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PROJECT AGAINST CORRUPTION IN ALBANIA (PACA)

TECHNICAL PAPER

LINE MINISTRY REPORTING ON IMPLEMENTATION OF THE 2009 ANTI-CORRUPTION ACTION PLAN AND PROPOSED MEASURES FOR 2010

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1 INTRODUCTION/EXECUTIVE SUMMARY

The Albanian authorities have taken fundamentally important steps to put in place the key components of a national anti-corruption strategy (the Cross-cutting Strategy for Preventing and Combating Corruption and Transparent Governance 2007-2013), annual action plan and reporting framework. This paper provides comments on reports on implementation of the Integrated Action Plan for 2009 for implementation of (hereinafter the 2009 Action Plan), together with proposed measures for inclusion in the 2010 Action Plan submitted at the end of 2009 by four line ministries – the Ministry of Public Works, Transportation and Telecommunications (MPWTT), Ministry of Agriculture, Food and Consumer Protection (MAFCP), Ministry of Defence (MD) and Ministry for Labour and Social Affairs (MLSA).

While the progress noted above together with the existing of reporting by some line ministries is a very positive sign, this paper note significant problems in reporting by line ministries, and particularly the absence of consistent reporting on the status of individual measures/indicators. The authors argue that the content of the 2009 Action Plan itself gives rise to serious barriers to clear and intelligible reporting – in particular through the absence of clearly defined and separated measures or of logical and measurable/assessable indicators on the basis of which reporting on implementation must be based. On this basis, a set of recommendations is offered.

2 PUBLIC AVAILABILITY OF THE ACTION PLAN

The authors of this paper feel it necessary to mention two important issues concerning the inclusiveness of the English translation and the availability of the 2009 Action Plan itself. Regarding the translation, significant sections of the Albanian version of the Action Plans – notably for example in the section relating to the MPWTT, or the entire column of monitoring indicators in the case of the Ministry of Finance – were completely missing in the English version (in the latter case the headings for the remaining columns also corresponded to the wrong columns). The Project Team only became aware of the differences in the full (Albanian) version after it was provided in early January 2010.

One of the reasons the Project Team became aware of the gaps in the English translation is that neither the Action Plan nor the Anti-corruption Strategy itself is available on the Internet in either language. The lack of public availability of these key documents naturally makes public awareness and public confidence in government anti-corruption efforts more difficult to build. It also prevents monitoring, oversight or public accountability for the content of the Action Plans and their implementation. For example, the Ministry of Justice Action Plan does not include any objectives related to the widely discussed issues of property registration or restitution. In the case of the MD the issues of disposal of old munitions and the selection of military personnel to serve in international missions are widely discussed areas of alleged corruption, yet they are not directly mentioned or addressed within the Action Plan section on the MD. It is therefore strongly

recommended that the Strategy together with future Action Plans are made public on the Internet.

3 MINISTRY REPORTS ON IMPLEMENTATION OF 2009 ACTION PLAN MEASURES

Ministries were instructed or expected to provide reports on their implementation of measures applicable to them under the 2009 Action Plan by 30 December 2010. As of 7 January DIACA had provided the PACA Team with four reports – from the MPWTT, MAFCP, MD and MLSA. This constitutes a low level of compliance with reporting requirements, with key ministries – in particular Justice, Interior and Finance – missing. It follows from the nature of the IWG – which adopted the Action Plan – that the Plan itself is a working document, and it is therefore not clear to the authors to what extent line ministries are under an obligation to report on their implementation of the Plan. Given the low level of compliance, this issue should be clarified in such a way that the obligation is clear.

3.1 Structure of the 2009 Action Plan

In order to structure the discussion of the Ministry reports, it should be noted that the 2009 Action Plan was structured according to the following table template:

No	Objectives	Measures	Responsible/Cooperating Institutions	Performance Deadline	Implementation Resources	Monitoring Indicators

Much of the discussion in this paper revolves around the way in which items in the Action Plan conform or do not conform to the concepts within this structure – in other words the extent to which entries under 'objectives', 'measures' and 'indicators' are in fact objectives, measures and indicators.

