

REPORT ON LOCAL FORUM  
CONSULTATIONS WITH CSOs AND  
BUSINESS COMMUNITY  
2016

# Report on Local Forum Consultations with CSOs and Business Community

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*This report presents the main findings and recommendations of a series of local consultations with CSOs and business community on the implementation of the Albania's anti-corruption strategy. It introduces the reader to the objectives of the assignment and methodological approach, followed by a brief description of the current state of affairs. The report presents the main issues discussed by participants in the 13 local forums organized across Albania between November-December 2016, followed by a summary of key findings and recommendations. Recommendations presented in this report focus on addressing both concerns expressed by participants in the forums, as well as IDMs' proposals for an alternative Anti-Corruption model. The forums were organized in the framework of the "Support Anti-corruption Measures in Albania" project which is currently being implemented by the OSCE Presence in Albania. This project is supported by the Italian Agency for Development Cooperation, the European Bank for Reconstruction and Development, and the Italian School of Public Administration.*



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## Background

### Fight Against Corruption in Albania: Current State of Affairs

The fight against corruption is a top priority issue in the development agenda of Albania. Although for years, Albanian governments have been committed to and supported this fight, yielding sizable and sustainable results has proven to be a difficult mission<sup>1</sup>. While it is widely accepted that the fight against corruption is a very complex and dynamic process and success is very hard to be achieved, choosing the most effective and best tailored approaches, models and tools of intervention can make a significant difference.

Corruption remains a widespread phenomenon in many areas and continues to be a serious problem for Albania's progress towards European Union (EU) membership and the country's development processes. The European Commission (EC) country reports in 2015 and 2016 noted that "some progress" was made and "some level of preparation" was achieved in the fight against corruption.

The fundamental policy and institutional measures that drive the national anti-corruption efforts in Albania are elaborated in the Inter-sectoral Strategy Against Corruption 2015-2020 and the related Action Plan. The Minister of State for Local Issues (MSLI) in the capacity of the National Coordinator against Corruption is in charge of monitoring the implementation of the Strategy. This strategic document covers 18 objectives and 69 measures, whereas the Action Plan encompasses 191 actions, of which 143 have preventive character, 26 repression character and another 22 measures aim to raise awareness.

The legal framework also has undergone significant changes and additional laws were adopted to increase the public participation in policy-making and decision-making.<sup>2</sup> The latest effort was the adoption of the Law "On Whistleblowing and the Protection of Whistleblowers", which aims to encourage employees to report corruption.<sup>3</sup>

Other anti-corruption initiatives include the launching of a dedicated webpage for the fight against corruption [www.stopkorrupsionit.al](http://www.stopkorrupsionit.al), which allows the citizens to report acts of corruption. The mobile app "Komisariati Dixhital" and the 0800 90 90 green-line launched by the Ministry of Internal Affairs represent another instrument for the citizens to report police corruption. The Law on whistle-blower protection and on the creation of a specialized and independent anti-corruption body were adopted in 2016.

The reform efforts contributed to some progress on anticorruption during 2015. The Transparency International Corruption Perception Index ranked Albania in the 88<sup>th</sup> place, galloping ahead 22 places from the previous year. Yet, despite this, Albania still fares below the EU average and lags behind compared with other countries in the region aspiring to become EU member.

Following recommendations by international partners (particularly the European Commission progress reports) the Government of Albania (GoA) has pushed forward its fight against corruption with specific measures especially in completing the legal and institutional framework, including Inter-sectoral Strategy Against Corruption 2015-2020 and Action Plan of the Inter-Sectoral Strategy against Corruption 2015-2017. Regardless of the anti-

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<sup>1</sup> After years of investing in this fight and moving up in the ranking of the least corrupted states (as for the latest Transparency International perception index for 2015), Albania is yet a laggard as compared to other countries in the region. A recent progress report of the European Commission for Albania (2015) highlights that corruption remains a serious problem being yet widespread in many areas around the country.

<sup>2</sup> Law No. 119/2014, "On Right to Information"; Law No. 146/2014, "On Public Consultation and Notification" and Chapter VI of the Law No. 139/2015, "On Local Self-Governance"

<sup>3</sup> Law No. 60/2016 "On Whistleblowing and the Protection of Whistleblowers", Law No. 7961, dated 12.7.1995, "Labor Code" (as amended)

corruption measures and mechanism, the engagement of Albanian citizens in both policy- and decision-making processes as well as in reporting corrupt practices remains at very low levels. This is more evident at the local level<sup>4</sup> mainly due to the lack of human resources and/or lack of awareness of citizens.<sup>5</sup>

The 2015 monitoring report of the Anti-Corruption Strategy found that 20% of the measures were fully implemented, 50% partly implemented, 27% of the measures not implemented and the remaining ones were not reported.

Meanwhile, the decreasing number of reports submitted at the portal by citizens and generally low levels of public trust in institutions show that citizens' involvement in the fight against corruption in Albania is experiencing a serious crisis.<sup>6</sup> Although the country has delivered results in addressing petty corruption and bribery (in education system, police etc.), lack of action and results in the fight against systemic and political corruption still fuels the high degree of public distrust.

In addition to specific measures such as establishing a solid track record of investigations, prosecutions and convictions in the fight against corruption and adoption of various legislative amendments (e.g. interception and surveillance), the last two EC Reports for Albania (2015 and 2016) have underlined the need to ensure the independence and effectiveness of institutions involved in the fight against corruption which continue to be limited by political pressure and weak administrative capacity (2015:15 and 2016:12).

