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Support to Good Governance: Project against Corruption in Ukraine - UPAC

Final Report

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I hereby certify that the Final Report has been approved:

Signed for the Council of Europe



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ABBREVIATIONS

EU	European Union
CoE	Council of Europe
DEUC	Delegation of the European Union to Ukraine
GRECO	Group of States against Corruption
DGHL	Directorate General of Human Rights and Legal Affairs of the Council of Europe
MoJ	Ministry of Justice of Ukraine
GAAP	Government Agent for Anti-corruption Policy
VR	Verkhovna Rada (Parliament) of Ukraine
COCC	Verkhovna Rada Committee on Combating Organised Crime and Corruption
MP	Member of Parliament
NCSD	National Council for Security and Defence
CB	Cabinet of Ministers of Ukraine
SP	Secretariat of the President of Ukraine
GPO	General Prosecutor's Office
AP	Academy of Prosecutor's Office
MoI	Ministry of Interior of Ukraine
CEC	Central Election Commission
LEA	Law Enforcement Agencies
MCSD	Main Civil Service Department
SCFM	State Committee for Financial Monitoring (FIU of Ukraine)
SSU	Security Service of Ukraine
LTA	Long-Term Adviser
STA	Short-Term Adviser
ToR	Terms of Reference
UNCAC	United Nations Convention against Corruption
UA	Ukraine
F	France
D	Germany
UK	United Kingdom
SLO	Slovenia
GEO	Georgia
MLD	Moldova
CH	Switzerland
MOLI UA	EU/CoE Project against Money Laundering and Terrorist Financing in Ukraine
UPIC	EU/CoE Project on International Cooperation in Criminal Matters

1. PROJECT SYNOPSIS

Project objectives

UPAC's objective was to strengthen the Ukrainian authorities' capacities, and Ukraine's legal framework for the fight against corruption. To achieve this objective, the project was designed to work in three complementary directions:

1. Supporting the adoption, elaboration and implementation of a national anti-corruption strategy and action plan, and creation and strengthening of an efficient and effective monitoring mechanism to oversee and co-ordinate the implementation of the strategy and action plan;
2. Supporting policies aimed towards strengthening the institutional capacities for prevention of corruption;
3. Assisting in the approximation and harmonisation of Ukraine's legal framework against corruption with international standards, in particular those set by the Council of Europe Criminal and Civil Law Conventions against Corruption and the United Nations Convention against Corruption; strengthening capacities of the criminal justice system against corruption.

UPAC aimed at reaching its objectives through the provision of targeted expertise by European experts in close co-operation with Ukrainian experts, and through outreach to all relevant public institutions and civil society actors.

The Final Project Report reflects the situation as of early January 2010.

Summary of purposes, outputs, major activities, and results

Overall objective	To contribute to the prevention and control of corruption so that it no longer undermines the confidence of the public in the political and judicial system, democracy, the rule of law and economic and social development in Ukraine
Objective 1	To improve the strategic and institutional framework against corruption in Ukraine
Output 1.1	Anti-corruption Strategy and Action Plan available Major activities <ul style="list-style-type: none"> - Expert opinions and consultations to the draft Action Plan for the implementation of the Anti-corruption Concept (Strategy) "On the Way to Integrity" (elaborated by the Cabinet of Ministers) submitted; - Expert opinions/advice on the draft Anti-corruption Strategy (elaborated by the GAAP) submitted; - Methodology and questionnaire for public opinion surveys elaborated (which served as a basis for the system studies,); - Public discussions and expert opinion/advice on the GAAP's draft Regulations on the Civic Council provided; - Round Table held and dialogue between the civil society and the government on implementation of GRECO recommendations and on-going anti-corruption reforms promoted; - Expert opinions and advice on draft legal acts regarding internal control units (Divisions for Prevention and Countering Corruption in the Executive Bodies) provided.
Output 1.2	Effective monitoring, coordination and management of anti-corruption measures ensured Major activities: <ul style="list-style-type: none"> - Seminars and study visits on different models and types of anti-corruption bodies held, and recommendations for Ukraine formulated; - Elaboration of the draft Concept on Anti-corruption Bodies supported; - Expert opinions on the draft regulations governing the GAAP provided; - High level meetings between the President of GRECO and political leadership Ukraine organised with aim to support the adoption of relevant legislation and policies in accordance with GRECO recommendations;
Output 1.3	Proposals available to ensure the implementation of Article 6 of the United Nations Convention against Corruption regarding a preventive anti-corruption body or bodies Major activities: <ul style="list-style-type: none"> - Discussion on problems of implementation of Article 6 of UNCAC and relevant GRECO recommendations concerning anti-corruption bodies organised; - Assistance in aligning provisions of the framework law of the "anti-corruption law package" with international standards provided (see Output 3.1). - Experts' opinion on draft methodology for anti-corruption "expertise" (proofing/screening of the legislation) submitted.
Objective 2	To enhance capacities for the prevention of corruption

