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**CIVIC REPORT:
MONITORING OF THE IMPLEMENTATION OF THE
STABILIZATION AND ASSOCIATION AGREEMENT**

October 2009 - September 2010

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LIST OF ABBREVIATIONS

AC	Anti Corruption
AECID	Spanish Agency for International Development Cooperation
ASCS	Agency for the Support of Civil Society
BCP	Border Crossing Point
BKA	German Federal Criminal Police Office
BMP	Border and Migration Police
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CEC	Central Election Commission
CEE	Central Eastern Europe / European
CEFA	Alternated Education and Vocational Training (project of SDC)
CoE	Council of Europe
CoM	Council of Ministers
CMD	Council of Ministers Decision
CPU	Child Protection Unit
DoEU	Delegation of the European Union
DIACA	Department of Internal, Administrative and Anti-Corruption Control
DPA	Department of Public Administration
DPC	Data Protection Commissioner
DSDC	Department of Strategy and Donor Coordination
EC	European Commission
ECRI	European Commission against Racism and Intolerance
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EP	European Partnership
EU	European Union
EURALIUS	European Assistance Mission to the Albanian Justice System
FAFT	Financial Action Task Force
FIU	Financial Intelligence Unit
GDP	General Directorate of Prisons
GDPNL	General Directorate for the Prevention of Money Laundering
GDPS	General Directorate of the Probation Service
GNP	Interministerial Working Group against Corruption
GoA	Government of Albania
GPO	General Prosecutor's Office
GRECO	Group of States against Corruption
GTZ	German International Cooperation (Gesellschaft für Technische Zusammenarbeit)
HCJ	High Council of Justice
HIDAA	High Inspectorate for the Declaration and Audit of Assets
HR	Human Rights
IA	Interim Agreement
ICITAP	International Criminal Investigative Training Assistance Program
ICS	Internal Control Service
IMOC	Inter-institutional Maritime Operational Centre
INSTAT	Institute of Statistics
IPA	Instrument of Pre-accession Assistance
IT	Information Technology
JIU	Joint Investigative Unit
METE	Ministry of Economy, Trade and Energy
ML / FT	Money Laundering and the Financing of Terrorism
MoD	Ministry of Defence

MoEI	Ministry of European Integration
MoES	Ministry of Education and Science
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MoH	Ministry of Health
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoLSAEO	Ministry of Labour, Social Affairs and Equal Opportunities
MoTCYS	Ministry of Tourism, Culture, Youth and Sports
N / A	Not Available
NIS	National Intelligence Service
NGO	Non-Governmental Organisation
NRF	National Referral Mechanism
NSDI	National Strategy for Development and Integration 2007-2013
NPISAA	National Plan for the Implementation of the Stabilisation and Association Agreement
OMLT	Operation Mentor and Liaison Team
OPDAT	Office of Overseas Prosecutorial Development, Assistance and Training
OSCE	Organisation for Security and Cooperation in Europe
OSFA	Open Society Foundation for Albania
PACA	Project Against Corruption in Albania
PAMECA	Police Assistance Mission of the European Community to Albania
RATC	Regional Anti-Trafficking Committees
SAA	Stabilisation and Association Agreement
SDC	Swiss Agency for Development and Cooperation
SMEI II	Strengthening the Ministry of European Integration project II
SOPs	Standard Operating Procedures
TAIEX	Technical Assistance and Information Exchange Instrument
TIPA	Training Institute of Public Administration
UNDOC	United Nations Office on Drugs and Crime
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNICEF	United Nations Children Fund

I. EXECUTIVE SUMMARY

1. Main Findings of the Report

Methodology Brief

This Report provides an **expert assessment** of the progress in advancing the Albanian reforms and the EU accession agenda, independently from the Albanian government and the European Commission.

The **subject of the monitoring** are the actions planned for implementation in 2009-2010 in the National Plan for the Implementation of the Stabilization and Association Agreement (NPISAA) 2009-2014¹, under the **Copenhagen Political Criteria**: 1) Public Administration, 2) Judiciary Reform, 3) Fight against Corruption, 4) Decentralisation, 5) Prison System Reform, 6) Protection of Minorities; and **European Standards criteria**: 7) Prevention of Money laundering, 8) Fight against Drugs, 9) Fight against Organised Crime and Illegal Traffic, 10) Fight against Terrorism, 11) Personal Data Protection, and 12) Orientation, Coordination and Monitoring of the EU Integration Process.

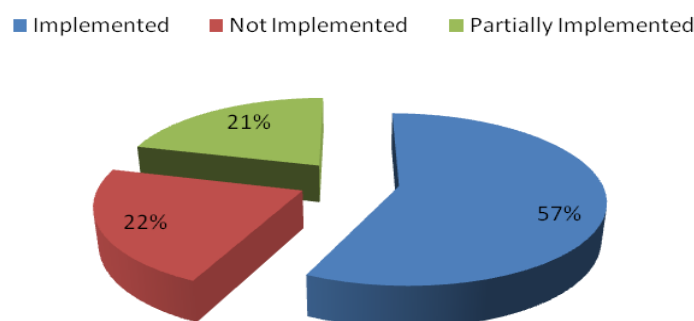
The assessment of the Albania's progress in the implementation of the SAA includes:

- **Qualitative Assessment** through a scale of three values to measure implementation of any given action/measure (**implemented; not implemented; partially implemented**) and
- Expert evaluation of the **adequacy of the actions** planned by the Albanian Government in the NPISAA to achieve the set priorities.

Implementation of Planned Measures

During the October 2009 – September 2010 period, the GoA has implemented the predominant part of the measures envisaged in the National Plan for the Implementation of the Stabilisation and Association Agreement (NPISAA) 2009-2014 in the 12 monitored areas².

All Monitored Measures



The qualitative assessment of the implementation of the measures in 12 policy areas under the Democracy and the Rule of law, Human rights and Minorities, Justice, Freedom and Security and Capacity Building chapters of the NPISAA 2009-2014 identifies **98 “Implemented”, 38 “Partially Implemented”, and 36 “Not implemented”** measures out of 172 measures

¹ Approved by Council of Ministers Decision Nr 862, dated 22.07.2009

² Public Administration, Judiciary Reform, Fight against Corruption, Decentralisation, Prison System Reform, Protection of Minorities, Prevention of Money laundering, Fight against Drugs, Fight against Organised Crime and Illegal Traffic, Fight against Terrorism, Personal Data Protection, and Orientation, Coordination and Monitoring of the EU Integration Process.

monitored in total. This gives enough grounds to conclude that the NPISAA has the potential to become a viable, guiding policy document for Albania's European Union accession.

The progress across the twelve monitored policy areas is **uneven**. **Public Administration Reform** and the **Decentralisation Process**³ are the most problematic areas, with the highest number of "Not Implemented" measures: 54% in Public Administration and 69% in Decentralisation.

There are only two areas where all the measures are either "Implemented" or "Partially Implemented" - **Protection of Minorities** and **Personal Data Protection**.

Positive progress in implementation of measures is identified in all policy areas under the Justice, Freedom and Security chapter, where most of the measures are either "Implemented" or "Partially Implemented": Personal Data Protection 100%, the Fight against Money Laundering 94%, Fight against Drugs 83%, Fight against Organised Crime and Illegal Traffic 78%, and Fight against Terrorism 90%.

These areas, as well as Protection of Minorities with a strong emphasis on the Roma minority, strongly relate to the **Visa Liberalization** process and were part of Block 3 and Block 4 of the European Commission's Roadmap for Visa Liberalisation for Albania⁴. The progress achieved in these areas can be highly attributed to the pressures for vigorous government action in a context of **high domestic frustration** with the visa regime, **cross-party consensus** on the lifting of the visa regime, **visa liberalisation in the region** with Serbia, Montenegro and Macedonia, and **frequent expert missions** of the EC followed by very **concrete recommendations**.

The uneven progress across all areas indicates that where there is **cross-party consensus** and political will, as is the case in the chapters related to visa liberalisation, implementation of planned measures is higher. Areas that, on the other hand, suffer **politicisation** and are highly sensitive to domestic power struggles, such as Decentralisation or Public Administration, reform processes seem stalled. In many policy areas, including Judiciary reform, much is dependent on cross-party consensus in Parliament.

Adequacy of Measures in the NPISAA

The **expert evaluation** of the **adequacy** of the measures planned by the government in the National Plan for the Implementation of the SAA to achieve the respective European Partnership and SAA goals and priorities identifies the necessity for **substantial revision of the NPISAA** if the document is to gain the status of a **viable, guiding policy document** for Albania's EU accession.

In **7 out of the 12 policy areas** monitored, the measures have been deemed **inadequate** matched against the European Partnership short-term priorities and the SAA, as well as the priorities set in other strategic documents of the GoA in certain areas. Deficiencies relate to confusion of priorities and mid-term measures, formulation of generic and vague priorities which are not broken down into concrete measures, lack of planning aspects of implementation of the measures, including the setting of concrete deadlines, responsible institutions, budgetary needs and human resources. The annexes accompanying the NPISAA with the aim of presenting such

³ Democracy and Rule of Law Chapter of the Copenhagen Political Criteria

⁴ Block 3: Public Order and Security, and Block 4: External Relations and Fundamental Rights. For the full Roadmap, please see <http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Roadmap%20Albania.pdf>

planning are often incomplete, incomprehensive, or exclusive of entire policy areas (eg. Fight against Corruption, Prison System Reform).

The *Open Society Foundation for Albania* (OSFA), therefore, calls for **substantial revision** of the NPISAA and its **updating, reporting and monitoring methodology** in order to:

- **ensure that the NPISAA is a viable strategic document to be used as a fundamental guideline for the Albanian journey towards the European Union;**
- **expand and improve both the content and the scope of the planned activities in each thematic field to address adequately the priorities and**
- **open the process to all relevant institutions, civil society actors and stakeholders to participate with respective rights and responsibilities in the elaboration of the measures in the plan and in the monitoring, reporting and transparency of their implementation.**

For concrete recommendations under each objective, please refer to the Chapter VI. Conclusions.

The authors of the report suggest the creation of mechanisms for the involvement of **Civil Society and other Stakeholders**⁵ in the updating and monitoring of the **NPISAA**, be it through the Ministry of Integration as the responsible institution for the NPISAA, or through line ministries and other institutions that contribute to the NPISAA, in order to allow them to contribute to the process of formulation and elaboration of both strategic policy documents and legislative acts.

For this purpose the **Council of Ministers** should develop and put in place working mechanism to ensure the implementation in practice of Article 14 of the Regulation of Council of Ministers⁶ on consultation with civil society and other stakeholders. It will help open the law-drafting process, including the drafting of the NPISAA and other strategic documents for consultation with civil society. The **Assembly** on the other hand should increase hearings with external experts and CSOs in its committees.

The **Organized part of the civil society** – the non-governmental organizations – should develop a mechanism for **nomination of civil society representatives** for participation in the different consultation formats suggested in this Report: **1) Consultative committees, 2) Structured dialogue, and 3) Consultation processes** (*for more details on each suggested formats, please see chapter V. part 2 on Civil Society and Other Stakeholders' Role*).

Access to Information

Due to a refusal of cooperation in terms of access to information from the leading ministry in the process – MoEI, OSFA approached individually line ministries and relevant institutions. The level of cooperation in obtaining the relevant information for the civic monitoring was uneven. Some responded readily and/or appointed a contact person (the Parliamentary Committee of Integration, the Department of Strategy and Donor Coordination, the Internal Control Service, the Probation Service, the Department of Public Administration, the General Directorate of Prisons), others either showed reluctance to share what should be publicly available, or failed to respond to various letters and e-mails. *For a more detailed account on access to information and contacted institutions, please see the Methodology in Chapter II, and the List of Contacted and Interviewed Institutions in Chapter VII.*

⁵ Regional and local authorities, representatives of municipalities and their associations, the economic and social partners (trade unions, trade associations and representative structures of employers), academia, leading universities, research and educational institutions, business associations, professional chambers etc

⁶ Approved by CMD 584 dated 28.08.2003

2. Findings by Policy Area

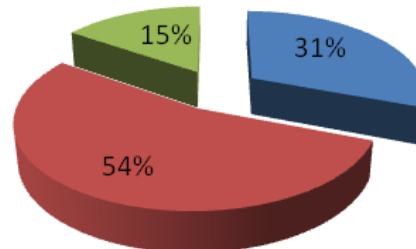
Public Administration:

More than half of the measures envisaged (seven) in the NPISAA are **Not Implemented**. As their implementation depends on the completion of one specific measure - changing Law No. 8549, dated 11.11.1999 on the Status of Civil Servants, the lack of political consensus in the Parliament for the adoption of the needed amendments

has significantly hampered progress in this sector. Key *recommendations* concern strengthening of the status of the Department of Public Administration (DPA) as instrumental to tackling issues of recruitment and stability; the drafting by DPA of job descriptions at least for the Executive; and reaching consensus in Parliament to change the Law on Civil Service.

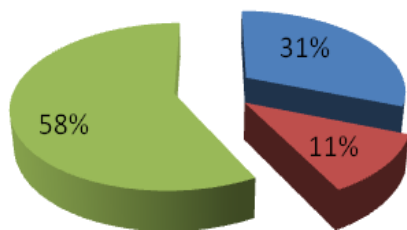
Public Administration

■ Implemented ■ Not Implemented ■ Partially Implemented



Judiciary

■ Implemented ■ Not Implemented ■ Partially Implemented



Judiciary Reform:

Less than one third of the envisaged measures (**eight**) are **Implemented**. More than half of the measures (**fifteen**) are **Partially Implemented** and **three** are **Not Implemented**. Thus despite the progress noticed in the overall development of the judicial system in Albania, the reform process remains incomplete.

As most of the legislative measures proposed consist of important laws of the justice system, which cannot be approved without the consent of both main political forces in Parliament, two key *recommendations* in this area are for the MoJ to develop a realistic legislative program with realistic deadlines for its implementation, and for the Parliament to guarantee the necessary political consensus for ensuring the adoption of the justice related laws which need qualified majority of votes.

Fight against Corruption:

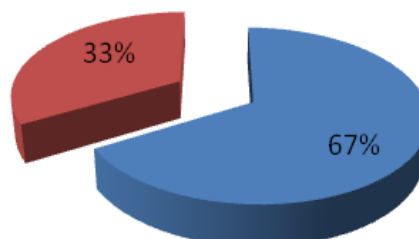
Two thirds of the envisaged six measures in the Plan are **Implemented**. The **2 Not implemented** measures both relate to the “integrity tests” to be carried out by the ICS on the Albanian State Police. As the planned activities in this field concern only of the Internal Control Service and Albanian State Police, and the Joint Inspection Units

against Financial Crime and Corruption, they clearly fail to encompass the wide range of interventions required in the fight against corruption. The on-going fierce campaign of mutual accusations of corruption between the majority in power and the opposition has highlighted on the public agenda of Albania the primacy of issues that the NPISAA has dramatically failed to address.

Therefore a key general *recommendation* in this area is for the NPISAA, as well as the Anti-Corruption Action Plan for 2011, to include relevant measures to address primary issues: **declaration of assets, conflict of interest, concessions, building permits, immunity and vigour of institutional responses, and political party financing.**

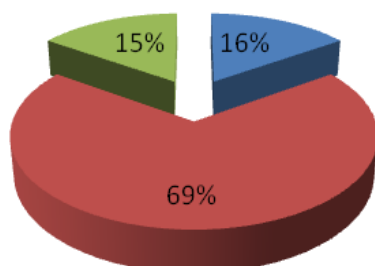
Anti-Corruption

■ Implemented ■ Not Implemented ■ Partially Implemented



Decentralisation

■ Implemented ■ Not Implemented ■ Partially Implemented



Decentralisation:

Nine out of thirteen measures are **Not Implemented**, **two** are **Implemented** and **two** are **Partially Implemented**. The decentralization reform in Albania is at a stall because of a high level of politicization and a far too centralized, top-down way of determining priorities and of decision-making.

Recommendations concern

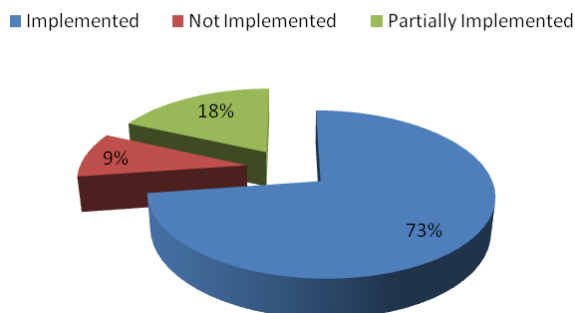
reframing the reform process by conducting large consultation with all actors concerned and reflecting the objectives of regional cooperation as well as clear division of competencies among the key policy actors in the field.

Prison System Reform:

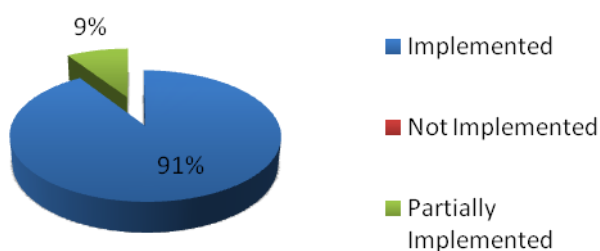
Out of 22 measures envisaged in the NPISAA, **16 are Implemented**, **4 are Partially Implemented** while **2 measures are Not Implemented**. The positive developments in the area concern the improving facilities and physical living conditions for prisoners and pre-detainees. The Albanian penitentiary legislation is generally in accordance with European standards.

Recommendations concern the need for opening of new prisons during the next few years, developing of the probation service and the urgent necessity for the Ministry of Health to take over responsibility of the hospital for mentally ill persons in Durres or for establishment of an adequate institution (a psychiatric facility) for this category of persons who are kept unlawfully in prisons and in the Prison Hospital.

Prisons' System Reform



Protection of Minorities



Protection of Minorities:

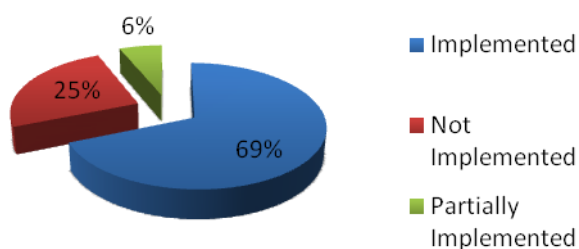
Ten out of the eleven measures envisaged in the NPISAA in this area are **implemented** and one is **Partially Implemented**. Increased mobilisation is noticed among state authorities as concerns improving the Roma community situation and the implementation of the Roma Decade Action Plan. Adopting the

Anti-Discrimination Law is a major achievement towards protecting minority rights, not only those of ethnic or linguistic minorities but also those of other marginalized groups. The Council of Europe Charter for Regional and Linguistic Minorities remains not ratified. *Recommendations* concern the need for inclusion in the NPISAA of support measures to other ethnic-linguistic minorities in Albania.

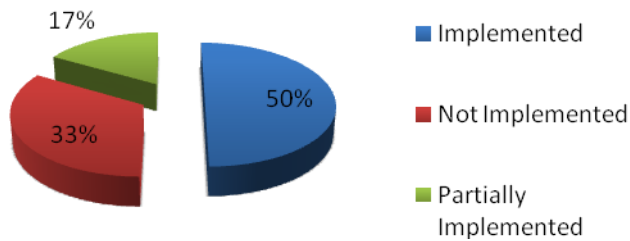
Prevention of Money Laundering:

Most of the measures envisaged (eleven) are **implemented**. The **4 Not Implemented** measures and the one **Partially Implemented** concern the conclusion of cooperation agreements with international counterparts. The General Directorate for the Prevention of Money Laundering has made very positive progress in embracing the three relevant EU Directives but it should put special efforts to overcome the delay in the conclusion of cooperation agreements with international counterparts.

Money Laundering



Fight Against Drugs



Fight against Drugs:

Half of the measures are **Implemented (three)** and from the other half, **two** measures are **Not Implemented** and **one** is **Partially Implemented**. Most of the postponed measures particularly the legislative ones, require the involvement of different ministries or agencies and the coordination of their actions should be improved.

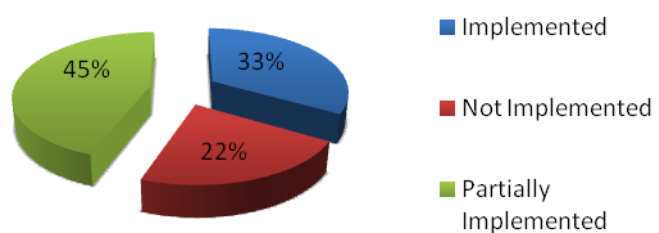
The *recommendations* concern the need for inclusion in the NPISAA of tangible key measures foreseen in other strategic document like National Anti-Drugs Strategy and Action Plan and inclusion of the Local Government authorities in the Plan to increase the fight against cultivation of drugs at the local level, i.e. narcotics.

Fight against Organized Crime and Illegal Traffics:

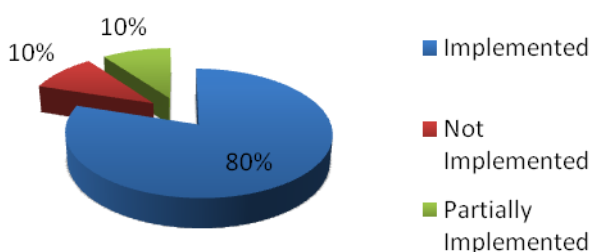
Most of the measures are either **Implemented (3)** or **Partially Implemented (4)** and 2 are **Not Implemented**. Overall, the work of fighting traffic of human beings has progressed positively during the monitored period.

The *recommendations* in the report aim to address the existing deficits with regard to lack of coordination between central and local authorities concerning the children in street situation, the non-reformed state social service, the discordances among different actors in recognising internal human trafficking and the insufficient qualified staff (especially social workers) at the borders.

Organised Crime and Illegal Traffics



Fight against Terrorism



Fight against Terrorism:

Most of the measures (8) are **Implemented, 1** is **Partially Implemented** and **1** is **Not Implemented**. The measures foreseen in the Plan to be carried out by the military forces are entirely being implemented. The biggest shortcoming noticed during the reporting period is the lack of drafting and approval of the Strategy on the Fight against Terrorism.

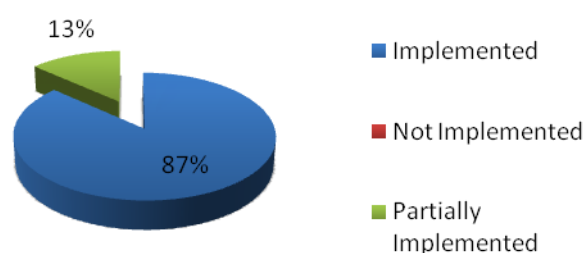
The *recommendations* here concern the need for further re-focusing of the measures of the

Plan on the fight against terrorism exclusively. Therefore, actions like peace keeping missions and military measures abroad foreseen by the Ministry of Defence ought to be removed. The Strategy on the Fight against Terrorism should be adopted without further delays.

Personal Data Protection:

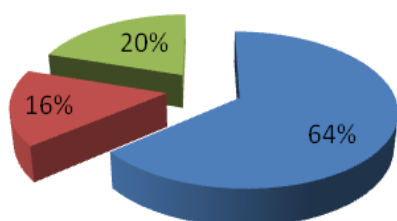
Most of the measures (13 out of 15) envisaged in the Plan are **Implemented** and 2 are **Partially Implemented**. After fulfilling the basic SAA requirements on data protection - the adoption of the law on data protection and the establishment of an independent structure - the Commissioner on Data Protection (operational since Spring 2009), Albania is positively progressing in this field. *Recommendations* concern ensuring further compliance of the Albanian legislation with data protection law and raising public awareness on the importance of personal data protection.

Personal Data Protection



Orientation, Coordination, Monitoring

■ Implemented ■ Not Implemented ■ Partially Implemented



Orientation, Coordination and Monitoring of the EU integration process:

The Ministry of Integration has accomplished the implementation of most of the measures which are listed in the Plan for the period 2009 under this chapter. The majority of the measures envisaged (16) are **Implemented**. Four out of 25 measures are **Not Implemented** and five are **Partially Implemented**. Given

the fact that the priorities listed in the NPISAA reflect the scope of the activities of the Ministry of Integration, the *recommendations* in this chapter concern the necessity the Government and the Ministry of Integration to clearly define the role of the other relevant players, including the Parliament in the coordination of the EU integration process in the NPISAA.

II. INTRODUCTION

1. Context

Albania applied for EU membership in April 2009. The Stabilisation and Association Agreement (SAA) between Albania and the EU entered into force in April 2009. An Interim Agreement had been in force since December 2006. The Albanian government has developed a National Strategy for Development and Integration (NSDI) 2007-2013 and a National Plan for the Stabilization and Association Agreement Implementation 2009-2014. This document outlines the commitments and implementing responsibilities of the state institutions, stemming from the European Partnership with Albania, the SAA and the Interim Agreement, and the Annual Reports of the European Commission for Albania.

Progress in the implementation of the SAA is of crucial importance for Albania as it creates a historic window of opportunity for the country in at least two directions. Firstly, based on the advancement in the implementation of the commitments assumed, the country will be invited to start negotiations for EU accession, which will provide Albania with a clear roadmap and timeframe for joining the EU. This will further increase the stimulus for the implementation of the reforms needed. Secondly, the experience of the new member states from CEE shows that by appearing to be the gravity centre of prosperity and successful development for the candidate countries, the EU has the most effective leverage over their public policies transformation exactly in the pre-accession period. As a result, the negotiation process creates a unique opportunity for civil society actors to push forward reform agendas that otherwise would have been much more difficult to advance. Therefore, it is important to redouble the efforts to enhance partnership between civil society and government institutions, as well as to monitor constantly and exercise active civic control over the progress in the implementation of the commitments assumed within the pre-negotiation and later the negotiating process.

The country's accession to the European Union affects the life and fate of all Albanian citizens. Considering the broad public support for Albania's EU membership, the publicity and transparency of the process of fulfilling the commitments assumed by the responsible institutions is exceedingly important and indispensable itself.

2. Monitoring Objectives

The civic monitoring on the progress of implementation of the SAA in Albania aims at:

- providing publicity and transparency of the process of the implementation of the SAA to the Albanian citizens and the EU citizens and decision-makers independently from both the Albanian government and the European Commission;
- advancing the Albanian reforms' agenda by exercising pressure on the Albanian government and the respective institutions responsible for the implementation of the commitments stemming from the European Partnership with Albania, the SAA and the Interim Agreement, and the Annual Reports of the European Commission for Albania;
- advancing Albania's EU accession agenda by providing objective assessment of the progress in the implementation of the commitments assumed thus narrowing the EU opportunity for deciding on political rather than technical merits regarding the country's prospects for EU accession.

- In addition, strengthening the capacity of OSF – Albania and other non-governmental players to be proactive policy actors in the field of the EU Integration domain by influencing public policy debate on reforms based on:
 - ability for adequate and timely reaction to fast changing policy environment;
 - in-depth and highly professional expertise on specific topics within the EU Integration policy domain;
 - capability to mobilize civic resources thus extending the limits of the EU Integration knowledge and expertise outside the public administration to the civil society and the business sector;
 - ability to attract media attention and to shape the policy debate on the EU Integration matters.

3. Monitoring Approach

3.1. Principles

Objectivity and impartiality are the underlying **principles** of the Monitoring of Albania's progress in respect of the commitments assumed and implemented under the SAA. Monitoring is not a political assessment but seeks to arrive at an expert conclusion about the extent of implementation of the measures which the Albanian Government has planned and implemented. Impartiality and independence of the monitoring process is of crucial importance for the final success of the initiative. It is valid for the monitoring approach and methodology as well as for the experts who have to be recognized by all stakeholders not only as knowledgeable in the respective thematic fields but also as not being biased to any specific interest.

This monitoring report has been developed by the following expert **team**:

Assya Kavrakova	Consultant, Program Director, European Policies and Civic Participation Program, Open Society Institute – Sofia
Adela Halo	Coordinator of the Civic Monitoring project, OSFA, <i>Anti-Corruption</i>
Aida Bushati	<i>Judiciary Reform, Data Protection, Orientation, Coordination and Monitoring of the EU integration process</i>
Blerta Hoxha	<i>Public Administration, Data Protection, Decentralization, Human Trafficking, Orientation, Coordination and monitoring of the EU integration process</i>
Elona Xhaferri and Adela Halo	<i>Protection of Minorities</i>
Etilda Saliu Gjonaj	<i>Prison System Reform</i>
Gledis Gjipali	<i>Money Laundering, Drugs, Organised Crime, Terrorism, Orientation, Coordination and Monitoring of the EU integration process</i>

3.2. Subject and Scope of the Civic Monitoring

The actions planned for implementation in 2009-2010 in the latest updated version⁷ of the National Plan for the Implementation of the Stabilization and Association Agreement (SAA) 2009 – 2014, approved by CMD Nr. 862, dated 22.07.2009, are the subject of the civic monitoring. The NPISAA is the only document that outlines the envisaged short-term, mid-term and long-term commitments of the Albanian authorities for the implementation of the SAA. Moreover the plan should have been preliminary negotiated or at least informally approved by

⁷ At the time the monitoring began. As this Report was going to print, a newly updated version of the NPISAA was approved by the Council of Ministers on October 6th 2010.

the EC which means it has the credibility to be considered as Albania's action plan, on the implementation of which would depend the start of the negotiations for EU accession.

The Scope of the Civic Monitoring in 2010 is narrowed to observation of the progress in those areas which are considered to be essential for the advancement of both the pre-accession and reform agenda of Albania and the values of the open society in the country. Those are the chapters - **Democracy and the Rule of law, Human rights and Minorities, Justice, Freedom and Security** which fall under the **Copenhagen Political Criteria and European Standards** for membership, progress in which is a precondition for starting negotiations with the EU.

A special effort of the monitoring team has been put into the evaluation of the **Orientation, Coordination and Monitoring of the EU integration process chapter** which has been extended to include (because of the largely missing actions in this respect) recommendations on the role of the civil society and other stakeholders (the economic and social partners etc.) in the EU Integration process of Albania. Reflecting the notion that the EU Integration knowledge and expertise has to be extended outside the public administration to the civil society and the business sector, this chapter in the Civic monitoring report is called **Capacity Building for the EU Integration Process of Albania**.

3.3. Evaluation Approach and Assessment Scale

The evaluation of the implementation of the commitments assumed in the areas of **Democracy and the Rule of law, Human rights and Minorities, Justice, Freedom and Security and Capacity Building** falls into three categories:

- Implemented Commitments to adopt legal standards or to align effective legal standards with the *acquis*.
- Capacity Building (administrative capacity building, human and financial capacity, partnerships, operational interaction etc.).
- Practical application (enforcement) of already harmonised legal standards.

3.3.1. Implementation of commitments to adopt legal standards or to align effective legal standards with the EU *acquis*

The purpose of monitoring under this category is to establish whether the standards/norms have been adopted and, if not, to identify the stage of the standard-setting and law-making process which they have reached and who is responsible for overcoming the delay.

3.3.1.1. Indicators:

- Enacted regulatory or legislative acts,
- Stage which the draft instrument has reached.
- Specific entity responsible for the drafting and/or adoption of the instrument.

3.3.1.2. Information sources:

- Analysis of the Official Journal.
- Analysis of the bills laid before the National Assembly and their position in the lawmaking process.
- Interviews with officials of executive authorities, where non-implementation concerns a law or regulation.

3.3.2. Capacity Building (administrative capacity including human and financial resources development, partnerships, operational interaction etc.) of existing or newly created government authorities or other institutions responsible for the application of various policies

3.3.2.1. Indicators – depending on the purpose and the scope of the capacity building, indicators are defined for each specific case:

- Establishment of relevant administrative structures
- Human resources development - secured and trained
- Financial resources secured
- Change in established decision-making and decision-implementing mechanisms in the institutions criticised in the EC Report.
- Mechanisms (systems of checks and balances) ensuring transparency, predictability and accountability.
- Established and institutionalized mechanisms for civic participation in the decision-making process for both policy making and legislative adoption.
- Regulatory framework revision, where necessary for change of controversial practices.

