



**SPAI STABILITY PACT ANTI-CORRUPTION INITIATIVE**

**7<sup>TH</sup> STEERING GROUP MEETING**

**REPORT ON ANTI-CORRUPTION EFFORTS IN**

**ALBANIA**

**REPUBLIC OF MONTENEGRO, 5-6, MAY 2004**

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## I. INTRODUCTION

The Albanian Government considers the fight against corruption to be one of its highest priorities. This political will has been demonstrated since 1998, but with increased emphasis in the last years through the development of an integrated approach to fighting corruption. This approach involves legislation and law enforcement, active participation in international anti-corruption initiatives, and the implementation of an anti-corruption strategy with dedicated anti-corruption institutions and staff.

Many of the measures such as establishing specialized anticorruption structures, completion of the legal framework, other concrete actions taken and those foreseen for the future are playing a positive role in the prevention and fight against corruption.

In this brief report is provided comprehensive information on the Albanians anti-corruption institutions and structures, as well as examples of some additional actions taken recently to increase transparency and fight corruption.

## II. NATIONAL STRATEGY OF THE FIGHT AGAINST CORRUPTION

The first strategic document of the fight against corruption had been prepared with World Bank assistance in July 1998. It was revised in April 2000, and since 2002, the action plans on the prevention and fight against corruption are annual plans adopted by Council of Ministers.

The anticorruption strategy was improved during 2003 and focused on **specific anti-corruption measures** - according to three main elements: law enforcement (13%), prevention (40%), public education and participation (19%) - and those dealing with **good governance** (27%) with multiple efforts of involving all the concerned stakeholders. The "**Action Plan on the Prevention and Fight against Corruption 2003-2004**", adopted by the Decision of the Council of Ministers no. 580, dated 21.08.2003 is one of the governmental documents largely discussed, which includes also different recommendations of the international and national partners. The monitoring of its implementation is carrying out through clear, concrete and touchable success and quality indicators. A particular attention was given to the strengthening of the partnership with all concerned stakeholders in order to enhance their accountability through the development of the Action Plan on the Prevention and Fight against Corruption 2003-2004, during the Third Conference on the Fight against Corruption (Tirana, 3-4 July 2003) "Continuous Challenges, Joint Efforts and Responsibilities".

## III. SPECIALISED STRUCTURES

Besides the traditional structures that investigate cases of corruption, other criminal activities and other forms of organized crime, as we have been reporting in the previous meetings of the SPAI, that Albania has already set up structures from the highest political level to

technical structures with the main objective of monitoring and coordination of the implementation of the Action Plan of the Prevention and Fight against Corruption.

The Albanian Government has established two high-level bodies to direct anti-corruption efforts: a **Government Commission for the Fight Against Corruption**, and an **Anti-Corruption Monitoring Group (ACMG)** comprised of a **Monitoring Board** and an **Anti-Corruption Unit**.

The **Monitoring Board** is an *ad hoc* decision taking body, which meets every two months, composed of 17 senior civil servants, representatives of civil society and the business community. The **Anti-Corruption Unit (ACU)** operates as an office to the Prime Ministry, attached to the Minister of State for the Coordination, and has a staff of 6 civil servants.

The main enforcement agencies in the fight against corruption are represented by the police, the prosecution and the judiciary structures. Some specific structures operate since 2003 such as a **specialized anticorruption unit**, attached to the Tirana Prosecution Office, and an anti corruption structure of the **Internal Investigation** in the General Directorate of Taxation, **the Directorate of the Coordination of the Fight against Money Laundering** (with its anti crime sector and the legislative organizational support sector).

Creation of a **Triangle Commission (TC) on the Exchange of Information and Cooperation in Data sharing in the Area of Corruption**; a cooperation and data exchange mechanism aiming at increasing the transparency with the public. This is an *ad hoc* structure established by a **Memorandum of Understanding** signed on 15<sup>th</sup> July 2003 by the Minister of State to the Prime Minister, Prosecutor General, and head of the Albanian Coalition Against Corruption. Commission meets every three months and aims at strengthening inter-institutional cooperation on the exchange of information, which cannot serve for political purposes.

The most important criminal acts penalized by the Criminal Code in the corruption area, which constitute principally the basis of the exchange of data in the Triangle Commission, are the active and passive corruption, asking for bribes, abuse of office, illegal benefiting of interests, misusing state contributions etc.

The following is an extract of data exchanged in the Triangle Commission.

