



**INSTITUTI PER KERKIME DHE ALTERNATIVA ZHVILLIMI - IDRA**

Rr.. "Ismail Qemali"; P. 34/1; Ap 1/3  
Kutia Postare 1730, Tirane, Shqiperi  
Tel.Fax: ++355 4 253352/253288  
E-mail: [idra@albmail.com](mailto:idra@albmail.com)

**Zt. Edmond Dunga,**  
Director of Anti-Corruption Unit  
Council of Ministers,  
Tirane

**Subject:** Comments and Suggestions for the Anti-Corruption Matrix 2004-2005

Dear Mr Dunga

Please find in the document below some comments and suggestions regarding the Anti-Corruption Matrix 2004-2005.

We hope that these suggestions would help you in your work and thank you for collaboration.

With respect  
Auron Pashaj  
Executive Director, IDRA

## COMMENTS AND SUGGESTIONS FOR THE ANTI-CORRUPTION MATRIX 2004-2005

### General

#### 1. Adoption of aggregate impact indicators

All these years of existence of the Anti-Corruption Matrix has been missed the adoption of one or more indicators that reflect the impact of anti-corruption measures. When we talk about the success indicators we should make a distinction between “process Indicators” (passing of the law, changes in regulations reflected, etc) and “Impact Indicators (what has happened as a result of implementation of this measure). In the vast majority the indicators presented in the Matrix are “Process Indicators”.

The adoption of impact indicators is very necessary because it creates an efficient way of measuring the real results of the Matrix. In this regard we would like to propose some of these indicators who in the same time do not have huge costs to be collected and processed by the Anti-Corruption Unit because they are already being processed by trustworthy international Institutions.

These proposed indicators do no include the Corruption Perception Index of the Transparency International, which although it has not been formally adopted by the Anti-Corruption Unit, it has been reported and commented upon by the Unit.

- **Economic Freedom Index.** This index which is measured by Heritage Foundation and Wall Street Journal, is important to be adopted (monitored) because in the same time it has become an official measurement indicator for the countries that wish to get funds from the Millennium Challenge Account<sup>1</sup>. The index has several dimensions among which we would point out as relevant for the Anti-Corruption Unit 2 of them: i) Regulation and ii) Trade Policy<sup>2</sup>. These two sub indexes can be used for several measures of the Matrix that have to do with improvement of business environment as well as with some aspects of trade policies such as corruption in customs.
- **Doing Business indicators<sup>3</sup>** – World Bank. Units of Albanian government (including the Ministry of Economy) have started to monitor these indexes but it would be necessary that the Anti-Corruption Unit considers the adoption of some of these indicators for the private sector related measures in the Anti-Corruption Matrix. (Measures that have to

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<sup>1</sup> Millennium Challenge Account launched by Bush Administration for funds for developing countries Based on the criteria of eligibility for these funds Albania is among the threshold countries (countries that need to improve some of the policies and index scores in order to be eligible). MCC has required a concept paper from the Albanian government which would lay out concrete steps form Albanian government to improve these indexes. Among priority issues is Fighting Corruption (In fact the issue). Anticorruption unit is an important part of the process of preparing this concept paper.

<sup>2</sup> Look at ALBIC portal for more information:

<http://www.albic.net/Shqip/Qendburimore/Publikime/TreguesiLiriseEkonomike2005.php>

<sup>3</sup> A summary of Doing Business indicators can be found on ALBIC portal

<http://www.albic.net/Shqip/Qendburimore/Publikime/bb2004bizinalb.php>, or a full explanation in the World Bank website <http://rru.worldbank.org/doingbusiness/>

do mainly with simplifying the procedures for public services/licensing). (Example – **Starting a business indicators** – number of procedures, time needed, cost, minimal capital)

- **Global Competitiveness Index.** Albania for the first time is being prepared to be part of the Global Competitiveness Survey. This survey ranks countries of the world according to their Competitiveness Index. The index is a composite index (three sub-indexes): 1) **Technology Index**, ii) **Public Institutions Index** and iii) **Macroeconomic environment index**. All these three components are processed through hard (statistical data) and surveys<sup>4</sup>.