3.2 Lack of a standardized reporting format

According to DIACA, line ministries have been provided with a standardized format for reporting on implementation of measures applicable to them. However, the reports provided to the PACA Team did not exhibit any standardized – or even similar – format or structure. One of the reports (from the MPWTT) was in table form as an extension of the Action Plan section relevant to the Ministry and a new 'Status' column added. The reports from the other ministries were however in narrative form and corresponded to the structure of the Action Plan to differing extents. For example the MAFCP followed the numbering of its Action Plan objectives in its

report on implementation, whereas the MLSA did not follow any logic related to the Action Plan structure but used instead categories such as 'Legislative reforms', 'Labour inspections', 'Social protection', 'Migration' and 'Equal opportunities'.

3.3 Relation of reporting to measures and indicators

Partly as a result of the lack of a standardized approach, the Ministry reports do not consistently provide clear and specific reporting on implementation of the measures listed for them in the Action Plan, although the MPWTT table format report provided the closest to a clear account of implementation. In general and across the reports, however, a lack of clarity and specificity appears in several different forms (usually combined), in particular:

- A failure to state clearly whether a measure has been fulfilled, is in progress or has not been commenced.

- A failure to describe implementation in a way that enables the reader to at least partially verify the extent of implementation.

- A failure of the report on/description of implementation to correspond to the language of the measure as stated in the Workplan.

- A failure of the report to assess implementation according to the monitoring indicator/s stated in the Action Plan.

Examples of the above problems include the following:

Ministry of Defence Action Plan Objective 6 – 'Reforming the budgeting and planning system of revenues and expenses'. Four measures are listed for achievement of this objective:

- Determining the criteria and measures for an accurate and long term planning;

- Broad and competent participation in discussion, analysis and supervision of the budget;

- Standardisation of the control of the revenues and expenses;

- Recommendations on improving the legal framework and bylaws for planning the revenues.

However, the Ministry's report on implementation states that:

- "for better management of the budget, under the direction of the Modernisation Board a wide discussion has taken place on the implementation of priorities for modernisation of the armed forces", with no

indication as to the number of debates, audiences involved or relevant outputs, or whether criteria and measures mentioned in the measures themselves have been determined;

- public procurement has been performed electronically, with no explanation of which aspects have been performed electronically, what proportion of contracts involved or any other indication of actual extent of implementation;

- legal criteria have been adopted with a view to avoiding preferential treatment in the military procurement process, with no further specification provided.

Ministry of Labour and Social Affairs Objective 11.1 – 'Computerisation of information management in the employment offices, labour inspectorates and social services offices, as well as consolidation of the data bases for the labour market and social security protection' is elaborated in the Action Plan into the following four measures:

- Improvement of computerisation system in the established offices and computerisation in two other offices;

- Setting up the data base for emigration, putting in place specific counters for all the regions;

- Establishing the data base for disabled persons and setting up a specific unit to this effect.

- Amending the law no 8872, dated 29.03.2002 "on professional training and education"

However, the report on implementation only addresses the last of the four measures, for which it is stated that a final version of amendments to the law has been completed.

MAFCP Objective 1 states the following, derived directly from the Anti-corruption Strategy sections relevant: "Chapter 3. Government Policies'; I. Prevention, Transparency, All-inclusiveness and Education; C. Sector reforms; 13. Reform of ownership title; Revision of legal validity of creation of ownership titles on arable land." Under 'Measures' the following is stated:

- 'In reliance on the law no 9948, dated 07.07.2008, "On consideration/revision of legal validity for creation of ownership titles on arable land", there shall be put in place the consolidation through the subordinate legal acts and there shall continue the work of respective structures for implementing the legal provisions'

The implementation report states that most sub-legal acts implementing Law No. 9948 have been adopted, but does not specify what acts these are or when they became valid; and that the Land Government Commission made a decision on 693 of 9673 applications for revision of ownership titles, with no indication of whether or how this represents progress or improvement – i.e. implementation of the Measure.

