

Council of Europe
Conseil de l'Europe



European Union
Union européenne

Technical Paper

**The Mechanism for Coordination and Monitoring Implementation of the
Albanian Anti-corruption Strategy: Assessment and Proposed Next Steps**

Quentin Reed, PACA Team Leader

November 2010

Table of Contents

EXECUTIVE SUMMARY	3
1 THE EXISTING COORDINATION MECHANISM	3
1.1 The Inter-ministerial Working Group	3
1.2 Inter-ministerial Technical Working Group	4
1.3 Technical Secretariat	4
1.4 Civil society/expert Advisory Group	5
1.5 Summary of coordination mechanism	5
1.5.1 Action Plan: formulation and approval	5
1.5.2 Action Plan: reporting on implementation	5
2 WHAT IS NEEDED FROM THE COORDINATION MECHANISM?	6
3 ASSESSMENT OF THE MECHANISM.....	7
3.1 Clarity in lines of authority.....	9
3.2 Inclusiveness: drawbacks of formalism and hierarchy	10
3.3 The Inter-ministerial Working Group	10
3.4 The Inter-ministerial Technical Working Group: more than the sum of its parts?	10
3.5 The Technical Secretariat: secretariat or committee/working group?.....	11
3.6 Reporting and monitoring of Action Plan implementation	11
3.7 Monitoring of the impact of anti-corruption policies.....	12
4 CONCLUSIONS AND RECOMMENDATIONS FOR IMPROVEMENT OF THE COORDINATION MECHANISM.....	12
4.1 Inclusion of all relevant institutions	12
4.2 Coordination of AP formulation	13
4.3 Monitoring and verification of implementation	13
4.4 Technical Secretariat: capacity and resources for coordination and monitoring	13

For any additional information please contact:

Corruption and Fraud Unit
Economic Crime Division
Directorate of Co-operation - DG-HL
Council of Europe
F-67075 Strasbourg Cedex FRANCE
Tel +33 388 41 29 76/Fax +33 390 21 56 50
Email: lado.lalovic@coe.int
Web: www.coe.int/economiccrime

This document has been produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union or the Council of Europe

EXECUTIVE SUMMARY

This Technical Paper provides a brief critical assessment of the institutional mechanism for coordinating and ensuring the implementation of the Albanian Anti-corruption Strategy, and specifically for i) formulation and approval of the annual integrated Action Plans, and ii) monitoring of and reporting on implementation of the Action Plans. The paper follows a significant amount of assistance already provided by PACA to the improvement of the Anti-corruption Action Plan and its coordination mechanism, in particular: technical papers commenting on the structure and content of the 2009 and 2010 Action Plans and recommending changes therein; guidelines and templates for line ministries for the formulation of and reporting on implementation of the Action Plans; training provided in January and June 2010 to line ministries and DIACA on the above; and working meetings with DIACA and line ministries in February 2010 to assist with the finalisation of the 2010 Action Plan

The purpose of the Technical Paper is to clarify for the Albanian authorities and the main counterpart in particular (DIACA) what is needed from the coordination mechanism and to assess to what extent the existing mechanism fulfils these needs. It includes suggestions and recommendations for further improvements in the mechanism. The timing of the Paper is apt, following the approval in September 2010 of a new Prime Ministerial Order altering the previous coordination mechanism.

1 THE EXISTING COORDINATION MECHANISM

The Anti-corruption Strategy and Anti-corruption Plans is currently governed by the following mechanism for formulation of annual action plans and reporting on their implementation (and therefore, by implication, monitoring of implementation). This description takes into account the changes in the coordination mechanism introduced by the Prime Minister's Order on 'Establishment of the Inter-ministerial Working Group for Implementation of the Anti-corruption Strategy' signed on 27 September 2010.

1.1 The Inter-ministerial Working Group

The IWG is composed of one deputy minister from all line ministries, plus the directors of the Department for Internal Administrative Audit and Anti-corruption (DIACA) and Department for Strategies and Donors Coordination (DSCD) at the Council of Ministers. It is chaired by the Minister for Innovation, Information Technology and Communication (who was previously the Minister for State Reforms and Relations with the Parliament before the renaming of the Ministry). On the basis of the new PM Order, the IWG must meet six times per year, and invites representatives of other institutions as necessary to its meetings.

