



**SIGMA**

**Support for Improvement in Governance and Management**

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**ALBANIA**

**POLICY-MAKING AND CO-ORDINATION**

**ASSESSMENT MAY 2009**

## Summary

### *Main Developments since last year*

There has been a steady consolidation of the government policy-making and co-ordination machinery although the professional capacities remain weak, especially in view of the complexity and sophistication of the system. The Integrated Planning System (IPS) process seems to have stabilised and to have better entrenched itself in the decision-making processes of the government. The Ministry of Economic Integration (MEI) is more integrated into the system. Strategic planning in ministries has yielded some results

The IPS process seems to be driving events rather than lagging behind them and the new Organic Budget Law is helpful in making the IPS an integral part of the budget process. A close linkage between the IPS and the budget process seems to have been established also in practice. For example, from the basis of its strong strategic policy framework, the IPS influenced the policy notes issued at the outset of the 2010 budget cycle, reflecting close co-operation between the DSDC, the Ministry of Finance and the Ministry of European Integration, and budget bids from ministries are to be analysed jointly by these three bodies.

Although the fiscal impact assessment process still needs strengthening, work was initiated on introducing regulatory impact assessment, which is perhaps one bridge too far too early. The Regulatory Reform Action Plan adopted by the government in 2006 has led to substantial reforms being undertaken with regard to administrative environment of business (registration and licensing) and a National Centre for Licensing, offering a one-stop shop for all licences, is scheduled to open later in 2009.

### *Main Characteristics (strengths and weaknesses)*

By the standards of the region, the element of strategic direction in the government system is strong. Several ministerial committees chaired by the Prime Minister play a large role in this.

The implementation of the Integrated Planning System (IPS) is well advanced, and it is now clearly having an impact on budgeting decisions at a government-wide level, although the links are weaker at ministerial level. European integration issues are now more closely (but not fully) integrated into the IPS, and the system is now in the early stages of implementation. Despite its complexities, now that so much effort has been invested in the IPS, the government should continue its implementation. The Analytical Legislative Programme (ALP) has been more closely linked this year to the government's SAA priorities; this needs to be institutionalised by a strong link into the IPS.

However, in dealing with day-to-day decisions the system remains weak. In this regard, the system in relation to the capacities of the centre of government has changed relatively little since the assessments of 2006 and 2008. Policy-making capacities in ministries and inter-ministerial policy co-ordination appear to be improving but still have a long way to go and need external support. International experience has shown that a key element in strengthening policy-making and co-ordination is adequate capacity at the centre of government. While the DSDC (although understaffed) provides strategic capacity at the centre, the apparatus supporting decision-making by the Prime Minister and the Council of Ministers (CoM) nevertheless remains highly fragmented organisationally, and it lacks the mandate or capacity to adequately support the collective work of the CoM. Although the vetting of proposals by the Ministry of Finance (on costs) and the Ministry of European Integration (on compliance with the *acquis*) is effective, the system lacks capacity for policy co-ordination, for ensuring that the Analytical Legislative Programme corresponds to the government's priorities, for ensuring that material reaching the CoM for decision is of sufficient quality, and for monitoring the implementation of government decisions. Even the capacity for legal review remains understaffed.

Certain key capacities at the centre of government – policy advice to the Prime Minister and communication with the public and the media – are effective but depend on particular personalities that would disappear with a change of government.

Serious work is underway on regulatory reform and business environment. There are also promising initiatives in impact assessment and public consultation, although the latter needs formalisation and international support.

### ***Recommendations for Reform***

- Great effort has been invested in the IPS, which is now beginning to show results. The government should continue its implementation. The Analytical Legislative Programme should be linked to the IPS.
- There remains an urgent need to strengthen the apparatus supporting the Prime Minister and the CoM by equipping it with the necessary policy planning and co-ordination functions, ideally under the Secretary-General of the Government.
- Capacities in line ministries for policy analysis, development and co-ordination need further development. Ideally this should be carried out in parallel, and in linkage, with the development of the apparatus supporting the Prime Minister and the CoM.
- The existing requirements for public consultation set out in the Government Rules of Procedure should be reinforced by guidance for ministries on when and how to consult and how to use the results of consultations.

