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TECHNICAL PAPER

FACILITATING AND PROTECTING COMPLAINTS OF ALLEGED OFFICIAL CORRUPTION AND MALPRACTICE IN ALBANIA: THE CURRENT SYSTEM AND RECOMMENDATIONS FOR IMPROVEMENTS

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1 INTRODUCTION/EXECUTIVE SUMMARY

Since the 1980s complaints mechanisms have become increasingly regarded as an essential component of a well-functioning public administration, especially in environments where official misconduct is thought to be more widespread. This paper considers briefly the current Albanian legal and institutional framework in place for:

i) facilitating and processing complaints and notifications (or 'denunciations' in local terminology) of corruption by citizens or public officials;

ii) motivating such notifications and protecting persons (whether citizens or public officials) who make them.

Complaints concerning alleged corruption or mistreatment by public officials in Albania are currently regulated in five main ways, or five main mechanisms:

- The legal framework for filing of complaints to line ministries or their subordinate bodies, including specific sub-legal acts to establish anti-corruption hotlines

- Incentives and protection for internal or external notifications of alleged corruption (the Law on Cooperation of the Public in the Fight Against Corruption)

- Mechanisms (an email address and hotline) by which citizens may notify to the High Inspectorate for the Declaration and Audit of Assets (HIDAA) alleged conflicts of interest or failures of public officials to declare assets

- Mechanisms for complaints against judges (Ministry of Justice and High Council of Justice complaints procedures)

- The People's Advocate (Ombudsman)

This paper does not cover the complaints mechanisms of HIDAA or the Ministry of Justice/High Council of Justice, but focuses on the first stage of any good framework for facilitating complaints – internal complaints systems – together with the general mechanisms in place for ensuring that persons notifying corruption or malpractice have an incentive to do so. Mechanisms for complaints against judges have been addressed in a separate PACA Technical Paper (CMU-PACA-05/2011). The paper does however conclude that the Ombudsman should play a more active role as a channel for complaints of corruption.

The **main conclusions** of this Technical Paper are as follows:

- A law exists to facilitate complaints and notifications about corruption and protect those who do so – the Law on Cooperation of the Public in the Fight Against Corruption. However, the law in question exhibits a number of significant flaws and weaknesses:

  - Definitions of key concepts in the law are unclear, making its coverage unclear.
  - It mixes together a framework for citizen complaints and complaints/notifications by officials within institutions (whistleblowing), issues which should be regulated separately. Partly as a result, provisions to protect officials from retaliation for notifying misconduct are entirely inadequate.
  - It limits the procedures and protections established by the law only to notifications of corrupt behaviour rather than misconduct/wrongdoing in general.

- The Law on Cooperation does not appear to have been implemented at all in practice, partly because the necessary sub-legal acts have not been issued by the Council of Ministers.

- In 2005 a Prime Minister's Order required a number of key line ministries to establish automated hotlines for registering complaints/notifications of corruption. However, the conception this framework followed was significantly flawed for several reasons, and it no longer seems to be in place. As a result, there appear (with a few possible exceptions) to be few lines of communication (such as hotlines) specially designed to facilitate complaints of corruption or other malpractice.

On the basis of these findings, the expert makes the following **recommendations**:

- The existing legal framework should be modified to establish standardised requirements of public institutions/state bodies to establish unified citizen complaints mechanisms. Such mechanisms should exist in order to receive and address complaints about misconduct in general, not just 'corruption' in a narrowly defined sense.

- If the system of financial compensation for those who provide information on corruption is intended to be implemented, the current legal provisions should be made operational by issuing the necessary sub-legal acts (e.g. on the templates for claiming compensation). More generally, it is recommended that an assessment of the wisdom of this approach is conducted, given its controversial nature in European countries.

- A public awareness campaign should be conducted to raise awareness of other complaints mechanisms available for making public interest disclosures of corruption or other misconduct – including but not necessarily limited to the

Ombudsman and the Department for Internal Administrative Control and Anti-corruption at the Council of Ministers.