The tasks of the IWG are the following:

- Coordination of work for the implementation of the Anti-corruption Strategy (ACS)
- Supervision of implementation of the ACS
- Assessing the impact of policies, on the basis of which review/revision of the Strategy is to be undertaken
- Monitoring the work of the Inter-ministerial Technical Working Group
- Recommending and submitting for approval, through the Minister (Chair of the IWG), strategic changes to anti-corruption policy to the Anti-corruption Task Force

1.2 Inter-ministerial Technical Working Group

The IWG is charged with setting up a technical working group (ITWG) composed of experts – either directors or senior civil servants - from all departments of each ministry, drafts anti-corruption action plans and reports to/on behalf of the respective ministry of institution. The ITWG’s tasks are the following:

- Drafting the annual integrated Anti-corruption Action Plan
- Reporting to the IWG on a quarterly basis on implementation of the AP by the institutions represented within it
- Implementing directives given by the Prime Minister’s Anti-corruption Task Force, IWG and Technical Secretariat of the IWG
- Drafting technical proposals for the implementation of the Action Plan

According to the new PM Order, Secretaries General of each ministry are responsible for coordinating the drafting of the annual action plans and reporting on their implementation. The Secretary General of each ministry organises the process of preparation of action plans and implementation reports from directors, and presents these to the Technical Secretariat of the IWG after written approval from the respective minister.

1.3 Technical Secretariat

The Order establishing the IWG also refers to the IWG’s Technical Secretariat, composed of a representative of the Cabinet of the Minister for Innovation, Information Technology and Communication, DIACA and the Department for Coordination of Strategies and Donors. The task of the Technical Secretariat is to provide logistical support to the IWG and ITWG.

The role of DIACA within the Secretariat appears to be more important than any other institution (indeed, the expert has heard DIACA being referred to *as* the Secretariat). This is not only due to the nature of DIACA as the only permanent institutional anti-corruption body within the Council of Ministers, but also its already-established tasks. For example, according to Article 4ë of the Decree for the Adoption of the State on the Functions and International Administrative Control and Anti-corruption Procedures of the Council of Ministers, one of DIACA's tasks is "providing information and preparing summarized periodic reports on anti-corruption measures adopted by ministries and other institutions under their authority". This perspective is clearly reinforced by current practice, in which DIACA carries out *de facto* coordination of the preparation of Action Plans and reporting on their implementation.

1.4 Civil society/expert Advisory Group

In addition, the new Order refers to an "Advisory Group", which the Chair of the IWG is to convene "from time to time." The Group is described as composed of representatives of civil society, interest groups, the media, business community and/or experts. The Order does not mention the Group anywhere else, but the implication of the phrasing of Article 8 is that the Group is a permanent one.

1.5 Summary of coordination mechanism

Described in a 'narrative form', the Action Plan coordination mechanism may be summarised as follows according to the existing rules.

1.5.1 Action Plan: formulation and approval

- Ministry directorates draft Action Plan inputs, which are compiled under the supervision/responsibility of the Secretary-General and submitted to the Technical Secretariat of the IWG after ministerial approval.
- The ITWG participates in finalisation of the draft integrated annual Action Plan. As will be later noted, the extent to which the ITWG actually coordinates rather than merely collates/compiles the Action Plan is not entirely clear.
- The IWG approves the Annual Action Plan. It is not clear the extent or manner in which action plans submitted by line ministries may be altered after submission.

1.5.2 Action Plan: reporting on implementation

- Ministries draft reports on their implementation of the Action Plan under the coordination of the secretaries general.
- The Secretary General of each ministry submits the draft reports to the Technical Secretariat after ministerial approval.

- The ITWG reports on a quarterly basis on implementation of the Action Plan.

As Section 3 notes, there is currently no clear provision for final approval of a report on Action Plan implementation, although this is presumably one of the tasks of the IWG. Linked to this, there is also no procedure defined for monitoring of implementation, beyond the receipt by the Technical Secretariat of ITWG reports.

2 WHAT IS NEEDED FROM THE COORDINATION MECHANISM?

In general terms, a coordination mechanism for effective implementation of the Albanian Anti-corruption Strategy needs to provide the following, on the understanding that the operational policy document for implementing institutions is the annual Anti-corruption Action Plan.