## 1. Coherence of the Policy-making Framework

The legal framework for the work of the Council of Ministers (CoM) is set by Law 9000 "On the Organisation and Functioning of the Council of Ministers" of 2003, which sets out the general competences and rules of conduct of the Prime Minister and other members of the CoM, the procedures for preparation and submission of proposals to the CoM, and the agenda and voting procedures for weekly meetings.

The framework is developed in more detail in the "Regulation for the Council of Ministers" (Regulation 584) approved in 2003 ("the Regulation"). The Regulation establishes reasonably clear rules for the preparation of draft laws and includes a number of good features, notably:

- the planning process for the preparation of the annual Analytical Legislative Programme (ALP);
- a process for drafting laws within ministries, including the respective role of the line and legal departments, internal approval procedures, and a requirement for policy analysis that should be approved by the minister prior to legal drafting;
- a requirement for fiscal impact assessment;
- procedures for inter-ministerial consultations, including consultation with the ministries of Justice, Finance, Economy and other interested ministries;
- procedures for resolving conflicts between ministries before an item is discussed by the CoM;
- adequate requirements for timing and deadlines for inter-ministerial consultations and submission of items to the Secretary-General of the Government.

The Regulation was amended by a decision of the CoM in 2006, which required each draft law to be accompanied by an assessment of the level of approximation to, and a table of compliance with, the *acquis communautaire*. A further amendment of January 2009 requires the addition of the CELEX number, the title of the EC/EU act, and the full title of the legal instrument of the *acquis communautaire* to which the legal act is approximated.

However, there are several weaknesses in the legal framework:

- Regulation 584 was not amended to take account of the requirements introduced by the Integrated Planning System (IPS), and so at present there is no requirement to link the annual ALP process to the IPS.
- The process for policy preparation in ministries is still not sufficiently defined.
- The role foreseen for the Secretary-General of the Government and the apparatus supporting the CoM is purely technical and legalistic. For example, the power to review and return items to proposers is limited to technical grounds, rather than policy grounds.

The Regulation provides for the appointment of inter-ministerial committees. Of these, the Strategic Policy Committee is particularly significant, as it takes many of the key strategic decisions. Other committees focus on specific task areas, such as regulatory reform and European integration.

**The legislative framework for policy-making has good features, but has a number of weaknesses and is not fully implemented in practice.**

## 2. Inter-ministerial Consultation on Policy Proposals

Capacities for policy-making in line ministries are still widely recognised as weak, but there seems to be gradual and perceptible improvement. In most cases laws appear to be initiated without any prior stage of policy analysis. This practice, coupled with law-drafting capacities that remain weak in ministries, often leads to legislation that works badly and soon needs to be amended. Since the 2008 assessment there appears to have been some improvement in this area, with a growing number of instances in which line ministries have engaged in problem analysis, identification of options,

exploration of the consequences of different courses of action, and consultation with stakeholders. However, all of this still appears to be happening only in a minority of cases.

Inter-ministerial policy co-ordination has been improved over the past year by a significant increase in the use of inter-ministerial working groups to discuss draft laws (often in response to direct orders from the Prime Minister). As a result, most of the major issues of contention between ministries are being identified, and at an earlier stage than was previously the case.

This greater use of working groups has to some extent alleviated the problems in the operation of the inter-ministerial consultation on draft laws that is required by the Regulation. However, it still remains the case that draft laws are often circulated for comments late, and ministries are not given adequate time to examine draft laws. Consultations still tend to focus on issues of legal drafting rather than on issues of policy substance. The Juridical Department of the CoM is involved in some of the inter-ministerial working groups, but is usually not involved in the inter-ministerial consultation process on draft laws (and its limited staffing restricts the degree to which it can become involved). The Ministry of Justice is involved in both.

The requirements for each draft law to be accompanied by an assessment of the level of approximation and the table of compliance with the *acquis communautaire* work well. These assessments and tables of compliance are reviewed and must be approved by the Ministry of European Integration (MEI), which is regarded by other ministries as carrying out this function rigorously.

