# Partnership for Good Governance

**FINAL NARRATIVE REPORT**

**Project on 'Fight against Corruption in Ukraine' – Open Advisory Facility**

## 1 PROJECT DATA

Project title: 2015/DGI/JP/3257/Ukraine: "Fight against Corruption" – Open Advisory Facility

Project type: Bi-lateral

Target country: Ukraine

Project duration: 1 January 2015 – 31 December 2017

National partners: Ministry of Foreign Affairs of Ukraine

Final beneficiaries and/or target groups: *Legislative entities (Verkhovna Rada and relevant ministries); Ministry of Justice; National Anti-Corruption Bureau; National Agency for Corruption Prevention; Asset Recovery and Management Agency; law enforcement agencies; prosecution service; the judiciary; and civil society.*

MAE implementing the project: Economic Crime and Cooperation Division, Action against Crime Department, DG I.

| Project Team | |
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| **Field Office - Kyiv** | **Headquarters - Strasbourg** |
| **Nataliya Dromina-Voloc** | **Zahra Ahmadova** |
| Senior Project Officer | Programme Coordinator |
| Economic Crime and Cooperation Division | Economic Crime and Cooperation Division |
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| Council of Europe Office in Kyiv | DG I - Human Rights and Rule of Law |
| Ukraine | Council of Europe, |
| | Strasbourg, France |

## 2    OVERALL ASSESSMENT

The PGG Ukraine Project "Fight against Corruption" was conceived and implemented as an Open Advisory Facility aimed at providing Ukrainian authorities access to Council of Europe expertise in the anti-corruption and economic crime field pursuant to existing and emerging needs.

In line with the overall objective, the Project through targeted technical assistance contributed to strengthening legislative framework and institutional capacities to counter corruption in Ukraine, in accordance with Council of Europe and international standards. In particular the project contributed to on-going legislative and institutional anti-corruption reforms.

The authorities were provided with 17 technical papers the majority of which contained country specific recommendations. Advice provided under the PGG-UA resulted in reconsideration of legislative solutions and consideration of possible amendments of the existing legislation on the basis of recommendations by CoE experts, in particular with regards to draft laws concerning civil prosecution and civil asset forfeiture.

Overall, the project interventions contributed to:

i)      Strengthened regulatory framework concerning asset declarations;

ii)     Strengthened legislation on political funding;

iii)    Enhanced operational capacities of National Anti-Corruption Bureau of Ukraine (NABU) and National Agency for Corruption Prevention (NACP), through development of operational practices, internal controls mechanisms etc.;

iv)     Capacity building of the newly established Asset Recovery and Management Agency through provision of training programme on principles of asset recovery and asset management for its staff.

During the three-year implementation period, the PGG Ukraine project carried out 34 actions, thereby completing 98% of the planned project interventions for a three year period. In doing so, the project produced 17 technical papers, and organised 17 events including capacity-building workshops, seminars and conferences. In total 1,506 participants, of which 62% were men and 38% were women, benefited from the project activities. Full list of individual interventions is provided in Annex I.

The project activities took place in the context of Ukraine's continued challenges to the functioning of newly introduced anti-corruption mechanisms introduced since 2015, due to internal tension among different government stakeholders. Concerns have been raised by international agencies and civil society organisations at the slow pace of the fight against

corruption and limited concrete results. Significant legislative activities took place throughout project duration, with many anti-corruption related laws being drafted and passed, some of which offering improvements, while others looking to introduce setbacks. Special anti-corruption bodies, NACP and ARMA, were created in 2016, with the latter being in its formative stage. Concerns remain regarding some of the solutions proposed, as well as overall capacity of institutions in Ukraine to implement the newly introduced mechanisms.

# 3    ASSESSMENT OF PROJECT RESULTS

## 3.1    Achievements of project outcomes and expected results

### 3.1.1    ER1 – Increased compliance with anti-corruption legislation

The Project contributed to overall high-level policy discussions on ways for Ukraine to move forward with anti-corruption preventive measures, enforcement, and transparency by providing key policy makers expert guidance on addressing key issues.