MPWTT Objective 1 – Chapter 3, Paragraph B, Point 1 Regulatory Licensing Reform – states as Measures the following:

- Removal of most types of licenses by MPWTT, liberalisation of market for the majority and transferring the remaining and indispensable licenses to the National Licensing Centre and local govt units (LGU)

The Action Plan in this case also includes a specific monitoring indicator, which is that the number of licenses allocated by the MPWTT should fall by around 80 per cent. The implementation report lists in some detail licenses that have been abolished or transferred. However, no analysis of the proportion of total licenses abolished or transferred is provided, making it impossible to assess to what extent the measure has been implemented in terms of the monitoring indicator.

4 FACTORS UNDERLYING POOR REPORTING: PROBLEMS IN THE ACTION PLAN ITSELF

In addition to the apparent lack of a widely disseminated reporting template, the problems in ministry reporting may be the result of insufficient guidance and training on key concepts – in particular on what are objectives, measures and indicators. To a much greater extent, however, the authors believe that the quality of reports to a significant extent reflects problems in the content of the 2009 Action Plan itself.

The introduction to the 2009 Action Plan states the following:

- that the Inter-ministerial Working Group for Implementation of the Anti-corruption Strategy "is assigned by the decision of the Council of Ministers no. 1561 date 3d of October 2008 with the competences of coordinating and monitoring the implementation of the national strategy, revising it, periodically, *as well as elaborating and adopting of the annual action plans*" (our emphasis);

- and that the 2009 Action Plan "is elaborated based on the ministries and subordinate institutions' actions plans… [and] reflects the strategic objectives and the institutional measures that will be undertaken from the line ministries as established by the plans of the responsible institutions."

In other words, the Action Plan is to be based upon line ministry inputs, but elaborated by the IWG, for which the Department for Internal Administrative Audit

and Anti-corruption (DIACA) acts as Secretariat. However, a cursory reading of the Action Plan yields the strong impression that the IWG and DIACA have lacked the resources or time necessary to review the Action Plan adequately. This is clear immediately in the sense that the Action Plan is not consistent even in terms of the formatting and numbering of individual line ministry sections. For example, items within the table are listed in differing ways (types of bullet point), and the numbering system is chaotic: for example, the MLSA numbers its Objectives in two overlapping ways, from 11.1 to 11.6 but also A to D, with additional varying types of sub-bullet points, and no numbering at all for the last objective; moreover, a number of measures or indicators (for example 'Decreasing poverty level below 13%') are listed under 'implementation resources'. The Ministry of Health (MH) has a numbering system that goes in the order 1, 3, 4, then stops, and moreover does not correspond to objectives directly.

These inconsistencies suggest that the line ministry inputs were collated to create the overall Action Plan without any critical review of the inputs being conducted. The inconsistencies also create confusion and a background of what might be termed 'chaosity' in the Workplan. This prevents the Action Plan adhering to a clear logical structure, thereby inhibiting clear reporting on implementation.

In addition, based on a thorough reading of the Action Plan the authors believe that its content suffers from a number of more substantial problems that could be expected to give rise to both problems of implementation and reporting on implementation. The main problems identified are the following:

4.1   Action Plan Objectives not clearly derived from the Anti-corruption Strategy

It is vital that the sectoral objectives of line ministry action plans are derived from (or at least cover) the priorities listed in the ACS, if the latter is to remain a meaningful document. However, in a number of cases, there is no clear relation between a line ministry's Action Plan and the Anti-corruption Strategy itself. For example, the Ministry of Health's Action Plan contains seven Objectives (only the first four of which are numbered), some of which are identical to one of the 17 'strategic policies' listed in the section of the ACS devoted to reform of the health system (Chapter 3.C.5). However, not all of the strategic policies are covered in the Action Plan. Moreover, one of the Objectives in the Action Plan ('Elimination of abuse with drugs through information in Albanian to patients') does not appear to be related to anything in the ACS. In another case – the MPWTT's proposed Action Plan for 2010, 'objectives' are listed simply as the titles of selected sub-sections of the Anti-corruption Strategy, with no closer specification - for example Objective 2 is 'Chapter 3, Paragraph B, Point 2, Public Services Reform.'