The EU Progress Report of 2016 points out that "More efforts are needed to tackle corruption at high level. Proactive investigations, systematic risk assessments and inter-institutional cooperation need to be improved. Corruption remains prevalent in many areas and continues to be a serious problem".<sup>7</sup> Whereas, some progress is recorded in the areas of investigation, prosecution and conviction of corruption cases, yet, many of the agreed objectives and measures under the Anti-Corruption Strategy must be implemented in a due course.

The concern on the endemic corruption in many areas, such as education, healthcare, judiciary system, public procurement, public-private partnerships, urban planning, local governance, and public services has also been underlined by the European Parliament.<sup>8</sup>

One of the main implications of the meager results in the anticorruption efforts is the decline of the public trust. The level of trust in effectively fighting corruption in Albania is the lowest compared to other countries in the region.<sup>9</sup> As a result, citizens, civil society actors and the business community are generally not very active and have limited interaction with public institutions.

A study conducted by the Institute for Democracy and Mediation on 20 small and medium municipalities, aiming to assess the level of engagement of the civil society organizations with the municipalities at the local level, found out a low level of interaction.<sup>10</sup> On the other

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<sup>4</sup> The Institute for Democracy and Mediation (IDM) has observed that in 20 small and medium municipalities around the county the engagement of the civil society organizations (CSOs) is particularly low. IDM, Challenges of the Local Government Units in the fight against corruption, 2016

<sup>5</sup> SELDI, CSD, ACER: Corruption Assessment Report Albania, 2016

<sup>6</sup> IDM Opinion Poll "Trust in Governance" (2013, 2014, 2015, 2016)

<sup>7</sup> <http://www.integrimi.gov.al/al/dokumente/kontributi-i-qeverise-shqiptare-per-raportin-e-ke/kontributet-e-qeverise-shqiptare-raporti-2016&page=4> accessed on 28.11.2016

<sup>8</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0134+0+DOC+XML+V0//EN>, accessed on 30.08.2016

<sup>9</sup> Ognian Shentov, Ruslan Stefanov, Boyko Todorov, 'Shadow Power: Assessment of Corruption and Hidden Economy in Southeast Europe'. SELDI 2016, f. 19, <http://seldi.net/publications/publications/>

<sup>10</sup> [http://idmalbania.org/wp-content/uploads/2016/10/Report\\_Challenges-of-LGUs-in-the-fight-against-corruption.pdf](http://idmalbania.org/wp-content/uploads/2016/10/Report_Challenges-of-LGUs-in-the-fight-against-corruption.pdf)

hand, the assessment identified a strong need to raise awareness and build capacities of citizens in fighting corruption.

The Strategy has identified the lack of trust or inter-institutional cooperation as one of the challenges to its implementation.<sup>11</sup>

Inter-institutional cooperation comes to the forefront in particular with regards to the investigation and punishment of corruption, as the success of these activities depends on the interaction of law enforcing institutions and independent institutions such as the General Prosecution, the Supreme State Audit Institution (SSAI), the HIDAACI and the Ombudsman. The work of HIDAACI in particular is based on the cooperation among different institutions therefore cooperation between HIDAACI and other institutions has continually remained a challenge.

Among the other factors such as inadequate resources and capacities and unclear or ambiguous legal provisions, the lack of cooperation is driven by politics. Given that as a rule the heads of independent institutions are nominated and appointed by political parties their performance tends to be perceived, but in many instances also driven by political calculations. This produces reactions and counter reactions that drive the institutional performance towards the lowest common denominator and often to institutional deadlocks.

Based on the interpretation that the SSAI selection of institutions to be audited and the results of the audits are motivated the executive branch has openly refused to implement the SSAI recommendations including those public officials involved in abusive use of public funds. In 2016 the SSAI reported that 18 high ranking officials who were referred for prosecution by the SSAI were still on duty.<sup>12</sup>

The level of response to the Ombudsman's recommendations also continued to remain unsatisfactory. During 2016, only 46% of the Ombudsman's recommendations made in 2015 were accepted. 15% of the recommendations were refused while another for another 19% the Ombudsman did not get a response.<sup>13</sup>

The increase of the number of prosecutors dedicated to investigating corruption, for instance, was not implemented as provided in the Anticorruption Strategy during 2016 because the Ministry of Finances refused to increase the General Prosecution budget with the motivation that the reform in the justice system is ongoing.<sup>14</sup>

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<sup>11</sup> Council of Ministers' Decision No. 247, dated 20.3.2015, "On Adoption of Crosscutting Strategy against Corruption 2015-2020". Official Journal of the Republic of Albania, No. 155, 2015. pp.2020

<sup>12</sup> State Supreme Audit Institution, "Annual Performance Report 2015", p.48 [http://www.klsh.org.al/web/pub/raporti\\_i\\_performances\\_se\\_klsh\\_2015\\_2727\\_1.pdf](http://www.klsh.org.al/web/pub/raporti_i_performances_se_klsh_2015_2727_1.pdf)

<sup>13</sup> Avokatit të Popullit, 'Raport Vjetor Për veprimtarinë e Avokatit të Popullit 1 Janar – 31 Dhjetor Viti 2015'. Tiranë, Shkurt 2016

<sup>14</sup> Minister of State for Local Issues. Annual Report on Monitoring and Implementation of the Crosscutting Strategy against Corruption 2015-2020. March 2016. pp.31

## **“Support Anti-corruption Measures” Project- Regional Forums**

In the current context, various actors are joining efforts to provide a greater support to the endeavour of fighting corruption in the country. The “Support Anti-Corruption Measures in Albania” Project, supported by the Italian Government, European Bank for Reconstruction and Development (EBRD), and the Italian School of Public Administration, is conceptualised and implemented by the OSCE Presence in Albania. This project targets core issues such as: a) improving the capacities of public administration at the central and local level; b) raising public awareness on the reporting mechanisms and the need for its engagement; c) increasing the commitment of the business community in the fight against corruption.