**Capacities for policy-making in ministries are weak, but are gradually improving. The inter-ministerial consultation arrangements on draft laws are improving as a result of the increased use of inter-ministerial working groups. Checks for compliance with EU legislation are effective.**

### 3. Work Planning

The main work-planning mechanism remains the annual Analytical Legislative Programme (ALP). In the past the preparation of the ALP was largely a reactive exercise, in which the Juridical Department of the CoM simply compiled a list of proposed legislation put forward by each ministry. There was very limited review of content by the CoM apparatus, and no systematic check of the proposed legislation against the Government Programme. This process did not appear to be linked to the Integrated Planning System (IPS) and, in reality, the immediate agenda of the CoM was set mainly by the availability of laws put forward by ministries.

For 2009, however, the Prime Minister ordered the ALP to be based principally on the requirements of the Stabilisation and Association Agreement (SAA), which meant that the programme was founded much more on the government's main strategic objectives. This also linked it, albeit indirectly, with the IPS (into which SAA elements are being more closely integrated). There was also a more critical review of the content of the programme by the Prime Minister, the CoM and its supporting staff, the Department of Strategy and Donor Co-ordination (DSDC) and the Ministry of European Integration, with some elements referred back to ministries for further consideration. It remains to be seen whether this change was a one-off arrangement or whether in future years the programme will be clearly linked to the IPS.

**The 2009 Analytical Legislative Programme (ALP) was much more closely linked to the government's main strategic objectives, and there was a greater degree of critical review by the centre of government to ensure that this was the case. In future years this should be developed further, and the ALP should be clearly reflected in the IPS programme.**

### 4. Dispute-Resolution Mechanisms

The "Regulation for the Council of Ministers" prescribes various flexible mechanisms by which disagreements between ministers can be resolved. Essentially, the usual pattern is mediation at expert level, followed if necessary by mediation led by the Secretary-General of the Government with his/her

counterparts in line ministries and, if needed, conciliation or arbitration at ministerial level by the Prime Minister. These mechanisms seem to be effective, although they are rather *ad hoc* and meetings often have to be convened at short notice; this rush makes it difficult to allow full discussion and proper consideration of issues.

**Dispute-resolution mechanisms seem to work effectively, although they are *ad hoc* and often rushed. It would be more efficient to establish resolution mechanisms at an earlier stage, e.g. through the use of ministerial committees.**

## 5. Central Co-ordination Capacity

Logistical and administrative support to the CoM is provided by the Secretary-General of the Government, assisted by a small number of assistants. The Juridical Department of the CoM reviews all draft laws submitted to the CoM for legal and procedural compliance. This department has stable staffing and a strong institutional memory. However, it has only four staff, which is too few, given the responsibilities of the department. Between them, these staff provide the bare minimum of logistical, administrative and legislative support needed by the CoM. The current government's policy of restricting civil service numbers inhibits any expansion of this staff.

The staff of the CoM's Juridical Department have the legal authority to enforce procedures, but in reality the time deadlines specified in the regulations are often breached and many items are submitted late to the Secretary-General and to the Juridical Department, leaving insufficient time for the process of legal review and for resolution of outstanding issues before the meeting of the CoM.

There is no mechanism for monitoring the implementation of government decisions or the ALP, except in an informal and occasional way. Indeed, monitoring generally is a weakness within the governmental system. The monitoring system for the IPS, which to some extent would remedy this deficiency, still has to be devised (see section 6 below).

**The bare minimum of necessary logistical, administrative and legislative support is provided to the CoM. By international standards the centre of government is seriously understaffed and lacks the capacity to enforce procedures. There is at present little or no monitoring of the implementation of government decisions.**

## 6. Central Capacity to Advise on Policy and Strategic Matters

### *Advice on overall strategic issues*

In 2005 the Albanian Government introduced the Integrated Planning System (IPS), which was designed to provide a broad planning framework within which the government's core policy and financial planning processes could function in a coherent, efficient and integrated manner. These core processes include the National Strategy for Development and Integration (NSDI), the Medium-Term Budget Programme (MTBP), the Government Programme, European integration and NATO membership, public investment and external assistance. The NSDI covers a seven-year period (2007-2013).