The project provided technical papers and advice on: bringing anti-corruption legislation in compliance with international standards and good practices; addressing pending GRECO recommendations; and ensuring the implementation of human rights and rule of law standards in such areas as investigative aspects of criminal procedure; civil participation in corruption prosecutions; political party financing; asset declarations; integrity checking; civil asset recovery; functioning of prosecution services; independence and operation of the NACP; and financial reporting requirements for non-governmental organisations.

| Expected result 1: Increased compliance with anti-corruption legislation |
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| Status (fully achieved, partly achieved, not achieved) – *Fully achieved* |
| Description *(based on evidence/feedback/evaluation sources)* <br><br> The input by the project within this ER provided two-fold results as outlined below: <br><br> **Firstly,** two legislative drafts, notably those pertaining to criminal procedure reforms introducing new anti-corruption bodies and political funding, were improved pursuant to recommendations by the project, leading to a strengthened anti-corruption regulatory framework. <br><br> **Second**, advice provided under the PGG-UA resulted in reconsideration of legislative proposals critiqued by experts and consideration of possible amendments of the existing legislation as recommended by CoE experts. Such was the case with drafts relating to civil prosecution and civil asset forfeiture. Effects of recommendations provided during 2017 cannot be assessed at this moment as associated draft legislation is still pending adoption in |

the Verkhovna Rada.

**Outcome indicator(s) under ER1:**

- Number of legislative acts/regulations improved to reflect applicable international standards and good comparative practices;

- Level of compliance under the 3rd Evaluation of GRECO's compliance report concerning political party financing and criminalisation of corruption and the addressing of prevention measures.

**Status (fully achieved, partially achieved, not achieved) -** *Fully achieved*

**Description** *(based on evidence/feedback/evaluation sources)*

As a result of Project efforts, regulatory framework concerning asset declarations, political funding, and procedural tools to investigate and prosecute high corruption was strengthened and brought closer to applicable international standards. This was evidenced in the Second Compliance Report of the GRECO Third Round Evaluation on Ukraine (*GRECO RC-III (2015) 22E*) and the Fourth Evaluation Round (*GrecoEval4Rep(2016)9*).

### 3.1.2    ER2 – Strengthen capacities of National Anti-corruption Bureau (NABU)

Activities under this ER focussed on development of specialisation regarding operational good practices, international cooperation and establishment of NABU internal control mechanisms. As a result, NABU detectives have acquired knowledge and skills necessary for gathering case-specific information and evidence located abroad and key for establishing internal operational policies. Similarly, NABU internal controls staff has developed knowledge and understanding of possible internal controls tools, methods on identifying and reporting internal violations, and working with whistleblowers.

**Expected result 2: Strengthen capacities of National Anti-corruption Bureau (NABU)**

**Status (fully achieved, partly achieved, not achieved) –** *Fully achieved*

**Description** *(based on evidence/feedback/evaluation sources)*

As a result of a mix of advisory, mentoring, training, and peer-to-peer exchange activities, the Project contributed to developing and strengthening operational and professional

capacities of NABU.

Mentoring and advice on organisational and management issues received from the project contributed to development of NABU into an organisational structure comprised of over 15 departments and divisions, with over 500 full-time staff members[1].

From 2016 onwards, NABU has recorded a steady increase in the number of **high-corruption case proceedings and indictments** (**371 and 121 respectively as at June 2017**[2]).

Furthermore, tailored trainings and guidance papers contributed to the development of specialised financial analytics and internal control departments. Lastly, workshops and peer-to-peer meetings supported specialisation on issues such as use of special investigative techniques, investigation of serious fraud and corruption, integrity testing, case-related international cooperation and use of analytical software for intelligence purposes.

