ALBANIA

DEMOCRACY AND GOVERNANCE ASSESSMENT

Revised Version

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EXECUTIVE SUMMARY

Despite its shortcomings, Albania qualifies as a democracy, even if that democracy remains to be consolidated. The transition from communism to democracy and a market economy has made great progress in 15 years. The risk of relapse into authoritarianism has receded, especially as the country looks toward integration into the European Union. Consensus and inclusion are not significant problems. Although unnecessarily partisan and contentious, reasonable competition exists, in politics as well as in the economy and the larger society. Despite a number of problems, the 2005 elections marked an improvement over previous ones, and the opposition, notwithstanding its criticisms of the new government's policies, does not contest the legitimacy of the ruling majority.

But it is not entirely clear that Albania is still "in transition"—or in the process of democratic consolidation. Rather the transition appears in many ways to have stalled. Notwithstanding reasonably successful elections and a transfer of power, Albanian democracy faces a number of persistent challenges. These include corruption, the threat of state capture, the small size and weaknesses of the formal economy, the absence of the rule of law, and weak governance in general. Accordingly, the democracy and governance assessment team posits that the principal challenges to the consolidation of democracy in Albania are weak compliance with the law and poor governance.

The rule of law in Albania is seriously lacking. The government, executive branch agencies, local governments, and politically powerful organizations and individuals often fail to follow or respect applicable laws and prescribed processes. Corruption, at all levels of society, is endemic. There are serious questions about the extent to which private interests have captured the state. Collusion of private and government interests remains a critical problem, and serious conflicts of interest are common. In addition, organized crime is strong and allegedly has or has had patrons and protectors within the government.

Government performance in Albania is poor and state institutions are often ineffective. Their failure to deliver health, education, electricity, and other basic services dampens public support and further weakens the already fragile legitimacy of state institutions, public officials and political parties. The lack of transparency and accountability further compounds the problem. Corruption, widely perceived as the root cause of Albania's problems, is principally a symptom of these failures of governance.

These needs come together in the context of Albania's process of accession to the European Union. It is in the justice sector that institutional weaknesses and corruption most affecting governance need to be addressed. In its negotiations with Albania, the European Union has identified the rule of law, improved governance (meaning institutional reform) and the fight against corruption as the critical problem areas. Put differently, this means that the legal arena should have the highest priority for resources to improve governance of state institutions, combat corruption and, ultimately, establish the rule of law on a sustainable basis.

Accordingly, democracy and governance efforts in Albania should focus mainly on implementation of reforms within state institutions—not on new laws or institutions—and improving administrative procedures and government efficiency. Further democratization also requires reducing barriers to political participation and economic competition and formalizing the economic system. This includes efforts to open the process, for example by making lawmaking, policymaking and budget formulation in the parliament and within the executive branch more accessible to the public. It also includes better oversight of government decisions and a more effective role for civil society organizations. At the sub-national level, these governance improvements can apply as well to local government.

Given the extent of donor interest in and influence on democratization in Albania, effective donor coordination is essential. In addition, donors need to take care to avoid supplanting Albanian ownership of the democratic reform effort.

In short, the assessment team has concluded the principal challenge to further democratization and good governance in Albania is the lack of the rule of law and effective governance, manifested by the weakness of state institutions. Accordingly, USAID and other outside actors seeking to support democracy and good governance in Albania should continue to help the country to build modern, accountable, democratic institutions.

I. INTRODUCTION

A. ASSESSMENT OBJECTIVES

USAID decided to conduct a democracy and governance assessment in Albania at this time as part of its process of developing a new long-term strategy for encouraging democracy, good governance and rule of law. Within the next year, the Mission in Tirana will prepare a new five-year democracy and governance strategy. Some parts of the previous and existing portfolio have been or are likely to be phased out, in some cases because those projects have come to a natural end. The Mission is looking for advice in setting long-term priorities and also will consider whether it should make any interim adjustments in current programming in light of the priorities suggested by the assessment.

Democracy International (DI) fielded a team to conduct this assessment under the firm's Indefinite Quantity Contract with USAID for Democracy and Governance Analytical Services. The team consisted of Eric Bjornlund, president of Democracy International, as team leader; Charles Costello, former USAID Deputy Assistant Administrator, Director of the Office of Democracy and Governance, and Mission Director in three countries; William Schoux, former USAID Director of the LAC Office of Democratic Initiatives and former advisor to the USAID Mission in Albania; and Blendi Kajsiu, an independent Albanian political analyst. The team gathered information for the assessment from interviews conducted during a three-week stay in Albania in November 2005 and from readily available documents and published reports.

The team has conducted the assessment in accordance with the methodology and framework of the USAID Office of Democracy and Governance, as laid out in *Conducting a DG Assessment: A Framework for Strategy Development*. This framework prescribes a four-step process and a standard set of questions and issues. The steps are:

1. Analysis of the status of democracy and governance in the country using five analytical "lenses" (consensus, rule of law, competition, inclusion and good governance) for the purpose of identifying the principal DG challenge(s) facing the country;
2. Consideration of the country's political actors, interests, resources and strategies, leading to an understanding of how the political game is played;
3. Analysis of the institutional arenas in which political actors operate for the purpose of understanding their relevance to the principal DG problem and identifying opportunities for democratic advancement and constraints to change;
4. Consideration of the interests and resources of donors, including USAID, and other strategic considerations important to USAID, leading to identification of recommended areas for DG programs.

The framework is designed to lead to a document and discussion that lays out problems and possible solutions, suggests priorities and provides a basis for subsequent program choices and more specific program design. Following the assessment, it is expected that the USAID Mission will carry out the detailed sector analysis and consultation with prospective partners needed to select specific program activities and design program interventions.

Organization of Report

This assessment report is organized as follows. The next parts of this Introduction provide historical background and consideration of the prospects for European integration. Section II first considers the status of democracy by analyzing the five key elements of democracy. It then reviews the stalled status of the democratic transition in Albania and states the assessment team's view of the country's principal democracy and governance challenges. Section III, which constitutes the bulk of the report,

discusses Actors and Institutional Arenas. Combining the analysis of Steps 2 and 3 of the assessment process, this section considers four institutional arenas: (1) the legal arena and the rule of law; (2) the competitive arena, especially elections and political processes; (3) the governance arena, including the executive, the parliament and local government; and (4) the civil society arena. Section IV considers cross-cutting issues and constraints. Finally, Section V proposes a new strategic architecture and summarizes the report's conclusions and recommendations.

B. HISTORICAL BACKGROUND

The Legacy of Communism

Albania experienced one of the harshest communist regimes in Eastern Europe. The government ruthlessly imprisoned or murdered all political dissidents. The Communist Party, later named the Labor Party, controlled all means of communication and propaganda. Its notorious secret services intruded everywhere in society. The regime banned private property and religion, and farmers were forced to join cooperatives and collectivize their livestock. Many major public works, such as railways, irrigation systems or plantations, were built by forced "voluntary" work by the population or youth, which is why the idea of volunteerism remains tainted to this day. By abolishing private property, through forced collectivization and voluntary work, the state radically extended its domain at the expense of the individual, who was placed almost completely under the state's control.

Communism in Albania was extreme. While there was at least modest liberalization in many communist countries in the Eastern Bloc in the 1960s, in Albania the regime grew increasingly totalitarian, severely punishing any real or alleged opposition. Thus, by the1980s there were no underground movements, informal organized opposition or even individuals expressing mild dissent. The severance of relations with China in the 1970s compounded the situation. Until the fall of communism in 1991, Albanians were completely cut of from developments in the rest of the world. In fact, the end of the communist system in Albania came primarily from a combination of internal economic collapse and developments in the Eastern Bloc in general rather than from any organized resistance inside the country.

Early Years of Transition

The high degree of repression of the communist regime, the total isolation from the rest of the world, the abolition of individual liberties and the absence of a social or intellectual dissident movement combined to produce a unique and at times painful transition in Albania. Democratization took place more as a reaction to past political experience than as a systematic effort to build a liberal democratic regime. The absence of any genuine experience with political or economic liberalism further hindered the process. When the opposition Democratic Party came to power after the first truly multiparty elections on March 22, 1992, democracy was primarily understood as anti-communism. The Democratic Party itself brought together individuals and social groups from very different walks of life lacking any real ideological or interest-based cohesion beyond a resounding cry against communism. At the time the path to democracy was clear: the expansion of personal freedom and the destruction of any remnants of communism. That former communists would carry out these tasks, since the political and intellectual elite that existed in Albania at the time had been formed under the aegis of the Communist Party, only served to complicate the situation.

Freedom in this context was defined in opposition to the state and the spirit of collectivism that had usurped every aspect of life under communism. Unfortunately, this produced a wave of hostility to the state and destruction of state property. It also weakened communities and their ability to fill the vacuum left by a receding state, because of their aversion to collective action. At the same time, huge and rapid demographic changes shook and reshaped traditional communities. Many Albanians emigrated to neighboring countries and beyond. Others moved from remote and rural areas into urban

centers, often settling in the uninhabited outskirts of urban centers, taking over private or state-owned land. The state began to withdraw from most aspects of the lives of citizens, often leaving them ill prepared to cope with the complexity of a mysterious and often dysfunctional market economy. Entire segments of society experienced social trauma, feeling abandoned by the state on whose resources they had depended and frustrated by their inability to succeed in the new economic system. Because of this peculiar combination of factors and legacies, the excesses of freedom after the collapse of communism approached anarchy. State officials and ordinary citizens alike lamented the apparent absence of the state, but many Albanians remained suspicious or even hostile toward anything that recalled the harsh legacy of communist rule.

Despite this legacy, the country held great promise in the early years of transition. Between 1992 and 1996, economic growth was dramatic as the private sector grew and market economy emerged, though this was partly due to the very low starting base. The government enacted sweeping reforms, and Albania's scale of privatization and progress toward a market economy outpaced its neighbors. Independent media and civil society organizations began to emerge in an important role as they voiced criticisms of the government and the ruling party, especially the concentration of power in the hands of President Sali Berisha and his control of the judiciary and other institutions that were supposed to be independent.

President Berisha and the Democratic Party soon began to show undemocratic tendencies. Hostile to criticism, authorities put strong pressure on journalists, up to and including prosecution and imprisonment. Civil society organizations remained weak and almost entirely dependent on international donors. Under the banner of the war against communism, the ruling party began to restrict some key civil liberties of its opponents, such as the right to run for office. The authoritarian tendencies of the government became more apparent and disturbing in the 1996 parliamentary election, which were manipulated to favor of the Democrats. The government crushed opposition protests of the elections.

The 1996 elections were followed by the collapse of pyramid schemes in which huge numbers of people lost their life savings. A frustrated opposition and an angry population combined to rebel against the government and produce a violent uprising that started in the southern city of Vlora and soon spread throughout most of the country. This ended with the collapse of the entire state apparatus in 1997. The resulting chaos almost entirely wiped out the progress that had been made up to that point.

After parliamentary elections in 1997, the Socialist Party came to power and the country began to recover. The new government made progress in rebuilding state institutions and establishing the rule of law. Media grew rapidly and civil society became stronger. Although the opposition was bitter and the political climate polarized, including persistent problems with elections, the Socialist approach to governance was generally less confrontational and more inclusive. In practice, this meant that the government tended to co-opt rather than repress civil society, media and businesses.

Thus, Albanian governance in many aspects became less authoritarian, but it was also less transparent and accountable. It was now beset by increasing corruption and state capture, until these problems themselves began to produce tension among competing factions within the ruling Socialist Party. The economy suffered as state officials abused their power for personal economic gain and the distinctions between politicians, businesses and media blurred. As the ruling Socialist Party focused more on its internal clashes than on governance, Albania came to be viewed as the most corrupt country in the region.

Elections and Change of Government in 2005

These factors, combined with an aggressive new image and a clear anticorruption platform from the opposition Democratic Party, contributed to the electoral defeat of the Socialist Party in parliamentary

elections on July 3, 2005. The Democratic Party and its allies received a majority of votes and gained the right to form a new government.

After a protracted post-election process, the new government finally took office in September. New Prime Minister Sali Berisha seems determined to fight corruption, which he cites as his top priority. Most analysts say the new cabinet so far appears free from obvious conflicts of interest and seems generally committed to eradicating corruption. But it remains to be seen how successful the government will be in taking on such a challenging task.

C. EUROPEAN INTEGRATION

Albania is a European country long cut off from Europe, not only Western Europe but even Central and Eastern Europe. The Communist government of Envir Hoxha that seized power after the end of World War II broke first with the Soviet Union, then later with China, to pursue a policy of internal self-sufficiency and isolation from the rest of the world.

For hundreds of years, until the early 20th century, Albania was under the control of the Turkish Ottoman Empire and thus out of the mainstream of European development. Albania achieved full international recognition as an independent state only after World War I. In the 1920s its parliamentary system was supplanted by a monarchy that steadily came under the control of the fascist Italian government of Benito Mussolini.

Albanians are descended from the ancient Ilyrians, and before the Ottoman conquest Albania was a part of medieval Christian Europe. Its national hero, Skanderbeg, was a Christian knight from that era. Today, most Albanians are Muslims, but religion does not have a prominent place in public affairs.

With the fall of Communism in 1991, the door to Europe opened. With freedom of movement for the first time in more than 40 years, nearly a million Albanians, almost a third of the population, emigrated in search of better employment opportunities. Most of them went to Western Europe, and their remittances to families back home power the Albanian economy. This labor migration, both legal and illegal, shows that the Albanian people, if not the country as a political entity, have rejoined Europe quickly in the last 15 years. Trade with Italy and Greece makes up the bulk of both imports and exports, so it also can be said that Albania has rejoined Europe in an economic sense as well.

To fulfill its "European destiny," though, Albania needs to successfully complete the process of accession to the European Union. This is an overriding goal of successive Albanian governments and of the overwhelming majority of Albanians. EU accession is valued not only for the huge economic benefits it would bring but also for the sense of larger self-identity as a long-lost member of the European family returning home.

The overriding objective of EU accession is relevant to this Democracy and Governance Assessment because of the pre-conditions to accession the Union sets for aspiring member countries. The European Union has set standards that any potential member country must meet, including democratic governance, a market economy, the rule of law and the protection of fundamental liberties, among other things. Albania, still at the earliest stage of the process, literally receives an annual inspection followed by a report card on its progress.

The 2005 EU report indicated progress in most areas, especially as to free elections and an uncontested, peaceful transfer of power to the winning former opposition party.[1] Negotiations will likely be completed in 2006 on a Stabilization and Association Agreement, a major early benchmark in the accession process, with signature expected mid-year.

The accession process not only provides a template for democratic governance, it offers a powerful incentive to countries to meet European democratic standards of governance. The EU has expressed strong reservations about the rule of law, the independence and integrity of the judicial system, and corruption in government, among other things. Albania is on public notice that it has to make governance improvements and strengthen its democratic institutions if it is to see its candidacy prosper, and the Albanian government of the day knows that the EU and its own citizens will hold it accountable for its performance.

The EU accession process relentlessly pushes Albania to generate the internal political will necessary to undertake difficult reform efforts. In fact, Albania is lagging behind its neighbors, as Bulgaria, Romania and Slovenia have already become member states, Croatia is close to accession, and Macedonia next door has formally received candidate status. Pressure is mounting on Albania to accelerate its process in order not to be left behind.

The Albanian government's need to show continued progress gives the donor community, with the EU itself at the head, much greater leverage than normally would be the case in setting conditionality with assistance programs. As the U.S. has clearly stated that its own interests in Albania are defined by "full integration into Euro-Atlantic structures," which means membership in NATO as well as in the EU, the goals of USAID, the European Union and Albanian government and society should be fully compatible.

Yet, Albania is a long way off from achieving accession, and some observers feel that the pace of progress will be too slow to continue to motivate needed democratic governance reforms. Nevertheless, the process is hugely important to the future of democratic governance in Albania. More than any other factor, the EU accession process helps to guarantee and stabilize democracy in Albania and gives grounds for optimism about Albania's democratic future. In that same sense, it increases the chances for long-term success of USAID investments in democracy and governance if wise choices are made about program interventions.

The areas of greatest EU concern are the same ones given highest priority in this assessment: stronger rule of law and healthier, less corrupt, more functional state institutions. These institutionalized processes associated with the larger accession process, particularly with respect to rule of law issues, represent the focal points for donor assistance to improve governance. Europe is Albania's destiny; being a member of the European Union and—as a democratic nation— the larger European family is the way, the only way, Albania can generate the political will needed to carryout reforms that will strengthen democratic governance. Therefore, linking USAID's strategy in providing assistance for democracy and governance to that accession pathway gives a clear, practical guide to the future direction and priorities for USAID.