## 2. **Inclusion in the Matrix of explanatory documents related to specific measures**

Anti-Corruption Matrix should be accompanied with explanatory document on specific measures. This suggestion was also mentioned in the Anti-Corruption Conference in December 2004. In the previous Matrix there have been several measures whose link to corruption fighting in the best case has been vague. Also there are several measures that need explanation on what do they really mean in order not to sound as a “code” only for few to know. Since the Matrix is now also on Internet there can be created links with specific measures who would explain these measure. In the same time the volume of information can be avoided since by being online everybody would pull out only those explanatory documents on which he/she is interested in.

## 3. **Completing the column of “Costs” for all the measures in the Matrix**

In the new Matrix there has been included a new column for costs of the measures. This is a good step compared with the previous document. However the column should be filled in by the institutions proposing the measures and not stay blank. In the vast majority of the document this column has not been filled.

## 4. **Inventory of Achievements**

It is very important that the reporting on the achievements on the Matrix be done along the lines of the proposed success indicators. Judging from the report of the last year (December 2004) it seems that institutions have not been reporting their accomplishment in the same lines with indicators creating in this manner more confusion. Also explanations (when needed) should be done when reporting. A typical example of the previous Matrix reporting is that of the Measure related with FIAS<sup>5</sup> recommendations which were reported as following – 99 measures adopted, 31 on process of being adopted and 22 still to be adopted. These measures which have been adopted need explanation, what they are, and where can they be found. We (IDRA) interested to know about these measures have wasted a lot of time in finding out what are all these measures about. Since we could not find them ready to be accessed anywhere we were obliged to make a formal request to the Minister of Economy to get this information. We are still waiting to get response for it. All this goes against the

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<sup>4</sup>Index is being produced by World Economic Forum. For more information on the index please see [www.weforum.org/gcr](http://www.weforum.org/gcr)

<sup>5</sup> Foreign Investor Advisory Services (FIAS). A study on Administrative Barriers to investment in Albania and recommendations on improving the environment.

concept of transparency and communication that especially this kind of document (Anti-Corruption Matrix) needs. We would suggest that all the reporting on Inventory of achievement be published on Internet and achievements to be explained in details.

## **RECOMMENDATIONS FOR SPECIFIC MEASURES TO BE INCLUDED IN MATRIX**

### **1) PROMOTION OF BUSINESS ETHICS IN ALBANIAN BUSINESS ENVIRONMENT**

#### **○ Promotion of Global Compact and adoption of its principles by Albanian Businesses**

*From 1999 United Nations* with the initiative of Kofi Anan has launched an initiative to join businesses, civil society and United Nations agencies to support 10 principles in the area of human rights, labor and environment.

**Principle Nr 10** of the Global Compact is: *Businesses should work against corruption in all its forms, including extortion and bribery*<sup>6</sup>.

#### **○ Business ethics trainings for Albanian businesses**

Business ethics is a complementary element of the pressure from more ethics from Public Administration. Business ethics should be considered as a management technique (discipline) that ensures sustainable profits and not only “moral predication”. Establishing of an expertise pool for trainings in this area would ensure sustainability of such trainings<sup>7</sup>.

### **Respon. Institutions**

*Anti-Corruption Unit on itself can not undertake and implement these initiatives without an active participation of private sector actors. However what ACU can do is promote and encourage such initiatives to the private sector. ACU should coordinate with Chambers of Commerce and business associations to promote such training programs for their members. Part of this initiative can also be the Albanian Coalition against Corruption (ACAC)*

### **2) REGULATING THE CONSTRUCTION SECTOR (CREATION OF A ENFORCEABLE AND MEASURABLE SYSTEM OF BUILDING CODES IN ALBANIA)**

In the previous Matrix (2003-2004) existed a measure which stated the preparation of a new Law on Public Investment from the Ministry of Territorial Adjustment and Tourism. The intention was to create a law which would specify standards for public investments. This measure was considered premature

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<sup>6</sup> A full explanation of the principles and the ways to adopt that can be found in the Global Compact Website: <http://www.unglobalcompact.org/>

<sup>7</sup> EDEM/ USAID project has in plan to conduct several trainings on business ethics for the members of the business clusters it work with. For more information please contact Enkelejda Dervishi at [jdra@albmail.vcom](mailto:jdra@albmail.vcom)

from the specialists of the Council of Ministers and it was removed from the Matrix. In fact the way it was conceived as a measure it was a confused one and probably this has been the main motive not to be accepted by the Council of Ministers.

