.

The steps for offsite supervision can be summarized as follows:

1. Gather data

- Current data report submitted by Agent;
- Search Agent File in the supervising body's archive;
- Search for information from other sources, public and otherwise, for additional information about the agent.

2. Analyze the Data

- Look For Red Flag Indicators (this initial list will grow over time);
- Commingling or stealing of Special Account Funds;
- Non-disclosed actual conflict of interest;
- Improper churning of administrative activities;
- Look for other potential misconduct.

3. Prepare an Early Warning Review Report

- Describe potential issues, if any, and supporting data;
- Recommendations for next steps, if any;
- Indicate level of urgency;
- Deliver to lead body of supervising institution.

5.3. Gather Data

In addition to the data accumulated from the reports of the work of the agents, work is required in collecting quantitative data and this is done with increase of the performance of the private enforcements agent and his professional level. With the collection of data for the performance, the data will provide strong evidence about the performance and it gives the institutions' bodies substantial capacity for the early warning for the practice of every single agent, and the essential information for the performance of the professional as whole. In the event that the supervising body expands data points to include more proprietary data, this data should be excluded from public access with respect to each agent, although aggregated industry data should be analyzed each year in the Chamber's Annual Report.

Within the first stage of development of the profession, given the limited number of agents, management of quantitative data received is not expected to be challenging. Over time, however, the volume of data and the number of agents will grow, making handling the data more difficult. To reduce the cost and time of transferring data once it has been received by the supervising authority, the reports should be provided in a standardized spreadsheet software program that allows formulas and comparison of data from among various fields, such as Microsoft Excel. This will allow for easy and secure data storage capability comparing data points between current and past data for an agent, and creating aggregated data for various groups within the profession.

In addition to the current report, the agent's file within the archive of the supervising body will contain useful information for the offsite analysis. This file should provide the background of the agent's performance in prior periods, and should contain several useful data points, such as previous reports, results of previous inspections, any complaints or anonymous reports filed regarding the agent. As such, the authorized person should take a close look at the contents of this file to see if there are any relevant issues in the recent past for the agent.

The supervising body should conduct a search to gather data from other sources, public and otherwise, of information about the agent. This should include checks with the Kosovo Business Registration Agency, Kosovo Tax Administration, pledge registry, central any better business bureau information, police records, and from other sources of information.⁹

The Internet can provide significant information of relevance. The data gatherer should conduct a series of simple searches related to the agent to determine if there are media stories, blogs, or social media entries that shed light on the agent. It is not possible to exhaust all possibilities, but rather to check to see what is reasonably

⁹ Several of these sources will not be public, and so the supervising institution should put in place protocols with the providing institutions for access to this information and protection of private or confidential data.

available for viewing on the Internet that may be relevant to the agent's professional performance and compliance with the laws and rules of ethics.

5.4. Analyze the data

Analysis of the data gathered in the first step will depend on the function for which it is to be used. The principal functions are:

1. providing an overview of the performance of the profession through aggregate data, identifying trends and difficult practice areas; and
2. allowing for proper preparation for inspections of individual agents and reporting overall performance of the profession. Agent supervision combines quantitative information about agent performance from data contained in periodic reports, and qualitative observation from the onsite inspection process of the agent. The supervising body should engage personnel to review gathered data and compare it to the existing case file of the agent in the supervising body's archive.

The review should look for the red flag indicators discussed above indicators suggesting:

- Possible commingling or theft of special account funds;
- Non-disclosed actual conflicts of interest; and
- Improper churning of administrative activities.

The initial list of indicators will grow and change based upon the supervising body's experience. As well, over time, and with experience, the supervising body will be able to develop risk profiles for each agent based on previous reports, complaints, or previous inspection results for the agent. Risk-profiling will suggest deeper scrutiny for agents displaying certain risk characteristics and lighter scrutiny for others with fewer risk characteristics.

The purpose of the analyze data step is to look for any early signs of problems with the agent's performance. The reviewer should check data reported in previous years to identify if there are any significant changes, possibly indicating potential misconduct and justifying a deeper look at the agent, such as organization of a Special Inspection.

5.5. Prepare a report and recommendations

The authorized person should prepare a report on data gathered and analyzed. Where the early warning review indicates issues not requiring immediate preventative action, which is usually the case, the authorized person should write his or her conclusions

down for the Report, along with any recommendations on areas to watch in the future. Where no issues are apparent from the submitted data, considered together with the historical records regarding the agent, this conclusion shall be noted in the agent's file for use in preparation for the next Periodic Inspection.

If the data submitted by the agent, considered together with the historical records regarding the agent, indicates an immediate risk of potential serious misconduct, the authorized person should note this conclusion in the report, along with an explanation of the issues and data, and immediately notify the head of the supervising body for consideration.

In the case of the Chamber, this would be the President of the Chamber, who shall decide on appropriate action in consultation with the Executive Board; actions could include conducting a Special Inspection, referral to the Ethics Committee for potential violations of the Ethics Code, or proposal for direct initiation of a Disciplinary Procedure¹⁰, where appropriate.

In the case of Ministry supervision, this notice would be delivered to the Minister's authorized person, for determination of appropriate action, which could include Special Inspection, notification of the Chamber, or initiation of a Disciplinary Procedure.

If missing data appear to have been inexplicably omitted from the agent's reports may also generate a recommendation for a Special Inspection. If the data is not particularly urgent, the authorized person has the option of contacting the agent via email to obtain the data or recording a notation in the report that the inspector for the next regularly scheduled Periodic Inspection should ask for an explanation. In any event, it is important that these warnings are noted from the authorized person's conclusions to appear in the agent's file, as this information provides important guidance as an input to the Inspection Process and to future offsite reviews.

6. Process for Inspections

The on-site inspection is a qualitative process that allows for direct observation of premises, records, and operations, and may even include interviewing of the staff. The inspection process combines the largely quantitative data received from agent periodic reports with: information on file in the supervising body; and information from other sources, such as complaints and public sources such as media reports, and applies this information together support a qualitative review by a inspection team made up of professionals from the supervising body.

¹⁰ Article 366 of the Law No.04/L-139 on Enforcement Procedure.

Inspectors are not empowered to decide factual or legal disputes or impose disciplinary measures. The principal objective of the inspection process is gathering and analysis of information on performance of the agent and recommendations on actions. Inspectors gather information, analyze that information, and make recommendations for other bodies to consider in taking action or not taking action.

The inspection process may result in a recommendation to the supervising institutions lead on next steps.

These next steps may include a range of actions:

- no action necessary;
- watch closely;
- gain more information through interviews or additional inspection visit;
- handle informally (such as through warning or require specific training; or
- conduct a formal disciplinary procedure.

In conducting the inspection, the inspector shall have access to the books and records of the agent's business consistent with the respective supervisory body's access authorized under law.¹¹

Inspections consist of two types:

- 1) **periodic inspections**, which are conducted according to a plan and scheduled well in advance; and
- 2) **special inspections**, which result from a particular concern about the conduct of an individual agent.

This concern may be based on the results of a regular report or a periodic inspection, on a formal complaint, on an informal or anonymous report, or other sources such as an early warning review raising serious issues or media reports about the agent.

Effective planning is vital to the inspection process. In planning inspections, supervisory institutions should create both their **inspection schedule**, scheduling periodic inspections of multiple agents to take place during the upcoming planning period; and **specific inspection plans** for the individual agents scheduled for inspection during that period.

¹¹Article 359 of the Law No.04/L-139 on Enforcement Procedure.

6.1. What is inspected in the Inspection Process:

Case file of the agent in the archives of the supervisory body, which includes:

- Data reported by agent in previous period reports;
- Conclusions of early warning offsite authorized persons;
- Complaints received against the agent in the past;
- Previous disciplinary or ethics proceedings against the agent;
- Current/outstanding complaint(s) against the agent;
- Complaints or anonymous reports about the agent; and
- Data obtained from other sources outside the supervising body.

Tools:

- Inspection plan;
- Inspection survey;
- Onsite visit;
- Interviews of agent, staff, and relevant third parties; and
- Minutes

Output:

- Report with recommendations to lead body of supervising institution.