The IPS process is managed and co-ordinated by the Department of Strategy and Donor Co-ordination (DSDC), which is part of the apparatus supporting the CoM. It has a realistic grasp of the magnitude of the challenges faced by the system. Within each ministry, a strategy has been elaborated, a budget agreed and an integration working group established to develop that ministry's sectoral strategy, although the extent to which functional departments in ministries (as opposed to central units of ministries) are involved in the process varies. Each of the cross-cutting strategies has been developed by an advisory group representing domestic policy stakeholders outside the central government.

A considerable apparatus has been developed to work on the IPS. The process is overseen by the Strategic Planning Committee, chaired by the Prime Minister and consisting of the most senior ministers, which meets approximately monthly to set priorities and discuss key sectoral strategies. This work is supported by the IPS Co-ordinating Group, which is chaired by the Deputy Prime Minister and consists of the deputy ministers and secretaries-general of the ministries of Finance and European Integration, as well as the Director of the DSDC. This group has been influential in driving

forward the IPS agenda and in ensuring closer co-ordination between the two ministries and the DSDC.

The Sigma assessment of 2008 expressed concern that the Ministry of European Integration (MEI) had been rather detached from the IPS process. Considerable progress in remedying this situation seems to have been made in the past year – due in part to the influence of the IPS Co-ordinating Group. The MEI now seems to be much more closely (if not yet fully) engaged in the budget process of the IPS. The general perception is that the DSDC and the ministries of Finance and European Integration now work effectively together, and have presented a very united front to line ministries in the preparations for the 2009 budget round.

To date the focus of the IPS process has been on finalising the NSDI (which was done in spring 2008), preparing the first NSDI progress report (published in late 2008), and producing 37 sectoral strategies (one for each ministry) and cross-cutting strategies, 33 of which were completed by March 2009. Each ministry has also prepared a Ministerial Implementation Plan (MIP), which provides a one-year framework for implementation of the immediate actions required by the seven-year sectoral strategies.

In the past year the IPS process seems to have stabilised and to have better entrenched itself in the decision-making processes of the government. A significant indicator is that the IPS/MTBP Calendar for 2009 was issued on time at the end of 2008, contrary to previous years; this is a sign that the IPS process is driving events rather than lagging behind them. A close linkage between the IPS and the budget process seems to have been established. For example, the IPS strongly influenced the policy notes issued at the outset of the 2010 budget cycle, reflecting close co-operation between the DSDC, the Ministry of Finance and the Ministry of European Integration, and budget bids from ministries are to be analysed jointly by these three bodies.

However, the extent to which IPS priorities have been reflected and integrated into the Ministerial Implementation Plans is variable. The same is true of the progress reports issued by ministries against those plans in 2008. The current focus of work is on remedying these deficiencies.

The fact that the government is taking such trouble to develop a clear and coherent set of policy priorities and linking this to the budget process is, evidently, excellent. The government has invested enormous effort in the IPS process, with extensive donor support. Despite some delays, the IPS has been driven through with determination and persistence. Arguably, simpler mechanisms might have yielded many of the same benefits, but that is now academic. The government has climbed so far up this mountain that it would make no sense to turn back now, especially as benefits are beginning to manifest themselves.

However, the IPS is a very ambitious undertaking, particularly by the standards of other countries in the region, and the DSDC has openly acknowledged that:

- The IPS is very complex and is clearly making great demands on the limited capacities of line ministries. Training for line ministries, to be funded by the Trust Fund, has been badly needed for a long time and has still not taken place.
- The DSDC has eight staff, which is not adequate for its tasks, leading to a reliance on local and international consultants funded through the Trust Fund. This raises doubts about the sustainability of the IPS process in the longer term.
- Implementation of the cross-cutting strategies of the IPS, which by their nature will be difficult to implement, will be further complicated by the difficulties involved in costing them.
- Monitoring arrangements have yet to be worked out in detail, and at present are fragmentary. The 2008 NSDI progress report was a significant first step, although the quality and degree of detail provided in that report was variable. However, this weakness has been acknowledged by all of the key actors and work to address it is underway, with the intention of minimising and integrating the demands made on ministries to provide data for various purposes – NSDI, aid management, MTBP, etc. A significant part of this work will be ensuring that the various

databases maintained by the DSDC, Ministry of Finance and Ministry of European Integration are mutually compatible. Work in this area is drawing on a recent World Bank review of the Ministry of Finance's key financial management IT systems.

