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IMPLEMENTATION OF ANTI-CORRUPTION PLANS IN SOUTH-EASTERN EUROPE (PACO IMPACT)

Expert Opinion

Current Anti-corruption Reform in Albania: Establishing the Department for Internal Administrative Control and Anti-corruption

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1 INTRODUCTION

The following summary reflects comments and issues discussed on the new Albanian anti-corruption infrastructure, i.e. the Anti-corruption Task Force (ACTF) and the Directorate of Administrative Internal Audit and Anti-corruption (DIAC) during an experts' meeting held at the Council of Europe, Strasbourg, from 2-3 February 2006.

The Albanian delegation was represented by Mr. Fatbardh Kadilli, Advisor to the Prime Minister on Anti-corruption Issues, Mr. Enkelejd Alibeaj, Director of the DIAC, and Mr. Edmond Dunga, Head of the Albanian Delegation to GRECO and member of the DIAC. The Ambassador of the Albanian Representation to the Council of Europe, Mr. Shpetim Çausi and Mrs. Irida Varfi, member of the Albanian Representation were present in some parts of the meeting.

The Council of Europe Secretariat was represented by Mr. Alexander Seger, Head of the Technical Co-operation Section, Crime Problems Department of the Directorate of Legal Affairs, and members of the PACO Impact Project Management Unit in Strasbourg. The Council of Europe experts were Mr. Goran Klemenčič, Slovenia and Mrs. Vera Devine, Belgium. During their visit in Strasbourg, the Albanian delegation met also with Secretariat members from other Directorates, namely: Directorate General of Human Rights–Media Division; Directorate of Political Affairs; Venice Commission (DG I); and Group of States against corruption (GRECO).

2 GENERAL REMARKS AND OBSERVATIONS

The meeting was a constructive debate and an open exchange of information, views, and concerns were held. The Council of Europe Secretariat and the experts stressed that although technical assistance from the organization to date had primarily targeted the previous anti-corruption structures (the Anti-Corruption Monitoring Group (ACMG) and the Anti-Corruption Unit (ACU)), the Council of Europe would stand ready to provide assistance if requested and provided that funding was available to the new set up.

The Albanian delegation stressed that ongoing efforts by the new government are led by great determination and momentum to address the problem of corruption, including through fresh and unconventional approaches to a number of policy issues. In the discussion, the Albanian delegation explained main reasons underlying the Government's decision to make a complete overhaul of the anti-corruption structures – resulting in the abolishment of the ACMG and the ACU on one hand, and on the other hand the creation of the new Anti-corruption Task Force (ACTF) and the creation and strengthening of the Department for Internal Administrative Control (DIAC).

The main reasons cited were the overly technical nature of the ACMG (in regard to the composition of its members as well as the underlying documents, e.g. the Matrix, which implementation and updating the ACMG monitored), that the system lacked administrative enforcement capacities and most of all -- that the system missed the crucial element of political accountability. Conversely, the new system is focused on objectives, rather than tasks, introducing a process for transparent setting of short-term political objectives and priorities (on a six months basis), conditioned by clear political accountability depending on measurable results. On a technical level, it aims at merging administrative audit with analytical and preventive anti-corruption functions.

This discussion helped to clarify a number of issues, in particular as regards the process of priority setting of the work of the ACTF and the prospects of making DIAC fully operational.

The experts would like to voice their satisfaction over the existing high momentum and political commitment to seriously address corruption through concrete, short-term actions and to back this process with clear

political accountability; as well as over the fact that the decision to create new structures and processes appeared to have been led by the analysis of the failures of the previous framework; that part of the staff of the previous structures is planned to be taken, thus the institutional memory will not be completely lost; and a number of priority measures to be undertaken will take into account the results of micro-systems studies conducted under previous technical assistance projects. Some of the action already undertaken or planned in the next few months (e.g. in the field of customs, fighting nepotism and clientalism, liberalization of the licensing procedures, citizens' participation in denouncing corruption, public awareness campaign, ratification of the remaining relevant UN and Council of Europe anti-corruption conventions, etc.) attest to the high momentum.