In the framework of this project, the Institute for Democracy and Mediation (IDM) was contracted by the OSCE Presence in Albania to conduct a series of 13 local forum consultations with local CSOs and business communities, on the one hand, and the National Coordinator against Corruption, on the other, to help implement and monitor the anti-corruption measures. Forums involving civil society actors, representatives of the business community, and the community at large were used to discuss and assess the progress of the current anti-corruption measures to date, to learn from the best practices, and identify opportunities for overcoming difficulties and obstacles that CSOs and business community as well as the public at large face in implementing, monitoring and reporting on anti-corruption practices.

The lack of broad involvement, trust and impactful results on high level corruption point out at a serious structural problem of the current approach of Albania’s anti-corruption effort. Such concern was strongly articulated by 280 representatives from the civil society, media, academia and business community, who participated in a series of 12 local forums and another (13th) national forum organized by the Institute for Democracy and Mediation (IDM) and the OSCE Presence in Albania over the period of October – December 2016.

### **Methodology**

The methodological approach to implement the assignment is a qualitative one, combining desk research, background analysis, and structured discussions (forums) with the targeted stakeholders. This approach is a best fit when aiming to conduct deep and thorough examinations and analysis, such as the one of this initiative on the role of civil society actors, business community, media and academia in anti-corruption activities at the local level. Indeed, their suggestions and ideas on how to improve corruption prevention instruments and increase their own engagement in consulting mechanisms are at the core of the data collection and analysis in this report.

Following the desk research and background analysis activities, consultative forums were organized in twelve regions of Albania. A total of 280 individuals (out of 360 invitees) contributed in the discussions. The civil society representatives made up 62.10% of the overall attendance, followed by the business community (10.35%), media (8.36%), academia (6.37%), and the rest (12.74%) consisted in different stakeholders, such as activists or students’ unions. All local anti-corruption focal points of National Coordinator against Corruption participated in the respective forums, except in Fier, where the position was vacant.

To guide the data collection and analysis, a thematic approach was followed in all three pillars of the methods: desk research, background analysis and forums. This approach is particularly important in planning and conducting the forums due to the interplay of three main factors:

1. *The need of capturing area related specificities* – Albania is a small but very diverse country. The issue at stake is very sensitive to these changes. Cultural changes might be closely related to the way the problem is perceived and how it might be expected to be addressed.
2. *Validations of qualitative data (at least 2-3 on the same topic)* – forums provide qualitative data. Similarly as with focus-groups discussion, the literature in the area recommends at least 2-3 applications of the instrument in exploring the same topic. This gives the data more validity and reliability.
3. *The number of participants per forum* – a large number of participants is envisaged (25-30) to be part of each forum. To give time and space for each of them to effectively participate and contribute in discussing a complex issue, such as fight on corruption, the problem was broken down in smaller, more targeted topics to be deeply and thoroughly explored.

While all discussion topics were touched upon in all local forums IDM team assigned a focus (dominant) theme to better streamline participants' feedback, as follows:

- *Building an ethical business culture reduces risks of corruption* (Tirana, Durrës, Shkoder)
- *Anti-corruption regulatory framework: What hinders implementation* (Gjirokastra, Kukes)
- *Role of civil society and business community in monitoring and enforcing anti-corruption policies/legislation* (Elbasan, Korça, Vlora)
- *Experiences and perception of civil society and business community on role of local coordinator/NCAC* (Fier, Diber)
- *The role of citizens in preventing bribery and corruption* (Lezha, Berat)

IDM guided the discussion through a well-designed presentation of institutional, legal and political framework adopted by the government in the fight against corruption and an introductory description of each theme per forum in order to brief, brainstorm and discuss with the participants. The opinions expressed during the discussion were recorded, processed and analysed with a thematic approach into main findings and are incorporated in this document.

## **Main Findings**

The Institute for Democracy and Mediation initiated each roundtable discussion with the introduction of general information on the legislation, policy documents, and their implementation at local level in the municipalities. The main findings that stemmed from discussions in the forum are a reflection of participants' perceptions, experience and opinions on the mechanisms and efforts to prevent and fight corruption as well as on the level and causes of citizens' trust and involvement in these processes.



Prevention is one of the main goals of the national anti-corruption strategy and is expected to be achieved by accomplishing several objectives, measures, and activities<sup>15</sup>. One of the measures<sup>16</sup> and requirements stipulated by the strategy to enhance the transparency of public institutions and to improve of citizens' access to information is the comprehensive implementation of the Law on the Right to Information and the Law on Public Notification and Consultation. These laws and the Law on Local Self-Governance<sup>17</sup> have created adequate conditions and setting to target results on the prevention of corruption.

The discourse on transparency and civic engagement in decision-making took up an important part of the forums, as they are closely linked with the instruments in the hands of the civil society and businesses for monitoring the public institutions' activity and preventing corruption. Forum discussions brought up several issues which solution ought to become a priority in the near future.