- Inclusion within the Action Plan framework of all public institutions that formulate or implement policies that are of importance to efforts to prevent/fight corruption.
- Coordination within each ministry/institution of the formulation and submission of anti-corruption policies (objectives and measures) for specific departments of the ministry/institution. Thus for example formulation of the Ministry of Finance or Ministry of Interior Action Plans requires coordination of a number of key directorates within the respective ministries.
- Coordination across ministries/institutions of drafting policies that are cross-cutting. For example, the issues of licensing, public procurement or immovable property each fall under more than one ministry.
- Solicitation where appropriate of feedback from non-state experts and stakeholders.
- Review, collation and completion of the draft National Integrated Action Plan.
- Approval of the National Integrated Anti-corruption Action Plan.
- Coordination of draft six-monthly and annual reports on implementation of the Action Plan within line ministries, including submission of interim reports.
- Monitoring/verification of the information submitted by line ministries on their implementation of the Action Plan.
- Finalisation of draft six-monthly and annual reports on implementation of the Action Plan.

- Approval of the Report on Implementation of the Action Plan.
- Assessment of the impact of Action Plan policies.

3 ASSESSMENT OF THE MECHANISM

This section provides an overall assessment of the clarity and likely functionality of the coordination mechanism established by current legal norms and instructions. In the opinion of the consultant, who has also observed the process of Action Plan formulation and reporting from close quarters over the course of 2010, the changes introduced by the new Prime Minister's Order may go a significant way towards establishing a clear mechanism for formulation of and reporting on implementation of Action Plans at the level of line ministries.

However, in some areas the coordination mechanism is not entirely clear or the expert has doubts concerning its clarity and likely effectiveness. These are summarised in Tables 1-2 and discussed in the subsections following.

Table 1: Coordination mechanism for Action Plan approval

Function of coordination mechanism	Current status/comments
Inclusion within the Action Plan framework of all public institutions that formulate or implement policies that are of importance to efforts to prevent/fight corruption.	Only line ministries included in AP IWG may only invite representatives of other institutions
Coordination <u>within</u> each ministry/institution of the formulation and submission of anti-corruption policies (objectives and measures) for specific departments of the ministry/institution.	Mechanism in place
Coordination <u>across</u> ministries/institutions of drafting policies that are cross-cutting.	Mechanism (ITWG) defined but status and therefore coordination ability unclear
Solicitation of feedback from non-state experts and stakeholders (civil society).	Mechanism mentioned but not established
Review, collation and completion of the draft National Integrated Action Plan.	Mechanism in place (ITWG, TS) but status/procedures unclear and capacity questionable
Approval of the National Integrated Anti-corruption Action Plan.	Mechanism in place

Table 2: Coordination Mechanism for Reporting on and Monitoring Action Plan Implementation and Impact

Function of coordination mechanism	Current status/comments
Coordination of draft reports on implementation of the Action Plan within line ministries.	Mechanism in place
Monitoring/verification of the information submitted by line ministries on their implementation of the Action Plan.	No mechanism or capacity
Finalisation of draft report on implementation of the Action Plan.	Mechanism in place, capacity questionable
Approval of the Report on Implementation of the Action Plan.	No mechanism in PM Order, but exists in practice
Monitoring the Impact of Policies	Mechanism in place formally, not clear in practice

The following subsections elaborate on the comments provided in Tables 1-2.

3.1 Clarity in lines of authority

Despite the apparently clear hierarchical nature of the anti-corruption coordination mechanism, in fact the lines of authority and responsibility within the mechanism are not clear in at least 2 respects:

- The role of the ITWG/IWG in finalisation of the Integrated Action Plan. On the basis of the mechanism established, it is not clear whether ministries individually have last word on their sections of the Action Plan or whether these may be altered by the ITWG/IWG – and if not what is the mechanism for reaching agreement on changes proposed by the IWG.
- The role of the ITWG/IWG in finalisation of implementation reports. The same question as in the previous point applies also to reports on AP implementation. Given the formal procedure established by the Order under which each minister approve ministry reports on implementation, it is not clear whether the implementation report approved by the IWG may differ in its assessment from these individual reports. This also raises the key issue of monitoring/verification of line ministry reports on implementation, for which there is no clear mechanism

currently established – and in particular whether the ITWG can demand evidence from line ministries to verify implementation.