However, while the present actions are noteworthy, the momentum and determination are undisputable, the challenge remains to create a sustainable and efficient anti-corruption system, backed with adequate material and human resources, clear mandate and competencies, that would be able to function on a long-run and not primarily depend on the commitments of one or the other Government. In this light, the experts believe that a number of concerns that needs further elaboration remain in relation to the overall approach towards the new structures as well as in regard to the substance of the legal basis for the creation of the ACTF and the DIAC.

3 ISSUES OF CONCERN

The general internal logic of the new structures seems to be as follows:

- **Anti-corruption Task Force (ACTF):** a high level/political body responsible for defining strategic objectives, priorities, and measures in the fight against corruption and securing clear and transparent political accountability for the implementation of the measures;
- **Department for Internal Administrative Control (DIAC):** a technical level body comprising traditional administrative internal audit functions and typical preventive, analytical anti-corruption functions.

However, a number of issues related to the specific functions of both structures, its internal decision-making processes and in particular their internal institutional relations as well as relation of those structures to other institutions remain a subject of further consideration.

First, Albania currently has neither a comprehensive anti-corruption strategy as a self-standing document or it seems to still plan to adopt one. Instead, the long-term anti-corruption strategy is derived from the overall program of the Government, which focuses heavily on the problem of corruption and good governance in general. On the basis of this, the ACTF adopts short-term objectives and measures. Ideally this process requires prioritization of measures (which require allocation of limited resources); such prioritization should be based on an adequate analysis of the problem and should fit in the overall and long-term anti-corruption strategy. In the spirit of the present momentum, the ACTF has been reported to have been meeting regularly and is adopting a number of specific short-term anti-corruption measures. However, there seems to be an element of an *ad-hoc* approach in this process. While understandably given the existing momentum, a comment is in place in regard to the sustainability of such a process.

On related issues, the experts also felt that more thought must be given to the establishment of indicators of success, in particular on such policy measures that do not lend themselves to easy judgment about their impact and effectiveness. Such considerations should be long-term, and they should be built into the early stages of policy design.

Second. in the spirit of the previous comment, the experts would appeal to the Government not to disregard the work of the previous anti-corruption structures the part related to the identification of gaps and proposed remedial actions.

Third. the dynamics of the decision-making process within the ACTF left questions open, yet the experts understood that this was very much a ‘learning on the task’ issue with adjustments being made in the process. Also, the remit of the tasks of the line ministers – comprising, *inter alia*, in-depth analysis of the situation regarding corruption - was probably not entirely matching the understanding the experts had of the role of ministers. With this is linked another important concern – the mandate and functions of the ACTF and its competencies towards other institutions.

It remains unclear (see specific comments below) whether the ACTF has a direct “power” to assign tasks to ministries and institutions or whether that remains a prerogative of the Council of Ministers or of the Prime Minister. Further consideration needs to be given how to support the work of the ACTF from a technical level and how to secure that its decisions are based on credible and in-depth analysis and data. The “outputs” of ACTF are defined by the Decisions No. 794 of the Council of Ministers, while the question on what “inputs” will those be delivered remains unclear. It seems that the ACTF will partially rely on the analysis and submissions of the line ministers and partially on the work of the DIAC. In the interest to avoid inevitable “jurisdictional” conflicts, overlapping of competencies and unclear responsibilities, the experts are of the opinion to suggest that such an issue needs to be re-visited.

Fourth. the experts felt that the functions foreseen for the DIAC were too wide. A unit that has both administrative control functions and strategic responsibilities, yet has only 11 staff runs the risk of being unable to deliver results in the ambitious reform agenda the new government has set itself, while the cost of failure appears to be very high. As regards the administrative control function of the DIAC, the experts stressed that this capacity should be built up elsewhere, and that the current set-up runs a high risk of politicization, which is all the higher given the strong visibility of the DIAC. Grouping administrative controlling functions and strategic responsibilities (preventive action and public awareness) together in one unit also appear to be not necessarily the ideal match as regards skills and capacities of the staff. This issue would need to be addressed in greater detail.