Output 2.1	<p>Anti-corruption concerns incorporated into the process of public administration reform (“anti-corruption mainstreaming”) Major activities:</p> <ul style="list-style-type: none"> - Discussion on public administration reform supported through the formulation of relevant recommendations’ - Analytical study and sociological survey (“system study”) on corruption risks in the public administration conducted. Results of the system study as well as relevant recommendations presented to stakeholders and civil society; - Expert Opinion on the draft Law on Civil Service provided and follow-up discussion organised. Expert opinions on the draft Law on Code of Ethics for Persons Authorised to Perform State Functions and to the draft Law on Conflicts of Interest in the activities of public officials provided and discussions on these draft laws organised; - Expert opinions to the draft Law on Rules of Professional Ethics in the Public Service and Prevention of Conflicts of Interest and the draft Law on Financial Control of the Public Service provided.
Outputs 2.2-2.3	<p>Risks of corruption reduced in the judiciary, the General Prosecutor’s Office and the police Major activities:</p> <ul style="list-style-type: none"> - Analytical study and sociological survey (“system study”) on corruption risks in the criminal process and the judiciary conducted. The results of the system study as well as the relevant recommendations presented to stakeholders and civil society.
Output 2.4	<p>Conflicts of interest reduced in the political process Major activities:</p> <ul style="list-style-type: none"> - Draft Concept of Amendments to Domestic Legislation to Enhance Transparency in the Financing of Political Parties and Electoral Campaigns, and a study of international experience in financing of political parties and election campaigns (in preparation for the 3rd Round of GRECO evaluations) were elaborated, discussed, and submitted to the MoJ. Following analysis and discussion on the issues of political funding, immunities, conflicts of interest of elected representatives and lobbying, specific recommendations for Ukraine have been formulated and presented to the relevant authorities. The project supported the participation of Ukrainian experts in international events on the prevention of political corruption.
Output 2.5	<p>Capacities enhanced at the level of local and regional authorities for the prevention of corruption and strengthening of integrity Major activities:</p> <ul style="list-style-type: none"> - National Handbook on Public Ethics at Local Level elaborated and published; - Evaluation system (National Score Card) for the benchmarking of integrity at the local level elaborated, and pilot evaluation programme for integrity in five cities implemented; - A model Code of Ethics and model regulation on Ethics Committees at the level of local authorities elaborated.

Objective 3	To strengthen the anti-corruption legal framework and effective and impartial enforcement of the legislation on corruption
Output 3.1	<p>Draft laws available to improve the prevention and control of corruption in accordance with the Criminal and Civil Law Conventions of the Council of Europe (ETS 173/174), the United Nations Convention against Corruption and other relevant international legal instruments</p> <p><i>Major activities:</i></p> <ul style="list-style-type: none"> - A series of expert opinions to the draft laws of the "anti-corruption law package" provided in 2006 and 2008. Parliament hearings and activities of the relevant working group on the "anti-corruption law package"¹ of laws in the Verkhovna Rada supported; - Expert opinion and framework for discussion on the draft Law on amendments to the Criminal and Criminal Procedure Code of Ukraine regarding improvement of confiscation procedures provided; - The participation of Ukrainian experts in international events regarding responsibility of legal persons for corruption offences as well as the participation at the review meetings of the OECD Anti-Corruption Network (ACN) supported; - A series of awareness raising seminars for prosecutors and judges concerning the content of the "anti-corruption law package" held in different regions of Ukraine; - Handbook-commentaries on the provisions of the laws of the "anti-corruption law package" prepared by a group of Ukrainian legal experts. - Publication and dissemination of the laws of the "anti-corruption law package" as well as the events of an awareness-raising campaign supported; - Expert opinion to the "Concept of the State Policy in the Sphere of Criminal Justice and Law Enforcement in Ukraine" provided; - Expert advice and opinions to the draft Laws on Judiciary and Status of Judges delivered. Expert opinion on the draft Criminal Procedure Code of Ukraine provided.
Output 3.2	<p>Judges trained and specialised in adjudication of corruption, law enforcement officials trained in the investigation and prosecution of corruption offences</p> <p><i>Major activities:</i></p> <ul style="list-style-type: none"> - Capacities of officials of the General Prosecutor's Office, Mol bodies, and SCFM in the field of detection and investigation of corruption offences, as well as the capacities of judges in adjudicating corruption cases addressed through a series of training activities (including interactive pilot training sessions prepared on the basis of examples from practice, and in line with international standards and best practices also by implementing relevant provisions of the Ukrainian legislation); - Preparation of a training manual for prosecutors initiated.

Project starting date

The project started on 8 June 2006. It is registered with the Ministry of Economy since 6 November 2006 (registration card number 1909). The start-up conference was held on 25 September 2006.

¹ Anti-corruption package": Law on the Principles of Prevention and Counteraction of Corruption ; Law on the Responsibility of Legal Persons for Corruption Offences and Law on Amending Certain Legal Acts Regarding Responsibility for Corruption Offences; signed by the President of Ukraine on 14 July 2009, entering into force from 1 April 2010

Project duration

The initially foreseen duration of the project was 36 months (from 8 June 2006 until 7 June 2009). The project was extended until 31 December 2009.

The project extension enabled the following interventions:

- The further elaboration of certain legal acts (for example, expert opinion provided on the Draft Criminal Procedure Code);
- Awareness raising on the implementation of new anti-corruption legislation through twelve seminars on the implementation of the laws of the "anti-corruption package";
- Comprehensive training events for law enforcement agents (for example five-day training in Lviv, September 2009).