3.3.2.2. Information sources

- Expert evaluation of the operation of the institutions criticised.
- Available data regarding human and financial resources and their development.
- Relevant by-laws.
- Self-appraisal on the part of the institutions regarding their capacity including mechanisms for overcoming practices criticised.
- Opinion of relevant stakeholders or public opinion (where applicable).

3.3.3. Practical application of harmonised legal standards

The monitoring under this category aims at evaluating both - the proper implementation and enactment of adopted public policies and legislation and the effectiveness and efficiency of its impact, the latter being much more difficult to assess.

3.3.3.1. Indicators:

- Functioning administrative structures.
- Existing political will and administrative culture and will to achieve the purposes of legislation.
- Functioning system of institutional and public control over the results achieved.

3.3.3.2. Information sources

- Interviews with heads and employees of the administrations which are supposed to enforce the relevant legal standards.
- Analysis of the administrative capacity of existing structures with a view to achieving the purposes of the statutory instruments.
- Interviews with beneficiaries.
- Review of the effective or draft statutory instruments of secondary legislation, where application of the law depends on secondary legislation.
- Public opinion.

3.4. Qualitative Assessment Monitoring Scale

A scale of three values is adopted to measure implementation of any given action/measure:

- **Implemented:** the deadline for implementation has been met, work on implementation of the measure is complete.
- **Partially implemented:** the deadline for implementation has been missed, work on implementation of the measure has started, and implementation is either at an initial stage or at a final stage but has not been finalised.

- **Not implemented:** the deadline for implementation has been missed and work on implementation of the measure has not started.

In addition to the evaluation of implementation of the measures, the experts also analyse the adequacy of the measures planned and the effect of application of each measure. Based on the quantitative and qualitative evaluation, recommendations for achievement of an adequate outcome of the measures' implementation are formulated including recommendations concerning the formulation of the actions in the future update of the plan.

4. Access to Information

The success of the monitoring activities depends largely on the collected written information and the interviews with officials of the line ministries. Therefore securing access to information regarding the implementation of the measures stipulated in the National Plan for the Stabilization and Association Agreement (SAA) Implementation which is not publicly available is of crucial importance.

OSFA suggested signing an Agreement for Cooperation to the Ministry of European Integration of Albania which has a monitoring and coordinating role in this respect in order to ensure access of the experts to relevant information in the course of the civic monitoring. Unfortunately a refusal was sent by e-mail by the Economic Advisor to the Minister of Integration with the explanation that the Minister signs agreements only with coalitions of NGOs.

The refusal for cooperation from the Ministry of Integration has led to the implementation of "Plan B" for access to information. A high number of letters and reminders have been developed and sent to the relevant Ministries and institutions asking for designation of contact persons that would provide information to the monitoring experts. There have been positive replies, either in terms of designating a contact person or in other forms, from the Ministry of Justice, Ministry of Finance, Ministry of Labour, Social Affairs and Equal Opportunities, Ministry of Foreign Affairs, Parliamentary Committee of EU Integration, Department of Public Administration, Commissioner of Data Protection, Probation Service, General Directorate of Prisons, Training Institute of Public Administration, the Internal Control Service⁸, Department of Internal, Administrative and Anti-Corruption Control (DIACA), Department of Strategy and Donor Coordination (DSDC), Office of the National Anti-Trafficking Coordinator, and the Municipality of Tirana. Non-governmental, international and national actors have been contacted, consulted and/or interviewed. *Please see each chapter for more.*

5. Monitoring Report

The Monitoring Report is structured into an Executive Summary, Introduction including the Monitoring Methods, Analysis of the Progress in the Implementation of Commitments undertaken by the Albanian government in the framework of the SAA under the Copenhagen Political Criteria and European Standards chapters (the adequacy of the measures planned by the Government, Evaluation of Implementation of the Measures, Conclusion and formulated recommendations intended to guarantee achievement of the desired effect). A special section with recommendations concerning the role of the civil society and other stakeholders and their cooperation with the Ministry of European Integration and other state institutions has been developed and recommended to be tested in the forthcoming update of the NPISAA in order to ensure the participation of all interested party in society in the EU integration process of Albania. Extending the EU Integration knowledge and expertise outside the public administration to the

⁸ Contacted separately, as no reply ever came from the Ministry of Interior to the two letters sent on 2 June 2010 (prot. Nr. 61/2010) and 6 July 2010 (prot. nr 65/2010).

civil society and other stakeholders will increase both the quality and the legitimacy of the process domestically and vis-à-vis the EC and the EU member states.

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III. COPENHAGEN POLITICAL CRITERIA CHAPTERS' PROGRESS

1. DEMOCRACY AND RULE OF LAW

1.1. Public Administration Reform

A. Short description of the priorities/goals to be achieved in the respective field:

The Copenhagen criteria for EU membership explicitly state that the creation of conditions for integration is a process that goes through the adjustment of administrative structures.⁹ The National Plan for the Implementation of the Stabilisation and Association Agreement (NPISAA) for 2009 – 2014 identifies the building of an efficient and well – functioning public administration as a key prerequisite for the fulfilment of SAA commitments.¹⁰ It also clearly identifies public administration as one of the institutions requiring reform in Albania.

Reflecting EU expectations, the priorities concerning the functioning of the public administration set out in the NPISAA 2009 - 2014 seek to ensure an enabling legal environment and merit-based practice of recruitment, appointment, promotion, transfer and removal of staff.

The priorities of the 2009-2014 NPISAA (drawn from the European Partnership with Albania) are comprehensive and oriented at succeeding in the biggest challenge concerning the Albanian public administration: making it transparent, meritocratic and efficient. However, the measures foreseen to achieve these goals either include routine tasks of institutions, or are, at times, too generic to produce concrete results. Overall, they resemble an institution's normal work plan rather than a well-studied plan of implementation of the obligations deriving from the SAA.

B. Qualitative Assessment of the implementation of each measure:

1. Changing the Law no. 8549, dated 11.11.1999 on the Status of Civil Servants.
Responsible institution: Ministry of Interior/ Department of Public Administration.
Deadline: April 2010
Status: **Not implemented**

The drafting process, a responsibility of the Ministry of Interior/ Department of Public Administration, has commenced. It is believed the proposal for the amended Law shall be presented to the Council of Ministers by December 2010. It is then difficult to assess the exact time required for its adoption afterwards. It should be noted that the amendment of this law requires a qualified majority of three fifths of the votes in the Parliament. It will, therefore, be destined to await eventual political developments (collaboration of the opposition in voting the laws requiring qualified majority).

2. Develop bylaws for the implementation of the Law on the Civil Servant Status.
Responsible institution: Ministry of Interior/DPA
Deadline: July 2010
Status: **Not implemented**

The development of new bylaws has been postponed until the amendment of Law. No. 8549, dated 11.11.1999 on the Status of Civil Servants, as directly dependant on the provisions it will foresee.

⁹ See http://ec.europa.eu/enlargement/enlargement_process/accession_process/criteria/index_en.htm

¹⁰ NPISAA 2009-2014, approved by Council of Ministers Decision Nr. 862 on 22 July 2009 "On some changes to Decision of the Council of Ministers Nr. 463, dated 5.7.2006 'On the approval of the National Plan for the Implementation of the SAA' 2009-2014" to be found online at <http://www.mie.gov.al/?fq=brenda&d=3&gj=gj1&kid=112>, pg. 1

3. Develop a draft decision on determining the procedures for the operation of the registry of central administration staff.
Responsible institution: DPA
Deadline: September 2010
Status: **Implemented**

The Department of Public Administration confirmed that it formulated the draft decision in August 2010. The draft includes data on 90,000 public administration employees.¹¹ Currently, it is implementing the data immigration to a new system. This process should be concluded in the first trimester of 2011.

4. Drafting the “Intersectorial Strategy of Public Administration Reform 2009-2013, in the framework of the National Strategy for Development and Integration” and developing a draft decision to adopt it.
Responsible institution: Ministry of Interior, DPA
Deadline: January 2010
Status: **Implemented**

Council of Ministers Decision No. 1017, dated 18 September 2009 on “the adoption of the Intersectorial Strategy of Public Administration Reform 2009-2013, in the framework of the National Strategy for Development and Integration”.

5. Further strengthen the management capacity of the Department of Public Administration.
Responsible institution: DAP/TIPA, Ministry of the Interior (MoI)
Deadline: N/A
Status: **Partially Implemented**

Several training sessions/courses have been delivered. However, most of the provisions that would strengthen the DPA’s management capacity (e.g. draft precise job descriptions, adjustment of the existing structure of the Department of Public Administration, etc.) will largely depend on the amendment of Law. No. 8549, dated 11.11.1999 on the Status of Civil Servants.

6. Develop job descriptions in all executive institutions, according to the approved format.
Responsible institution: DPA
Deadline: N/A
Status: **Not implemented**

A new law on the Organisation and functioning of the Structures in the Public Administration will be introduced before the end of year 2010.¹² It is being drafted with GTZ support within the framework of an IPA project.

7. Provide training activities by the Training Institute of Public Administration (TIPA).
Responsible institution: Training Institute of Public Administration (TIPA)
Deadline: No fixed deadline. Activities foreseen throughout the year.
Status: **Implemented**

TIPA has carried out several training activities throughout the year. It has also participated in several regional conferences, whilst actively collaborating and exchanging best practices with

¹¹ Interview with Mrs. Blerta Selenica, Head of the Department of Public Administration, Ministry of Interior, Interview given in Tirana on 6 September 2010.

¹² Interview with Mrs. Blerta Selenica, Head of the Department of Public Administration, Ministry of Interior, Interview given in Tirana on 6 September 2010.

other institutions from the Western Balkans. It also implements joint projects with international actors, such as the World Bank.¹³

8. Adjustment of the existing structure of the Department of Public Administration with the amended provisions of the Law on Status of Civil Servant.

Responsible institution: DPA

Deadline: First trimester of 2010.

Status: **Not implemented**

The measure is pending on the amendment of Law. No. 8549, dated 11.11.1999 on the Status of Civil Servants.

9. Extend the scope of operation of the database for public employees in institutions under dependence/control.

Responsible institution: DPA

Deadline: N/A

Status: **Not implemented**

The implementation of several measures, including this one, seems to have been protracted by the attendance of the amendments that will be done to Law. No. 8549, dated 11.11.1999 on the Status of Civil Servants, although they are not necessarily always a direct link.

Medium-term measures (2010-2011), whose implementation should have commenced:

10. To ensure that units of public administration responsible for the implementation of SAA provisions and those involved in the implementation of financial assistance, are properly trained and equipped to perform their duties.

Responsible institution: Ministry of European Integration (MoEI)

Deadline: No specific deadline/continuous.

Status: **Implemented**

Rather than a measure of the Albanian government inspired by the SAA or any other strategic EU documents, this is one of the medium-term priorities set forth in the European Partnership with Albania.¹⁴ The MoEI holds regular training sessions with members of the public administration. Recent training courses have primarily concerned translators involved in the translation of the answers to the EC questionnaire and the EU *acquis*. However, it should be noted that these attempts have been carried out in an environment of relatively frequent staff turnover and poor efficiency and stability of structures of the administration dealing with the implementation of the SAA. There is a tendency to create new structures or involve new staff every time a new task or challenge present itself, which makes investment in capacity-building less sustainable (e.g. about 60 translators involved in and trained for the translation of the EC questionnaire were discharged after completing their duty and were not used for the translation of the EU *acquis*.)

11. Introduce results-oriented management and training for civil servants.

¹³ For more details, see the web page of the Training Institute of Public Administration (TIPA): <http://www.itap.gov.al/new%20web/html/trainimeang.html>

¹⁴ See: Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Albania and repealing Decision 2006/54/EC, 2008/210/EC, *Official Journal L 080*, 19/03/2008 P. 0001 - 0017

Responsible institution: DPA
Deadline: N/A
Status: **Partially Implemented**

This is one of the medium-term priorities of the European Partnership with Albania. It has been reported in the NPISAA by the Albanian authorities without being broken down into specific measures.

12. Design and implement a civil service salary system which allows for both proper budgetary planning and a motivating career structure.
Responsible institution: DPA
Deadline: N/A
Status: **Not implemented**

Medium-term priority of the European Partnership with Albania reported in the NPISAA. The implementation of the measure is dependent upon the amendment of Law No. 8549, dated 11.11.1999 on the Status of Civil Servants. DPA confirmed it is being taken into account in drafting the amendments to the abovementioned law.

13. To ensure the sustainability of reforms in the public administration.
Responsible institution: DPA, Government of Albania.
Deadline: N/A
Status: **Partially Implemented**

Medium-term priority of the European Partnership with Albania reported in the NPISAA. This measure is expressed in the form of a general long-term objective and is a top-cap of all the specific measures foreseen. Considering the work carried out during the monitoring period, in particular the adoption of the Inter-sectorial Strategy of Public Administration Reform 2009-2013, the training activities continuously carried out as well as the ongoing work on amending legislation, we may assume that attempts to continuously reform public administration are on-going.

14. Development of guidelines for the operation of the ad-hoc committee on testing and manuals on how to design tests and subjects.
Responsible institution: DPA
Deadline: N/A
Status: **Not implemented**

Measure pending on the amendment of Law No. 8549, dated 11.11.1999 on the Status of Civil Servants. DPA confirmed it is being taken into account in drafting the amendments to the abovementioned law.

C. Conclusion on the progress achieved

Based on the qualitative assessment, it is evident that half the measures envisaged (**seven**) are **not implemented**. Of the remaining half, the majority (**four** measures) are **implemented** and **three** are **partially implemented**.

Overall, reform in the public administration for the monitored period has proceeded at a slow pace. Although there is an on-going process of drafting legislative acts, the implementation of about two thirds of the measures foreseen directly depends on the completion of one specific measure - changing Law No. 8549, dated 11.11.1999 on the Status of Civil Servants. The lack of

political consensus in Parliament for the adoption of those amendments has significantly hampered progress in this sector.

D. Expert evaluation on the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities.

Measures foreseen for achieving the priorities vary considerably in nature. While some are concrete specific actions and foresee legal, capacity building or institutional restructuring initiatives, others remain very generic (e.g. ensuring the sustainability of reforms in the public administration), describing what could represent the long-term objective of any public administration, in particular of a relatively new democracy such as the Albanian one. Furthermore, as is revealed case by case above, sometimes, medium-term priorities set forth in the European Partnership with Albania have been listed (reported literally) as specific measures of the NPISAA for 2009. In fact, they should have been the source of inspiration for a number of specific measures corresponding to these priorities.

In many cases, the timeframes for the achievement of specific goals are too ambitious and go beyond annual objectives (e.g. introduce results-oriented management and training for civil servants, ensure sustainability of reforms in the public administration, etc).

Furthermore, sometimes there is a parallel political agenda being pursued in the country that has little to do with the measures envisaged in the NPISAA. For example, no reference is made in the Plan to the intent to set up an Administrative Court, which would lead to the dismissal of the Civil Service Commission¹⁵ and which is a high point in the political agenda. No measure is foreseen to ensure the application of the decisions of the abovementioned commission concerning the settling of complaints about civil servant hiring.

While the correct implementation of the legislative framework is a priority, making recruiting procedures more meritocratic, no concrete measures are foreseen to strengthen the role of the DPA in decreasing the cases of temporarily contracted employees, a sensitive “issue that undermines the implementation of the Civil Service Law and creates an opening for politicization of the administration”¹⁶. Other than the controls the DPA conducts, it would be constructive to attribute to it clear competences to proceed with the infringements verified. Finally, the measures do not foresee the necessary human resources or infrastructural developments that would ensure higher efficiency in managing the public administration and dealing with its challenges.

E. Recommendations

While the priorities set forth in EU strategic documents should be considered the polar star in the process of reforming the public administration with a view to meeting the required standards, Albanian institutions (in particular the Ministry of Interior) should **focus on setting achievable measures, with realistic timeframes**. More concretely:

The Ministry of Interior (MoI) should ensure that the NPISAA is adequately updated, guaranteeing coherence between the obligations deriving from the SAA and the political agenda being actually pursued, overcoming the confusion and ambiguity in the formulation of priorities and measures to ensure the achievement of priorities.

¹⁵ The Civil Service Commission is an institution established on the basis of the law “On the Status of Civil Servants” in charge of settling complaints filed on civil servant hiring decisions, probation, promotion, parallel transfer, appraisal, disciplinary measures and civil servant rights. Overall, it oversees the observance of the law in human resources management in all institutions.

¹⁶ Commission of the European Communities, Albania 2009 Progress Report, SEC(2009) 1337, Brussels, 14.10.2009, pg. 9.

- The NPISAA update by the MoI should take place with a view to ensuring that measures represent concrete answers to the achievement of a priority rather than a theoretical repetition.
- Measures should explicitly be aimed at tackling well-known problems undermining the performance of the public administration such as non-transparent recruiting and diffused hiring of temporary contracted staff. To this end, the DPA should be empowered and raised again to the level of an *inter-pares* institution.
- Job descriptions in the executive (and possibly beyond) should be drafted as soon as possible.
- The Assembly should find the necessary will to collaborate and reach consensus on changing the Law on Civil Service.

1.2. Reform of the judiciary

A. Short description of the priorities/goals to be achieved in the respective field.

Judicial reform constitutes one of the key areas of reform of Albania's path towards EU integration. The 2009 National Plan for the Implementation of the SAA (NPISAA) outlines several important priorities to be addressed under the judicial reform chapter. Bringing the Albanian judicial system in line with the best European standards is the primary goal that the Albanian government aims to achieve through this plan.

Several priorities are indicated in the NPISAA in order for the government to fulfil such ambitious goals. These priorities encompass a wide range of issues, - the improvement of the status of judges, fighting corruption in the judiciary, increasing judicial transparency and improving judicial infrastructure. In general, the priorities listed in the NPISAA do take into consideration problems highlighted by the EC's 2009 Albania Progress Report¹⁷ and the short- and medium-term priorities indicated in the European Partnership Document with Albania¹⁸. These documents require that Albania puts great effort for improving the independence and the infrastructure of the judiciary.

Most of the priorities listed in the plan require legislative interventions. They include not only amendments to the current legislation, but also adoption of new laws for the justice area. Other priorities, for example those related to infrastructure or transparency of the judiciary, cannot be limited to legal changes alone. They also require investments – both in terms of money and technology. These last priorities are not well-developed with concrete measures in the plan.

B. Qualitative Assessment of the implementation of each measure:

1. Draft law "On some amendments to the law no. 8811, dated 17.05.2001 "On organisation and functioning of the HCJ".

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

The Ministry of Justice commenced work for the revision of the present law on the High Council of Justice in May 2008, based on the proposals and recommendations of the Italian-Spanish Twining project which assisted the HCJ between 2006-2008. The Ministry of Justice has worked first on a policy paper attempting to address problems faced with the existing law. However, the issue of finalising the amendments was kept pending for several months. The law on the HCJ needs qualified majority of votes in order to be passed in Parliament. The recurring problems in Parliament made the government, the MoJ, in particular) reluctant to push for the drafting of the amendments.

2. Draft law. 7829, dated 1.06.1994 "On notary".

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

The amendments to the Law on Notary were discussed in 2008, when they were approved by the government but are yet to be submitted to Parliament. According to the current law, Notaries in Albania exercise a public function delegated to them by the state, their number being determined by the Minister of Justice. The Ministry of Justice finalised a set of draft amendments to this law

¹⁷ See Albania 2009 progress report Brussels 14.10. 2009 SEC (2009) 1337/3

¹⁸ Council Decision on the principles and priorities and conditions contained in the European Partnership with Albania 18 February 2008.

with a view to achieve a total liberalisation of the profession. Such a change was faced with opposition by the chamber and representatives of notaries in Albania who found it premature for Albanians to introduce the new system¹⁹. The draft law is not approved by Parliament yet.

3. Draft Law “On some amendments to the Administrative Procedures Code”

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

The deadline is rather ambitious given that changes to the Administrative Procedure Code started after the finalization of the new law on the Administrative Court and Administrative Disputes. The Ministry of Justice is still working on this matter but there is no final draft yet.

4. Draft law “On some amendments to the law no. 8677, dated 02.11.2000 ‘On the organisation and functioning of the Judicial Police”.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Implemented**

The law was adopted by Parliament in July 2010. The amendments aim to address some of the existing problems with the judicial police – attempting to regulate relations between the General Prosecutor’s Office and Judicial Police so as to increase the effectiveness of both cooperation between institutions and the implementation of the law. In addition, the law sets out criteria for the appointment and discharge of Judicial Police officers.

5. Draft law “On Judicial administration”.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

The Ministry of Justice has completed a new law on Judicial Administration, which was approved by the government in 2008. This law is still pending approval in Parliament both because of the intense debates it has caused between the judiciary and government, and because of the political situation in the country. Political forces are still divided about the majority of votes needed for this law to be approved.

6. Draft law “On some amendments to the law no. 7905, dated 21.03.1995 “Criminal Procedures Code”.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

This initiative aims to eliminate the delays of criminal and civil judicial processes in view of the observance of the right to a due and fair judicial process, in accordance with international obligations Albania has undertaken in relation to the respect of human rights. The dysfunction of Parliament has hampered the approval through qualified majority.

7. Draft law “On some amendments to law no. 7895 dated 27.01.1995 “Criminal Code”.

Responsible institution: Ministry of Justice

Deadline 2009

Status: **Partially Implemented**

¹⁹ Interview with representative of the Chamber of Notaries in Albania. July 2010

The Criminal Code was most recently amended in 2008 when a new Probation System was introduced in Albania. At present, the MoJ is working on some addenda and amendments to the Criminal Code which aim to harmonise the terminology of the Albanian Criminal Code with the new laws adopted and international agreements ratified in the criminal area. During this period, the MoJ has completed two important laws: the AntiMafia Law and the Law on Mutual Legal Assistance. Both laws have been approved by the Albanian Parliament.

8. Draft law “On private international law”.
Responsible institution: Ministry of Justice
Deadline: 2009
Status: **Partially Implemented**

The Ministry of Justice is working on a draft of the private international law and is receiving feedback from various international experts. Albania lacks the tradition and expertise to draft laws on private international domain.

9. Draft law “On some amendments to the law no.7850, dated 29.7.1994 “Albanian Civil Code”.
Responsible institution: Ministry of Justice
Deadline: 2009
Status: **Partially Implemented**

The Ministry of Justice based on the proposals of the CARDS project on commercial justice has already prepared some amendments to the Civil Code. These changes mainly consist on approximating certain aspects of the Albanian Civil Code with EU Directives.

10. Draft law “On some amendments to the Civil Procedure Code”.
Responsible institution: Ministry of Justice
Deadline: 2009
Status: **Partially Implemented**

The Ministry of Justice in cooperation with experts of the twining project has worked intensively on amending provisions of the Civil Procedure Code aiming at shortening the durations of civil proceedings. However, the drafting of these amendments is still on-going as it has not been easy to adjust the changes needed whilst bearing in mind the requirements of EU directives.

11. Draft law “On pardon”.
Responsible institution: Ministry of Justice
Deadline: 2009
Status: **Implemented**

The new Law on Pardon was adopted by the Assembly in July 2010. This new law sets new criteria and procedures for pardon of conviction. Under the old law, the right to exercise pardon of a conviction remained with the President. The new law stipulates that this right is exercised based on the proposal of the Minister of Justice. The President of the Republic neither returned the law, nor did he decree it. There have been discussions that the new law diminishes the power of the President.

12. Draft law “On the organization and functioning of the High Court”.
Responsible institution: Ministry of Justice
Deadline: 2009
Status: **Partially Implemented**

The Ministry of Justice is working on some amendments to the High Court Law. The work commenced in October last year when the Ministry began preparing policy papers on some of the aspects of the law which need further improvement.

13. Draft law “On organisation and functioning of Office on the Administration of Judicial Budget.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Not implemented**

There have been several discussions about the administration of the judicial budget in Albania; however, no concrete steps are taken. The Judicial Budget Office is subordinate to the Ministry of Justice and other justice institutions. It is not determined yet whether the administration of the judicial budget would be better served under the Ministry of Justice or any other justice institutions, such as the High Council of Justice²⁰.

14. Draft law “On functioning of Constitutional Court”.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

The amendments to the Constitutional Court law as is the case with the High Court Law are under discussions in the Ministry of Justice.

15. Draft law “On arbitration”.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

The Ministry of Justice is working on a draft law on arbitration, which according to their legislative plan is going to be completed by the end of this year (2010).

16. Draft law “On some amendments to Law No. 9090, dated 26.06.2003 “On mediation”.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

The Ministry of Justice is working on the amendments to the law on mediation. The Ministry has drafted a policy paper and consulted it with stakeholders and foreign experts. The new changes seek to approximate the law with EU directives in this field.

17. Judicial inspection and inspection of judicial administration.

Responsible institution: High Council of Justice, Ministry of Justice

Deadline: 2009

Status: **Implemented**

²⁰ In the draft justice sector strategy of the MoJ launched in July 2010, it is not foreseen any amendments to the law on the organization of the office on the Administration of the Judicial Budget (at least not under the judicial budget section) pg 28. On the other hand the High Council of Justice has expressed in the same document considerations for expanding its competences over the judicial budget. See Justice Sector Strategy (draft) June 2010.

Judicial inspection is a regular activity of both the High Council of Justice and the Ministry of Justice. It consists of the inspection of judges and courts which can lead to disciplinary proceedings against judges when violations are found. There have been no legal or institutional changes as to the inspection or disciplinary proceedings against judges²¹. As has been the case in the past, the HCJ and Ministry of Justice have carried out thematic inspections and inspections based on complaints from the public. A joint MoJ-HCJ inspection was conducted during 2009-2010 in five courts with the aim of pinpointing problems that cause delays in criminal proceedings. Both inspectorates are about to issue a report with their findings and recommendations²².

18. Organisation and functioning of judicial administration, career and their status.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Partially Implemented**

The draft law on Judicial Administration, which is currently in Parliament, addresses most of the issues related to the status and career of judicial administration staff. Nonetheless, the government made some attempts to improve this situation by increasing their salaries based on Council of Ministers' Decisions issued in 2008.

19. Professional evaluation of judges and prosecutors.

Responsible institution: High Council of Justice, General Prosecutor Office

Deadline: 2009

Status: **Implemented**

The HCJ is the responsible institution for the professional evaluation of judges. The first evaluation system was approved in 2006 and implemented commenced a year after. The HCJ is in the process of finalising the evaluation of judges based on this system. In the meantime, the HCJ adopted a new system for professional evaluation of judges in April 2010. The main reason for adopting a new system was to simplify procedures for the evaluation of judges as the current system was found to be very complicated, thus it took the HCJ almost 3 year to have the first results²³.

The General Prosecutor's Office is the institution responsible for the evaluation of prosecutors. The GPO is currently working on a new system for the evaluation of prosecutors that will incorporate some of the criteria used for the evaluation of judges. The work for the evaluation of prosecutors has not commenced.

20. Status and treatment of the inspectors of the Ministry of Justice.

Responsible institution: Ministry of Justice

Deadline: 2009

Status: **Not implemented**

There have been no legal initiatives from the MoJ to change the status of the inspector.

Medium-term measures (2010-2011), whose implementation should have been commenced:

21. Amendments to the law no.7829, dated 1.06.1994 "On Notary".

²¹ Albania has a unique system of double inspectorate of the Ministry of Justice and HCJ which have same competences. This issue is also addressed in the EU Progress report for Albania 2009. The issue of double inspectorate is an issue of particular concern for the Albanian justice institutions

²² Interview with V.Vata HCJ Chief Inspector, July 2010

²³ The HCJ might approve the first evaluation results during the fall of this year. Interview with V.Vata, HCJ Chief Inspector, August 2010.

Responsible institution: Ministry of Justice
Deadline: 2010
Status: **Partially Implemented**

See short-term measure 2.

22. Monitoring correctly the activity and working groups for the drafting of draft laws.
Responsible institution: Ministry of Justice
Deadline: 2010
Status: **Implemented**

The Ministry of Justice has been engaged in drafting many new laws and amending the existing ones. On many occasions, the MoJ has established working groups composed of MoJ representatives, other justice institutions and representatives of foreign projects/missions in Albania. During 2009-2010, working groups have been established so as to draft the new civil forfeitures law, the judicial police law, law on international judicial cooperation and so forth. Most of the above-mentioned legal initiatives have been discussed in the working groups.

23. Organisation of round tables, adoption of best practices and completion of the drafting process.
Responsible institution: Ministry of Justice
Deadline: 2010
Status: **Implemented**

The Ministry of Justice has organised a roundtable to discuss amendments to the Notary law. On other occasions, working groups have been chosen as a means of obtaining the opinion of stakeholders. The Ministry of Justice asked for the opinion of EU and international projects in the country about the legal initiatives put forward by the MoJ²⁴.

24. Obtaining opinion from relevant institutions during the drafting process and their incorporation in the text of the draft law.
Responsible institution: Ministry of Justice
Deadline: 2010
Status: **Implemented**

Obtaining opinion from interested institutions constitutes one of the obligations deriving from the Council of Ministers' Regulation, which requires the MoJ and other institutions to consult with and obtain opinions from interested institutions when a law is drafted. The process of obtaining feedback and comments from other related institutions and foreign projects has run smoothly within the MoJ.

25. Under the legal obligation for judicial training, training sessions with judges will be conducted primarily about changing laws.
Responsible institution: School of Magistrate, Ministry of Justice
Deadline: 2010
Status: **Implemented**

²⁴ EURALIUS Mission, OPDAT, OSCE have been frequently invited by the MoJ to submit comments on the legal initiatives proposed by the MoJ.

Some training sessions were organised by the School of Magistrates on laws that were newly adopted by Parliament, such as training sessions on the probation system, the civil forfeiture law and others.

26. Under the legal obligation of the judicial administration training, training will be held with chancellors and secretaries mainly in about changing laws, legal interpretation and their application.

Responsible institution: Ministry of Justice, School of Magistrates

Deadline:

Status: **Not implemented**

During this period, no training of the court's administrative staff has been undertaken.

C. Conclusion on the progress achieved

Based on the qualitative assessment, it is evident that **less than one third of the measures envisaged (8) are Implemented. More than half the measures (15) are partially implemented and three (3) are not implemented.**

Most of the legislative measures proposed consist of important laws that cannot be approved without the consent of the two political parties in Parliament. This is particularly the case for draft laws which are completed by the MoJ or even approved by the Council of Ministers. On a few occasions, the work of the MoJ on drafting the proposed laws is ongoing with drafts not having been prepared within the stated deadline. On a general note, the aim to amend almost all codes of the country's legal framework within a one- or two-year period, constitutes a rather ambitious goal for any Ministry of Justice to achieve.

D. Expert evaluation on the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities.

Despite the progress noticed in the overall development of the judicial system in Albania, the reform process remains incomplete. As indicated in the EC 2009 Progress Report, there are laws that need to be approved and infrastructure that needs to be improved. There are two main issues which need to be emphasized at this juncture: first, the logical link between the priority, the legislative measure and the implemented measure, and secondly, the nature or content of the measure, as such. With regard to the first issue, it is important to notice that most of the proposed legislative measures are very significant and they do respond to the overall goal. However, they do not necessarily match the priorities listed. In some cases, the priorities do not seem to be addressed at all. For instance, there are no measures either of the legislative nature or of the implemented type that address the improvement of judicial infrastructure or judicial transparency. On the other hand, it seems that the nature of implemented measures is not entirely understood. They are too generic and can be hardly monitored. Implemented measures should not consist of ordinary tasks or worse of ordinary obligations that derive from the law.