Fifth. there was no final clarity over the issue whether the creation of the new anti-corruption structures had been accompanied by a costing exercise (a financial visibility/estimation). While it was understood that the priority measures adopted were primarily such that would carry no additional cost, it was not fully clear with which and what amount of allocated budget the DIAC would carry out its tasks.

Finally. the Albanian delegation presented at the meeting a recent noteworthy initiative on installing hotlines for the people to report corruption and lodge other related complaints against the institutions or public officials. There remains some concern over how the information resulting from a number of new information collection policies will be processed in practical terms, although it is understood that this would also be fine-tuned once a critical mass of information had been collected. Nevertheless, in the experts’ view this could be an example typifying possible pitfalls of the current approach towards addressing the problem of corruption in Albania: a good and practical measure in danger of falling short of expectations due to the lack of institutional capacities to fully deliver.

4 THE DECISION CREATING THE ANTI-CORRUPTION TASK FORCE

Point 1: The experts welcome that the ACTF in addition to the ministers comprises of high-level public officials from most relevant institutions of the Government. It is therefore not only a political, but also to some extent an expert forum. However, the experts noted the fact that the currently proposed Task Force looked like a closed forum, with ministers from important line ministries missing (notably education, health). It was, however, understood that should policy measures require so, these ministers would be asked to

participate. It might nevertheless be sound to make this clear in the Decision itself, listing the core group of members and specifying that other *ad-hoc* members (ministers as well as other high-level public officials or even representatives of the prosecution office or the judiciary) could be invited to participate when the issue under discussion so requires.

Point 2: In addition to the general comment above the specific duties of the Task Force seem to go beyond what should be reasonably expected from a line minister, i.e. the level of detail of the tasks as currently specified carries the risk of micro-management or appearances thereof, or they will eventually be carried out by staff below ministerial level; this is particularly true for function under item (a). Furthermore, some of the functions are overly-vague and are not really functions, but rather declarations; “to ensure collaboration with the business community and civil society” or “to guarantee transparency in the fight against corruption”. This should be further specified. Function under item (e) raises possible constitutional and legal questions - whether the line ministers can and should take decisions on internal, administrative and financial audit in other line ministries.

Point 3: This is the only “procedural” provision in the Decision, specifying only the occurrences of the meeting. In line with the general concerns voiced above, the experts are of opinion that the Decision should in more detail define the decision-making process within the ACTF, and in particular define how, and by which institution, will its work be supported on technical, analytical level (e.g. by DIAC).

Point 4: Responsibilities of the members of the ACTF should reflect the mandate and functions of the structure, which is currently not fully the case as presented in the given text.

Point 5: This section defines the responsibilities of other institutions toward the ACTF, but also some include general good governance provisions (e.g. cooperation with civil society, access to information). It is also the only paragraph in the Decision that mentions the DIAC –creating a two-tier reporting system (to DIAC and to the ACTF). The experts felt that this item introduces additional confusion into the internal logic of the new structure and is partially in conflict with the functions of the ACFT from point 2. Namely, item (a) requires all ministers and institutions to implement the tasks assigned by the ACTF. From this we can conclude that the ACTF, not only the Council of the Ministers, can actually assign tasks to other institutions, which is not listed among its functions – and could raise questions of systemic nature (creating a “parallel” Council of Ministers).

5 THE DRAFT ORDER CREATING DIAC

DIAC is supposed to have three major functions:

- a) to exercise traditional administrative internal control functions of the legality of administrative decisions;
- b) to carry on typical preventive, analytical anti-corruption functions; and
- c) to function as secretariat to the ACTF.

With other words, DIAC is becoming a focal preventive body in the field of anti-corruption with enforcement capacities in the field of administrative procedures.

In the course of the discussion, the experts pointed frequently out that there appeared to be a risk of confusion of the objective of controlling – which should be looking at specific systems and its potential weaknesses – and of detection of corrupt practices: mismanagement is not the same as corruption.