6.2. Organizational planning of periodic inspections

The inspection schedule will be affected by a variety of factors, as following:

- A prior notification to agent for the date and the timing of inspection;
- Verification that agents who might serve as inspectors are not assigned to inspect the offices of those with whom they are appointed for the territory of the same Basic Court;

- Specific issues to be focused on during the period, such as areas that have become the focus of public attention or media attention, or which have been identified as concerns in public opinion surveys conducted by the supervisory body;
- The inspection schedule of other supervising institutions so that each is aware of what the other institution is planning.

The inspection schedule should be completed and approved by the deciding body of the supervisory institution. For the Chamber, this may be the Executive Board. The inspection schedule will guide supervision in the coming period, and will be a component of planning the periodic inspections.

6.3. Periodic Inspection Process

Periodic (or regular) inspections involve planning and conducting a visit to the agent's business premises and interviewing relevant persons to identify facts and potential issues, and to make recommendations on appropriate actions to be taken to avoid or remedy these potential actions. The final inspection report will be archived in the archive of the supervision institution to inform future inspections and training and outreach programs. The inspection process includes three steps:

a) Planning the Inspection:

- Review agent's file;
- Conduct Internet search/public information;
- Obtain and review information from other government agencies concerning the agent and his or her business, including, for example, tax reports, business registry information, employee contributions to the Kosovo Pension Fund, and information from the Central Bank of Kosovo on large financial transfers by the agent;
- Confirm date/time with Agent in writing 7 days in advance;
- Prepare Questionnaire and send to agent for return within two weeks;
- Review responses, identify issue areas; and
- Prepare site visit Checklist based on issue areas.

b) Conducting the onsite visit of the office of the private enforcement agent

- Go through site visit Check list items;
- Select sample of case files and business records;
- Control transactions;
- Controlling the stored assets;
- Conduct interviews of staff and
- Prepare Minutes of the Inspection with recommendations and orders for corrective measure.

c) Preparing a Report with Recommendations

- Identify issues and sources of information;
- Prepare Report of Inspection with recommendations; and
- Send to lead body of supervision institution for consideration of next steps.

6.4. Planning the Periodic Inspection

As with the offsite review process, for the onsite inspection, too, the inspector should review the agent's file and most recently submitted report in detail. This review should be conducted with the indicators listed above, and should result in a list of "watch areas" or matters deserving special attention. The archive file in the supervising institution serves a valuable role in rapidly bringing the inspector up to speed on potential issues.

The inspector should also conduct a search to gather data from other sources, public and otherwise, of information about the agent, including an Internet search of the agent and his or her business and a review of other data sources, such as the Kosovo Business Registration Agency, Kosovo Tax Administration, pledge registry, central any better business bureau information, police records, and from other relevant institutions.

Well in advance of the anticipated onsite visit date, which is recommended to be around seven (7) days before the planned onsite visit, the inspector should contact the agent in writing to coordinate setting an exact date for the inspection. Private

enforcement agent receives a questionnaire to provide information about the agents business, finances, and other enforcement activities, which questionnaire will be returned within two (2) weeks. To ensure comprehensiveness of the inspection the questionnaire should start from a standardized format, though it should also evolve with the experience that the supervising institution will gain in practices, with some questions dropping out and new questions being added. The standard form of the questionnaire is an integral part of this Guideline (Annex No.3).

The standard form of the questionnaire should include at least the following questions for the fields presented below:

1. Financial information and system:

- Confirm and verify the amounts reported by the agent for transactions in the special account;
- Existence of written accounting records for the business (this could be done in standard software);
- Bank statement records for the special account and other accounts showing all transactions on the accounts (this could be available online);
- Information about fees earned and income generated by the agent's business, growth in business, and financial records of the business for the period in question;
- Information that may be relevant to the security of the agent's business funds including information about the agent's personal financial situation.

2. Business system

- Computer security and off-site back up;
- Are there clear, written policies on data security and confidentiality that are mandatory for all staff members;
- Are there clear written policies on engagement of clients/signed - written agreements;
- Employment agreements for all staff.

3. Property protection system for seized property of others

- Secure location;

- Physical security system;
- Fire protection system;
- Loss Insurance;
- Written procedures for handling tagged assets.

4. Complaints during the reporting period

After reviewing the agent's responses to the questionnaire and identifying potential issue areas for further inquiry, the inspector should prepare an inspection checklist to serve as a plan for the inspection. The checklist should include a list of persons the inspector is expected to interview and cases to review. A standardized format for the site visit checklist is attached as Annex No.4 to this Guideline.

Shortly before the inspection, the inspector should confirm with the agent who will be on location on the date of the inspection. If a key person will not be available, the inspector should plan a response, such as to plan a follow up visit day. Unexpected changes in plans coming from the agent's side could be an indication of intent to hide or manipulate. It is important that any rescheduling does not compromise the inspection process.

6.5. Conducting the site visit

The onsite inspection is a critical step that has no substitute. It involves in-person discussion, checks on the agent's financial accounting, and verification of answers to the preparatory questionnaire. The inspector may observe procedures in the office, such as record-keeping, data entry, case scheduling, and handling of funds. The inspection normally will also include spot-checks of a random sample of cases, attempting to verify that flows of funds into and out of the clients funds account can be reconciled, appear to be accounted for in the agent's cash ledger, and appear to be legitimate. The spot check would ideally involve a meaningful random selection of cases, to provide reasonable confidence in the agent's accounting, but taking into account that the supervisory body may have limited resources to verify many cases, the supervisory institution may verify only a modest number of cases.

The most important single object of the inspection is the integrity of the special account. The account can hold large sums of money, and it can be very tempting for agents to "borrow" funds from the account to keep the business afloat. *No matter how well intentioned, borrowing or using the money in the special account for anything other than payment of creditors and payment of legitimate fees to the agent constitutes a grave professional violation, therefore it requires serious actions.* There may be other serious matters to look into, whether appearing from the preparation and

planning phase review of the record or coming up during the site visit, it is very important for the inspector to probe the integrity of the special account.

Consequently, it is usually best to conduct those questions relative early in the visit to ensure adequate attention can be paid to it.

The site visit checklist serves as a guide for conducting and ensuring forward movement of the meeting, as the inspector goes through the questions with the agent or staff. The inspector may select an activity or an action and ask the agent to walk through how it was carried out and the necessary documents. The same applies to bank transactions and how they were booked. Constructive dialogue can help collection of the information, but the inspector should take into account time constraints.

Following the inspection, the inspecting team prepares a written Minutes on the same day or at the latest on the following business day. The inspecting team includes in the Minutes a concise list of any violations or issue areas observed, setting out their conclusions, identifying any issues or potential non-conformities noted from the visit, and identify any evidence in support of the violation or issue. The Minutes are an integral part of this Guideline (Annex No.5).

Once drafted, a copy should be sent to the agent together with the recommendations and the orders to correct the defects found.

Recommendations, can range from “watch”, to “no issue/no action recommended”, to “recommendation for informal consideration for ethics issues”, to a recommendation of a formal disciplinary procedure to review issues raised.

If any recommendation beyond “no action” is to be made, it is very important for the inspector to *support the recommendation with a clear statement of facts and observations*, as these will be considered by the reviewing and deciding bodies.

The recommendations should ordinarily not include suggestion of any particular penalty, as that is the role of the reviewing and deciding bodies.

6.6. Preparing the Report with Recommendations

The Inspection Report should follow a standardized format with five distinct sections: Introduction, Methodology, Findings, Conclusions, and Recommendations. *The Introduction* section should address the scope and purpose of the inspection, while the *Methodology* section should provide a description of the inspection process, the tools and techniques used.

The *Findings* section is more complex, setting out a description of the observations made during the inspection, including a detailed discussion of each issue identified in the Minutes. Each item identified in the Minutes should be separately discussed and should include the control number assigned to it in the Minutes. Each finding should include references to specific law and regulations that are relevant to the findings and analysis of how the laws and regulations apply to those violations. It is important to be clear and logical in presenting factual observations and discussing their relevance to the findings.

It is very useful to adopt a brief, standardized format that quickly conveys all the information. An optimal format to follow is: *Observation*→*Rule*→*Analysis*→*Conclusion*. A simple example of this format would be:

“Issue No. ____: Improper charging of fees. The Inspection Team observed from books and records in Case number XX that the Private Agent charged fees for YY activity. [provide detail of incorrect fees charged in each referenced case/may also include discussion of proper fees charged]. The rules applicable to fees are set out in the Law¹², Article 350 and Administrative Instruction¹³, which provide [cite and discuss relevant provisions]. These sections set out the only basis for charging of fees for enforcement services, and any fees charged beyond those set out in the LEP and AI are improper and not allowable. Consequently, the Inspection Team concludes that the fees charged for YY activity in case XX are improper and constitute a violation.”