- Mechanisms by which public officials/employees may notify misconduct within the institution in which they are employed should be designed specifically for that purpose and should not be subsumed under the more general category of citizen complaints/denunciations. Such mechanisms should reflect good practices internationally, namely by ensuring that officials may blow the whistle to a clearly-determined responsible entity within their institution that is separate to their direct line management hierarchy, and by clearly establishing what kinds of public interest disclosures (including external disclosures) are legitimate (and therefore protected) and under which circumstances.

- Mechanisms to protect whistleblowers should be radically overhauled to ensure they cover issues such as unfair dismissal, and in addition that they establish compensation for retaliation.

2 COMPLAINTS MECHANISMS AND WHISTLEBLOWER PROTECTION: MAIN ISSUES AND GOOD PRACTICES

2.1 Complaints to defend interests vs. public interest disclosures

In order to clarify the discussion of complaints and whistleblowing regulation, it is useful to distinguish two types of notification:

i) complaints that are submitted by citizens or officials concerning official conduct that has an adverse effect on their own legitimate interest – in the case of a citizen, for example, failure to secure a document or official decision to which s/he is entitled;

ii) complaints or notifications by citizens or officials about wrongdoing that has an adverse impact on the public interest but may not directly affect the citizen or official him/herself – or 'public interest notifications'.

In many cases the two types of complaint may overlap, yet they are important to distinguish in order to clarify the need to facilitate not only the first type (which legal systems are more likely to do anyway) but also the second.

2.2 Mechanisms of regulation

With regard to all kinds of notification, regulations may be designed to pursue four aims:

i) to facilitate notifications (for example by ensuring there is a clear and independent channel for filing complaints);

ii) to ensure proper processing of notifications (for example by establishing a clear and binding process of investigation/inquiry in which the notifier/complainant has the right to be represented);

iii) to incentivise notifications (typically, by providing rewards for notifying misconduct);

iv) to protect those who make notifications (for example by prohibiting retaliatory action and/or awarding damages/compensation to victims of retaliation)

The balance between these four types of mechanism is likely to (and indeed should) be different depending on: the source of notifications – in other words, whether this is the citizen or an official/employee of the organisation which the notification concerns; and the nature of the notification – whether the notification is a complaint about damage to one's own interests, or a public interest disclosure. For example, in the case of complaints by citizens concerning damage to their own interests the emphasis in regulation is likely to be on i) and ii), whereas for public interest disclosures by employees of state institutions (i.e. whistleblowing) point iv) – protection - will also be of key importance. The appropriate balance between different mechanisms may also vary across countries. In a country with a well-consolidated democracy and legal state, protection for employees of the public service will be important, but protection for citizens who make complaints is less likely to be needed. In less consolidated systems, however, citizens may also need protection for complaints they make against officials or state institutions.

2.3 Complaints mechanisms

Complaints mechanisms are usually understood as procedures by which members of the public may notify alleged poor conduct by public officials or institutions. Such conduct may or may not directly affect the complainant's interests. Good complaints procedures are in general those that establish the following:

- Clear mechanisms by which citizens may submit notifications – without undue bureaucratic requirements – of alleged wrongdoing.

- Clear rules on the submission of complaints – including the manner in which communication takes place – which are designed to i) protect the confidentiality of complainants; ii) where appropriate, enable complaints to be filed anonymously; It should be noted that confidentiality is not the same thing as anonymity. The confidentiality of a complainant is protected vis-à-vis the target of the complaint even though the recipient of the complainant is aware of his/her identity; by contrast, if a complaint is anonymous the recipient is not aware of her/her identity, and therefore cannot contact him/her for further information etc. A process that preserves confidentiality is likely to encourage complainants not

to insist on anonymity, enabling the information they provide to be better used and processed.

- Rules which require complaints to be resolved clearly – i.e. either by rejection with clear justification, part or full finding in favour of the complainant, and including clear rules for when and where findings should be sent (for example if suspicion of criminal behaviour emerges).

- Devotion of sufficient resources to operate the mechanism that is established – in terms of technology/infrastructure, and human resources to receive and process complaints.