E. Recommendations

Most of the measures listed under the judicial reform chapter are of a legislative nature. Therefore, the Ministry of Justice and the Albanian Parliament are the key institutions to ensure a proper implementation of these measures. With this in mind, the following recommendations are addressed to both the MoJ and the Albanian Parliament:

- The Ministry of Justice should improve its overall contribution to the NPISAA by providing a concise summary of the current situation with the judiciary without necessarily listing all the institutions and all the laws in force. It should aim to offer a clear correlation between the priorities set and the measures addressing these priorities, and reflect these legislative measures properly to include deadlines. For example, the appointment and promotion of judges on a merit-based system should be a priority, revision of the provisions of the law on judicial power or the law on the High Council of Justice with regard to the appointment and promotion of judges should be included as a legislative measure and this should also be reflected in the annex with a set deadline.
- The priorities for reforming the justice system should be of a strategic nature (not in the form of revision of laws, e.g. revision of the procedures for the appointment of the managerial court positions, or rapid publication of the legislative acts) and they should not be revised as often as the plan is updated. The priorities should reflect the basic SAA requirements (article 78), the requirements of the European Partnership Document and those issues that are constantly highlighted in EU progress reports, for instance, the strengthening the independence of the judiciary, increasing the transparency and efficiency of the judiciary, strengthening co-operation between the judiciary, the police and the prosecutor's office.
- The MoJ must update the NPISAA accordingly because not all the legal initiatives that are finalised by the MoJ in 2009 are reflected in the plan (e.g. legislative acts concerning the re-organisation of courts, legislative acts for the establishment of the probation system, legislative acts for the establishment of the private bailiff system, on jurisdictional relations with foreign authorities in criminal matters, and so forth).
- The MoJ should play a better co-ordinating role with other justice institutions in order to better present their contribution to the updating of the NPISAA. Some of the priorities and the measures listed in the plan cannot be addressed by the Ministry of Justice, although the latter represents the government in this process. The MoJ should involve and guide other justice institutions, such as High Council of Justice, the General Prosecutor's Office, the School of Magistrates in the process of updating the NPISAA.
- It is recommended that the MoJ does not present ambitious lists of legislative measures with ambitious deadlines. Many of the laws listed for revision in the legislative measure represent important pieces of legislation regulating important justice institutions. E.g. the MoJ cannot aim to simultaneously revise the Constitutional Court law, the High Council of Justice law, the High Court law and all the Codes of the Republic of Albania within one given year. Given the quality required for the revision of these laws along with the human resources are such that it is impossible for all these laws to be revised in a single year. The MoJ should indicate in the plan how the revision of these laws fits with the priorities for reforming the justice system.
- The MoJ should reformulate the implemented measures in order to specify them in more concrete terms. Implemented measures in the form of training or obtaining the opinion of other institutions for legislative acts are difficult to be monitored and evaluated unless concrete figures are provided or concrete goals set.
- The Ministry of Justice should finalise the drafting process for some important laws such as the High Council of Justice Law, the work for which should have already commenced in 2008.

- The Assembly should guarantee the necessary political consensus for ensuring the adoption of the justice-related laws which need qualified majority voting. The following laws should be considered as a priority for the Parliament to be approved: the Law on Administrative Disputes and the Administrative Court, the Law on Judicial Administration, the Law on the High Council of Justice, once it is finalized by the MoJ and approved by the Council of Ministers.
- The HCJ should speed up the process of professional evaluation of judges by increasing the number of inspectors dedicated to this process and by discussing and voting on the plenary session the evaluation reports which are already finalized by the Chief Inspector.
- The General Prosecutor's Office should finalise and approve the evaluation system of prosecutors by the end of 2010.

1.3. Fight against corruption

A. Short description of the priorities/goals to be achieved in the fight against corruption.

The approach of the Albanian Government to the fight against corruption is comprehensive, in line with the prevalence of the phenomenon itself. The goal is to progressively and steadily reduce corruption by prevention, strengthening of institutional integrity and values, multilateral monitoring, and legal administrative punishment of corrupt officials²⁵.

The priorities are a combination of ambitious legislative interventions, such as the harmonisation of the Civil, Commercial and Administrative Codes with the Council of Europe Civil Law Convention on Corruption, strengthening of law enforcement, capacities, and participation of non-governmental actors.

B. Qualitative Assessment of the implementation of each measure:

1. Drafting and approval of the Council of Ministers Decision (CMD) on the addition of the inspection structure at the Directorate General of Internal Control Service (DGICS).

Responsible institution: Ministry of Interior

Deadline: 2009-2010. Not specified in the NPISAA.

Status: **Implemented**

After the coming into force of Law 10002, dated 06.09.2008, “On the Internal Control Service, at the Ministry of Interior”, a series of sub-legal acts have been issued to support its implementation and the ICS’s functionality. The entire legal package raises the ICS to a Directorate General level, thus enabling it to investigate other directorate generals, and expands and re-organises ICS’s scope of work into three main pillars: prevention, inspection and investigation. Rather than a Council of Ministers Decision, it is Order nr. 588, dated 03.09.2009 “On the approval of ICS’s structure and staff” that establishes the Directorate for Inspections at the central level²⁶. Instruction of Minister of Interior Nr. 187, dated 03.06.2010 “On the procedure for inspections at the Directorate of Inspections of the Internal Control Service” regulates the Inspections Directorate’s activity. It ought to be noted that this measure is listed in the NPISAA under the 2009-2010 short-term measures to be taken in the fight against corruption, while the legal framework part of this section the NPISAA states that the ICS’s Inspection Directorate *has already* been established.²⁷

2. Drafting and approval of the Order of the Minister of Interior “On the definition of rules and procedures to be followed during the “integrity test” of the State police.

Responsible institution: Ministry of Interior

Deadline: March 2010²⁸

Status: **Not implemented**

There is lack of clarity about this measure. Both the ICS and PAMECA assert that there is a draft but it cannot be approved without it being accompanied by Standard Operating Procedures²⁹.

²⁵ Political objective part of the NPISAA anti-corruption

²⁶ 2nd EU-Albania Sub-committee on Justice, Freedom and Security, 28.05.2010, Brussels;
Written Answer from Oriana Elmazi, ICS, 5 October 2010;
Interview with Mark Paresi, ICITAP, 30 September 2010;
Order No 588 itself

²⁷ National Plan for the Implementation of the SAA 2009-2014, pg.46.

²⁸ 2010 Action Plan of the Cross Cutting AC Strategy, pg 147

²⁹ Interview with Cecil Craig and Mark Bradley, PAMECA, 21 September 2010;
Interview with Astrit Halilaj and Oriana Elmazi, ICS, 4 October 2010;
E-mail communication with Oriana Elmazi, ICS, 06.10.2010.

PAMECA declares to have voluntarily prepared and sent SOPs to the ICS since 2009³⁰. The reason this measure seems to have fallen dormant ever since is unclear.

3. Setting-up of the Joint Investigative Units against Financial Crime and Corruption in five main District Prosecution offices of the country in terms of the number of registered criminal proceedings for the penal act of corruption.

Responsible institution: General Prosecutor's Office, Ministry of Interior, Ministry of Finance, National Intelligence Service, High Inspectorate for the Declaration and Audit of Assets, High State Audit

Deadline: 2009-2010. Not specified in the NPISAA

Status: **Implemented**

Six new Joint Investigative Units have been established in six, rather than five, regional prosecutor's offices in the judicial districts of Shkodër, Durrës, Fier, Vlorë, Gjirokastër, and Korçë through a Memorandum of Cooperation signed on 6th May 2009 between the responsible institutions setting out the duties and measures to be taken by each in service of the functionality of the JIUs. The Units became operational in October 2009. Together with the Joint Investigative Unit of Tirana, which was established in September 2007, there are now seven altogether in the country. The Tirana JIU has served as a training base for many who now work in the regional JIUs³¹. The staff of all JIUs has recently undergone Trial Advocacy Training, Feb. 22-26, 2010, Financial Investigation Training, April 6-9, 2010, Cybercrime Training, May 11-13, 2010, Digital Forensic Training, June 7-25, 2010 (3 weeks), Advanced Digital Forensic Training, Sept. 27 – Oct. 8, 2010 (2 weeks)³². While not directly on anti-corruption, the trainings usually bear relation to the fight against corruption as well.

4. Implementation of two types of “integrity tests”, the random and the planned one.

Responsible institution: Internal Control Service

Deadline: 2010 (see comment)

Status: **Not implemented**

This measure is dependent on the Order of the Minister of Interior “On the definition of rules and procedures to be followed during the “integrity test” of the State police”, measure 2 above. The NPISAA does not specify the deadline. The 2010 Action Plan of the Anti-Corruption Strategy notes “during 2010” as the deadline for the integrity tests. The monitoring period does not cover the last three months of 2010. Yet, it is doubtful that the tests will be carried out within the year, as the preliminary step of issuing the Order of the Minister of Interior has not been yet made, and by the end of the year there is insufficient time to prepare for the tests even if this Order was issued.

5. 2-week training on “Internal control investigations and inspections on the respect of acts in force”.

Responsible institution: ICS with the assistance of ICITAP

Deadline: 2009-2010. Not specified in the NPISAA

Status: **Implemented**

³⁰ Interview with Cecil Craig and Mark Bradley, PAMECA

³¹ Interview with Cynthia Eldridge, OPDAT, 29 September 2010

³² Interview with Cynthia Eldridge, OPDAT, 29 September 2010

This training was carried out by ICITAP over *three* weeks, 11th May – 6th June 2009, in Kosovo, with the participation of 20 ICS employees³³. ICITAP states that a new round of trainings on investigations will start in mid-October³⁴.

6. Participation of the Internal Control Service in national and international activities (regional and inter-regional fora, seminars, conferences) on dealing with and analysing issues related to the prevention of and fight against corruption.

Responsible institution: ICS

Deadline: ongoing

Status: **Implemented**

ICS has taken part in the regional Conference of Anti-corruption Agencies in Montenegro organized by the OSCE and the Montenegrin Ministry of Interior, in November 2009. The subject of the Conference was fighting corruption in the police. In December 2009, ICS participated in the regional conference of Southeastern Countries, organized in Sofia by the UNDOC Regional Programme on cooperation in implementing the UN Convention Against Corruption.

7. Continuous training of the staff of the Internal Control Service on the investigation of penal acts of corruption and the use of special investigation techniques and tools.

Responsible institution: ICS

Deadline: ongoing

Status: **Implemented**

Three 4-week trainings have been organized by ICITAP and the OSCE for 77 investigators in Mid-October 2009, November 2009 and March 2010³⁵. In the framework of a twinning project funded by the European Commission, 8 employees of the ICS have attended seminars, organized by the Directorate for the Prevention of Money Laundering of the Ministry of Finances, on ethics and corruption, and preventing corruption in the police³⁶. Other trainings have taken place from April through to June 2010 on administrative law, and Albanian State Police and Internal Control Service basics³⁷. ICITAP states that a new round of trainings on special investigations of police will start in mid-October 2010³⁸.

C. Conclusion on the progress achieved

Based on the qualitative assessment it is evident that most, two thirds of the measures are **Implemented**. Measure nr 1 on the Council of Ministers Decision to add the inspection structure to the ICS *was already* implemented, as acknowledged in the NPISAA itself, specifically in the list of legal acts composing the legal framework of the fight against corruption³⁹. It is unclear why this measure has been retained. Only 2 measures out of the remaining 6 have not been implemented, and they both relate to the “integrity tests” to be carried out by the ICS on the Albanian State Police. In 2 other cases (measure 3 on JIUs and measure 5 on trainings) the

³³ Written answers by ICS, 5 October 2010

³⁴ Interview with Mark Paresi, ICITAP, 30 September 2010.

³⁵ Interview with Cecil Craig and Mark Bradley, PAMECA, 21 September 2010;
Interview with Mark Paresi, ICITAP 30 September 2010

³⁶ Written answers by ICS, 5 October 2010

³⁷ Interview with Mark Paresi, ICITAP, 30 September 2010;
Written answers by ICS, 5 October 2010

³⁸ Interview with Mark Paresi, ICITAP, 30 September 2010

³⁹ NPISAA 2009-2014, pg. 46.

plan of measures and implementing activities outlined in the NPISAA for the short-term 2009-2010 period has been surpassed.

D. Expert evaluation on the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities.

Short-term priorities, measures and implementing activities in the NPISAA 2009-2014:

The short-term priorities (2009-2010) of the GoA outlined in the NPISAA 2009-2014 are in most cases straight out of the short-term priorities of the 2008 European Partnership⁴⁰ which clearly states that the priorities in question are expected to be met within a one to two year period, 2008-2009. The very fact that the 2009-2014 version of the NPISAA retains in full and unchanged the priorities that were expected to have been met by the end of 2009 signals delays in progress in an area of utmost importance, and neglect for the quality of the NPISAA itself.

The short-term measures outlined in the NPISAA in the fight against corruption are not adequate or enough. From both qualitative and quantitative perspectives, the measures fail to meet the expectations of vigour as well as capacity in the fight against corruption. As a top government priority in terms of the country's EU integration, progress towards which should be directed by the NPISAA, and as a priority in terms of visa liberalisation, the NPISAA ought to have a much more ambitious picture of planned measures in the area of anti-corruption.

Quite the opposite, the NPISAA short-term measures and activities are only seven, six out of which are on the Internal Control Service and the Albanian State Police (and one has remained listed even though it had been accomplished), and one on the Joint Inspection Units against Financial Crime and Corruption. The above measures clearly fail to encompass the wide range of interventions required in the fight against corruption.

That is not to say that the GoA does not attempt to comprehensively approach anti-corruption. The 2008-2013 Cross-cutting Strategy on the Prevention, Fight Against Corruption, and Transparent Government attests to the opposite, addressing a wide variety of sectors and issues from the electoral system to public procurement, public administration, health, education and many more. While the 2009 and 2010 Action Plans of this Strategy are indeed leading documents in monitoring the fight against corruption in Albania, the NPISAA 2009-2014 fails to adequately break down and include in its scope its own and the European Partnership's short term priorities.

More specifically, the plan of short-term measures and activities does not respond to the short-term priorities of the NPISAA 2009-2014 and the European Partnership (for the 2008-2009 period) of reducing the number of officials with **immunity**, strengthening law enforcement mechanisms for the **declaration of assets**, clarifying the rules for the prevention of **conflict of interest** in the exercise of public functions, implementation of GRECO recommendations and so on. Measures that pre-dominantly seek to complete the ICS legal framework and enhance its capacities to fight corruption within the Albanian State Police, however necessary and important, do not in the least contribute to the short-term priorities listed above. The only short-term priority that such measures address is the "organisation of training programmes for relevant officials for the prevention of corruption"⁴¹, which is in fact an activity.

⁴⁰ European Partnership with Albania: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008D0210:EN:HTML>

⁴¹ NPISAA 2009-2014, pg 47

The short-term measures set by the NPISAA 2009-2014, though implemented in most cases, very meekly work towards the achievement of goals and priorities in the fight against corruption set in the document and in the European Partnership.

Furthermore, the NPISAA 2009-2014 omits the fight against corruption from its annexes⁴², thus failing to identify the specific deadlines for each measure (short or medium term), the specific responsible institution, the needed capacities both in terms of budgetary and human resources, and infrastructure to implement the measures. Such shortfalls make the monitoring of progress by both government and civil society extremely difficult, and are indicative of a lack of capacity of the MoEI to coordinate and orient the implementation of the SAA and the EU integration process.

It ought to be noted that both issues, the sharp inadequacy of the measures and the absence of the “the fight against corruption” in the 2009-2014 NPISAA’s annexes are deteriorations from its previous 2007-2012 version, which attempted to present a larger picture of anti-corruption efforts and the planning of deadlines and resources. This deterioration is inexplicable in light of two facts:

- 1) The EU-funded assistance to MoEI, which also produced the 2007-2012 NPISAA, has continued and part of its mission continues to be to help the MoEI produce a better NPISAA, complete with a methodology for the NPISAA’s updating, monitoring and reporting. The Council of Ministers has adopted the new NPISAA 2010-2014 on the 6th of October⁴³, as this Report went to print, and there is no indication that the MoEI has made use of or consulted civil society actors in the process of updating the NPISAA. It is unclear why, in light of continuing assistance to the MoEI, the 2009-2014 NPISAA is of poorer quality than its previous version.
- 2) The Vice Minister of Integration is part of the Inter-ministerial Working Group (GNP) for the Implementation of the Anti-Corruption Strategy, which is also the structure that was responsible for the drafting of the Strategy, as is the Department of Strategy and Donor Coordination. This keeps the MoEI aware of developments that may affect its central document, the NPISAA, and the needed opportunity to coordinate its work.

In light of all of the above, in the area of anti-corruption, the NPISAA 2009-2014 is not a living or working document.

Anti-Corruption measures not in the NPISAA 2009-2014:

There has been progress towards the short-term *priorities* of the NPISAA 2009-2014 that is not captured by the NPISAA itself.

1. Implementation of the 2007-2013 Anti-Corruption Strategy (key EP Priority):

For the year 2009, a Report on “Achievements in the Fight Against Corruption” was issued, which on the website of the Department of Strategy and Donor Coordination (DSDC) is published as the “Report on the Implementation of the 2009 Action Plan”⁴⁴ of the Anti-

⁴² The NPISAA 2009-2014 has five annexes. Annex 1 groups the legal initiatives by area (acquis reference and compliance, specific deadline, responsible and coordinating institutions); Annex 2 provides the costs of drafting and translating legislation; Annex 3 provides the plan of needed human resources by institution; Annex 4 lists the implementing activities by area (specific deadlines, responsible institution); and Annex 5 provides the funds needs assessment in infrastructure, IT and consultancy.

⁴³ CoM website: <http://www.keshillministrave.al/?fq=brenda&m=news&lid=13814>

⁴⁴ The webpage with the list of strategies and related reports/materials on the DSDC website: http://dscd.gov.al/dscd/Strategies_28_2.php. The Report on the Implementation of the 2009 Action Plan (available only in Albanian): http://dscd.gov.al/dscd/pub/raportimi_per_zbatim_te_planit_te_integruar_te_veprimit_2009_595_1.pdf

Corruption Strategy. It is not possible to assess the implementation of the 2009 Action Plan of the 2007-2013 Anti-Corruption Strategy from this Report as it does not provide a clear account of the measures that were planned, their status of implementation, or deadlines. It is impossible to understand whether most measures were implemented or not. In some parts, in fact, the report can be particularly misleading, for instance in stating that Albania has been “evaluated very positively in comparison to all other countries evaluated to date (with 5 recommendations for incriminations, and 7 for political party financing)”⁴⁵. It is unclear how such an opinion has been formed, and it seems to indicate that the *number* of recommendations determines the completeness and strength of the laws and enforcement mechanisms in place to ensure transparency of political party financing. Various issues concerning the Report have already been raised by the PACA team⁴⁶. The report for the implementation of the 2010 Action Plan during the first 6 months of 2010 is due to be completed by mid-October⁴⁷.

Developments that promise a better evaluation of the implementation of the 2010 Action Plan include:

- 1) An improved Action Plan for 2010 for the Strategy, providing a harmonised table structure and breaking the Strategies’ objectives into measures⁴⁸.
 - 2) The Department of Internal, Administrative and Anti-Corruption Control (DIACA) has carried out, with the assistance of the PACA team, 18 focused capacity-building meetings with ministerial groups in February 2010 to train on the drafting of each ministry’s plan within the AC Strategy and 2010 Action Plan, and in June 2010 on the reporting methodology⁴⁹.
 - 3) The DIACA has conducted meetings with local government units in May 2010 in Elbasan, Fier, Durrës, Shkodër and Korça to enhance awareness and visibility of the Anti-Corruption Strategy⁵⁰.
 - 4) The DIACA also reports good cooperation with the General Prosecutor’s Office (GPO), with the High Inspectorate of Declaration and Audit of Assets (HIDAA) in framework of a very recently signed Memorandum of Cooperation in the Fight Against Corruption⁵¹, and with the High Council of Justice (HCJ) as a PACA Steering Committee member.
2. *Implementation of GRECO recommendations (key EP Priority):* The MoJ has drafted amendments and changes to the Criminal Code in January-February 2010 related to new corruption acts by foreign officials, and severer punishment for the act of corruption in the private sector. The proposed amendments and changes have been sent for comments to a series of institutions, including the DIACA, HIDAA, GPO, State Advocate, Ministry of Economy, Trade and Energy, EURALIUS⁵². The MoJ is now working to reflect comments in the drafts. At the meeting of the International Consortium on 1st October, the representative of the MoJ reported that the draft changes to the Criminal Code refer also to industrial property and the declaration of assets.

⁴⁵ The Report on the Implementation of the 2009 Action Plan (available only in Albanian) pg. 2:

http://dsdc.gov.al/dsdc/pub/raportimi_per_zbatim_te_planit_te_integruar_te_veprimit_2009_595_1.pdf

⁴⁶ PACA Technical Paper 19/2010

⁴⁷ Interview with Ivi Kaso, Director of DIACA, 22 September 2010; Interview with Helena Papa, DIACA, 24 September 2010

⁴⁸ PACA Project, Technical Paper 20/2010

⁴⁹ Interview with Helena Papa, DIACA, 24 September 2010; PACA Technical Paper 13/2010, pg. 3.

⁵⁰ Interview with Helena Papa, DIACA, 24 September 2010.

⁵¹ Memorandum of Cooperation signed on 17 June 2010: <http://www.hidaa.gov.al/memorandume/mom-ildkp-dkba.pdf>;

Interview with Helena Papa DIACA, 24 September 2010;

HIDAA press release 17.06.2010, see <http://www.hidaa.gov.al/njofitime.html>

⁵² MoJ 2010 Action Plan mid-term Report: <http://www.justice.gov.al/?fq=brenda&gj=gj1&kid=241> ;

Briefing of MoJ representative at the meeting of the International Consortium 1 October 2010

3. *Clarification of rules for the prevention of conflict of interest in the exercise of public functions:* The High Inspectorate for the Declaration and Audit of Assets (HIDAA) has submitted to PACA in April 2010, requesting its opinion, proposed amendments to the 2005 Law “On the prevention of Conflicts of Interest in the Exercise of Public Functions of the Republic of Albania”, amended 11th of May 2006⁵³. In July 2010, PACA published its detailed opinion which calls in particular for attention to preliminary analysis of the enforcement of the current law and to harmonising the proposed amendments with other legislation on conflict of interest (the Law on Rules of Ethics in Public Administration), and for clarification of key terms such as “conflict of interest” and “decision-making” in the least confounding way possible so as to facilitate their comprehension by those directly affected – public officials, etc⁵⁴. The PACA technical paper concluded that rather than amendments, a “radical overhaul of the law” is necessary⁵⁵.

In the 2010 Action Plan for the implementation of the Anti-Corruption Strategy, only 7 ministries⁵⁶ foresee measures related to the prevention of conflict of interest, and in many cases the reference to the prevention of conflict of interest is weak. A small number of ministries identify HIDAA as a “responsible cooperating institution” in some awareness and capacity building measures to prevent conflicts of interest.

4. *Strengthening of the law enforcement mechanisms on the Declaration of Assets:* On this matter also, HIDAA has drafted proposed amendments to the 2003 Law, amended in 2006 on the Declaration of Assets⁵⁷, seeking amongst else, to “extend legal liability on the family members of the public officials who refuse to declare assets or make fraudulent declarations”⁵⁸.

This attempt is particularly significant in the current political atmosphere of mutual accusations of corruption, fraudulent declarations or non-disclosure of assets. Draft amendments that contribute to *strengthening law enforcement mechanisms on the declaration of assets*, and that have also received supportive comments by the PACA team include those on:

- strengthening the HIDAA by allowing the possibility for re-election of the Inspector General as a way to foster the stability and continuity of expertise within the institution;
- HIDAA developing regulations of its administrative investigation (the processing of the declaration of assets) that are tailored to its needs out of the Code of Administrative Procedure, rather than employing that Code to serve its specific purposes (this would make HIDAA processing more efficient);
- stiffening the punishments for breaches, also in a way that overcomes the tension between the 2 HIDAA laws: Conflict of Interest and Declaration of Assets.

It is important to note that since July 2010, HIDAA has progressively intensified its auditing of high ranking officials, starting with Member of Parliament Albana Vokshi, to continue with former Minister of Economy, Trade and Energy Dritan Prifti and Minister of European Integration Majlinda Bregu, to all high ranking officials as of September 2010⁵⁹.

In light of the current public eruption of corruption charges and publication of various documents by political subjects against each other, the results of the work of

⁵³ PACA Technical Paper 21/2010

⁵⁴ Ibid.

⁵⁵ PACA Technical Paper 21/2010, pg. 14.

⁵⁶ Ministry of Finance, Ministry of Foreign Affairs, Ministry of Public Works and Transport, Ministry of Defence, Ministry of Interior, Ministry of Tourism, Culture, Youth and Sports, Ministry of Environment, Forests and Water Administration

⁵⁷ Full name of the Law “On the Declaration and Audit of Assets, Financial Obligations of the Elected Officials and Certain Public Officials”

⁵⁸ PACA Technical Paper 22/2010, pg. 3

⁵⁹ HIDAA press releases: <http://www.hidaa.gov.al/njoftime.html>

HIDAA on high ranking officials will be very consequential in assessing the country's institutional capacity and strength to indiscriminately fight corruption.

5. *Support to civil society actors to closely follow and evaluate the AC Strategy:* The Agency for Support of Civil Society was established⁶⁰ in 2009. The ASCS is a government body meant to promote the sustainable development of civil society in Albania, and support civic action in line with government priorities. Monitoring of the fight against corruption, as stated explicitly in its statute, is one of the main funding priorities of the ASCS⁶¹. The Supervisory Board of the ASCS is composed of nine persons, 4 from the central administration, appointed by the Council of Ministers (CoM), and 5 from civil society organisations (CSOs), again appointed by the CoM, based on candidatures presented by CSOs⁶². The ASCS Supervisory Board reports to the CoM on the Agency's activities⁶³. The actual functioning of the ASCS and, in particular, its contribution to *independent* and *impartial* monitoring efforts on the fight against corruption remains to be seen.

An interview with a DIACA representative raised important questions about the participation of civil society in the fight against corruption and the way it may be conceived. While allegedly not prohibited to contribute to the drafting and revision process, the presence of civil society actors in Albania able and interested to do so is questioned⁶⁴. The involvement of civil society was seen through the financial support of the ASCS.

Despite the important developments mentioned above, that are not captured by the short-term measures of the NPISAA 2009-2014, many issues remain to be addressed. The challenges in the fight against corruption are in fact highlighted by the current political climate in Albania. In the past months, a fierce campaign of mutual accusation of corruption has erupted between the majority in power and the opposition, putting the spotlight on, or rather re-emphasising the primacy of several unaddressed issues, including: **declaration of assets, conflict of interest, concessions, building permits, immunity and vigour of institutional responses**. Another crucial matter in the fight against corruption that will certainly regain visibility with the approaching of local elections is **political party financing**.

The current political climate speaks negatively of achievements in the fight against corruption. Failure to address these issues as immediate priorities will be a discouraging indicator of the political will, seriousness and rigour with which the fight against corruption is approached.

E. Recommendations

On the Fight Against Corruption:

- HIDAA should finalise, as requested by the National Assembly⁶⁵ also, the draft amendments to the conflict of interest and the declaration of assets laws, following up from the consultation process with PACA, with due attention to improvements of the links between them, their clarity, enforcement mechanisms and effectiveness, to then present them to the Council of Ministers.

⁶⁰ Law nr. 10093 dated 09.03.2009 "On the organisation and functioning of the Agency for Support of Civil Society"

⁶¹ Article 5, point 2a of the ASCS Statute, approved by Council of Ministers Decision Nr.769, date 15.7.2009; 2nd Sub-committee; Interview with Helena Papa, DIACA, 24 September 2010;

⁶² Law nr. 10093, Article 8, points 2, 3, 4 and ASCS Statute

⁶³ Law nr. 10093, Article 9, point g).

⁶⁴ Interview with Helena Papa, DIACA, 24 September 2010

⁶⁵ National Assembly Resolution Nr 541-5 on The Evaluation of the Work of HIDAA for 2009, 29 April 2010

- HIDAA should push and assist other public institutions in the development of sub-legal acts that facilitate the understanding and implementation of the Conflict of Interest Law.
- In light of the current public accusations of abuse and favouritism in the granting of concessionary rights to use the country's natural resources, measures should be taken to prevent and punish severely conflict of interest in this area.
- HIDAA should push and assist other public institutions in terms of raising awareness and establishing mechanisms to prevent conflicts of interest and to facilitate timely and adequate declaration of assets.
- In the current climate, it is particularly important that HIDAA continues to carry out its work independently and uninfluenced by pressures on the auditing of high-ranking officials.
- As local elections approach (May 2011), it is of utmost importance that the Electoral Code is amended with a special view to strengthening campaign financing declarations and inspection mechanisms of the CEC, and that the Law on Political Subjects is also amended in line with GRECO recommendations on transparent political party financing (a key European Partnership priority). These interventions entirely depend on resolution of the political crisis and cross-party consensus.
- The Albanian Parliament should as a matter of priority address the European Partnership priority on reducing the number of officials with immunity. With the ongoing resonance of previous failures to persecute high ranking officials, as in the case of the Gërdec explosion, the importance of removing immunity as an obstacle to justice is very heightened. However, it ought to be noted that lifting immunity is not a panacea in the fight against corruption and criminal proceeding of corruptive acts from high officials. The Assembly has already lifted the immunity of a few of its members, and yet the criminal proceeding against them failed due to unmet judicial procedures deadlines. However, reduction of the number of officials with immunity will facilitate the process, and it is an important indication of political will and commitment.
- The DIACA and the Council of Ministers should pay due attention to the visibility of the Anti-Corruption Strategy. Currently, the Strategy does not appear in the Council of Ministers website, not even in the webpage dedicated to DIACA. Currently the Strategy and Plan are only to be found in the DSDC website, which unless you know it already, you cannot link to even from the CoM website. DIACA allegedly plans to launch an "anti-corruption" website that will link to many other government websites, that will display the green number for citizens' denouncement of acts of corruption, the measures being taken and the punishments enforced. Furthermore, DIACA plans a TV spot too, to give publicity to anti-corruption efforts.
- Apart from online and audio-visual media publicity, DIACA with the support of the HIDAA and MoI should raise awareness and capacities at the local government level.
- DIACA should also inform and involve with the Strategy and Action Plan political actors and NGOs dealing with anti-corruption.
- DIACA should work to engage and include important institutions in the Action Plan for the implementation of the Anti-Corruption Strategy. Currently, the HIDAA, the GPO, the HCJ, and the MoEI⁶⁶ do not have any measures planned in the 2010 Action Plan.

⁶⁶ Even though not a central institution in the fight against corruption, just like any other public institution, the MoEI should also plan measures of a cross cutting nature, such as the prevention of conflicts of interest.

- DIACA capacities, surprisingly contrary to its own opinion⁶⁷, need to be raised, in particular as regards coordination. After having worked with the line ministries on the plans and reporting method, DIACA feels confident that they now can carry out their work smoothly and are in no need of more quantitative or qualitative capacities⁶⁸. As explicitly noted by the PACA team, “special attention needs to be devoted by the authorities to the capacity of DIACA. Currently, *only one person* [emphasis added] is practically involved in policy coordination on a day-to-day basis, which the PACA Team regards as unambiguously insufficient to coordinate policy in a meaningful way”⁶⁹.
- The DIACA to continuously “flag” the *neglected* short-term priorities of the European Partnership and the SAA in the fight against corruption to other institutions as a way to push for the formulation of adequate measures.

On the NPISAA and its status:

- The GoA, and the MoEI specifically should clarify the position and use of the NPISAA in relation to the NSDI, the sectoral and cross-sectoral strategies and ministry integrated plans. While these latter seem to have all become part of an integrated whole, the NPISAA currently stands detached, putting its relevance to doubt.
- The MoEI should hold at least annual briefing sessions with the Directorates of Integration in line ministries, and all other relevant institutions to remind them of what their priorities should be according to the EP and the SAA, so as to avoid the loss of institutional memory due to changes in administration, as well as to keep apace the updating process of the NPISAA.
- The MoEI should make sure the updating process of the NPISAA is finalised after the publication of the Annual EC Progress Report (usually November of each year) and by the first quarter of the upcoming year. Updating the Plan mid-year, in between 2 progress reports strains timely responsiveness of institutions to the remarks of the EU, and makes the NPISAA a pure formality.
- The MoEI should make sure to impose itself on other institutions to update their measures and avoid retaining measures when the legal framework of the area already states them as accomplished.
- The MoEI should make sure to receive timely input from all institutions involved in the fight against corruption and specifically involved in addressing the European Partnership priorities in this area. It seems the Internal Control Service at the Ministry of Interior has been the only one to contribute some input to the Fight Against Corruption chapter of the NPISAA 2009-2014.
- The GoA should make sure to include the fight against corruption in the annexes of the NPISAA, meaning in its breakdown of legal initiatives by area complete with deadlines, responsible and coordinating institution, *acquis* compliance analysis, budgetary and human resources, other costs.
- The MoEI should become open and cooperative with civil society actors, in particular those actively seeking to monitor and contribute to the EU integration process. That implies both ensuring access to information and establishing a mechanism for regular consultation. These

⁶⁷ Interview with Helena Papa, DIACA, 24 September 2010

⁶⁸ Ibid.