General-level findings should also be discussed, allowing conclusions to be drawn from multiple observations that do not rise to a specific, actionable issue, but that may be relevant for future inspections. For example, several minor issues might, considered together, give rise to relevant findings and conclusions. This could include observations that the office premises did not appear cleanly maintained, good office policies were not in place or not well followed, and persons interviewed were late, did not seem fully engaged in the conversation, or seemed evasive. In such a situation, the Inspection Team may determine that, while no actionable irregularity has been established, there is reason to believe that the PEA’s practice is at risk of more serious violations occurring and should be watched more closely.

If any materials are copied from the inspection, they should be clearly referenced and, if feasible, attached to the Inspection Report. If the inspection team made any order to ameliorate or correct an observed issue, details of the order, and time frame for performance, should be included.

¹²Law No.04/L-0139 on Enforcement Procedure

¹³Administrative Instruction MoJ-No.06/2014 on Fees for Rewards and Compensation of the Expenses for Private Enforcement Agents (27.03.2014).

This conclusions section presents the inspection team's overall opinion on the PEA's compliance, without being bound to the issue-by-issue description of the Findings section. Multiple issues should be considered together with any favorable observations to present a more general, overall picture of the PEA's practice and risk of future violations. The discussion in this section should set the ground for the recommendations in the next section.

The recommendations section sets out the inspection team's specific recommendations resulting from findings in the inspection, as well as any actions already taken (such as warnings or orders to remedy). If disciplinary proceedings are recommended, set out steps taken or to be taken to make a disciplinary referral. Each recommendation should reference the numbered issues identified in the *Findings section*. Recommendations should include the inspection team's opinion on the level of severity of the issue underlying each recommendation. This section may also set out specific observations that should be considered by future inspection teams.

A standardized template for the Inspection Report is an integral part of this Guideline (Annex No.6).

Once completed, the Inspection Report should be entered into the archive file for the inspection, together with other related documentation of the inspection, such as the completed *Questionnaire, Checklist, Minutes*, and any existing notes made as part of the inspection planning or conducting process. If disciplinary actions are recommended, a copy of the Inspection Report should be provided to the lead body of the supervising institution.

6.7. Special Inspection Process

The special inspection process occurs only upon the identification of potential disciplinary issues that require intensive investigation to verify their existence, nature, and extent. They may result in informal corrective measures, formal disciplinary actions, or, of course, a decision by the supervisory institution to take no action at all.

The special inspection process is similar in function to the periodic inspection process, except that it is geared to focus deeply on specific, serious issues raised or to collect additional information to supplement a previous inspection. These issues may be raised in various ways, via complaint or anonymous report provided to the supervising institution, serious issues spotted in the agent's periodic reports in the offsite supervising process, media reports, or other avenues of information.

In the special inspection process, the same tools and methods will apply, as with the periodic process. Hence it is still necessary to prepare for the special inspection (to the extent that urgency of the issue raised may allow) by:

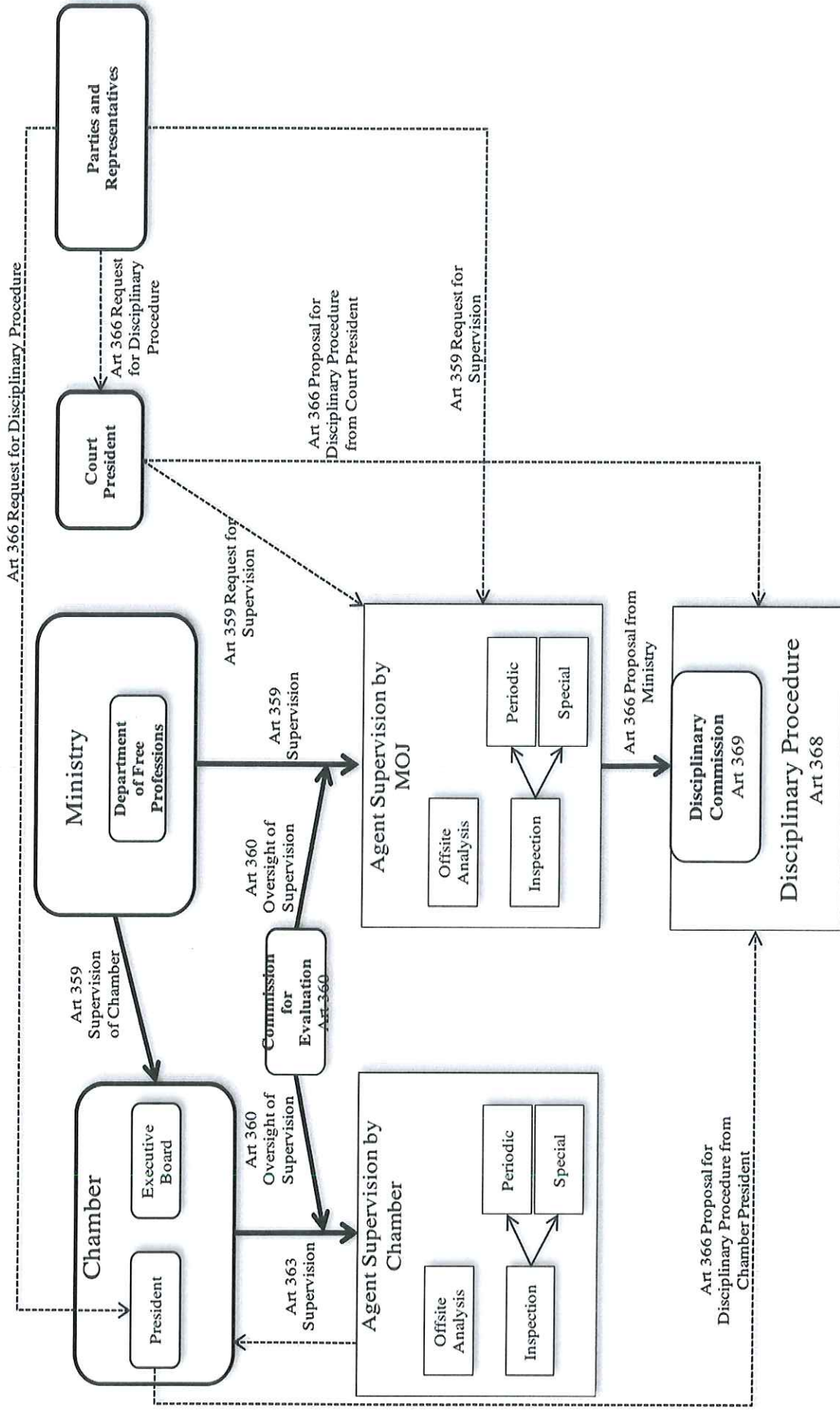
1. Reviewing several sources of information and archives of the supervision Institution:
2. Developing an inspection plan; and
3. Building the inspection site visit agenda to guide the site visit.

After the special inspection process, the minutes of the inspection will be prepared containing the inspector's observations, findings from the inspections of the inspector, and recommendations. The key differences of the special inspection are the likely narrower scope of the inspection to facts and circumstances relevant to the issues giving rise to the special inspection. During the special inspection, the lead body should provide clear guidelines on timing of the inspection, scope of the inspection, and amount of time for the agent to respond to the draft inspection report.