The project extension has also affected the project budget: while the overall project expenditures amount up to € 1 580,987.25 (out of the overall budget of € 1 750, 00.00), certain budget lines (in particular relating to human resources) exceeded the amount foreseen initially, due to the fact that staff was engaged by the project until 31 December 2009 in order to ensure the implementation of additional project activities carried out during the extension period.

Budget line 3.2 ('Personal Computers, including office software') remains under-spent. The computers were supposed to be delivered in relation to the elaboration of a case management system. The Ministry of Interior indicated that assistance in the elaboration of the case management system was not needed. Therefore, it was decided at the meeting of the Steering Committee of February 2009 not to supply computers.

Also, due to the number of activities – seminars and trainings held after June 2009, the budget lines 'Other costs, Services' was exceeded by 7, 8 %. All budgetary issues, including the implications due to the project extension were duly communicated to the Delegation of the European Union, and during the Steering Committee meetings.

Following the discussions between the EUD and the Council of Europe on possible launching of the follow-up project UPAC 2 in 2010, the office equipment used during the implementation of UPAC (Annex IV) will remain in Council of Europe possession for purposes of being used for UPAC 2. However, if no agreement by these parties on UPAC 2 project is reached before September 2010 the equipment will be transferred to the main counterpart institution – the Ministry of Justice, as foreseen by Article 7 of the General Conditions applicable to European Community contribution agreements with international organisations.

2. EXECUTIVE SUMMARY

The joint EU/Council of Europe project UPAC - Support to Good Governance: Project against Corruption in Ukraine, was implemented from June 2006 to December 2009. Project activities were implemented in accordance with the Workplan, and with what has been agreed during the Steering Committee meetings. The continued support to anti-corruption reforms in line with European standards and GRECO (Group of States against Corruption) recommendations has helped advance the fight against corruption in Ukraine at the technical level; an impact on reform of legislative and institutional framework is expected to become tangible in due course.

The project significantly contributed to the approximation of Ukrainian institutional and legal reforms with the relevant international anti-corruption standards. UPAC provided a series of detailed expert opinions on various draft laws and other relevant anti-corruption regulations. Moreover, UPAC provided significant political support for the adoption of the anti-corruption package, supported the process of establishing the Government Agent for Anti-corruption Policy, and supported the elaboration and implementation of the Ukrainian Anti-corruption Strategy and Action Plan; also, a number of activities were carried out which directly supported the implementation of the GRECO recommendations.

The project contributed to the reform process of the public administration, the criminal justice system and the judiciary (through system studies of corruption risks and support to relevant

legislative initiatives), supported efforts aimed at introducing European standards of transparency in funding of political parties and electoral campaigns, and strengthened the system of prevention of corruption in local self-government. The project training activities contributed to strengthening the capacities of the law enforcement and judicial authorities to fight corruption.

3. STRATEGY OF THE PROJECT IMPLEMENTATION

The project was implemented by the Council of Europe. The Department of Information Society and Action against Crime, Directorate of Cooperation at the Directorate-General for Human Rights and Legal Affairs, was in charge of the overall management and administrative support to the project. The project team based in Kyiv and selected by the DGHL was directly in charge of implementation of project activities and liaising with project beneficiaries. The team based in Kyiv was composed of a Long-Term Advisor/Team Leader (LTA) and a Project Assistant, and was reinforced during a certain period (September 2008 – June 2009) by two national Legal Officers. Certain changes in the team composition were made: the first Team Leader, Mrs Vera Devine left the Project in June 2007 for personal reasons, the new Team Leader, Mr Roman Chlapak started his assignment in March 2008. The project was never accommodated in the premises of the main beneficiary, the Ministry of Justice (MoJ), although this had been a contractual obligation. For the first five months, the project was run out of the then TL's apartment, after which, private premises were rented; from 2008 until the end of the project in December 2009, the project operated from the premises of the Council of Europe Office in Kyiv.

The Steering Committee, composed of high-ranking representatives of the beneficiary institutions, the LTA, the CoE Secretariat, and the EUD representatives met every six months to review the progress in the implementation of the project and, where necessary, to review the work plan and to adjust it depending on certain ad-hoc priorities identified by the stakeholders. At very few occasions the extraordinary Steering Group meetings were also convened if it was necessary to discuss important issues concerning the project's implementation: ad-hoc needs for re-shaping certain activities, project budget implications and any other issue of relevance.

The major beneficiary institution of UPAC was the Ministry of Justice (MoJ), which coordinated the implementation of the project on behalf of the Ukrainian authorities. Other beneficiaries included: the Verkhovna Rada (Parliament) Committee on Combating Organised Crime and Corruption (COCC), the General Prosecutor's Office (GPO), the Academy of the Prosecutor's Office (AP), the Ministry of Interior (Mol), the Main Civil Service Department (MCSD), the Cabinet of Ministers, the Secretariat of the President, the National Council for Security and Defence (NCSD), the High Council of Justice, the Supreme Court, the Council of Judges, the Accounting Chamber, the Main Control and Auditing Department, and national associations of regional and local authorities.