### ***Advice on policy issues***

Within the CoM apparatus there is little or no permanent civil service capacity to advise on policy issues. The support staff available to the Secretary-General of the Government concentrate on administrative and secretarial issues. The Prime Minister has a *cabinet* of a dozen advisers, who provide advice to him on a wide variety of issues, including some but not all of the items coming to the CoM and its principal committees. The Prime Minister appears satisfied with this arrangement but, from an institutional point of view, the obvious weakness is that when the Prime Minister changes, the institutional memory and substantive experience of the centre of government are lost completely.

**The IPS provides a comprehensive framework for strategic development and, after a long development process, is beginning to show positive benefits.**

**There is no durable capacity at the centre of government to advise on policy issues, since this function is confined to the Prime Minister's political advisers, who change with each change of government.**

## **7. Co-ordination of European Affairs**

The Ministry of European Integration (MEI) provides the central co-ordination focus for EI work in the government. Collective political direction for the EI process is provided by the full CoM or indirectly by the Strategic Planning Committee, which tends to be more significant on key issues than the inter-ministerial committee on EI (also chaired by the Prime Minister).

At administrative level, the government has started to institutionalise the previously rather informal inter-ministerial co-ordination mechanisms, turning various working groups into formal committees jointly chaired by the MEI and the "lead" line ministry, each supported by a small unit. This formalisation will probably have to be taken further in the near future.

Line ministries have recently been required to improve the status and staffing of their EI units, which now operate in parallel with programme monitoring units. However, the MEI does not want this situation to undermine its long-standing intention to have EI work carried out principally by the operational departments and units of ministries rather than by the EI units alone.

**There are effective arrangements for providing political direction and administrative management of the EI process, and arrangements within ministries for strengthening EI co-ordination have recently been strengthened. The inter-ministerial EI co-ordination mechanisms have to some extent been formalised, but this will almost certainly need to be taken further in the near future.**

## **8. Involvement of the Council of Ministers in Budget Decisions**

The new Organic Budget Law is helpful in making the IPS an integral part of the budget process. The budget preparation process in the first quarter of 2009 has been based on a strong triangular relationship between the Ministry of Finance, Ministry of European Integration and the DSDC to ensure that the IPS provides a strong strategic policy framework with which line ministry bids must conform. These three bodies have been presenting a united front in their dealings with ministries on budget issues.

It seems probable that, as in recent years, the most influential forum for ministerial discussion of budget issues will remain the Strategic Planning Committee chaired by the Prime Minister, which provides overall direction for the IPS process. However, the Organic Budget Law was amended by parliament so as to require the Council of Ministers to take the final decisions on the macroeconomic framework, budget ceilings and budget requests.

**These arrangements provide effective collective ministerial involvement in the budget process. As long as the IPS system operates, it makes sense for the Strategic Planning Committee to continue to play a leading role in shaping the budget and in reporting to and making final recommendations to the CoM.**

## **9. Impact Assessment**

There is at present a requirement for fiscal impact assessment (FIA). The Government Rules of Procedure require any draft law submitted to the government to be accompanied by a budgetary costing in a format prescribed by the Ministry of Finance (MoF). The MoF must comment on the costing. The ministry takes a strict line in enforcing this rule and, if it objects to the proposal or if the costing is missing, the CoM will usually refer the matter back to the ministry for further work. However, as in other countries in the region, the quality of the data provided by line ministries is variable, and there is no written guidance for line ministries on how to prepare a costing. Quite often the MoF in effect carries out the FIA itself. The system needs strengthening.

In addition, the IPS is, in effect, introducing fiscal impact assessment of ministries' strategic plans.