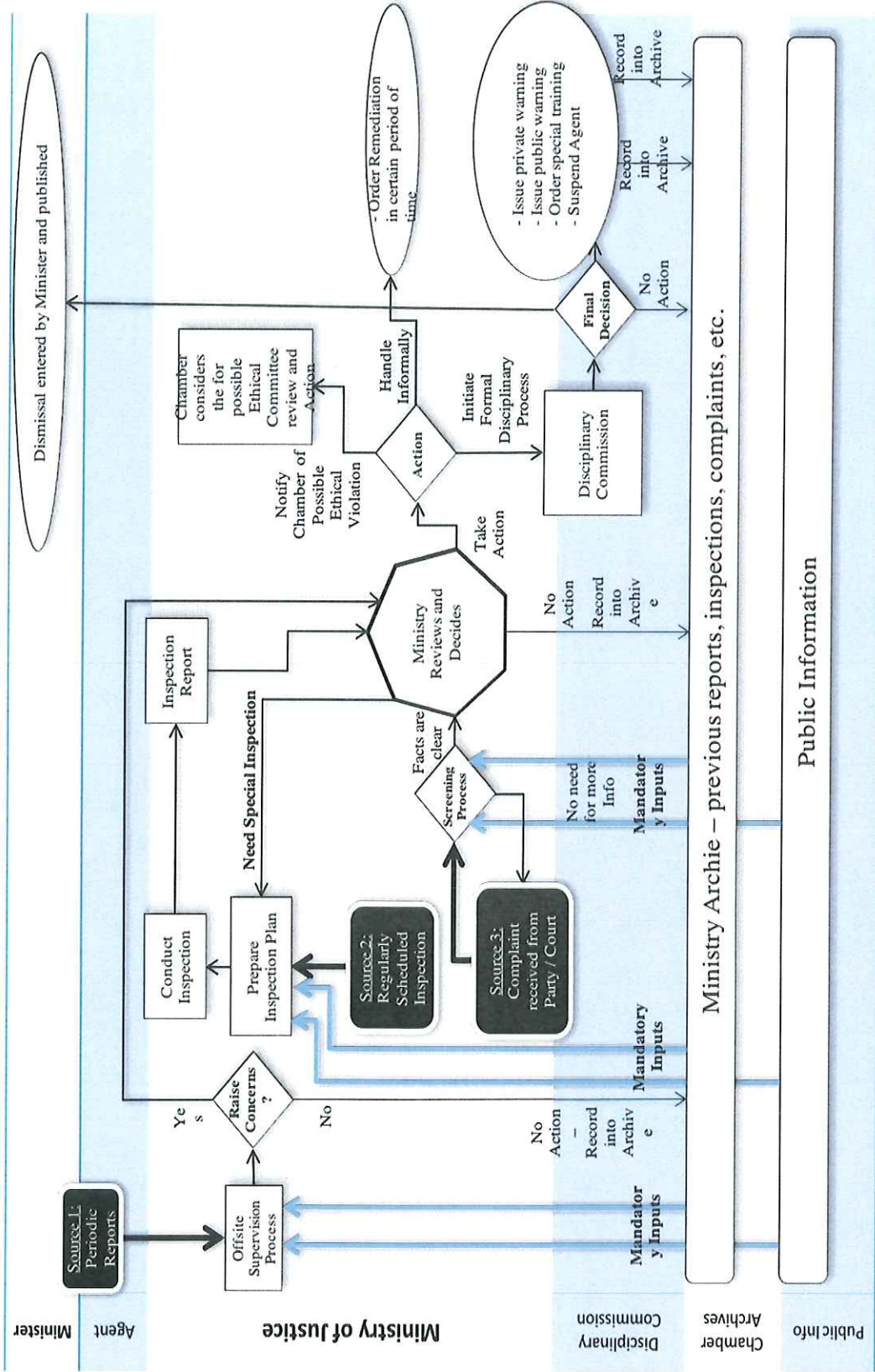
Additional logistical issues may have to be considered in performing special inspections, such as availability of the agent or inspectors on short notice. In exceptional cases of high urgency, the lead body of the supervising institution may determine to conduct a special inspection with little or no advanced notice to the agent. As with periodic inspections, the key outputs to the special inspection process are the Minutes setting out the inspector's observations and the Inspection Report discussing the inspector's findings, conclusions, and recommendations to the lead body of the supervising institution. As with the periodic inspection process, in the special inspection process the draft Minutes should be provided to the agent for comment, however, the urgency of the particular matter may result in less time to respond before a copy of the Inspection Report is delivered to the lead body of the supervising institution.

At the end, the special inspection process concludes with the delivery of the minutes of the inspection with the observations, conclusions, and the report for the leading body of the supervising institution.

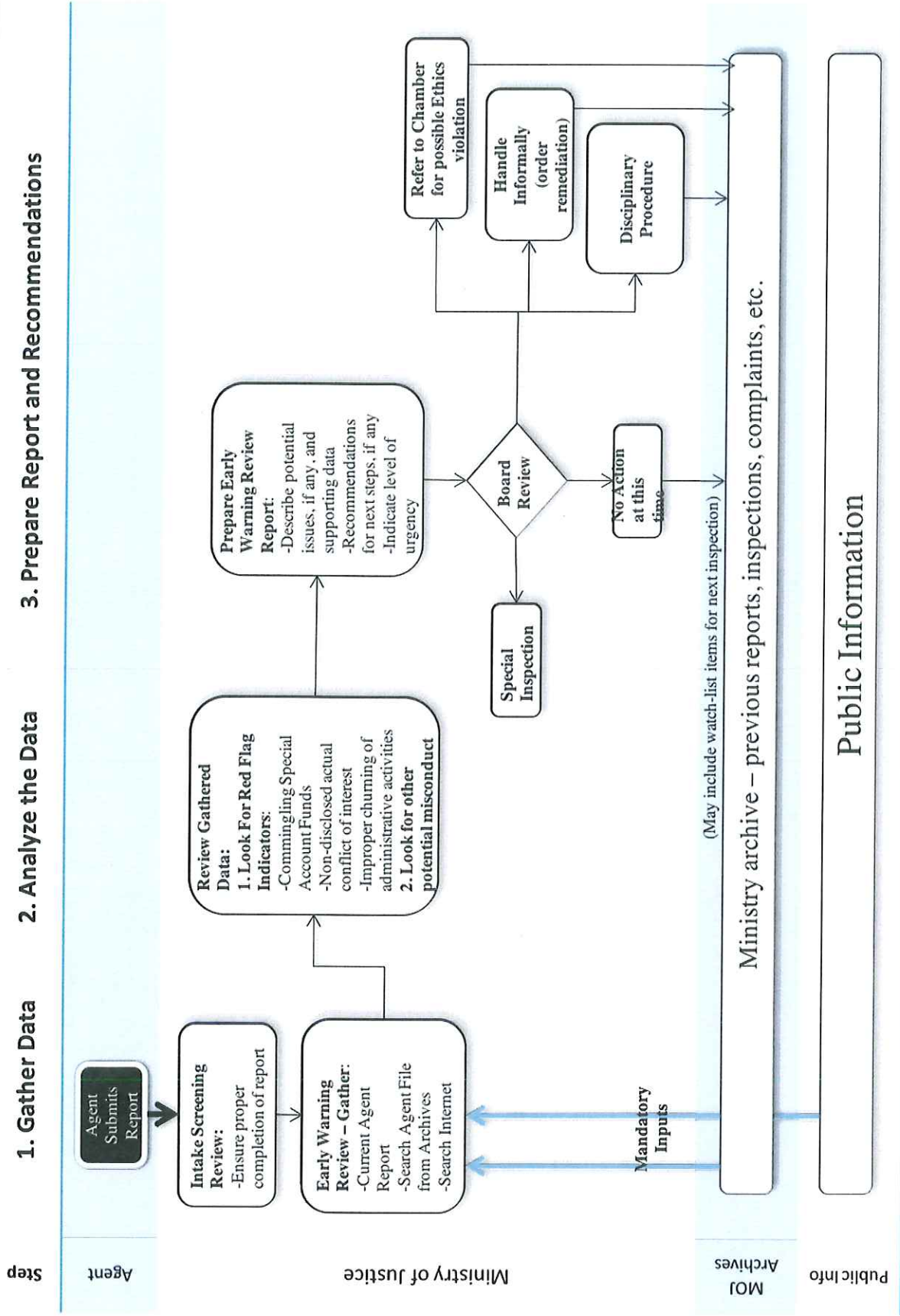
System of Supervision of Private Enforcement