⁶⁹ PACA Technical Paper 20/2010, pg. 8

would not only mean respect for the access to information law, but more visibility and awareness of the NPISAA, and a better NPISAA.

- The MoEI should keep the NPISAA visibly on its website.
- The MoEI should publish the reports on the implementation of the SAA.
- The MoEI should make use of the assistance provided to it by the EU-funded project dedicated to developing its capacities, as well as civil society expertise, in particular as regards the adoption of an updating, monitoring and reporting methodology.

1.4. Decentralisation process

A. Short description of the priorities/goals to be achieved in the respective field.

According to the NPISAA, the decentralisation reform constitutes a priority area and is formulated in compliance with the European Charter on Regional and Local Autonomy.⁷⁰ The priorities of the Albanian Government are to improve the decentralisation process, in particular in so far as the status of locally-elected authorities is concerned the consolidation of local administration and services to the public, the budgeting process, transparency and good central-local government relations.

The measures foreseen to achieve these goals entail strong intervention on the part of central institutions through a combination of legal initiatives strengthening human resources, and allocation of resources (equipment) to guarantee a stable reform process. After several years of efforts to make headway in the decentralisation process, “Albania has now embarked in the third phase of decentralisation, which comprises the implementation of legislation and the transference of full responsibility to the local governments.”⁷¹

B. Qualitative Assessment of the implementation of each measure:

1. Development of a new law "On the Prefect".

Responsible institution: Ministry of Interior.

Deadline: 2009

Status: **Not implemented**

No evidence on the existence a draft on the new law on the Prefect is available. However, there are conflicting views on whether the current Law No. 8927, dated 25 July 2002 “On the Prefect” should be changed. While changing the law might be considered important for central authorities, there exist concerns that this legislative initiative hides attempts from central authorities to exert an increased control by attributing a bigger role to the prefect, an appointee of the government at local level.⁷² During the monitored period, repeated cases of deteriorated relations between municipality councils and the Prefect occurred in various cities (e.g. Tirana and Vlora). A new law could perhaps address issues, such as the clarification of competencies.

2. Develop and adopt the law on local government finances.

Responsible institution: Ministry of Interior and Ministry of Finances

Deadline: 2009

Status: **Not implemented**

This measure has been carried over for several years, including in the new draft of NPISAA 2010 – 2014 of October 2010. Although there is no evidence on the drafting of this law during the monitored period, several aspects of this area have been dealt with through repeated changes to Law No. 9632, dated 30.10.2006, on “Local government taxation system” (most recent amendment on 28.09.2009), causing reactions on the part of local government representatives due to its negative impact on their budgets.

3. Changing the law no. 8224, dated 05.15.1997 "On the organisation and functioning of the commune and municipal police”, as amended.

Responsible institution: Ministry of Interior

Deadline: 2009

⁷⁰ NPISAA 2009 – 2014, *Op. Cit.*, pg. 4.

⁷¹ Open Society Foundation for Albania, Annual Monitoring Report of Albania’s Progress in the Stabilisation and Association Process, Tirana 2009, pg. 56.

⁷² Interview with Mrs. Albana dhimitri, Deputy Mayor of Tirana, 7 September 2010.

Status: **Not implemented**

There is no evidence on the existence of a draft for amending the law. Such draft would be welcomed by local government institutions in terms of clarification of competences between state and municipal and commune police.

4. Conduct a basic study (mainly to identify the responsibilities/functions that will be suitable for the governing of regions) and prepare an assessment report containing instructions and/or recommendations to strengthen the Albanian regions.

Responsible institution: Ministry of Interior, Ministry of Economy, Trade and Energy

Deadline: 2009

Status: **Partially implemented**

The UNDP is running a new project – Integrated Support to Decentralisation 2008 – 2012, in collaboration with several ministries to help the government of Albania prepare the necessary institutional and legislative frameworks for the management of IPA Component 3 on regional development.⁷³ This will involve recommendations on the role that the courts, local government authorities, should play. The NPISAA does not reveal how this project influences the measures concerning decentralisation reform. At present, regional cooperation is a responsibility of the Ministry of Economy, Trade and Energy, whereas decentralisation falls under the competencies of the Ministry of Interior. Since the two are closely linked, ministries are constantly debating on overlapping competencies.

5. Develop a policy document for strengthening the Albanian regions, setting goals and planning reforms and identifying measures that would accompany these reforms.

Responsible institution: Ministry of Interior, Ministry of Economy, Trade and Energy

Deadline: 2009

Status: **Not implemented**

See comment on measure 4

6. Provide a database on financial data on small businesses in respective municipalities and communes.

Responsible institution: Ministry of Interior, Ministry of Finance

Deadline: 2009

Status: **Not implemented**

Each municipality has its own database with financial data on small businesses. However, no evidence on the setting up of a national one is found.

7. Training and awareness campaign to launch the management of small business taxation by municipalities and communes.

Responsible institution: TIPA, Ministry of Interior, Ministry of Finances, Municipalities

Deadline: Ongoing

Status: **Implemented**

TIPA continuously engages in training activities on various topics with central local government officials.⁷⁴ Activities for local government institutions are generally carried out in a fragmented

⁷³ For more details see <http://www.undp.org.al/index.php?page=projects/project&id=183>

⁷⁴ For more details, see the website of TIPA, www.itap.gov.al, the annual report of TIPA for 2009, <http://www.itap.gov.al/new%20web/html/qrpshiteti%20vender%20ang.html> and the website of the Association of Albanian Municipalities, <http://www.aam-al.com>

way, depending on TIPA's work plan. Proper coordination between concerned authorities to assess and respond to needs for specific trainings is lacking. During the monitored period, TIPA has carried out 4 one-day training sessions during which 66 officials of local government institutions from Tirana, Elbasan, Durrës and Shkodër were trained on the management of small business taxation.⁷⁵

8. Conduct training for the Group of Experts on Decentralisation and consolidation of groups of experts on decentralisation.

Responsible institution: Ministry of Interior

Deadline: Ongoing

Status: **Not implemented**

This group does not seem to be an efficiently operating structure.⁷⁶ Meetings are not held regularly and activities are often of a symbolic nature, such as a meeting held in March 2010. However, no evidence of training activities is made public.

9. Provision of equipment to create a database for managing finances and loans at the local level.

Responsible institution: Ministry of Interior

Deadline: 2009

Status: **Not implemented**

No statistical data on distribution of equipment was found and this measure, like the rest of the measures relating to the decentralisation reform, is repeated in the draft NPISAA 2010 – 2014. In order for it to have a concrete impact and be more objectively measurable, it would be advisable to clearly set out the institutions and those regions of the country that are to be assisted, along with the nature of equipment (software, hardware, and so on.).

10. Development of Training Programs on budgeting, budget implementation, financial management, financial reporting for Local Government, training for officials of the Central Government.

Responsible institution: TIPA, Ministry of Interior, Ministry of Finances, Local government institutions.

Deadline: Ongoing

Status: **Implemented**

Between February and September 2010, TIPA has carried out 10 trainings of two days each on budgeting and loan granting at local level. A total of 218 local government officials from Tiranë, Gjirokastër, Vlorë, Mat and Pukë have benefited from these activities.⁷⁷

11. Conduct training in the field of services to be provided from local administration.

Responsible Institution: TIPA, Ministry of Interior, Ministry of Finances, Local government institutions

Deadline: Ongoing

Status: **Partially Implemented**

See explanation on measure 10.

⁷⁵ TIPA official report 2009.

⁷⁶ Interview with Mrs. Dhimitri, Deputy Mayor of Tirana, one of the members of the group since early times.

⁷⁷ TIPA official reports.

Medium-term measures indicated for 2009 – 2010 in the NPISAA, although they should actually refer to 2011-2012.

12. Develop and adopt the draft law "On the creation of public service standards, uniformity and determination of their minimum level".

Responsible institution: Ministry of Interior

Deadline: 2009

Status: **Not implemented**

13. Develop and adopt a new law "On the Regional Council".

Responsible institution: Ministry of Interior

Deadline: 2011

Status: **Not implemented**

According to the 2008 Cross-Cutting Strategy on Regional Development , this law should have been adopted by now as the strategy cannot be fully implemented without the law being changed. However, the Integrated Support to Decentralisation 2008 – 2012, a UNDP project is reviewing available options, which will necessarily touch upon both the strategy and the draft law on the Regional Council so as to address regional development challenges. This will involve recommendations on the role that the Qarks (districts), local government authorities should play. The 2009 – 2014 NPISAA does not indicate how this project influences the measures relating to decentralisation reform.

C. Conclusion on the progress achieved

Based on the qualitative assessment it is evident that **most of the measures** are **not implemented**

The decentralisation reform in Albania has almost entirely been brought to a standstill. This can be indicated by the number of significant legislative initiatives which continue to be inherited unaccomplished in the NIPSAA from one year to the next. It is regrettable that the 2010 – 2014 draft NPISAA is a mere copy and paste of the previous year. According to the Ministry of Interior (its website or other documents), there is no evidence that any significant steps have been made during the monitored period. It seems all issues become politicised, and attempts for reform in this sector are commonly transformed in political struggle for influence, often sharply polarised into conflicting sets of opinions or beliefs between the governing majority and the opposition. Some assistance is provided from international institutions, but this mainly concerns benefiting from IPA components, or social and economic development, without being efficiently coordinated with the measures foreseen in the NPISAA.

Another issue is the fact that local government units are not included in the decision-making process for the determination of foreign aid priorities. This process is led by central institutions, which determine the national priorities during negotiations, but fail to refer to the specific issues of development coming from local government institutions. The Ministry of Interior, responsible for the decentralisation reform, and the METE, responsible for regional development are constantly clashing on overlapping competencies. The best example of this is the failure to implement the 2008 Cross-Cutting Strategy on Regional Development, a crucial strategy for regional development and restructuring of local government institutions.

D. Expert evaluation of the adequacy of the Measures planned by the government for the achievement of the respective goals/advancement towards the set priorities

Considering the situation of stagnation in the decentralisation reform process, authorities should consider reframing it. At first sight, the measures foreseen might seem appropriate instruments to achieve the priorities. However, they are not drafted in coherence with the challenges of developing regional cooperation. Furthermore, it is not clear to what extent local government institutions are involved in the drafting of measures and how much, if at all, they actually support them. In some cases, measures are too ambiguous. For instance, they do not specify which local authorities are going to be supported with trainings or equipment during the year. Finally, the NPISAA annexes concerning decentralisation reform are not at all updated, therefore failing to state who should do what and when.

E. Recommendations

- For any concrete steps towards decentralisation reform to be made, various parties, namely central and local government institutions need to urgently establish sustainable bridges of communication. This can be achieved through direct consultations during the drafting of new pieces of legislation, better cooperation with associations representing local government institutions, etc.
- Legal, but also other initiatives for the decentralisation reform need to be reframed, with a large consultation of all actors concerned and reflecting the objectives of regional cooperation. Reframing should be coordinated with regional development and structures that will be set in place to benefit from IPA component 3.
- The Prefect currently has the final say on several decisions adopted by municipality councils. Considering repeated cases of conflictual relations between municipality councils and the prefect which occurred in various cities (e.g Tirana, Vlora), the new law on the Prefect should define competencies in a clearer manner. To this end, the Ministry of interior and local government representatives should enhance collaboration.
- In so far as training is concerned, local government institutions should become more active in their relationship with TIPa, so as to present their needs for training and capacity building, in order to ensure a more efficient training framework for local government. The Ministry of Interior should come to their support by allocating more funds.
- The Ministry of Interior, responsible for the decentralisation reform, and the METE, responsible for regional development, which are constantly debating on overlapping of competencies, should clearly define their areas of activity and coordinate their actions.
- The Ministry of Interior, the main institution in charge of the decentralisation reform, should make concrete efforts towards opening itself to the public. For example, it would be useful to put on the website information on the legislative framework on local government, the overview of national and international actors supporting local government institutions, annual reports on the progress made in the decentralisation reform, and so on.

2. HUMAN RIGHTS AND PROTECTION OF MINORITIES

2.1. Prison System Reform

A. Short description of the priorities/goals to be achieved in the respective field.

As regards the prison system reform, the Albanian Government has identified as principal priorities the observation of the international conventions on the establishment and management of the penitentiary institutions, and the strict implementation of the prison system Code of Ethics. Furthermore, another key priority in this area is the implementation of the 2004 Master Plan aiming to improve conditions for the detained and prisoners who are awaiting judgment. The Government has stipulated the main objectives for the penitentiary system in Albania divided in three main groups as listed below:

- Improvement of the living conditions of the prisoners and pre-trial detainees including decreasing the overcrowded state of prisons and pre-trial detention facilities, increasing security elements in compliance with international standards and conventions, and the implementation of the food rate and its approximation to EU standards;
- Implementation of social policies for the re-education and rehabilitation of prisoners and pre-trial detainees as well as drafting employment policies for these category of persons deprived of their liberty;
- Continuous training of the staff of these institutions.

These objectives seek to contribute to the improvement of living conditions not only on the infrastructural aspects, but also on the services provided and on rehabilitation and re-education of the prisoners and pre-trial detainees so as to facilitate prisoners' re-integration in the society. In addition, the objectives seek to improve the professional capacities of the staff of the penitentiary institutions who will deal directly with detainees and prisoners in order to guarantee a humane treatment and a better respect of their human rights in these institutions.

The majority of the legal measures planned by the government are related to the institutional capacity building of the responsible institutions. The legal initiatives of the prison system reform are not foreseen in the NPISAA Annex 1, which is a summary of the legal initiatives by area. Annex 1 identifies the responsible institutions for these initiatives, their timeframe, the reference with the *acquis* (should that be the case) and its compatibility. Therefore, under the circumstances of not having a specific deadline for the implementation of these short-term measures, the status of the following legal initiatives is not accurate but rather refers to the 2009-2010 period. The assessment of the status of these measures is not performed upon an appropriate and necessary timeframe for their implementation but assuming that the monitoring period is the deadline.

B. Qualitative Assessment of the implementation of each measure:

1. Draft decision "On the determining of the rules for the functioning of the employees' salary scheme of the Police Prisons"⁷⁸
Responsible institution: Ministry of Justice in cooperation with General Directorate of Prisons (GDP)
Status: **Partially Implemented**

⁷⁸ The subordinate legal acts cited in point 1, 2, 4, 5 and 9 are also foreseen in the subchapter on Judiciary Reform.

This initiative is still on consultation process between the Ministry of Justice, the Ministry of Finance and the Department of Public Administration.

2. The draft decision “On submission, form and structure of the grades”
Responsible institution: Ministry of Justice
Status: **Not implemented**

The General Directorate of Prisons (GDP) has requested to postpone this initiative. The GDP has evaluated this draft decision as not necessary for this period.

3. The draft decision “On rewarding of the members and defining of the structure of the Commission, structure and the level of salaries of the Secretariat of the State Commission on Legal Aid”
Responsible institution: Ministry of Justice
Status: **Partially Implemented**

The General Directorate of Codification within the Ministry of Justice has prepared a preliminary draft decision⁷⁹.

4. The draft decision of the Minister of Justice “On the rules and procedures for the labour relations, professional training, progress’ carrier and issuing of disciplinary measures for the Prisons Police”
Responsible institution: Ministry of Justice
Status: **Implemented**

This decision is approved with an order of the Minister of Justice, no.3125/1, dated on 4 September 2009⁸⁰. The goal of this Regulation is to identify rules, policies and procedures for a better and an effective implementation of the law on Prisons Police and the legislation in force that regulates the relation between the employer and employee. It aims to develop effective and professional capacities of the personnel and to enforce the rights of the employees of the Prisons Police.

5. The draft decision “On detailed rules of conduct of the employees of the prisons and pre-trial detention system”
Responsible institution: Ministry of Justice
Status: **Implemented**

According to the information provided by the Ministry of Justice, this measure is approved with the order of the Minister of Justice No. 5251/2, dated on 30 July 2010. Nevertheless, this decision is not published yet in the Official Journal, which means that it does not have legal power. In compliance with the principles of the legislative technique, legal and subordinate legal acts, which should be published in the Official Journal (like laws, decisions of the Council of Ministers, orders of the ministers etc.) in order to have legal power, their publication in the Official Journal is required. Therefore, the laws and normative acts of the constitutional institutions, the creation of the legal consequences and the entry into force is connected with the publication in the Official Journal. The practice over the years has revealed that legal acts are in force and applicable notwithstanding the lack of their publication in the Official Journal.

⁷⁹ Information received by the Ministry of Justice.

⁸⁰ For more information, see Official Journal, no. 141, dated on 2th of October 2009

However, there have been some other cases when the legal acts are published with delay in the Official Journal⁸¹.

6. The draft decision of the Minister of Justice “On determining of the education according to the roles in the prisons police”

Responsible institution: Ministry of Justice

Status: **Implemented**

Based on the information of the Ministry of Justice this is approved with the Order of the Minister of Justice no.3714, dated on 5 April 2009. Nevertheless, this decision is not published yet in the Official Journal.

7. The draft decision of the Minister of Justice “On approving of the Internal Rules of the General Directorate of Prisons”

Responsible institution: Ministry of Justice

Status: **Implemented**

Approved with the order of the Minister of Justice no. 4718/1, dated on 4 September 2009⁸² but neither is this decision published in the Official Journal.

8. The draft decision of the Minister of Justice “On determining of the rules of cooperation of the Probation Service with the NGOs and the intermediary service”

Responsible institution: Ministry of Justice

Status: **Implemented**

This legal initiative is approved with the order of the Minister of Justice no. 6325, dated on 31 September 2009. This decision is not published in the Official Journal⁸³.

During the monitoring process, Prime Minister’s Order no. 140 for the Probation Service was drafted and approved, although this is not mentioned in the NPISAA⁸⁴. This order foresees the establishment of four additional probation service local offices. It is lately approved and is still on implementation process. Currently, the General Directorate of Probation Service has finished the recruitment of personnel for these offices. However, for the benefit of the implementation of the legal obligation on the establishment of the new local offices near all district courts, as well as taking into consideration the increasing number of alternative sanctions, this order will be re-amended within a mid-term timeframe⁸⁵.

Furthermore, in March 2010, the Council of Ministers approved some amendments and changes to the General Regulation of Prisons⁸⁶. It was planned that this measure was to be achieved

⁸¹ A regular example of this wrong practice is the Official Journal no. 67 (extra edition) published in August 2010, which summarises the legal and subordinate legal acts approved on May 2009. Hence, it contains legal acts approved more than one year before. This is a frequent practice in Albania.

⁸² This is in conformity with the information received by the Ministry of Justice.

⁸³ OSFA is provided with one not stamped copy of this Regulation.

⁸⁴ Prime Minister's Order no.140, dated 01.07.2010 amends Order no. 67, dated 06.05.2009 “On approval of the organizational structure of the probation service, the establishment of four new local offices of the probation service at the district Court of Lezha, Elbasan, Korca and Gjirokastra”.

⁸⁵ This was also accepted by the representatives of the General Directorate of Probation Service.

⁸⁶ See Official Journal no. 44, dated on 20th of April 2010, the Decision of the Council of Ministers no.187, dated on 17th of March 2010 “On some amendments and changes of the Decision no. 303, dated on 25th of March 2009 of the Council of Ministers “On approving of the General Regulation of Prisons”.

according to the NPISAA within the period 2007-2008⁸⁷. The amendments cover a wide range of issues, including specifying admission procedures of a prisoner to a prison, leave procedures and inspection procedures in penitentiary institutions.

In the framework of increasing of security measures in the penitentiary institutions, the Council of Ministers in April 2010 issued decision no. 269 “On purchasing and installing of the equipments to block the mobile phone waves within the institutions of the execution of the criminal decisions”⁸⁸. The decision aims to establish the respective state institutions responsible to draft standard documents and to evaluate the offers submitted by various economic operators as well as the legal procedure to select the most appropriate operator to perform the service of blocking the mobile phone reception in the institutions of the execution of the criminal decisions.

According to decision No. 504, dated on 23 June 2010 the Council of Ministers performed a redistribution of the funds for current expenses within the programs approved for the Ministry of Justice in conformity with the 2010 budget⁸⁹. In these circumstances, the Council of Ministers has reduced the budget of the Prison System to 3,500,000 Lek and the Probation Service Program to 3,000,000 Lek.

Another important event that occurred during the monitoring period, was the pardon decree issued by the President of Republic in relation to 367 prisoners⁹⁰. The pardon of the President took place a few months prior to the approval of the new law on pardon which amended pardon procedures⁹¹. The new law on pardon was passed with several discussions and debates between the representatives of the majority and the opposition in Parliament. The latter claimed that the law is not based on the principles of the Albanian Constitution⁹². It is interesting to mention that the President of the Republic usually exercises this competence on special occasions, such as during the celebration of national holidays or at the end of year.

Short-term implementing activities:

It is important to state that the following activities scheduled for 2009-2010 short-term period are the same as the ones planned in the previous NPISAA for the 2007-2008 period⁹³.

9. Training education staff who deal with the treatment of minors in the environments where they serve their sentence and detention facilities

Responsible Institution: General Directorate of Prisons

Status: **Implemented**

The training of the education staff has been an ongoing activity during all this period. GDP has devoted particular attention to the implementation of this activity. Relied upon its own resources or in cooperation with other actors, it has organised numerous trainings for the education staff. More concretely, in the framework of the project with the Spanish Agency for International Development (AECID) eighty-eight (88) training seminars were performed with social worker

⁸⁷ Based on information provided by the General Directorate of Prisons and according to the NPISAA 2007-2012

⁸⁸ See the Official Journal no. 56, dated on 13th of May 2010, Decision of the Council of Ministers no. 269, dated on 21th of April 2010

⁸⁹ See the Official Journal No. 101, issued on 2 August of 2010, the Decision No. 504, dated on 23.6.2010

⁹⁰ The decree no. 6516, dated on 22.4.2010, published in the Official Journal no. 47, dated 27.4.2010

⁹¹ The new law on pardon no. 10295, dated on 1.7.2010

⁹² See the minutes of the meetings organized in the Parliamentary Commission on Legal Issues, Public Administration and Human Rights.

⁹³ According to the NPISAA 2007-2012.

staff⁹⁴. During 2009, seventy-six (76) employees of social care sectors were trained on how to deal with youth and drug addicts. Fifty-five (55) specialists were trained in collaboration with the Albanian Helsinki Committee on the ways of treatment of drug addiction prisoners, or the prisoners and detainees with attempted suicide and people with anger-management problems⁹⁵. In April 2010, the Centre for the Protection of the Rights of Children organized two training sessions with the participation of seventeen (17) specialists who deal with juveniles in various penitentiary institutions.

10. Comprehensive training of all prison staff on human rights issues, and encouraging them to respect the rights of prisoners and/or detainees, in so far as their treatment is concerned
Responsible Institution: General Directorate of Prisons
Status: **Implemented**

Building capacities of prison staff on human rights and how to deal with detainees and prisoners has been an ongoing activity. Prison Training Centre is the responsible structure in the GDP for the improvement of professional capacities of the prison administration. The Centre has organised various training sessions focused in the field of human rights in the penitentiary institutions. The main goal of these training sessions has been increasing the awareness and accountability of the staff who deal with people deprived of their liberty. By the end of 2009, the Prison Training Centre trained a total number of 1,020 employees, whereas between January and April 2010, 262 members of staff have been trained⁹⁶. Other than these trainings, various non-governmental organisations working in this area have supported the prison administration with various trainings on issues of specific interest⁹⁷.

11. Distributing prisoners to institutions near the areas they reside in
Responsible Institution: General Directorate of Prisons
Status: **Implemented**- is ongoing

With the opening of new prisons in 2008, GDP has prepared a study and drafted a timetable for distributing prisoners according to the regional principle. Moreover, the placing prisoners near their residence was conducted according to their requirements. Notwithstanding this situation, the prisoners still have complaints and requests to be transferred in other institutions near the areas they reside in⁹⁸.

12. Construction of a new detention facility in Durres
Responsible Institution: General Directorate of Prisons
Status: **Implemented**
13. Putting into complete efficiency the detention facility and the hospital for mental diseases persons in Durres
Responsible Institution: General Directorate of Prisons
Status: **Not Implemented**

⁹⁴ The project "Support for the implementation of a program of measures that would facilitate the reintegration of the prisoners".

⁹⁵ Based on the information provided by the GDP and the information published on the website of Albanian Helsinki Committee

⁹⁶ Based on the information provided by the GDP.

⁹⁷ Such as the Albanian Helsinki Committee, Center for the Protection of the Rights of Children

⁹⁸ During the 2009, Albanian Helsinki Committee has received 34 such complaints.

Construction of new detention facility in Durres and a hospital for mentally ill patients convicted by the court with compulsory medical treatment in a special institution is one of the most important investments in the prison system. The construction of this building started in September 2007 and it was completed in November 2008. The capacity of this detention site is two hundred-forty (240) people. In January 2009, the institution became operational and prisoners were transferred to its premises.

In addition, the hospital for mentally ill persons, part of this building was completed in December 2008. The capacity of this hospital is sixty-nine (69) persons. This institution is not yet into efficiency due to the lack of management responsibility of the Ministry of Health. Despite the Decision of the Council of Ministers no. 504, dated on 13.5.2009⁹⁹, which charged the Ministry of Health with the responsibility for the management of this institution, until now the latter has refused to do so, stating that this institution does not meet the required standards for the treatment of this target group. Currently, the situation of persons convicted with alternative sanctions such as compulsory medical treatment is very problematic. These prisoners (around sixty persons) are kept unlawfully in various prisons, the majority are detained in the Prison Hospital in Tirana. The situation remains the same despite the pressure applied by various human rights organisations and international assistance projects.

14. Expanding of part time 9 years school education in all detention facilities

Responsible Institution: General Directorate of Prisons

Status: **Partially Implemented**

In December 2008, the Ministry of Justice (MoJ) and the Ministry of Education and Science (MoES) signed a Memorandum of Cooperation on the education of detainees and prisoners in the penitentiary institutions based on the education programs approved by MoES. Implementation of this agreement began in early 2009 with opening of the nine (9) year-school in Peqin institution and in Fushe-Kruja¹⁰⁰.

15. Setting up of a special system for the encouragement of work carried out by the prisoners and detainees

Responsible Institution: General Directorate of Prisons

Status: **Partially Implemented**

In compliance with the General Regulation of Prisons, the Evaluation Labor Commission in Prison was established. An organisational structure was identified following an evaluation based on the needs of the institutions. The organisational structure was submitted to the Ministry of Justice for approval. It has not been approved to date but based on the evaluation, it will allow for the signature of job contracts with four hundred and twelve (412) prisoners who will be remunerated by the state budget. In addition, cooperation with some legal entities interested in developing employment projects in the prison system is being mediated.

16. Additional spaces for the detention facility in Jordan Misja Tirana and in the Rrogozhina prison

Responsible Institution: General Directorate of Prisons

Status: **Implemented**

⁹⁹ For more information, see Official Journal no. 67, published in August 2010 (an extra edition)

¹⁰⁰ In Peqin the school is attended by forty-four (44) prisoners and in Fushe-Kruja by thirty-five (35) prisoners

The inauguration of new detention facilities for juveniles in Jordan Misja institution was done in May 2008¹⁰¹. Premises were completely restructured, including all juveniles' room, entertainment rooms, which were equipped with computers and all other necessary facilities. This activity should not be envisaged in the NPISAA 2009-2014 since it was implemented in 2008. The reconstruction of the Rrogozhina prison was completed in 2008.

17. Computerization of data related to convicted persons, including the software, equipments and staff training (second stage);
Responsible Institution: General Directorate of Prisons
Status: **Implemented**

In line with the computerization of the prisoners' data, the GDP has undertaken several measures such as:

- maintenance of the additional modules for the program used for personal files of prisoners;
- the establishment of an appropriate infrastructure (like: the installation of the program with new modules on new server, the installation and configuration of internal e-mail to all users of the GDP, the installation and configuration of equipment to protect the network, etc);
- improving the professional capacity of the GDP staff in charge of using this program.

18. Putting into complete efficiency the detention facility in Vlora
Responsible Institution: General Directorate of Prisons
Status: **Implemented**

The new detention facility in Vlora operates in full efficiency. The centre provides accommodation for men, women and juvenile detainees, medical space, an area for visitors, workshop facilities, office, laundry and kitchen. The capacity of this institution is of 115 prisoners¹⁰².

19. Completing the necessary logistical infrastructure for the operation of the Fushë-Kruja prison
Responsible Institution: General Directorate of Prisons
Status: **Implemented**

The new institution in Fushe-Kruja entered in full operation on May 2008¹⁰³. The electricity and water supply system was provided by the Albanian Government with a budget of 21, 284.560 Lek. This institution is divided into three sections: detention, normal security prison and high security prison. The principle of distribution of the prisoners according to regional areas is taking into consideration even in this new institution.

20. Completing the necessary logistical infrastructure for the operation of the Korca prison
Responsible Institution: General Directorate of Prisons
Status: **Implemented**

This institution is an investment of the European Commission. It is equipped with the necessary logistical infrastructure. Penal Institution of Korca is categorized into three regimes: detention, normal security prison and high security prison. Prison capacity is envisaged for 350 people and

¹⁰¹ This project was implemented under the Program of Juvenile's Reform Justice supported by the European Commission, Swiss Agency for Development and Cooperation and UNICEF.

¹⁰² The European Union, an investment of 3.7 million Euros, financially supports the construction of Vlora detention.

¹⁰³ This institution is an EU investment of 4.8 million Euros

is equipped with observation rooms, hospital centre, cult objects and other educational environments.

21. Recruitment of police staff for the new Fushe-Kruja and Korca prisons

Responsible Institution: General Directorate of Prisons

Status: **Implemented**

Civil servants and police specialists were recruited in accordance with Order no. 8104, dated on 18.12.2007 of the Minister of Justice "On the procedure, selection criteria and training of the staff of Fushe-Kruja, Korca and Vlora institutions". In Fushe-Kruja the civilian staff is fifty-nine (59) employees; uniformed staff is three hundred-five (305) employees. So as to improve the efficiency of the Vlora prison, the existing civilian staff was increased with additional staff and the total number of this kind of personnel is 61 employees. In addition, two hundred- four (284) employees in uniform and police specialists were also recruited.

22. Training of civil and police staff for the new Fushe-Kruja and Korca prisons

Responsible Institution: General Directorate of Prisons

Status: **Implemented**

The Albanian Helsinki Committee has contributed and supported the trainings of the civil and police staff in Fushe-Kruja and Korca prisons¹⁰⁴. All candidates trained were to be employed in Fushe-Kruja (364 persons) and Vlora institution (302 people).

Other than the above- mention activities, the GDP has carried out various investments, such as: designing projects for construction of the new prisons; reconstruction of the detention sites of Tropoja; various equipment for the prison and detention facilities system; building toilets in each cell and the reconstruction of the shower-baths in Peqin institution; reconstruction of the water and electricity system in Korca and Fush-Kruja prisons; expropriation of the owners of the land for construction of the minors institution of Kavaja, etc.,

Since the Probation Service Office is newly established, the majority of the investments for 2009 have been used for vehicles and reconstruction works in various locations.

Below is an outline of the short-term activities carried out in the probation service area, which are not included in the NPISAA:

- The establishment of four additional (4) local probation service offices, located near the district courts in Lezha, Elbasan, Korca and Gjirokastra¹⁰⁵. This was done in order to reduce the workload of the existing offices and to increase their efficiency. This activity is still on implementation process.
- Finding appropriate premises with necessary infrastructure and logistics so as to appropriately set up existing and new local offices of the probation service. This activity is still being implemented.
- The supervision of the prisoners convicted with alternative sanctions.
- The ongoing increasing level of inspections of the local offices of the probation service.
- Cooperation with other state institutions in fighting against corruption.
- The increasing capacities of the probation service staff. This activity is conducted in cooperation with various international partners such as the OSCE Presence in Tirana or the

¹⁰⁴ For more information see www.ahc.org.al

¹⁰⁵ In total, there are eight (8) local headquarters of the probation service, more concretely in Tirana, Shkodra, Durres, Fier, Lezha, Elbasan, Korca and Gjirokastra

European Assistance Mission to the Justice System in Albania¹⁰⁶. Thus, two basic theoretical and practical training sessions were organised with the participation of probation staff from Tirana, Shkodra, Durrës and Fier. Moreover, they have performed a specific training focused on narcotic substances. The Albanian Foundation for Conflict Resolution and Reconciliation of Disputes organised another training session on the relation between the mediation and restorative justice.