**Criminal proceedings of public officials for crimes related to abuse of office and corruption**

Year	Accused persons	Sent to Trial	In Process	Convicted	Acquitted
2002	331	166	127	58	11
2003	224	111	86	76	21

**The High Inspectorate for the Declaration and Control of Assets (HIDAA)** is the most recent anti-corruption structure to be introduced, having been established in April 2003 by new legislation<sup>1</sup>. Since then, the High Inspectorate has established lower-level inspectorates; further defined and created a registry of those public officials who are subject to its

<sup>1</sup> This independent agency, functioning since September 2003 with 30 employees, has the mandate to verify the declaration of assets by government employees. The HIDAA is also the supervising authority for the lower inspectorates.

jurisdiction (including parliamentarians, senior political leaders, senior civil servants, judges, prosecutors, tax, and customs officials, and other categories of officials -- as well as their immediate family members); and adopted and disseminated a **standard form of declaration**. The verification of declarations, which cover the period 1992-2003, is currently underway. The asset disclosure law provides for heavy sanctions, including prison sentences, for refusal to declare or for submitting inaccurate declarations.

#### IV. COMPLETION OF THE LEGAL FRAMEWORK

Recently, the Albanian government has considered a priority the updating of the legislation in order to approximate it with the international standards. The legal reforms against corruption have gone through a preventive attitude especially in the field of public administration as well as criminal justice.

The completion and improvement of the legal frame has continued even during 2003 with the adoption of the laws of different fields, a part of which are achieved measures of the Action Plan for the Prevention and Fight against Corruption, amongst the most important ones we could mention:

- Law no. 9009, dated 13.02.2003 **“On the internal auditing in the public sector”**;
- Law no. 9017, dated 6.3.2003, no. 9030, dated 13.3.2003, no. 9086, dated 19.6.2003, no. 9188, dated 12.2.2004, **which amend the Criminal Code of the Republic of Albania**;
- Law no. 9084, dated 19.6.2003 **“On some supplements and amendments on the law no. 8610, dated 17.5.2000 On the prevention of the money laundering”**;
- Law no. 9085, dated 19.6.2003 and no. 9187, dated 12.2.2004 (special investigative means) **“On some supplements and amendments on the law no. 7905, dated 21.3.1995 Code of the Criminal Procedures of the Republic of Albania”**;
- Law no. 9109, dated 17.7.2003 **“On the organization and functioning of the serious crimes courts”<sup>2</sup>**;
- Law no. 9049, dated 10.4.2003 **“On declaration and control of assets, financial dues of the elected and some public officials”**;
- Law no. 9064, dated 8.5.2003, **“On some supplements and amendments on the law no. 7971, dated 26.7.1995 On public procurements”**;
- Anti-Monopoly law no. 9121, dated 28.7.2003 **“On the protection of the competition”**;
- Law no. 9131, dated 8.9.2003 **“On the rules of ethics in the public administration”**;
- Law no. 9135, dated 11.9.2003 **“On the protection of the consumers”**;
- Law no. 9205, dated 15.03.2004 **“On witnesses’ protection and justice collaborators”**.

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<sup>2</sup> It became functional as of 01/01/2004 (for crimes penalized more than 15 years imprisonment). Out of 31 cases currently pending at the Court of Serious Crimes of 1st Instance, 6 have been tried under organized crime charges, while 3 proceedings are underway. There are also 31 cases pending at the Appellate Court of Serious Crimes.

In the context of **the approximation of the Albanian legislation with international conventions**, the Government will adopt, during the first half of 2004, important laws in the field of anti-corruption as well as amending and completion the **Criminal and Criminal Procedures Code** with regard to: incrimination of the active and passive corruption, special investigative means, liability of the juridical persons included in corruptive actions, transfer of the burden of proof for the confiscations and seizure of assets, ratification of the additional protocol of the European Criminal Convention against Corruption and ratification of the UN Convention against Corruption, signed during 2003, etc.

## V. CONCRETE ACTIONS IN THE FIGHT AGAINST CORRUPTION

### 5.1 The process of the simplification of the public services

The **Anti Corruption Unit in cooperation with the Council of Europe**, aiming at the transparency and removal of the unnecessary bureaucratic barriers in the services offered to the public by the institutions of the central administration, **completed by the spring 2003 a broad study of micro systems "On the public services offered by the central administration institutions"** (licenses, authorizations, permissions, certificates, etc).