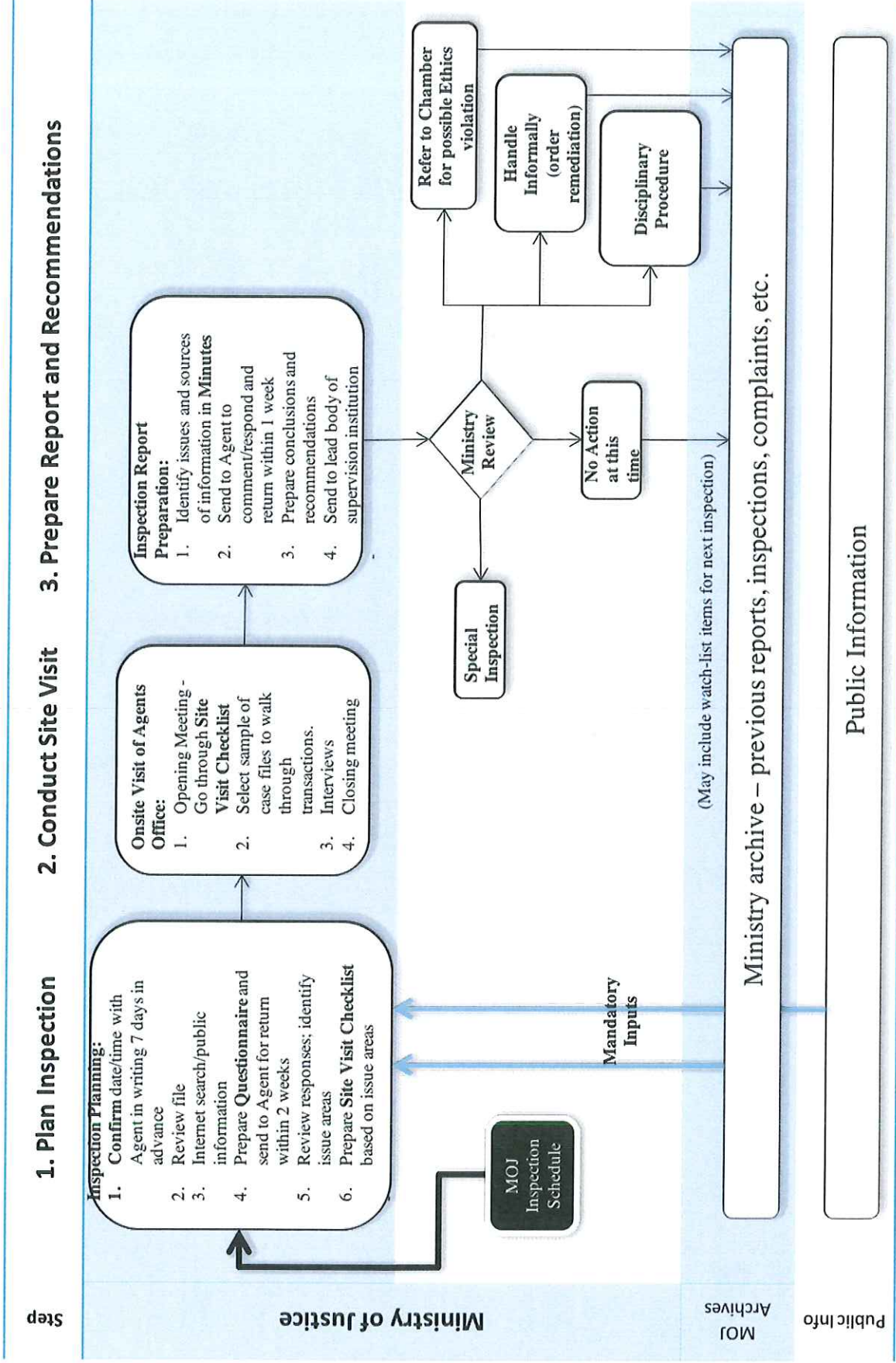
1. Supervision of the private enforcement agents by the Ministry – Overall Process Map



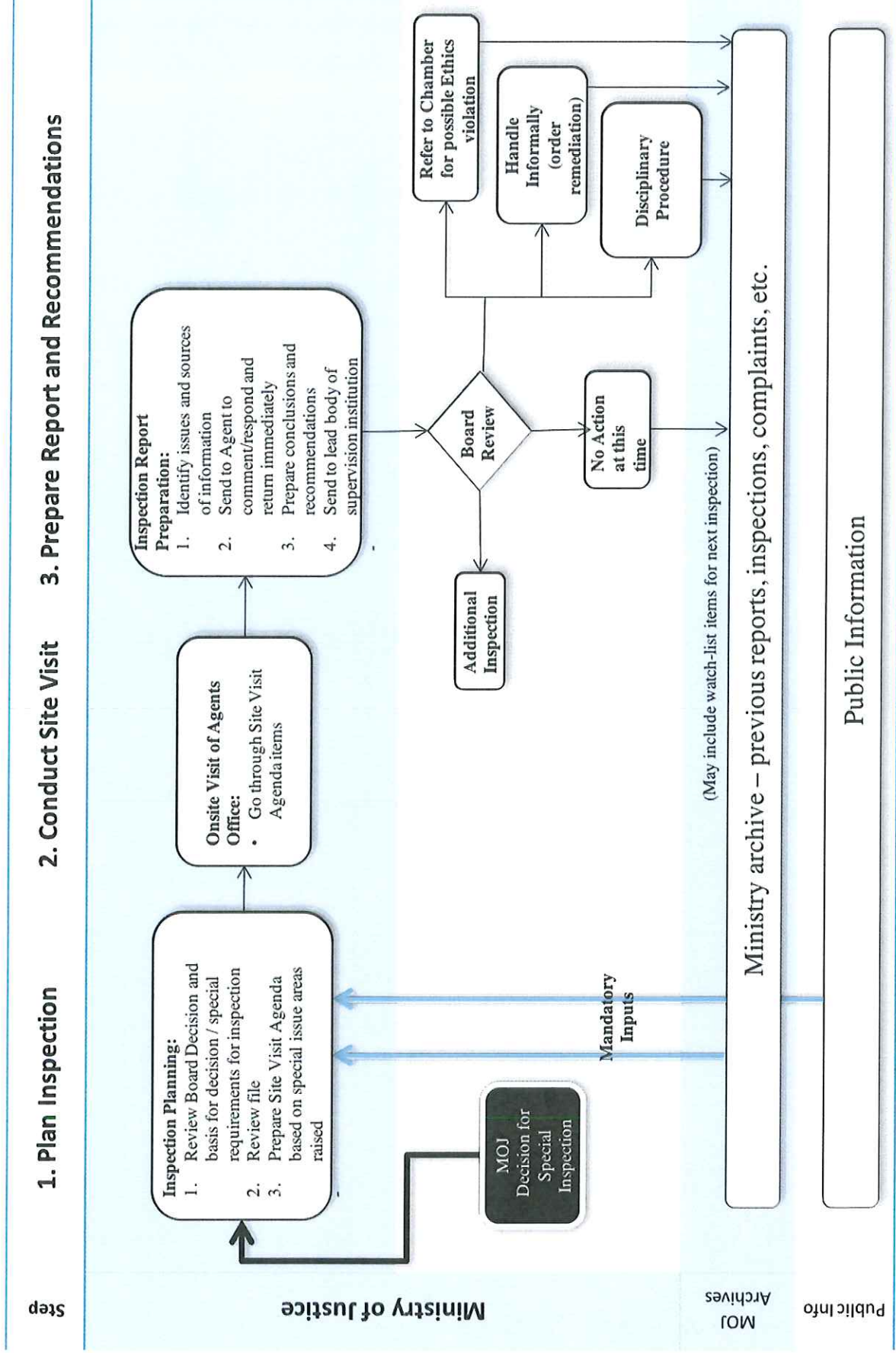
2. Offsite Supervision of the private enforcement agents by the Ministry – Process Map