4.2   Action Plan Measures not specific enough

Partly as a result of the lack of clarity in objectives – the MPWTT example being a good one – a more serious problem in line ministry action plans is that measures

often do not constitute specific actions to be taken. The MPWTT measures – already listed on page 5 of this paper – are so general that they do not provide any indication of specific actions. The MLSA lists as 'measures' *inter alia* the following: "Improvement of computerization system in established offices..", "Amending the existing labour framework", or "Review of legal and by-law framework connected to the labour inspectorate". Measure 6 of the MD Action Plan does not specifically list actions to be taken related to procurement, although the implementation report includes the performance of electronic procurement as an action taken to implement the measure.

There is a clear need in many cases for line ministries to flesh their Action Plans out into more specific tasks and sub-tasks than currently constitute them. The authors believe that rather than including all such ministry-level measures in the national Action Plan, ministries should formulate their own more detailed work plans based on the measures in the national Action Plan. Clearly, this requires sufficient delegation of authority as well as sufficient expertise at ministry level.

4.3   Insufficiently specific monitoring indicators

Monitoring indicators in the Action Plan should play a vital role in enabling institutions responsible for monitoring implementation to do so by comparing i) policy actions taken, with ii) clearly measurable, or at least assessable, indicators. However, in the Action Plan very many monitoring indicators are not specific enough to be measurable or assessable. For example, the MLSA's Action Plan measure "Review of legal and by-law framework connected to the labour inspectorate" is accompanied by indictors that do not appear to be linked to the measure: "Increasing number of inspections", "Reduction of labour tax", "Boosting the level of community service". Indeed, in this case as in many other places in the overall Action Plan the 'indicators appear themselves to be measures. Other randomly selected examples of 'faulty indicators' include the following:

- "Boosting the quality level of community service" (MLSA indicator for Measure 11.6)

- "Accountable follow-up for all the complaints filed by the interested entities, administratively and judicially" (Ministry of Economy, Trade and Energy, unnumbered second Measure)

- "Taking of measures of administrative and disciplinary character for financial disciplinary and legal procedures violations" (Ministry of Environment, Forestry and Water Administration, Measure 3)

- "Functioning, statistics and cases dealt with originating from denouncing lines" (Directorate General of State Police, unclearly numbered second Measure)

- "Efficient and professional inspection of judiciary" (Ministry of Justice, Measure 1)

- "Periodic controls and reports for the implementation of the abovementioned legal framework", "A more aware community and intensification of cooperation with all the actors and factors foreseen as sources of implementation", etc (Ministry of Tourism, Culture, Youth and Sports, Measure 1)

4.4   'Performance deadlines' not stated clearly

Many performance deadlines are stated vaguely, for example simply as '2009'. More importantly, due to the wording of the column itself only the Date for completion of implementation of measures is required. A better approach would be to require the specification of the period of implementation, including the starting date.

5   PROPOSED UPDATES FOR THE 2010 ACTION PLAN

Proposed measures for the 2010 Action Plan were received from the MPWTT, MSLA and MD. The proposed updates are to a large extent reiterations of items already in the 2009 Action Plan. This is in many cases logical and natural, particularly for measures that are envisaged for continuous or regular implementation. However, it is more questionable in the case of measures that are supposed to have been completed in 2009 – for example Objectives 1, 6 and 9 in the MD Action Plan.