C. Conclusion on the progress achieved

Of 22 measures, the –majority, 16, have been implemented, 4 have been partially implemented, whilst two measures have not been implemented.

As it is emphasized above, it is difficult to make a qualitative assessment on the progress achieved in this area because of several reasons. Firstly, it is worth mentioning that no deadlines were planned for the implementation of the legal initiatives. Consequently, the status of these measures is assessed by relying on the monitoring period rather than with an accurate timeframe in mind. Secondly, based upon the information received by the MoJ, some of the legal initiatives have been accomplished. Nevertheless, based on the monitoring of the Official Journal these decisions are not published in the Official Journal, which means that theoretically and *de jure* these decisions are not in force and do not carry any legal weight. On the other hand, the Albanian practice has revealed that despite the failure of publication, legal acts are still applicable and *de facto* in force.

Regarding the activities, it is highlighted that the short-term activities for 2009-2010 are the same as the activities scheduled for 2007-2008. A similar situation is also reflected in the plan of medium-term activities for 2010-2011, which comply with the medium-term activities planned for 2009-2010. It makes sense that some of these are ongoing activities that cannot be completed within a year but there is enough room to update the plan of activities according to the current state of play and the remaining needs. This will certainly help when making a proper assessment of the measurable outputs. On the other hand, the lack of publication of some legal initiatives in this area restricts a qualitative interpretation of their content.

According to the above quantitative assessment, it is evident that the majority of the legal measures and activities are in place. Regarding the qualitative assessment there is always room for further improvement because despite the approval of a legal initiative, it is worth having an effective implementation of it in practice so as to accomplish its goal and objectives. In the framework of the Albanian accession process to the European Union, the implementation of these legal and subordinate legal acts is more significant than their mere approval.

As regards the probation service, looking at the data provided, the number of persons who benefited from the services offered by probation offices is 1,979 persons for the period 01.06.2009 - 31.08.2010¹⁰⁷. The number of cases supervised by the probation service staff is huge and the number of requests for alternative sanctions is increasing on a daily basis. The situation is such that in the near future, probation offices will be inundated with work. This means that the establishment of additional local offices in the future constitutes an immediate measure.

D. Expert evaluation of the adequacy of the Measures planned by the government for the achievement of the respective goals/advancement towards the set priorities.

In general, the legal initiatives and the planned activities match with the determined priorities. The priority concerning the enforcement of the social programs for the treatment of the

¹⁰⁶ Mission of EURALIUS II

¹⁰⁷ Some of the alternative sanctions applied during this period were the suspension of execution of the imprisonment sentence and putting on probation period (the most of the cases 78.52%), the obligation to stay in home (1.67%), suspension of execution of imprisonment and the obligation to perform work in the public interest (8.19%), conditional parole (11.62%). The courts have not applied yet the measure of semi-liberty.

detainees and prisoners is not fully reflected in the foreseen legal initiatives and activities of this section.

Analysis of the prison reform chapter of the NPISAA for 2009-2010 raises some concerns. The Ministry of Justice has not scheduled the deadlines for the legal initiatives and the measures for prison reform, allowing the competent institutions to decide deadlines by and for themselves. Furthermore, the short-term legal initiatives foreseen in the chapter of the justice system reform are duplicated with some of the legal measures of this section. This displays the lack of a careful review of the NPISAA by the responsible institutions. Despite the fact that all the relevant institutions have prepared their contribution to the NPISAA of 2010-2014, it has not been approved by the Council of Ministers yet. Its approval with delay affects the progress of the identified concerns.

There have been positive developments in terms of improving facilities and physical living conditions for prisoners and detainees. The construction of the new Institution for minors in Kavaja and the new detention institution in Durres promise some relief to the issue of overcrowding. The total number of the detainees has decreased, even though it still remains above the capacity of these institutions¹⁰⁸. Notwithstanding the recent construction of some penitentiary institutions, the quality of the construction works leaves room for improvement. A part of these works is financed by the European Union, which means that in the future the European Union should demonstrate the necessity of careful and timely preparations for the opening of new penitentiary institutions. Based on various monitoring missions conducted by local NGOs, it is clear that some penitentiary institutions faced great difficulties due to the lack of running water throughout the day, lack of heating, high levels of humidity and over-used sleeping items. Furthermore, the conditions at the newly-built prison in Fushë-Krujë are criticised, in particular because of the damp in the ground-floor cells, running water shortages, broken showers and the unhygienic conditions in which women were held in Tirana (prisons 302 and 313)¹⁰⁹. Nevertheless, the improvement in the future of the quality of treatment of and services provided to inmates remains a crucial priority.

The Albanian penitentiary legislation is generally in accordance with European standards¹¹⁰. Therefore, any changes should be carefully reviewed and analysed this was not the case with the amendments of the General Regulations of Prisons, which was not subject to a wide consultation process with other external actors prior to it being approved. While the amendments to this Regulation appear to be justified according to the NPISAA 2007-2012, there were also some questionable amendments, such as the prohibition of the use of personal television sets by pre-trial detainees.

Despite the agreement between the Ministry of Justice and the Ministry of Education and Science that enables cooperation between penal institutions and Regional Educational Directorates on the completion of the mandatory 9-year education for persons deprived of their liberty, so far this is only being implemented in Korça. This agreement needs to be yet implemented in the institutions of Vlora, Lezha, Durrës and Tirana (“Jordan Misja”)¹¹¹.

Opening new prisons during the next few years combined with the further improvement of the probation service could soon finally solve the issue of overcrowding in all prisons. Furthermore,

¹⁰⁸ Based on the progress report 2009 of the European Commission

¹⁰⁹ The report on situation of HR in prisons, Albanian Helsinki Committee, October 2009 – February 2010

¹¹⁰ Such as with the Recommendations of the Committee of Ministers of the Council of Europe, standards of the European Committee for Prevention of Torture and the case-law of the European Court of Human Rights.

¹¹¹ The report on situation of HR in prisons, Albanian Helsinki Committee

it could rationalise the prison network by closing some old and sub-standard institutions. The resulting savings of operational costs would be available for the probation service or could be used to improve prison conditions. The probation service has begun its work but it is clear that alternative punishments are being applied slowly by the judiciary¹¹². The probation service so far has worked with four local offices, thus making it very difficult to properly supervise probation officers in all the regions¹¹³.

Notwithstanding the issues mentioned above, there are several concerns that are not properly translated into concrete measure in the NPISAA, for instance, corruption in prisons, the persons under compulsory medical treatment, health services, etc. Corruption in the prison system is a significant problem and it should be dealt with more seriously. Some arrests have been made¹¹⁴ and this shows increasing attention to the matter but the Internal Control Service of the prison system, which has now become fully operational, should concentrate its efforts on preventing and reducing the corruption. On the other hand, it is extremely important that persons considered to need compulsory psychiatric treatment should receive it in a specialised facility operated by the Ministry of Health. As long as they are kept in prison they risk mistreatment and it is unlikely that they will get better. Political appointments in prisons have continued. Several cases have been identified, although this practice does not lead to the development of a professional and sustainable prison administration. Despite the huge number of training sessions, there are still cases of ill-treatment and prisoner complaints against prison wardens¹¹⁵.

E. Recommendations

Recommendations regarding the improvement of the NPISAA:

- The Albanian Government should consider the NPISAA document as a real strategic document, which should be used as a fundamental guideline for Albania's path towards the European Union. The approval of the content of this document needs to meet the willingness of the representatives of the Assembly.
- The Assembly and the Government need to coordinate all other strategic documents and action plans with the NPISAA.
- The Government should draft and approve the NPISAA in good time so as to ensure addressing the problems identified in the Progress Report of the European Commission and fulfil the initiatives and activities foreseen. The present situation – the 2010-2011 NPISAA awaiting approval (in September) – undermines the importance of its essential goal and transforms it into a document without any real value.
- The state institutions ought to draft measures that fulfil the needs of the current situation. It is necessary to plan precise deadlines for the implementation of the measures.
- The state institutions such as the Ministry of Justice and the General Directorate of Prisons ought to work more closely and need to coordinate their efforts when drafting of the NPISAA. It is necessary to strengthen cooperation and coordination not only between

¹¹² Based on the progress report 2009 of the European Commission.

¹¹³ One officer is obliged to supervise more than 60 cases distributed in a large region.

¹¹⁴ On 7 October, the State Police arrested the head of the Internal Audit Sector of the General Directorate of Prisons with the main accusations of bribery and abuse of office.

¹¹⁵ In February the Ministry of Interior's Internal Inspection Service investigated complaints by prisoners at Peqin and Lezhë prisons that guards had ill-treated them. The investigation concluded that the complaints were well founded and the guards were disciplined.

central state institutions but also with local institutions so that measures do not remain fragmented and unknown and that these needs are the logical consequences of each-other.

- The human rights chapter should include not only three specific sectors such as prison reform, minorities, and the improvement of the bailiff service but an even larger number of fundamental rights.
- The NPISAA Annexes in the area of prison reform need to be added and precisely formulated. The Ministry of Justice in cooperation with other institution under its responsibility needs to coordinate efforts so as to clearly define human recourses, the budget and the timeframe for the implementation of legal initiatives and activities. The lack of this data influences evaluation process, the monitoring of the outputs and progress achieved but also the implementation in practice of these measures as a result of the confusion that it might bring to the respective institutions such as the General Directorate of Prisons and the Probation Services along with their local offices.
- The Government should be realistic in determining the deadlines of measures. The timeframe to achieve these measures should not be long-term, such as 1 or 2 years but shorter. Perhaps it can consider the possibility of having a three-or six-month deadline expect in cases when the measure is of an ongoing nature or it needs a longer period of time to be fulfilled, for instance when it comes to the construction of a new prison.
- Furthermore, it is necessary that the respective institutions update the legal initiatives and implemented activities, leaving out completed measures, avoiding repetition and shortcomings, making them clearer, precise and measurable.

Recommendations regarding the improvement of the prisons system's reform and foreseen measures in this chapter:

- The Ministry of Justice needs to encourage the GDP to undertake the appropriate measures on implementing of prisons' rehabilitation policies, through implementation of the social and education programs in these institutions.
- The Ministry of Justice and the High Council of Justice should encourage the courts to increase the use of alternative sanctions. On the other hand, the probation service needs to increase its institutional and professional capacities in order to ensure more effectiveness in supervision of these alternative sanctions. This can be achieved through increasing the number of staff and strengthening their capacities through more training.
- It is recommended that either the Ministry of Health takes charge of its responsibility of the hospital for mentally-ill persons in Durrës, or an adequate institution (a psychiatric facility) is established for this category of persons who are kept unlawfully in prisons and in the Prison Hospital. The Ministry of Justice and Ministry of Health ought to cooperate so as to find the best possible solution possible for this situation.
- Any changes and amendments to the existing legislation should be carefully reviewed and analysed in close cooperation with the responsible institutions, stakeholders and human rights organisations through round tables and open debates.
- The Ministry of Justice and GDP need to undertake concrete and effective measure to fight corruption in the prison system and to further improve the professional capacities of the administration in particular on various human rights issues and the treatment with humanity

and dignity of the prisoners and detainees. The improvement of the status and infrastructure of the Training Centre of Prisons is crucial in improving the professionalism of the prison administration.

- The detention sites and prisons should implement in correct way their Institutional Regulations approved by the General Directorate of Prisons. Regardless of financial difficulties, it is necessary to open new pre-trial detention centres. This will contribute to a decrease in overcrowding in prisons and pre-trial detention facilities.
- Furthermore, another significant topic that the Ministry of Justice and GDP should avoid in the future is political appointments in prisons. This practice is not in accordance with international standards and recommendations and does not lead to the development of a professional and sustainable prison administration.
- Establishment of the new local offices of the probation service (and increasing human resources) should take place. They will have a positive impact on reducing the overcrowding in the prisons and on improving of the humane treatment of the inmates. Moreover, this will fulfil the objective of the criminal policy of our country that aims the rehabilitation of prisoners and not their punishment.
- The probation service offices need to have the cooperation and the support of all relevant stakeholders in order to supervise with efficiency the alternative decisions, such as the prosecutors, judges, local authorities, prisons and detention institution staff, NGOs, etc.

2.2 Protection of Minorities

A. Short description of the priorities/goals to be achieved in the respective field.

The Government of Albania (GoA) has pledged to achieve, in accordance with international instruments of minority protection and obligations arising from the process of European integration, the highest standards of respect for and realisation of the rights of national and ethnic-linguistic minorities. To achieve the above GoA is committed to enforcing comprehensive institutional and legal reforms. Continuous attention is devoted by the Government to fulfil the rights of the Roma ethnic minority, through the enforcement of the National Strategy “On Improving the Living Conditions of the Roma Community”. April 2008 was an important milestone for the fulfilment of Roma rights as Albania finally adhered to the Initiative ‘Decade of Roma Inclusion’ which seeks to accomplish objectives in the areas of poverty reduction, unemployment, education, housing, access to health and social protection as well as increased civic participation of the Roma minority in achieving these objectives.

B. Qualitative Assessment of the implementation of each measure:

1. Adoption of the Action Plan "Decade of Roma Inclusion" 2010 -2015 and establishment of Inter-Ministerial Working Group composed of vice ministers, to oversee and monitor the plan.

Responsible institutions: Ministry of Labour and Social Affairs and Equal Opportunities¹¹⁶

Deadline: April 2009

Status: **Implemented**

The National Action Plan for the ‘Roma Inclusion Decade’ was adopted by the Council of Ministers, Decision No.1087, date 28.10.2009 and will be implemented from 2010 until 2015. It was compiled to comply with the requirements of the Decade of Roma Inclusion. Before that, the National Strategy “On Improving the Living Conditions of the Roma Community” has been the main policy document regarding human rights fulfilment of the Roma minority, with a large time span from 2003 - 2015. Its priority areas focus on reduction of poverty, employment, education, social protection, housing and infrastructure, health and cultural heritage. At the end of 2010, the Ministry of Labour and Social Affairs and Equal Opportunities will produce a progress report about implementation results of the Strategy and Action Plan.

Established on 09.03.2003¹¹⁷, the Inter-Ministerial¹¹⁸ working group firstly served as a monitoring body for the enforcement of the National Strategy “On Improving the Living Conditions of the Roma Community”. Currently, the Inter-Ministerial working group has overtaken the supervision and monitoring of the Action Plan of the Decade. During 2010 the Working Group gathered only once.

2. The Ministry of Labour, Social Affairs and Equal Opportunities in collaboration with UNDP, ministries, Roma NGOs will organise consultative meetings to develop the final draft action plan "the Decade of Roma Inclusion".

Responsible institution: Ministry of Labour and Social Affairs and Equal Opportunities

Deadline: 2009

¹¹⁶ Interview with the Head of Technical Secretariat of Roma and Director of Directorate of Monitoring of Cross-Cutting Strategy, Ministry of Labour, Social Affairs and Equal Opportunities, Tirana - Albania

¹¹⁷ Inter-Ministerial group was established with reference to point 3, Article 102 of Albanian Constitution, article 12, law nr. 9000 date 30.01.2003, ‘Organization and functioning of Council of Ministers adopted with Decision nr. 633, date 18.09.2003 of Council of Ministers ‘Approval of National Strategy for the“ On Improving the Living Conditions of the Roma Community”

¹¹⁸ The inter ministerial group is composed of members: Vice Minister of Education and Science, Vice Minister of Public Work, Transport and Telecommunication, Vice Minister of Health, Vice Minister of Internal Affairs, Vice Minister of Tourism, Culture, Youth and Sport, Vice Minister of Finance, Vice Minister of European Integration, Vice Minister of Foreign Affairs, Coordinator of Department of Coordination of Strategy and Foreign Aid, Head of National Minority Committee, Head of Statistics Institute.

Status: **Implemented**

Consultative meetings, lead by the Technical Secretariat for Roma at the MOLSAEO, were organised between July 2008 and October 2009, with various stakeholders, to draft the Action Plan. Three consultative meetings were held with Roma organisations, 2 meeting with line Ministries and 2 workshops with central and local government representatives from Tirana, Fier and Elbasan. The feedback provided by all the partners has been incorporated to the Action Plan¹¹⁹.

3. Organisation of joint tables in 12 districts of the country to be familiar with the updating of the strategy and action plan of the "Decade of Roma Inclusion" Strategy.

Responsible institution: Ministry of Labour and Social Affairs and Equal Opportunities

Deadline: June 2010

Status: **Implemented**

Encouraged by and with the support of the staff of the Roma Technical Secretariat, in April - June 2010, 12 meetings of the Committees on 'Need Assessment and Social Service Planning' were organised in each of the 12 Qark (province) level. The Committees gather actors of all Qark institutions and local government unit representatives to assess, program and plan social care and service distribution for the groups in need. The Technical Secretariat of Roma presented the Action Plan of the "Decade of Roma Inclusion" and Roma community members voiced the needs of the Roma at the respective local areas. In these meetings participated representatives from the municipalities and communes of the Qarks, and representatives from Education, Health, Police, Employment Office, Regional State Social Services, along with representative of Roma organisations who raised issues related to education, employment, health, infrastructure, shelter and child and family protection.

4. Operation of inter-ministerial Group for organising, coordinating, monitoring and evaluating the implementation of the National Strategy for Roma.

Responsible institution: Ministry of Labour and Social Affairs and Equal Opportunities

Deadline: N/A

Status: **Implemented**

Established on 09.03.2003¹²⁰, the Inter-Ministerial¹²¹ working group firstly served as a monitoring body for the enforcement of the National Strategy "On Improving the Living Conditions of the Roma Community". Currently, the Inter-Ministerial working group has overtaken the supervision and monitoring of the Action Plan of the Decade. No deadline is applicable to this Working Group. The working group has had four meetings so far, and only one during 2010, focused on drafting the action plan and finalising it, report on the progress of implementation of Minority Strategy.

5. Organise a round table with donors to launch the action plan of the "Decade of Roma Inclusion".

Responsible institution: Ministry of Labour and Social Affairs and Equal Opportunities

Deadline: December 2009

¹¹⁹ PPT presentation "Decade of Roma Inclusion 2005-2015", Ministry of Labor, Social Affairs and Equal Opportunities

¹²⁰ Inter-Ministerial group was established with reference to point 3, Article 102 of Albanian Constitution, article 12, law nr. 9000 date 30.01.2003, 'Organization and functioning of Council of Ministers adopted with Decision nr. 633, date 18.09.2003 of Council of Ministers 'Approval of National Strategy for the "On Improving the Living Conditions of the Roma Community"

¹²¹ The inter ministerial group is composed of members: Vice Minister of Education and Science, Vice Minister of Public Work, Transport and Telecommunication, Vice Minister of Health, Vice Minister of Internal Affairs, Vice Minister of Tourism, Culture, Youth and Sport, Vice Minister of Finance, Vice Minister of European Integration, Vice Minister of Foreign Affairs, Coordinator of Department of Coordination of Strategy and Foreign Aid, Head of National Minority Committee, Head of Statistics Institute.

Status: **Implemented**

The round-table was organised on 10 December¹²². Quarterly meetings among donors and the implementing Ministries were proposed to monitor the Action Plan and to support the achievements of Action Plan objectives.

6. Implementation of the UNDP project for a two year period April 2008-April 2010 with a value of \$ 786.175. The project focuses on strengthening the Vulnerable Communities in Albania and supports the National Strategy for Roma. It is being implemented in collaboration with Terre des Hommes, Tirana Free Legal Services, the Fund Resident Coordinator for United Nations, Red Cross, UNFPA, UNICEF and government structures at central and local levels, responsible for the implementation of the Strategy. Currently the project is assisting to update the National Strategy for Roma and Action Plan of the "Decade of Roma Inclusion".

Responsible institution: Ministry of Labour and Social Affairs and Equal Opportunities

Deadline: March 2010

Status: **Implemented**

The UN joint program 'Empowerment of Vulnerable Communities in Albania' was implemented as foreseen in the NPISAA. The project aimed to increase and strengthen confidence, capacities and dignity of vulnerable Roma and Egyptian communities in Albania; reduce poverty, social exclusion and vulnerability, while valuing their diversity¹²³. This project has assisted directly the poorest and most marginalized Roma minority locally, facilitating their access to services such as civil registry, promoting participation in marginalized communities, develop infrastructure, improve opportunities of employment of Roma and Egyptian minority and development of partnership with government and Roma organisation to enforce the national strategy on Minority. Focused in the areas with a large Roma and Egyptians minority in the districts of Fier, Elbasan and Tirana the project has been implemented by various donors and partner organisations.¹²⁴ A second phase of this project has been approved and has started from April 2010 until April 2014, again in the areas of Fier, Elbasan, Tirana and for this phase also in Durres.

7. Thematic meetings aimed at promoting and strengthening the dialogue with representatives of minorities in Albania.

Responsible institution: Ministry of Foreign Affairs

Deadline: 2009

Status: **Implemented**

Based on the overarching objectives of strengthening dialogue with representatives of minority rights organisations and support their activities during 2009, these meetings aimed to inform the state structures on issues concerning minorities in Albania, to foster dialogue in order to preserve and develop minorities' cultural, linguistic, religious and national identity. Meetings were organised every month held with national structures in the premises of government institutions¹²⁵.

Moreover the Technical Secretariat for Roma at the MoLSAEO has supported various activities undertaken by the Roma organisations and other organisations working with the Roma community.

¹²² Interview with Head of Technical Secretariat of Roma and Director of Directorate of Monitoring of Cross-Sectoral Strategy, Ministry of Labor, Social Affairs and Equal Opportunities, Tirana – Albania

¹²³ <http://www.undp.org.al/index.php?page=projects/project&id=113> Retrieved 1 October 2010.

¹²⁴ Interview with Head of Technical Secretariat of Roma and Director of Directorate of Monitoring of Cross-Sectoral Strategy, Ministry of Labor, Social Affairs and Equal Opportunities, Tirana – Albania

¹²⁵ Interview with specialist of Human Rights, Minority and Reporting Sector, Directorate of International Organizations, Ministry of Foreign Affairs, Tirana - Albania

8. Round table with participation of minority organisations on improving the legal framework on minority rights.

Responsible institution: Ministry of Foreign Affairs

Deadline: 2009

Status: **Implemented**

Four round tables have been organised to inform on the legal framework related to minority rights, identification of areas for improvement in legislation necessary to guarantee respect of minority in line with provision of framework Convention for the Protection of National Minorities. Discussions focused on the problems minorities face and potential changes on improvement of legislation on minority rights were suggested.¹²⁶ However, no information is available on any initiatives on legal amendments regarding issues concerning minorities.

9. Seminar with leaders of organisations representing minorities in our country on the European Charter for Regional or Minority Languages.

Responsible institution: Ministry of Foreign Affairs

Deadline: 2010

Status: **Partially implemented**

One informative seminar was organised as an induction course about the legal conditions that are to be introduced prior to the adoption this document. The essential conditions to ratify the Charter are utilisation of minority languages in public administration; media and justice system are not met and little information is provided regarding work towards achieving them. The Albanian State has not fulfilled these conditions up to now for reasons not made public.¹²⁷

Medium-term measures (2010-2011)

10. Follow up Seminar in the framework of conclusion of second cycle of reporting about the Framework Convention for 'Protection of National Minorities'

Responsible institution: Ministry of Foreign Affairs

Deadline: April 2010

Status: **Implemented**

On 1st of July, the Ministry of Foreign Affairs organised a Follow Up seminar in cooperation with Council of Europe, on the implementation of Framework Convention for the Protection of National Minorities, with the participation of representative from line ministries, representatives of minorities and human rights organisation. The purpose of the meeting was to present the progress concerning the Framework Convention and discuss about initiatives taken so far and future ones for application of recommendations of Second Opinion of Counselling Committee and Resolution. Conclusions of this meeting will be reflected during the process of preparation of third cycle of report of the Framework Convention of Council of Europe, due for 2011¹²⁸.

11. Organisation of Project with UNDP and Swiss Cooperation in cooperation with central and local government for the completion of three year project scheduled to kick off in 2010 with main partner Technical Secretariat of Roma.

¹²⁶ Interview with specialist of Human Rights, Minority and Reporting Sector, Directorate of International Organizations, Ministry of Foreign Affairs, Tirana - Albania

¹²⁷ Interview with Human Rights Specialist, Minority and Reporting Sector, Directorate of International Organizations, Ministry of Foreign Affairs, Tirana - Albania

¹²⁸ Interview with specialist of Human Rights, Minority and Reporting Sector, Directorate of International Organizations, Ministry of Foreign Affairs, Tirana - Albania

Responsible institution: Ministry of Labour and Social Affairs and Equal Opportunities¹²⁹

Deadline: 2011

Status: **Implemented**

Under the 'ONE UN' program in Albania, UNDP is leading the second phase of the project 'Empowerment of Vulnerable Communities in Albania' extended in Durres.

The SDC-funded project (CEFA) has started from May 2009 through April 2012. It will aim at further enhancement of the social inclusion of Roma minority through education, empowering the community to decision-making and promoting the Roma minority rights.

C. Conclusion on the progress achieved

Based on the qualitative assessment, it is evident that most of the measures set out in the NPISAA's minority rights chapter are implemented. Increased mobilisation is noticed among state authorities as concerns improving the Roma community situation and the implementation of the Roma Decade Action Plan. The Action Plan has been drafted in a consultative spirit and it is based on several strategic documents and studies, such as the Strategies of Social Inclusion (2007-2013), Social Protection, the Anti-trafficking Strategy and studies conducted by UNDP, UNICEF, OSFA, CoE. Representatives of Roma organisations have a strong ownership on the Decade Action Plan, as they were also involved in lobbying with the Government to adhere to the Decade initiative.

Several capacity-building initiatives are taking place to support the strengthening of Roma NGO capacities but also of the active members of the community. As they mostly target active members of the community, more efforts should be devoted to supporting the most marginalised members.

No progress was detected as regards the ratification of the Council of Europe Charter for Regional and Linguistic Minorities which remains not ratified. Regarding the measures which aim at fostering dialogue, not enough work has been done to publicise these activities and their outcomes among the communities at large.

D. Expert evaluation on the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities.

Progress has been achieved in regards to minority rights protection.

Nevertheless, some of the measures and activities attached are inadequate i.e some activities consist of a mere organisation of one seminar or the organisation of a round-table to launch the Decade Action Plan. Measures should be reformulated and widened in scope to match the foreseen priorities. Measures outlined in the NPISAA do not reflect all the priorities set in the European Partnership document as regards linguistic rights of the Roma minorities.

Regarding increasing capacities, the Technical Secretariat for Roma at the MoLSAEO hired some personnel, (a Roma woman) but there is a need for 2 more persons to be hired to achieve the set objective. The financial items included in NPISAA, in Annex 5 of the NPISAA, do not allow one to understand how the budget is spent per each planned activity.

The Roma Action Plan is now the main document regarding Roma rights enforcement in Albania. Vis-à-vis the Strategy, the Action Plan is considered to be more in line with the requirements of

¹²⁹ Interview with Head of Technical Secretariat of Roma, Directorate of Monitoring of Cross-Sectoral Strategy, Ministry of Labor and Social Affairs and Equal Opportunities, Tirana - Albania

the Decade, uses a more correct terminology in reference to the Roma,¹³⁰ has clearer objectives, its indicators can be better measured and budgetary lines have been added.¹³¹ Yet, the Action Plan does not have a detailed annual or bi-annual plan which would allow for regular and better assessment of its impact and progress. Moreover, more political support and resources need to be allocated for its implementation. The People's Advocate calls upon the Albanian State to undertake thorough and concrete steps in particular in terms of education, birth and civic registration, employment, housing and infrastructure and above all in terms of access to health and hygienic living conditions.

Given the fact that the Roma have suffered from discrimination, marginalisation and continue to face severe and unique social problems, the NPISAA focus has been rightly placed on the situation of the Roma community. However, this should not prevent the GoA from undertaking necessary work to actively support the fulfilment of other ethnic-linguistic minorities in Albania, such as the Aromanians¹³², who continuously call for supporting the promotion of their cultural rights.¹³³

Another group which does not receive proper support is the Egyptian community. They are various from the Roma but still face similar problems such as poverty and discrimination. Occasionally, they benefit from measures targeting the Roma but this is not always the case. A proper consultation with representatives of the Egyptian community should take place, and an assessment should be undertaken to look into the possibility of granting them minority status and specifically include them in the Strategy or Action Plan measures.

Finally, the approval of the Anti-Discrimination Law No. 10221, dated 04.02.2010 is a major achievement towards the protection of minority rights, not only those of ethnic or linguistic minorities but also those of other marginalised groups. A complaint mechanism is foreseen by the law. The Commissioner for Protection from Discrimination can be addressed for complaints in the field of education, in the right to vote/ elected or appointed, employment, goods and services and so on. Awareness by the Roma and other marginalised communities on the provisions and mechanisms provided by this law is essential in order to allow them to seek protection.

E. Recommendations

Measures and related activities of the NPISAA should be formulated to address the most urgent priorities.

- Measures should continue to focus on fostering dialogue with ethnic minority representatives, in particular taking into account episodes such as the one which occurred in August 2010¹³⁴ as it might lead to the outbreak of hatred among a national minority and the majority community. Periodic meetings should be organised with minority representatives.

¹³⁰ Alphaia Abdikeeva and MRG partners, *Roma poverty and the Roma National Strategies: The cases of Albania, Greece and Serbia*, Minority Rights Groups International, 2005

¹³¹ According to Minister Ksera the budget lines needed for the Decade is 2 billion and 498 million Albanian Lek and for the first year 417 million Albanian Lek have been allocated. <http://lajme.shqiperia.com/lajme/artikull/iden/370637/titulli/Ksera-Plan-per-permiresimin-e-jetes-se-romeve-5-vitet-e-tjera>

¹³² The Committee for Racial Discrimination has recommended the Albanian authorities to review the criteria on which they distinguish between national and linguistic minorities, *ECRI Report on Albania*, Published 2 March 2010

¹³³ Raporti Vjetor Situata e të Drejtave të Njeriut në Shqipëri 2009, KRIIK Albania

¹³⁴ A young Albanian citizen, from the Greek minority died in a motor accident caused by two national Albanians. According to the media, in the middle of the fight the situation was aggravated when the young man of the Greek minority spoke to the two in Greek. This apparently led to a stronger dispute enticing the two to push the motorbike of the late man. The episode was condemned by all state authorities. http://www.bbc.co.uk/albanian/news/2010/08/100814_himara.shtml

- Under the lead of the Ministry of Foreign Affairs, more concrete measures should be outline and included to ratify the European Charter for Regional or Minority Languages.
- The European Partnership, the ECRI and studies conducted in the frame of the Roma Decade¹³⁵ recommended that the authorities carry out a national census including a question pertaining to the ethnic identity, while respecting the principles of confidentiality and voluntary self-identification.¹³⁶
- The Technical Secretariat for the Roma, MoLSAEO in close collaboration with line ministries and donors should produce multimedia public campaign to fight stigmatisation and discrimination of Roma.
- The media should play a stronger role “to combat the kind of reporting that fuels racism, discrimination and intolerance.”¹³⁷ MoLSEAO, the Ministry of Culture, Youth and Sports together with specialised organisations working with the media should encourage media to comply with ethical standards when representing minority issues – in particular when depicting the Roma community. More media space should be devoted to minority groups in particular in the public broadcaster. The People's Advocate and ECRI suggest that the public television should allow space to all minorities, particularly to the Roma community to promote their cultural values.
- Targeted capacity building sessions should be undertaken by MoLSAEO and TIPA¹³⁸ with specific target groups of professionals (public administration, education and health sector) to help fight the endemic discrimination against the Roma and Egyptian communities.
- The Technical Secretariat, MoLSAEO in collaboration with the UNDP and the Roma organisations should increase awareness-raising sessions with the most marginalised members of the community considering that surveys conducted by the People's Advocate Office and representatives of Roma NGOs state that marginalised members of the Roma community are not aware of the Decade Plan, the Anti-Discrimination Law and how they can benefit from such measures.
- The Action Plan of the Roma Decade is considered a cross-cutting document and its full implementation can be achieved only throughout coordination of all bodies: MoLSAEO, MoH, MoES, MoTCYS and local government bodies in particular municipalities/ communes with minority population. Specific measures in the NPISAA should clearly seek to address collaboration of actors to streamline Roma issues, tackling them with the required rigour.