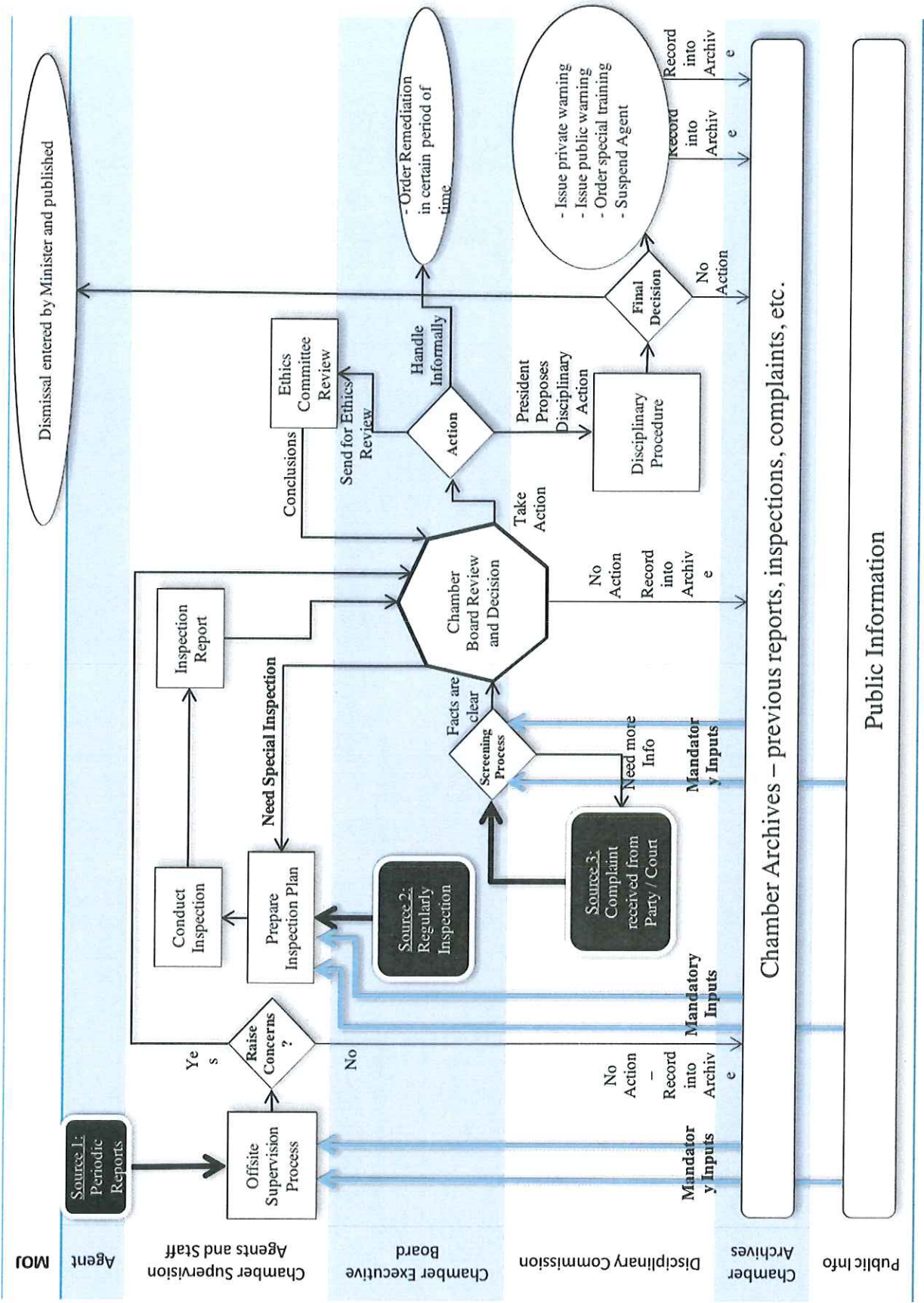
3. Periodic Onsite Inspection of the private enforcement agent by the Ministry – Process Map



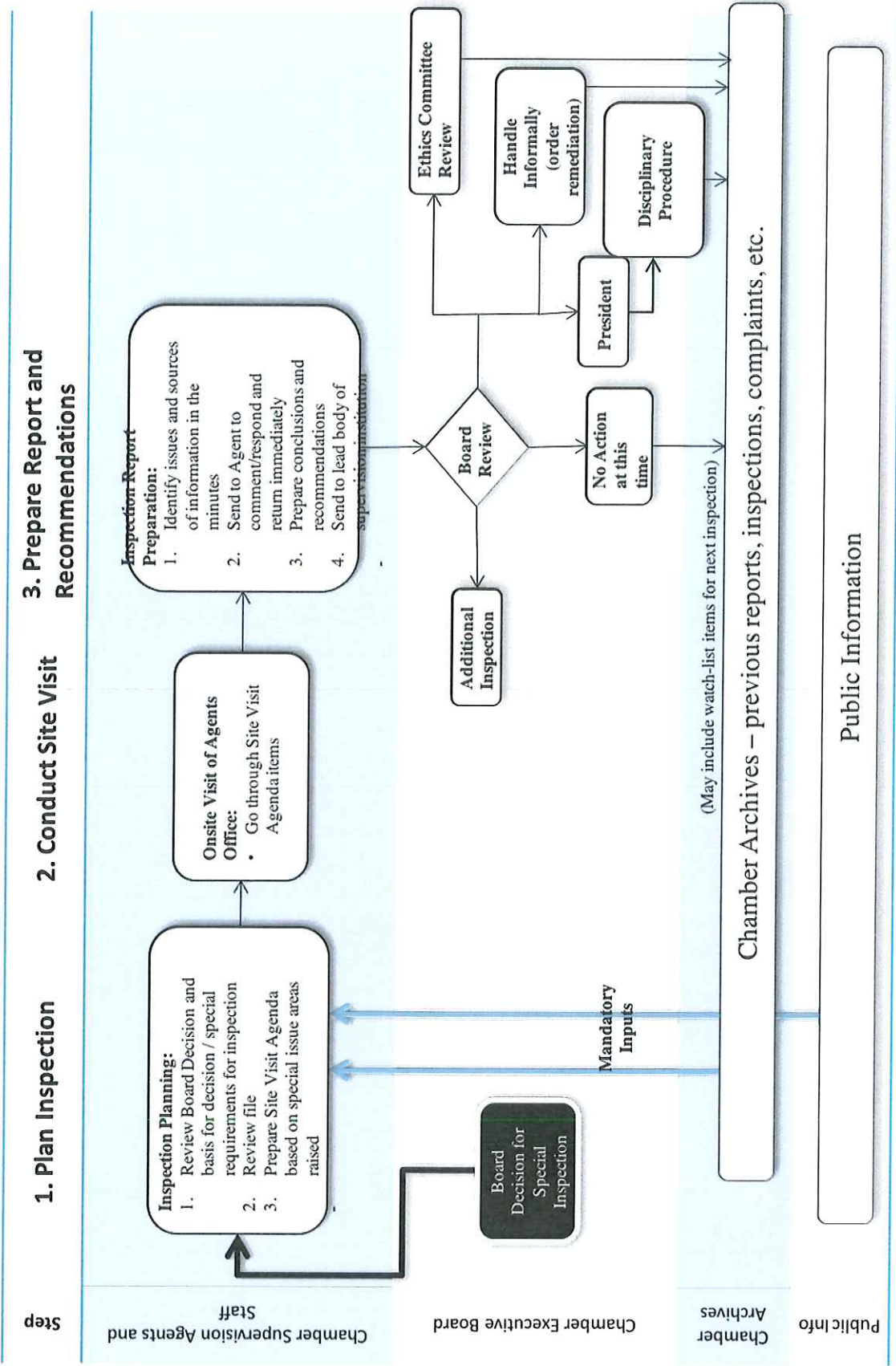
4. Special Onsite Inspection of the private enforcement agent by the Ministry – Process Map