2.4 Regulation of public interest disclosures (whistleblowing)

Whistleblowing is essentially a subset of the general category of complaints, and occurs where a public official (or indeed an employee of any organisation) raises concerns about wrongdoing within that organisation. 'Whistleblowing' is distinct from 'complaints', and its regulation usually consists of three key components:

- the establishment of mechanisms to facilitate the raising of concerns by employees within the organisation in which they work – for example requiring organisations to ensure that there is a channel for complaints for employees that is separate/parallel to their line management;

- definition of situations in which employees are justified in raising the issue with an external official body (e.g. a regulator), or (where this is also ineffective) with another external entity (in particular, the media);

- the establishment of mechanisms to protect whistleblowers from retaliation from within the organisation in which they work.

A key point regarding whistleblowing is that regulation to facilitate and protect it is not aimed at encouraging the 'public washing of dirty linen', but on the contrary to encourage internal rather than external disclosure by creating an effective system for accepting and dealing with public interest notifications by public officials. A good whistleblowing law will paradoxically encourage loyalty among public employees and minimise 'rogue' whistleblowing to the media, as the latter should become a last resort that officials will need to pursue less often. In addition, by encouraging early disclosure by officials to properly established internal channels, whistleblowing regulation should minimise damage to the organisation.

A small number of countries – and mainly the United States with its False Claims Act – also establish rewards to whistleblowers in the form of payments, typically as a proportion of the money saved or damages avoided as a result of a public interest notification. However, the compensation approach remains controversial in Europe and to the expert's knowledge Albania is the only country to have adopted such a

system, albeit only for complaints about corruption. Such systems are controversial for several reasons; key among these are concerns that they do not encourage disclosure based on good citizenship (i.e. where officials or citizens disclose wrongdoing because it is the right thing to do) but encourage disclosure for reasons of financial gain, which may have undesirable secondary effects.

3 THE LAW ON COOPERATION OF THE PUBLIC IN THE FIGHT AGAINST CORRUPTION

In 2006 the Law on Cooperation of the Public in the Fight against Corruption (hereinafter 'Law on Cooperation') came into effect. The law is designed to provide or ensure the following:

i) a procedure by which citizens (including public officials) may submit 'denunciations' of 'corrupt practices' involving public officials;

ii) a procedure by which the institution to which the denunciation is submitted must process it;

iii) financial rewards for those who file denunciations that are confirmed as accurate; and

iv) protection against retaliation for those who file denunciations, whether the persons concerned are ordinary citizens or public officials.

The law therefore regulates or at least touches on all four of the main regulatory issues identified at the beginning of Section 2.2. However, it suffers from a number of important defects. Some of the more important ones are elaborated below.

3.1 Coverage of the law: 'too wide and too narrow'

The Law regulates citizen complaints/denunciations on the one hand, and complaints/notifications by public officials themselves (including a prohibition on retaliation against officials). The law regulates only complaints/denunciations concerning 'corrupt practices'. In the opinion of the expert, both of these aspects of the Law are problematic:

- **Combining regulation of whistleblowing and complaints.** As explained in Section 2 of this Technical Paper, complaints and whistleblowing are not exactly the same thing, and each of them requires a distinct type of regulation. While in theory a single law could regulate both, in practice the Law on Cooperation regulates complaints to a reasonably exhaustive extent, but does not establish a real framework to facilitate public interest disclosures by public officials., nor provide effective protection against retaliation for such disclosures by public officials. The Law on Cooperation is often described as a whistleblowing law; in fact, it falls considerably short of providing the main components that would be

expected in such a law (notably, ensuring channels for notifications/denunciations which would not directly involve superiors who might be the subject of the notifications, and proper mechanisms for protecting whistleblowers). It is recommended therefore to amend the law in such a way that either complaints in general and whistleblowing/public interest disclosure are regulated by separate laws, or ensure that the Law is elaborated to cover whistleblowing issues adequately rather than subsuming them under the general concept of 'denunciations'.