¹³⁵ No data – No progress, Data Collection in the Countries Participating in the Decade of Roma Inclusion 2005 – 2015, http://www.soros.org/initiatives/roma/articles_publications/publications/no-data-no-progress-20100628

¹³⁶ The Minister of State announced that the next census headcount will also record ethnic and religious composition in an effort to end frequent disagreement on these figures. Announced on January 14, <http://www.gazetastart.com/lajm.php?kategoria=Aktualitet&nr=10037>

¹³⁷ ECRI Report on Albania, Published 2 March 2010

¹³⁸ Training Institute for Public Administration

IV. EUROPEAN STANDARDS

1. JUSTICE, FREEDOM AND SECURITY

1.1. Prevention of Money Laundering

A. Short description of the priorities and goals to be achieved in the respective field.

The fight against money laundering is considered as one of the main priorities of the Albanian Government in order to fulfil the SAA commitments but also the EC Road Map benchmarks in the framework of Visa Liberalisation process.

Actions foreseen in the NPISAA for the period 2009 – 2010 focus on specific objectives such as: better implementation of new legislation approved; further strengthening the capacities and coordination between the Financial Intelligence Unit, the Prosecutor's Office, State Police and other relevant enforcing agencies. Improving cooperation with counterpart units in countries and participation in relevant regional and international activities are also included as short- and medium-term objective. The Albanian Government has devoted special attention to the cooperation with other countries in order to prevent money laundering of the financial proceeds from criminal activities in general, and their use for purposes of financing terrorism in particular.

The plan is balanced in putting together adoption of legislation, capacity building and enforcement activities.

B. Qualitative Assessment of the implementation of each measure:

1. Implementation of new Law no. 9917, date 19. 05. 2008 "On prevention of money laundering and financing of terrorism".

Responsible institution : Ministry of Finance, GDPML, Prosecutions for Serious Crimes, High Inspectorate for the Declaration and Auditing of Assets, Albanian State Police, Bank of Albania, Intelligence Service, Agency for the Administration of Seized and Confiscated Assets, Tax Directorate

Deadline: continuous

Status: **Implemented**

The law is being implemented and no amendments are required to date. Several sublegal acts and cooperation agreements are enacted to implement the law. The law has included new enforcing agencies within its scope.

2. Develop and Adopt the Strategy in the Fight against Money Laundering, in the framework of the Twinning Project with the German counterpart Unit.

Responsible institution: MoF, GDPML, Line Ministries, Council of Ministers.

Deadline: 2009

Status: **Implemented**

The Strategy in the Fight against Money Laundering was adopted by a CoM Decision no.1077, date 27.10. 2009. It was drafted with the support of German Federal Police and it included wide consultations with national stakeholders.

3. Composition and proposal of an additional CoM decision related to individuals included as financing of terrorism in Black List of UN, in implementation of law no. 9258, date 15.07.2004 "On measures against the financing of terrorism".

Responsible institution: MoF, GDPML
Deadline: October 2009
Status: **Implemented**

Approved on 1 September 2010, "On some additions to the Council of Ministers decision no.718, dated 10.29.2004, On the list of persons declared as financing of terrorism". The decision is subject to revision accordingly with the update of the UN Black List.

4. Signing of cooperation memorandum with Canadian counterparts.
Responsible institution: MoF, GDPML
Deadline: 2009-2010
Status: **Partially Implemented**

Procedures are still ongoing to conclude the signing of the memorandum.

5. Signing of cooperation memorandum with Italian counterparts.
Responsible institution: MoF, GDPML
Deadline: 2009-2010
Status: **Not implemented**

Procedures are pending.

6. Signing of cooperation memorandum with Greek counterparts.
Responsible institution: MoF, GDPML
Deadline: 2009-2010
Status: **Not implemented**

Procedures are pending.

7. Signing of cooperation memorandum with Argentinean counterparts.
Responsible institution: MoF, GDPML
Deadline: 2009-2010
Status: **Not implemented**

Procedures are pending.

8. Signing of cooperation memorandum with Japanese counterparts.
Responsible institution: MoF, GDPML
Deadline: 2009-2010
Status: **Not implemented**

Procedures are pending.

9. Signing of memorandum between GDPML and Custom Authorities "On cooperation in the field of electronically exchanged information".
Responsible institution: GDPML
Deadline: September 2009
Status: **Implemented**

After signing the Memorandum of Understanding "On cooperation in the area of electronic information exchange", GDPML now has the required electronic access to the data of the

Customs Authorities. During the first quarter of 2010 GDPML has signed a number of Memoranda of Understanding with the National Registration Centre, the National Agency for Information Society and the General Directorate for the Traffic Control.

10. Organisation of round-tables with the Contact Group (technical inter-institutional), and other related structures: EU directives, FAFI's 40+9 recommendations and the appropriate institutional and national strategies for aligning national inter-institutional and international standards in the fight against ML/FT.

Responsible institution: MoF, GDPNL

Deadline: continuous

Status: **Implemented**

Several meetings and round tables have been organised such as: meeting of EU Liaison Officers for the Balkan region in Tirana; participation in the 4th Conference of the Heads of Regional Financial Intelligence Units (FIU) in Kragujevac, Serbia; meeting with Director of the Investigation Department of Taxation, etc.

11. Increase administrative capacities of FIU (addition staff)

Responsible institution: MoF, GDPNL

Deadline: 2009

Status: **Implemented**

During 2009 the number of employees of the Albanian Financial Intelligence Unit was increased from 22 to 26. Sectors of Information Technology and Analysis have benefited from this increase. Staff is being trained in activities organised in cooperation with national and international partner institutions. Up to the end of 2010 FIU will increase its staff with an additional 5 experts.

12. Training of all subjects of law no. 9917, date 19. 05. 2008 for the prevention of money laundering and financing of terrorism.

Responsible institution: MoF, GDPNL, State Police, General Prosecution Office

Deadline: 2009, Continuous

Status: **Implemented**

During 2010, due to the implementation of the Annual Training Program, 23 training sessions were conducted by the General Directorate of the Albanian State Police with the participation of 460 specialists of the structures against money laundering and corruption and also in the framework of the annual plan of cooperation of the State Police with the Belgium police, the Twinning Project with the German Federal Criminal Police Office (BKA) on the training of officers and prosecutors of the Joint Investigation Units against corruption and organised crime by OPDAT and TAIEX.

13. Inspection of subjects of law 9917, date 19.05.2008, for a better implementation of law

Responsible institution: GDPML

Deadline: 2009, Continuous

Status: **Implemented**

GDPML through implementing its annual plan has conducted during the year 2009 a total number of 146 on-site inspections including banks (8), non-banking financial institutions (8), exchange offices (3), and leasing companies (4). The on-site inspections of banks and exchange

offices are continuing in 2010. Upon the completion of inspections GDPML has notified the Bank of Albania as the supervisory authority in charge.

14. Twinning with the German counterpart unit.
Responsible institution: Law enforcement agencies
Deadline: 2009
Status: **Implemented**

The twinning project with the German Federal Criminal Police Office has started implementation under the project CARDS AL04/IB/JH/04 funded by the EU delegation in Albania, "On the fight against money laundering and financial crime". Beneficiary institutions include the State Police, Customs Authorities, Tax Authorities, and the Directorate General of Prevention and Money Laundering.

15. Establishment and functioning of the working group for drafting the Strategy in Fight against Money Laundering.
Responsible institution: MoF, GDPML, Line Ministries
Deadline: 2009
Status: **Implemented**

In October 2009, the Council of Ministers approved the National Strategic document "On the investigation of financial crime". Experts from all the institutions involved in the implementation of the document have attended periodic meetings where all the institutional developments and measures taken with regard to the implementation of various objectives and activities undertaken are reported. The overall implementation of the document is overseen by the Committee for the Coordination of the Fight against Money Laundering.

16. The establishment and development of a modern database in order to exchange information quickly between the FIU and other enforcing structures.
Responsible institution: GDPML
Deadline: 2010
Status: **Implemented**

The GDPML uses a modern structure of computer equipment, made possible from the financing of the CARDS 2004 Program. This modern system allows the GDPML to obtain and analyze information online from the reports of the second level banks or other reporting agencies, using secure channels of information. The system allows for the processing of high quantities of reports and analysis. It brings flexibility in the use of analytical software by increasing the quality and speed of the GDPML work.

C. Conclusion on the progress achieved

Based on the qualitative assessment it is evident that most of the measures envisaged (eleven) are **implemented**. **The four that are not implemented and the one that is partially implemented concern the conclusion of cooperation agreements with international counterparts.**

Money laundering is one of the fields strongly related to the Visa Liberalisation process being embedded in Block 3 of the EC Road Map for Albania. The progress achieved in this field has

been supported and influenced by frequent EC expert missions¹³⁹ and recommendations that followed. Since the first evaluation missions commenced at the beginning of 2009, there have been great efforts to comply with the best international practices and procedures. The GDPML has made very good progress in embracing the three EU Directives on Money Laundering and Terrorist Financing as well as the Financial Action Task Force (FATF) 40+9 recommendations. Currently all commercial banks in Albania do report electronically to GDPML all the cash and non-cash transactions exceeding the thresholds stipulated in the national legislation. The cooperation with the Prosecution Offices for Serious Crimes, the High Inspectorate for the Declaration and Auditing of Assets, Albanian State Police, Intelligence Service, Agency for the Administration of Seized and Confiscated Assets and the Tax Directorate has increased considerably.

D. Expert evaluation of the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities.

The measures foreseen in the NPISAA are adequate and act in response to the current needs of the country in the fight against money laundering. They reflect the priorities set in the SAA, and European Partnership Document. The GDPML as the main actor in the field of money laundering has drafted most of the actions foreseen in the plan. Although, at the national level there are a lot of other relevant institutions and law enforcing agencies involved which are rarely mentioned in the NPISAA as leading institutions with specific activities to be implemented under their area of responsibility. Institutions like the Prosecution Office and Courts are crucial for achieving sustainable success in this area. Since the fight against money laundering is at an early stage¹⁴⁰ the cooperation between agencies is very important in order to ensure appropriate sharing of duties and responsibilities.

E. Recommendations

- The NPISAA should avoid including less relevant activities like “participation in roundtables” which have little measurable effect.
- The NPISAA should avoid including generalist activities like “implementation of the law...” lacking measurable indicators and being difficult to assess the progress or shortcomings. Such measures could be broken down in key actions assigning to each of them the responsible institution/s and specific deadlines.
- Although GDPML should play a key role in the fight and prevention of money laundering other institutions like Economic Crime Directorate at the State Police, Department of Tax Investigation, Prosecution, and Courts should increase their presence in this key strategic document.
- The GDPML should put special efforts to overcome the delay in the conclusion of cooperation agreements with international counterparts.

¹³⁹ See EMA Policy Paper “Monitoring the Visa Liberalisation Process with Albania: What to expect when you are expecting?” May 2010, page 7

¹⁴⁰ EC Albania 2009 Progress Report, 4.3.2. Money laundering, page 47. Brussels, 14.10.2009

1.2. Fight against Drugs

A. Short description of the priorities and goals to be achieved in the respective field.

Albania continues to represent an origin and a transit point for: cannabis product, illegal immigrants/victims of trafficking, heroin, cocaine and arms into the European Union¹⁴¹. Therefore, the fight against organised crime and particularly against drugs in Albania continues to be an issue of concern in spite of encouraging results achieved in this sector in the last years.

Priorities of the Albanian Government stated in the NPISAA are to improve interaction and coordination between state and non-state institutions engaged in the fight against drugs, to control negative effects on society and public health of drug use, and to strengthen cooperation with international organisations and other countries. Anti-drug policies and actions intend to reduce supply, reduce demand for drugs trafficking and illegal, and to exercise more effective control of offenders in this regard.

Activities foreseen in the Plan include legislative initiatives and general implementation activities related to main strategic document existing in this field.

B. Qualitative Assessment of the implementation of each measure:

1. Approval of a legal act on the functioning of the National Committee of Coordination of the Fight against Drugs, the Secretariat of the Committee and the National Centre.

Responsible institution: Ministry of Interior (MoI)

Deadline: 2010

Status: **Partially Implemented**

The legal act is not approved yet but work has commenced for its implementation. Prime Minister's Order No 26, dated 03.02.2010 "On the establishment of an inter-institutional working group, who shall compile the regulation on the functioning of the National Coordinating Committee in the Fight Against Drugs and the Database Centre for gathering and analyzing the data in the field of narcotic substances" has already been approved. The working group has commenced its work along with the assistance of European Monitoring Centre for Drugs and Drug Addiction.

2. Approval of a Common Instruction between Ministry of Health and Ministry of Interior for issuing of the permits to use facilities for production, manufacture, trade etc, of narcotic substances.

Responsible institution: MoH, MoI

Deadline: 2009-2010

Status: **Not implemented**

The legislative measure has been postponed to 2010-2011.

3. In cooperation with Ministry of Justice changes to the Code of Criminal Procedures will be proposed that in case of seizures of substantial quantities of narcotics, to allow for disposal of them, before the end of the judicial process.

Responsible institution: MoI, MoJ

Deadline: 2009

Status: **Not implemented**

¹⁴¹ European Organised Crime Threat Assessment, Europol 2009.

The amendments in the Criminal Procedures Code are being postponed to be drafted in 2011.

4. Implementation of National Anti-Drugs Strategy and Action Plan.

Responsible institution: MoI, Line Ministries, Prosecutor's Office, Local Government Units

Deadline: Continuous

Status: **Implemented**

The strategy and its action plan are now in the last year of implementation. Different actions such as the improvement of infrastructure, strengthening of capacities, training, and so on have been carried out. During the past few months, human resources in relevant police structures, in particular in the units dealing with drugs trafficking have been increased. 23 new functions have been allocated to the local police structures against narcotics and illegal trafficking in the regions. 10 new functions are assigned for specialists in the local structures against narcotics (in the Regional Police Directorates of Durrës, Shkodër, Elbasan, Fier, Korçë, Kukës, Dibër, Gjirokastrë and Berat). At the local level the total numbers goes to 106 (a 10% increase), and 119 for the whole national structure against narcotics.

The Police Training Centre in Tirana has conducted trainings focusing on general knowledge on drugs, main areas of production, international routes of trafficking and their training from the moment of their seizure to their destruction. As for infrastructure improvement, 4 Border Crossing Points have been equipped with drugs discovery tools.

5. Keep the current number of operations and fight of criminal groups.

Responsible institution: MoI, General Prosecution Office

Deadline: Continuous

Status: **Implemented**

Albanian authorities have continued operations to fight criminal groups within the country and at the same time have increased international cooperation. In mid-2010¹⁴² 7 criminal groups involved in trafficking and distribution of narcotics were discovered and 37 perpetrators criminally prosecuted. There were 8 operations conducted using special investigative techniques and 6 international operations conducted with Italy (4), Denmark (1), and Kosovo (1).

6. Draft and implement each year a specific Plan to fight cultivation of narcotic plants.

Responsible institution: MoI, Local Government

Deadline: Continuous

Status: **Implemented**

The Minister of Interior has approved Action Plan No. 920/1 dated 25.03.2010 for the prevention of and fight against the cultivation of narcotics and holding offenders legally responsible. The plan aims at preventing the cultivation of narcotics and furthermore identification of persons involved in this criminal activity and annihilation of cultivated narcotic plants. The local government and other state institutions were involved in the implementation of the plan. In all districts, the Regional Committees chaired by the Prefects have been established and are functioning. The action plan provides for the increase of inter-institutional cooperation and co-operation with international partners.

¹⁴² Figures reported in the framework of Visa Liberalisation Process.

C. Conclusion on the progress achieved

Based on the qualitative assessment it is evident that half of the measures included in this chapter are **implemented (three), whereas with regard to the other half, two measures have not been implemented and one is partially implemented.**

The fight against drugs like most of the chapter included in the Justice and Home affairs section of the plan is part of the Visa liberalisation process. As such, the Albanian Government has devoted a lot of attention and resources during 2009 – 2010. Progress in this area has been good when compared to the previous years although there is still a lot of room for improvement in particular in relation to the coordinated reaction of the government agencies. Most of the postponed measures particularly the legislative ones, require the involvement of various ministries or agencies. In this regard, a clear division of responsibilities between institutions is needed to increase their accountability and to identify the problematic areas in need of further intervention.

D. Expert evaluation of the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities.

The NPISAA chapter on the Fight against Drugs does not offer a clear view of all measures taken by the Albanian ministries and law enforcing agencies. Other national documents and reports¹⁴³ provide relevant information in this field but are missing in the plan. Key issues such as the improvement of controls in the border crossing points; preventive activities and campaign against the use of drugs; the need for a data collection centre on drugs; the extension of the Memex System in the regional police directorates; the use of special investigative techniques; etc, are not only important for a coordinated fight against drugs but also easy measurable for the purpose of assessing the progress achieved.

There is only one ministry (MoI) in the Plan laying down the activities and initiatives, also bearing the responsibility for their accomplishment. Other state institutions play a second hand role according to the Plan, partially explaining the high rate of not implementation of the legislative acts requiring their involvement.

Local government units although playing a key role in the fight against narcotics plants are not included directly in this document. Being part of the NPISAA could facilitate bringing the fight against drugs also in the strategic documents of local authorities increasing the reaction and at the same time the results produced. Apart from the restrictive measures imposed (such as criminal prosecution for representatives of local units where narcotic plants grow) the Albanian Government has not dedicated space in the NPISAA to the economic development of these areas as an alternative. Having in mind the limited resources of the local institutions this intervention could be undertaken only from the central government.

This part of the Plan, same as for the other chapters, suffers from the frequent use of non-measurable or hard-to-measure activities like “implementation of the National Anti-Drugs Strategy and Action Plan”. These kind activities which imply a wide range of actions and actors during their execution can be broken down in key activities easing the division of duties and responsibilities.

E. Recommendations concerning the measures planned.

- Include in the NPISAA tangible key measures foreseen in other strategic documents like the National Anti-Drugs Strategy and Action Plan. The implementation of the Anti-Drugs Strategy is based on the interaction between several ministries and agencies and does not lie with the work of the State Police alone. To increase the implementation level and its

¹⁴³ Reports of GoA in the framework of Visa Liberalisation Process, Albanian answers to the EC Questionnaire, etc.

monitoring, key actions from each of the institutions should be mentioned in the NPISAA such as:

- Increased level of knowledge, attitudes and skills at university students to oppose the use of drugs, through strengthening school curricula on drug prevention and by supporting effective prevention programs; (Ministry of Education and Science)
 - Creating a treatment system for treatments related to the socialisation of individuals or groups affected by the use of drugs (Ministry of Health)
 - Creating the operational and financial infrastructure for the application of special techniques in the fight against drugs, such as undercover operations, infiltration, etc. (State Police, MoI)
 - The installation of a unique network of computing software for the processing and analysis of data (Intelligent State Service);
-
- Include Local Government authorities in the Plan to increase the fight against cultivation of drugs at the local level. Local Government units play an irreplaceable role regarding the identification of the risk of narcotics cultivation in their consistency and also to inform farmers about the risks that illegal cultivation carries for them personally and also at a larger scale for the community (social and economical problems). These activities should be included in the strategic documents and should be monitored by the responsible bodies. (e.g. MoI, National Committee of Coordination).
 - When drafting new Anti-Drugs Strategies, the Ministry of Interior (MoI) and other institutions should align their objectives and measures with the requirements of the NPISAA and relevant EU documents for Albania. The legal initiatives content and deadlines should match in both documents (NPISAA and Anti-Drug Strategy) so as to increase implementation prospects.
 - Other than restrictive actions, the Albanian government should include specific incentives and offer development programs in areas where narcotic plants are cultivated. Many countries have subsidised farmers so that they refrain from cultivating narcotic plants especially in the remote areas, through providing seeds, agricultural equipment, and even financial support in order to make the cultivation of legal plants profitable for them.

1.3. Fight against Organised Crime and Illegal Trafficking

A. Short description of the priorities and goals to be achieved in the respective field.

As envisaged in the NPISAA, combating human trafficking, one of the most dangerous types of organised crime, constitutes a priority for the Albanian Government as well as a very important element in the context of Albania's integration into the European Union¹⁴⁴.

Priorities in the fight against human trafficking are inspired by the European Partnership with Albania and concern ensuring witness protection, strengthening internal and international cooperation to prevent trafficking of human beings as well as increases in anti-trafficking police staff. The measures foreseen to address these priorities are a combination of legislative initiatives and practical activities aiming to increase the level of coordination and efficiency among responsible institutions. Few measures involve indirectly capacity building activities.

B. Qualitative Assessment of the implementation of each measure:

1. Drafting of the new law on witness protection.

Responsible institution: Ministry of Interior, Ministry of Justice;

Deadline: 2009 - 2010

Status: **Implemented**

The new Law No. 10173, dated 22.10.2009 “On the protection of witnesses and justice collaborators” has been adopted. Amongst other things, it enlarges the scope of protection (crimes for which witness protection is foreseen) and extends the powers of the Directorate for Witness Protection. For example, it provides to the Directorate the right to sign international agreements on concrete protection programmes concerning the change of residence of witnesses outside Albania.

It remains to be seen whether the new law will be able to correct one of the major deficiencies in the implementation of the previous legislative framework – the inclusion of victims of human trafficking in witness protection schemes¹⁴⁵.

2. Develop and adopt a joint order between the Minister of Interior and Justice Minister ‘On the provision of separate facilities in prison institutions for the collaborators of justice’.

Responsible institution: MoJ, MoI

Deadline: With the entry into force of the new law, 2009

Status: **Not implemented**

The joint order has not been adopted yet, but both ministries foresee to adopt it during 2011. The main reason for postponing this important legal initiative is related to the lack of infrastructure and the need for considerable investments. When the act will be approved it will need guaranteed financial support from the responsible institutions in order to be properly implemented.

3. Draft for the amendment of Article 75/a "Competences of the Serious Crimes Court in the Law Nr.9276, date 09.16.2004. The purpose of the change in this article is the inclusion of

¹⁴⁴ NPISAA 2009 – 2014, Op. Cit., pg. 784

¹⁴⁵ Report “Zhvillimi dhe zbatimi i legjislacionit shqiptar, në luftë kundër trafikimit të qënieve njerëzore me fokus në mbrojtjen dhe garantimin e të drejtave të viktimave të trafikimit të qënieve njerëzore”, Centre for Legal Civic Initiatives, Tirane, 2009, pg. 24. http://www.qag-al.org/WEB/deklarata/2010/Raport_trafikimi_al.pdf

Article 141 / "trafficking in motor vehicles" as a criminal offence within the jurisdiction of the Court for Serious Crimes.

Responsible institution: MoJ

Deadline: 2009

Status: **Not implemented**

Amendments to the Codes requires qualified majority in the Albanian Assembly which has been achieved only in a few cases when both the governing majority and the opposition have agreed to vote the draft laws. Therefore, this initiative is still not implemented, and until agreement between the two major political forces will be achieved, it is difficult to give an estimate time for the implementation of this initiative.

4. Full implementation of the National Strategy for Fight against Trafficking of Human Beings 2009-2010, as well as of the additional document "Strategy for the fight against child trafficking and protection of children victims of trafficking".

Responsible institution: See below

Deadline: Ongoing

Status: **Partially Implemented**

The main structures responsible for the implementation of the Strategy for Fight Against Trafficking of Human Beings 2009-2010 are the Responsible Authority¹⁴⁶, the State Committee on Combating Trafficking in Human Beings, the Anti-trafficking Task Force, the Office of the National Coordinator for Fight Against Human Trafficking, hereinafter National Coordinator, (distinguished for the proactive role played so far), the State Social Service and State Police as well as the Regional Anti-trafficking Committees. In addition to these state structures, several human rights NGOs are active, most of which came together in the coalition Together against Child Trafficking.

In order to ensure the implementation of the strategy, upon the proposal of the National Coordinator, in January 2010, the Minister of Interior has drafted Instruction no. 30, dated 05.02.2010 "On the joint actions of the structures implementing the National Strategy for Combating Human Trafficking", which clearly defines the division of tasks and responsibilities among all anti-trafficking structures in place, both at central and local level. Furthermore, the General Director of the State Police has issued Order No. 69, dated 25.01.2010 "On the coordination between central and local government structures to fight trafficking in human beings and identify victims of trafficking". The National Coordinator organises regular round tables (once a month) with stakeholders. However, attendance to the meetings is not regular, especially from the representatives of the State Social Services.¹⁴⁷ So is reporting from the Anti-trafficking Task Force and the Regional Anti-trafficking Committees. Finally, responsible institutions are reluctant to fully assume their coordination role towards central or local bodies depending on them.

5. Full operation of the Responsible Authority for the National Referral Mechanism (MKR), which coordinates the referral process for initial assistance and protection and long-term rehabilitation of victims of trafficking.

Responsible institution: Ministry of Interior (MoI), The Ministry of Labour, Social Affairs and Equal Opportunities (MoLSAEO), Ministry of Foreign Affairs (MoFA)

¹⁴⁶ An *ad hoc* structure for the coordination of actions composed of representatives (2 from each institution) of the State Police, the State social Services and the Ministry of Foreign Affairs.

¹⁴⁷ Interview with Danjela Shkalla, Representative of Koalicioni Bashkë Kundër Trafikimit të Fëmijëve (BKTF), Tirana, 15 September 2010.

Deadline: Ongoing

Status: **Partially Implemented**

The Responsible Authority (PA)¹⁴⁸ is the structure that coordinates the identification, return, reception, referral, assistance and reintegration of victims and/or potential victims of trafficking. The authority consists of the State Police, the State Social Services and the Ministry of Foreign Affairs (two members from each institution). The authority has the duty to cooperate with structures in Albania and beyond, to identify victims of human trafficking and ensure that all services and protection are offered in full respect of their fundamental rights. In addition, the authority also has the responsibility to register and periodically report on trafficking cases referred to in the national database of victims of trafficking. Despite having held a couple of meetings in 2009, the authority cannot be considered fully operational without the will of various authorities to strengthen joint actions. Irregularity in the frequency of meetings and reporting has direct repercussions on the functioning of the National Referral Mechanism (NRF). Also, the lack of Standard Operating Procedures regarding the NRF currently hampers the efficient division of tasks and coordination among different institutions.¹⁴⁹ On a positive note, during the monitored period, about 270 employees of the police and around 200 judges were trained with a view at ensuring a better functioning of the NRF.¹⁵⁰

6. Full Functioning of Regional Anti-trafficking Committees established by the Prime Minister's Order no. 139, dated 06.19.2006 "On Establishment of Regional Committee of the Fight against Trafficking in Human Beings."

Responsible institution: See below

Deadline: Ongoing

Status: **Partially Implemented**

The Regional Anti-Trafficking Committees (RATCs) were established with the aim of extending anti-trafficking activities at the local level. They are chaired by the Prefect of the region/qark and compose of the Mayor of the town or centre of each qark, the Director of the Regional Department of the State Social Services, the Regional Director of Employment, the Director of the Police Department of the Qark, the Regional Director of the National Intelligence Service (NIS), the Director of the Regional Department of Education and the Director of the Department of Public Health. In 2009, several training sessions involving 300 employees of the RATC have been organised nation-wide jointly by the Office of the National Coordinator and the OSCE Presence in Albania¹⁵¹. However, RATCs cannot be considered fully efficient as long as meetings in many of them are not regular, reports are often unclear and not all cases of persons protected are reported¹⁵². Furthermore, the state social service is not fully equipped with qualified staff (social workers) and only operates during normal office hours. Little or no field work is conducted from its employees. The fact that no one is available to deal with a case after 4 p.m. and at the weekend significantly compromises the institution's efficiency in protecting persons from human trafficking.

¹⁴⁸ Established through the Joint Order no. 1192, dated 19.05.2006 of the Minister of Interior, Minister of Foreign Affairs and Minister of Labour, Social Affairs and Equal Opportunities.

¹⁴⁹ The National Coordinator, in collaboration with IOM presence in Albania is currently working for the introduction of such procedures in the near future.

¹⁵⁰ Report of Iva Zajmi, the National Coordinator for the Fight against Human Trafficking on the implementation of the National Strategy on the Fight against Human Trafficking, 2009 –2010, pg. 3.

¹⁵¹ Ibid.

¹⁵² Interview with Danjela Shkalla, Representative of Koalicioni Bashkë Kundër Trafikimit të Fëmijëve (BKTF), Tirana, 15 September 2010. Also the National Coordinator raises the issues.

A positive example of work at local level to fight or prevent human trafficking is constituted from the Child Protection Units (CPU) created in 16 municipalities from a UNICEF – Terre des Hommes joint project.

7. Increase the number of female employees in anti-trafficking units and border crossing points.
Responsible institution: Ministry of Interior
Deadline: N/A
Status: **Implemented**

The number of female employees working in the anti-trafficking units and border crossing points has indeed increased in the past year. However, civil society representatives have raised their concern that this increase in female staff may not bring about any improvement as long as no attention is paid to employ social workers.¹⁵³

8. Implementation of the Agreement between the Government of the Republic of Albania and the Government of the Hellenic Republic on the protection and assistance of children victims of trafficking.
Responsible institution: Ministry of Interior
Deadline: Ongoing
Status: **Implemented**

This agreement was signed in 2006 and Albania adopted Law. No. 9544, of 29 May 2006 to ratify it, but its ratification from the Greek part was delayed until July 2008. The agreement itself is quite ambitious in terms of the level of cooperation it foresees. For example, it requires previous notification from the Greek police and preparation from the Albanian authorities before the return of every single trafficked child. Unfortunately, lack of capacities to reach such a high-level of coordination is lacking on both sides.¹⁵⁴ This could partially explain the delay in the application. The actual implementation commenced in August 2009. To date, 4 cases of collaboration in the identification, return and reintegration of trafficked children have been reported.¹⁵⁵

9. Efficient use of the database for victims of trafficking, for generating complete information on the cases of trafficking victims returned, referred, treated and protected in Albania.
Responsible institution: Responsible Authority
Deadline: Ongoing
Status: **Partially Implemented**

The database of victims of human trafficking is in place and is continuously updated. However, it cannot be considered fully operational as long as it is not detailed enough with information in order to have a clear picture of the cases of human trafficking. Disagreements on who should be considered a victim of human trafficking undermine the full efficiency of the database. While institutions such as the office of the National Coordinator recognizes the phenomena of human trafficking within the country (e.g. from Berat to Vlora), other authorities (e.g. Prosecutors) do not. Furthermore, full reporting of the cases from the part of all structures involved in prevention, identification, protection and reintegration of victims of human trafficking is required for a more complete database. Currently, no exact information is stored on what happens after victims of

¹⁵³ Interview with Danjela Shkalla, Representative of Koalicioni i Bashkë Kundër Trafikimit të Fëmijëve (BKTF), Tirana, 15 September 2010.

¹⁵⁴ Ibid.

¹⁵⁵ Report of Iva Zajmi, the National Coordinator for the Fight against Human Trafficking on the implementation of the National Strategy on the Fight against Human Trafficking, 2009 –2010, pg. 9.

human trafficking (including minors) leave the shelters. This means that no follow up of the cases of reintegration is carried out.

C. Conclusion on the progress achieved

Based on the qualitative assessment it is evident that most of the measures are **either implemented (three) or partially implemented (four)**. **Out of the two not implemented measures the one concerning the** development and adoption of a joint order between the Minister of Interior and Justice Minister 'On the provision of separate facilities in prisons institutions for the collaborators of justice' is postponed to 2011 and the other concerning draft for the amendment of Article 75/a "Competences of the Serious Crimes Court in the Law Nr.9276, date 09.16.2004 with the purpose to include Article 141 / "trafficking in motor vehicles" as a criminal offence within the jurisdiction of the Court for Serious Crimes needs a qualified majority voting of the Albanian Parliament which is difficult to achieve.