The project benefited from good relations and cooperation in the implementation of project activities with the Ukrainian public institutions and NGOs. Continuous consultation with beneficiary institutions and the EU Delegation in Kyiv proved to be of key importance. The project, throughout its entire implementation period has tried and has partially succeeded to transfer the ownership of initiatives to local partner institutions thus enabling the sustainability of the actions undertaken.

Moreover, several leading Ukrainian NGOs played a central role in the implementation of certain activities. Those include the Centre for Political and Legal Reforms, the Agency of Legislative Initiatives, and the Kharkiv Institute of Applied Humanitarian Research. The project has hired a number of leading international experts to implement project activities. International Institutes (such as the Basel Institute on Governance) have also been actively involved.

4. RISKS AND IMPLEMENTATION ISSUES

The main project assumption was the following:²

"... the President and the Government of Ukraine are committed to counter corruption in a comprehensive manner in line with European and international standards and good practices. It is assumed that this determination will not change after the elections scheduled for March 2006."

² Project Description of Action, part 3, page 20

The project did experience difficulties after the dissolution of the Verkhovna Rada in 2007, which was followed by political instability. However, the authorities of Ukraine generally proved to be committed to the implementation of project activities and the adoption of international anti-corruption standards.

The assumptions and risks mentioned in the Terms of Reference proved, with some minor exceptions, to be valid during the project's lifetime:

Purpose 1

The Strategy and Action Plan have been adopted, but because of the weaknesses of the Action Plan (adopted on 15 August 2007), mainly its insufficient implementation and monitoring,³ it remained of declarative nature until August 2009 (when a new Action Plan was adopted). It appears that the process of elaboration of the new Strategy initiated by the GAAP lacked an analysis of previous strategies and, until December 2009, did not benefit from an open discussion involving all stakeholders and civil society groups. The new draft Strategy submitted to the Council of Europe for comments⁴ (in October 2009) was not, according to the CoE experts, comprehensive enough.

The Ukrainian authorities have established a policy-level preventive body, the Government Agent for Anti-corruption Policy (GAAP) in April 2009. Decisions regarding preventive bodies in charge of public service ethics and financial control (assets declarations) still need to be taken.

Purpose 2

The Ukrainian authorities have recognised the importance of preventive measures by allocating them a central place in the framework legislation created by the so-called "anti-corruption law package" (with emphasis on the Law on Principles of Prevention and Counteraction of Corruption). Moreover an important number of laws aimed at preventing corruption have been included into the revised Action Plan adopted in August 2009. All relevant stakeholders, including bodies which are independent from the Government, such as the judiciary, the Verkhovna Rada/Parliament (VR), the Central Election Commission (CEC), and the authorities of local self-government have been significantly involved in activities related to the prevention of corruption.

However, the fate of the "anti-corruption law package" will eventually be shaped by the changes following the January 2010 presidential elections and possible delay in their implementation.

Purpose 3

Not only have the laws of the "anti-corruption law package" been elaborated, but they have also been adapted to enhance compliance with international anti-corruption standards. The laws have created conditions for changes of the national legal framework against corruption and rendered it more coherent. The Concept for Criminal Justice Reform has been approved, and the draft Law on the Bureau for Anti-corruption Investigations has been submitted to the Verkhovna Rada, although formally, the responsibilities for the investigation of corruption have not been redefined and are still with the Ministry of Interior/police and prosecution.

Moreover, continuous trainings for representatives of law enforcement agencies were conducted throughout the duration of the project, involving a large number of prosecutors, police officials, and judges.

5. REVISING THE WORKPLAN

Progress on project implementation, addressing assumptions and risks, changes of certain short-term priorities by the main stakeholders and, above all, the extension of the project resulted in certain revisions to the original Workplan. These revisions and subsequent changes/modifications of certain project activities were discussed and agreed during the Steering Committee meetings that were regularly held twice a year. The final version of the Workplan (Annex 1) has been agreed following the 7th Steering Committee meeting held on 25 June 2009. Subsequently, a further revision was made to include trainings on implementation of the "anti-corruption package" of laws, trainings of representatives of the law enforcement agencies, provision of expert opinions on certain

³ The CoE expert opinion on the Action Plan was submitted to the Ukrainian authorities in June 2007

⁴ The CoE expert opinion on the Action Plan (adopted in August 2009) was submitted to the the Ukrainian authorities in September 2009

legal and sub-legal acts, and also to cancel the activity on introduction and application of the case-management system for the Ministry of Interior and Prokuratura Services.

6. VISIBILITY

The project has given a particular emphasis to visibility.

A generic webpage on UPAC was created on the Council of Europe website (www.coe.int/upac). Initially, the site was exclusively in English, but more recently (March 2009), a Ukrainian language version was added. It was regularly updated and all important project documents have been posted on the website. They continue to be accessible beyond the project's closure and thus, are available for further legislative reform and other anti-corruption related initiatives.

The UPAC team has been regularly informing the media about project activities and achievements through press conferences, press releases, interviews (Dzerkalo Tyzhnia-Mirror of the Week, Den', Korrespondent, Kyiv Post, Deutsche Welle, Radio Liberty) and participation in a political TV show ("Schuster Live" on the channel "Ukraina"). Regular articles on UPAC activities were published in the EU Delegation Newsletter in Ukraine and weekly «flash notes» by the European Union in Brussels. Partner institutions' websites (MoJ, VR) included regular coverage of UPAC activities.