The present draft order on DIAC seeks to combine all those elements. As a consequence it mixes competencies related to the procedures, powers and sanctions typical for administrative control and preventive, systemic tasks. None of the authors of this opinion is a direct expert on administrative control, so they don't want to speculate on the soundness and compatibility with international standards and good

practices of the provisions related to the controlling/auditing function of the DIAC. The overall observation of the experts is that almost all provisions of the draft Order are related to the controlling function of the DIAC, while the anti-corruption functions remain neglected (they only appear listed in point 2 of the order with no implementation provisions later on in the document).

Accordingly, in relation to the DIAC and the draft Order, the experts recommend to the Albanian authorities:

- to revisit the decision to combine the two major tasks within DIAC;
- to ensure the procedures regulating the conduct of administrative control/audit comply with established international standards and good practices regarding;
- in case that DIAC is to retain its proposed double function, to clearly delineate them in the legal basis (possibly also by establishing two separate sectors within DIAC itself): to list its functions in the field of corruption, and then to elaborate on procedures and inter-agency cooperation (e.g. in regard to collecting data, supporting the ACTF, monitoring, etc.) to implement those functions. The current draft Order clearly doesn't do any of this.

6 ANNEX I: DECISION ON ANTI-CORRUPTION TASK FORCE¹

REPUBLIC OF ALBANIA
COUNCIL OF MINISTERS
DECISION

No. 794 date 19.12.2005

ON

THE CREATION OF THE ANTI CORRUPTION TASK FORCE

Based on the Article 100 of the Constitution and the proposal of the Prime Minister, the Council of Ministers,

DECIDED:

1. The creation of Anti corruption Task Force that will be headed by the Prime Minister and will have the following composition:
 - Deputy Prime Minister – Deputy Head of the Task Force;
 - Minister of Finances – member;
 - Minister of Interior – member;
 - Minister of Justice - member;
 - Minister of Public Works, Transport and Telecommunication – member;
 - Minister of Economy, Trade and Energy - member;
 - Director of the Department of Internal Audit and Anti-corruption at the Prime Minister’s Office – member;
 - Director of the Public Procurement Agency – member;
 - Director of the General Directorate of Internal Audit at the Ministry of Finances – member;
 - Director of the General Directorate of Customs – member;
 - Head Register of the Central Office of the Immovable Properties Registry – member;
 - Director of the Directorate of Internal Audit Service at the Ministry of Interior – member;
 - Director General of the Albanian Energy Corporation – member.

2. Anti corruption Task Force will exercise the following functions:
 - a. Analyzes the problems of corruption and ethics ;
 - b. Defines the strategic priorities, aims, objectives and concrete measure in fighting and preventing corruption;
 - c. Proposes the creation of experts’ working groups, based on priorities, proposes their duties for the development of sectorial activities as well as monitors the working groups’ work;
 - d. Approves the anti corruption and good governance action plan and presents it for approval to the Council of Ministers;
 - e. Defines the priority fields for the internal, administrative and financial audit, and case by case, may define specific auditing tasks;
 - f. Ensures the collaboration with the business community and civil society;
 - g. Guarantees transparency in the fight against corruption.

3. The Task Force is gathered monthly or anytime with the request of the Head of the Task Force.

¹ This is a non-official translation from the Original Text (In Albanian), as provided by Albanian authorities.

4. The role and responsibilities of each Task Force members are:
 - a. To exchange information on corruption matters and activities undertaken in their institutions;
 - b. To manage in case to case basis the sectorial working groups and to report in their behalf;
 - c. To coordinate all activities in the areas they cover, as well as to administer the drafting of the action plan based on each activity area;
 - d. To report on the implementation of the assigned tasks.

5. All ministries and central institutions are in charge to:
 - a. Undertake measures in order to implement the tasks assigned by Task Force;
 - b. To collaborate with the working groups in drafting the action plan based on each activity area;
 - c. To report to the Task Force and to the Department of Internal Audit and Anticorruption at the Prime Minister's Office, upon the implementation of the actions based on the areas each instruction and subordinated institutions cover;
 - d. To undertake measures in ensuring public information and administer the activities aiming public and legal awareness of the citizens;
 - e. To ensure a comprehensive and transparent cooperation with the civil society and interest's groups representatives.