One of the main findings related to the low level of familiarity with the above-mentioned legislation on the part of civil society and business actors. In general, this situation results from the poor practice of implementation of legislation and lack of outreach to citizens at the local level. Implemented anticorruption instruments have failed to trigger an interest among citizens in enhancing their involvement and participation.

According to forum discussions, implementation of the above legislation by local public institutions was still far from targeted objectives for transparency and civic participation. Participants based their feedback on a number of guiding indicators introduced for discussions, as obtained from the information published in the municipalities' official websites.

Only 21 municipalities have developed and published a transparency program and have assigned a coordinator for transparency. Forum participants from Korça were knowledgeable of the structure and the staff member designated for the right to information. Participants of all other local forums reported that they were not aware of the existence of this structure.

Nineteen out of 61 municipalities publish the acts they adopt. Yet, even in these 19 municipalities such information is limited to basically informing about the list of acts that were adopted. In the other 42 municipalities, there is no information available to indicate the efforts, if any, to publish these acts in their official websites or stands/locations designated for publication of information. Participants in the forums of Dibra, Lezha, and Durres declared that they coped with difficulties in finding Municipal Council's acts. They added that in many cases it was impossible for them to locate the information and the content of these acts. This has led to hardships in their awareness and monitoring activities.

Forum participants underlined that the publication of the results of inspections and audits – which constitutes another measure<sup>18</sup> of the strategy and a requirement of the law<sup>19</sup> – is missing in all municipalities except Shkodra. The latter published partial information on the audit acts (currently only for three administrative units) on its website. Participants of Shkodra forum valued the publication of audit as a good practice and suggested its replication with the aim of ensuring access to the publication of each and every act of local public institutions.

Civil society participants in the forums of Vlora, Berat, Elbasan or Tirana declared that transparency on the data on education, qualification and salaries of public functionaries, even

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<sup>15</sup> The Crosscutting Strategy against Corruption foresees 11 strategic objectives, 47 measures and 3 sub-measures, whereas the Action Plan envisages 143 activities.

<sup>16</sup> Measure 3 of Strategic Objective A1 of the Crosscutting Strategy against Corruption

<sup>17</sup> Law No. 119/2014 “On the Right to Information”; Law No. 146/2014 “On Public Notification and Consultation” and Chapter VI of the Law No. 139/2015, “On Local Self-Governance”

<sup>18</sup> Measure 5 of Strategic Objective A1 of the Crosscutting Strategy for the Prevention and Fight against Corruption

<sup>19</sup> Article 7 paragraph 1 (dh) of the Law No. 119/2014 “On the Right to Information”

though a legal requirement<sup>20</sup>, was lacking in their municipalities. An assessment conducted by IDM at national level confirmed that no municipality had ever published this piece of information. Furthermore, participants in the above municipalities stated that this phenomenon was due to lack of needed professional qualification, experience and skills of local administration.

Participants of the forums of Tirana, Kukes, Korça, or Lezha pointed out that, while it was a legal requirement<sup>21</sup>, transparency on services or goods contracts and the information on enforcement and monitoring of these contracts were almost inexistent on the part of local public institutions. They declared that this lack of transparency brought in services and commodities of poor quality, created opportunities for corruption and rendered the awareness and monitoring activities of civil society organizations difficult. Forum participants expressed their commitment and readiness to contribute to the improvement of transparency in this field. They suggested that civil society should be provided with the legal prospect of monitoring the contract in pursuance of the model of “Integrity Pact” promoted by Transparency International and the European Commission.

Participants also pointed out that the municipal councils’ regulations did not incorporate norms and rules on public information, hearing sessions, and other forms or tools to introduce civic initiatives, even though these were obligations stemming from the law.<sup>22</sup> For instance, participants of the Dibra forum brought the example of their efforts to submit for adoption at the Municipal Council a civic initiative and the difficulties encountered because of the lack of rules of procedure on how to treat citizens’ initiatives in the Municipal Council’s regulation. Other examples included those presented by participants in Vlora, Fier and Tirana related to problems arising in public hearings. According to them, the municipality had not developed rules on public hearings, thus turning the latter almost always into promotional speeches held by the head of the institution.

Attendance of Municipal Council meetings by civil society or citizens is a practice that does not occur that often due to a combination of several factors and different reasons such as lack of trust, knowledge of the content of acts under discussion, lack of notification on important activities, as well as restriction of participation because of physical conditions of the premises.

Better use and strengthening of electronic infrastructure constitute another strategic objective<sup>23</sup> and measure<sup>24</sup> for transparency improvement. Participants of the forums in Berat, Gjirokastra, and Elbasan emphasized that problems were encountered in the course of implementation of this measure at local level, the most serious of which was the lack of an official website (in 30 municipalities). For those municipalities that had established websites, the general perception was that these websites were in place simply to ensure formal compliance with the law rather than to ensure openness and provide a means of communication with the public, as the information published therein was generic and is rarely updated. Lack of information affects distrust in these institutions and hampers the civil society’s monitoring mission. In these lines, a significant share of discourses in most forums pointed out the trend to use these instruments not for transparency and accountability to the public but as PR means for the head of the institution. The concerns identified by participants

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<sup>20</sup> Ibid. Paragraph 1 (d)

<sup>21</sup> Ibid. Paragraph 1 (ë)

<sup>22</sup> Law No. 139/2015 “On Local Self-Governance”, Article 18 (2) and Article 20 (1)

<sup>23</sup> Strategic Objective A2 of the Crosscutting Strategy for the Prevention and Fight against Corruption

<sup>24</sup> Measure 2 of Strategic Objective A1 of the Crosscutting Strategy for the Prevention and Fight against Corruption

in these forums are also supported with the data published by INFOÇIP<sup>25</sup>, a Tirana-based organization, according to which 24 out of 61 municipalities have official websites. In addition, these concerns are also backed by the data published by BIRN, which states that the average level of transparency for 61 municipalities barely reaches 43%.