II. DEMOCRACY AND GOVERNANCE IN ALBANIA

A. STATUS OF DEMOCRACY

The DG Assessment Framework calls for analysis of five key elements of democracy: consensus, inclusion, competition, rule of law and good governance. Generally speaking, consensus and inclusion are not significant problems in Albania. Although unnecessarily partisan and contentious, reasonable competition exists, in politics as well as in the economy and the larger society. The assessment team posits that the principal challenges to the consolidation of democracy in Albania are weak compliance with the law and poor governance.

Consensus

There is reasonable consensus in Albania on the broad national goals and rules of the game, including widespread agreement on the legitimacy of Albania's statehood, borders and constitution. Two aspects of this consensus are particularly notable.

First, all significant political actors and social groups appear to agree on the importance of democracy. No significant group argues for a return to communism, the imposition of a religious theocracy or the benefits of authoritarian rule. Moreover, as one local analyst put it, Albanians share a Western understanding of democracy. That is, they understand democracy to involve such basic ideas as open competition, protection of civil liberties, the rule of law, and respect for pluralism and minority rights. As part of this consensus on democracy, Albanian actors agree on the importance of genuinely democratic elections and apparently accept the premise that governments can only be changed through elections. Based on recent experience, Albanian politicians now appear ready to respect election results. Of course, disputes about election implementation and debate over the election system continue.

Second, virtually everyone in Albania shares the goal of European integration, including joining the European Union and other Euro-Atlantic structures. Political leaders, government officials and the society generally are extremely focused on this goal and generally appear willing to take difficult steps to achieve it. Furthermore, there seems to be consensus on the role of European and American governments and organizations as arbiters of the worthiness of Albanian institutions.

Inclusion

Inclusion is not a significant problem in Albania. The country's laws, rules and practices do not exclude any segment of the population from participation in government, the political process or public life. Although there are well-founded concerns about the treatment of Roma and other minority groups, there are no significant social or political divides along ethnic or sectarian grounds.

Despite a good legal framework, though, the extreme individualism that has replaced extreme communism perhaps complicates the goal of encouraging participation in public life. Participation in elections has declined recently, and increasing frustration with corruption has made people more disillusioned with political parties and government. Likewise, representation continues to be an issue. The party list system used for part of the parliament and for the local councils empowers party leaders at the expense of accountability to the public. Poverty, rural isolation, lack of education, lack of opportunities for women, and, in some places, intimidation by powerful local elites or criminal groups also hamper effective participation.

At the same time, various types of civil society organizations have emerged as significant actors in the public debate and the large number of newspapers and other media outlets provides opportunities to be heard. Parties are mass based and open to new members. The parliament operates largely in the open and increasingly seeks public input through commission hearings and other means.

In short, the right to participate is clear. Disillusionment and lack of participation in practice are largely symptoms of frustration with corruption, poor governance and inadequate compliance with and enforcement of the law.

Competition

Vigorous competition exists in Albanian political and public life. Elections and political parties are competitive, perhaps to an unhealthy extent. Parties compete forcefully, and the results and fairness of elections are highly contested. After a recent history of flawed elections, however, Albania held reasonably successful elections in 2005, which led to a peaceful change in government.

There is also a vigorous competition of ideas, in the media and elsewhere. Freedom of speech, expression and the press seem well established. A large number of civil society organizations, albeit generally sustained by foreign donors, compete for public attention and influence and provide one check on corruption and abusive government power.

Other institutions exist, inside and outside the government, to provide checks and balances on governmental power, although in practice many of these institutions are ineffective. There is a market economy and economic competition is very real, although the private sector remains limited and government policies and procedures still limit more open competition. The state remains largely dependent on business and private interests.

Rule of Law

Paraphrasing a comment by French novelist Antoine Auduard about the recent civil unrest in France, Albania is a society that has not yet learned how to enforce its own rules or how to create the dream of a better life for its new generations. The rule of law in Albania is seriously lacking. Corruption within the legal system is endemic. There are serious questions about the extent to which private interests have captured the state. Collusion of private and government interests remains a critical problem, and serious conflicts of interest are common. In addition, organized crime is strong and allegedly has or has had patrons and protectors within the government.

The government, executive branch agencies, local governments, and politically powerful organizations and individuals often fail to follow or respect applicable laws and prescribed processes. In many respects, lawlessness prevails, and there is a lack of effective state authority.

The rejection of collectivism seems to have swung the pendulum toward extreme individualism and a breakdown of state authority, with organized crime groups and corrupt figures as prime beneficiaries. The operating principle for survival and success appears to be “every man for himself” or “anything goes.” The collapse of the state in 1997 is the extreme example of this phenomenon. In general, as studies of the World Bank, USAID and others have often observed, Albania suffers from weak compliance with the law, both by the state and citizens.

Although this observation is not new, it may be noteworthy that so many of the assessment team’s interlocutors expressed the view that Albanian democracy cannot move forward, past its current “stalled transition,” until the rule of law, especially as it applies to the state, is substantially strengthened.

Good Governance

Failures of governance have sapped the legitimacy of state institutions, public officials and political parties even as Albanians in public opinion surveys continue to express a clear preference for democracy. The transition from communism to democracy and a market economy has made great progress in 15 years, but thus far Albanian governments have been unable to gain the full confidence and trust of citizens in the fundamental legitimacy of the new order. Flawed elections have been a contributing factor, perhaps overcome in 2005.

Government performance in Albania is poor and state institutions are often ineffective. Their failure to deliver health, education, electricity, and other basic services dampens public support and further weakens the already fragile legitimacy of the state. The lack of transparency and accountability further compounds the problem.

Political will for more effective implementation of policies is too often absent. Albania has had a long tradition in which governments were not accountable to their citizens. "Our understanding of democracy is Western," as one Albanian analyst put it, "but our implementation is still Balkan."

Corruption, widely perceived as the root cause of Albania's problems, is rather a symptom of these failures of governance. Without question, corruption is a serious problem; but systemic, sustainable governance improvements are much more likely to reduce corruption than single-issue interventions against corruption that do not change underlying political and economic institutional structures and incentives.

B. STATUS OF TRANSITION

Despite its shortcomings, Albania qualifies as a democracy, even if that democracy remains to be consolidated. The risk of relapse into authoritarianism has receded, especially as the country looks toward EU integration.

The July 2005 parliamentary elections marked a milestone. Despite a number of problems, international observers concluded these elections marked progress over previous ones. Albanians and the international community agreed that the elections produced a legitimate government, and the opposition, notwithstanding its criticisms of the new government's policies, does not contest the legitimacy of the ruling majority. Local elections expected in late 2006 present the next electoral test.

But it is not entirely clear that Albania is still "in transition"—or in the process of democratic consolidation. Rather the transition appears in many ways to have stalled. The system has achieved a kind of stagnation. Notwithstanding reasonably successful elections and a transfer of power, Albanian democracy faces a number of persistent challenges. These include endemic corruption, the threat of state capture, the small size and weaknesses of the formal economy, the absence of the rule of law, and weak governance in general.

Lack of accountability is the thread that runs through all of these challenges. Fifteen years after the fall of communism, Albania has established a political system that is ostensibly democratic, but in which accountability is often absent. This has permitted both the tendencies toward authoritarianism under the Democrats in the mid-1990s and the more recent corrupt governance under the Socialists. These abuses in turn have undermined the credibility of political and governmental institutions in general. Whether the new government can break this pattern remains to be seen.

To do so, the current government must build, manage and sustain efficient and transparent institutions of governance in the face of a fragile economy, a weak public administration, and widespread corrupt practices and pressures. The government's true challenge, and the challenge of Albanian democracy in general, is to build a democratic political system with institutions that deliver for the citizens.

C. PRINCIPAL DEMOCRACY AND GOVERNANCE CHALLENGES

The assessment team has concluded the principal challenge to further democratization and good governance in Albania is the lack of the rule of law and effective governance, manifested by the weakness of state institutions. Accordingly, USAID and other outside actors seeking to support democracy and good governance in Albania should continue to help the country to build modern, accountable, democratic institutions. This means focusing mainly on implementation of reforms within state insti-

tutions—not on new laws or institutions—and improving administrative procedures and government efficiency. It also means reducing barriers to political participation and economic competition and formalizing the economic system. This includes efforts to improve and open the process, for example by making lawmaking, policymaking and budget formulation in the parliament and within the executive branch more accessible to the public. It also includes better oversight of government decisions and a more effective role for civil society organizations.

III. ACTORS AND INSTITUTIONAL ARENAS

A. RULE OF LAW AND THE LEGAL ARENA

1. Legal Sector and Judiciary

The legal framework, that is to say the constitution and the body of substantive law, is not seen as a major impediment to rule of law in Albania. The constitution, adopted in 1998, generally meets the standards for establishing the legal basis of a democratic political system. Most outside observers consider the body of substantive law acceptable in most respects, in large part because the standards for EU member states have provided a template and international experts have played a major role (some would say too large a role) in the drafting of legislation. As one observer noted, the move toward accession to the EU will require the adoption of more than 80,000 pages of EU laws and regulations. There is no question about the gradual harmonization of Albanian law with the laws of the EU, as this process is recognized as a precondition to accession. Even if it is a long way off, accession has been a primary policy objective of all governments to date, as well as a position shared by all leading political parties.

The real problem lies in abuse of administrative discretion and failure to implement the laws on the books, with the state's own failure to comply with legal procedures being the most egregious example. Unchecked executive power is perhaps the greatest single element of "democracy deficit" in the Albanian political/legal arena. Final court judgments against executive ministries and agencies often are unenforceable, as the responsible officials willfully ignore court orders. In part this is a public-sector legacy of the communist period, when executive power reigned supreme and judges and the courts were merely instruments of the party and the state. To a considerable extent, that culture of impunity persists, which is unacceptable in a democratic state. In an interview with the team, the Prime Minister stated that he had ordered all executive departments to obey final court judgments. This is an encouraging sign, but the order is not self-enforcing.

Private litigants face similar problems in the enforcement of judgments. Losing parties routinely ignore court orders, and governmental authorities often fail to enforce them. It is estimated that only 45 percent of final judgments are enforced, although that represents an improvement from just 33 percent in 2003.[2] Even so, that is a very low percentage, especially if the state itself is a prime offender. Legal remedies are dead letters if not enforced. In the business sphere failure to respect and enforce contract rights impedes private-sector investment, and this legal vacuum also leads to extrajudicial attempts to enforce claims through intimidation or violence.

Part of the "enforceability gap" problem rests with the courts and judges themselves. The court system and judges in particular are widely perceived as corrupt. Though reliable empirical data on the issue are not available, informed observers with whom the team met shared that opinion. Court administrators are seen in the same light, primarily as rent-seekers rather than as guardians of justice. Unfortunately, the poor reputation of the courts provides a rationalization for noncompliance by the state and many citizens. Although the USAID-assisted Magistrates School received plaudits for producing a stream of higher quality new judges at the entry level, others questioned whether the Magistrates School had created an oversupply of such judges.

The private bar fares only slightly better in the public's eye. Private legal practice was illegal in the communist period, so the private bar is a recent addition to the legal system. Rather than being seen as loyal advocates for the interests of clients within a properly functioning system, however, lawyers are often, in the words of one person interviewed, "intermediaries for corruption," functioning as the "bag men" to bribe court officials and judges to achieve favorable outcomes for clients. The private Chamber of Advocates (bar association) recognizes this problem and is trying to improve technical

standards by administering a more difficult licensing examination for law graduates. The bar association is also trying to strengthen its disciplinary authority, but its president admitted that self-regulatory discipline is still very weak. Assistance to the Chamber is included in the current USAID rule of law program. An active "young lawyers" group within the bar association may represent new generational thinking about the role of law in society and may be a catalyst for change within the profession.

Disciplinary procedures for judges are also highly problematic. In part this is because oversight of judicial behavior is split in an overlapping, confusing way between the High Council of Justice and the Ministry of Justice, which leads to professional jealousies and a lack of cooperation. The Ministry has a judicial oversight office that can investigate complaints and initiate actions, but the real authority for disciplining or removing judges rests with the High Council, which has not displayed strong initiative of its own or receptiveness to Ministry referrals.

Some analysts cited judicial independence as one of the achievements of the democratic transition, but others questioned that view, alleging the government (executive) still heavily influences the decisions and activities of judges. With corruption in the judiciary so pervasive, judicial independence would be a hollow victory if it served only to insulate corruption. Greater judicial accountability is badly needed. Legal systems, especially judiciaries, tend to be conservative, meaning resistant to rapid change. This normally is a healthy condition, giving needed stability and predictability to the system, but it makes essential reforms harder to achieve, especially in the short-term.

2. Prosecutors and Police

If poor implementation of laws is seen as a principal impediment to achieving the rule of law, then the role of police and prosecutors also becomes critically important. Prosecutors are the main actors within the legal system to bring both civil and criminal cases to the courts on behalf of the state, and the police play a primary role in regular criminal law enforcement, one that is visible to the public at large.

Albania's legal system draws on many sources, and this mix is seen in the definition of the prosecutorial function. The General Prosecutor is independent of the executive and operates virtually as a separate branch of government. This differs greatly from the American model, but it is reportedly the norm for countries in the Council of Europe. Judicial police play a role in investigation and evidence gathering for cases, but they work for judges rather than directly for the prosecutors. The General Prosecutor's office is widely criticized for failing to bring actions in important cases, but the office claims that such cases presented to it often lack the most basic evidence necessary to initiate charges and are thus not amenable to prosecution.

In some ways the General Prosecutor is caught between the government of the day (the executive) and the parliament, to which he is ultimately responsible. The parliament can remove the prosecutor from office only for malfeasance or incapacity. Government leaders, politicians and members of parliament have criticized the current prosecutor, and the ongoing controversy about the prosecutor's performance demonstrate that the position, though nominally independent, remains subject to political infighting, a problem that also affects the legal system as a whole. According to a leading private lawyer in Tirana, each of the two leading political parties has "its own judges and prosecutors" within the system.

Fortunately, violent street crime is not a major problem, and Albania does not have to give highest priority to basic "law and order" issues. Many crimes of violence tend to be associated with clashes between criminal organizations. However, intimidation of witnesses is a problem in sensitive cases involving organized crime, political figures or powerful economic interests. Albania's small size and population and its highly personalized social networks make it difficult to set up effective witness-protection programs.

Albania does have a serious "hidden violent crime" problem with respect to domestic violence, according to women's advocacy groups and human rights activists. Programs focusing primarily on awareness to bring the issue into the public debate are addressing the problem, but it is an issue that has to be tied in directly at some point to police and prosecutorial action to show that offenders can be sent to jail.

Trafficking of women for sexual exploitation is a similar issue. It is increasingly recognized as a serious social problem, but a weak legal system does not afford much protection for victims or action against the criminal syndicates that run it.

The role of the "construction police" is an example often cited to demonstrate lack of respect for the law. The construction industry in Albania is booming, but uncertain property rights and the need for construction permits from government authorities have provided incentives and opportunities for bribery, fraud and corruption. The building inspectors, or "construction police," are infamous for shaking down even builders acting within the law, but contractors are also well known for offering bribes in order to get permits or to avoid regulatory inspections.

3. Respect for Human Rights

Human rights in Albania are generally well respected, and governments in recent years cannot be accused of patterns of gross violations of citizens' fundamental liberties. The minority Roma community is marginalized, however, and subject to social discrimination and lack of adequate access to schools, housing and social services. Unfortunately, the same can be said of much of the low-income Albanian population, especially those in rural areas and the less-developed North. Progress in providing human rights protection in this broader sense will only come with higher per capita income levels, a better-financed public sector and greater appreciation for the rule of law.

B. COMPETITIVE ARENA: ELECTIONS AND POLITICAL PROCESSES

1. Election Process

Albania is a parliamentary republic. The parliament elects the president, and the president has limited, largely symbolic powers. The country has a unicameral parliament with 140 members who are elected every four years. In the July 2005 parliamentary elections voters chose a new government, led by Sali Berisha's Democratic Party, which had been in opposition since 1997. Albania last held elections for local councils and mayors in October 2003.