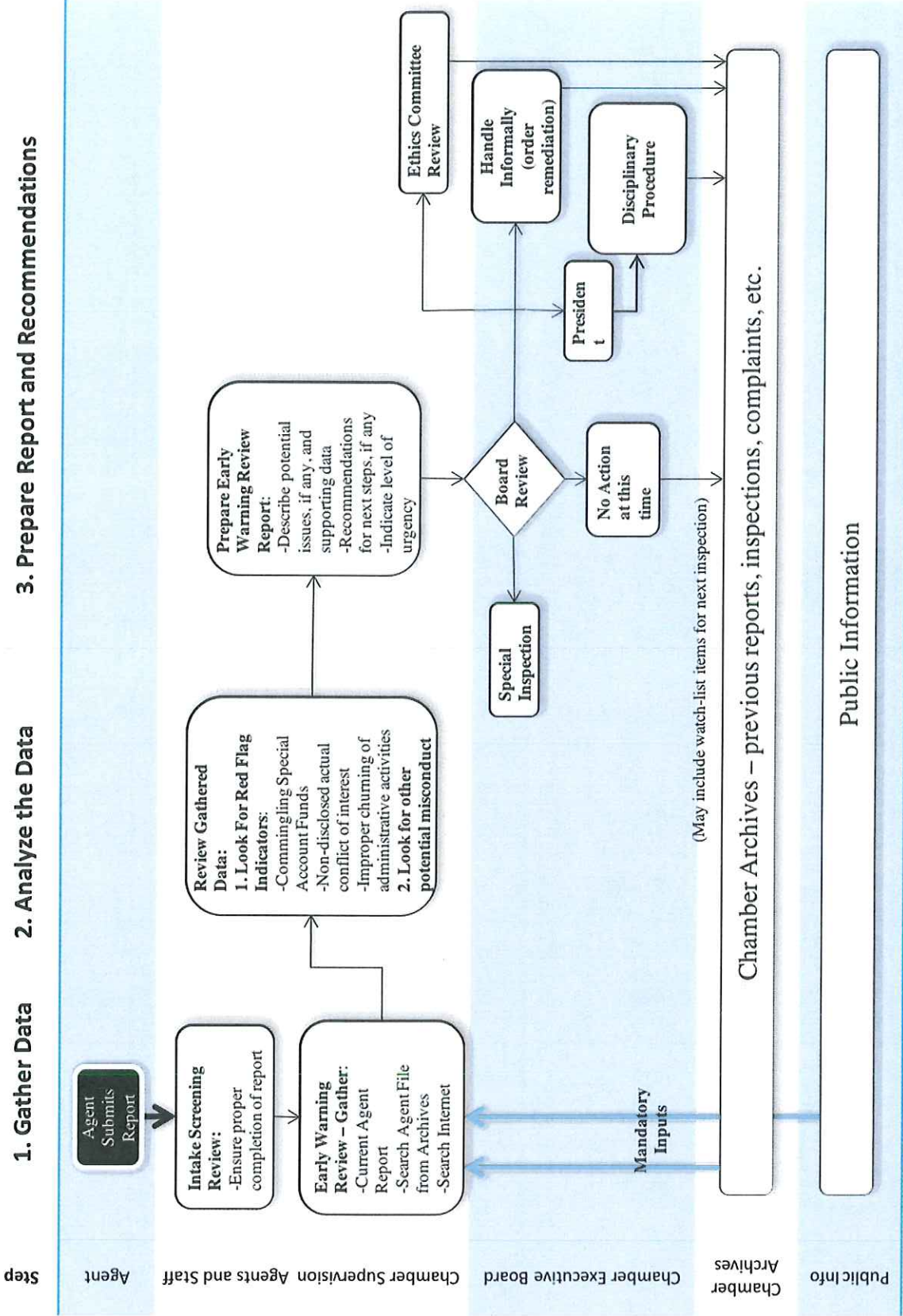
5. Supervision of the private enforcement agents by the Chamber – Process Map



6. Periodic inspection of the private enforcement agent by the Chamber – Process Map



7. Offsite Supervision of the private enforcement agent by the Chamber – Process Map





Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria – Vlada - Government

Ministria e Drejtësisë – Ministarstvo Pravde – Ministry of Justice

Pre - Inspection Questionnaire

Date: ____ . ____ . ____

Date/Time of Inspection: ____ / ____ / ____

To: _____

This questionnaire is being presented to you in advance of a planned inspection by the Ministry of Justice under authority of Article 359 of the Law on Enforcement Procedure. We request that you provide responses to the questions below and attach the lists and documents referenced. This information will be used to prepare as much as possible in advance of the inspection. If you do not provide all of the information requested, this will negatively impact our ability to prepare an efficient inspection, and may result in the inspection being considerably more time consuming and the scope of inquiry during the inspection being much broader.

Your responses to this questionnaire, along with the requested lists and documents, should be delivered by no later than: _____ to the following address: _____ . If you have any questions about this questionnaire or need further clarification, please contact: _____ .

1. Queries

Please state the date on which you started to operate as a private enforcement agent in Kosovo, along with the Decision on starting the exercising the enforcement activity or business registration number:

Please state whether that license has ever been revoked, suspended, or terminated:

Please provide the name of your enforcement business:

Address: _____

Attach a list of each employee in each office, including deputy enforcement agents or replacer agents and all part-time and full-time personnel, job title, annual salary, home address, as well as the Certificate from TAK, Certificate from the Kosovo Trust Agency and the statement for keeping the confidentiality with each employee.

Attach the Certificate from TAK for the business.

Are you a director, officer, or manager of any businesses or other type of legal entity or hold any ownership share or percentage? Y _____; N _____ . If Yes, for each, please indicate:

Name of business or entity: _____

Type of business or entity: _____

Address(es): _____

Main activities: _____

Your role: _____

Your ownership share: _____

[If more than one, attach list]

Have you or anyone associated with your practice been charged with or convicted of any crime in the last 3 years? Y _____; N _____. If Yes, for each, please indicate:

Description of case: _____

Status of the case: _____

Court: _____

Case Number: _____

[If more than two, attach a list]

Have you or anyone associated with your practice had any complaints or lawsuits lodged pending against you in the last 3 years? Y _____; N _____. If Yes, for each, please indicate:

Description of case: _____

Parties to the case: _____

Court: _____

Case Number: _____

Date filed: _____

Status/Resolution: _____

[If more than one, attach a list]

Have any complaints been lodged with any agency, or professional association or Chamber concerning your business, your employees, or you personally in the last 3 years? Y _____; N _____. If Yes, for each, please indicate:

Description of complaint: _____

Name of complainant: _____

To whom complaint was submitted: _____

Relationship of complainant to you/your office: _____

Where and when filed: _____

Status/Outcome: _____
[If more than one, attach a list]

List all financial debts that you owe of a balance greater than 1,000 Euros. For each, please state:
Original amount of the indebtedness _____
Date on which you incurred the debt _____
Any lien or security for the indebtedness _____
Type of indebtedness (e.g., loan, credit card, purchase on credit, etc). _____
Payment schedule _____
Current outstanding balance _____
[If more than one, attach a list]

Do you have a written policy for maintaining the security of data covered by the Law on Private Data Protection? Y _____; N _____.

Has your office experienced any breach or loss of security of data covered by the Law on Private Data Protection in the last three years?
Y _____; N _____. If Yes, please explain:

Do you have a written policy for preserving confidentiality of data? Y _____; N _____.

Has your office experienced any breach or loss of confidential data in the last three years? Y _____; N _____.

Do you have a policy addressing the integrity and security of your business records? Y _____; N _____.

Has your office experienced any breach or loss of business data or records in the last three years? Y _____; N _____. If Yes, please explain:

Do you have a written policy for handling cash? Y _____; N _____.

Has your office experienced any kind of loss or destruction of cash or tangible assets in the last three years due to fire, flood, or theft or other casualty? Y _____; N _____. If Yes, please explain:

Do you have a policy addressing the integrity and security (including secure backup) of electronic data? Y _____; N _____.

Has your office experienced any breach or loss of electronic data in the last three years? Y _____; N _____. If Yes, please explain:

What kind of software or other system do you use for accounting?
Explain:

What kind of software or other system do you use for managing cases?
Explain:

Please provide the name of the banks at which you hold your clients' funds (special) accounts, and the number of all such accounts under LEP Art. 332(1.3) – If more than one, explain why:

Bank name, address and account number: _____

Bank name, address and account number: _____

Bank name, address and account number: _____

If more than one Special Account, explain why:

Please attach a list of all the training that you have completed last year. identify type of training you attended last year, date of the training, hours and credits for each training as well as the institution that has delivered that training

[Attach list]

Please attach the current detailed balance sheet and detailed income statement for your offices for the two previous calendar years.

[Attach documents]

Please attach your personal current balance sheet showing all your personal assets and liabilities.

[Attach document]

Please provide bank information concerning your own business accounts:

Bank name, address and account number: _____

Bank name, address and account number: _____

Bank name, address and account number: _____

Bank name, address and account number: _____

Bank name, address and account number: _____

Please provide a list of all moveable and immovable assets and bank accounts owned by you and/or your spouse/minor children, that are greater in value (or balance) than 1,000 Euros, and indicate the current value for each:

[Attach list]

2. Performance Data

Please provide the following data covering the preceding two years:

	For the year _____	For the year _____
Number of cases in your caseload at the start of the period		
Number of cases in your caseload at the end of the period		
Number of new cases during the period		
Number of cases closed during the period, for whatever		

reason		
Number of cases closed during the period in which the claim was 100% collected		
Number of cases closed during the period in which the claim was 0% collected		
Monetary value of total enforcement proceeds during the period		
Total monetary value of fees collected during the period		
Total monetary value of enforcement proceeds paid to clients during the period		
Total case-administration fees paid to agent during the period		

3. Certification of Private Enforcement Agent

I _____ (name of Private Enforcement Agent or authorized representative) certify that the information provided in response to this questionnaire is made based upon a diligent review of records and is true and accurate to the best of my knowledge.