The UPAC team contributed twice (in April 2008 and October 2009) to information fairs held at the Verkhovna Rada (Parliament) to inform MPs and the staff of the Parliament Secretariat about project activities. Since 2007, the project continuously contributed to Europe Day organised by the EU Delegation.

All documents produced by the project wore the same header as the Progress Report (with the European flag and indication of donors, i.e. the European Union and Council of Europe). Conference materials, such as notebooks, files, flyers and bookmarks produced in line with visibility guidelines were distributed at all events organised by the project. A Top-Expo display stand was produced and used at project events. All publications (books and CDs) follow the visibility guidelines. Each project deliverable (be it a project report, a technical paper or any other document or publication) contain a compulsory disclaimer as foreseen by the contract between the CoE and the EU.

7. SYNERGIES WITH OTHER PROJECTS

The project has coordinated the implementation of its activities with other international anti-corruption projects to avoid duplication and to create synergies.

The Team Leaders participated actively in the meetings of the Anti-corruption Coordination Initiative (ACCI) managed by ABA/ROLI Ukraine. Moreover, the UPAC Team twice organised donor coordination meetings at the Council of Europe Office in Kyiv.

Several activities have been implemented jointly with other international projects:

- Round-table discussions following the CoE expert opinion on the draft Law on the Judiciary and the draft Law on the Status of Judges, organised in cooperation with the USAID Rule of Law Project;
- Round-table on models of anti-corruption bodies in Ukraine, module/pilot trainings on detection, investigation and prosecution of corruption offences and a Training Manual on Investigation and Prosecution of Corruption-related Offences organised in cooperation with the OECD anti-corruption technical assistance project "Strengthening Capacity for Investigation and Prosecution of Corruption in Ukraine";
- Round-table on identification, seizure and confiscation of proceeds from crime and Round-table on identification of corruption risks organised jointly with the Embassy of France in Ukraine;

- Hearings in the Verkhovna Rada (Parliament) of Ukraine related to the reform of national anti-corruption legislation and publication of the texts of the laws of the "anti-corruption law package", were organised jointly with Component Three of the Millennium Challenge Corporation Programme, USAID, the Parliamentary Development Project, and ABA/ROLI.

Several activities have been implemented with direct active involvement of leading national and international NGOs and institutions:

- The Centre for Political and Legal Reforms (UA): system studies of corruption risks in the public administration (administrative services, control and supervision), and the elaboration of an opinion on the draft legal acts providing for the alignment of the domestic legislation with the "anti-corruption law package";
- The Kharkiv Institute of Applied Humanitarian Research (UA): system studies of corruption risks in the criminal process and the judiciary, a series of regional seminars on the "anti-corruption law package" for prosecutors and judges and commentaries to the laws of the "package";
- The Agency of Legislative Initiatives (UA): expert support of the activities on prevention of political corruption and in particular on financing of political parties and electoral campaigns;
- Basel Institute on Governance (CH) – expert advice for the elaboration of methodologies and implementation of the system studies on corruption risks, elaboration and implementation of 3 module pilot training sessions on detection, investigation and prosecution of corruption; expert advice to the working group on finalisation of laws of the "anti-corruption law package"; expert involvement in the Round-table "Effectiveness of the national anticorruption policy, role of the civil society and private sector";
- Center for the Analysis and Prevention of Corruption of Moldova, Association of Young Lawyers of Georgia - expert involvement in the Round-table "Effectiveness of the National anticorruption policy, role of the civil society and private sector".

Saferworld, an independent international non-governmental organisation prepared a case study "Public security needs and perceptions in Ukraine", which focused on two EU-funded projects in Ukraine, including UPAC (the other project was EUBAM, the European Union Border Assistance Mission to Moldova and Ukraine). The Saferworld case study report praised UPAC for focusing as much as possible on involvement of the private sector and civil society in anti-corruption reforms. The UPAC team participated in a conference organised by Saferworld in Odessa, where the case study report⁵ was presented (March 2009).

Coordination, cooperation and synergies with other EU/CoE projects in Ukraine and with similar EU/CoE projects in other countries were ensured during the entire lifetime of the project. Exchange of information and cooperation was particularly active with UPIC (International co-operation in Criminal Matters in Ukraine), MOLI UA 2 (Project against Money Laundering and Terrorist Financing in Ukraine), the Project on Transparency and Efficiency of the Judicial System of Ukraine, and the Project on Promotion of the European Standards in the Ukrainian Media Environment.

The MOLI UA 2 project had started the preparation of training sessions on detection, investigation and prosecution of corruption and money laundering-related offences, but did not manage to organise it during its implementation period (1 May 2006 - 30 April 2009). Finally, this training was organised within the framework of UPAC in September 2009.

Regular contacts between the project teams allowed the exchange of lessons learnt from one project to another, thus increasing their efficiency.