- **Issues that may be notified ('denounced')**. More generally, systems for the receipt and processing of complaints, as well as systems for facilitating and protecting whistleblowing, are not usually limited only to complaints about 'corrupt practices'. Indeed, to limit the coverage of such procedures only to corrupt conduct is unadvisable for many reasons and is rarely practiced. The conduct of public officials may diverge from being ideal in many different ways, and only one of these involves corruption. Sometimes, corruption may not even be the most important problem in official conduct, as opposed to incompetence, simple obstructionism, unfair/rude treatment etc. Moreover, the line between corruption and other poor conduct may often be difficult to draw. Crucially, it may be much easier and effective to complain about unfair treatment, discrimination, obstructionism etc, even where such behaviour is in fact the result of corruption or attempted corruption, rather than having to notify and provide evidence of corruption itself. It is therefore recommended that the Law regulates not only complaints/denunciations of corrupt practices, but also of official and institutional misconduct (or 'wrongdoing') in general.

3.2 Definitions and coverage of the law

Article 3 contains definitions of four key terms used in the law. Three of these definitions are problematic.

- Article 3 defines 'state institutions' (to which the law applies) as 'institutions of the public administration that accept denunciations according to this law and which in their budget have funds dedicated to compensation according to letter "a" of article 14 of this law.' However, Article 14 only defines the amounts of compensation to which notifiers of corruption are or may be entitled, and does not establish any rules by which state institutions must set aside funds for that purpose. The definition of institutions covered by the law therefore appears to enable each public institution to decide whether to be covered by the law or not – a far from ideal legal situation. The law should define clearly and directly the institutions to which the Law applies.

- Article 3 defines a 'denunciation' as "a notification made to state institutions about corruptive practices that persons have discovered, found and as to which a state audit/control is requested or which should be subjected to a state control/audit." It is not clear why the definition is expanded to mention state

control/audit, and the last sub-clause in the definition in particular appears to afford unjustifiable discretion to state authorities to reject notifications arbitrarily. The definition should be simplified to refer simply to 'a notification of alleged corrupt practice' (or, better, alleged misconduct – see Section 3.1).

- Article 3 defines 'corrupt practices' as "every action or failure to act committed by abusing with public authority, to obtain unlawful benefits for private interests to the damage of the interests of the state or of citizens." The provision of an independent definition of actions which may be 'denounced' creates considerable confusion, in particular concerning whether it is derived directly from existing definitions of illegal conduct, or on the contrary establishes a definition of corruption that goes beyond existing legal acts. Moreover, blurring the definition of corruption opens room for authorities to refuse to accept complaints/denunciations on arbitrary grounds. If the scope of the law is to be limited to complaints about corruption, then it should define clearly and in terms of reference to existing legal acts the actions or conduct to which the law refers – i.e. in this case, the actions or conduct for which denunciations may be filed. Again, it is strongly recommended that notifications/denunciations covered by the law are not limited to corruption alone but cover misconduct in general.

3.3 Procedures

Concerning the procedures for filing/receiving denunciations, the law establishes relatively clear procedures governing the submission of notifications and their recording and processing. The act rightly refers to the Code of Administrative Procedures as the overarching law governing such procedures, while regulating more specifically (in Articles 10-13) investigations that are carried out of notifications of alleged corruption. Nevertheless, the procedural part of the law contains some shortcomings:

- Article 4.1 states that denunciations are made either to the state institution where the alleged corruption took place, or to its superior institution. This provision should be made clearer to establish to whom precisely notifications are made, and should oblige each institution to define officials or units responsible for handling complaints – for example the internal inspection or control department or equivalent, and should establish clearly when notifications should be made to (and therefore must be addressed by) the superior institution.