More importantly, and naturally given the degree of continuity in Action Plan content, the comments made so far in this paper on the problems of the Action Plan apply equally to the proposed 2010 updates, and even where there have been new additions the same problems appear to be in evidence. For example, the only addition to the 2009 MD Action Plan contained in the 2010 proposal is Objective 7: "Integrated and effective management of the use of defence resources". The corresponding measure provided is "Continuous control and monitoring of distribution and redistribution and use of defence resources by the armed forces", and the monitoring indicator is "Increased efficiency of defence resources and their use with a view to boosting the operational capacity of the armed forces". Both the measure and indicator are vague to the point that it is impossible to identify which specific actions are required or how their implementation is to be measured or assessed.

6   CONCLUSIONS: CAPACITIES, METHODOLOGICAL ASSISTANCE AND TRAINING

Compliance of line ministries with the requirement to report on their implementation of Action Plan measures has been weak, both in quantitative terms (proportion of ministries reporting) and qualitative terms (the quality of reporting).

The following two sub-sections reiterate the problems identified in this paper and present recommendations for future actions to be taken by the institutions responsible for coordination and elaboration of the Action Plan within the scope of the PACA project.

6.1 Summary of issues of concern

Only four ministries provided reports from thirteen ministries included in the Action Plan. Moreover, no reports were received from the key ministries of Justice, Interior (which with five separate sections devoted to subordinate institutions occupies far more space than any other ministry within the Action Plan) and Finance, raising legitimate questions concerning the extent to which a system of reporting on Action Plan implementation has been established.

Concerning the content of ministry reports, there is an evident lack of specificity in reporting, in particular in a clear statement of actions completed, actions in progress and actions not commenced, with explanations and evidence related to monitoring indicators to underpin such statements. More generally, there has been an evident confusion of the concepts of Measures, Objectives and Indicators. In the judgment of the authors this is due to a considerable extent to shortcomings in the content of the 2009 Action Plan itself, which have given rise to knock-on effects from unclear objectives to faulty indicators. A good example of the latter is Measure 1 of the MPWTT proposed 2010 Action Plan, in which an undefined objective results effectively in the definition of the objective under 'Measures' and the definition of the measure under 'Monitoring indicators'.

The sources of these problems may we believe be divided into two main parts. The first is the lack of an effective mechanism for elaborating, scrutinising and amending line ministry Action Plan proposals. The IWG – which formally performs these roles - is a non-permanent body that can not perform the roles of elaborating or systematically checking Action Plans. As a result, DIACA as Secretariat to the IWG is the only (and natural) institution to play the vital role of filling this gap. However, it is essential that DIACA has the human resources and capacities to do so. This does not currently appear to be the case.

6.2 Recommendations for future action

It is clear that follow-up activities within the PACA project can and should play an important role in helping to improve the situation described in the preceding sections, through

- Activity 1.1.6: providing technical support and advice to the monitoring structures for the ACS and AP (DIACA)

- Activity 1.1.8: Supporting the development of indicators to assess/measure implementation of the ACS and AP

- Activity 1.1.9: Assisting DIACA to improve the existing inter-agency coordination mechanism by developing and providing methodologies and standardised templates for line ministries on the formulation of anti-corruption action plans (including performance indicators) and reporting on implementation

- Activity 1.1.10: Training anti-corruption contact points in public administration on the interagency coordination mechanism

In view of the timing of particular project activities and the annual life-cycle of the Action Plan, the following short-term plan of Project is recommended.

i) Participation of PACA Team representatives as observers in the meeting of the Inter-ministerial Working Group for Implementation of the Anti-corruption Strategy expected to be held during January

ii) Identification by DIACA of line ministry/public administration anti-corruption contact points

iii) Identification by DIACA of the contact points responsible for monitoring the Action Plan and its implementation

iv) An initial training/workshop to be held with DIACA officials during January/February on the concepts used within the Action Plan (Objectives, Measures, Performance Deadlines, Indicators)

v) An initial training/workshop/meeting of PACA experts with line ministry anti-corruption contact points on the concepts used within line ministry Action Plans (Objectives, Measures, Performance Deadlines, Indicators)