According to this study, the Prime Minister established an **inter-ministerial working group** to simplify and standardize the criteria and procedures of public services offered by all central administration institutions in March 2004. The findings of this group will provide the **basis for necessary legal and regulatory changes aimed at reducing bureaucratic formalities and creating a transparent, controllable and balanced system**. The involved public administration central institutions are bind to prepare the legal, sub legal, administrative and structural proposals within 3 months (mid June 2004) and send them to the Minister of State for the Coordination, who coordinates and monitors the process as well as chairs the inter-ministerial working group. An activities' program with the respective deadlines analysis by sectors was determined.

### 5.2 Conflict of interests

In 2003, the Anti-Corruption Unit analysed and identified the existing provisions with regard to the conflict of interests and involved relevant national institutions and international organizations (OECD, World Bank, EC, CoE) to propose adequate recommendations for completing different laws and codes on the conflict of interest issues, such as: incompatibilities, standardization of the conflict of interests' definition, concepts and procedures, expanding the subjects, defining the responsible authority, mainly focusing in control mechanisms and their implementation, standardization of ethics issues in general etc. The relevant amendments will be drafted and are expected to be adopted within 2004.

### 5.3 Financing of Political Parties

An analysis of the framework for *financing of political parties and electoral campaigns* was undertaken by the Anti-Corruption Unit during 2003 and the following interventions recommended: necessary standards on the financing, regulation of financial sources,

transparency of declaration, control of the financing by an independent body, relevant sanctions, etc. The Government will draft and finalize the relevant amendments during 2004. Enactment is expected within 2004.

#### **5.4 Anti corruption initiatives in the local level**

Following up the regional activities organized with representatives of the local government on the issues of control and audit, local government employees, access to information and transparency, information on the efforts of the government in the fight against corruption, on the anti corruption structures, ETC., with the objective of tackling the corruptive practices in the local level. Cooperation will continue through developing a questionnaire, determining the possible contact points and the analysing of the mechanisms for the expansion of the Action Plan in the local level in the future.

#### **5.5 Training on corruption issues**

The training “**Ethics and anti corruption**” developed during the second half of 2003, on the very interest it has risen, pushed the TIPA – their organizer and the respective donor to continue their development during 2004, foresee session for the other civil servants of the central and local level.

These initiatives, projects and interventions in the prevention and fight against corruption in order to be effective, need not only for the coordination of all the actors but for the financial resources and technical expertise as well.

#### **5.6 National survey on the public perception on corruption**

Another activity regards the **development of a national survey on the public perception on corruption** (public opinion, public administration, and business sector) and their attitude towards the corruptive practices. This is a measure foreseen in the Action Plan for the Prevention and Fight against Corruption 2003-2004.

#### **5.7 Cooperation with the Supreme State Audit**

The **relations** that the office of the Minister of State for the Coordination and the Anti Corruption Unit have with the Supreme State Audit, as an important institution are very crucial. Supreme State Audit issues **periodically bulletins of the audit** in every three months, a copy of which is sent to the office of the Minister of State for the Coordination. In the process of analysing this report a special attention is given to the recommendations on the infringements identified.

In order to enhance the responsibility of the institutions, the Prime Minister through the office of the Minister of State for the Coordination requires from all the institutions mentioned in the report information on the measures taken for the implementation of the recommendations given. Supreme State Audit receives information simultaneously from the office of the Minister of State for the Coordination and respective institutions.

Sanctions Recommended by Supreme State Audit Institution:

Year	2002	2003
Disciplinary measures	259	344
Administrative measures	52	142
Criminal charges	9	11
<b>Total Sanctions</b>	<b>320</b>	<b>497</b>

### 5.8 Cooperation with the General Directorate of Financial Control

The Anti Corruption Unit has a regular cooperation with the General Directorate of the Financial Control in the Ministry of Finance and follows up and compares the operative data of the institutions of the administration with the official informative bulletins of the internal control activity, which are made public by this directorate every 6 months.

At the mean time, the Anti Corruption Unit coordinates the activity and collects information from the institutions with regard to the disciplinary, administrative and criminal denouncements made by the institutions and the implementation of the tasks imposed by the controls made.