- Moreover, if the Law is intended to facilitate whistleblowing and not just external notifications/complaints, the Law should i) ensure that officials/employees have the option of submitting notifications/denunciations to an internal unit that is not part of the official's direct line management; ii) clearly establish when and in what circumstances officials who work for an institution may legitimately notify misconduct externally – either to an external supervisory institution, or to the media. This may be done on the principle that where a complaint submitted by an official/employee is addressed neither by internal mechanisms determined for

that purpose, nor by external mechanisms addressed by the complainant - such as the Department for Internal Administrative Audit and Anti-corruption at the Council of Ministers (DIACA) - the complainant has the right to notify the public or media about the alleged wrongdoing.[1]

- Article 4.1 states that denunciations are made 'orally or in writing'. In the opinion of the expert, this provision should establish the means of communicating notifications more clearly – for example, whether each institution must provide a designated official, hotline, etc, and to whom notifications that are made in writing should be submitted.

- Article 4.1 states that anonymous denunciations are dealt with (i.e. accepted) where they contain 'credible information' on the committing of corrupt acts. This provision clearly facilitate arbitrary dismissal of complaints: it allows the authority to whom the complaint is filed to decide *a priori* whether complaints are well-founded or not, whereas the purpose of an investigation into complaints/denunciations is exactly to establish where the information provided is credible. The Law should rather state simply that anonymous complaints are accepted.

- Concerning who is responsible for dealing with notifications/denunciations, Article 9.1 states that "The authority responsible for the preliminary examination of the denunciation is the official to whom the denunciation is addressed or a person designated according to article 4 of this law." However, Article 4.1 does not specify more closely who is responsible. Article 10.2 states that the administrative investigation is assigned to "officials who have the competence and administrative functions that permit the performance of an investigation." Again, and repeating the argument under the first bullet point above, the law should establish clearly and unambiguously who is responsible for dealing with notifications.

- Article 9 determines the actions the state authority responsible for 'preliminary examination' (i.e. investigation) should take. These include deciding not to proceed with an administrative investigation "when the denunciation is not credible, of a general nature and not connected with concrete circumstances, obviously false, or made with the purpose of diverting attention from corruptive practices." In the opinion of the expert, the phrase 'not credible' is too general, and opens wide discretion for state institutions to arbitrarily reject notifications. As previously mentioned, one of the purposes of an administrative investigation is to establish whether a notification/denunciation is credible or not, and the circumstances under which it may be rejected must be more clearly and narrowly defined.

[1] This is the approach used for example in the United Kingdom Public Interest Disclosure Act.

3.4 Compensation/rewards for denunciations

The Law establishes – to the expert's knowledge, as the only European country – a system of compensation/rewards that may be provided to persons who make notifications to the authorities of alleged corrupt practices that are then shown to be true. The expert is not sure of the overall wisdom of this approach, as experts in the field of public interest disclosure have some misgivings about motivating disclosure through financial incentives. However, no judgment is offered on this subject, and it is possible that the provision of rewards may make sense in an environment where misconduct is common and/or citizens are reluctant to notify the authorities of such misconduct.

Assuming that the approach in general is a good one, the Law contains unclear provisions in this area:

- Article 13 states that "No file of a denunciation may be archived if the person who made the denunciation has not received compensation according to this law." This article is confusing, especially in relation to Article 15, which states that only persons who have made denunciations which turn out to be 'grounded, authentic and not previously known' *and* who request compensation may receive such compensation. Article 13 implies that all persons who make credible notifications should receive compensation, but this is contradicted by Article 15. <u>The Law should be clarified to ensure that Articles 13 and 15 are consistent.</u>

3.5 Protection of those who submit denunciations

Article 7 of the law aims to provide 'protection for denunciations made', and states that "state institutions may not begin a civil, criminal or administrative proceeding against the person who made the denunciation even if it turns out not to be true, except for the case when the person was an employee of the institution and wilfully submitted a denunciation about a practice that was obviously lawful." The expert regards this provision as inadequate for two main reasons.

- First, the Law limits the concept of retaliation only to civil, criminal or administrative proceedings, and makes no mention of, for example, dismissal of the employee, which is probably the most common form of retaliation against whistleblowers in public administration.

- Second, the term 'obviously lawful' is highly contentious and – in a situation where superiors of a public official elect to punish him/her for blowing the whistle on misconduct within the institution – is obviously vulnerable to abuse.