Signature

Date



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Republika Kosova-Republic of Kosovo
Qeveria-Vlada-Government

Ministria e Drejtësisë – Ministarstvo Pravde – Ministry of Justice

Onsite Inspection Checklist of the Private Enforcement Agent

1. Inspection Details

- a. Inspection Team: _____.
- b. Agent being Inspected: _____.
PEA Number: _____. Address: _____.
- c. Date of Assumption of Office: _____.
- d. Date/Time of Inspection: _____.
- d. Type of Inspection (circle one): Periodic; Special; Other
If Special, reason for inspection: _____.
-

2. Opening meeting

- Show credentials, introduce team, and explain process. The purpose is to ensure effective and legal functioning of Private Enforcement System.
- Ask if private space/conference room is available for document review and interviews.
- Will make observations and recommendations to the Ministry of Justice.
- Discipline only applied after Disciplinary Procedure, nevertheless, Inspector can issue remediation orders on the spot.
- Cooperation and openness will ease inspection process; obstruction/refusal to provide information can negatively impact the inspection process and results
- Agent will be provided an opportunity to review and respond in writing to the minutes of the inspection.
- Any questions?

3. Technical Review

Check when completed	Compliance Requirement	Result		Issue Tracking Number
		No Issue Spotted	Issue Spotted (Record details in Minutes)	
	Active registration for agents and deputies (Art 334)			
	Identification badge and stamps for agents and deputies (Art 333; AI MoJ-No. 06/2013)			
	Office Location, Premises, and Necessary Equipment (Art 332; AI MoJ-No. 03/2013)			
	Insurance for Damages – Activities (Art 332, 347)			
	Insurance for Property (Art 332, 347)			
	Records (general condition)			
	Records – Registry of Proposals (Art 348(1); AIMoJ-NO.10/2013)			
	Records – Balance Sheet and Income Statement of Business (Art. 349)			
	Records – Balance Sheet – Personal (Art 349)			
	Training (Art 351)			
	Special Account Statements (Art 350)			

4. Document Review

a. Financial

Check when completed	Compliance Requirement	Result		Issue Tracking Number
		No Issue Spotted	Issue Spotted (Record details in Minutes)	
	Review of balance sheet and income statement			
	Review of Special Account Statements for the year			
	[Other areas identified during planning]			

b. Case files

1. Review of files:

[List of up to 10 case files to review, made during planning]

Check when completed	Compliance Requirement	Result		Issue Tracking Numbers
		No Issues Spotted	Issues Spotted (Record details in Minutes)	
	Case 1			
	Case 2			
	Case 3			
	Case 4			
	Case 5			
	Case 6			

Check when completed	Compliance Requirement	Result		Issue Tracking Numbers
		No Issues Spotted	Issues Spotted (Record details in Minutes)	
	Case 7			
	Case 8			
	Case 9			
	Case 10			

2. Case file discussion with responsible person (identify)

Check when completed	Compliance Requirement	Result		Issue Tracking Number
		No Issue Spotted	Issue Spotted (Record details in Minutes)	
	Walk through an actual case activity (e.g., opening case, taking initial up-front payments, locating debtor, serving documents, questioning debtor, locating assets, seizing assets, liquidating assets, managing liquidation proceeds, depositing proceeds, calculating fees, paying creditors, taking fees)			
	Walk through an actual cash transaction – e.g., confirming between file documents and bank statements.			
	Walk through an actual sale transaction – e.g., tracking transaction documentation from valuation, sale, payment, deposit into special account, payment to creditors, payment of fees and expenses to PEA.			
	[other issues identified during case review]			

5. General Interviews

a. Names of persons Interviewed:

Name	_____	Title	_____
Name	_____	Title	_____
Name	_____	Title	_____

b. Sample interview query areas to consider [select as appropriate]:

Check when completed	Compliance Requirement	Result		Issue Tracking Numbers
		No Issues Spotted	Issues Spotted (Record details in Minutes)	
	Explain and show procedures for cash management			
	Explain and show accounting systems			
	Explain system for managing and reconciling special account			
	Explain system for calculation of fees			
	Explain system for determining and paying out fees			
	Discuss tickler system to keep cases moving forward: sequence of procedures, deadlines and schedules			
	Discuss record-keeping system for case status: updated, backed up, complete, reliable			
	Discuss incidents of disgruntled employees			
	Discuss any threats or security incidents during the			

Check when completed	Compliance Requirement	Result		Issue Tracking Numbers
		No Issues Spotted	Issues Spotted (Record details in Minutes)	
	last year			
	Describe losses of cash or property during the last year			
	Explain any complaints received during the last year			
	Provide more information on areas of interest identified from questionnaire			
	[List of other questions based on issue areas identified during planning]			

6. Orders to Remediate

- Explain any orders to remediate observed irregularities.
- Time frame for completion and follow up.

7. Closing Meeting

- Explain post-inspection process
- Minutes/Inspection Report will be completed after the visit, with observations, conclusions, and recommendations.
- Copy will be provided to Agent for review and provision of written comments/responses
- Disciplinary actions may follow, but go through Disciplinary Procedure
- There may be follow up/control inspection
- Any questions?

[Name of Lead Inspector]

Signature

Date



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Qeveria – Vlada - Government

Ministria e Drejtësisë – Ministarstvo Pravde – Ministry of Justice

Detailed Minutes of Inspection of the private enforcement agent

Name of Private Enforcement Agent: _____

Date of Inspection: _____

Office of the Private Enforcement Agent: _____

Type of supervision/inspection: _____

Purpose of the supervision/inspection: _____

Inspecting authority: _____

Persons Interviewed:

Name	Position	Telephone	Email

1. The private enforcement agent office was represented by _____ (agent/representative), who was present at the premises during the supervision/inspection.
2. The inspection team explained to the representative the purpose and scope of the inspection.
3. Have all the employees signed the statement of keeping the confidentiality for their work in the office of the private enforcement agent?
Yes/No.
4. Have the employees been registered in the respective bodies (TAK/KTA): **Yes/No.**
5. **Insurance of the responsibility of the agent:** Agent is insured in compliance with the applicable law, and he/she has been insured in the Insurance Company _____. Number of the insurance policy: _____. Duration of the insurance is valid until _____, value of the insurance _____ Euro.
6. **Evidence of the Agent:** Number of the cases received and completed in the year _____

The Inspection team for the supervision of the legality of the work of the agent did control the evidence of the completed cases, from which it chose to control the following cases:

1. Case no. _____.

7. During the inspection the following circumstances have not been observed, the following conclusions were made and the following actions have been undertaken:

- 1. No Irregularities were observed; or
- 2. The following Irregularities were observed:

Issue tracking Number.	Type of Irregularity	Supporting Facts / Source / Evidence [observations, copies, samples, admissions. If lengthy, continue on extra sheet, referencing the respective issue tracking number]	Conclusions / Applicable Law/Regulation	Action Taken / Recommended action
1				
2				
3				

Comments or special circumstances:

These Minutes have been provided to the private enforcement agent for review and written comment. YES/NO

Comments of private enforcement agent, if any:

NOTE: Signature by the private enforcement agent is not an admission of guilt for any irregularities reported in these Minutes to have been observed.

Signatures:

Inspector:	Private Enforcement Agent:
Date:	Date:
If Private Enforcement Agent refuses to sign, reason:	



Republika e Kosovës
Republika Kosova-Republic of Kosovo
Qeveria - Vlada - Government

Ministria e Drejtësisë – Ministarstvo Pravde – Ministry of Justice

Nr. ____.

Date: ____.

R E P O R T

For carrying out the supervision of the legality of the work private enforcement agent

Pristina, _____

1. Introduction

Describe the purpose and the scope of the supervision:

2. Methodology

Description of the inspecting process, tools and techniques used:

3. Findings

Description of the observations from the inspection, including a detailed discussion for each issue identified in the minutes of the meeting:

4. Conclusions

5. Recommendations