Election System

Albania elects its parliament through a mixed election system. One hundred seats are elected from single-member districts through a first-past-the-post system. The remaining 40 seats ("supplemental" seats) are chosen from party lists through a closed-list proportional representation system, using a largest remainder formula, taking into account the results of the district elections. This is an attempt to have the composition of parliament more closely reflect the national proportionality of votes for each party. The threshold for representation in parliament is 2.5 percent for single parties and 4 percent for coalitions.

Members of local councils are elected from party lists according to a straight proportional representation system. Each party wins seats in proportion to the percentage of valid votes it receives. Mayors and heads of communes are elected through a first-past-the-post system.

The 2005 elections were conducted under a new election law, enacted in June 2003 and subsequently amended three times (in October 2004, January 2005 and April 2005), largely in response to international recommendations. Amendments dealt with election administration, voter registration, electoral boundaries, the counting process, and the handling of complaints and appeals. The new law provided

that members from single-member districts would be elected according to a first-past-the-post system, rather than requiring an absolute majority and thus a two-round system as in previous elections, but it otherwise maintained the basic system from the previous election law.

The allocation of supplemental mandates depends on the number of single-member district seats won by each party or coalition. The law provides that the 40 supplemental mandates are allocated "according to the percentage of votes won by the multi-name [party] lists." If a party or coalition wins a greater proportion of single-member seats than its proportion of the overall vote, then it is not entitled to any supplemental seats. In practice, this means that the two larger parties cannot win supplemental seats. Voters cast two ballots, one for the candidates in single-member districts and one for party lists for supplemental seats. This has allowed voters to cast ballots for candidates of major parties in the district elections and to choose smaller parties, often allied with the major parties, in the election for supplemental seats.

Influenced by European input, Albania's 1998 constitution endorses the importance of proportionality. It provides, "the total number of deputies of a party . . . shall be, to the closest possible extent, proportional to valid votes won by the on the national scale." (Article 64.2) But the complexity of the election system has provided an incentive for major parties to support allied parties in the supplemental election. This is the so-called Dushk phenomenon, first used successfully by the Socialist Party in re-voting in Dushk district in 2001. It appears fully consistent with the law but, in the view of some, hampers the constitutional goal of proportionality.

Thus, because of the idiosyncrasies of Albania's election system, the two major parties do not benefit from votes in the supplemental elections and thus find it in their interests to urge their supporters to vote for allied parties in the supplemental, proportional election. In 2005, the Democratic Party had particular success with this strategy, as it urged supporters to vote for a small allied party, the Republican Party, on the ballot for the supplemental seats. This had the effect of increasing the number of seats held by the Republican Party, believed by most observers to have a small following in its own right, at the expense of third parties perceived to have more support, such as the Socialist Movement for Integration of Ilir Meta.

Election Administration

Most observers, international and Albanian, praised the administration of the 2005 elections. Concluded the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR), for example, "The [Central Election Commission] administered the process in line with the provisions of the Electoral Code and consolidated its reputation [as] an effective, transparent, and largely impartial collegial body."[3] Others in the international community generally appeared to agree with that assessment.

The Central Election Commission (CEC) administers parliamentary elections in Albania. Below the CEC, for the 2005 elections, were 100 Zone Election Commissions, one for each electoral district, and 4,764 Voting Center Commissions. Votes were counted in one central location in each electoral district, or zone; each district had up to five Counting Teams.

The CEC has seven members appointed for seven years. Formally, three members of the existing CEC were chosen by the High Council of Justice, two by the parliament and two by the President. Nevertheless, the parties exercised enormous control over appointments to the CEC. Four of the members of the existing CEC are perceived as representatives or supporters of the Socialist Party, the former governing party, and three as representatives of the Democratic Party. No other parties have representatives. Throughout the election process, parties appeared to bring substantial pressure directly on the CEC.

The administration of the process at lower levels was a particular challenge, in large part because the parties were so actively involved in election administration. Six parties had the right to nominate local election officials. Often they did not do so by the deadline or far enough in advance for there to be necessary training, and in a number of cases the parties changed their nominees at the last minute, even after training had taken place. (The parties changed about a quarter of local election officials late in the process.) To some extent, this hampered the administration of polling places. More important, local election officials appeared to be accountable to parties and candidates rather than to the CEC.

In part because of manipulation permitted by ostensibly independent election authorities in the past, many argued before the 2005 elections that the involvement of party representatives would allow each party to check the others. But the partisan composition of the CEC and lower-level electoral administration bodies presents its own set of problems. Local party and candidate representatives can collude to violate the law, for example by manipulating the vote count for the supplemental seats to move votes to smaller allied parties. Under this model, local election officials may not be in place in time, may not be properly trained and are simply not accountable to higher-level officials.

The CEC recommended certain changes before the election, regarding deadlines for counting, identification of lower-level election officials and procedures for nominations, but these recommendations were not adopted. The opposition criticized the chairman of the CEC for making these recommendations and questioned his commitment to implementing the existing law.

Several leading members of the CEC and its staff are relatively young and were educated outside Albania. Three members are expected to leave at the end of their terms in early 2006, including the current chair. Several key staff members are expected to depart as well. Continuity and institutional memory may be an issue.

Voter Registration

For some time, particularly since the 2001 parliamentary elections, there has been considerable controversy in Albania about the quality of voter lists. The opposition Democratic Party, in particular, questioned the accuracy of the lists and made clear its mistrust of the CEC. Accordingly, for the 2005 parliamentary elections, amendments to the law governing voter registration transferred responsibility for compilation and maintenance of the list from the CEC to local governments, supervised by the Ministry of Local Government.

Rather than beginning with existing lists, the Ministry and local governments, with the political parties observing closely, started over again to register voters. The process, according to the OSCE/ODIHR, was plagued by "belated and/or unclear instructions" which resulted in "inconsistencies in the implementation." Nevertheless, "notwithstanding imperfections in the process," the OSCE/ODIHR concluded, "efforts to improve voter lists were welcome, significant and largely successful."[4] The final voter lists included about 2.85 million citizens. About 470,000 entries lacked a complete numerical address (so-called 999 entries) because authorities were unable to confirm details of their residence, and there was concern that 999 entries opened the possibility of manipulation.

There is much discussion of Albania's need to reform its civil registration system, including the need to introduce a uniform system of addresses for buildings and personal identification documents. The government has renewed efforts to improve the civil registry, address the civil registry's compatibility with voter lists, and issue identity documents. It is expected to take two years or more to get an improved computerized civil registry/identity card system. There is still not enough time to fully revamp the voter lists in time for local elections expected in late 2006 or early 2007.

Vote Counting, Resolution of Complaints and Announcement of Results

In response to a recommendation from OSCE/ODIHR, the new election law provided for the first time for votes to be counted centrally in each district. The CEC planned and trained officials for the new counting process effectively. Nevertheless, there were allegations of vote count manipulation, especially in the election for the supplemental seats. In many places, the process was contentious, and there were a number of disputes over the validity of ballots. Members of counting teams, especially from the two larger parties, sometimes obstructed the vote counts or vote tabulation by walking out of the process. In nine districts, OSCE/ODIHR observers reported manipulation of the vote count, including votes of the Democratic Party attributed to the Republican Party and votes of the Socialist Party attributed to the Social Democratic Party and other parties in the outgoing governing coalition. There were few formal complaints from parties or candidates about vote count manipulation, however, and the CEC lacked the authority to initiate investigations.

The law called for election results in each location to be announced the next day, but the CEC argued this was physically impossible and in practice it was not met. The CEC ultimately went to the end of the permitted time period to complete the tabulation, resolve complaints and announce results.

As noted, only candidates had the right to appeal local results to the CEC. Decisions of the CEC could be appealed in turn to the Electoral College of the Court of Appeals. Because of the partisan composition of the CEC, decisions to overturn results required the vote of five of the seven members. More than 100 requests to invalidate local results were filed, and almost all were rejected. One senior election official said that more than half were frivolous. Some argued that the parties abused the process. Socialist Party candidates contested the results in many districts; thus, ironically, it was the ruling party that was accusing the opposition of manipulating the electoral process. The Electoral College upheld the CEC decisions in all but two of 99 cases. Repeat elections were ordered and held in three districts on August 21.

Debate over Election Reform

Referring to the strategy of major parties to support other parties in the supplemental part of the parliamentary elections, the OSCE/ODIHR report criticizes—without intended irony—the "implementation of electoral strategies to maximize electoral gains." Concludes the OSCE/ODIHR, "These strategies undermined the constitutional objective of proportionality. . ."[5] Other international actors and some political and opinion leaders in Albania have echoed this concern.

This position of the OSCE/ODIHR and others in the international community seems naïve at best. Because of some allegedly higher principle, the OSCE/ODIHR calls on parties to refrain from acting in their own interests *within the law*. This view elevates proportionality above all other values. But international or OSCE standards do not require proportional representation. Although concerns about the lack of proportionality, especially given the constitutional endorsement of that objective, might justify reconsideration of the election system, they cannot reasonably be used as a basis for criticism of legally permissible strategies of the political parties and are a weak basis for broad criticism of the larger election process.

In light of the criticisms of the process in July 2005, though, the Albanian electoral system remains controversial. Key elements of the international community and some political leaders in Albania argue for the need to revisit the election system to address alleged distortions from the "Dushk phenomenon." Some Albanian political and opinion leaders along with some in the international community are now calling for a purely proportional election system. Under this proposal, candidates would be elected from a single national list or, in another alternative, from regional lists in each of several regional districts. Such a system, however, actually would increase the power of central party leaders, as lawmakers would answer primarily to party leaders rather than to local constituents or interest groups, and would appear to reduce incentives for effective representation of local constituent

interests and stronger connections between members of parliament and their constituents in particular districts.

The distortions of the "Dushk phenomenon" could be addressed without making fundamental changes to the system by adopting a single ballot for both parts of the election or by making the results of each part of the election independent of one another. The Democratic Party proposed the first alternative, a single ballot, shortly before the 2005 election, but other parties opposed it and many argue it was too late in any event. Nevertheless, this remains a reasonable alternative to address concerns about the Dushk phenomenon. The second alternative would be a parallel voting system, in which the allocation of seats in the proportional system would not depend on the results from the district elections. In this alternative, though, the number of proportional seats would have to increase for there to be significant additional representation of smaller parties. Revisions to the current system should also require parties to make their candidate lists public and should prevent changes in those lists after Election Day.

In any event, greater stability in the rules of the game should itself be a goal. On the grounds of stability alone, modifying the existing mixed system seems preferable to scrapping it altogether and adopting an entirely new one. Albanian parties and the Albanian public need to have several electoral cycles to assess and adapt to any system they may have, and the country would benefit if the terms of the debate changed from the rules themselves to the merits of proposed policies, programs and parties.

Upcoming Local Elections

Albania will next hold local elections in late 2006 or early 2007. So far, discussions about elections and election reform in Albania seem to focus only on future national elections; they pay surprisingly little attention to upcoming local elections. Unlike the debate over the system for parliamentary elections, there is no sentiment to reconsider the proportional party list system for local councils. Voter lists are likely to continue to be problematic. As noted, there will be a substantial change in the leadership of CEC, which may hamper institutional memory and complicate election administration.

2. Political Parties

Two political parties dominate politics and government in Albania. The governing party is the Democratic Party (DP), positioned on the center right of the political spectrum. Begun as a student movement against the communist regime, the Democratic Party registered as a political party in 1991 and came to power under Sali Berisha in 1992. Voted out in 1997 after the crisis that resulted from the collapse of the pyramid schemes, the party was returned to power in the summer of 2005. The Democratic Party and its allies won a decisive victory after pledging to fight corruption and promote economic growth.

On the left of the political spectrum is the Socialist Party (SP), the successor to the Party of Labor, the former communist party. Since the communist period, the SP's structure and ideology have evolved, and the party now seems to be positioned as a traditional European social democratic party. The Socialist Party was voted into power in 1997 and governed, as part of a coalition, until the recent elections. The Party ultimately accepted its defeat and ceded control of the government, which many greeted with approval.

Until September 1, 2005, Fatos Nano led the Socialist Party. He also served three times as prime minister, most recently from 2002 to 2005. Because of his conspicuous consumption and flamboyant personal style, Nano came to represent for many Albanians a government that was out of touch and wracked with corruption. The Party recently elected Edi Rama, mayor of Tirana, as its new leader. The popular but controversial Rama is one of a new generation of political leaders in Albania. Rama himself observed to the team, "the political class has inherited a culture from another time, developed

for another purpose." Albania's political parties confront a "problem of generation," he said, not a question of age "but of education and the culture of the system."

Notwithstanding the distinct positioning of the two major parties in Albania on the Left and Right, many analysts find similarities in their structures, styles and ideologies. Both revolve around strong personalities and have structures built in part on models from the communist party. Both are mass-based parties and are estimated to have more than 75,000 formal members. One local analyst, referring both to ideological similarities and oversight from the international community, has said that Albanians were "free to change the government but not free to change policies."

Nevertheless, many decry the excessive partisanship of Albanian politics. Politics are polarized and often confrontational. The political divide carries over somewhat from the communist period. The Socialist Party draws from the former *nomenklatura* and tends to include the more affluent and better educated. The Democratic Party appears to draw generally more on younger, less affluent supporters. There is also something of a geographical split in support. The SP tends to have its electoral strongholds and supporters in the southern part of the country, while the DP gets broader support in the north.

Albania's primarily majoritarian election system reinforces the dominance of the two largest parties. Both major parties appear to view politics as a zero-sum game, especially since both seem to have viewed the state bureaucracy as a spoils system. One major party leader said that Albania does not really have parties but rather groups of people who see parties as political businesses. Many citizens support a political party as a potential source of employment, especially in the state sector, or business opportunities. Now back in office after running on an anticorruption platform, the Democratic Party has an opportunity to break that unproductive pattern.

Smaller Parties

There are 12 political parties represented in parliament, but political parties other than the DP and SP have not attracted large followings. The main small political party on the left is the Social Democratic Party (SDP), which was part of the Socialist Party's governing coalition. The principal small party on the right is the Republican Party, which is allied with the DP, and now has the third largest number of seats, 11, in the parliament

The Socialist Movement for Integration, led by former Prime Minister Ilir Meta, split from the Socialist Party in 2003 after Meta's supporters were excluded, he says, from Socialist Party structures at the Party Congress in December 2003. Meta told the assessment team that his is the first significant party without ties to the past and the first to adopt internal democracy through acceptance of the principle of "one member, one vote." Many have viewed the party as a potential third force in Albanian politics. Meta's party won about 9 percent of the vote in the recent elections but ended up with only 3.5 percent of the seats (five of 140).

Because of the proportional system in place, the electoral strength of smaller political parties is more significant at the local level. A growing number of independents have also been elected locally.

Issues for Parties and Party Assistance

Despite their shortcomings, political parties remain important, successful, indigenous organizations. Unlike most of the Albanian civil society sector, they are still organized on a voluntary basis and can rally large numbers of sympathizers to their cause. They remain local movements that can bridge the gap between the public and the decision-making process to a much greater extent than any other organizations, be they labor unions, religious organizations, nongovernmental organizations (NGOs) or other social movements.

There is considerable interest in internal party democracy, and many lament a lack of internal accountability. After losing in 2001, the DP focused its criticisms primarily on the electoral process and

neglected to focus on the shortcomings of the party's own leaders and structures. At the same time, criticisms of electoral process itself took up most of the party energy, time and effort. Conversely, the Socialist Party's successes in elections between 1997 and 2003 seemed to empower certain structures within the party opposed to internal reform. Electoral success also took away the urgency of reform.

But both main parties have taken steps in that direction. Sali Berisha has long controlled the Democratic Party, but some believe his party has undergone meaningful reform in the last two years in response to real pressure from the society. Berisha and other party leaders apparently recognized that the party was doing poorly and needed to make some changes. The Socialist Party held an internal party vote on the party's leadership in 2001, albeit after the election, which led to a change in the prime minister. In 2005, in the wake of its broad defeat at the polls, the party has changed leaders.

With support from USAID, the National Democratic Institute for International Affairs (NDI) has pushed the model of "one member, one vote" for internal party democracy. The Socialist Movement for Integration has formally adopted the principle, although it had only one candidate for party leader at it party congress. The Socialist Party evidently also has agreed to the principle, at least for selection of local candidates.