Local groups nationwide are reportedly following and discussing about civil society activism and protests, whose impact on decision-making reverberates across the country. The society is very sensitive to the successful models of advocacy on the part of civil society organizations in demanding government's responsive and accountable attitude. The forums clearly identified that public consultation of government institutions is the very foundation of citizens' trust in the transparency and anti-corruption processes. Hence, they demanded a more comprehensive consultation process.

Civil society representatives declared that there was a general trend to invite to consultation meetings and hearings those local organizations favoured and/or selected by public authorities. Participants observed a concerning phenomenon whereby heads of public institutions used these meetings to propagate and promote their work, such as in Fier, Tirana, Shkodra, Berat, etc. Forum participants gave examples of political and clientelist ties in the interaction of local institutions with the civil society organizations. All these actions discourage civil society, increase social indifference, undermine public trust, and become a threat to democracy. The legal environment in which civil society operates was considered to be very concerning, because it did not nurture civil society organizations' sustainability. These local circumstances have led to the fact that regional center municipalities, such as Gjirokastra, Fier, Dibra, Berat, Lezha or Durres, have very few active civil society organizations. Nevertheless, local actors expressed their interest to become part of the solution to these problems through sustainable mechanisms of local civic forums.

Amid discussions in the forums of Korça, Fier, Berat and Dibra, participants demanded greater attention to enhance cooperation among civil society organizations at local level.

CSOs invited the National Coordinator against Corruption to institutionalize the consultation mechanism for partnership and cooperation with civil society at local level and to convene on a regular basis.

Another disturbing phenomenon examined by the civil society is the widespread apathy among youth in many areas of corruption and their education in social-cultural and economic environment where the culture of corruption has now become a rule of thumb. This was particularly observed in Fier, Dibra, Elbasan, etc. To this end, forum participants proposed a greater involvement and role of the education institutions and non-profit local organization as well as a more active engagement of the youth in anti-corruption activities.

Local public administration's role remains a crucial issue that substantially affects citizens' trust in the fight against corruption. In various forums, such as in Elbasan or Berat, discussants mentioned examples of good practices that have moderately improved local administration's work over the last few years. Likewise, Dibra forum participants gave positive feedback on the restrictions imposed by the Public Administration Department (PAD) to appointments made without competition and failing to meet relevant criteria. However, participants expressed their concerns about the local administration in the majority of the local forums.

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<sup>25</sup> Source <http://www.infocip.org/al/wp-content/uploads/2016/05/vleresimi-kombetar-2016-zbatimin-i-ligji-per-te-drejten-e-informimit-bashkite-INFOCIP.pdf>.

Attendants of the forums in Fier, Shkodra, Tirana, Kukes, Berat, and Lezha expressed their concerns about local administration's lack of capacities to implement the legislation. In almost all forums, civil society and business representatives stated their apprehensions on public administration turnover and politicization as a result of both political changes and clientelism. Participants demanded more transparency in hiring and firing procedures and in the implementation of the legislation on public administration.

Participants in some other forums, mainly in Durrës, Shkodra, and Tirana, focused their discussions on enforcement of the law, business ethics, and the relationship with the public administration. They gave a very positive feedback on the creation of one-stop-shops and digitalization of services. They found these improvements to be opportunities and instruments to help save time and create a climate of trust between the businesses and public administration. According to the businesspeople attending these forums of discussions, inadequate implementation of the law, informality, corruption, and interaction with an increasingly rigid, inaccessible, and non-collaborative administration remain quite disconcerting. These business representatives said that they witnessed on daily basis preferential treatment of businesses leading to the perception that business was sometimes an accomplice in corruption.

Participants raised some concerns regarding the inattentiveness to their demands in the course of drafting legal acts, during the adoption process of local fiscal packages or other acts that directly affect business community's interests. Representatives of the small business association in the Tirana forum brought an example in which they claimed that they were not allowed to attend Municipal Council meetings where local councillors were discussing and adopting the local fiscal package.

The local forums helped these stakeholders to get to know the contact points that the National Coordinator against Corruption had assigned at local level (Secretary General of the prefecture). Fier is the only region that does not have a contact point, because this position is not filled yet. Almost all participants in the forums admitted that they were informed about this role of the Secretary General for the first time at the forum and that they had no information on any activity.

Considerations about the NCAC contact point straightforwardly highlighted that its role at local level was formal, vague, and legally inadequate. In most forums, such as in Kukes, Berat, Dibra, and Elbasan, participants emphasized that this role is a supplementary duty for the Secretary General. In many local meetings, including those in Berat, Fier, Kukes, Dibra and Vlora, the Secretary General was considered to be a politically-appointed official, therefore undependable to coordinate the fight against corruption. The majority of participants in the 12 local forums drew attention to a more widely-accepted solution, suggesting that this function should be exercised by non-partisan institutions/individuals or by civil society-run bodies. Participants of many forums rationalized that the practice pursued to date is "a conflict of interest" considering that the anti-corruption structure is part of the executive branch.

