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PROJECT AGAINST CORRUPTION IN ALBANIA (PACA)

TECHNICAL PAPER

**COMMENTS ON THE PACA DRAFT CORRUPTION RISK
ASSESSMENT METHODOLOGY**

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Table of Contents

1	INTRODUCTION/EXECUTIVE SUMMARY	3
2	TWO DIRECTIONS FOR CORRUPTION RISK ANALYSES	3
2.1	Factors underlying corrupt practices	4
2.2	What is meant by corruption?	5
3	ASSESSING THE INCIDENCE OF CORRUPTION.....	6
3.1	Perceptions vs reality.....	6
3.2	Incidence vs importance.....	7
4	THE RISK ASSESSMENT QUESTIONNAIRE	7

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1 INTRODUCTION/EXECUTIVE SUMMARY

This brief Technical Paper comments on the Draft Risk Assessment Methodology provided by the PACA Project. Detailed comments on the draft are also provided to the form of suggested changes to the document (see Annex). Essentially, my evaluation of the document is the following:

- It is a shrewd, well-informed analysis of the difficulties of conducting risk assessment in the field of corruption, and it is alert to the problems associated with the identification of indicators to measure progress.
- The range of indicators currently set out is appropriate, although I make one or two suggestions. However, the key issue is how to introduce an awareness of these into the institutional cultures of different departments, less in the form of a monitoring and regulatory system, which will tend to encourage formal compliance and the ticking of the appropriate indicator boxes, and more as a stimulus to the development of a public service ethos in which the participants will come to 'own' the process and share the concerns about the development of informal and corrupt practices within the institution. Moving in this direction is really the only way in which to diminish the risk of corruption over the long term, and while cross-institutional vigilance must be maintained, the more the norms are embedded in people's practices and shape their expectations, the more robust the institutional environment will become.
- The draft correctly identifies the problems of the available techniques for assessing the incidence of corruption. In line with my preference for the development of an 'internal ethical audit' tool rather than an 'external accountability mechanism', I agree with the draft's recommendation to pursue smaller-scale qualitative surveys based on detailed discussions in focus groups.

2 TWO DIRECTIONS FOR CORRUPTION RISK ANALYSES

We need to be clear that a risk assessment methodology can go in two quite different dimensions: it can function as a tool for external regulation of an institution; or it can serve as a tool to encourage the development of a culture of probity within the organisation. Of course, some elements will be similar, but there will also need to be considerable differences. My sense of the current proposal is that it has sought to develop a greater specificity in relation to risk assessment than is really achievable, and that it has framed this in terms of regulation, rather than in terms of developing the internal culture of the institution.

I would therefore wish to encourage a step back from over-specificity (for reasons that the executive summary makes clear), and towards the development of an internal tool for the development of an appropriate public service culture. Of course, it is highly desirable to have some way of assessing the effectiveness of anti-corruption measures and I perfectly understand the concern that something be done on these lines. I shall make some suggestions as to how such measures might be built-in to intra-institutional programmes.

2.1 Factors underlying corrupt practices

What are pre-disposing, contributing, or facilitating factors for corrupt practices? Clearly, not all institutions are equally exposed to or vulnerable to corruption. Nonetheless, as the document makes clear, it is by no means easy to identify factors unequivocally. In the end, people *act* corruptly. But in doing so they are rarely responding only to causal conditions and the balance of incentives and disincentives these give rise to - not least because what factors count as incentives and disincentives depends to a considerable degree on how officials see their role, their future, and how they think of themselves. Someone who regards the pursuit of money to the detriment of the functioning of their organisation as a shameful way of behaving is going to respond to the demands and opportunities they face in the execution of their role in a very different way than someone who regards the idea of public service as a illusion and is solely concerned to maximise their gains in the short term from whatever opportunities they face. It is also true that a context in which people face threats, violence and intimidation may make it very difficult for a public service ethos to survive, especially where those in the front line receive little support from their line managers and superiors.

What this means is that in some cases only exceptionally virtuous individuals could stick to the formal requirements of their role. In others, only exceptionally bad individuals would not do so. In between, there is a very complex mix of factors that may make corruption more or less likely. The draft is right to stress that the factors that predispose institutions and individuals to corruption are many and various. Perhaps the right metaphor is a quasi-medical one relating to certain diseases where:

- There are predisposing factors which make corruption more or less likely
- These factors require environmental triggers to actually translate into corrupt behaviour, **and**

- The psychology and attitude of the patient has an impact on whether the environmental factors will in fact act as a trigger and, in the event of them doing so, on the extent to which the disease will be more or less fatal.