3. Political and Campaign Finance

Political parties in Albania receive public funds, largely in proportion to the seats won in parliament. Nevertheless, parties evidently need substantial additional resources to compete effectively in the political process. There are no meaningful restrictions on party or campaign finance. The law prohibits financial aid from foreign governments and companies but not from foreign political organizations or from any local persons or organizations. There are no restrictions on the amount of money that can be donated to political parties or candidates. The election law had a new provision requiring disclosure of expenditures, but compliance was incomplete and there was no enforcement or ability for authorities to investigate.

The constitution does provide that political party finances have to be made public. Yet there is no law implementing this idea and no meaningful enforcement. The absence of legislation on conflicts of interests and party finance has also produced advantages for those businesses that have financed political campaigns. These companies certainly have been privileged in receiving government contracts; they may also be avoiding taxes by financing key officials. The absence of transparency in political party finance has enabled state capture. There have been some efforts from civil society organizations to propose new legislation and better enforcement that would force political parties to publicly disclose their sources of finance.

4. Domestic Election Monitoring

Despite its problems with elections, Albania does not appear to have a strong domestic election monitoring movement. In the past the Society for Democratic Culture mobilized pollwatchers on Election Day, and in 2005, with help from NDI, the Albanian Coalition Against Corruption organized a desultory effort. But nonpartisan domestic election monitoring in Albania has not become the significant political force that it has in many other countries, including countries in the region.

C. GOVERNANCE

Issues for Analysis

In a successful democracy, the government itself, including both the executive and legislative branches as well as local governments, must govern effectively. In Albania's parliamentary system, there is no clear line between the executive and legislative branches at the national level, but never-

theless the government, the parliament, and the corresponding local institutions all have their own areas of responsibility, rules and realities determining their role in governance. For the purposes of this assessment, the assessment team examines these three governmental realms—executive, legislative and local—in terms of four issues that affect their roles:

1. *authority*, legal or otherwise, of institutions and actors within the arena to exercise power
2. *transparency* of the decision-making process and the actual decisions made and actions taken
3. *accountability* within that part or level of government, whether it is to the electorate, the judiciary, civil society or other actors
4. *capacity and effectiveness* of institutions in exercising their authority.

Obviously, this examination may lead to different conclusions for different branches or levels of government, but one overarching theme seems to be that balance, between parts of government and within them, is crucial. An institution with authority to govern but lacking in capacity will no more contribute to good governance than a competent one without authority, and it is important for donors to understand which area is deficient if they are to provide effective assistance. Similarly, it is important to understand the balance between branches or levels of government—for example the authority of the executive versus legislative branches or national versus local governments—so that assistance can be directed to the appropriate areas.

1. National Government/Executive Branch

Since early September Albania has had a new national government with a comfortable majority formed by the Democratic Party and its allies. The new government is accepted as legitimate by all the political actors in the country. As such, it enjoys the political capital to take on the cause of fundamental reform.

Because of the Democratic Party's pledge to fight corruption, the new cabinet consists of individuals largely free from apparent conflicts of interest and generally not perceived as corrupt. Under the rationale of a small government and the reduction of government expenditure, the new cabinet has 14 ministries, four fewer than the previous Socialist government.

So far, the main initiatives of the new majority have been launched under the banner of the fight against corruption. Thus, one of the first political initiatives of the government was to ask for a change in the immunity of members of parliament, so the General Prosecutor could investigate any allegations of corruption. The new government also moved to annul the sale of Albtelecom, the largest state-owned fixed telephone company, on the grounds that it was sold on unfavorable terms because of bribes to high government officials. A new Conflict of Interest law aims to separate business from politics as much as possible.

All of these initiatives are consistent with the overall political and policy orientation against corruption, but their primary focus seems to be on punitive and control mechanisms, some of which, such as the General Prosecutor, are outside of the government's control. To address corruption effectively, there also needs to be improvement in the implementation of legislation and the efficiency, transparency and accountability of state institutions. Areas needing attention include judicial-sector institutions, the High State Audit body, the law on freedom of information, the law on conflict of interest, and government procurement procedures, among other things.

Although penalties, restrictions and controls are necessary to reduce corruption, they are not sufficient to sustain such a reduction over the long term. In fact, if not accompanied by an improved economic climate and more efficient governance in general, such measures might prove counterproductive by appearing like partisan attacks or by failing to meet heightened public expectations. Moreover, the fight against corruption must take place within the constraints of the law. In their zeal to fight corrup-

tion, government officials in some recent cases—for example, in failing to follow the appropriate process before destroying buildings they believe have been built illegally—have appeared to believe that the end justifies the means.

The true challenge for the new government is an overall improvement in the efficiency of governance. Better and more efficient governance will necessarily produce less corruption as well as more support for democratic political institutions.

Improved and more efficient governance requires a number of systematic reforms that, while not directly targeting corruption, will lead to its reduction as an immediate consequence. One key objective is the formalization of the Albanian economy. It has been estimated that more than half of the Albanian economy is informal, meaning that cash is the primary medium of payment and exchange. Under these conditions it is very difficult to reduce corruption and implement policies that will stimulate economic growth. When the majority of transactions take place in cash, illegal activities such as money laundering, tax evasion and bribes are much harder to trace. Besides undermining the rule of law, this situation weakens the capacity of government to collect taxes and make public investments, key components of good, transparent and efficient governance.

Reforms in economic governance such as stronger banking institutions, the use of bank accounts, the payment by checks or bank transfers, written payment receipts and employee payroll systems avoiding cash can strengthen the modern market economy in Albania and underpin sustained economic growth. These reforms can also contribute to better democratic governance and can help reduce corruption. In USAID parlance, these synergies are often referred to as "DG-EG linkages."

There are other specific examples of actions the current government should undertake to improve economic governance and stimulate economic development. Improvement of the property registration system is one such reform. Property registration in Albania is highly problematic, and property ownership cannot be fully guaranteed. There are often conflicting titles for the same piece of land. Bribes have corrupted the property registration offices, where property titles have been issued illegally. This deters many potential investors, opens up room for abuse and hinders economic development in general.

In the same fashion serious reforms are needed in the tax administration system, beyond penalties levied against corrupt fiscal police officials. In addition to the formalization of the economy, this requires the improvement of information systems and exchange among different government bodies.

Another specific target for reform is the civil registry. The Albanian government does not currently have accurate information about the population of the country. Albanian citizens do not have proper identification documents. This is especially important with regard to future elections. In every electoral process since the transition from communism in 1991, voter lists have been a major issue. Unless measures are taken to improve the civil registry system, this failure will be repeated in the future.

Although it is too early to judge the new government, its early steps suggest it may be serious in its commitment to fight corruption. But a broader approach, which seeks to fight corruption by building a well-functioning governance system, is needed. Only better, more accountable governance can consolidate short-term successes in the fight against corruption.

2. Decentralization and Local Governance

Under the communist regime, which lasted from 1945 to 1990, Albania operated under a highly centralized political system with virtually no authority at the local level independent of the central government or the national level of the communist party. The new post-communist government inherited those state structures but began the establishment of local government units. Today Albania has 65 municipalities and 308 communes. In addition, the country is divided into 12 regions headed by pre-

fects appointed by the Council of Ministers, but these are not organs of local government *per se* and have limited authority. In some cases, however, they play an important role in dealings with local governments.

Allegations of fraud have plagued local elections as well as national ones. Elections for local government units (municipalities and communes) were held most recently in 2003, with the majority of winning candidates coming from the Socialist Party candidates, but these elections were again marred by irregularities and allegations of fraud. The term of office for mayors and council members is three years, so local elections are scheduled again for late 2006.

Public desire for greater local autonomy as well as European insistence on stronger local government structures as part of the democratization process that would lead to European integration led to changes in local government. The Albanian parliament ratified the European Charter of Local Government in 1998.

In 2000, the Albanian parliament passed the Law on Organization and Functioning of Local Government, which increased the authority of local governments through transfer of certain central government "competencies" to the local level, e.g. rubbish collection and street cleaning, road repairs, and some functions in health and education. Local taxing authority was increased, but in areas that generally did not have high revenue yields. The new law also provided for revenue sharing from central to local government levels, with two categories—"unconditional" and "conditional" transfers—but the overall degree of fiscal decentralization was and still remains limited. Standard formulas were developed using objective weighting factors in order to make the transfers non-arbitrary, transparent and somewhat redistributive.

Thus, in the short span of some 15 years Albania has moved from a highly centralized, dictatorial system to a partially decentralized and democratic system with clearly recognizable local government structures. The division of functions and authorities ("competencies") and the funding sources to finance them, however, were less clear. Mayors of municipalities and heads of communes are directly elected, earlier by simple majority and now by a plurality of votes. Municipal (and commune) councils are elected using a political party closed-list system of proportional representation. Mayors can run as independents but in most cases are elected with a party affiliation.

Local government is generally seen as a "success story" in Albanian democratic development according to many observers with whom the team met as well as in reporting by the EU, World Bank and other donors. They typically credit local government with better performance and being more responsive to citizens than the central government. Public opinion survey research done for USAID in 2004 supports this view, with local governments, officials and elections ranking well above comparable central institutions on such measures as public trust, responsiveness, transparency and anticorruption.[6] Field visits by team members showed a more mixed picture. Two days of travel covering the municipalities of Elbasan, Kucove, Pogradec and several smaller communities in the central and eastern parts of the country yielded a positive impression of local governance, including civic group participation. Current USAID programs are assisting these municipalities. In Shkoder to the north, however, civic activists, journalists and observers told the team that the local government was corrupt and largely captured by organized crime figures.

In a country as small in size and population as Albania, questions of economy of scale arise, especially with respect to the 308 communes. Some communes have populations of as few as 500 people, although the average is more like 5,000. Municipalities tend to be urban areas; communes are in rural areas. Tirana, by far the largest city with a population of some 600,000 to 800,000 people, has its own special legal arrangements with greater authority. But the 65 municipalities are the main instruments of local government and the target group of potential assistance. Issues of capacity and effectiveness arise for both groups, but communes can be said to be "poor cousins" of the municipalities.

Both have representation at the national level through the Association of Municipalities (the mayor of Tirana is its president *ex officio*) and the Association of Communes, respectively.

Local elections are vigorously competitive, mainly between the two leading political parties and especially for the office of mayor, and overall countrywide outcomes are given national political significance. The office of mayor is especially prominent, given the Albanian political legacy of powerful executive figures and the mayor's chief executive and service delivery responsibilities. Councils are in a transition stage, with heavy representation from local party activists handpicked by national party leaders (often seen as "party hacks"), but a growing number of younger, less partisan, more capable members coming from the ranks of civil society as well. Increasingly, it appears that local voters are holding mayors accountable on performance grounds—e.g. good management, service delivery—as distinct from simply political party labels or views about national party politics and issues.

Participation by civil society groups in municipal affairs is growing, with participatory budgeting, monitoring of the quality of service delivery and conscious outreach by local governments to local stakeholders becoming visible in many towns. This builds a sense of accountability to citizens that did not previously exist in any real sense in Albania.

The key issues facing local government are: (1) institutional capacity building and professional staff continuity across administrations; (2) further transfer of competencies on a gradual basis as corresponding local capacity improves, especially in education and health; (3) much deeper fiscal decentralization ("fiscal federalism") to fund devolved responsibilities and more local source revenue tools; and (4) an absolute need for sources of funding for capital improvement projects, which are now beyond the reach of municipalities except for special donor support sometimes made available.

"Shared competencies" between national and municipal governments often make mayors politically accountable in the eyes of local citizens even though they do not have the legal authority or the budget allocations needed to carry out tasks. For example, in 2003 local governments were given the responsibility "to ensure the proper maintenance and operation of all education facilities in their communities." But even leaving aside construction of new schools, capital improvements to existing school facilities are needed. Yet that competency and funding still belongs to the national ministry. On the personnel side, the local director of education works for the national ministry rather than the local government, thereby answering to Tirana rather than local authorities.

3. Parliament

The parliament seems to be playing a reasonably constructive role in the consolidation of democracy in Albania. As in other democracies, the parliament in Albania has three key functions: lawmaking, oversight and representation. In recent years, the parliament has enacted legislation on a range of topics, albeit largely at the behest of the international community. New rules of procedure, internal structures and commission arrangements give the parliament fresh potential to balance the executive. And, as the European Commission concludes in its *2005 Progress Report*, "The parliament has remained a real forum for political exchange." "Parliament has been at the periphery of politics," admits current Speaker Jozefina Topalli. "We want to make it the epicenter."

a) Lawmaking. Because Albania has a parliamentary system, there is not strict separation of powers between the government and the parliament. Ministers are generally members of parliament, and the government initiates and drafts most legislation. Although every MP can submit a bill, more than 90 percent of the bills are initiated by the government. Bills from members of parliament are usually amendments rather than omnibus bills. If an MP presents a bill with an effect on the budget, he or she must get an opinion of the Council of Ministers.

Generally the responsible ministry initiates legislation, although the prime minister may also set up a group of experts from several ministries with an interest in the subject matter. The Ministry of Justice

then reviews proposed legislation for (1) compatibility with the constitution and international agreements, and (2) harmonization with existing law and other technical issues. The Council of Ministers or other parts of the government may hold public hearings. The Council of Ministers must then approve the bill before it can be submitted to the parliament, along with a report addressing, among other things, the financial implications, the relationship to other legislation, and the relationship to European legislation. According to one key parliamentary staff member, these reports are often inadequate and unclear.

b) Oversight. The parliament can oversee the executive branch through questions or "interpolation." The parliament holds regular question time for members of the Council of Ministers. Parliamentary oversight also exists through parliamentary debates, and the parliament has established ad hoc committees to address complex or controversial issues, such as the electoral code. The parliament needs, however, to more effectively monitor the application and execution of laws by the government and independent agencies.

c) Representation. Because Albania's is a parliamentary system, with strong party discipline, members of parliament (MPs) have less opportunity to represent their constituents in plenary and committee sessions than in a presidential system. The election system also affects the nature and quality of representation. That most members of parliament are elected as individuals from single-member districts should strengthen the connection between legislators and their constituents and tend against overly strong party loyalty. But members of parliament seem to place relatively little emphasis on constituent relations. Members elected from party lists are more likely to represent ideological or minority interests than the interests of particular geographic areas. This would seem particularly true under Albania's system, in which none of the MPs elected from party lists come from the two largest parties.

Some analysts have said that Albania faces a "crisis of representation." The extent to which the parliament and the larger political process reflect the needs, concerns and priorities of citizens and groups in the policy-making process is debatable. Opportunities seem relatively limited for interaction between citizens and MPs in the districts. For the parliament to represent effectively and democratically the interests of the larger society, legislators must communicate with and be politically accountable to the public. Credibility with the public is essential. Moreover, robust, inclusive representation provides the political basis for parliamentary effectiveness in carrying out the other functions, including enacting well-crafted legislation and providing effective oversight of the executive.

Governance Criteria

Nevertheless, the parliament scores reasonably well on the four governance criteria: authority, transparency, capacity and accountability. It appears to have the authority it needs to plays an appropriate role in lawmaking and oversight. Parliamentary practices and the large number of media outlets provide considerable transparency. Although a lack of resources and professional staff hampers its capacity and effectiveness, new procedures and structures and realigned committees offer the potential for more effective, less contentious operations in the future. Accountability of the parliament and its members remains an issue, particularly given the active debate about limitations on parliamentary immunity, but elections provide the possibility of broad accountability and parliamentary leaders recognize the importance of ongoing public communications and education and attention to constituent services.

Organization

In the 2005 election, the Democratic Party won 55 seats in the parliament and the allied Republican Party won 11. The Socialist Party won 40 seats and its ally, the Social Democratic Party, won seven. Altogether, the DP and its allies now have 81 seats, leaving 59 seats for the SP and other parties in opposition. This means the DP has a comfortable working majority.

In January 2005, the parliament adopted new rules of procedure. The new rules have made significant changes in the parliament's internal organization and structures to improve its functioning. The goal was to give the opposition a voice in the political activity, rules and administration of the body. A bureau comprising seven MPs representing all parliamentary groups, including the speaker, two deputy speakers and four others, manages the administration of the body. A second body, a conference of the chairs of the parliamentary groups, is a forum to consider political issues. Under the rules, seven MPs can form a parliamentary group.

The parliament has eight permanent commissions, down from a previous 13. On average, a commission has about 15 members. Three are chaired by MPs from the Socialist Party.