However we need to reinstate and emphasize here the need for a broader measure than just that related with public investment and that is:

**Establishment of a National System for Building Codes**

This is a measure that covers an area in desperate need for regulation as that of Construction. In case of Albania we are talking about the adoption of Eurocodes that will establish standards for the quality of buildings and infrastructure projects, as well as create a system of monitoring and enforcement to comply with these codes. Today Albania has in place old building codes (out of date) and an institutional mess of enforcement mechanism which have created a chaos in the quality of construction in Albania. An important part of this measure is than also the area of public investment because Building Codes cover all kinds of standards starting from those for the roads, infrastructure projects, sewers and to the apartment buildings and houses. In such a situation where standards are missing or are out of date, where the control mechanism and quality assurance mechanism are confused, corruption is unavoidable in all the chain elements (starting form building permit or procurement process to the Usage permit or delivering an infrastructure project<sup>8</sup>).

**Responsible Institution – Ministry of Territorial Adjustment and Tourism**

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<sup>8</sup> If need more information on this measure please contact IDRA at [idra@albmail.com](mailto:idra@albmail.com) to get a case study on Building Code System in Albania

## COMMENTS ON SPECIFIC MEASURES OF THE ANTI-CORRUPTION MATRIX 2004-2005

We have selected in the Matrix those measures that have a link with private sector. This is not a full analysis of the whole Matrix.

| NO    | OBJECTIVES  | ACTIONS  | RESPONSIBLE SUPPORTING INSTITUTIONS | DEADLINE   | FINANCIAL COST (IS THAT ENVISAGED IN THE BUDGET?) | RISKS                                  | SUCCESS INDICATORS  |
|-------|---|--|-------------------------------------|--|---|--|---|
| A.3.1 | Approach of legal framework to EU standarts in the area of public procurement | <p>Amendment of Llaw No. 7971, dated "On public procurement" and the sub legal acts, in accordance with the following phases:</p> <ul style="list-style-type: none"> <li>- Feasibility study on the information technology in APP.</li> <li>- Analysis of legal framework and institutional legal procedures of APP</li> <li>- Analysis of needs for traaining and draft off national program for the training of APP employees and procuring bodies.</li> </ul> <p><u>IDRA Comments</u><br/> <i>Public Procurement Field is a vry importnat fielad in monitoring the fight against corruption. While the measure mentioned in this section per se is OK it seems that what is missing are measures which engage private sectoras the other part of the coin of corruption in public procurement. So there are missing measures which focus on interaction between Public Procurment Agency and business in reagrd to infoamtion, communciation nand</i></p> | APP                                 | <p>June 2005</p> <p>November 2005</p> <p>December 2005</p> | CARD's 2002<br>2.5 mil euro                       | Innapropriate conditions to start work | <p>Avoiding abuses of public funds.</p> <p>Completion of the feasibility study</p> <p>Sensibilization of procurement officials in terms of the transparency of the enforcment of law and sub-legal acts.</p> <p>Timely cooperation of APP-se with Central institutions.</p> |

| NO | OBJECTIVES | ACTIONS   | RESPONSIBLE SUPPORTING INSTITUTIONS | DEADLINE | FINANCIAL COST (IS THAT ENVISAGED IN THE BUDGET?) | RISKS | SUCCESS INDICATORS |
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|    |            | <i>discssuion as well as monitoring the public procurment processes. This componet (Public Procurment and businesses) we could not find even in other sections of Matrix.</i> |                                     |          |   |       |                    |