This sort of complexity makes it easy to understand why there is simply no agreement in the literature on what counts as a predisposing factor for corruption, and no easy generalisations about why corruption is in evidence in some contexts but not others. Again, while it is easy to say that in war-torn conflict zones, where people have very short-term time horizons, where they face daily threats to their survival, and where there is an absence of any generalized trust, then few people will have any reason to comply with public regulations or a public service ethos. But, once time-horizons are extended, conflict diminished, generalised trust more widespread, and so on, then we have a different scenario. The problem is that, between the extremes, we are dealing with a range of interacting variables such that the presence or absence of a particular variable (e.g. 'a corruption risk factor') is neither a necessary nor a sufficient condition for the existence of corruption.

One thing that follows from this is that incidence, seriousness and vulnerability to corruption, need to be understood in predominantly local terms. In other words, the incidence of corruption in one institution (or even department) should help identify risks in that department, but may have little relevance for the experience or vulnerability of other departments.

2.2 What is meant by corruption?

Corruption cannot simply be defined as the violation of formal rules (such as bribery laws), since those formal rules may themselves be the outcome of corrupt transactions. It is also extremely difficult to ensure that formal rules cover all cases of behaviour that undermine the public service ethos of an institution. All such institutions operate both according to formal and more informal rules and norms. The latter, while an integral part of any administrative culture, are not easily formalised, and attempting to formalise them may lead to a regime of strict formal compliance (box-ticking), rather than one which is faithful to the spirit of the rules and the institution.

Second, serious thought has to be given to the terminology used for particular types of behaviour. Trying to engage in a dialogue with officials about the character of good practice in their institution is more likely to enlist their cooperation and some reflection about the way they act than if we ask them about corruption. This is not a case of shying away from hard truths, but an

attempt to stimulate the development of an ethos that will help change people's perceptions of their own and others activities.

3 ASSESSING THE INCIDENCE OF CORRUPTION

3.1 Perceptions vs reality

As the technical specification makes clear, there are very substantial difficulties in providing hard data about the incidence of corruption. Where corruption is very widespread it undermines the very institutions that could register that fact, resulting in low levels of corruption according to formal sources of evidence. Where corruption is rare we might find higher *reported* incidence, simply because cases are a cause for prosecution and public outcry. Moreover, periods of judicial activism with respect to corruption (such as the Italian 'dirty hands' campaign) do not necessarily signal an increase in corruption, and may well signal a decline (not least in that judicial institutions are able to assert their independence).

The comments in the draft about the use of surveys and methodology are absolutely to the point. We have used large-scale quantitative surveys to track changes in public attitudes to standards in public life in the UK over the past eight years and we believe that this gives us a reasonably robust measure of whether confidence in the probity of public office holders is increasing or decreasing (with the focus being primarily on elected Members of Parliament), but that tells us about public perceptions, not about the reliability of public office holders. The data on perceptions and confidence in office holders is important, since, as David Hume notes, all government rests on opinion. The less confidence the public have in their elected representatives, the more fragile are the country's political institutions, and the more likely people are to look for other ways to make representation and hold government to account. Likewise, the more the public standing of elected representatives or other officials falls the less likely it is that the job will attract people with talent and probity. Nevertheless, these surveys are expensive (although there are cheaper, if sometimes less reliable alternatives) and they rely on being able to trust the survey organisation and those who undertake the interviews.

Where there does seem to be a role for research is of the intensive focus-group/qualitative kind, in which people's expectations are explored, and perhaps their experiences of particular institutions, and where this then forms the basis for reflection and deliberation within the organisation on its practices. The lack of representativeness in those interviewed is more than

compensated if the issues raised are taken to heart within the institutional culture.

3.2 Incidence vs importance

I am also completely in agreement with the suggestion that any responsible process of assessment will concern itself with matters of 'importance' in respect to corruption. One down-side of the attention to corruption over the last twenty years is the tendency not to distinguish degrees of seriousness, or degrees to which it is embedded. A deeply corrupt institution may be able to elicit 'gifts', services, and various forms of pre-emptive surrender from a population through a whole series of implicit understandings of the costs of non-compliance. A climate of fear is corrupt – and much more so than one where corrupt transactions govern the speed of service rather than whether or not the service is delivered - but it may be much harder to detect.

4 THE RISK ASSESSMENT QUESTIONNAIRE

I have commented further in detail on the risk assessment questionnaire directly in the document. As I suggest above, there needs to be some decision about whether this is an internal ethical audit tool, or an external regulatory and accountability tool. I would favour the development of the former. The challenge is to get institutions to own these problems; rather than providing them with incentives to deny that they exist.