The speaker presents a program of business, or list of pending bills, to the parliament four to 14 weeks in advance. This is can be done by consensus or majority vote of the chairpersons of the parliamentary groups. No bill can go directly to the plenary session; each must go to committee first, and the applicable commission must give a report with clear recommendations to the body two days before the bill is considered. In considering a bill, the relevant commission proposes a rapporteur. If the bill is complex or there are disputes, there will usually be two rapporteurs, one from the majority and one from the opposition.

The Council on Legislation gives opinions on the constitutionality and relationship to existing legislation of proposed legislation. The Council on Legislation has 10 MPs, five from the majority and five from the opposition, all of whom have a legal background. The chairmanship of the Council rotates among the members.

D. CIVIL SOCIETY

Albanian civil society comprises a variety of organizations that engage in many diverse activities. For purposes of this assessment of democracy and governance issues, the focus is on NGOs that engage in monitoring and advocacy, local engagement and community organizing, and representation of citizens. Other types of organizations that would come under the general rubric of civil society—including business organizations, cooperatives, labor organizations and, to some extent, the media—are of less concern for this assessment. At the same time, though, because such organizations do represent various interests and segments of the public and do contribute to dialogue between the public and private sectors, future strategies in particular areas might try to involve them as constituents for reform.

NGOs in Albania are a relatively new development. The first were established immediately following the downfall of the Communist dictatorship. The number of NGOs since then has grown dramatically. Estimates of the total number vary widely, with informed sources reporting between 600 and 800 formally organized NGOs in operation. Whatever the number, their impact on the body politic and on the larger public has been rather limited. For one thing, the vast majority of NGOs did not arise from local popular movements but rather from donor interests and funding. In addition, many are small, local-issue groups. While the growth in numbers of NGOs has been impressive, they have not generally been able to overcome their dependence on foreign donors. This dependence has tended to hinder the ability of NGOs to develop their own agendas or devise long-term strategies. In this context, it is useful to keep in mind that there is no tradition in Albania of private-sector support for the work of NGOs and no tax or other incentives to encourage support.

It is encouraging that cooperation among Albanian NGOs is increasing and networks, including cross-border networks, have been established to enhance effectiveness and share experience and lessons learned. Overall, cooperation with central and local governments is improving, and there is a core group of public-policy NGOs and think-tanks that work regularly with the government to determine policy priorities, draft laws and lobby the parliament. Other NGOs have established watchdog

programs. The strongest NGOs tend to be those involved in advocacy and civic education, and this is likely correlated with donor cooperation.

Two issues stand out in the Civil Society sector and call for the attention of the donor community. These are legitimacy and sustainability.

First, few NGOs represent significant numbers of members, and this calls into question the legitimacy of much of the NGO sector. There is a serious need for the NGOs to build relationships with the public and with the government. Most Albanian NGOs lack the institutional capacity to develop, monitor and lobby adequately for their work. It is vital that domestic, grass roots organizations develop into vehicles that represent and promote the interests of specific citizen groups and deal with issues important to those groups.

Second, as noted, most Albanian NGOs are largely dependent on donor funding. This dependence raises the question of their sustainability. There is clearly a pressing need for donors to consider helping develop long-term strategies to deal with this issue. Donors should consider assistance with fundraising strategies, joint programming with other organizations, building the membership base, developing corps of volunteers and legacy programming.

Civil Society and Government

The government of Albania voted into office in July 2005 issued a written program of its priorities for the next five years. Among the priorities for the first one hundred days was "entering into a cooperation agreement with the civil society." The Prime Minister told the assessment team of his commitment to this idea. Although the potential for NGOs to become dependent on government funds and support carries its own risks and disadvantages, the apparent intent of the government to work seriously with civil society organizations (CSOs) is encouraging.

There is reportedly a small but growing number of government officials, both local and national, with appreciation for the potential of CSOs to contribute to community development and other activities. It is expected that these officials will be open to increased cooperation with CSOs in a variety of fields. Likewise, a senior official of the Ministry of Labor and Social Affairs noted that the Ministry needs to improve equal opportunity in the workplace at both national and local levels. This official recognized the need to consult CSOs and involve them in monitoring. The Ministry is considering formal inclusion of CSOs in processes from drafting of legislation to implementation and monitoring.

There are many opportunities for civil society to work with the government on issues of mutual interest. For example, the Albanian Coalition Against Corruption (ACAC), a broad coalition of NGOs, was instrumental in the drafting and passage of legislation in 2003 regarding the disclosure of assets of senior public officials. Unfortunately, to date there has not been serious enforcement of this law. But the ACAC's success in working with the government in this case is encouraging, and broadening support for CSOs by government officials at the national and local levels suggests that government-CSO partnerships could be beneficial in community development and other areas.

Civil Society and Anticorruption

Civil society has mobilized perhaps its highest profile activities working in anticorruption. In a 2004 USAID-funded poll on perceptions and attitudes about corruption in Albania, respondents ranked the media and civil society as the organizations or institutions that were most effective in fighting corruption, ahead of religious leaders and the government's anticorruption unit.

Numerous donors and CSOs are engaged in efforts in this area. The Citizen's Advocacy Office (CAO) has been one of the most important anticorruption watchdog and advocacy organizations in Albania. It seems to stand out in the CSO sector. The CAO works with various media and, with the support of IREX, succeeded in getting Albanian broadcasters to air "Hapur," a "60 Minutes" format

anticorruption television program. The CAO has brought some notable cases to the public's attention, including, for example, an exposé of a case of garbage being sent from Italy for dumping in Albania. It provides legal assistance to victims of corruption and, to date, has reportedly been involved with some 3,000 cases. The CAO reports that it is currently working on addressing problems with political party finance, conflicts of interest, domestic violence and freedom of information. USAID support to the CAO has been crucial to the program's evolution and success.

The USAID-sponsored ACAC was given a seat on the board of the official, government-sponsored Anticorruption Monitoring Group, and civil society groups contributed as experts in a number of projects and surveys run by the permanent unit. Unfortunately, the ACAC proved to be a weak organization with many institutional problems, all understood and documented by USAID.

The popularity and success of the Mjaft movement suggest the public is ready to support programs that tackle the long-standing problems of corruption and state ineffectiveness. At the outset of the Mjaft activities, their leaders believed the most serious problem related to tackling corruption was apathy. No one was doing much about the identified problems and few seemed to care. Mjaft's philosophy that local problems need local solutions has proven to be both popular and effective, and the profile of the issues has been raised to a point where they can only be ignored at the government's peril. At the same time, Mjaft suffers from some of the same shortcomings with regard to representation, lack of membership and even donor dependence as other civil society groups.

According to a recent regional study, Albanian government cooperation with civil society on anticorruption has been "fair given the relatively weak state of Albanian civil society."[7] In a political atmosphere in which the lack of trust by citizens in elected leaders is one of the most serious political problems facing Albania's young democracy, the failure of anticorruption programs and movements is of particular note. But perhaps CSO-private sector linkages can be forged based on mutual interest to address particular types of corruption or issues of corruption in particular sectors.

Other Civil Society Institutions

Media

The Albanian constitution guarantees freedom of expression and freedom of print and electronic media. Access to media in Albania is relatively fair and open, with progress being generally steady over the past five years, as measured annually by the IREX Media Sustainability Index (which tracks performance on free speech, professional journalism, plurality of news sources, business management and supporting institutions). Entry into the journalism sector is free, without limitation and no licensing is required. There are numerous news media, including radio, television, newspapers and magazines that provide a spectrum of political views.

Nevertheless, the Albanian media sector still faces some fundamental problems. While some observers credit the growth in the number of media outlets with improving the quality of journalism, most also see it as a sign of a distorted media market that has been subordinated to other interests. Many outlets, especially in TV and radio, operate at a loss and use other sources of income to finance their operations. Circulation of newspapers is very low and is heavily concentrated in the main urban areas to the exclusion of the rest of the country. Ownership is concentrated in the hands of a relatively small number of people, often associated with various business and political interests, and sometimes in violation of media ownership laws. These factors suggest a media sector that in many cases is intended to promote and protect specific special interests or political views, rather than provide balanced coverage of the news.

The government's involvement with the media contributes to some of these problems. As a large source of advertising revenue, particularly in the print media, the government exerts considerable influence on outlets it supports. A number of government officials own media outlets themselves, and

the coverage of public television in the past has been biased in favor of the government. It remains to be seen whether this trend will continue under the new government. There are also still problems with libel laws that provide undue protection to government officials at the expense of journalists.

IREX has supported independent media in Albania since 1995 and continues to develop the skills of print and television professionals, provide business management training, and build local advocacy efforts for reform of media legislation. IREX has also supported the development of a local television program (Heroes) that depicts how common citizens inspire civic participation to improve their communities. IREX continues its support to local TV broadcasters and news teams to produce programs that investigate the abuse of public funds, customs corruption, infrastructure scandals and the like. IREX has assisted the establishment of the first private television network of local stations in Albania and also was instrumental in the establishment of a trade association to develop industry employment standards and a journalistic code of conduct.

The OSCE also maintains a media development program that aims to develop media institutions and raise the standards of local media. This program includes institution building, media legislation and regulation, and technical assistance

Labor

The 1998 Constitution provides for the right to unite freely in labor organizations and grants employees the right to strike, within some limits related to ensuring continuation of essential social services. The 1995 labor code sets forth legal requirements for unions pertaining to registration, the ability to represent employee's interests in courts, the raising of tax-exempt funds, and the right of unions to operate without interference from the government, employers, or employee organizations. There are two main trade unions, the Confederation of Trade Unions of Albania and the Union of Independent Trade Unions. Although there remains a large membership, that membership is declining. Trade unions have lost power in recent years, and their influence is primarily limited to state-owned companies.

IV. CROSS-CUTTING ISSUES AND CONSTRAINTS

A. ANTICORRUPTION

Corruption is endemic in Albania. Its most extreme manifestation—state capture—is a matter of serious concern. Collusion of private and government interests remains a critical problem, and conflicts of interest are both extreme and common.

According to Transparency International, perceptions are that corruption in Albania is extremely bad and getting worse.[8] Corruption is a constant topic of conversation in the country. The term corruption, though, is rarely defined. It has come to embrace a variety of phenomena, ranging from the bribe taken by street police to illegal tenders run by Government ministers to abuse of power in general. For the population at large, corruption has become the symbol of every failure that has befallen post-communist Albania. Polls indicate that Albanians identify corruption as the main impediment to democratization and development. They perceive most institutions as thoroughly corrupt but especially customs, hospitals and tax collection.

Corruption has become the target for almost all dissatisfactions, individual or collective. If something fails, it is due to corruption. If democracy in Albania does not work, it is because of corruption. If you cannot find a job, it is because the system is corrupt. Corruption is no longer viewed as the symptom of a dysfunctional democracy but rather as its cause.

As a consequence, many see the fight against corruption as a panacea. It becomes the answer to all the problems Albanian democracy faces, as well as a subtle way to avoid discussion of concrete reforms and policies. In fact the current approach to corruption has turned the relationship between cause and effect upside down. It is no longer the case that corruption is the outcome of failed reforms, such as in the judiciary for example, but rather the source of such failure. Therefore, the argument goes, we first have to get rid of corruption in order to successfully implement reforms, and not vice versa.

Thus, the growth of anticorruption rhetoric has increased the perception of corruption without actually reducing the level of corruption. Once corruption becomes everything, it is also nothing. As a consequence anticorruption campaigns loose focus because they face such a pervasive phenomenon. Therefore, the first task should be to produce a more narrow definition and better distinguish among different types of corruption. It is not especially useful to categorize every systematic failure or abuse of power in general under the rubric of corruption, although such failures and abuses might produce corruption as a consequence. In the same fashion, it is not helpful to lump together phenomena as different as petty corruption and state capture, which are really very different problems and require significantly different responses.

A better typology of corruption would help us to view this phenomenon as a symptom of systematic failure rather than as an autonomous challenge. Corruption is the response of different actors, citizens, politicians or businessmen to the failures in different areas of governance. Bribes facilitate transactions in a dysfunctional and arbitrary tax or health system. Therefore, a better approach is not to declare war on corruption *per se* but rather to carry out reforms that address those systematic failures that enable the proliferation of corrupt practices. This may well be a far more complex, tedious and long-term process, but it is likely to be far more productive in the long run.

Such an approach is useful also because it avoids entirely cultural explanations of corruption. In many instances the pervasiveness of corrupt practices is explained as an inbred cultural phenomenon. Such an approach to corruption emphasizes the long-standing historical and cultural traits that make corruption seem inevitable, while at the same time not addressing its concrete and short-term causes. Often, corrupt practices in Albania are attributed to legacies of the past, which avoids analyses of the

systematic failure that produces them in the present. This in turn produces more corrupt practices that attest to the cultural and historical legacies they are rooted in. The result is much talk about corruption, but little remedy, becoming almost a self-fulfilling prophecy.

Generally, it would be more useful to perceive corrupt acts as violations of law or abuses of power, rather than an inbred cultural phenomenon. With this idea of corruption in mind, the causes of corruption become more obvious: the absence of the rule of law. Poor law enforcement encourages the growth of corruption, from petty corruption to state capture. Thus, to end corrupt practices, Albania must first and foremost build a state based on the rule of law.

The fight against corruption does not require a proliferation of institutions and legislation that address corruption *per se*, and the country already has such institutions and laws in any event. Albania does have a serious problem with the implementation of existing legislation and the efficiency of existing structures. In the absence of effective enforcement and punishment or other meaningful disincentives, additional institutions and laws are not the answer. New institutions and laws might even exacerbate the problem. Although the Law on Declaration of Assets, for example, was an important legislative achievement in 2004, the poor compliance and enforcement of the law have only heightened public cynicism. Some high-level government officials have filed patently inaccurate asset declarations or have revealed assets built on unaccounted-for sources, but there has been no proper follow up or verification.[9]

On the one hand, reducing corruption requires effective law enforcement and a functioning judiciary that will punish, and therefore increase the cost of, corrupt practices. A functioning judiciary is an indication of a state based on the rule of law. The rule of law also implies institutional responses and checks on power.

On the other hand, reducing corruption also requires a system where the discretion of state authorities and administrative barriers in general are reduced as much as possible. In practice this requires specific measures that aim to reduce restrictions on business, liberalize licenses and limit government intervention in the market. Again, this approach highlights the desirability of planned "DG-EG" linkages for USAID.

Yet, the remedy to corruption cannot be purely of an administrative or legal nature; there is a strong political dimension as well. Purely administrative and legal remedies cannot address the politics of corruption. Corruption in the form of state capture certainly is a political phenomenon. Such corruption requires political backing. Accordingly, accountability through elections and political processes is essential. The 2005 elections were a vote of protest against widespread corruption and state capture.

B. OTHER CROSS-CUTTING ISSUES

Beyond corruption, which pervades Albanian government, politics and society, there are several other important themes that cut across the major areas of democracy and governance programming in Albania.

One theme is the importance of human capacity development, training and education. In the longer term, educational development can make a profound contribution to the consolidation of democracy, and well-designed DG programs can and should themselves contribute to human capacity development.

Improving opportunities for women, likewise, can both contribute to and result from democratic consolidation. Although the constitution of Albania guarantees equal rights, women are underrepresented in public life. There have been relatively few women candidates for office, and, while the speaker is a woman, there are only 10 women in the new parliament. Although the major parties

nominated women on their party lists for parliament, observes the OSCE/ODIHR, "their call for supporters to vote for other parties' lists made this truly a meaningless gesture."[10]

As discussed earlier, efforts to formalize and reform the economy will not only contribute to a functioning market economy and improved economic growth but can also improve democratic governance, among other thing by reducing incentives and opportunities for corruption. These two-way "DG-EG linkages" between democracy/governance and economic growth programs can be mutually reinforcing. They could be an explicit goal across Mission strategic objectives, with indicators that attempt to measure the gains achieved from coming at these problems from both directions.

C. ROLE OF DONORS

The international community plays an unusually active, almost intrusive role in Albanian politics and government. Because of the goal of European integration, Albanian political leaders are extremely deferential to recommendations from European institutions. Albanians tend to defer to priorities of U.S. institutions as well. The OSCE Presence in Albania provides assistance to Albanian authorities and civil society on democratization, the rule of law and human rights, in accordance with OSCE principles and commitments.

Other bilateral and multilateral organizations active in supporting democracy and good governance in Albania include the OSCE/ODIHR, the World Bank, the European Union and a number of European countries. Many bilateral donors tend to support institutions and models from their own countries, sometimes without sufficient consideration of how particular models fit into existing institutional arrangements.