It is strongly recommended that retaliation through either civil, criminal or administrative proceedings, but also dismissal or demotion are defined as illegal where the official concerned has made a disclosure/notification that is legal

according to the Law. Such retaliation should give rise to the right of the employee to seek its reversal and to also receive compensation – such as all wages lost as a result of dismissal. It will be important to ensure that such provisions are also in harmony with the Civil Service Law, which is itself currently undergoing amendment.

3.6 Implementation

In addition to problems in the text of the Law on Cooperation itself, a major problem in practice appears to be simply a failure to implement the Law. In order to be implemented, the Law requires a number of sub-legal acts to be issued, including but not necessarily limited to the following:

- Detailed rules about the registration, documentation, evaluation and transfer of denunciations are to be specified in the internal rules of each institution (Article 8.2).

- The form (template) for requests for compensation of persons who make denunciations is to be defined by the Council of Ministers (Article 4.3).

- Detailed criteria for the amount of compensation received by persons who make denunciations are to be defined by decision of the Council of Ministers (Article 14.2)

To the expert's knowledge, and based on inquiries made to officials within state institutions, none of these documents have ever been approved, which has resulted in members of the public being unable to submit claims for compensation for alleged corruption they have notified to the authorities. To the extent that this is true, it is essential that the necessary sub-legal acts are approved in order that the law may be implemented.

3.7 The importance of designing the law to address 'worst-case' scenarios

In addition to the specific problems of the Law identified in the previous sub-sections, and considering the Law on Cooperation from a wider perspective, the expert believes that a key problem of the law is that it implicitly assumes that corrupt conduct within state institutions will be limited to sufficiently minor actors, so that those who are responsible (either directly or by implication of superiority) for investigations of complaints will not be the subject of denunciations themselves. However, the reality of public administration is that notifications of misconduct in many cases may implicate or even be directly aimed at highly-placed officials. This is one of the reasons why it is important to ensure in the law that employees who notify misconduct i) have an opportunity to do this to a unit within their institution that is not directly within the hierarchy of their superior, and which also enjoys some functional autonomy from the top management of the institution (as is for example

best practice for internal audit units); ii) are protected adequately from retaliation. The Law as it is currently worded does not provide either of these.

4 INTERNAL HOTLINES FOR THE NOTIFICATION OF MISCONDUCT

In parallel to the approval of the Law on Cooperation of the Public in the Fight against Corruption, and in order to facilitate notifications of corruption in state institutions, in 2005 a Prime Minister's Order 'On Establishing Toll-Free Telephone Numbers to Denounce Corruption' was approved. The Order mandates the Prime Minister's Office and five other ministries (Interior, Finance, Justice, Public Works, Transport and Telecommunication, and Economy, Trade and Energy) to establish toll-free telephone numbers for the public to notify alleged corruption. The institutions concerned are to record the 'denunciations' received, which would then be transcripted and reported to the heads of the respective institution.

In the opinion of the expert, the links set up on the basis of the Order would not constitute 'hotlines' in the ordinarily understood sense of the term, i.e. where hotline calls are answered by specific trained individuals who would engage in any necessary preliminary discussion of the matter (for example suggesting to the caller alternative routes of redress that should be employed first, requesting further information to facilitate further processing of the complaint, etc). The mechanism as established by the Order would not guarantee that notifications would be addressed, as callers would receive no official acknowledgement of the receipt of the 'denunciation'. Not least, the procedure by which all complaints are to be addressed by the head of the institution (in other words, a minister) appears to be entirely unrealistic and reflects an extremely centralist and top-down tradition of public administration.

In addition, on the basis of inquiries into the functioning of the anti-corruption hotlines it appears that they are not properly functioning. At the Prime Ministers Office it was reported by staff that both hotline numbers (08000909 and 08000808) originally established have been out of service for some years; however, a call to one number was answered by a person who informed PACA that calls should be made to the Director for Public Relations, and that the normal procedure is to send a letter to the same Director. The hotline of the Ministry of Interior (08009090, advertised to be at the Internal Control Service) has not functioned for some time. The Ministry of Finance hotline (0800 1963) is not answered. The Ministry of Justice does not appear to have a hotline according to the order, but has three numbers at which corruption can be notified – at the Directorate for Judicial Inspection, Directorate of Prosecution and Directorate of Administrative Inspection. The Ministry of Economy advertises an ordinary (i.e. not toll-free) mobile number.