3.2 Inclusiveness: drawbacks of formalism and hierarchy

A well coordinated anti-corruption policy must by definition be sufficiently inclusive, meaning that it covers all the areas of public policy which are of importance in the prevention of or fight against corruption. The current coordination mechanism in Albania does not appear to do this in at least two senses:

- The mechanism is directly subordinated to the Council of Ministers and therefore includes only representatives of line ministries, Council of Ministers and their subordinate institutions. The annual Action Plans are structured according to this logic as well. This means that a number of important institutions are missing, e.g. High State Audit, High Inspectorate for the Declaration and Audit of assets (HIDAA), the Competition Authority, Ombudsman, or local government units. The absence of the Public Procurement Commission is also notable, despite the fact that the Commission is subordinate to the Council of Ministers. Paradoxically, the fact that the mechanism is based on hierarchical lines of authority limits its coverage.
- The Action Plan does not contain sections that would address in an integrated fashion issues that do not fall clearly within the remit of a particular line ministry, or fall under the remit of more than one ministry. Key examples of this are licensing, public procurement and immovable property registration, or conflicts of interest.

3.3 The Inter-ministerial Working Group

While the IWG is responsible for coordination and monitoring of AP implementation, it is not clear what authority/powers it has to ensure this. As noted previously, it is not clear whether the IWG (or ITWG) can change inputs (either proposed APs or reports on implementation) from line ministries after they have been submitted by ministries. It is also not clear whether then IWG (or the ITWG, see below) may require evidence of implementation from line ministries, including evidence that indicators in the Action Plan have been achieved.

3.4 The Inter-ministerial Technical Working Group: more than the sum of its parts?

The ITWG appears to consist of simply all officials from ministries who are involved in drafting Action Plans and reporting on their fulfilment. The expert has the following concerns about the status and role of this body:

- The ITWG does not appear to have any chairperson or head, raising questions about how its activities are structured and coordinated.

- The ITWG ‘drafts annual integrated action plans’, but in fact these are plans that are drafted within ministries under coordination of SG and submitted only after approval of respective minister. It is therefore unclear what the role of the ITWG as a working group is. The Order itself does not clarify this as it states that the ITWG drafts action plans and reports “to/on behalf of the respective ministry or institution”. In particular, it is not clear how the ITWG can coordinate cross-cutting issues.
- Drafts reports on implementation for respective ministries. This is phrased ambiguously in Albanian. Again, it is not clear how the ITWG plays a greater role than the sum of its parts, i.e. individual ministries reporting.

3.5 The Technical Secretariat: secretariat or committee/working group?

The expert has particular concerns about the nature of the Technical Secretariat as established by the Prime Minister’s Order. A ‘Secretariat’ in the ordinary understanding of the term is a physical organisation unit existing in one place to carry out ongoing tasks. However, the Secretariat as described in the order appears more as a committee or working group of three representatives of different institutions. It is not clear how the Secretariat as described can provide logistical support when it lacks a permanent working presence.

As noted in Section 2.3, it appears that DIACA in reality performs the role of the Technical Secretariat. The expert believes that if this is the case then it would be of value for this to be acknowledged more clearly than is currently the case, and for the ‘logistical support’ the Secretariat provides to be also more clearly defined.

3.6 Reporting and monitoring of Action Plan implementation

The only statement on this in the Order is that the ITWG reports on a quarterly basis on AP implementation. This leaves unclear the following questions.

- Is the ITWG’s reporting simply a collection of line ministry reports? The fact that ministry secretaries general submit the reports after ministerial approval suggests that this is so.
- How is the integrated report on implementation to cover cross-cutting issues? There is currently no mechanism for this unless ministries were to agree to formulate joint reports outside the framework of the ITWG, or the Technical Secretariat were to take the lead.
- There is no mechanism envisaged for monitoring of the following:
 - The accuracy of line ministry reporting

- The 'real' (as opposed to formal) implementation of measures such as ministerial instructions/orders, or of the impact of implementation in improving governance or reducing corruption

3.7 Monitoring of the impact of anti-corruption policies

The Prime Ministerial Order envisages that the IWG assesses the impact of policies, on the basis of which review/revision of the Strategy is to be undertaken, and recommends and submits proposals for strategic changes to anti-corruption policy to the Anti-corruption Task Force. The impression is that this does not currently happen, and the expert believes that a key reason for this is the absence of an adequate mechanism for monitoring AP implementation, together with the unclear role of the Technical Secretariat.