6. The amended Decision No. 470, date 6.10.1999 of the Council of Ministers "On the creation and functioning of the Governmental Commission of the Fight against Corruption" is abolished.

This Order enters into force immediately.

PRIME MINISTER

SALI BERISHA

7 ANNEX II: DRAFT ORDER IN ESTABLISHING DIAC²

REPUBLIC OF ALBANIA COUNCIL OF MINISTERS

DRAFT ORDER

ON

DETERMINING THE ACTIVITY OF THE DEPARTMENT OF INTERNAL ADMINISTRATIVE CONTROL AND ANTICORRUPTION AT THE PRIME MINISTER'S OFFICE

Based on the item 3 of article 102 of the Constitution, on the Decision No. 2 date 10.09.2005 of the Assembly of the Republic of Albania, "On the approval of the composition and the political program of the Council of Ministers", as well as on the item 2 of article 27 of the Law No. 8485 date 12.05.1999, "The Code of Administrative Procedures of the Republic of Albania",

I ORDER:

1. The Department of Internal Administrative Control and Anticorruption in the Prime Minister's Office is a structure established for the detection, control and prevention of the corrupt practices as well as for raising the awareness of the public institutions in their fight against corruption, for the identification and taking of measures for prosecuting the employees of public administration who with their acts or omissions violate the laws and secondary legislation in force.
2. Main functions of the Department of Internal Administrative Control and Anticorruption in the Prime Minister's Office, hereinafter "the department are:
 - a) Examination and analysis of systems, practices, and procedures in public administration for the identification, diminishing and prevention of chances for corruption, focusing at first in areas that are more disposed to corruption;
 - b) Detection, verification, and control of legality of administrative acts issued by the organs of public administration;
 - c) Proposing of measures to be undertaken for raising the awareness of the organs of public administration in order to disrupt corruptive practices as well as the increase of transparency and strengthening of the integrity in public administration;
 - ç) Formulation of policies of anticorruption and presenting them into the Anticorruption Task Force;
 - d) Supervision and evaluation of the implementation of measures and anticorruption plans of action, undertaken by the government;
 - dh) Regional and international cooperation and collaboration on prevention of corruption;
 - e) Proposing to the Prime Minister administrative measures for the improvement of public services;
 - ë) Following up the implementation of duties assigned by the Council of Minister or the Prime Minister;
 - f) Providing consulting, expertise and training services in cooperation with the Department of Public Administration, in seminars and workshops for civil servants of public

² This is a non-official translation from the Original Text (In Albanian), as provided by Albanian authorities.

- administration institutions on the understanding the legislation in force in the area of prevention and fight against corruption as well as promotion of best practices;
- g) Promoting the increase of transparency of the activity of public administration in cooperation with institutions and civil society;
 - g) Undertaking anticorruption activities in cooperation with NGO's, private sector or international organizations.
3. The department detects, verifies and exercises control on behalf of the Prime Minister in all the organs of central state administration, including prefects, public entities, commercial companies with entirely or partly state capital for as much as it does not contradict other laws or secondary legislation which regulate the activity in these areas.
 4. The department detects, verifies and exercises control over the institutions mentioned in item 3, on:
 - a) Delays, lack of coordination and cases of conflicts of interests among the organs of public administration;
 - b) Implementation of legal acts in general and in particular of legal and sub-legal acts issued by the Council of Ministers and Prime Minister;
 - c) Administrative infringement and cases of abuse by the officials with the public authority as foreseen in the legislation in force.
 5. The Department exercises control over the institutions mentioned in item 3:
 - a) according to a schedule and work plan approved by the Prime Minister;
 - b) in specific cases with an order of the Prime Minister;
 - c) with its own initiative based on an inspection order of the director of the department after informing and seeking approval of the Prime Minister based on evidence or when notices infringements or deficiencies in the activity of those institutions.
 6. The Department establishes and administers a specific register where is noted the initiation of any inspection or verification procedure.
 7. For any inspection or verification procedure is created a specific file which contains all the incoming, retrieved or collected documentation related to this procedure.
 8. For any inspection or verification procedure, the director of the department assigns an inspection group made-up of inspectors.
 9. During the control process, determined by circumstances and by the object of inspection, in the inspection group may be incorporated other specialists, based on a request of the director of the department addressed to the principal of the institution from whom they depend upon. These principals are obliged to accept the above-mentioned request and send the name of the specialist based on the deadlines determined in the request.