In addition, officials at both the Prime Minister's Office and Ministry for Public Works and Transportation both informed PACA that the PM Order on hotlines had been rescinded at some point. PACA was unable to secure confirmation of this from its main counterpart (DIACA), but if true it would mean that there is no legally-

established system for receiving and addressing complaints or notifications of corruption (or other misconduct/wrongdoing) in public institutions, with the exception of the Ombudsman. The Administrative Procedure Code, which provides generic regulation of 'petitions' (including, by implication, complaints or denunciations) can not be regarded as sufficient to regulate this area sufficiently. It provides a basic level of regulation that ensure a procedure for dealing with written petitions, but the minimum requirements of the law do not guarantee a process for submitting complaints about misconduct that is easy for citizens to use (e.g. hotlines), and it provides no regulation of whistleblowing by employees/officials at all.

5 SUGGESTED SOLUTIONS

In view of the main findings of this Technical Paper, the following solutions are recommended to the Albanian authorities, based on the recommendations provided and underlined in each section above.

5.1 Complaints about alleged misconduct

The legal framework for complaints about corruption established by the Law on Cooperation and the (apparently rescinded) Prime Minister's Order No. 208/2005 should be overhauled to ensure, in addition to the procedure for processing denunciations contained in that law, clear statements of the following:

- What may be the subject of a notification ('denunciation'), encompassing not just 'corrupt behaviour' but 'misconduct' or 'wrongdoing' in a wider sense, whether illegal or not, and which institutions are subject to obligations provided in legal regulation of such notifications.

- Mechanisms for receiving and addressing complaints/denunciations. The rules on such mechanisms should clearly establish the duty of those receiving complaints to protect the confidentiality of the complainant, and in addition establish that complaints may be submitted anonymously.

- The means by which institutions must facilitate complaints, preferably hotlines. Such hotlines should be staffed by persons who are trained and responsible for processing complaints within the institutions.

To the extent that the Law on Cooperation itself is to remain as the basis for complaints/denunciations of corruption, it is essential that the sub-legal framework necessary for its implementation is established, including rules and templates for financial compensation of those who provide information on corruption if such compensation is to be retained in the law.

5.2 Public awareness raising

The following public awareness-raising activities are strongly recommended:

- The soon-to-be-launched Council of Ministers anti-corruption website should include an integrated section of advice on - and where possible relevant links to - all procedures that are available to citizens to file complaints about misconduct of public officials and institutions. Such information should include not only information on the legal framework mentioned above, but also on specific mechanisms for every public institution including DIACA, the Ombudsman, the High Inspectorate for the Declaration of Assets (HIDAA), police and judicial inspectorates.

- The Government should in addition conduct a specific campaign to make citizens aware of such mechanisms – for example via information provided to television stations.

5.3 Whistleblowing

In order to facilitate well-regulated public interest disclosure by public officials and employees of public institutions of misconduct within the institution in which they work, the current legal provisions within the Law on Cooperation - and/or in the new/amended Civil Service Law currently under discussion – should ensure the following:

- That public officials/employees of public institutions are specifically provided with the possibility of notifying misconduct internally, to i) a management line that is separate from their direct superiors, and ii) external institutions that have relevant responsibilities – such as HIDAA, the High State Audit or other relevant inspection/audit bodies.

- That, where public officials can reasonably argue that such notifications have not been processed or addressed adequately, they may also make public notifications, including to the media.

- That retaliation against public officials who make the kinds of disclosures defined above are protected from retaliation, including dismissal, is clearly prohibited.

- That public officials may pursue damages/compensation for such retaliation, with clearly defined procedures for the handling of disputes in this area – whether this be through employment tribunal-type mechanisms such as appeals to the Civil Service Commission, or through court proceedings - and the level of compensation to which officials are entitled.