Goal of European Integration

Because the European Union sets pre-conditions to accession for aspiring member countries, as discussed above, the overriding objective of EU accession provides substantial motivation for the Albanian government and Albanian society to make tough decisions. In accordance with established European standards, the European Union, OSCE and European donor countries provide technical assistance for democracy and governance programs. Beyond generating political will, the benchmarks for European integration provide an appropriate framework, or at least serious points of reference, for USAID strategy.

Influence of the United States

The United States has a special relationship with Albania and a unique opportunity to contribute to the consolidation of the country's democracy, notwithstanding the pull of Europe and the extensive efforts of the Albanian government and political leaders to follow the roadmap for admission to the European Union. In part this goes back to President Woodrow Wilson's recognition of Albanian self-determination and independence; in part it results from Albania's emergence from years of isolation and admiration for the U.S. as a role model. There may be modern policy reasons as well. Whatever the reasons, Albania's admiration of the United States gives the U.S. government an especially meaningful opportunity to weigh in on Albanian government policy and gives USAID in particular an especially influential role as a donor. The opinion of the U.S. or of American institutions seems more influential in Albania than that of any other country and at least as influential as that of the European Union as a whole.

Moreover, Albania is on the threshold of eligibility for funding from the Millennium Challenge Account. MCA eligibility would provide considerable prestige as well as the potential of very substantial funding. This is another reason why Albania is likely to be responsive to USAID and the U.S. government.

Donor Coordination

Given the extent of donor interest in and influence on democratization in Albania, effective donor coordination is essential. The extent and effectiveness of coordination seems to vary by issue and over time. Both formal and informal coordination can be effective, but to avoid undue overlap or even working at cross purposes the issue deserves more serious attention. But avoiding duplication and inefficiency is the bare minimum; donors should seek to develop a common strategic framework and mutually reinforcing programs. All too often, programs from certain donors seem to take relatively little account of the efforts and priorities of others. In addition, donors need to take care to avoid supplanting Albanian ownership of the democratic reform effort.

Coordination is a responsibility of the Albanian government as well. The government needs to set its own priorities and work harder to rationalize outside assistance. To improve implementation and mitigate inconsistent advice, Albania as a society needs to be more assertive in its dialogue with the international community.

Role of International Community in Elections

The OSCE/ODIHR has played a particularly important role in Albanian elections. In the run-up to elections in 2005, the OSCE brokered deals between the two main political parties and shaped the electoral code to a large extent. As it had in the past, the OSCE/ODIHR led international observation efforts for the elections themselves.

The OSCE/ODIHR and other international organizations have criticized all elections in Albania since 1996 for failing to meet internationally accepted democratic standards. In 2005, ODIHR found that the election complied with OSCE commitments and other international standards "only in part."[11] Yet, one of ODIHR's principal criticisms was of the parties for their strategies to support smaller parties in the supplemental portion of the elections. Other concerns—such as about the quality of voter registration, problems in the count, frivolous complaints and form over substance in the appeals process, marginalization of the minority Roma population, media bias in favor of large parties at the expense of smaller ones, and the lack of political opportunities for women—involved significant issues but were vague enough that they were hard to measure against international standards. In any event, most if not all of these criticisms could be made about elections in developed democracies, including the United States and many countries in Europe. These kinds of vague criticisms should not be a basis for delegitimizing the election process or for revisiting the basic structure of the election system.

The high-profile, sometimes meddling role in Albanian elections of international actors, such as the OSCE, raises its own concerns. In dealing with elections, as with other political and governmental institutions, the international community should seek to play a more supportive, lower-key, constructive role in Albania. Criticisms that are too categorical or that are based on debatable value judgments threaten to contribute to controversy about the legitimacy of the process and thus can undermine public confidence and democratic institutions. Moreover, if the international role is too high profile, it runs the risk of supplanting local actors in leading on political reform. As in other areas, international involvement in reforming and monitoring elections in Albania can be a double-edged sword.

Role of the International Community in Parliamentary Affairs

The Albanian parliament cooperates with a number of European and international bodies, including the Venice Commission, the European Parliament, the World Bank and others. In addition to extensive advice on the substance of legislation in many subject areas, the parliament has also received technical assistance on procedure. An OSCE expert from Finland, for example, advised on the new rules. The parliament now has a standing committee on European integration.

The international community has largely reviewed the content of legislation favorably, but the extensive international role in the process has often short-circuited local debate and lacks local ownership. Foreign advisors often guide the content of legislation, and foreign models figure prominently. Although outside technical assistance has an important role to play, the strong outside direction on legislation has contributed in many cases to lack of "buy-in" which in turn has hampered efforts to harmonize different laws and newly created institutions and complicated implementation. That a law is consistent with European or American models does not necessarily make it a good law for Albania. To improve effectiveness and implementation of legislated reforms, local political and parliamentary leaders must "own" the legislative reform agenda. Technical assistance is most effective when providing alternative legislative models, new ideas and constructive criticism rather than trying to set the agenda for reform.

Constraints on USAID

In developing its longer-term priorities in support of democracy and governance, USAID faces considerable constraints. USAID has a small mission with modest resources. Resources for democracy and government programming in Albania are likely to decline in the future. Moreover, the Mission will eventually be looking for an exit strategy. The European Union and European countries are active on a range of democracy and governance issues. Under these circumstances, there is a particular need for coordination and strategic focus.

V. TOWARD A NEW STRATEGY

First of all, the assessment team recommends that the Mission reconsider anticorruption as the overriding theme of democracy and governance strategy and programs. Rather than seeing corruption as the basic underlying problem, the team's analysis posits that corruption—itself a wide range of phenomena—is a symptom as much as a cause of poor governance. Poor governance and corruption create a vicious circle: bad governance leads to corruption, which produces more bad governance. Because bad governance is the real problem, a focus on anticorruption alone may not be enough to break the cycle. Positive good governance improvements are needed to begin to create a virtuous circle that can reduce corruption on a sustainable basis and build credibility for public institutions through visibly better performance.

The team believes that this deficit of effective governance, as seen in the weakness of state institutions and the lack of compliance with law and administrative procedures is the principal challenge to democratization and good governance in Albania. Thus, governance improvements, especially in the legal arena, and better compliance with the law should provide the strategic architecture for future programs. Anticorruption efforts and targeted civil society support can continue to play a role within that framework.

Two guiding principles should be reflected in all programming. The first is to look to the EU accession process as the driving force behind policy and institutional change. The second is to be certain of "Albanian ownership" of proposed activities through a process of problem identification and action plan implementation that is led on an ongoing basis by the key Albanian stakeholders involved. This approach, often referred to in USAID as the "implementing policy change" model, is discussed further below.

The assessment scope of work for the team does not call for a full evaluation of existing programs or for translating analysis into designs for interventions, nor was this feasible within the limitations of time. Nonetheless, the scope of work does call for suggesting program priorities, and these can serve as useful guidance to the Mission in taking the next steps for programming during the new strategy period. The following discussion thus attempts to elaborate upon the proposed strategy and suggest program possibilities and priorities in the four broad democracy and governance areas: (1) governance, (2) rule of law, (3) elections and political parties, and (4) civil society.

A. GOVERNANCE

Circumstances have changed in Albania. Last year's election brought a new government propelled into office by a surge of voter sentiment against corruption. The new government, while led by a figure from the "old guard," includes many new faces at senior levels who come from the ranks of civil society and are young enough to represent a generational shift of leadership as well ("AID grads," noted one observer). USAID's support for civil society organizations has helped strengthen the presence of civic groups in the public policy arena. These recent changes all go to the issue of political will needed to reform policies and institutions. The "impasse" represented by a national-level political stalemate, cited in the 2004 *Strategic Revalidation Assessment* as blocking institutional reform and as "Albania's greatest challenge to democracy and good governance," may have been broken. Issues, such as corruption, are becoming important in political campaigns.

It is time for USAID to test that political will. USAID should give higher priority to the "supply side," that is, working with key selected public institutions to help Albania build modern, accountable, democratic institutions. USAID has helped create the "demand side" for better governance in civil society, and the voting public has expressed demand through anger at poor governance and resulting corruption. Advocacy and public education efforts of nongovernmental organizations sup-

ported by USAID have contributed to a national consensus on the need to fight corruption, and the country has adopted new laws and created institutions to police and deter corrupt practices.

Building on these successes, the team encourages USAID and other donors to move beyond supporting efforts either to raise consciousness about corruption or to identify, punish and/or deter various types of corruption. It is not enough to uncover bad behavior and punish it. The strategic objective of programming, including valuable programming with civil society, should be to achieve the results of "better functioning, modern and accountable public institutions." Given the team's finding, one shared by almost all observers, that the statutory framework is generally adequate, the emphasis should be on implementation of policy reforms and efforts to improve institutional performance.

To contribute to more effective governance, the team recommends greater consideration of targeted opportunities for institutional and policy reform and improved policy implementation to complement or substitute for capacity building, monitoring, civic engagement or broad advocacy as such. The team urges efforts to work with local partners, inside and outside of government, to identify specific policy reforms that are critical to better governance and have a reasonable chance of progress. In the anticorruption area, USAID has encouraged this approach in some important respects, but there is need to target these anticorruption efforts more and to mobilize narrow or private interests to the cause of more effective enforcement in particular areas.

The team also agreed with the 2004 report that patronage and political clientelism form the dominant type of governance in Albania. To be successful, institutional reforms have to attack the underlying incentive systems on which the patronage system runs. But many institutional actors and vested interests behind state capture will resist the loss of rents that cronyism and corruption bring. The Albanian government needs to attempt seriously to change its governance model to one of merit and performance standards rather than connections and personal advantage. This is, however, a very difficult, long-term task.

The problem of weak institutional performance obviously cuts across the entire Albanian public sector. USAID is in no position to take on that big a challenge, even though improved governance across the board would greatly strengthen the legitimacy of the state in furtherance of democracy. Given the stated importance of rule of law, the team recommends that USAID concentrate its resources on institutional improvement in the core institutions of the justice sector. This also includes a role for CSOs. More specific recommendations are laid out in the later subsection on the rule of law and the legal arena.

Other specific recommendations for targets of policy reform and how to link them to the EU accession process are covered in the balance of this subsection, which describes the governance strategic approach known as "implementing policy change." That approach gives great importance to *participatory process* and *political dynamics* to achieve desired results of institutional ownership of the reforms implemented. Most of all, it is a group process driven by identification of key stakeholders and a careful analysis by them of their particular interests and the common public interest.

Donors such as USAID need to respond to locally determined priorities and support rather than drive reform efforts. Questions about why institutions do not perform their assigned mission well need to go beyond technical considerations to get at the underlying political dynamics and interests that protect the status quo. Then participating reform-minded leaders inside and outside government need to define reform priorities and build the alliances necessary to carry forward implementation of a reform effort ("change management"). In a methodological sense, the emphasis is on identifying key variables and mapping out a flow chart of how to reach goals that all (or almost all) key stakeholders have agreed upon. Continuous feedback loops built into the model allow real-time adaptation to changing circumstances. Resistance to change is assumed, and building a political support base for reforms is

an explicit part of any program. Definition of strategy is always a fundamental and published element, one that is national in character rather than donor-formulated.

Not too much space in this report should be used to detail the model. DCHA/DG offers access to assistance of this sort through its IQCs for strategic policy and institutional reform and the broader follow-on IQCs for Building Recovery and Reform through Democratic Governance (BRDG), all of which are based on the implementing policy change model.[1]

In addition to the institutional reforms recommended in the legal arena, the team suggests that policy advances can be pursued in further fiscal decentralization and capital budget financing mechanisms to support the Mission's local government programming. The Ministry of Finance is a key government partner that has expressed interest in working with USAID on these critical national policy reforms, which can improve governance throughout the country at the municipal level. Policy-reform efforts also might target election reform or party/campaign finance.

Given the all-important role of the EU accession process as a driving force for governance reforms, USAID should build a strategic relationship with the Ministry for European Integration and the Commission on European Integration in Parliament. No institutional reforms in these two bodies are suggested necessarily. Rather the engagement should be centered on the key policies and institutional improvements USAID seeks in its highest priority governance areas: the justice sector and local government.

Obviously, USAID goals will need to be harmonized with the annual EU report cards and the benchmarks for achieving candidate status, but the locus for concentrating political will to push forward difficult reforms is likely to be directly connected to efforts in those two bodies to meet EU conditions. Working together with the key line ministries of Justice and Interior and Local Government as well as with the Ministry of Finance and independent entities such as the General Prosecutor, the People's Advocate and the courts, USAID should try to make the EU accession process the political and institutional focal point for achieving governance improvements in counterpart public institutions.

Key stakeholders outside government should not be forgotten in this process. The Citizens Advocacy Office, anticorruption groups and public policy think tanks are just three examples of organizations that should also play an active and accepted role.

At the same time, in its programming in support of economic growth and the Millennium Challenge Account, USAID should target economic governance reforms such as stronger banking institutions, the use of bank accounts, payment by check or bank transfers and employee payroll systems that eliminate payment in cash. Such reforms will strengthen not only the market economy but are also likely to contribute to improved governance and rule of law. As means to formalize the economy to a greater extent, they also serve to combat corruption. Property titling cases clog the courts and greatly increase transaction costs in the economy. Improvements to that registry system will have immediate positive spillover into the courts. Another important area would be government procurement reform. These are all examples of "EG-DG linkages."

Parliament

The assessment team did not see obvious needs or opportunities to target assistance to the legislative branch as such. A previous assessment team, which conducted a "Strategic Revalidation Assessment," recommended consideration of "technical assistance to promote the expertise, capacity, performance and legal understanding" of the parliament.[12] The current team agrees with the conclusion

[1] To be even more specific, Pat Fn'Piere of DCHA/DG has the institutional memory going back to the two original implementing policy change projects of the 1990s.

that the parliament, rather than NGOs, has the most important role in representing the citizens and mediating between the government and the public. But, in its admittedly limited interviews, the team did not find obvious opportunities for assistance targeted at parliament itself and is skeptical about the value of assistance for staff training and study tours for parliamentarians, much less support for computerization or physical infrastructure. Parliament is performing reasonably well. Parliamentary rules have been improved, the parliament seems to provide a forum for debate, and parliamentary leaders are aware of the need for transparency and for better communication with the public. The parliament and its commissions seem increasingly aware of their responsibilities, within the limits set by the parliamentary system, to oversee the executive branch and independent governmental agencies. Given the predominate role of the government in lawmaking in Albania's parliamentary system, there are necessary limits on the parliament's legislative function.

Accordingly, the assessment team does not recommend focus on legislative capacity building as such or expect that initiatives involving the parliament as an institution will necessarily become a priority. But, at the same time, work with particular committees or parliamentary groups regarding specific governance reforms or oversight of the implementation of policies in certain areas might be worth consideration. Working with key members, committees or staff members of parliament on oversight and transparency in specific areas could build capacity as an ancillary benefit to improving policy implementation and enforcement, at least to the extent they complement policy reform/ implementation initiatives in particular areas. Thus, the team would encourage efforts to involve parliamentary committees in particular policy-reform efforts. In such an approach, party leaders or committees would be important stakeholders or partners but not the targets of programs; rather programs would target specific reforms or issues as opposed to building the capacity of parliamentary committees.

Local Government and Decentralization

This democracy and governance assessment posits the need for the rule of law, improved state capacity, stronger but more accountable state institutions, and greater responsiveness to citizens' needs as well as avenues for their participation. As the *Strategic Revalidation Assessment* found in 2004, work with local governments remains an "open door," offering tangible improvements in service delivery that affect people's everyday lives, greater budget transparency and opportunities for meaningful citizen participation in governance of their communities. Accordingly, the assessment team believes USAID should continue efforts to support the development of local government and the policy of decentralization, although with a lower priority than that accorded to the rule of law/governance/anticorruption triad at the national government level.

In the local government arena, the team recommends a focus on institution strengthening, capacity building and government performance improvement. This is consistent with the EU requirements. As in other areas, such efforts, to be successful, must genuinely engage local partners and find ways to support rather than drive programs.

The assessment team encourages effective assessment of political constraints and management capabilities to help determine how local governments can perform better. The Service Improvement Action Plans (SIAPs), Trained Observer Ratings, joint working groups, citizen and user surveys, participatory budget processes and similar methodologies are bringing citizens and local government closer together and building greater accountability and transparency to government operations. Although the team recognizes the difficulties of using such methodologies at the national level, it would encourage experimentation with similar approaches beyond the local government arena. These efforts can be part of policy reform or national commission approaches.