8. PROJECT IMPLEMENTATION

Inception Phase

The Inception Phase involved attempts at establishing the project office and the set-up of the project team, conducting of the in-country missions to finalise the Workplan and holding of the Start-up Conference. While details concerning the project team and project office have been provided above, other activities during the Inception Phase were implemented accordingly: the in-country missions were held in June 2006; during these missions, certain inputs into the Workplan were solicited and

⁵ http://www.initiativeforpeacebuilding.eu/pdf/Public_Security_Needs_and_Perceptions_in_Ukraine.pdf

incorporated; and the Start-up Conference was organised on 25 September 2006, when the Project Workplan was finalised and confirmed by project partners.

Project Impact versus Forecast and Achieved Indicators⁶

Output	INDICATOR	IMPACT/OVERALL RESULTS
1.1 Anti-corruption Strategy and Action Plan available	Anti-corruption Strategy available Anti-corruption Action Plan available.	The Strategy (Concept paper "On the Road to Integrity") was adopted by a decree of the President of Ukraine on 11 September 2006, the Action Plan to implement the Strategy was adopted by a Resolution of the Cabinet of Ministers on 15 August 2007, an updated version of the Action Plan was adopted on 26 th August 2009.
1.2 Effective monitoring, coordination and management of anti-corruption measures ensured	Mechanism for coordination, management and monitoring created; At least one annual anti-corruption conference organised to review the Anti-corruption Strategy and Action Plan.	The institution of the Government Agent for Anti-corruption Policy was introduced on 4 June 2008, its mandate was approved on 24 April 2009. Round-table "Looking for the Optimal Model of a System of Anti-corruption Bodies in Ukraine" organised on 22 April 2008 UPAC closing conference organised on 9th December 2009.
1.3 Proposals available to ensure the implementation of Article 6 of the United Nations Convention against Corruption regarding preventive anti-corruption body or bodies	Proposals available for implementation by Ukraine of Article 6 of UN Convention against Corruption.	The principles for the prevention of corruption are laid down in one of the three laws of the "anti-corruption package", which will enter into force as from 1 January 2011, the UN Convention will enter into force in Ukraine also as from 1 April 2010; Models of anti-corruption bodies have been studied and analysed, relevant recommendations for Ukraine have been made available; The methodology for anti-corruption proofing has been reviewed.
2.1 Anti-corruption principles incorporated into the process of public administration reform ("anti-corruption mainstreaming")	Amended basic concept and draft laws on administrative reform in the light of anti-corruption standards and best practices; Code of conduct for civil servants finalised; Methodology for assessment of corruption risks elaborated; Guidelines for the prevention of corruption within administration finalised.	The draft laws on Civil Service duly incorporate anti-corruption concerns, draft laws on public service ethics/conflicts of interest and on financial control of the public service have been tabled to the Parliament; awareness on anti-corruption mainstreaming of the public administration reform has been raised; system study of corruption risks in public administration (administrative services, control and supervision) with relevant recommendations is available and was presented to the authorities.
2.2 Risks of corruption reduced in the judiciary	Codes of Conduct finalised and guidelines	System study of corruption risks in the judiciary with relevant recommendations is

⁶ This table can only be properly understood in conjunction with the following Chapter 'Project Implementation by Outputs'

	<p>for implementation available;</p> <p>Methodology for the assessment of risks of corruption in the judiciary available;</p> <p>Analysis of the risks of corruption available (on the basis of the assessment of 3 courts of general jurisdictions).</p>	<p>available and was presented to the relevant authorities;</p> <p>Conference organised for judges on 26 March 2009 to discuss the system study of corruption risks.</p>
2.3 Risks of corruption reduced in the prosecution and the police	<p>Report on risks of corruption in the Ministry of Interior, Prosecution (and the National Service of investigations) available.</p> <p>Analytical report and recommendations for improvement of the systems of internal control, audits and reporting corruption in the Ministry of Interior, Prosecution and (and the National Service of investigations) available;</p> <p>Guidelines for the implementation of codes of ethics available.</p>	<p>System study of corruption risks in the criminal justice system, incl. Prokuratura (Prosecution Service) and police with relevant recommendations is available and was presented to the relevant authorities.</p>
2.4 Conflicts of interest reduced in the political process	<p>Concept and/or draft laws on lobbying available.</p>	<p>Draft Concept on Amendments to the Domestic Legislation to Enhance Transparency of Funding of Political Parties and Electoral Campaigns elaborated, discussed and finalised; study of international experience in funding of political parties and electoral campaigns prepared and distributed to the relevant authorities;</p> <p>The issues of funding of political parties, immunities, conflicts of interest and lobbying studied and analysed, recommendations prepared and distributed to the relevant authorities.</p>
2.5 Capacities enhanced at the level of local and regional authorities for the prevention of corruption and strengthening of integrity	<p>Results from 5 corruption prevention and public ethics measures in pilot municipalities available for replication throughout the country.</p>	<p>National Handbook on Public Ethics at Local Level prepared and published.</p>
2.6 Public participation in the anti-corruption effort promoted	<p>The terms of reference for a grant programme open to NGO's and other civil society organisations aimed at promoting public involvement in the anti-corruption effort</p>	<p>The terms of reference for a grant programme were prepared, however, on EU Delegation suggestion this grant programme was not finalised as originally foreseen. On the other hand UPAC has organised a number of events aimed at strengthening the role of the NGOs in participating and monitoring the anti-corruption reforms</p>