Overall, the work of fighting the trafficking of human beings has continued and has reached some progress during the monitored period. Some institutions, amongst which the Office of the National Anti-Trafficking Coordinator, have played a proactive role in addressing the issues. Some progress has been made in relation to international cooperation and also from the legislative point of view, especially with regard to ensuring witness protection or including victims of human trafficking in the social scheme (making them eligible to receive economic assistance). However, full inter-institutional cooperation which would guarantee the reintegration of victims, from identification to employment lacks. In particular, the lack of coordination between central and local authorities remains a serious obstacle to addressing issues such as the registration of children or the situation of street children. This has significant repercussions on the fight against human trafficking. Furthermore, a non-reformed state social service remains an obstacle to the full implementation of the National Strategy for Fight against Trafficking of Human Beings 2009-2010. There are discordances among different actors in recognising internal human trafficking and insufficient qualified staff (especially social workers) at the borders.

D. Expert evaluation of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities.

Measures foreseen in the NPISAA to achieve the main goals in the fight against human trafficking such as ensuring witness protection, strengthening internal and international cooperation to prevent trafficking of human beings as well as increasing the anti-trafficking police staff may be considered fairly adequate. Some of the responsible institutions seem to have a relatively good picture of the main challenges and to have identified the ways to overcome them. Others are more reluctant in fully assuming their role. Overall, measures could be more explicitly aimed at guaranteeing good cooperation between authorities at all levels (especially between central and local government) and increasing qualified staff (social workers) at the borders.

E. Recommendations concerning the measures planned.

- Institutions such as the Responsible Authority¹⁵⁶, the State Committee on Combating Trafficking in Human Beings, the Anti-trafficking Task Force, the Office of the National Coordinator for Fight Against Human Trafficking, the State Social Service and State Police as well as the Regional Anti-trafficking Committees should ensure continuous participation in meetings as well as regular reporting. Meetings of the Responsible Authority and those of the RATCs should be held more frequently (every other month at the latest).

¹⁵⁶ An *ad hoc* structure for the coordination of actions composed from representatives (2 from each institution) of the State Police, the State social Service and the Ministry of foreign Affairs.

- The MoLSAEO should fully assume its role, participating in the meetings and/or working groups, collaborating with other state institutions and NGOs.
- With the initiative of the MoLSAEO, the Government should reform the State Social Service in order to ensure its availability 24/7 and go beyond mere inspections of the quality of standards, by providing proper social support.
- In order to prevent re-trafficking, the State Social Service should ensure that trafficked individuals ending their residence in the shelters (reception centres) are monitored and followed up until deemed out of risk.
- Standard Operating Procedures concerning the NRM should be efficiently applied by the MoI as soon as possible. This implies that training of police officers and state social workers should be foreseen.
- The presence of social workers and special facilities (separated from detention rooms) for the treatment of victims of human trafficking should be provided in each border crossing point.
- Prosecutors should further support victims of human trafficking by carefully explaining to them the legal guarantees available as well as the benefits of being included in the Witness Protection Programme.
- There should be a common view amongst all institutions on what is to be considered human trafficking and, in order to ensure full protection of individuals, it should accept and fight the phenomena of internal trafficking.
- Concerning the protection of children, a positive example of work at local level to fight or prevent human trafficking is constituted from the Child Protection Units (CPUs) which gather multidisciplinary groups composed of various professionals, dealing with specific cases. These units, currently existing in 17 municipalities should be extended and should operate efficiently across the country to support reintegration and protection interventions.
- The Ministry of Foreign Affairs should work (in collaboration with the Ministry of Interior) to enable consular services to be involved in different cases of human trafficking, especially when involving minors such as in cases of return, within the framework of their role in the transnational referral mechanism.
- The Ministry of Justice should plan ahead in its budget funds needed to provide separate facilities in prisons institutions for the collaborators of justice.
- The major political parties should reach a consensus on approving laws and amendments to the civil and criminal codes in order to improve and update the legislative framework affecting the fight against organised crime. These changes could be part of the initiatives taken in the chapter of Judicial Reform to facilitate their approval and to simplify the lengthy legislative procedures.

1.4. Fight against Terrorism

A. Short description of the priorities/goals to be achieved in the respective field.

The fight against terrorism is one of the main commitments of the Albanian Government, in the framework of international obligations arising from conventions and other international instruments which Albania is a party to.

Albanian authorities will continue to cooperate with other countries, to develop and implement legislation and the efficient functioning of appropriate structures and mechanisms for combating terrorism. The Government continuously works to strengthen its legislation in order to prevent any terrorist-related activities in Albania. All Albanian institutions are fully committed to be actively engaged to all their capabilities in the global fight against terrorism, viewing it as a threat and enemy of peace, security and democracy in the world. Such objectives are described in the NPISAA and they range from legislative improvements to trainings and field missions abroad.

B. Qualitative Assessment of the implementation of each measure:

1. Approval of the Fight Against Terrorism Strategy.

Responsible institution: MoI, Line ministries, State Police

Deadline: Continuous

Status: **Partially implemented**

The Strategy on the Fight against Terrorism has not been approved yet and its approval is expected in 2011. In the meantime, the Action Plan adopted by the Council of Ministers' Decision No.1103, dated 11.14.2009 "On approval of the Action Plan of the Inter-sector Strategy of Fight against Organised Crime, Trafficking and Terrorism" addresses the fight against terrorism. Progress has been reported in this area in the framework of the visa liberalisation process¹⁵⁷.

2. Approval of the rules of operation of the Department of Fight against Terrorists Acts, State Police.

Responsible institution: MoI, State Police

Deadline: 2009

Status: **Not implemented**

This initiative has been carried over to 2011.

3. CoM decision on the amendment to the Department of Fight against Terrorists Acts, State Police

Responsible institution: MoI, State Police

Deadline:

Status: **N/A**

The status of this initiative is the same as the above-mentioned one. It should be removed from the Plan.

4. CoM decision on the Coastguard

Responsible institution: MoI, MoD

Deadline: 2009

Status: **Implemented**

¹⁵⁷ EC proposal on the fulfillment of the open benchmarks by Albania, SEC(2010) 1085 final

This initiative was implemented with Decision no. 954 dated 09.30.2009 "On the organisation, structure and functioning of the Inter-institutional Maritime Operational Centre (IMOC) and cooperation with other state institutions that have an interest in maritime issues", and Decision no. 1125 dated 13.11.2009 amending the above-mentioned decision. The organisational structure of the Police Service in the IMOC was established through these decisions, and 8 experts from the State Police are now assigned to this service.

5. Increased cooperation with port authorities, customs, airports and border institutions.
Responsible institution: MoI, State Police
Deadline: Continuous
Status: **Implemented**

Progress has been achieved in the cooperation between institutions operating at border control points. Based on the Decision of the Council of Ministers No. 1018 of September 2009 on Standards and Criteria of Checks at Border Crossing Points (BCPs) in the Republic of Albania, an analysis was undertaken at all BCPs. The analysis concluded that most of the required standards and criteria were met in 24 BCPs

The Integrated Coastal Surveillance System enables operators and the Border and Migration Police (BMP) to react when needed throughout the entire area covering Albanian territory at sea. The BMP officer contacts via telephone the responsible Regional Directorate who sends the necessary patrols in operation.

6. Exchange of information with other state structures, development of common operations, and special training for protection of military infrastructure.
Responsible institution: MoD
Deadline: Continuous
Status: **Implemented**

This measure falls under the cooperation framework deriving from NATO membership. New structures and liaison officers have been appointed to carry out these tasks.

7. Preparation of peace-keeping contingents in Afghanistan: in Herat, 4th cycle, in Kabul, 15th cycle, Medical Team 9th cycle, OMLT team (in Mazari Elsherif), 2nd cycle.
Responsible institution: MoD
Deadline:
Status: **Implemented**
8. Preparation of a peace-keeping contingent in Bosnia- Herzegovina, 4th cycle
Responsible institution: MoD
Deadline:
Status: **Implemented**
9. Peace-keeping contingent in Chad.
Responsible institution: MoD
Deadline:
Status: **Implemented**
10. Training of criminal information analysts, both at central and local level.
Responsible institution: MoI, State Police, Prosecutor Office, Customs' Offices
Deadline: Continuous

Status: **Implemented**

The number of trainings has been increased and special attention has been paid to joint trainings with participants from various law enforcement agencies. A training session on the “Application of special investigation methods and the initiation of investigation based on criminal information analysis” was conducted at the Police Training Centre in July with 25 experts from State Police, Prosecutors and Officers of the Sections of Judicial Police and Customs Officers. Another joint training for 40 experts from the Prosecutor’s Office, Tax and Customs Authorities on the “Investigation of criminal assets” was conducted in July 2010.

11. Establishment of National Cooperative Committee to Fight against Terrorist Acts under the direction of the Prime Minister.

Responsible institution: Line ministries, Prime Minister Office

Deadline: 2009

Status: **Implemented**

The Inter-institutional Committee for Measures against Organised Crime, Trafficking and Terrorism – a body already established by the Cross-Cutting Strategy – maintains its competence in monitoring the results of action, assuring coordination among all institutions involved in these sectors, according to a decision approved by the Council of Ministers on 27.1.2010. This Committee is chaired by the Prime Minister, with the participation of all relevant ministries and institutions. In addition, a technical secretariat was established. It will assist the monitoring of the Strategy and Action Plan against Organised Crime, Trafficking and Terrorism by the Inter-institutional Committee. The committee approved the regulation by Decision No. 1 dated 05.02.2010 “On the Functioning of the Inter-institutional Committee for Measures against Organised Crime, Trafficking and Terrorism”. Both the Inter-institutional Committee and the Secretariat meet regularly several times a year.

C. Conclusion on the progress achieved

Based on the qualitative assessment it is evident that most of the measures are **implemented. One is partially implemented and one is not implemented.**

The biggest shortcoming noticed during the reporting period is the lack of drafting and approving of the Strategy on the Fight Against Terrorism. The major strategic document in force dealing exclusively with anti-terrorism is the 2002 National Action Plan against Terrorism, adopted with the Council of Ministers Decision no. 12, dated 28.01.2002. Given that methods and tools in the fight against terrorism evolve quickly, this implies a fast and dynamic reaction from state institutions. Although the Action Plan of the Cross-Cutting Strategy on the Fight Against Organised Crime, Trafficking and Terrorism is a recent document, it includes a wide range of issues but does not specifically address the fight against terrorism.

The measures foreseen in the Plan to be carried out by the military forces are being implemented entirely. Their timely execution should be taken as a good example of proper planning and implementation even though in many cases they are not relevant for this chapter of the Plan.

D. Expert evaluation of the adequacy of the Measures planned by the government for the achievement of the respective goals/advancement towards the priorities set.

Not all the measures foreseen are adequate for the purpose and objectives of the NPISAA. There is a mix-up between measures taken against terrorism in the military dimension and civil dimension. Albania's military engagement abroad falls out of the obligations included in the SAA. Although Albania's international commitments are important they do not always fit the SAA framework. The military missions in Chad, Bosnia and Afghanistan are part of Albania's commitments that derive from its foreign affairs policies, and sometimes they are not even related to the fight against terrorism.

Progress has been achieved in actions foreseen by civil institutions such as MoI, State Police, and other agencies involved in the fight against terrorism. The Visa Liberalisation process has played an important role in pushing forward reforms and improvements of procedures and administrative capacities. Terrorism issues have been addressed alongside the fight against organised crime, trafficking and drugs, thus the strategic documents approved during the past few years, including the reporting period, foresee joint actions. After the completion of the Visa Liberalisation process, the reforms in these crucial areas should continue and detailed strategic documents and action plans have to be drafted and implemented. Cooperation amongst agencies must continue and be enhanced. That said, institutions should have a clear division of work and responsibilities based on their detailed sectorial strategic documents.

E. Recommendations concerning the measures planned

- This chapter of the plan should be more focused on the fight against terrorism and actions not directly related to this fight like peace keeping missions abroad foreseen by the Ministry of Defence should be removed.
- Military measures executed outside the country have to be removed from this chapter since they are not related to the SAA commitments against terrorism. However, they could be included in a separate chapter dealing with Albania's foreign policy and international relations.
- The Anti-Terrorism strategy should be finalised as soon as possible and further delays must be avoided. The Cross-Cutting Strategy on the Fight Against Organised Crime, Trafficking and Terrorism could serve as a good foundation from which to build up the new strategy, as it takes into account recent developments in the fight against terrorism along with requirements deriving from European integration process. This existing strategy and its action plan have received inputs and assessment from EU experts, thus making it a good strategic document to be used as a model.

1.5 Personal Data Protection

A. Short description of the priorities and goals to be achieved in the respective field.

The measures foreseen by the Commissioner's office reflect the situation on the ground and the need for a proper development of data protection policy in Albania. As the office is newly established, the measures in some of the cases are very general and sometimes not even necessary to be mentioned. However, this is a remark which can be of more value for future planning. In this context, it would be advisable that the Commissioner avoids general measures and concentrates on the most important issues related to this law without necessarily reflecting all the activities of the Commissioner's office.

The short-term priorities reflected in the short-term measures are focused on four main pillars: completing the number of and training staff, implementation of data protection through the adoption of Council of Ministers' Decisions and other acts of the Commissioner on data protection, dissemination of information on data protection and law enforcement to the fullest extent possible.

B. Qualitative Assessment of the implementation of each measure:

1. Drafting Council of Ministers' Decisions pursuant to Data protection law, focusing on:
 - determination of circumstances other than those provided by point 2 of article 7 of law, in relation to sensitive data and only for the purposes of important public interests, under appropriate protective measures;
 - determination of the states with sufficient level of protection of personal data for the international transfer of personal data (Article 8 of the Law);
 - determination of cases other than those provided for in Article 21 of the law, for which Controllers' notice is not required.

Responsible institution: Office of the Commissioner for Data Protection

Deadline (for its implementation): 2009

Status: **Implemented**

The Council of Ministers, based on the proposal of the Office of the Commissioner for Data Protection approved Decision no. 934, dated 2.09.2009 "On the determination of the States with adequate levels of data protection". Drafting this decision was an obligation under article 8, Law no. 9887, dated 10.03.2008 on the "Personal Data Protection". The CoM has also approved Decision No. 1232 dated 11.12.2009 "On defining the cases for exemptions from the duty to notify the personal data processed", as the obligation set forth in Article 21, point 4 of the law. The amendments to the CoM decision no. 824 dated 6.12.2006 "On the approval of authorised institutions for electronic verification of the criminal certificate and self-declaration forms" constitute an example of the circumstances other than those provided in article 7 point 2 with regard to verification of the sensitive data for public interest under appropriate protective measures.

2. Gradual completion of the numbers of staff (director and specialists) by competition, according to the requirements of the law on the status of civil servants and the Labour Code of Albania.

Responsible institution: Office of the Commissioner of Data Protection

Status: **Implemented**

The majority of the staff of the Office of the Commissioner for Data Protection was taken on between July 2009 - January 2010. The Office has filled all 29 positions as based on the internal structure and organisation of the Office approved by a Decision of the Albanian Parliament –

Decision No.225, dated 13.9.2008. In its structure, the Commissioner's Office comprises the Commissioner, the Adviser, the Secretary and 5 Departments: Legal Procedural Affairs and Foreign Relations Department (Director and 5 Legal Experts), Registration Department (Director and 4 Experts), Inspection Department (Director and 4 Legal Experts (Inspectors), Public Relations Department (Director, 1 Expert and 2 IT Experts) and Supporting Services Department (HR – Director and 6 Staff Members).¹⁵⁸

3. Drafting leaflets commenting the data protection law for the public and in particular for young students.

Responsible institution: Office for Data Protection

Deadline: 2009

Status: **Implemented**

The Commissioner's Office has published and distributed to all stakeholders many leaflets aiming at disseminating information on data protection to the public. So far, the Office has published the following leaflets: Leaflets on "Introduction to the Law on Data Protection and to the Supervisory Authority"; "Guide to use social networks", which is addressed to young people to protect them from inappropriate use and risks of the internet, "Guidelines for the completion of the notification form" which aims to help data controllers in completing the Notification Form, "To raise the awareness of data controllers in relation to personal data and the compliance with the duty to notify"; "On banking", which aims the awareness in the banking sector, and a leaflet on "privacy".¹⁵⁹

4. Establishment of the physical and electronic registers for granting authorisation and registration in accordance with the law.

Responsible institution: Office of the Commissioner of Data Protection

Deadline: 2009

Status: **Partially Implemented**

The notification of relevant institutions on their obligation to register commenced in 2009. The Commissioner's Office is in the phase of reviewing these notifications, seeking additional information from data controllers which were notified. According to legal procedures, following the registration of these entities in the "Central Electronic Registry of Data Controllers", the information is published *online* at the official website of the Data Protection Commissioner's Office, as a Register open to the public.

5. Drafting an information act for the Commissioner on the Commissioner's measures in cases where access is denied (Article 12/5).

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Partially Implemented**

A commissioner information act for cases when access is denied is not drafted yet. However, the Commissioner has already exercised this power by informing interested subjects whose access on personal data is denied by controllers¹⁶⁰.

¹⁵⁸ Annual report of the Commissioner on Data Protection, 2009.

¹⁵⁹ See the website of the Commissioner on Data Protection in Albania, www.kmdp.al

¹⁶⁰ Interview with A. Shala, Director of Legislation, Commissioner's Office, 3 September 2010

6. Drafting Commissioner decisions determining the detailed rules for data protection and management procedures of registration data, proxy data, processing and issuing them (Article 27 / 5.6).

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Implemented**

Commissioner's Decision No. 2, dated 10.03.2010 "On Procedures for the administering of data registration, data entry, their processing and disclosure" (point 6 of Article 27) requires that all public and private controllers comply with rules and procedures which guarantee the necessary security measures for the protection of personal data.

7. Cooperation for drafting the Codes of Ethics of the Institutions (controllers).

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Implemented**

The Code of Ethics of the Commissioner's office foresees rules on conduct of the employees of the Commissioner's Office. Approved by Commissioner's Order No. 49, dated 31.07.2009. The Commissioner's Office has provided comments on the draft Codes of Ethic of INSTAT (Albanian Statistical Office) and Journalists¹⁶¹.

8. Conducting controls of Controllers and Data processors based on the complaints of the subjects of personal data and taking decisions by the Commissioner for measures to be taken.

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Implemented**

One of the most important activities of the Commissioner's Office pursuant to the Law no. 9887, dated 10.03.2008 "On protection of personal data", is the handling of complaints coming from data subjects. In this context, administrative checks are conducted at the Department of Social Insurance and at the Civil Registry Office. After checks are performed, the Commissioner's Office takes the relevant legal position and the right actions by data controllers involved. During the first half of 2009, investigative meetings were conducted in more than 30 controllers. These meetings are considered more of an informative nature. They allow the inspectors to have the necessary information on the performance of the controllers¹⁶². On the other hand the controllers have to be informed about the role of the Commissioner and especially the role of the Inspection Directorate. Since the second half of 2009, the Directorate of Inspection has started to inspect the controllers based on citizen complaints¹⁶³.

9. Preparation and establishment of the website, where laws, bylaws, decisions of Commissioner and of legal obligations will be published.

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Implemented**

¹⁶¹ Interview with A. Shala Director of Legal and Procedural Issues Department, Commissioner's Office, 3 September 2010

¹⁶² Controllers are private and public entities which store and process personal data (eg, banks, the National Registration Centre).

¹⁶³ Interview with Mirela Hila, Director of Inspection, Commissioner's Office, 3 September 2010

The Commissioner's Office web page is available and it provides information on the legislation and all the activities carried out by the Commissioner on Data Protection¹⁶⁴.

10. Mutual recognition of laws and cooperation for the exercise of supervisory authority with the management of the Data Processing Centre of the Ministry of Interior.

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Implemented**

A Memorandum of Understanding was signed between Commissioner's Office and the Data Processing Centre (DPC) of the Ministry of Interior on 16 August 2010. This agreement provides for joint training on data protection issues as well as revision of the legislation in the criminal field and other areas covered by the Ministry from a point of view of data protection. So far, the Commissioner's Office has submitted the opinion on internal regulation of the Data Processing Centre of the Ministry of Interior.

11. Programming and cooperation in order to identify controllers and the main processor of personal data involved in handling personal information primarily for the National Civil Registry, for Identity Documents, for the Social Security number, for the National Registry of Election, for the tax system, for the proof of the ability of management of vehicles and for Records of property records.

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Implemented**

In February 2010, the Albanian DPC signed a Memorandum of Understanding with the High Inspectorate for Declaration of Assets to work together for the prevention of conflict of interest and the protection of privacy and processing of personal data. In May 2010, the Albanian DPC signed a Memorandum of Understanding with the National Registration Centre, which will raise the awareness of controllers to fulfil the obligation to notify to the DPC, as well as to amend provisions to internal regulation of the NRC in relation to the processing and security of personal data. The cooperation between the Commissioner's office and the above-mentioned institutions seems to be working well¹⁶⁵.

12. Cooperation with the CoE authorities to carry out further projects for staff training and obtain the tools necessary for the operation of the office of Commissioner.

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Implemented**

The cooperation with CoE and the Commissioner's Office has continued during 2009. CoE experts have continued training the Commissioner's staff and other related institutions. Study visits and other training sessions of the similar institutions of the European Countries involving the staff of Commissioner's Office have been organised with the support of the CoE.

13. TAIEX help for the organisation of activities to address data protection issues related to police and judicial cooperation in criminal matters, etc.

Responsible institution: Commissioner's Office

Deadline: 2009

¹⁶⁴ See the website of the Commissioner on Data Protection in Albania, www.kmdp.al

¹⁶⁵ Interview with A. Shala Director of legislation, Commissioner Office 3 September 2010

Status: **Implemented**

In May 2009, the Commissioner's Office in cooperation with TAIEX held a seminar on protection of personal data in the police and judicial field.

14. Reporting to the Albanian Parliament on the progress of the institution

Responsible institution: Commissioner's Office

Deadline: 2009

Status: **Implemented**

The annual report of the Commissioner's Office for the protection of personal data was submitted to the Albanian Parliament in April 2010.

Medium-term measures (2010-2011), whose implementation should have started:

15. Ensure effective monitoring and implementation of national legislation to protect personal data.

Responsible institution: Commissioner's Office

Deadline: 2010

Status: **Implemented**

This is a difficult measure to monitor. The effective monitoring of the implementation of the data protection is an overall task of the institution.

C. Conclusion on the progress achieved

Based on the qualitative assessment it is evident that most of the measures (13 out of 15) envisaged in the Plan are **implemented. The remaining two are partially implemented.**

The Commissioner's office on data protection has implemented all the measures foreseen in the NPISAA. These measures encompass all of the efforts needed for the establishment and the functioning of an independent institution on data protection. Given the fact that the institution is rather new and it had to start from scratch, not all the activities actually carried out so far are foreseen in the Plan. The Annual Report of the Commissioners' Office for 2009 illustrates many activities which are not specifically mentioned in the NPISAA.

D. Expert evaluation of the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities

After fulfilling the basic SAA requirements on data protection, the adoption of the law on data protection – Law no. 9887, dated 10.03.2008, in line with European standards – was undertaken, along with the establishment of an independent structure, that of the Commissioner on Data Protection (operational as of spring 2009). Therefore, Albania is positively progressing in this field.

E. Recommendations concerning the measures planned.

- With regard to the legislative measures, it would be advisable that the plan indicates how Albanian legislation on data protection is progressing in its approximation process with EU *acquis*. The updated version of the Plan should indicate the relevant *acquis* on data protection and the Commissioner should play a crucial role in this process.

- In order to insure a better compliance of the Albanian legislation with data protection law Albanian institutions must submit for revision to the Commissioner's office all the laws which affect or are related with data *protection* (article 31 of data protection law). To this end, the Council of Ministers should identify the necessary mechanisms in order to ensure the implementation of this procedure.
- The Commissioner's Office should indicate only those measures that are of importance to the strengthening of the institutions and not necessarily a list of all the daily activities of the Office.
- Intensify control over institutions handling data to ensure that the latter are treated and protected in compliance with the Albanian and EU legislative framework.
- Intensify information work at local level with institutions and youth to sensitize on the importance of personal data protection.

V. CAPACITY BUILDING FOR THE EU INTEGRATION PROCESS OF ALBANIA

1. Orientation, Coordination and Monitoring of the EU integration process.

A. Short description

Improvement of the coordination and monitoring of the EU integration process to the extent it is reflected in this part of the plan is aimed both by measures which try to improve the current legal framework for the coordination process as well as by reshuffling or strengthening the structures in place. With regard to the orientation of the EU integration process, the role of the Ministry of Integration is limited to publications and other informative activities targeting various groups.

B. Qualitative Assessment of the implementation of each measure:

1. Analysis and review of the current legal framework for the Integration Process.

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

The Ministry of Integration has established a working group to revise the current legal framework for the Integration Process based on the Prime Minister's Order no.106 dated 6.08.2008 "On the establishment and functioning of the inter-ministerial working group for revising the legislative framework for monitoring orienting and coordinating the integration process". The working group has held several meetings to analyse and review the current legal framework for the Integration Process. As a result, both the Council of Ministers' Decision on the Integration Units and the Council of Ministers' Regulation were amended accordingly. The working group has also issued several recommendations. One them was to strengthen the role of the Albanian Parliament in the European Integration process by revising completely the "Zela Law"¹⁶⁶.

2. Amendment to CoM Decision no 201, dated 29.03.2006 on some rules and additions to CoM Decision no 584, dated 28.08.2003 "On the approval of the regulation of the Council of Ministers".

Responsible institution: Ministry of Integration, Council of Ministers

Deadline: 2009

Status: **Implemented**

Council of Ministers' Decision no.4 dated 7.01.2009 "On some amendments to CoM decision no 584 dated 28.8.2003". Rules of the Council of Ministers. These most recent amendments intend to introduce a new method of indicating that a normative act is in the process of being approximated with the EU *acquis*. According to these changes, if a legislative act was approximated with the EU *acquis*, the latter is indicated by its CELEX number described in a footnote.

3. Amendment to CoM Decision no. 179, dated 22.02.2006, "On the creation of integration units in line ministries".

Responsible institution: Ministry of Integration, Council of Ministers

Deadline: 2009

Status: **Implemented**

¹⁶⁶ This Law is called after the surname of the MP which introduced it in the parliament. Law no.9252 dated 8.07.2004 "on the involvement of the parliament in the process of Albanian integration into the EU.

Council of Ministers' Decision no 17, dated 7.01.2009 "On some addenda to CoM decision 7.01.2009 'On the establishment of the integration units on the line ministries'". According to these amendments, the integration units are upgraded at directorate level and are composed of four persons, therefore, aiming to strengthen their position for the integration process.

4. Drafting of the CoM decisions for the establishment of working groups for the *acquis* chapters
Responsible institution: Ministry of Integration, Council of Ministers
Deadline: 2009
Status: **Implemented**

Prime Minister's Order no. 183 dated 11.12.2009 "On the establishment, composition and functioning of working groups of the *acquis* chapters including the economic and political criteria".

5. Establishment of working groups for the *acquis* chapters.
Responsible institution: Ministry of Integration
Deadline: 2009
Status: **Implemented**

The working groups are established according to the chapters of the *acquis*. Working groups are composed of the representatives of the Council of Ministers, line institutions and representatives of the Ministry of Integration. The guidelines for the functioning of the working groups are attached to the list of persons appointed from the line institutions in the working group – Prime Minister's Order no. 183 dated 11.12.2009.

6. Evaluation of the compatibility of the Albanian normative draft laws with community law.
Responsible institution: Ministry of Integration
Deadline: 2009
Status: **Partially Implemented**

This measure constitutes one of the key functions of the Ministry of Integration. It is difficult to be measured unless concrete figures and/or laws are indicated for evaluation should they be implemented. However, according to the 2010 Monitoring Plan of the Ministry of Integration, about 300 laws are certified by the MoEI as being in compliance with EU *acquis*¹⁶⁷. Concerns about the lack of regular compatibility analysis of draft laws from the Ministry of Integration have been raised by the Parliament's Commission of European Integration.¹⁶⁸

7. Gap analysis of the 35 chapters of the EU *acquis*.
Responsible institution: Ministry of Integration
Deadline: 2009
Status: **Partially Implemented**

The Ministry of Integration, with the support of the SMEI II project and in cooperation with line ministries is currently working for gap analysis of the EU *acquis*. To date, 16 Gap Analyses have been prepared covering mainly internal market areas but also political criteria.

8. EU- Albania meetings for the monitoring of the implementation of the SAA.
Responsible institution: Ministry of Integration

¹⁶⁷ Integrated Plan of the Ministry of Integration 2010 pg.11

¹⁶⁸ Meeting of the Parliamentary Integration Committee, 14.09.2010.

Deadline: 2009

Status: **Partially Implemented**

Again it is difficult to assess the implementation of this measure. Regular meetings are set in cooperation with EU and they vary according to the agenda of either side. During , 7 meetings were held¹⁶⁹.

9. Institutionalisation of the 20 inter-ministerial working groups for the approximation of national legislation to the *acquis* in line with the areas of SAA implementation.

Responsible Institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

See measure no.4

10. Trainings and seminars to strengthen reporting and implementing capacities of the 13 EU integration units in line ministries.

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

The Ministry of Integration has organised several trainings for staff of the integration units. These trainings were mainly related to the process of answering the questions of EU questionnaire¹⁷⁰.

11. Start of functioning of the Directorate for the Translation of the *Acquis*.

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

The Directorate for the Translation of the *acquis* was established in accordance with CoM decision 119 dated 7.03. 2007. It is composed of two sectors, mainly dealing with the coordination of the translation process and quality control. The staff has participated in many trainings and seminars especially, during the process of translating the EU questionnaire¹⁷¹.

12. Checking the translation of the community legal acts.

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

According to the Monitoring Plan of the Ministry of Integration the number of pages containing EU legislation translated in Albanian language is 1,600 pages.

13. Support for the training of approximately 900 civil servants on EU integration issues.

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

¹⁶⁹ Integrated plan of the Ministry of Integration, 2010 www.mie.gov.al

¹⁷⁰ For more details see the web page of the Ministry of Integration www.mie.gov.al

¹⁷¹ Information on the fulfillment of the main obligations in the framework of the Stabilisation and Association agreement, submitted by the Ministry of Integration to the Integration Committee of the Parliament, 30.08.2010

Many training and seminars were organised to strengthen the administrative capacities of the Ministry of European Integration and the staff of other line ministries. The Ministry of European Integration reported that 1,600 employees were trained on integration issues the last year and beginning of this year.¹⁷²

14. Consolidation of a central data network on the monitoring of the implementation of the SAA (including legal and sub-legal acts that are transposed from line ministries) that is accessible/interactive from all line ministries.

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Partially Implemented**

The Ministry of European Integration carries out the online monitoring of the NPISAA and is currently revising the IT system established in 2007 in order to link with other IT system used by the Ministry.

15. Improvement/Consolidation of the NPISAA implementation reporting methodology (as a methodology on its own right and as a methodology to support new strategic documents).

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Not implemented**

The NPISAA was updated but there is no document which can prove the improvement on the methodology and on the reporting about the plan.

16. Preparation and signing of a Memorandum of Cooperation between the Ministry of European Integration and the Ministry of Justice for the acceleration of the process of certification of official translations of European legislation.

Responsible institution: Ministry of Integration Ministry of Justice

Deadline: 2009

Status: **Not implemented**

This measure is not clear. However, the Ministry of Integration has put in place the necessary legal framework and allocated the money for accelerating the process of translation of the EU *acquis*.

17. Order of the Minister of Integration “For the implementation of the CoM Decision on the translation and certification procedures of EU legislation in Albanian”.

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

The legal framework for the translation process is completed with the adoption of the Guidelines on the criteria and procedures for the selection of the external translators and the Guidelines on the functioning of the special commission.

18. Establishment and coordination of methodological steps for the process of translation of the *acquis* in Albanian. Drafting of the translation methodology and information of institutions that will be involved in the process.

Responsible institution: Ministry of Integration

Deadline: 2009

¹⁷² Integrated Plan of the Ministry of Integration pg.11

Status: **Partially Implemented**

There is a general legal framework for the translation process. However, the methodological steps for the translation of the *acquis* are still missing.