The assessment team does not recommend a freestanding anticorruption focus at the local level any more than it does at the national level. Nevertheless, the team recognizes that decentralization strategies are vulnerable to capture by local elites or even local criminal elements. Without question, cor-

ruption is a serious problem at the local level, but many suggest it is smaller in scale and less deeply entrenched than corruption at the national level, in part given the fact that local government expenditure levels are much lower. Corruption is less of a problem at the local level, said several observers, because "there isn't enough to steal to make it worth the effort for the big guys." Greater decentralization and local expenditure authority would need to be accompanied by strong efforts to install effective local fiscal oversight. To the extent that corruption is less pervasive at the local level, this becomes more a question of prevention in contrast with the tougher problem of rooting out systemic corruption from the central government. Public procurement and permits for building construction are areas of vulnerability and should get attention in addition to the improved management practices under current programming. Open and competitive electoral processes and strong civic engagement also can help maintain good governance.

Although The Urban Institute and NDI collaborate in many ways, the local government and the Civic Forum programs remain basically asymmetric. Civic Forum is one of the few civil society activities in communes or rural areas. The local government program, in contrast, works in municipalities. At the very least, greater overlap would be desirable. Linkages would point mainly upward, as the municipalities have greater capacity than the communes and greater ultimate viability as units of local government. But, as discussed below, the team does not believe programs focused on local citizen engagement should themselves be a priority.

Overall, it appears that the quality of governance at the local level is improving and thus should continue to be an area of attention, as USAID appears to have built a comparative advantage in this area. The Minister of Interior, who has responsibility for local government affairs, told the team that the new government intends to continue the decentralization process. If the government in fact shows that political will, USAID would have a good opportunity to provide expert advice and to affect decentralization policy at the national level as well as continuing its work on the ground in selected municipalities.

B. THE RULE OF LAW AND THE LEGAL ARENA

Given the importance of strengthened rule of law in making Albania a democratic, law-abiding society as well as its importance to the EU accession process, the team recommends that USAID give continued attention and even higher priority to the legal arena, with a more strategic approach to defining rule of law objectives and implementation processes. This is where the toughest development problem of all—public sector institutional reform—should be tackled to the extent of USAID's capability. However, it is essential that USAID first be satisfied that the Albanian government, including the leadership of the judiciary, has the stated political will to undertake broad and deep reforms in the justice sector. Even more so than in other sectors, USAID should work closely with European and other donors such as the World Bank in order to achieve a common strategic approach to the justice sector.

One of the challenges will be the need to make the government itself comply with the law. Government ministries and independent agencies often disregard court orders and judgments. Only a law-abiding state can have the credibility to establish the rule of law in society and enforce it in terms of citizens' behavior. And only with such credibility will a culture of public respect for the law become established as part of a larger democratic culture in Albania.

USAID and almost all of the other leading donor countries and international institutions have supported projects designed to strengthen the rule of law. Few donors or observers, however, have expressed much satisfaction with the results achieved to date. Lack of political will on the Albanian side is only part of the reason why this area of work has proved so challenging. The problem also

rests with the approaches used by donors to date, USAID included, and the nature of the relationship between donors and the Albanian government.

The justice sector (used here to refer broadly to the legal arena) is an organic whole and needs to be analyzed and approached as such. Yet in this area project interventions by and large have been narrowly technical and single-issue or single-institution in their design. Assistance efforts by USAID, other U.S. government agencies or other donors have been sprinkled across the justice sector, including for judges, prosecutors, police, court administrators, judicial oversight (High Council of Justice, Ministry of Justice), bailiffs, the Chamber of Advocates, judicial police and the School of Magistrates. Each component may be worthwhile and may produce specific improvements, but overall the systemic problems are not addressed in a strategic way. Consequently, there is little impact and no visible improvement in performance across the sector. Neither donors nor the Albanian government appear to have adopted a systematic approach, particularly one that would take into account the institutional dysfunctions and political pressures that cut across the entire sector.

The assessment team that conducted the 2004 strategic revalidation assessment correctly identified the problem in saying that "a larger 'administration of justice' concept" is "missing in Albania." But that team said little about how to address this problem other than to stress the need for Albanian "institutional ownership," in large part because its finding of an absence of political will foreclosed the issue.

USAID has supported some good initiatives, particularly with the School of Magistrates and the Judicial Budget Office, and USAID's work with inspectorates, the bar association and watchdog NGOs has correctly targeted compliance with the law. But by itself, this focus on identifying and punishing bad conduct is not enough and suffers from the problems discussed above of being overly negative, potentially heightening public cynicism without providing real solutions. As part of a broader and well-conceived justice-sector reform and governance strategy, however, such programs have a place.

More recently, donors have begun to try to go beyond the usual donor coordination efforts and help build a sectoral strategy that is shared and developed by Albanians, with the EU said to be in the lead on "donor architecture." USAID activities in rule of law need to fit into such an overall sectoral reform effort, led by Albanians, that encompasses all essential links in the justice-sector chain. USAID itself is not in a position to provide assistance across the whole sector, but USAID should attempt to help Albanians develop the missing "larger administration of justice concept" that can give strategic direction to the entire reform effort.

The preferred method for doing this would be a "participatory justice-sector assessment," with external consultants in a *supporting* role for a thorough analysis and report under Albanian authorship. This might be followed by a national conference to present and disseminate the findings. This initial approach nicely fits the "implementing policy change" model because it can be used to bring key stakeholders from government and civil society together into a working group that can become an ongoing constituency for reform. It is important to go beyond technocrats and include politically attuned figures and opinion leaders. Once again, it also will be key to link directly to the institutional framework of the EU accession process.

This assessment cannot cover the justice sector with the thoroughness the Mission would need in order to make programming judgments. However, the team recommends the following as pieces of the whole that USAID should engage with in a direct way.

- *Participatory Strategic Assessment.* First and foremost, USAID should help Albanians conduct a participatory strategic assessment with both substantive and process objectives. The broad sector needs to be analyzed and viewed publicly, and the process model needs to be used to engage key stakeholders and make them assume ownership of the ongoing effort. This should be seen as a "rolling strategy" that will be used as a road map and adjusted to

adapt to changing road conditions. It must be billed as a political document as well as a technical report, as a beginning not an end. Once transformed into an action plan, it needs to have benchmarks to measure progress.

- *Legal Reform Commission.* The Minister of Justice has set up a new advisory body, the Legal Reform Commission. This might play a key institutional role if given a strong mandate. USAID, which has good relationships with the Ministry, should be prepared to support the commission's work if it gains traction. Some other countries have used national reform commissions effectively, with membership from the public and private sectors, to create a shared vision, establish structures for leadership and build public support for far-reaching reforms. Bolivia, Costa Rica and Honduras, for example, adopted such approaches for criminal justice reform. However, the overall record for such commissions in Latin America is mixed. They have worked best when focused on specific objectives that have become part of a shared vision; otherwise they were susceptible to bureaucratic turf fights.

- *Courts and Judges.* These are the absolute core institutions and actors of the justice system. The public sees both judges and the courts as corrupt and inefficient. That perception has to change, based on institutional performance improvements and a clean up. Working directly with them is unavoidable if USAID hopes to play a catalytic role in justice-sector reform. USAID, if satisfied as to political will, should make the commitment to help the courts modernize. First-instance courts should receive priority, followed later by appellate courts. Technical assistance in areas such as delay reduction, workflow analysis and case management should be the focus. Hardware and other commodity needs should be lined up and met by other donors and by a higher budget allocation by the government and parliament as evidence of their commitment. A system with stringent criteria for selection, retention and promotion of judges needs to be agreed upon as an accountability and quality principle. USAID should continue support to the High Council of Justice, but press to raise the bar. The principle of judicial independence is too often used to evade judicial accountability. The School of Magistrates is providing more qualified new entrants, but a tough exam and screening process should be applied for *all sitting judges* as well to test their qualifications within the reformed legal system. This kind of screening process in Georgia resulted in 80 percent of Soviet-era judges being selected out. A radical cleansing of this sort is required to restore public confidence in the judiciary and courts and open the system to a modern generation of younger judges. Anticorruption criteria would be part of the screening process.

- *Prosecutors.* Prosecutors are almost as essential to the justice system as the judges themselves. USAID should do much more to improve the institutional effectiveness of the General Prosecutor's Office, which is independent of the executive. This is a well-defined need. Although the Justice Department's Office of Prosecutorial Development and Training (OPDAT) has taken the lead for the U.S., it has not had enough of a presence to undertake the institutional reform and strengthening programming necessary to have a major, sustainable impact. U.S. policy at post should permit USAID to work in this area in order to contribute to fundamental, institutional reform in the office of the General Prosecutor. Rather than just pursue specific cases or contribute on an ad hoc basis, the project would need to improve the prosecution function and its relationship to other parts of the government. At the same time, other donors are working in this area and might take the lead instead, if they are clearly focused on institutional reform and not just technical upgrading.

- *Court Administrators*. Court administrators perform vital support functions for judges and court operations. USAID may need to provide assistance to them in order to make institutional reforms sustainable.

- *Civic "Watchdogs."* CSOs have a very important role to play in justice-sector reform programs. They create and maintain demand for reforms and should be accepted as working partners in whatever form the organization(s) leading the reform process take. USAID should continue support for such groups as the CAO and review its roster of partners to see which other CSOs should be brought in. USAID previously considered but rejected a "court watch" based on the successful Philippines model. USAID should build that in as part of an integrated justice-sector reform program. Such a civil society activity can make a serious contribution to transparency and accountability by monitoring and reporting on court cases, judicial decision-making, compliance with court judgments and enforcement of court orders. A court watch could also link to free media and investigative journalism to reach a larger public audience.
- *Enforcement of Judgments.* Measures to strengthen the enforceability of court judgments merit high priority because the lack of enforcement and major noncompliance by government itself have led to the sense of pervasive impunity that undermines any respect for rule of law.

This is a very ambitious agenda for a Mission with limited funding and staff, yet is only a partial listing of areas that need attention to maintain a broad sectoral coverage. Other donors need to play key roles and may well bring more financial resources to the table. Other donors could also target additional actors; the police and defense counsel, for example, are also critical to proper functioning of the criminal justice system.

In short, the team recommends a "sectoral reform rule of law project," following the Implementing Policy Change approach discussed in the Governance section above. The essence of this recommendation is for a process-oriented project to assist the Albanians in carrying out a sector reform program. The project itself and the technical assistance input is meant to be a kind of secretariat to the Albanian group(s) or institution(s) carrying out an agreed strategy that the project helps them define. It will involve a number of specific tasks, only some of which USAID will also support directly.

What has to be new and different in any rule of law initiative is this notion of real "institutional ownership." If the Albanians are prepared to take the lead, a reform effort has a chance for success. If the effort is donor-driven, it will fail.

Active support from the Prime Minister and political leadership are critical. Inside the USG, USAID will also need active support from the Ambassador when political heavy lifting is required. Given the importance attached to U.S. views, a very public show of support for rule of law initiatives should be part of USAID's strategy.

Public pressure needs to make political parties and their leaders accountable on the subject of legal reform, through both the electoral process and civic engagement. The Berisha government needs to see justice-sector reform as a key political issue, and perhaps one that will fundamentally affect its standing with the public. Corruption had that importance in the 2005 election, but at present justice-sector reform (beyond the corruption element) does not have the same popular support. This means that government and civil society leaders will need to pay careful attention to building constituencies for reform and engaging in active public outreach. USAID should maintain a healthy balance between work through the government and the judiciary (supply side) and civil society (demand side), seeking a productive working partnership but not excluding confrontation when pressure for reforms is needed to stiffen the resolve for difficult political decisions.

Because the fundamental objective of reform in the legal arena should be measurable governance improvements—better functioning justice sector institutions and a more law-abiding state—performance measures that are understandable to the public are needed. Concrete indicators analogous to the SIAPs and Trained Observer Ratings used in the Local Government Program can show progress as it is achieved and maintain momentum sufficient to overcome predictable bureaucratic resistance and

antireform elements. Real success will not come in the near time or in highly visible ways; institutional reform progress is incremental over time. The important thing is to show a new direction and a pattern of gradual but determined movement in the right direction.

USAID should make rule of law the centerpiece of an eventual exit strategy for Albania, a strategy in which EU and public recognition of governance improvements in the justice sector should play a key role in achieving EU candidate status and later accession to the European Union. Once that is achieved it will be safe to say that Albania has consolidated its democracy.

C. ELECTIONS AND POLITICAL PARTIES

Elections

Although elections will likely continue to be of concern to USAID and the U.S. government, the team does not expect that election administration *per se* will be a USAID priority in the future. Judging from recent experience, neither election administration nor even the election framework seems to be the principal challenge to democratic elections in Albania. The CEC has proved itself capable of organizing and conducting an internationally acceptable election, even under the current framework, probably in no small part because of assistance from USAID through IFES.

Nevertheless, the criticisms of the OSCE/ODIHR and the debate about the election system that has already begun ensure that elections will continue to be an issue for donors. Because the rules of the political game are so important to the prospect of meaningful democratic reform and because of the likely salience of upcoming local elections, USAID and the U.S. government more generally should not step back from this debate entirely. Accordingly, as the team has have said, USAID and the U.S. government should engage on election issues at a diplomatic level. In any event, greater stability in the rules of the game should itself be a goal. On the grounds of stability alone, modifying the existing mixed system seems preferable to scrapping it altogether and adopting an entirely new one.

In addition, neither the political elites nor the international community seems to have yet focused on the importance of upcoming local elections, which may either exacerbate local tensions or further the cause of democratic reform. Accordingly, USAID should engage in discussions about elections at a diplomatic level and consider ways to engage at a technical level, perhaps, for example, through support and technical assistance to civil society actors interested in providing technical input into the debate. Although local elections as such should not necessarily be a priority for USAID, the Agency may want to support the engagement of civil society organizations in the process. A number of more technical issues, especially improving the civil registry and the process of voter registration, remain extremely important but are perhaps best left for European donors. For all these reasons, coordination with European donors on both local elections and election reform is essential.

The upcoming local elections and debate about national election reform provide a new opportunity for an NGO or coalition to organize around the idea of election monitoring. For one thing, monitoring the preparation of electoral laws and regulations, voter registration, campaigning, balloting, vote counting, and the resolution of election disputes helps to ensure that elections are competitive and meaningful. This, in turn, enhances the confidence of the public and contestants and increases the chances that all sides will accept the results.

Verification of voter lists or vote tabulation, for example, would provide both an important check on fraud and, perhaps more important, a task around which to organize and build capacity. NGOs that develop technical knowledge about election administration and election systems could provide invaluable input into ongoing debates about the election system. USAID should consider modest technical assistance to interested groups.

Such an effort, though, would be aimed as much at building civil society networks and capacity as deterring fraud or making public pronouncements on the fairness of elections. This is a second, more transcending purpose for domestic election monitoring. NGOs that advocate election reform and mobilize citizens to observe the polls have catalyzed and helped consolidate democratic change in many countries. Elections in emerging democracies are not only ends; they are also means—catalysts for the longer-term process of building democratic practices, values and institutions. Beyond deterring or exposing fraud, election monitoring can empower civic organizations in public affairs and transform the way that many citizens view national politics. Organizers of election-monitoring programs can learn how to build coalitions and advocate public policy reforms in a more democratic political system. Organizations, networks and relationships established to monitor elections prove invaluable in subsequent efforts to press for democracy in other ways, such as monitoring government performance, fighting corruption, advocating legal reform, lobbying public officials and educating the public about democracy.

Such assistance would certainly be subject to the same caveats about legitimacy, sustainability and donor control offered in the discussion of assistance to civil society in general. But assistance to election monitoring should not require significant institutional or long-term support. There is also no reason that domestic election monitoring should have an anticorruption focus or that a coalition built to address the problem of corruption should be the driving force. The goal is not to build election monitoring capacity as such but to take advantage of another opportunity to mobilize civil society. Organizations that come together for election monitoring do not have to work together thereafter, at least with donor support, although one or more NGOs may develop expertise and capacity to engage subsequently in the debate on election reform and monitor ongoing voter registration efforts and the development of a civil registry.