**Outcome indicator under ER2:**

-   Level and frequency of use of acquired knowledge and tools by law enforcement agencies when dealing with economic crimes;

-   Number of operational protocols and practices adopted by NABU to strengthen its internal control component

**Status (fully achieved, partly achieved, not achieved) -** *Fully achieved*

**Description** *(based on evidence/feedback/evaluation sources)*

As at June 2017, NABU instituted 370 criminal proceedings (40% increase) and 120 (70% increase) indictments against high-ranking officials, which represented 40% and 74% increase respectively compared to January 2017. As a result of NABU investigations, damages worth around 136 million UAH (3.8 million EUR) from the corruption schemes were recovered to the state budget. Enforcing criminal code provisions related to submission of false data to e-declaration and facts of illicit enrichment, the NABU detectives investigated 66 proceedings against 61 persons.[3] In 2016, NABU carried out its first anti-corruption undercover special operation jointly with the FBI.

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[1] National Anti-Corruption Bureau of Ukraine (2017), *Report: First Half of 2017,* available at www.nabu.gov.ua, accessed on 24 January 2018

[2] National Anti-Corruption Bureau of Ukraine (2017), *Report: Ausgut 2016 – February 2017,* available at www.nabu.gov.ua, accessed on 24 January 2018

[3] National Anti-Corruption Bureau of Ukraine (2017), *Report: First Half of 2017*, available at www.nabu.gov.ua, accessed on 24 January 2018

### 3.1.3 ER3 – Strengthen Institutional capacities for (Recovered/Seized) Asset Management

Following the establishment of the Asset Recovery and Management Office (ARMA) in late 2016, the Project provided the Agency's incoming staff members with an induction training and materials to foster understanding of asset recovery and management processes, tools and standards.

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| **Expected result 3: Strengthen Institutional capacities for (Recovered/Seized) Asset Management** |
| **Status (fully achieved, partly achieved, not achieved) – *Partly achieved*** |
| **Description** *(based on evidence/feedback/evaluation sources)* <br><br> Due to late establishment of the project beneficiary, the Asset Recovery and Management Office (ARMA) in late 2016, this Expected result can only be characterised as underway as first efforts took place in mid-2017. That said, the Project did help train first ARMA staff members on basic principles of asset recovery and asset management, and has provided a manual covering the issues discussed during the training. Work on supporting development of internal operational protocols and managements tools was not possible due to EU concerns over overlap of efforts provided under the Project and those provided by TAIEX. |
| **Outcome indicator(s) under ER3:** <br><br> - Level of use of practical knowledge on asset recovery and asset management by entry staff of National Agency of Ukraine for Finding, Tracing and Managing Assets Derived from Corruption and Other Crimes <br> - Number of internal operational protocols and management tools put in place by Asset Recovery and Management Agency |
| **Status** *(fully achieved, partly achieved, not achieved): Partly achieved* |
| **Description** *(based on evidence/feedback/evaluation sources)* <br><br> Pending first asset recovery and/or management actions by ARMA which will provide for a more objective assessment, the induction training of ARMA staff has been rated by attendees as equipping them with necessary knowledge to begin exercising their jurisdiction in this area. <br><br> As above, achievement of the second outcome was hampered by overlap concerns from the EU which resulted in cancelation of activities aimed at satisfying this indicator. |

### 3.1.4 ER4 – Support National Agency for Corruption Prevention (NACP) and strengthening of anti-corruption prevention measures

Assistance focused on the development of several key institutional instruments, namely the NACP key performance indicators and internal performance benchmarks, the national corruption risk assessment methodology, and guidelines for development of public sector anti-corruption programs. Separately, and prior to establishment of the NACP, PGG-UA supported the efforts of the Presidential Administration and the National Agency for Public Service in developing General Rules of Ethical Conduct for Civil Servants and Local Government Officials of Ukraine in line with international standards and good comparative practices. The process was unfortunately put on hold later in 2016 due to conflict in legislation regarding jurisdiction over this effort.

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**Expected result 4: Support National Agency for Corruption Prevention (NACP) and strengthening of anti-corruption prevention measures.**

**Status** *(fully achieved, partly achieved, not achieved) – Fully achieved*

**Description** *(based on evidence/feedback/evaluation sources)*

Project activities enabled the NACP to implement two (2) of its key prevention jurisdictional tasks through expert recommendations, workshop discussions etc. Specifically, the Project helped NACP to develop the "National Corruption Risk Assessment Methodology" to be used across institutions, which was adopted in December 2016. Furthermore the project worked with NACP to prepare Methodological Recommendations on Drafting Anti-Corruption Programmes in Public Sector, which are applicable to all public sector institutions as of January 2017. The Project also assisted NACP to establish internal Performance Monitoring Toolkit to be used by the Agency for on-going monitoring and evaluation of its institutional performance.