19. Starting the process of translation of legislation in line with CoM Decision 119, dated 07.03.2007.

Responsible institution: Ministry of Integration

Deadline: 2009-2010

Status: **Implemented**

The process of translating the EU *acquis* into Albanian language and the Albanian legislation into one of the languages of the EU has already commenced. According to the 2010 Integrated Plan of the Ministry of Integration 16,000 pages of the *acquis* are translated into Albanian¹⁷³.

20. Drafting the Annual IPA Document and approval of the Annual IPA Documents 2008 and 2009.

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

Drafting of the Annual IPA document is one of the routine tasks of the MoEI.

21. Coordination of the CARDS programme

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

Community financial assistance is provided under IPA funds, which have replaced the CARDS programme. The Ministry of Integration is the National Coordinator for IPA projects. The Ministry of Integration has completed the IPA Programming for 2007-2010 and it is in the process of finalizing IPA programming for 2011¹⁷⁴. This measure constitutes a routine task of the Ministry of Integration.

22. Coordination of the Regional Cooperation Programmes

Responsible institution: Ministry of Integration

Deadline: 2009

Status: **Implemented**

Regional Cooperation Programmes fall under IPA Component II. The Ministry of European Integration is responsible for the coordination of IPA component II and it has continued to play this role throughout this year. The Ministry of European Integration represents the Operational Structure for these programmes.

23. Decentralisation and strengthening of the info centres.

Responsible institution: Ministry of Integration,

Deadline: 2009

Status: **Not implemented**

¹⁷³ Integrated Plan of the Ministry of Integration 2010. Pg 11

¹⁷⁴ Information on IPA programming components I and II. Ministry of Integration

The Centre for European Documentation and Information operates under the auspices of the Ministry of European Integration. The EU Delegation in Tirana has also supported the establishment of EU Info Centers in Tirana, Vlora and Shkodra. The decentralisation of info centres is a responsibility of the EU delegation rather than a task of the Ministry of European Integration.

24. Publication of documents and brochures, in the framework of public information, on the SAA and IA.

Responsible institution: Ministry of European Integration

Deadline: 2009

Status: **Implemented**

The list of publications of the Ministry of Integration includes a number of publications on the SAA, the Interim Agreement, EU institutions and policies.¹⁷⁵

25. Organisation of training sessions to strengthen reporting capacities of the MoEI staff.

Responsible institution: Ministry of European Integration

Deadline: 2009

Status: **Not implemented**

No information on such specific trainings is available.

C. Conclusion on the progress achieved

The Ministry of Integration has accomplished the implementation of most of the measures which are listed in the plan for the period 2009. The majority of the measures envisaged (sixteen) are implemented. Four out of 25 measures are not implemented and five are partially implemented.

D. Expert evaluation of the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the set priorities

The coordination and monitoring of the EU integration process is a demanding and complicated task to be pursued by the Albanian Government. There is room for a crucial role to be played on the part of the Ministry of Integration in this process. However, going through the priorities listed under this chapter of the NPISAA, it is easily noticeable that, rather than ambitious governmental priorities on how to improve the management, coordination and monitoring of the EU integration process, they merely reflect the scope and (sometimes routine) activities of the Ministry of European Integration. On one hand, it is true that most of the activities of the Ministry of European Integration are directly related to coordination tasks, but, on the other hand, the government's priorities in relation to this process should represent a more strategic vision.

Given that the priorities listed in the NPISAA reflect the scope of the activity of the Ministry of European Integration, it is hard to judge whether the measures listed are sufficiently adequate to address the needed priorities with regard to the coordination and monitoring of the EU integration process. The role of the Government, as such, in the coordination and monitoring of the EU integration process is not addressed by these priorities. The ordinary tasks of the Ministry of European Integration are listed as measures for the implementation of the SAA responding to priorities. These measures are too general to be monitored and, in some cases, they go beyond the coordination and monitoring aspect of the EU integration process.

¹⁷⁵ See the website of the Ministry of European Integration, www.mie.gov.al

E. Recommendations

- The Ministry of European Integration should be the first to give the example that the scope of NPISAA is not to reflect what Albanian institutions are currently doing, or what is in their daily agenda.
- The NPISAA should be updated with a clear aim to set priorities that reflect a strategic vision of the government taking care that measures correspond to these priorities. The Ministry of Integration should by now understand and assume its role of management, coordination, and monitoring in this process.
- The Government and the Ministry of European Integration should clearly indicate the role of the NPISAA in the process of orientation of the EU integration process. The NPISAA should be a strategic and working document for all the Albanian institutions, clearly reflecting the priorities of the SAA, the European Partnership Document with Albania and other important documents of the EU integration process.
- The Government and the MoEI should clearly observe the fact that NPISAA serves as the monitoring tool for Albanian progress into the EU integration process. The government should strengthen the reporting based on the implementation of the measures foreseen in the plan. The obligation of line ministries to report on the progress achieved based on the NPISAA is almost forgotten and the plan has lost its point of reference. If monthly reporting for the line ministries is considered unachievable, quarterly reporting would be the minimum for the government to check progress based on the NPISAA.
- The periodical progress report based on NPISAA should also be submitted to the Parliament (the European Integration Committee) in order to allow the latter to have a better control on the performance of the government with regard to the EU integration process. Quarterly reporting of the progress made would be adequate also for the Parliament to control the work of the government.
- The Government and the Ministry of Integration should clearly indicate the role of various institutions or layers, including that of the Parliament for the coordination of the EU integration process. The plan should clearly indicate what has to be coordinated and who is carrying out which task, e.g. if the process of coordination of EU funding is to be prioritised in the plan, the latter should indicate what the roles of the Ministry of Integration, Council of Ministers, Ministry of Finance and Parliament are, what the respective structures in the above-mentioned institutions do and how their cooperation and coordination can be improved.
- The Parliament and the government should improve the current legal framework for dividing tasks and responsibilities within the government and between the government and Parliament.
- The Ministry of European Integration should establish a dedicated structure responsible for the process of approximation of legislation with the EU *acquis*. The review of the legislation and the compliance check is performed by two different directorates which are in charge of other important issues like reporting and coordination of the European integration process. Apart for the missing structure, the lack of sufficient staff with adequate legal qualifications increases the difficulty to properly carry out this process. Strengthening capacities for the approximation of legislation needs to be included in the NPISAA as a short-term priority.

- A well-established channel of cooperation among the Ministry of European Integration, the Council of Ministers, the Parliament and the Centre for Official Publications should be established. The Ministry of Integration does not have accurate information about changes that are made to the legislation during their adoption in Parliament. Moreover, not all legal acts are published in due time in the Official Journal increasing the difficulties in controlling and over viewing the process.
- The Parliament's European Integration Committee should increase its technical capacities for monitoring the process of approximation of legislation. Due to the lack of administrative capacities, the Committee takes for granted the assessment of compatibility provided by the MoEI, and does not double check or scrutinise its assessment. Controlling only the procedural aspects of the approximation of legislation limits the impact of the Committee over the legislation and jeopardises its compatibility with the *acquis* when passing through other Committees up to their final approval. The European Integration Committee should follow the changes in the draft laws through all the stages and ensure its compatibility with EU *acquis* until their adoption.
- The coordination of the EU financial assistance and the supervision of its effective use should be improved. The MoEI hardly manages to monitor the use of EU assistance by the Albanian beneficiaries. Line ministries and other institutions communicate directly with the European Union Delegation experts in relation to issues concerning EU-funded projects bypassing the MoEI. The Ministry of European Integration should keep control of the EU financial aid not only to ensure its efficient use but also to better plan the priorities that need to be supported in the coming years.

2. Civil Society and other Stakeholders' Role

I. Justification

The European integration of Albania is a process that affects the every day life of each Albanian citizen because of the structural reforms it requires and the new social, economic and political realities it creates. Therefore a very important part of the capacity building process of the Albanian society for its EU integration concerns the role and contributions of the civil society and other stakeholders apart from the political establishment and the administrative structures that are dealing with the European integration process of Albania by default.

II. Target Groups

The notion of the civil society relates to both the organized part of it (the non-governmental organizations) and the non-organized part – the Albanian citizens.

Other stakeholders are the regional and local authorities, representatives of municipalities and their associations, the economic and social partners (trade unions, trade associations and representative structures of employers), academia, leading universities, research and educational institutions, business associations, professional chambers etc.

III. Objectives

The Civil Society and other Stakeholders' Role involvement in the EU Integration process of Albania will increase the quality of the process of reforms and their legitimacy. The civil society participation in the process of formulation and elaboration of both strategic policy documents and legislative acts will have a positive impact on their enactments as it will create a sense of ownership of the reforms among the Albanian citizens. Therefore it is a “win – win” situation for the stakeholders and the Albanian government and for the Albanian society in general.

IV. Possible forms/formats of civil society (and other stakeholders) involvement in the process:

1. **Consultative committees** in each policy area where NGOs participate and act as advisers together with other stakeholders before the issuing of the legislative piece. Such consultative committees should be created in each of the Line ministries as they are the initiators of thematic legislation and to the Parliamentary Commission of European Integration.
2. **Structured dialogue** with the civil society. The relevant institutions are organizing regular meetings with interested parties on specific issues or horizontal issues – working groups. Such working group involving civil society actors and other stakeholders should be organized by the Ministry of Integration of Albania with the following tasks (not exhaustive list):
 - to assess annually the progress in the implementation of the SAA;
 - to update annually the Action plan of the SAA implementation based on contribution from civil society and other interested parties.
 - IPA programming.
3. **Consultation processes** – most are public and everybody might participate. The policy or legislative proposal is put on the web page of the respective institutions and contributions are welcome by everybody. Specific consultation templates are developed to avoid too lengthy contributions and keep the consultation focused and consistent.

V. Prerequisites

For the successful implementation of those consultation formats, the following preliminary actions should be planned and carried out:

A. Government and the public administration should develop and put in place working mechanisms to ensure the implementation of Article 14 of the Regulation of the Council of Ministers on consultation with civil society and other stakeholders.

They should also adopt **minimum standards for consultation** of interested parties to envisage:

- Clear content of the consultation (the documents that are consulted);
- Clearly define the target groups that will be affected by the legislation and therefore should be consulted;
- Publication not only of the documents that should be consulted but also of the contributions made;
- Time limit – eight weeks minimum length of consultation (could be extended under certain circumstances);
- Acknowledgement and feedback report on the contributions but not on an individual basis.

B. Organized part of the civil society – the non-governmental organizations – should develop a mechanism for **nomination of civil society representatives** for participation in the different consultation formats. Considering the variety and diversity of the civil society sector, this might represent a challenge and might require some OSFA leadership e.g. stimulating NGO consolidation on thematic basis (NGOs working in the same area) in order to speak “with one voice” to the decision-makers.

VI. CONCLUSIONS

1. **Progress achieved** in the implementation of the measures in the NPISAA

As of 30 September 2010 the progress achieved in the implementation of the measures envisaged in the NPISAA concerning the Copenhagen Political Criteria for membership is predominantly positive.

The qualitative assessment of the implementation of the measures in 12 policy areas under the Democracy and the Rule of law, Human rights and Minorities, Justice, Freedom and Security and Capacity Building chapters identifies that out of 173 monitored measures, 99 are implemented, 38 are partially implemented and 36 are not implemented. This gives enough grounds to conclude that the NPISAA is considered seriously by the institutions responsible for the implementation of the measures envisaged and it has the potential to become a viable, guiding policy document with regard to Albania's preparation for European Union accession.

The progress across the twelve monitored policy areas is uneven. The two areas with the most not implemented measures are the **Public Administration Reform** and the **Decentralization Process** under the Democracy and the Rule of law chapter.

The qualitative assessment of the progress in the **Public Administration Reform** shows that half of the measures envisaged (seven) are not implemented. From the remaining half, four measures are implemented and two are partially implemented. Overall, reform in the public administration for the monitored period has proceeded at a slow pace. Although there is an ongoing process of legislative acts' drafting, the implementation of about two thirds of the measures foreseen directly depends on the completion of one specific measure - changing Law No. 8549, dated 11.11.1999 on the Status of Civil Servants. The lack of political consensus in the Parliament for the adoption of those amendments has significantly hampered progress in this sector. Therefore the key recommendation for this sector is the Assembly to find the necessary will to collaborate and reach consensus on changing the Law on Civil Service.

Regarding the Decentralization process, **nine** out of thirteen are **not implemented**, **two** are **implemented** and **two** are **partially implemented**. The decentralization reform in Albania is almost stopped and it is evident by the number of significant legislative initiatives which continue to be inherited unaccomplished in the NIPSAA from year to year. Every issue seems to become politicized and attempts for reform in this sector are commonly transformed in position - opposition harsh polarized struggle for influence. Another issue is the fact that local government units are not included in the decision-making process for the determination of foreign aid priorities. This process is led by central institutions, which determine the national priorities during negotiations, but fail to refer to the specific issues of development coming from local government institutions. Considering the situation of stagnation of the decentralization reform process in Albania, authorities should consider reframing it through a large consultation of all actors concerned and reflecting the objectives of regional cooperation. The Ministry of Interior, responsible for the decentralization reform, and the METE, responsible for regional development, constantly debating on overlapping and clash of competencies, should clearly define their areas of activity and coordinate their actions.

The only two policy areas where there are no Not Implemented measures are the **Protection of minorities** and the **Personal data protection**.

Ten out of the eleven measures envisaged in the NPISAA regarding the **Protection of Minorities** are **implemented** and one is partially implemented. Increased mobilization is noticed among state authorities as concerns improving the Roma community situation and the implementation of the Roma Decade Action Plan. The Action Plan has been drafted in a consultative spirit and it is based on several strategic documents and studies, such as the Strategies of Social Inclusion (2007-2013), Social Protection, the Anti-trafficking Strategy and studies conducted by UNDP, UNICEF, OSFA, CoE. Representatives of Roma organizations have a strong ownership on the Decade Action Plan, as they were also involved in lobbying with the Government to adhere to the Decade initiative.

Several capacity building initiatives are taking place to support strengthening of Roma NGO capacities but also of the active community members. As they mostly target active members of the community, more efforts should be devoted to supporting the most marginalized members. The adoption of the Anti-Discrimination Law no.10221. Date 4. 2. 2010 is a major achievements towards protecting minority rights, not only those of ethnic or linguistic minorities but also those of other marginalized groups. No progress was detected as regards the ratification of the Council of Europe Charter for Regional and Linguistic Minorities which remains not ratified. Regarding the measures which aim at fostering dialogue, not enough work has been done to publicize these activities and their outcomes among the communities at large. Important recommendation concerns the need for inclusion in the NPISAA of support measures to other ethnic-linguistic minorities in Albania, such as the Aromanians, who continuously call for supporting the promotion of their cultural rights. A proper consultation is recommended to take place with representatives of the Egyptian and an assessment of the possibility to grant them minority status and specifically include them in the Strategy or Action Plan measures.

In the **Personal data protection** area **most of the measures (13 out of 15)** envisaged in the Plan are **implemented**. The other **two are partially implemented**. These measures cover the general work needed for the establishment and the functioning of an independent institution on data protection. After fulfilling the basic SAA requirements on data protection, the adoption of the law on data protection no. 9887, dated 10.03.2008, in line with European standards and the establishment of an independent structure, the Commissioner on Data Protection (operational in spring 2009), Albania is positively progressing in this field. Recommendations in the policy area concern monitoring of how the legislation on data protection is progressing in its approximation process with EU acquis, creation of mechanisms to ensure better compliance of the Albanian legislation with data protection law, control over institutions handling data to ensure that the latter are treated and protected in compliance with the Albanian and EU legislative framework as well as raising public awareness at local level with institutions and youth to sensitize on the importance of personal data protect.

Positive progress in the implementation of the measures is identified in all policy areas (Personal Data Protection, but also Prevention of Money laundering, Fight against Drugs, Fight against organized crime and Illegal traffic and Fight against Terrorism) under the Justice, Freedom and Security chapter as they strongly relate to the Visa liberalization process being embedded in the Block 3 of the EC Road Map for Albania. The progress achieved in this field has been supported and influenced by frequent expert missions from EC and recommendations that followed. Since the first evaluation missions have started in beginning of 2009 there have been great efforts on behalf of the government to comply with the best of international practices and procedures.

In the policy field of the **Prevention of money laundering** most of the measures envisaged (eleven) are **implemented**. **The four Not Implemented and the one partially implemented**

measures concern the conclusion of cooperation agreements with international counterparts. The GDPML should therefore put special efforts to overcome the delay in the conclusion of cooperation agreements with international counterparts. The GDPML has made very good progress in embracing the three EU Directives on Money Laundering and Terrorist Financing as well as the Financial Action Task Force (FATF) 40+9 recommendations. Currently all commercial banks in Albania do report electronically to GDPML all the cash and non-cash transactions exceeding the thresholds stipulated in the national legislation. The cooperation with the Prosecutions for Serious Crimes, High Inspectorate for the Declaration and Auditing of Assets, Albanian State Police, Intelligence Service, Agency for the Administration of Seized and Confiscated Assets and Tax Directorate has increased considerably.

Half of the measures included in the **Fight against Drugs** thematic area are **Implemented (three)** and from the other half, **two** measures are **not implemented** and **one** is **partially implemented**.

The fight against drugs like most of the chapter included in Justice and Home affairs section of the plan is part of the Visa liberalization process. As such the Albanian Government has devoted a lot of attention and resources during 2009 – 2010. The progress in this area has been good compared to the previous years although there is still a lot of room for improvement especially regarding the coordinated reaction of the government agencies. Most of the postponed measures particularly the legislative ones, require the involvement of different ministries or agencies. In this regard a clear division of responsibilities between institutions is needed to increase their accountability and to identify the problematic areas in need of further intervention. The recommendations concern the inclusion in the NPISAA of tangible key measures foreseen in other strategic document like National Anti-Drugs Strategy and Action Plan, inclusion of the Local Government authorities in the Plan to increase the fight against cultivation of drugs at the local level and elaboration of specific incentives and offer development programs in areas where narcotic plants are cultivated.

In the area of **Fight against organized crime and Illegal traffic**, most of the measures are either **implemented (three)** or **partially Implemented (four)**. Out of the **two not Implemented** measures the one concerning the development and adoption of a joint order between the Minister of Interior and Justice Minister 'On the provision of separate facilities in prisons institutions for the collaborators of justice' is postponed to 2011 and the other concerning draft for the amendment of Article 75/a "Competences of the Serious Crimes Court in the Law Nr.9276, date 09.16.2004 with the purpose to include Article 141 / "trafficking in motor vehicles" as a criminal offence within the jurisdiction of the Court for Serious Crimes needs a qualified majority voting of the Albanian Parliament which is difficult to achieve. Overall, the work of fighting traffic of human beings has continued and has known some progress during the monitored period. Some institutions like the Office of the National Anti-trafficking Coordinator, have played a proactive role in addressing the issues. Some progress has been made concerning international cooperation and also from the legislative point of view, especially with regard to ensuring witness protection or including victims of human trafficking in the social scheme (making them eligible to receive economic assistance). However, full inter-institutional cooperation which would guarantee the reintegration of victims, from identification to employment lacks. In particular, the lack of coordination between central and local authorities remains a serious obstacle to addressing issues such as registration of children or children in street situation. This has significant repercussions on the fight against human trafficking. Furthermore, a non-reformed state social service remains an obstacle to the full implementation of the National Strategy for Fight against Trafficking of Human Beings 2009-2010. There is discordances among different actors in recognising internal human trafficking and insufficient

qualified staff (especially social workers) at the borders. The recommendations in the report aim to address those deficits.

In the **Fight against Terrorism area** most of the measures (eight) are **implemented. One is partially implemented and one is not implemented.** The biggest shortcoming noticed during the reporting period is the lack of drafting and approving of the Strategy on the Fight against Terrorism. The major strategic document in force dealing exclusively with anti-terrorism is the 2002 National Action Plan against Terrorism, adopted with the Council of Ministers Decision no. 12, dated 28.01.2002. As means and tools in the fight against terrorism evolve fast this implies a fast and dynamic reaction from the state institutions. Although the Action Plan of the Inter-sectorial Strategy on Fight against Organised Crime, Trafficking and Terrorism is a recent document it includes a wide range of issues and does not addresses specifically the fight against terrorism. The measures foreseen in the Plan to be carried out the military forces are entirely being implemented. Their timely execution should be taken as a good example of proper planning and implementation even though in many cases they are not relevant for this chapter of the Plan. The recommendations here concern the need for further focusing of the plan on the fight against terrorism for which actions like peace keeping missions and military measures abroad foreseen by the Ministry of Defence have be removed. The finalisation of the Anti terrorism strategy without further delay is a must.

Based on the qualitative assessment of the progress in the **Reform of Judiciary**, it is evident that less of one third of the measures envisaged (**eight**) are **Implemented.** More than half of the measures (**fifteen**) are **Partially Implemented** and **three** are **not implemented.** Thus despite the progress noticed in the overall development of the judicial system in Albania, the reform process remains incomplete.

Most of the legislative measures proposed consist of important laws of the justice system which cannot be approved without the consent of both main political forces in the parliament. This is particularly the case of draft laws which are finalized by the MoJ or even approved by the Council of Ministers. On few occasions the work of the MoJ on drafting the proposed laws is ongoing and the drafts are not prepared within the set deadline. On a general note aiming to amend almost all codes of the country's legal frame in one or two years constitutes a quite ambitious goal for any Ministry of Justice to achieve.

Therefore it is recommendable the MoJ to develop realistic legislative program with realistic deadlines for its implementation and the Assembly to guarantee the necessary political consensus for ensuring the adoption of the justice related laws which need qualified majority of votes.

The following laws should be considered as a priority for the parliament to be approved: law on Administrative Dispute and Administrative Court, Law on Judicial Administration, Law on High Council of Justice once it is finalized by the MoJ and approved by the Council of Ministers.

The Ministry of Justice should finalize the drafting process for some important laws such as the High Council of Justice Law, work for which should have already started in 2008. The HCJ should speed up the process of professional evaluation of judges and the General Prosecutor Office should finalize and approve the evaluation system of prosecutors within the year 2010.

Regarding the **Fight against Corruption** area, two thirds of the envisaged six measures in the Plan are **implemented.** The **2 not implemented** measures both relate to the "integrity tests" to

be carried out by the ICS on the Albanian State Police. In the anti-corruption area however the short-term measures set by the NPISAA 2009-2014, though implemented in most cases, very meekly work towards the achievement of goals and priorities in the fight against corruption set in the document and in the European Partnership. As the planned activities are only seven, six out of which are on the Internal Control Service and the Albanian State Police (and one has remained listed even though it had been accomplished), and one on the Joint Inspection Units against Financial Crime and Corruption, they clearly fail to encompass the wide range of interventions required in the fight against corruption. Therefore the key general recommendation in this area concerns the must the NPISAA to include relevant measures to address the so far neglected issues, such as: **declaration of assets, conflict of interest, concessions, building permits, immunity and vigour of institutional responses and political party financing.**

Progress in the **Prison System Reform** shows that out of 22 measures envisaged in the NPISAA, the predominant number of measures-**16 are implemented** and **4 are partially implemented** while **two** measures are **not implemented**. The positive developments in the area concern the improving facilities and physical living conditions for prisoners and pre-detainees. The Albanian penitentiary legislation is generally in accordance with European standards. Therefore, any changes should be carefully reviewed and analyzed, which was not the case with the amendments of the General Regulations of Prisons. Despite the agreement between the Ministry of Justice and the Ministry of Education and Science that enables the cooperation between the penal institutions and Regional Education Directorates on the completion of the mandatory 9-years education for persons deprived of their liberty, so far it is implemented only at Korca institution. This agreement needs to be yet implemented in the institutions of Vlora, Lezha, Durres and “Jordan Misja” in Tirana. Recommendations concern the opening of the new prisons during the next few years combined with developing of the probation service to finally solve the overcrowding in all prisons and addressing the issue of corruption in the prison system. The persons considered to need compulsory psychiatric treatment should receive it in a specialised facility operated by the Ministry of Health. Taking over the Ministry of Health responsibility of the hospital for mentally ill persons in Durres or establishment of an adequate institution (a psychiatric facility) for this category of persons who are kept unlawfully in prisons and in the Prison Hospital is an urgent recommendation.

The Ministry of Integration has accomplished the implementation of most of the measures which are listed in the plan for the period 2009 under the **Orientation, Coordination and Monitoring of the EU integration process**. The majority of the measures envisaged (**sixteen**) are **implemented**. **Four out of 25 measures** are **not implemented** and **five** are **partially implemented**.

Given the fact that the priorities listed in the NPISAA reflect the scope of the activity of the Ministry of Integration, the role of the Government or the Parliament as such in the coordination and monitoring of the EU integration process is not addressed by these priorities. The recommendations in this chapter therefore concern the necessity Government and the Ministry of Integration to clearly indicate the role of different players, including the parliament for the coordination of the EU integration process in the NPISAA. This includes improvement of the current legal framework for dividing the tasks and responsibilities within the government and between the government and the assembly and the increase of the technical capacities of the Assembly’s European Integration Committee for monitoring the process of approximation of legislation. The Ministry of Integration should establish a dedicated structure responsible for the process of approximation of legislation with the EU *acquis*. There is a need for well-built cooperation among the Ministry of Integration, the Council of Minister, the Assembly and the

Centre for Official Publications to be established. The coordination of the EU financial assistance and the supervision of its effective use should be improved.

In addition to expanding the measures in the area of **Capacity building for the EU integration process of Albania** to all relevant institutions and administrative structures that are dealing with the European integration process of Albania by default, the authors of the report suggest the creation of a specific chapter in the next **NPISAA on Civil Society and other Stakeholders' Role**. Different formats of participation (consultative committees, structured dialogue formats etc.) are suggested in order to allow the Albanian civil society and other stakeholders (regional and local authorities, representatives of municipalities and their associations, the economic and social partners (trade unions, trade associations and representative structures of employers), academia, leading universities, research and educational institutions, business associations, professional chambers etc.) to contribute to the process of formulation and elaboration of both strategic policy documents and legislative acts. This will have a positive impact on their enactments as it will create a sense of ownership of the reforms among the Albanian citizens.

For the successful implementation of those consultation formats, the **Government and the public administration** should adopt relevant legislation to oblige institution to carry out the consultation processes in the most relevant for their activities forms. **Organized part of the civil society** – the non-governmental organizations – should develop a mechanism for **nomination of civil society representatives** for participation in the different consultation formats.

2. Expert evaluation of the adequacy of the Measures planned by the government for the achievement of the respective goals and advancement towards the priorities set.

The adequacy of the measures planned by the government in the NPISAA for the achievement of the respective goals and advancement towards the priorities to fulfil the Copenhagen Political Criteria for membership in the EU **vary considerably by thematic policy field**. While in the anti-corruption field the short-term measures are not adequate nor enough and fail to meet the expectations of vigour as well as capacity in the fight against corruption from both qualitative and quantitative perspectives, in the area of prevention of money laundering, the measures foreseen in the NPISAA are adequate and act in response to the current needs of the country in the fight against money laundering. They reflect the priorities set in the SAA, and European Partnership Document.

Notwithstanding the different level of adequacy of the measures envisaged in the NPISAA, there is a general expert consensus on the necessity for **substantial revision of the Plan in order this document to gain the status of a viable, guiding policy document with regard to Albania's preparation for European Union accession**.

The revision should relate to:

- **Ensuring the NPISAA is a viable strategic document to be used as a fundamental guideline for the Albanian journey towards the European Union by:**
 - clearly stating and indicating the role of the NPISAA in the process of orientation of the EU integration process as a strategic and working document for all the Albanian institutions;
 - seeking its approval from the representatives of the Sovran in the Assembly;

- clarifying the position and use of the NPISAA in relation to the NSDI, the sectoral and cross-sectoral strategies and ministry integrated plans;
 - ensuring the coordination of all other strategic documents and plans of actions with the NPISAA;
 - drafting and approving the NPISAA on time in order to ensure addressing the recommendations identified in the Progress Report of the European Commission by the initiatives and activities foreseen;
 - developing it in close consultation with all interested stakeholders including civil society actors to increase its legitimacy.
- **Expanding and improving both the content and the scope of the planned activities in each thematic field to address adequately the priorities by:**
- formulating clear set of priorities that present the strategic vision of the government of Albania and reflect the priorities of the SAA, European Partnership with Albania and other important documents of the EU integration process;
 - formulating clear, concrete and measurable measures/actions that correspond to these priorities;
 - determining realistic deadlines of the measures depending on the nature of the activity and responsible institutions for implementation;
 - including in the NPISAA tangible key measures foreseen in other strategic document like National Anti-Drugs Strategy and Action Plan, the Anti-Corruption strategy etc that are relevant;
 - expanding the thematic scope of the measures planned if necessary (e.g. the chapter of the human rights should include not only three specific sectors such as the reform in prisons system, the minorities' rights and the improvement of the bailiff service but even a larger number of fundamental rights);
 - dropping out implemented measures and avoiding repetition when updating them;
 - developing Annexes of NPISAA in all policy area (currently missing in the prisons system's reform and the fight against corruption field) to precisely stipulate number of human recourses, budget and timeframe for the implementation of legal initiatives and activities, acquis compliance analysis etc;
 - reformulating to improve the phrasing of the document by avoiding confusion of priorities with measures; not including actions that are not measurable against the priorities (e.g. participation in roundtables) nor general activities like "implementation of the law..." lacking measurable indicators and being difficult to assess. Such measures should be broken down in key actions assigning to each of them the responsible institution/s and specific deadlines.
- **Opening the process to other relevant institutions, civil society actors and stakeholders to participate with respective rights and responsibilities in the elaboration of the measures in the plan and in the monitoring, reporting and transparency of their implementation by:**
- clear distribution of tasks and responsibilities among the key players that are instrumental for the implementation of the NPISAA and the coordination of the EU integration process. The plan should clearly indicate what has to be coordinated and who is doing the respective task, e.g. if the process of coordination of EU funding is to be prioritized in the plan, the latter should indicate what is the role of the Ministry of Integration, Council

of Ministers, Ministry of Finance, Assembly, what the respective structures in the above mentioned institutions do and how their cooperation and coordination can be improved.

- ensuring cooperation among all institutions in drafting of the NPISAA with a special emphasis on the inclusion of local institutions in the process;
- using the NPISAA as the monitoring tool for the Albanian progress into the EU integration process;
- cooperating of MoEI with civil society actors and other stakeholders, especially those actively seeking to monitor and contribute to the EU integration process (e.g assistance provided to it by the EU-funded project dedicated to developing its capacities). That implies both ensuring access to information and establishing a mechanism for regular consultation. These would not only mean respect for the access to information law, but more visibility and awareness of the NPISAA.
- Consider the civil society expertise, especially as regards the adoption of an updating, monitoring and reporting methodology.
- strengthen the reporting based on the implementation of the measures foreseen in the plan – at least quarterly reporting from the line ministries as a minimum for government to control the progress based on the NPISAA;
- develop and submit to the Parliament (European integration committee) a periodical progress report on the NPISAA implementation to ensure improved control on the performance of the government with regard to the EU integration process;
- monitoring the process of approximation of legislation by the Assembly's European Integration Committee;
- ensuring visibility of the NPISAA on the MoEI website;
- publishing the reports on the implementation of the SAA on a regular basis.

VII. Information Sources

1. List of Contacted Institutions

- Ministry of European Integration
- Ministry of Foreign Affairs
- Ministry of Interior
- The Department of Public Administration
- Ministry of Labor, Social Affairs and Equal Opportunities
- Ministry of Justice
- Ministry of Finance
- Parliamentary Committee of European Integration
- Commissioner on Data Protection
- Commissioner for the Protection Against Discrimination
- Training Institute of Public Administration
- Internal Control Service
- General Directorate of Prisons
- General Directorate of the Probation Service
- Department of Strategy and Donor Coordination
- Department of Internal Administrative and Anti Corruption Control

2. List of Interviewed Institutions

- Ministry of Foreign Affairs
- The Department of Public Administration
- Ministry of Labor, Social Affairs and Equal Opportunities
- Ministry of Justice
- Ministry of Finance
- Parliamentary Committee of European Integration
- Commissioner on Data Protection
- Training Institute of Public Administration
- Internal Control Service
- General Directorate of Prisons
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- Department of Strategy and Donor Coordination
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