	developed.	
3.1 Draft laws available to improve the prevention and control of corruption in accordance with the Criminal and Civil Law Conventions against corruption of the Council of Europe (ETS 173/174), the United Nations Convention against Corruption	Draft amendments for legislation available to comply with the Criminal and Civil Law Conventions of the Council of Europe (ETS 173/174), and the United Nations Convention against Corruption.	Laws of the "anti-corruption package" have been elaborated in line with relevant CoE and UN Conventions, adopted by Parliament and signed by the President of Ukraine; the laws will enter into force as from 1 April 2010; Draft Law on Amendments to the Criminal Code and Criminal Procedure Code of Ukraine (regarding improvement of confiscation procedures) reviewed and tabled to the Parliament.
3.2 Judges trained and specialised in adjudication of corruption, law enforcement officials trained in the investigation and prosecution of corruption offences	Review reports, training programmes, training and activity reports, internal institutional statistics and reports, documents attesting reception of IT equipment, guidelines for reporting suspicions of corruption.	Through the number of trainings organised, the Mol and General Prosecutor's Office from all the regions enhanced their knowledge in detecting, investigating and prosecuting corruption; Judges trained to enhance capacities in adjudicating corruption cases; model pilot training sessions prepared and delivered; training manual is under elaboration ⁷ .

Project Implementation by Outputs:

The activity plan was structured into three pillars by reference to project objectives and is presented here accordingly:

Project objective 1: To improve the strategic and institutional framework against corruption in Ukraine

Output 1.1 Anti-corruption strategy and Action Plan available

Activity 1.1.1	Support to the drafting and elaboration of the Anti-corruption Action Plan in accordance with NACS, involving all relevant stake holders (national and local government) and including public consultations (civil society and business community representatives).
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In January 2006, i.e. before the start of UPAC, the Council of Europe provided an expert opinion to the draft Anti-corruption Concept (strategy) "On the Way to Integrity"; it was adopted by Decree 742 of the President of Ukraine on 11 September 2006.

The UPAC project had foreseen support to the elaboration of the National Anti-corruption Action Plan for the implementation of the Anti-corruption Concept (Strategy) "On the Way to Integrity"; but requests for support from the Ukrainian side were scarce. An expertise was requested, and delivered on a draft Anti-corruption Action Plan in June 2007. The experts criticised the weak link between the draft Action Plan and the Strategy, the insufficient level of detail, the unclear attribution of responsibilities of different institutions, missing provisions on monitoring and reporting, risk analysis, unrealistic timelines and budgetary implications, the disconnection between the proposed measures and other ongoing sectoral reforms, as well as the intransparent and non-inclusive drafting process. Although some changes were made, as a result, to the final text (the overall structure was brought into line with the Concept, and included an indication of reporting obligations), the Action Plan was adopted on 15 August 2007 by Decree n°657 of the Cabinet of Ministers of Ukraine without introducing substantial changes in accordance with what the CoE experts had suggested.

⁷ The ToRs for this manual were jointly prepared by the CoE/UPAC and the OECD. The Manual is supposed to be finalised by the OECD and published by June 2010;

Following the establishment of the Government Agent for Anti-corruption Policy (April 2009), and as foreseen by his mandate, a new Anti-corruption Strategy was elaborated. Prior to this, an updated Anti-corruption Action Plan was prepared by the GAAP cabinet, which was subsequently adopted by the Cabinet of Ministers on 26 August 2009.

Following a request received from the GAAP, in September 2009, the CoE prepared a technical paper/expert opinion on the proposed draft Anti-corruption Strategy. The expert underlined that the draft strategy was very general (missing indications on specific goals and priorities) and very narrow in scope (not covering many important areas such as the private sector, civil society, political parties and electoral campaigns financing, media, criminal law, reporting of assets and interests, codes of conduct, conflicts of interest, lobbying). Therefore, the preparation of a new comprehensive and systematic anti-corruption policy paper based on all previous ones, after an analysis of lessons learned from the past was recommended. Also, it was suggested that the private sector and civil society should be included in the process of drafting of the strategy. The implementation mechanisms would need to be specified, including prerogatives of the GAAP. The draft Strategy was also criticised by civil society representatives. Finally, the Strategy was approved by the Cabinet of Ministers on 8 December 2009 (Regulation N 1688-p on Approving Principles of the Anti-corruption Policy). At the time of writing of this Final Report, the final text had not, yet, been made public.

Activity 1.1.2	Round-table "Effectiveness of the National Anti-corruption Policy, the role of civil society and private sector" - assessment/review and recommendations on the effectiveness of the National Anti-corruption Strategy, its Action Plan and other policy-related reforms in Ukraine (held in Kyiv on 19 October 2008)
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The conference provided an opportunity to review the effectiveness of the National Anti-corruption Strategy and Action Plan and to raise awareness on proposed anti-corruption reforms, GRECO recommendations, as well as international anti-corruption standards and best practices. It also pointed out the key role that civil society organisations and the private sector can play in the national efforts against corruption, and in raising public awareness against corruption, particularly considering the relatively high level of trust they enjoy. The conference gathered representatives of civil society organisations and the private sector from both Kyiv and from the regions, as well as Council of Europe experts, and representatives of the authorities and international projects in Ukraine. The Council of Europe experts presented the role civil society and the private sector can play to enhance anti-corruption efforts. They also shared their respective national experiences regarding the involvement of civil society and the private sector with a special emphasis on possible ways of collaboration with national authorities.