There is no requirement for impact assessment in other areas. There have been a few voluntary initiatives, such as a pilot environmental impact assessment unit in the Ministry of the Environment, supported by SIDA. In late 2008 a World Bank project began work to assist the Ministry of Economy in introducing a system of regulatory impact assessment. State institutions are currently being consulted on the scope and nature of the system, which is to be piloted in several policy areas (probably food safety and some aspect of environmental policy). Pragmatically, the coverage of the scheme will be adapted to match existing capacities and may go beyond the traditional concept of regulatory impact assessment. For example, it may include an element of environmental impact assessment, given that the Ministry of the Environment is already active in this area.

**The fiscal impact assessment process needs strengthening. Work on introducing regulatory impact assessment (which may extend to other areas) is underway, but it would be advisable to introduce this only when and where FIA has been firmly embedded and even then to provide guidance on where full RIA techniques should be used.**

## **10. Better Regulation**

A Regulatory Reform Action Plan was developed by an inter-ministerial task force chaired by the Prime Minister and approved by the Council of Ministers in 2006. It covers licensing, taxation; the customs system; land and construction permit issues; administrative appeals; business registration and business inspection. The task force was supported by the Ministry of Economy, Trade and Energy. Reforms since 2006 have focused on business registration and the licensing system. Business registration is now possible in one day, from a single office and at a cost of less than one euro. Out of 170 required permits and licenses, 104 have been abolished, and the procedures surrounding the remainder have been simplified. A National Centre for Licensing, offering a one-stop shop for all licences, is scheduled to open later in 2009.

**The Regulatory Reform Action Plan adopted by the government in 2006 has led to substantial reforms being undertaken with regard to business registration and licensing.**

## **11. Transparency, Consultation and Communication with the Public**

The Government Rules of Procedure contain a rather vague requirement to carry out external consultations, including with civil society. However, there is no guidance for line ministries as to when this consultation should be done or how it should be undertaken. In the absence of such guidance, it is not surprising that consultation is patchy, in terms of both occurrence and quality, although the majority of proposals submitted to the Council of Ministers have been the subject of some degree of consultation. Some good recent examples of systematic and meaningful consultation have clearly affected the content of policy. Some consultation has been ad hoc – in the areas of environment, health, transport and finance – while others have been institutionalised, such as the Business Advisory Council, set up by the Ministry of Economy, which discusses all draft legislation

affecting business (for example, recent licensing reforms), and the National Labour Committee, which brings together representatives of the government, employers and employees to discuss a wide range of social and economic issues.

Encouragingly, the established practice of using consultation in conjunction with the IPS is continuing. For example, two consultative roundtables with civil society participation were held to discuss the draft NSDI progress report in late 2008, and the DSDC is developing mechanisms to involve civil society in the monitoring of sectoral strategies.

Consultation with business is regarded as an integral part of the regulatory reform and impact assessment initiatives described above, and the government is exploring the use of Internet-based consultations (see section 9 above).

The present system for public communications is centred on a unit of 11 staff who answer to the Prime Minister. The unit works closely with the Prime Minister's spokesperson and with the Minister of European Integration, who also serves as government spokesperson. The unit is responsible for disseminating information to the public, liaising with the national and international media, and organising regular press conferences. Contact arrangements exist for the media to obtain answers to their queries about government activities. The unit has informal but effective links with ministries. There is up-to-date news provided on the government website.

At the centre of government, this public communications system appears to react capably to events and undertakes proactive work, such as the publicity effort surrounding the IPS. However, the system is not deeply institutionalised and appears to depend heavily on certain key personalities, who could change if there were a change of government. Furthermore, capacities in line ministries vary: some have a communications office, some just a spokesperson, and most are reactive, lacking the capacity to organise proactive communication with the public.

An operational freedom of information law exists, but people more commonly obtain information about government activities informally, through personal contacts within the public administration.

Legislation is published in the *State Gazette*.

**There are encouraging examples of good practice in the area of public consultation, but this practice remains haphazard. The formal framework is weak and should be strengthened.**

**At the centre of government there are effective arrangements for communications with the media and the public, including inter-ministerial co-ordination, but these arrangements are to a large extent informal and rely on individual personalities, and they are insufficiently institutionalised. Communication capacities in line ministries are in general weaker.**

**Legislation is published in the *State Gazette*, and freedom of information legislation exists but is rarely used.**