Participants from Fier, Durrës, Shkodra, and Elbasan valued the idea of political impartiality to be of crucial importance. Many of them wanted to see the efforts in the fight against corruption, increase of public trust, and engagement and contribution to these significant processes linked with the establishment and operation of anti-corruption structures and mechanisms independently of the executive power. Amid discussions on this issue, participants introduced examples from countries in the region, where the mission of the fight against corruption was assigned to an independent agency established by the Parliament.

## Reccomendations

### Reccomendations based on main findings from regional forums.

On the most part the recommendations presented below were brought forth to the 13 local forums by participants. IDM organized the recommendations based on 5 main findings listed below.

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*Finding No. 1 – Lack of knowledge of nonpublic stakeholders and low level of enforcement of legislation*

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Forum participants identified two important concerns:

- Lack of knowledge of legislation on anti-corruption initiatives, laws on right to information and public consultations, and,
- Low level of enforcement of above-mentioned legislation at local level.

These conclusions were endorsed by an overwhelming majority of the representatives of local communities (civil society organizations, experts, youth, business representatives, etc.) and by contact points of the National Coordinator against Corruption (NCAC). The need for more transparency and low level of enforcement of related legislation is concluded also by BIRN Albania, according to which “the average level of transparency in the 61 municipalities is only 43%”<sup>26</sup>.

Indeed, most municipal councils have not adopted their internal codes of procedure, thus failing to comply with the legal requirements for information, consultation and citizen initiatives. All participants declared their opinion that in those cases where the municipality had established the mechanisms required by law to enhance transparency, these instruments had been mainly formal, insensitive to community needs or they operated to promote the leaders of these institutions. On the other hand, all this occurred in a context where civil society organizations lacked substantial capacities and activities because of shortage of funding, isolation of organizations, and an unfavorable operational environment. Some participants expressed their concern about a common occurrence of CSOs jeopardizing their independence and identity because of their clientelist relations with local government.

#### *Recommendations on Finding No. 1*

The National Coordinator against Corruption will have to establish and implement promotional and binding mechanisms to enforce legislation requirements and to encourage a proactive role of public institutions. In this regard, drawing from successful experiences from countries in the region and elsewhere, participants suggested that the following initiatives be undertaken:

- Develop a scorecard system with clear indicators to measure the performance of transparency, civic participation, quality of services, etc. This system could be established and administered by the National Coordinator against Corruption itself.
- Design and implement support mechanisms for continuous monitoring of public institutions at local level; a successful local monitoring action could be carried out by

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<sup>26</sup> Local Governance under the Lens of Freedom of Information, 2016. BIRN Albania

a forum of local civil society organizations. All in all, non-profit organizations welcomed the opportunity of joining efforts in this endeavor.

- Introduce mechanism for strengthening institutional integrity (Integrity Plans) of local governments. The National Anti-Corruption Authority should develop guidelines on integrity plan development and implementation in order to be followed uniformly by local governments.

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*Finding No. 2: Low level of trust in public institutions and their activity*

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The local forums quite clearly identified a huge gap of mistrust between government (local government included) and the society in addressing corruption practices, challenges, and threats. People had little trust in the opportunities to produce change and expressed themselves in support and want of trustworthy and functional anticorruption mechanisms.

*Recommendations on Finding No. 2*

To address these issues, participants were supportive to models that were presented to forums by IDM as good practices applied successfully in different municipalities in European countries. The need for following two initiatives be undertaken was suggested:

1. *Engage public institutions and civil society to co-find solutions to the benefit of local interests and needs. To this end, it is needed to establish consultation mechanisms between the government and civil society for effective collaboration in addressing challenges highlighted by this report.*

Joining efforts in identifying and implementing solutions will increase citizens' trust and encourage their involvement. Strengthening public integrity in everyday activity is not only a legal requirement for public institutions, but also an increasing demand on the part of citizens, civil society, and business community. Public integrity improves the performance and quality of service and educates the society in general and the young generation in particular.

2. *The municipality approves a budget for the community*

A successful experience (applied in many European countries) that helps to boost public trust and involvement is the engagement of civil society organizations as a means to encourage citizen participation in prioritizing interventions by means of projects. The municipality allocates a pool of money for priority projects and invites the community to propose and approve interventions. The civil society facilitates public consultations on this funding opportunity. This makes it possible for the municipality to implement projects that address priorities defined directly by the citizens.

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*Finding No. 3: Lack of successful models leads to apathy of community actors.*

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Apathy and reluctance of civil society and business sector actors to get involved in the fight against corruption are also due to a deterring social atmosphere. The discussion forums presented the picture of a society that lacks any model of public authorities and government officials demonstrating integrity and high ethical standards in holding public office. Discussant introduced in the discussions many examples that constituted a deviation from policies and rules on public consultation, participatory decision-making, guarantee of transparency, inefficiency of public administration in many instances, presence of clientelism, missing of any ethical standard etc. Participants would often express their despair and pessimism that the youth are being educated in this unhealthy social setting.

### *Recommendations on Finding No. 3*

To address these issues, the following two initiatives are recommended:

- 1. Create and promote successful models; leadership by example could be a path to success.*

Local government units in cooperation with civil society should encourage the creation of successful models and examples of transparency, integrity, and accountability in administering public affairs. In addition, the office of National Coordinator against Corruption should consider the promotion of and support to successful models and experiences in the fight against corruption

On the other hand, donor community should support public and non-state actors in creating successful experiences and in disseminating them. Basically, this remains one of the major challenges even for civil society itself.