4 CONCLUSIONS AND RECOMMENDATIONS FOR IMPROVEMENT OF THE COORDINATION MECHANISM

The analysis so far raises issues over three main aspects of the anti-corruption policy coordination mechanism:

- The absence of key institutions within the AP framework.
- Whether the coordination mechanism in place, and as modified by the new Prime Ministerial Order, ensures adequate coordination of the Integrated Action Plan, as opposed to mere compilation of the Action Plan from line ministry submissions.
- Whether the mechanism provides for real monitoring of implementation of Action Plans

4.1 Inclusion of all relevant institutions

The current coordination mechanism does not ensure the inclusion in the anti-corruption policy framework of a number of key institutions, due to their independence from the hierarchy of the executive branch. The expert understands that there is currently discussion of possibility of inclusion in the Action Plan of sections for certain such institutions. Such inclusion would require systematic involvement of those institutions within the IWG as well. It is therefore recommended that the inclusion of independent institutions is pursued through the initiation of memoranda of understanding between the Council of Ministers (or IWG as appropriate) and these institutions, in particular HIDAA, the High State Audit, Competition Authority, Ombudsman, and local government units.

4.2 Coordination of AP formulation

This paper has raised and reiterated doubts concerning coordination of AP formulation. Some of the doubts relate to the design of the mechanism itself, and in particular the role and powers of the IWG and ITWG. The first key recommendation here is to clarify the powers of the IWG vis-à-vis ministries in terms of AP formulation, coordination and revision. To the extent that clarification of the role of coordination requires the more active engagement of the Technical Secretariat, on the basis of previous experience this would appear to mean the more active engagement of DIACA.

4.3 Monitoring and verification of implementation

The clearest gap in the current coordination framework is the absence of a mechanism for real monitoring and verification of the implementation of Action Plans by the institutions responsible for doing so. This means more than receiving and compiling information on implementation provided by ministries themselves, and should also include where relevant the requesting of information to verify that, at least:

- the information provided by ministries is correct;
- measures taken are not just formal (for example the passage of an order or instruction) but involve actions to implement them, etc.

The expert therefore recommends that the IWG or the relevant authorities clarify how such verification is to be conducted and by whom. In formal terms the Technical Secretariat appears to be the only body mentioned within the Prime Ministerial Order that could conduct such verification. Given the central role of DIACA within the Secretariat, this would appear to be a clear opportunity for DIACA itself to conduct institutional audits to focus on both the implementation and impact of anti-corruption policies by selected institutions. Such audits fall under the category of institutional audits envisaged by the 'Guidelines and Procedural Rules for the Operation of DIACA' proposed by Council of Europe experts provided under the PACA Impact Project in May 2006.

4.4 Technical Secretariat: capacity and resources for coordination and monitoring

The areas identified in this Technical Paper as requiring some attention may to some extent be addressed by clarifications of procedures (for example of the exact role of the ITWG). In addition, however, questions remain over whether the capacities available to the bodies responsible for coordination – and especially monitoring – of anti-corruption policy are sufficient at the present time. These concerns may be lessened if the future Action Plan is altered in line with PACA recommendations from June-July 2010 in order to prioritise and remove measures that are not of primary anti-corruption significance, but they will still remain.

In particular, the role and capacity of the Technical Secretariat is a fundamental issue. To the extent that DIACA constitutes the Secretariat in reality, this means that in practice one person is responsible for logistical support in coordinating AP formulation, monitoring and reporting – and presumably also for monitoring the impact of policies and proposing revisions to policies. While the expert does not wish to pre-judge the sufficiency or otherwise of the resources available, it is strongly recommended that an objective assessment of institutional and human resource capacities required for AP coordination and monitoring is commissioned – an analysis that may be conducted under PACA assistance. Such an analysis could then be used to address any shortcomings identified, and devise solutions to address them.