**Outcome indicator(s) under ER4:**

Number of legislative acts/regulations improved to reflect applicable international standards and good comparative practices

**Status  (fully achieved, partly achieved, not achieved):** *Fully achieved*

**Description** *(based on evidence/feedback/evaluation sources)*

The NACP adopted two key documents, the "National Corruption Risk Assessment Methodology" and the "Methodological Recommendations on Drafting Anti-Corruption Programmes in Public Sector", in line with expert advice provided within the project. Moreover, the performance monitoring toolkit developed with support from the project supports NACP efforts in measuring its contribution to fight against corruption in Ukraine.

## 3.2    Mainstreaming and cross-cutting issues

Gender statistics were collected for all events conducted under the PGG Ukraine Project. Of total participants in project events 62% were men and 38% were women representing state institutions and civil society organisations in Ukraine.

Multi-stakeholder conferences organised by the Project and partner organisations provided fora to the civil society organisations to participate and contribute to debates around fight against corruption, including the International Conference "Preventing, Fighting, Acting" (2015), Conference on "Corruption as a threat to the national security: preventing, combating, prosecuting" (2016), and International Conference "Political parties financing in Ukraine: current legislation, recent developments and perspectives" (2017). Moreover, in the wake of introduction of asset declaration requirements to civil society in March 2017, the Project provided expert analysis and recommendations regarding the proposed draft legislation on financial reporting requirements to non-governmental organisations in lieu of asset declarations.

## 4    PROJECT GOVERNANCE AND CO-ORDINATION

## 4.1    Complementarity and co-operation

With respect to cooperation with project beneficiaries, with the formation of the National Agency for Corruption Prevention and Asset Recovery and Management Agency in 2016, the beneficiary landscape expanded, which led to an increase of activities. A degree of indecisiveness of beneficiaries in terms of priorities and related assistance needs was manifested during the project implementation, as did the submission of "urgent" assistance requests.

In view of the great influx of technical assistance programs in anti-corruption field in Ukraine, the PGG Project Team liaised with international organizations working on the same and similar issues in Ukraine (e.g. UNDP, UNODC, OECD, OSCE, EUD) in order to ensure complementarity and avoid overlap. At least two activities were successfully implemented jointly with partner organisations:

a)  "Corruption as a threat to the national security: prevention, combating, and prosecution" Conference in Ukraine, in cooperation with the OSCE; and
b)  "Introductory Training on Asset Recovery" jointly with OECD.

The PGG Project Team took part in donor coordination groups and exchanged information on activities with organisations represented in the thematic coordination groups. An overlap on activity was noted by EU in relation to technical assistance to ARMA, resulting in cancellation of the respective project activity.

## 4.2 Communication and visibility

Visual identity of PGG-Ukraine Project follows the PGG Communications Strategy, agreed between the European Union and the Council of Europe, and is applicable to all programmatic outputs, including official communication, technical papers, activity agendas and presentations, news/media feeds, and project visibility kits (i.e. banners, folders, notepads, and pens).

The PGG-Ukraine Project paid particular attention to visibility of its interventions. List of key project documents and information on programmatic events and deliverables (e.g. legal opinions on reviewed legislation) can be found on the webpage of the Council of Europe Economic Crime Cooperation Division and the dedicated webpage to the PGG-Ukraine Project. Two promotional clips were developed: i) a video clip on PGG project interventions in Ukraine in 2015; and ii) a video clip on International Conference "Political parties financing in Ukraine: current legislation, recent developments and perspectives" in 2017.

Lastly, information on PGG project interventions are readily available within EaP countries through webpages and media feeds of respective partner and beneficiary institutions.