- 2. Promote the realization of “pleasant meetings” at local institution*

The municipality promotes and conducts mutual communication with citizens by responding to their concerns in the best possible way. In addition to employing official procedures foreseen in the law, the representative of the institution may also communicate with interested citizens (by calling them on the phone or by seeing them in meetings where they discuss the citizen’s concerns). It is proven in many cases that conversations and meetings (empathy in relations) help to increase the trust of citizens in the institutions, even in those cases where the citizens’ demands may not be met.

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### *Finding No. 4 - Existing anti-corruption bodies enjoy low level of trust and citizen support.*

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The bodies that develop and coordinate policies against corruption pursuant to the existing model do not convey public trust. One of the main reasons identified by forum participants is the influence of the country’s polarized political setting on these bodies. A real-life example brought up during the discussions was the point of contact of the National Coordinator against Corruption, found by participants to be politically biased and non-functional. A part of the public administration of the institution of the Prefect, the Secretary General was in no case deemed to be a politically independent figure. Even more, this body does not have a

clear role at local level. Also, a lot of concerns expressed by participants related with the fact that NCAC structures at both local and national level lack adequate financial and human resources to accomplish their mission. Therefore, the NCAC bodies did not report on any anti-corruption activity to involve other local institutions or civil society organizations.

#### *Recommendation on Finding No. 4*

Citizens consider the NCAC structures to be in a conflict of interest with regard to the fight against corruption, since these structures are part of the Executive branch. They suggest and generally support the establishment of forums with broad participation of the civil society organizations and business community with the aim of fighting corruption. This would help to boost public confidence in anti-corruption initiatives. In addition, participants suggested a regular consultation mechanism for NCAC to communicate with the public, civil society, and local business. This communication could also be thematic.

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#### *Finding No. 5 – The civil society sector in the country is fragmented and unsustainable.*

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Besides placing little trust in public institutions, the civil society itself is coping with an unfavourable environment for its development and sustainability. At the local level, the sector is fragmented, sporadic in its interventions and with little support. Forum participants declared that non-profit organizations established and supported over these years with the assistance of various donors are now facing an immobilizing (and sometimes hampering) financial, legal, and institutional environment. Lack of internal capacities, scarce support schemes, and an inexistent culture of networking and coordination among them have instigated apathy and a very low level of the sector's engagement.

#### *Recommendations on Finding No. 5*

The following initiatives are provided to address issues highlighted above:

1. The Government of Albania should seriously consider the need to strengthen the civil society sector by endorsing legal and administrative initiatives to create an enabling setting for non-governmental organizations, mainly for financial and fiscal issues.
2. The donor community should re-examine and increase/diversify the support it provides to the sector across the country. Support to grassroots organizations will help to strengthen the community voice when confronting the government and public institutions. Also, financial sustainability will positively impact the overall accomplishment of their mission.
3. Civil society organizations should be supported to enhance their advocacy capacities not only on thematic issues they promote but also on internal matters of sector development.
4. Civil society organizations should be supported to establish sustainable and successful thematic networks in order to overcome their fragmentation and deficient engagement and coordination.



5. CSOs should be informed regularly on legal and administrative changes undertaken at central and local level that directly affect their existence and operation.

## ANNEX-I

### IDM Proposals for an alternative Anti-corruption model

Albania's policy choice for a coordination mechanism and approach to the implementation and monitoring of the national anti-corruption strategy does not reflect the best practices of Western Balkan – WB (Serbia, Montenegro) or other countries (Slovenia, Georgia) that have been successful in the fight against corruption. While it is true that the success of anti-corruption strategies is broadly determined by the ambition of its objectives, its specific measures and the effectiveness of institutions in fulfilling the strategy's objectives, few pre-conditions are necessary to guarantee sustainable results and impact at societal level of the anti-corruption fight.

#### Participatory mechanisms

The design of the current Inter-sectoral Strategy Against Corruption underwent an inclusive process of consultation with state and non-state stakeholders at national and local level. Between 2014 and 2016 a number of important laws which would have significantly facilitated the implementation of the Strategy's implementation were adopted by the Parliament such as the Law on public consultations, Law on the right to information, Law on the protection of whistle-blowers etc. These laws offer instruments for participation in decision-making, improving transparency and accountability of governance as well as for pro-actively releasing government-held information. Their implementation is a process which should embody not only an institutional culture of good governance, but also a societal culture of participation and informed citizens who actively uphold principles of integrity, transparency and accountability of government at all levels.

As suggested by local civil society, media, academia and business sector stakeholders in the 13 consultative forums organized by IDM and OSCE, the implementation and monitoring of the anti-corruption strategy, unlike its design phase, has failed to make full use of the participatory and proactive informing mechanisms. Many of the stakeholders had little or no information about the content of the Action Plan 2015-2017 and the coordination mechanisms at local level. Another indicator that speaks about the lack of involvement and participation is also the low number of municipalities that have implemented the anti-corruption framework such as the transparency program, the coordinator on the right to information, etc.<sup>27</sup>

Coupled also with the poor results in tackling the high level corruption, the missing participatory mechanisms in the implementation and monitoring phase of the strategy have

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<sup>27</sup> INFOCIP and BIRN Albania report a number of concerns as regards transparency standards at municipal level. Namely according to INFOCIP, only 24 out of the 61 municipalities in Albania have an internet website. BIRN data suggest a moderate level of transparency of the municipalities (43%).

alienated civic, business and other non-state stakeholders at local level from the anti-corruption effort.