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| A.2.9 | Simplification and standartization of procedures and criteria for offering public services in the central administration | <p>The review of the legal framework</p> <p>Respective structural changes</p> <p><b><i>IDRA Comment</i></b><br/> <i>An important measure in principle. However as it stadns and as it has been formulated is very general and vague. We are talking here for more than 120 licenses, certifications and authorizations form more than 30 institutions.</i></p> <p><b><i>Suggestion – Division of this meassure into more specific ones for specific instituions.</i></b></p> <p><i>Every institution which has under its jurisdiction issuing licenses, certificates, or authorizations</i></p> | Inter-ministerial working group<br>Central institutions | <p>April 2005</p> <p>September 2005</p> | CARDS Project | <p>Provision of financial assistance within the due timeline</p> <p>Difficulties in organizational aspects and iin the cooperation of respective structures</p> | <p>Simplification and standartization of procedures.</p> <p>Structural reorganization in the framework of legal amendments.</p> <p>Increase in quality of public services</p> <p>Measurement of the effect of changes, through surveys for the public and the business.</p> |
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|       |   | <p><i>should make the specific proposals on what are they going to do to simplify and reduce procedures (if needed). For example, in this Matrix the Ministry of Industry and Energy has proposed a measure which deals with simplifying the procedures for minerary workd licesnes. Now this measure is directly link with the broad measure presented in this section and in the same time it is specific enough to be monitored.</i></p> <p><i>Another Example. Ministry of Transport and Telecommunication has under its jurisdiction many licesnes and certifications. What are the actions that this ministry will undertake in regulatory and institutional levels to improve and simplyfy the procedures for these licenses?</i></p> |  |           |  |  |
| C.3.1 | Increase of transparency and quality of service to the public | <p>Establishing of the officies of public informing, harmonizing it with the reform of simplification and standartization of offering public services.</p> <p><b>Suggestion: It seems that there an overlap between this measure mentione din this section and the measure A.2.9. The objective should be clarified and the measures integrated. Also the measures needed to be undertaken by the institutions should be specified.</b></p>  | <p>Working Group/MoE</p> <p>All central institutions</p> | 2004-2005 |  | <p>Lack of funds, Lack of human resources</p> <p>Campaigns, various publications and evaluation through surveys.</p> |

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| C.3.3 | Promotion of transparency in the application of basic principles of the transparency of state assistance. | Preparation and the approval of the necessary legal framework for state assistance.<br><br>Application of information mechanisms and reporting of schemes of state assistance in Albania.<br><br><i>Question – What kind of state aid are we talking about and what is the relation with corruption?</i> | MoE<br>Other concerned ministries | During 2005 |  | Difficulties and delays in the process of information on existing schemes of state assistance and plans for providing new state schemes.                             | Provision of transparency in using budget funds through the process of information on state assistance.<br><br>Concrete steps in drafting a comprehensive inventory of the schemes of the state assistance applied in Albania.  |
| C.3.4 | Minimization of administrative barriers with regard to investments.                                       | Application of recommendations of FIAS in accordance with the approved action plan.<br><br><i>Question – What kind of measures are we talking about because as it stands this measure cannot be monitored?</i>   | MoE                               | During 2005 |  | Delays in drafting and approving laws, where a part of the actions, basically those related to land, construction and appealing, rely on the approval of these laws. | Successful implementation of this Action Plan directly linked in:<br>1. The improvement of business climate in particular and of investments as a whole, which is considered as an apriority by the Albanian Government.<br>2. Facilitation of trade, avoidance of bureaucratic costs and the acceleration of administrative procedures directly linked with the establishment of a business. |