The activity of these specialists in the inspection group is part of their responsibilities as employees of public administration.
 10. For any control procedure, the department prepares the program of control and verification that determines the institutions that will be controlled upon, issues on which this control is exercised and concrete legal activities that will be verified. This program may change based on the results and problems that might come up during the control process.

11. The department assesses based on circumstances if it is necessary to notify in advance the organ under inspection. Prior to the beginning of the control, the inspectors communicate the inspection order to the principal of the institution. The principal of the institution introduces the inspectors to his/her staff as well as notifies them for the object of the control. The absence of the principal does not constitute a reason for the interruption of the control.
12. During the control, inspectors have the right to collect information in the following instruments and methods:
 - a) through written documents and other proving tools where is marked the corrupted activity of public officials within or out of the exercise of their duties and from any state organ, office or individual that exercise public functions;
 - b) through photographic documentation, video or audio, or realized through other means at disposal and that represent facts, persons or goods that might constitute proof of the evens and goods present in these registrations. The photographs or photocopies of written documentation have the same value as the original until their accuracy is certified from the person that according to the law is responsible for the reproduction of copies.
13. The institution under control is obliged to put at the disposal of inspectors, within requested time and modality, all the documentation that they request or copies of them certified to be the same as the original. In cases when there are legal prohibitions for the recognition of the documents for example, classified documents, their inspection and retrieval from the inspectors is done in conformity with the respective legal provisions or based on the request with the authorization of the responsible organ according to the law.
14. Inspectors document any action during the request or retrieval of the above-mentioned documentation. The above-mentioned documents are retrieved or accepted free of charge. Any violation of the obligation of the officials to grant written documentation or any other proving document constitutes cause for the initiation of proceedings for disciplinary measures.
15. Officials whose activity is under control are obliged to give explanations and clarifications on issues that are related to the object of control as well as for other facts or circumstances that are requested by the inspectors.

For this reason, inspectors record all the explanations and clarifications by means of control findings record kept on this occasion and signed by the official.

Inspectors may also proceed with cross-examination of the officials whose explanations and clarifications are previously taken.

Inspectors record any explanation and clarification granted to them by third parties. Their cross-examination with the official may only be done in cases when they (third parties) accept that and do not request to remain anonymous.

16. During the process of control or verification, if it is necessary to undertake inspections of different natures and in different areas, the department with the approval of the Prime Minister engages licensed experts or experts recognized as such from the state specialized organs. These experts offer their services against charges according to the legal and sub-legal acts in force.

In case they do not exercise their activity near a state organ, refusal to serve as expert constitutes cause for the initiation of the procedure for lifting their status as experts as recognized by the law.

17. Inspectors have the right to inspect goods, places or documentation with the scope of recording documenting the activity of officials and consequences of these activities. Documenting may be done through a findings record, other means of photographic and video methods or in any other manner.
18. In specific cases, when is deemed that there is a possibility for manipulation or elimination of written documents; inspectors seize this documentation or other evidence. The responsible officials are obliged to refrain from affecting these documents during the whole period these documents are under seize. In any case, a findings record is prepared and signed by the inspectors and responsible officials.
19. Inspectors apply, for as much as it is suitable, all means and proving modalities foreseen in the Code of Administrative Procedures, Part Five, Section IV, Section III, Sub-Section I.
20. During the inspection an control findings record is prepared and signed by the inspectors and if deemed necessary signed by the officials and the principal of the organ under control. In case the officials and the principal of the organ under control do not agree with the content of the control-verbal, they have the right to make remarks and present their disagreements, which are then reflected in the content of the control findings record.

At the end of the control, inspectors write a summary report on the progression of control, state of affairs and measures that are proposed for the avoidance of infringements and deficiencies as well as determine the officials and principals responsible for those.