#### Independence, integrity and efficiency

In addition to an active role of civil society and other non-state players, best-practices of coordination and implementation of anti-corruption policy frameworks in the region rely on three core elements:

1. An independent anti-corruption authority/structure.
2. Sound institutional and financial resources to coordinate and monitor anticorruption strategy covering all three branches of power, including local governments.
3. Clear monitoring and evaluation standards and performance assessment to deliver on impactful actions, integrity and public trust in the fight against corruption.

Albania's coordination and implementation model of the anti-corruption strategy embodies neither of these elements in a solid manner.

Firstly, the strategy is designed, adopted, implemented and monitored under a heavily government dominated process. Its coordination is entrusted to the Executive, namely, the Minister of State for Local issues and network of local anti-corruption focal points in institutions at central level and, at local level, to the Secretary General of the 12 Prefects (appointed by the Executive) of the country as local anti-corruption focal points. Such coordination mechanism which is controlled by the Executive explains the distrust of local non-state stakeholders and many local government representatives in the general anti-corruption framework. Furthermore, in relation to local governments, it seems impossible for an Executive-dominated process to ensure progress of anti-corruption given and the autonomy of local authorities from the Executive (national Anti-corruption Coordinator).

The experience of the WB countries offers different models of the Anti-corruption authorities, but the one element they all have in common is the independence from the Executive. In Bosnia and Herzegovina (BiH) an Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption was established by law and the Parliament elects the director of the agency. The members of Macedonia's State Commission for Prevention of Corruption are elected by the Parliament while Slovenia's Director of the Commission for the prevention of corruption is appointed by the President. In other countries various other models ensure independence of the anticorruption authority through competitive process which often require approval or involvement of other state institutions within and outside the Executive. The competencies of the anti-corruption authorities also vary and they range from purely policy coordination, monitoring and strategy implementation to proactive prevention and investigation of cases of corruption. These models not only facilitate a smoother coordination and implementation processes at all levels, but they also provide for an independent authority which enjoys trust by the general public.

Secondly, MSLI as the National Anti-corruption Coordinator and the network of local anti-corruption focal points – the Secretary General of the 12 Prefects of the country – lack adequate financial, institutional and human resources to carry out meaningful coordination of

the strategy's implementation. Not only the MSLI but also the network of local anti-corruption focal points (Prefects' General Secretary), have very limited human and institutional resources and most importantly, they have no specific budget for this specific task.<sup>28</sup>

The experience of anti-corruption authorities in the WB countries is by far incomparable, whereas in terms of human resources they employ from a minimum of 16 staff (Macedonia) up to 76 in the case of Serbia. The financial resources of the agencies often depend on their competencies and scope of work, thus ranging from nearly EUR 0.5 million up to EUR 1.5 million for their annual budget. Additionally, in Kosovo and BiH the anticorruption authorities have also budget autonomy. All anticorruption authorities in the region prepare annual reports of activities and, with the exception of Macedonia's State Commission for Prevention of Corruption; they all have performance measurement systems in place too.

The above concerns and the lack of concrete results to tackle systemic and high level corruption in Albania have seriously undermined public trust in the fight against corruption and have fuelled scepticism among non-state stakeholders to actively participate in a government-dominated anticorruption framework.

#### Efficient, trustful and independent anticorruption mechanism

The final (13th) roundtable discussion organized by IDM and OSCE in the context of this assignment in Tirana (December 15th 2016) articulated the need for an efficient, trustful and independent anticorruption coordination and monitoring mechanism in Albania in order to reinvigorate the involvement of key societal players at all levels, active participation of citizens, and a result-oriented endeavour by all institutions in the fight against corruption.

Based on best practices and successful experiences in the region this paper recommends the following policy options to improve efficiency of the anticorruption model in Albania, boost participation of state and non-state players at all levels, and enhance public trust and involvement of citizens and communities in the fight against corruption in Albania:

1. Establish an independent and resourceful National Anticorruption Authority with a law which relies on mechanisms to ensure integrity and independence of its members, to be elected by the Parliament. Such an Authority should have budget autonomy.
2. Ensure the following competencies for the Authority:
  - a. Policy design, coordination and implementation of the anticorruption framework, including on corruption-proof legislation
  - b. Oversee institutional compliance with the anticorruption framework in line with agreed performance assessment standards
  - c. Vested authority to initiate and conduct misdemeanour and proceedings for establishing the violation of anticorruption rules / regulations

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<sup>28</sup> The data generated from the assessment of the corruption in Albania for 2016 (SELDI, CSD, ACER: Corruption Assessment Report Albania, 2016) clearly indicates that the lack of human resources or/and lack of awareness of citizens at the local level are factors contributing to a slow progress in fighting corruption.

- d. Conduct educational, research and other preventive anti-corruption activities
- 3. Involve the Parliament in the adoption of the anticorruption strategy, and ensure roles and objectives for other branches of power and local governments are included in the strategy.
- 4. Design monitoring and evaluation mechanism which rely on the involvement of non-state stakeholders in implementation and oversight of the strategy
- 5. Develop multi-stakeholder forums (civil-public-private) at local (municipal) level to develop the full cycle (from consultation to monitoring and evaluation) of anti-corruption action plans.