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| B.3.5 | Transparency of duty and tax procedures with regard to the taxpayers | <p>Enforcement of the law No. 8560, dated 22.12.199, "On duty and tax procedures in the Republic of Albania" and amendments of the law through:<br/>         Setting a deadline within which the duty and tax administration is obliged to exercise and control in identifying the situation of the taxpayer.<br/>         Facilitation of the procedures for giving back the over paid duties.<br/>         Standartization of appealing levels.<br/>         Implementation of the automatic selection of taxpayers that will be checked based on the risk analysis.</p> <p><i>IDRA Comment</i><br/> <i>Implementing the law per se is not an anti-corruption measure. If we tie the measure presented with the success indicators, one can deduct that the law already has the premises for transparency. Meanwhile the measure talks about implementing the law. But one can hardly understand what is the mechanism that is going to be used now to ensure the implementation that has not occurred until now. We would be of the opinion that measures formulated as such should not be presented in the Matrix. If there is a need to introduce a mechanism which would ensure the monitoring of the implementation of the law such as for example number of complaints of taxpayers for tax procedures and their solutions, than that is something else and it can stand as a measure. Or if there is any other mechanism that makes tax procedures more transparent (the way of getting the tax forms from Tax offices, the possibility of getting the forms online etc).</i></p> | MoF/GDD | March 2005 |  | Failure to enforce the law by the employees of the duty and tax. | <ul style="list-style-type: none"> <li>- Setting deadlines within which the duty and tax administration is obliged to exercise control in identifying the situation of the taxpayer.</li> <li>- Facilitation of the procedures for giving back the overpaid duties.</li> <li>- Standardization of appealing levels.</li> </ul> |
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| B.3.6 | Extension of the integrated computer system to the duty and tax branches for all types of duties. | <ul style="list-style-type: none"> <li>- Preparation and instalment of hardware and local network in eleven duty and tax branches.</li> <li>- Preparation of technical specifications and the instalment of hardware and of local network in three new duty and tax branches (Gjirokastra, Saranda and Pogradec)</li> <li>- Development and application of the module on national taxes and the duties on gambling activities.</li> </ul> <p><i>IDRA comment</i><br/> <i>We have two different objectives mixed here:</i><br/> <i>1) Revenue increase and 2) avoidance of abuses from the part of tax employees. Not necessarily these two objectives stand together. Meanwhile since the second objective is much more focused with the fight against corruption it should stand on its own. Looking at specific measures to accomplish the objective though it seems that there is no connection between them. The proposed measure would better stand under an objective – increasing efficiency in tax offices work.</i></p> | MoF/GDD | November 2005 |  | Non-financing of the projects by CARDS program | Application of the system. Increase of duty and tax income, compared to the same period of the last year and the planned one. |
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|  |  | <i>No measure or indicator talks about avoiding possibilities for tax inspector abuses. In what manner this will be possible and what is the way of monitoring it?</i> |  |  |  |  |  |
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| B.3.7 | Approach of customs legislation to EU standards. | <p>Provision, when appropriate of international conventions, rules and procedures for the evaluation, transiting, customs warehouses, risk evaluation, and selection, auditing (internal and external))</p> <p><i>IDRA Comment</i><br/> <i>A very general and vague measure that can stand in this Matirx for the next 5-10 years withouth being monitored and reported as accomplished or not..</i><br/> <i>Sugestion – Specify it!. What convetions will be adopted this year, what kind of rules according to EU standrds will be adopted and so on.</i></p> | DPD | To be continued |  | Evasion obligations | of<br>Setting standards<br>Increase of Incomes<br>Facilitation of customs procedures.<br>Increase of the efficiency of the business. |
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## **CIVIL SOCIETY, MEDIA, TRANSPARENCY AND PUBLIC PARTICIPATION**

In principle the measures under the section “Civil Society, Media, Transparency and Public Participation” are too general and vague. They need to be specified in more concrete details. For example one of the measures stands as following: **“Raising the trust and awareness of the public to denounce corruption”** without specifying any mechanism or activity that aims this.

We would suggest especially in regard to issues that deal with private sector that the Anti-Corruption Unit creates a Communication Plan with businesses for issues that have to do with corruption. There shouldn't be anything that can impede the ACU to organize meetings with business community to discuss about issues of their concerns (related with corruption) such as Tax administration, Customs, licensing etc. The unit should create a calendar of event with business community on communicating with it for priority issues without waiting that the initiative comes from the respective institutions that covers the sector (Ministry of Finance, Ministry of Economy, Public Procurement Agency etc.) Anti-Corruption unit should adopt a pro-active approach in this regard. It should be the catalyst for such communication channels as well as it should create clearer ideas for the areas that relate to corruption in private sector and not leave it entirely on the so-called Point of Contacts on every institutions to deal with them. One of the main problems that the institutions involved in the Anti-Corruption matrix face is the routine work which disconnects them for the focus of the Anti-Corruption. While the Unit should encourage and promote dialogue all the time for the anti-corruption process. The creation of a workplan (calendar of events) would be a necessary step in this regard. This recommendation to be implemented need also some resources (financial) but keeping in mind the importance of such a thing we believe that Albanian government can set aside some funds or coordinate the work with the donors to get some funds to implement a Communication Plan with Businesses.