## 4.3 Challenges, lessons learned and possible follow-up

### 4.3.1 Challenges:

Throughout the duration of the project, challenges related to: a) beneficiary inclination to request the same type of assistance from several donors persisted throughout the project implementation; b) donor congestion results with an absorption capacity fatigue by the Ukrainian institutions; and c) capacity of specific beneficiary institutions to absorb assistance, address issues and use the acquired assistance is limited.

In the context of overall political and institutional developments, the Project used all the possibilities of an open advisory facility to deliver tailored technical assistance to stakeholders in Ukraine.

### 4.3.2 Lessons learned:

PGG engagement in Ukraine led to a number of lessons learned pertaining to project development under tense circumstances, project implementation in light of frequent internal tensions, and assessment of the expected impact of interventions in such context. At the time of the project development and formulation of first activities, Ukraine was experiencing conflict on its territory and despite outspoken commitment to fight against corruption, had limited ability to engage with the Council of Europe on this. Broad formulation of project expected results and activities in a form of an open advisory facility helped overcome this challenge, and provide Ukraine the assistance it needed as its anti-corruption priorities materialised. That said, even implementation of such crystallised activities and actions required further adaptation as a result of government or beneficiary change in priorities..

Last lesson learned through engagement with Ukraine concerns the way impact can be assessed in a conflict affected country coping with multiple priority issues. In such an environment, both steps forward but also prevention of backward steps needs to be seen as impact in order to gain an accurate picture.

## 5   ANNEX

### 5.1   Major reports and documentation produced with project support

1) Joint Comments of the Directorate General Human Rights and Rule of Law on the Law of Ukraine "On Amending Some Regulatory Acts of Ukraine as to the Activity of the National Anti-Corruption Bureau of Ukraine"  (ECCU-PCF-UA-1/2015)

2) Legal Opinion on: Proposed Law "On Amending Certain Legislative Acts of Ukraine Pertaining to Increase of the Role of Society in Fighting Corruption"—(Civil Prosecution)  (ECCU-PCF-UA-2/2015)

3) Expert input to Venice Commission and OSCE/ODIHR Joint Opinion on the Draft Amendments to Some Legislative Acts Concerning Prevention of and Fight against Political Corruption of Ukraine (CDL-AD(2015)025)

4) Expert input to Venice Commission Interim Opinion on the Draft Law on Integrity Checking of Ukraine (CDL-AD(2015)031)

5) Report on: Field Expert Mission to the National Anticorruption Bureau of Ukraine on issues of strategic management of specialized anti-corruption law enforcement bodies (ECCU-PCF-UA-5/2015)

6) Technical Paper on: IT Architecture for Anti-Corruption Bureau of Ukraine (NABU) (ECCU-PCF-UA-6/2015)

7) Technical Paper on: Draft of General Rules of Ethical Conduct for Civil Servants and Local Government Officials of Ukraine (ECCU-PCF-UA-1/2016)

8) Legal Opinion on: Draft Law of Ukraine "On amendments to certain legislative acts of Ukraine regarding the ensuring of unjustified assets recovery into the revenue of the State" (ECCU-PCF-UA-2/2016)

9) Legal Opinion on: Financial Control of Asset Declarations in Ukraine (Section VII of the Law "On Prevention of Corruption" – LPC) (ECCU-PCF-UA-3/2016)

10) Technical Paper on: Draft Methodology for assessing corruption risks in operations of authorities (ECCD-PCF-UA-4/2016)

11) Joint Opinion on the draft amendments to the laws concerned with the functioning of Prosecution in view of the amendments to the Constitution of Ukraine (Draft Law 5177) (ECCD-PCF-UA-5/2016)

12) Technical Paper: Internal and management controls issues for the Internal Controls Department of the National Anti-Corruption Bureau of Ukraine (ECCD-PCF-UA-1/2017)

13) Technical Paper on: National Agency on Corruption Prevention performance monitoring toolkit (performance monitoring table and explanatory guideline) (ECCD-PGG-UA-2/2017)

14) Technical Paper on: The regulatory framework for political party finance in Ukraine: analysis and recommendations (ECCD-PGG-UA-3/2017)