21. A copy of the control findings record and of the summary report, prepared in accordance to item 20 of this order is sent to the controlled organ and to any other organ deemed that has an interest to be acquainted with it as well as to the superior organ of the institution under control.
22. The director of the department presents to the Prime Minister a written information on the results of control and on the measures that are proposed to be taken, in cases when the control:
 - a) is undertaken with an order of the Prime Minister;
 - b) has found deficiencies, severe legal infringements and corrupt practices.
23. In specific cases, for severe infringements or for problems of a particular importance may be proposed to the Prime Minister that the materials of control be analyzed in a meeting of the Council of Ministers.
24. At the end of the control the director of the department has the right to:
 - a) suspend acts that have caused the infringements;
 - b) proposed concrete actions for improving the situation;
 - c) suggest to the High State Audit to undertake a audit putting at its disposal the control findings record and the summary report;
 - ç) request the High Inspectorate for Declaration and Control of the Assets to verify the assets and the conflict of interest for specific individuals;
 - d) notify the superior authorities which are not under the auspices of the Council of Ministers with the collected information and with the approval of the Prime Minister request them to undertake control over those organs or officials;
 - dh) propose to the direct superior of the responsible official, disciplinary measures up to dismissal for legal violations or work deficiencies and control the implementation of these proposals.

In cases when the direct supervisor does not agree with the implementation of these concrete measures, the director of the department notifies the principal of the institution and as the case may be, the Prime Minister.

- e) call for a criminal investigation for the responsible persons in accordance with the legal provisions in force.

In all cases, the responsible persons against whom is proposed a disciplinary measure or criminal investigation, need to be previously heard and their explanation need to be noted in the control findings record.

Taking of measures proposed in item “c”, “dh” and “e” of this paragraph may be done after the approval of the Prime Minister.

- 25. In cases when the control notices that decisions, orders, instructions, regulations or any other act of the organs of state administration are not in conformity with the normative acts in force or with the principles of an administration in a rule of law state, the director of the Department request to the respective organ its abrogation, revocation or its amendment. For acts issued by the ministers this request is addressed to the Prime Minister.

In addition, in cases when the director of the department notices that for particular matters there are legal deficiencies as well as in cases when legal or sub-legal acts do not produce the predictable legal consequences based on which there were issued, as a result of deficiencies, impreciseness, lack of harmonization and discordance, presents (the director) to the Prime Minister a narrative report including suggestions for amendments in the respective acts.

- 26. State administration institutions have the obligation to submit to the department every 6 months or upon request:

- a) periodical reports and analysis on the progression of the implementation of anticorruption measures;
- b) reports and other specific information in initiatives and measures undertaken by every institution on prevention and the fight against corruption.

- 27. The department cooperates with other central or independent institutions through exchange of information and data for the benefit of the control activity and verification of abuse cases from the officials vested with public authority and in the exercise of their duties. In the framework of this cooperation, the director of the department requests to:

- a) General Directorate of Internal Audit and units of internal audit in the institutions of public administration, information related to audits exerted by these structures;
- b) General Directorate for Prevention of Money Laundering, data that this authority has at its disposal for the prevention of money laundering as a result of abused by the officials with public authority;
- c) High State Audit, report of audits on specific issues;
- ç) State’s Advocates, as a specialized organ, legal advice for putting into motion trials when this is the only means to avoid the consequences of corrupt practices in violation of the law and damaging the state;
- d) State Intelligence Service, data that this organ has at its disposal on different corrupt practices in public institutions, based on a request approved by the Prime Minister;
- dh) Judicial Police services in the Ministry of Interior and structures under the auspices of this ministry, assist inspectors during the control activity and verification aiming at collecting evidence with the scope of initiating a criminal proceeding and collection of those elements of proof according to the criteria put forward by the Code of Criminal Procedure.

28. Order No. 252, date 23.09.2002 of Prime Minister “On the reorganization and functioning of Anticorruption Monitoring Group” is abrogated.

29. Public administration institutions are responsible for the implementation of this order.

This order enters into force immediately.

PRIME MINISTER

SALI BERISHA