Sanctions Recommended by Ministry of Finance Audit Directorate:

Year	2003
Disciplinary measures	696
Administrative measures	2012
Criminal charges	37
<b>Total Sanctions</b>	<b>2745</b>

## VI. COOPERATION WITH THE INTERNATIONAL ORGANIZATIONS

In the frame of the continuation of the cooperation with the **Council of Europe**, the **PACO Albania 2 program** – Implementation of the national anti-corruption plan (August 2002 – December 2003) has given its contribution in the strengthening of the capacities of the anti corruption structures, especially the Anti Corruption Unit. A new program has been introduced by the Council of Europe, the PACO IMPACT. This project will involve many countries of the region with the purpose of implementation of strategies, programs and strengthening the already set up structures, which are at different stages in different countries of the region.

From the obligations deriving from the membership of Albania in GRECO and according to a predefined calendar, in December 2002, Albania was evaluated and encouraged in its efforts by the **GRECO – Group of States against Corruption**. A second evaluation is under way which will be finalized by March – April 2005.

With regard to the activities organized by **OECD** for the countries in transition, we have had a very close cooperation. It should be mentioned the cooperation in the frame of the establishment of the necessary mechanisms for the prevention and fight against corruption through the reform in the state administration, increase of transparency and more concretely with regard to the management of the conflict of interests, during 2003 several meetings were organized (Zagreb, Istanbul, Prague) under the organization of OECD where representatives of our structures have participated.

The **ACU has kept continuous contacts with the representatives of the international organization in Tirana**, such as delegation of the European Commission, OSCE, World Bank, MSI/USAID, SIDA, PAMECA, diplomatic representation, etc. The purpose of these contacts has been the presentation of the work that the Albanian government and its structures are doing in the fight against corruption and the concrete results achieved.

In compliance with the initiative of the United States of America, **Millennium Challenge Account Assistance**, recently Albania has submitted a report according to the indicators used to measure the candidate countries' fulfilment of the criteria established for candidate countries eligible to acquire this assistance.

Our structures have continued the cooperation in the frame of the **SPAI** initiative. Following the periodical meetings of the SPAI Steering Board, the member countries agreed upon the establishment of the Regional Secretariat Liaison Office, which was launched in October 2003.

As we have been emphasised in the previous meetings of this board, we see of crucial importance, for the well functioning of the RSLO, the improvement of the exchange of information between the SPAI countries on the existing policies in order to harmonise the legal and institutional framework. This will help countries in adopting the best practices available.

We perceive this meeting as the right venue, to discuss also on other initiatives undertaken under different programs, in order to clearly draw our priorities.

## **VII. PRIORITIES FOR THE 2004-2005 PERIOD**

Among the most projects and activities foreseen for this year, we could mention:

*7.1 Monitoring of the achievement of the Action Plan of the Prevention and Fight against Corruption, 2003-2004.*

*7.2 Development and adoption of the Action Plan of the Prevention and Fight against Corruption, 2004-2005 and organizing the IV-th conference of the fight against corruption.*

*7.3 Strengthening of the anti corruption structures*

*7.4 Harmonization of the legislation*

### *7.5 Finalization of the micro-systems studies*

Following the studies with regard to the revision of the legal frame in the prospect of the conflict of interests, and financing of the political parties and electoral campaign, which will finalize the presentation of the respective draft laws on this regard.

### *7.6 Implementation of the reform of the simplification of the public services*

The **Order of the Prime Minister** "On the simplification of the criteria and procedures of the public services offered by the public administration offices", already adopted, foresees to initiate the **first phase of the identification, specialized analysis and proposing legal measures** by the respective structures in the involved institutions which will report to the Minister of State for the Coordination, which is the coordinating and monitoring structure.

### *7.7 Anti corruption initiatives in the local level*

Following up the regional activities. Cooperation will continue through developing a questionnaire, determining the possible contact points and the analysing of the mechanisms for the expansion of the Action Plan in the local level in the future.

### *7.8 National survey on corruption*

Hoping in being provide with the necessary technical and financial support, carrying out a national survey on the perception of corruption by the public (public opinion, public administration, business community, civil society and international actors) and their approach towards corruptive practices, is a very necessary activity aiming at:

- Analysing the general tendencies which would serve as references in determining the anti corruption policies and measures by the public bodies involved.
- Defining the methodologies for the monitoring of the fight against corruption according to the success indicators (simple, concrete and measurable).

### *7.9 Training on corruption issues*

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These initiatives, projects and interventions in the prevention and fight against corruption in order to be effective, need not only for the coordination of all the actors but for the financial resources and technical expertise as well.