15) Legal Opinion on: Draft Law "On Amending the Law of Ukraine 'On Prevention of Corruption' in Terms of Improving the Operation Arrangements of the National Agency on Corruption Prevention" (No. 6335); and Draft Law "On Amending Certain Laws of Ukraine in Terms of Ensuring Efficiency and Independence of the National Agency on Corruption Prevention" (No. 6387) (ECCD-PGG-UA-4/2017)

16) Technical Paper on: Confiscation and Return of Assets; Role and Functioning of AROs and AMOs; and Use of Open Source Intelligence for Asset Recovery (ECCD-PGG-UA-5/2017)

17) Technical Paper on: Draft Law "On amendments to certain legislative acts concerning public information openness for the society the financing of the activities of civil society organisations and the use of international technical assistance" (No. 6674); and Draft Law "On amendments to the Tax Code of Ukraine for providing public information on financing of the activities of civil society organisations and the use of international technical assistance" (No. 6675) (ECCD-PGG-UA-6/2017)

## 5.2 List of activities (title of the activity, dates and location)

1) **International Conference "Preventing. Fighting. Acting."**
16 November 2015, Kyiv, Ukraine
*Number of participants: 922; Female/Male participants: 378/544*

2) **NABU study visit to Council of Europe**
22 June 2015, Strasbourg, France
*Number of participants: 8; Female/Male participants: 4/4*

3) **Management and operational mentoring**
19-20 November 2015, Kyiv, Ukraine
*Number of participants: 18; Female/Male participants: 9/9*

4) **Electronic data exchange feasibility study**
9-11 December 2015, Kyiv, Ukraine
*Number of participants: 9; Female/Male participants: 1/8*

5) **NABU mentoring session on operational issues**
25 January 2016, Kyiv, Ukraine
*Number of participants: 24; Female/Male participants: 5/19*

6) **Training on International Cooperation in Case Investigations**
2 – 5 February 2016, Kyiv, Ukraine
*Number of participants: 44; Female/Male participants: 8/36*

7) **Working meeting on development of NACP corruption risk assessment methodology**
29 – 30 September 2016, Kyiv, Ukraine
*Number of participants: 24; Female/Male participants: 9/15*

8) **Working meeting on development of NACP key performance indicators and internal progress benchmarks**
6 – 7 October 2016, Kyiv, Ukraine
*Number of participants: 28; Female/Male participants: 14/14*

9) **Workshop on Good practices with law enforcement anti-corruption internal controls**
27 – 28 October 2016, Kyiv, Ukraine
*Number of participants: 15; Female/Male participants: 3/12*

10) **Workshop on Integrity testing and whistleblower protection within law enforcement internal controls**
21 – 22 November 2016, Kyiv, Ukraine
*Number of participants: 12; Female/Male participants: 2/10*

11) **Conference on Corruption as a threat to the national security: preventing, combating, prosecuting**
29 November 2016, Kyiv, Ukraine
*Number of participants: 89; Female/Male participants: 27/62*

12) **Conference on Corruption risks assessment and drafting of anti-corruption programs in public institutions and business entities owned by the state**
30 November 2016, Kyiv, Ukraine
*Number of participants: 132; Female/Male participants: 57/75*

13) **Expert discussion on the NACP Draft Corruption Risk Assessment Methodology for the public sector**
1 December 2016, Kyiv, Ukraine
*Number of participants: 19; Female/Male participants: 9/10*

14) **International Conference on Political parties financing in Ukraine: current legislation, recent developments and perspectives**
15 March 2017, Kyiv, Ukraine
*Number of participants: 112; Female/Male participants: 35/77*

15) **Study visit for representatives of the National Anti-corruption Bureau of Ukraine**
26-27 April 2017, London, UK

*Number of participants: 8; Female/Male participants: 1/7*

16) **Training on Asset Recovery for Ukraine's Asset Recovery and Management Agency (ARMA)**
24-27 July 2017, Kyiv, Ukraine
*Number of participants: 20; Female/Male participants: 5/15*

17) **Training on Using IBM i2 Analyst's Notebook 9.0 in intelligence and investigative analysis**
28-30 November 2017, Kyiv, Ukraine
*Number of participants: 22; Female/Male participants: 7/15*