In dealing with elections, as with other political and governmental institutions, the international community should seek to play a more supportive, lower-key, constructive role in Albania. Criticisms that are too categorical or that are based on debatable value judgments threaten to contribute to controversy about the legitimacy of the process and thus can undermine public confidence and democratic institutions. Moreover, if the international role is too high profile, it runs the risk of supplanting local actors in leading on political reform, which makes apparent gains less sustainable.

Political Parties

The question of working with political parties presents a dilemma. Parties are and should be key players in democratization, but external efforts to affect political party organization and behavior in another society are extremely difficult. Existing political party programs in Albania have focused on internal democracy and capacity building. Broadly speaking, building a democratic system that holds the party accountable is an alternative strategy for encouraging reform.

The goal of greater internal democracy, and thus accountability, is laudable. But there are limitations to the “one member, one vote” approach. For one thing, it is not clear why broad party elections or primaries are inherently superior in all circumstances to other means of choosing party leaders or candidates or making party policy decisions, such as local party caucuses, conventions or even consensus building or other decision making by party leaders. And the “one member, one vote” principle itself does not address important questions of detail, such as which positions should be open to a vote, when and how should those elections take place, whether there should be a secret ballot, how membership is defined, and whether the principle applies to policy decisions as well as selection of candidates and leaders. Moreover, parties may resist the idea of “one member, one vote” because they do not see it as in their interests; not only do party leaders dislike the idea of losing control, primaries or wide-open processes for choosing candidates or party leaders do not always lead to the selection of the most able leaders or the candidates most likely to win in a general election. Donor initiatives to encourage internal party democracy can only succeed to the extent that parties see such initiatives as

in their own interests. In addition to, or as an alternative to, such efforts, the team recommends greater attention to efforts that hold parties accountable or engage with them in the context of particular reform efforts.

NDI has also conducted programs aimed at individual party activists, especially younger ones deemed to have leadership potential, to help build their political and management skills and help empower them as champions of reform within their own political organizations. The assessment team did not have the opportunity to study this program, but, again, parties will continue to act in their own interests and they will not accept reform just because it is the right thing to do. These kinds of efforts can contribute to sustainable reforms only to the extent that they take account of party incentives, that is, if the parties see such training as in the parties' own interests.

A new focus on good governance and policy reform would probably not continue efforts to encourage internal party democracy or build party capacity. Rather it would seek to involve parties in selected governance reform efforts. Such reform efforts might include a strategy for justice sector reform, as discussed above, or for decentralization, budget policy, trafficking or election reform. One specific idea is to engage parties, along with experts, activists, the parliament and government officials, in efforts to address problems of campaign finance. More effective disclosure requirements could contribute to greater accountability for parties, although for this very reason it would likely be difficult to get parties to agree to such a focus.

Because political parties are key actors, USAID and others in the international community should try to get parties increasingly involved in efforts to devise solutions to identified governance problems. (This is essentially the same approach the team advocates for parliamentary leaders and committees.) This can help parties to better understand what they need to do in government. Through their participation in formal or informal discussions or working groups to address particular governance weaknesses, the parties can help educate political elites and opinion leaders on how to run the government better, improve accountability and advance prospects for joining the European Union. The objective is to include political party leaders in a long-term sustained dialogue about policy and governance reforms.

D. CIVIL SOCIETY

Assistance to civil society or "demand side" programming can complement a largely "supply side" strategy focused on governance and rule of law reform. Support for civil society is not an end in itself in this context, but a means to more accountability, improved representation and better governance.

The assessment team supports USAID's change in emphasis in recent years from NGO strengthening to monitoring and "watchdog" activities. But the team would move such monitoring beyond its current emphasis on identifying, punishing and deterring corrupt practices to other activities less focused on punishment, perhaps addressing specific governance issues. Although NGOs have educated the public and raised consciousness about the insidious threat of corruption, the team notes that several activists and observers reported that even NGOs addressing corruption are typically reluctant to point out or deal with specific cases of corruption, often because it is simply too dangerous. The team would encourage more emphasis on civil society groups as partners rather than targets of programs and as political actors with their own interests, capabilities and constraints.

Existing Civil Society Programs

Certain USAID civil society programs have made a distinct contribution but would become less of a priority under the proposed revised approach. These include Civic Forum and the Albanian Coalition Against Corruption.

The USAID-funded Civic Forum program seems to have raised considerable citizen interest in some locations in local government affairs and provided those citizens with greater knowledge of government processes. With local governments assuming more responsibilities and powers, citizen knowledge of local government plans and activities is ever more important. The program seems to have enhanced the abilities of citizens involved in the program to understand and participate in local government processes, to advocate reforms and to hold local government officials responsible. The Civic Forum groups visited by the assessment team showed knowledge and interest in local government activities.

At the same time, although the Civic Forum program seeks to educate and engage citizens in dialogue about politics and government, it is not designed to act as a monitoring organization, to advocate public policy or to build a sustainable organization or network. In this respect, it is a resource-intensive program whose benefits are relatively inchoate and diffuse. It is difficult to link the current Civic Forum program to the Mission's current anticorruption strategy or to a potential future strategy more focused on improved governance and accountability.

The USAID-sponsored ACAC has played a key role in raising the profile of the corruption problem and creating motivation for the government to address that problem. The ACAC has participated in the official, government-sponsored Anticorruption Monitoring Group, and civil society groups contributed as experts in a number of projects and surveys run by the permanent unit. Unfortunately, the ACAC proved to be a weak organization with many institutional problems, well understood and documented by USAID. Like the *Strategic Revalidation* team, the assessment team found no compelling argument to maintain the coalition in its present form. Rather, assistance to the stronger, more productive members of the coalition should be a higher priority, so that good programs can continue and weak ones not absorb resources. The result should be more effective activities carried out by the stronger organizations, selectively assisted by interested donors.

A few NGOs merit specific comment. The Citizens Advocacy Office (CAO) has been one of the most important anticorruption watchdog and advocacy organizations in Albania. The CAO reports that it is currently working on addressing problems with political party finance, conflicts of interest, domestic violence and freedom of information. As noted earlier, the CAO and many observers credit USAID support for the organization's success.

Although the Mjaft movement suffers from some of the same shortcomings as other civil society groups with regard to representation, lack of membership and donor dependence, its popularity and success are notable. Although there have been some issues that have stood in the way of the U.S. government assistance to Mjaft, opportunities for cooperative or parallel programming should be encouraged.

There may be room for additional, more focused watchdog NGOs or coalitions of interests that address particular issues of corruption or governance. This may be especially relevant in the judicial system and in the health and education sectors, where problems are already identified and some NGOs are already involved. Efforts should be made to involve private organizations with interests in particular areas in efforts to address more targeted, specific concerns rather than to try to mobilize well-meaning activists on a more selfless, good governance agenda. Targeted efforts mobilizing institutions and organizations with real interests have the potential to make more progress in addressing and maintaining focus on those issues.

Looking to future programming in support of civil society, the issues of legitimacy and sustainability merit greater attention from the donor community: .

The first need, legitimacy, could be addressed through encouraging NGOs to develop a stronger membership base and enhanced relationships with the public. While this may be easier said than done, the stage seems set for potential improvements. Many of the larger, stronger NGOs recognize

the problem, as do donors. More dialogue between donors and NGOs could help to identify the obstacles clearly and tailor activities to overcome them. This could, of course, result in some current donor-NGO relationships needing to be changed or ended over time. However, the issue of legitimacy of NGOs has to be addressed sooner rather than later, and the early months of a new government present an opportunity to do it.

There is no short-term solution to address sustainability, but donors need to consider long-term strategies to deal with this issue. Local businesses with both the financial resources and an interest in philanthropy are rare. International businesses are a potential source, but they may already feel sufficiently tapped for local projects. Donor dependence needs to be addressed clearly with strategies for NGOs to become citizen- and government-supported over time. The creation of a fund to which both local businesses and donors contribute with a formula for distributing funds and a declining role for donors over time could have appeal. USAID could also work to enhance the efforts of the government of Albania to fund appropriate NGO activities. A separate joint donor-government fund might be feasible. Although it is too early to define an exit strategy, planning for legacy programming should be in mind while implementing some current activities.

Media

The large number of media outlets with small numbers of readers or viewers is to some extent an indication of a distorted media market rather than a symbol of media freedom. The quality of Albanian media has improved in recent years, but there are many media outlets that appear to be intended more to support particular special interests than provide news coverage. This argues for the need to strengthen NGOs that can play a public information/education role. Despite serious problems with media partisanship, given the extent of media freedom, the diversity of media outlets and the availability of assistance from other donors and professional media organizations, the team does not recommend programs to build media capacity or professionalism.

CLOSING OBSERVATION

Analysts, observers and citizens of Albania find much to fault about the status of democratization in the country. The Democracy International assessment team, however, found the “glass half-full” rather than “half-empty.” The status of democratic governance in Albania and the prospects for future improvements are encouraging. In just 15 years, Albania has made remarkable progress. Becoming a member of the European Union within another 15 years is within reach. The Albanian government, public officials, political leaders, civic activists and citizens genuinely appreciate USAID and U.S. government support for democratic development in their country, and USAID can continue to make an important contribution to a successful and sustainable political and economic transition in the coming years.

ENDNOTES

[1] European Commission, "Albania 2005 Progress Report," SEC (2005) 1421 (November 9, 2005), pp. 8-10.
[2] *Ibid*., p. 14.
[3] OSCE Office for Democratic Institutions and Human Rights, *Republic of Albania: Parliamentary Elections, 3 July 2005*, OSCE/ODHIR Election Observation Mission Report (Warsaw: November 7, 2005), p. 1.
[4] *Ibid*., p. 12.
[5] OSCE Office for Democratic Institutions and Human Rights, *Republic of Albania: Parliamentary Elections, 3 July 2005*, p. 1.
[6] *Perceptions and Attitudes about Corruption in Albania: Summary Report of a Public Opinion Survey* (MSI Report, August 2004), pp. 5-6.
[7] Martin Tisne and Daniel Smilov, *From the Ground Up: Assessing the Record of Anticorruption Assistance in Southeastern Europe* (Budapest: Center for Policy Studies, Central European University and the Soros Foundations Network, 2004), p. __.
[8] Transparency International: Corruption Perception Index for 2004 http://www.transparency.org/cpi/2004/cpi2004.en.html . Accessed October 22, 2004. Transparency International: Corruption Perception Index for 2003 http://www.transparency.org/cpi/2003/cpi2003.en.html . Accessed October 22, 2004
[9] Kreshnik Spahia, Director of Citizens Advocacy Office, Chairman, Albanian Coalition Against Corruption, *Report to the US Commission on Security and Cooperation in Europe* (July 20, 2004)
[10] OSCE Office for Democratic Institutions and Human Rights, *Republic of Albania: Parliamentary Elections, 3 July 2005*, p. 17.
[11] *Ibid*., p. 1
[12] Bankworld Incorporated, *Strategic Revalidation Assessment for USAID/Albania* (November 8, 2004) p. 33.

Appendix: INDIVIDUALS AND ORGANIZATIONS CONSULTED

Government of Albania

Sali Berisha, Prime Minister
Aldo Bumci, Minister of Justice
Sokol Olldashi, Minister of Interior
Genc Ruli, Minister of Economy
Dr. Sherefedin Shehu, Deputy Minister of Finance
Theodhori Sollaku, Prosecutor General
Emir Dobjani, People's Advocate, Parliamentary Ombudsman
Ilirjan Celibashi, Chairman, Central Election Commission
Adriatik Mema, Director of Election Commission's Directory, Central Election Commission
Bardhi Kadili, Prime Minister's Office
Fatmira Laskaj, General Inspector, High Inspectorate of Declaration and Audit of Assets
Arben Imami, Chief of Cabinet of Prime Minister

Parliament and Political Parties

Jozefina Topalli, Speaker of Parliament
Dr. Ylli Bufi, Deputy Speaker of Parliament
Spartak Ngjela, Chairman, Committee on Legal Issues, Public Administration and Human Rights
Victor Gumi, Director of Legislation

Bamir Topi, Democratic Party
Ilir Meta, President, Socialist Movement for Integration (LSI)
Edi Rama, President, Socialist Party; Mayor of Tirana

Civil Society and Media

Capejev Gjokutaj, Executive Director, Open Society Foundation for Albania
Hendir Fuga, Communication Director, Mjaft
Prof as. Dr. Maksim Haxhia, Attorney at Law; President, National Chamber of Advocates
Artan Hoxha, President, Institute for Contemporary Studies
Gent Ibrahimi, Executive Director, Institute for Political and Legal Studies (IPLS)
Remzi Lani, Executive Director, Albania Media Institute
Keti Luarasi, Assistant Executive Director, SOROS
Fatoz Lubonja, Journalist and Political Analyst
Pjerin Marku, Executive Director, Albanian Coalition Against Corruption
Mustafa Nano, Journalist
Albert Rakipi, Chairman, Albanian Institute for International Studies
Kreshnik Spahiu, Director, Citizen's Advocacy Office
Erion Veliaj, Executive Director, Mjaft
Skender Velija, Amaro Drom
Skender Veliu, Executive Director, Roma Union of Albania (Roma Drom)

Local Government

Shkodra Municipality
Artan Haxhi, Mayor
Anton Leka, Chairman, City Council

Civil Society Representatives
Media Representatives
Civic Forum Representatives

Pogradec Municipality
Artan Shkembi, Mayor
City Council Member, Democratic Party
Business and Media Leaders

Librazhd Municipiality
Shaqir Kuka, Mayor
City Council Chair

Elbasan Municipality
Adrian Turku, Mayor
Shefqet Deliallisi, City Council Chair
City Council Member, Socialist Party
Civil Society Representatives

Rrogozhina Municipality
Civic Forum Representatives

Kucova Municipality
Mayor Artur Kurti
Socialist Party City Council Member
Democratic Party City Council Member
Civil Society Representatives

Berat Municipality
City Council Chair Vladimir Kumaraku, Socialist Party
Deputy Mayor Artur Cepani
Civil Society and Media Representatives

U.S. Government

The Hon. Marcie Berman Ries, Ambassador
Harry F. Birnholz, Director, USAID
Bruce H. Kay, Democracy and Governance Team Leader, USAID
Todd David Robinson, First Secretary, U.S. Embassy
David Thompson, Program Officer, USAID
Lance Downing, Senior Advisor, USAID
Elina Koci, Rule of Law Specialist, USAID
Suzana Cullifi, USAID

USAID Partners/Implementers

Dickson Bailey, Project Director, IFES
Jennifer Butz, Chief of Party, National Democratic Institute/Democracy and Governance in Albania
Juliana Hoxha, Director, Partners-Albania; Democracy and Governance in Albania
David Raymond Lewis, Resident Legal Advisor, OPDAT, U.S. Department of Justice

Erin Mathews, National Democratic Institute
Dan Redford, Senior Advisor, Political Parties and Election Processes, National Democratic Institute
Barry Reed, Urban Institute; Chief of Party, Local Government and Decentralization in Albania
Karen Russell, Casals & Associates; Chief of Party, Rule of Law Program
Emira Shkurti, WLR Advisor, Chemonics
Susan D. Somach, Consultant, Anti-Trafficking Programs
Andrea Stefani, Senior Media Advisor, IREX/Democracy and Governance in Albania
Sarah Stephens, Creative Associates; Chief of Party, Coodinated Action Against Human Trafficking
Rebecca Surtees, Consultant, Anti-Trafficking Programs
Matty Thimm, World Learning
Kenneth Wollack, National Democratic Institute

International Community

Alex Finnen, Deputy Head of Presence, Organization for Security and Cooperation in Europe Presence in Albania
Linda Germani, SIDA
Anula Guda, Representative, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH
Kathleen Imholtz, Advisor, European Assistance Mission to the Albanian Justice System (EURALIUS)
Thomas Melia, Deputy Executive Director, Freedom House
Ralph Monö, Counsellor, Head Development Cooperation, SIDA, Embassy of Sweden
Marta Onorato, European Union
Julien Roche, Co-President, Ada Holding and Klan Media
Ruth Rosenberg, Program Manager, International Organization for Migration
Dr. Antoine Rozes, Organization for Security and Cooperation in Europe Presence in Albania, Field Station Shkoder
Majd Nuri Shafiq, United Advisors
Behar Tafa, Organization for Security and Cooperation in Europe Presence in Albania, Field Station Shkoder
Jolanda Trebicka, Public Sector Management Specialist, The World Bank