In the conclusions adopted, NGOs emphasised the importance of having such an event which further developed the capacities of civil society and partnerships between civil society and the private sector. Participants called for more systematic cooperation between NGOs and the authorities and or further involvement of the private sector in key national anti-corruption reforms (public procurement, budget system, public administration, and judiciary). They also supported the adoption of the "Anti-corruption Law Package" by the Parliament, the introduction of anti-corruption proofing ("expertise") of the legal and administrative acts, the consolidation and strengthening of the system of anti-corruption bodies, improvement of whistleblower protection and access to information, the introduction of public broadcasting and civic education.

Through support aimed at strengthening the cooperation between civil society and state authorities, by implementing this and a number of other activities, UPAC has made a tangible impact on the inclusion of civil society and private sector in monitoring the implementation of the Anti-corruption Strategy. These activities are considered to not only having strengthened public awareness on corruption problems, but also to have influenced the quality and have strengthened the capacities of civil society to participate in the relevant reform process.

Moreover, within the framework of this activity and following the establishment of the Civic Council as a permanent advisory body to the GAAP, UPAC prepared an expert opinion on the draft Regulation on the Civic Council by the GAAP (October 2009). The opinion underlines concerns regarding the independence of the Civic Council from the authorities, in particular the appointment and suspension of its members and the Head of the Council. Following the expert opinion, the text of the Regulation was re-drafted to incorporate most recommendations submitted in the expert opinion. The Regulation was approved on 9 November 2009 by GAAP's Decision n°2.

Activity 1.1.3	<p>1st National (and regional) Public Baseline Survey:</p> <ul style="list-style-type: none"> - Perception, experience, and attitude on corruption and service delivery in the system of justice (police, prosecution, notary service, enforcement of civil and criminal judgments); and - Perception, experience, and attitude on corruption and service delivery in the public administration and the political system (including elected officials and officials of local and regional authorities)
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A methodology and a questionnaire for national and regional public baseline opinion surveys on corruption have been finalised in February 2007 following two brainstorming meetings with participation of international experts and representatives of stakeholder institutions. However, at the UPAC Steering Group meeting on 6 March 2007, the MoJ announced that the organisation of a public opinion survey was no longer considered to be necessary within the project, given the fact that similar baseline surveys were prepared by a USAID/MSI/MCC project (Promoting Active Citizen Engagement in combating corruption in Ukraine). The MoJ and the NCSD proposed that within UPAC, a survey on corruption within the law enforcement system should be carried out instead. Finally, the methodology and the questionnaire were used in the preparation of the sociological surveys within the system studies of corruption risks in the criminal justice system (including law enforcement), judiciary, and the public administration (see Outputs 2.1-2.2-2.3).

Output 1.2 Effective monitoring, coordination and management of anti-corruption measures ensured

Activity 1.2.1	Workshop on models, types and tools used by different anti-corruption bodies/structures in view of their feasibility in Ukraine
Activity 1.2.2	System-comparing process – Study Visit and Three Workshops on existing practices and lessons learned from other European AC mechanisms for the Working Group (3 merged into one trip: Croatia, Slovenia, France)

UPAC has offered assistance to the Ukrainian counterparts on issues relating to the creation of a policy-level anti-corruption body as a follow-up to GRECO recommendation "to establish a body distinct from the law enforcement functions with the responsibility of overseeing the implementation of national anti-corruption strategies and related action plans as well as proposing new strategies and measures against corruption. Such a body should represent public institutions as well as civil society and be given the necessary level of independence to perform an effective monitoring function"⁸ In March 2008, the MoJ had elaborated a draft Resolution of the Cabinet of Ministers Concerning the Anti-corruption Policy, which included draft Regulations on the Government Agent for Anti-corruption Policy. UPAC provided comments on this draft Resolution (including comments on the draft Regulations) in April 2008. The main criticism concerned the absence of real decision-making powers and on the provisions to ensure independence of the Agent. Recommendations pointed out the need for the improvement of provisions related to the Agent's tasks and the procedure for his/her appointment and dismissal, and the channels of communication with other anti-corruption bodies. On 4 June 2008, the Cabinet of Ministers adopted a formal decision to create the institution of the GAAP; however, the GAAP was not given a clear mandate. The Cabinet instructed the MoJ to prepare draft Regulations defining the mandate of the Agent. Following this decision, and taking into account the Council of Europe expert's comments of April 2008, the MoJ has re-drafted the Regulations and the Cabinet of Ministers has elaborated its own, alternative draft Regulations. Both drafts were submitted to the Council of Europe for expert comments in July 2008. The CoE expert examined the above-mentioned drafts and emphasised that there were no substantial differences between the two drafts concerning the substance of the Agent's work, nomination and independence, and that both drafts satisfied the requirements of the UN Convention against Corruption. The MoJ draft proposed to make the GAAP part of the structure of the MoJ (appointed and dismissed by the Cabinet of Ministers on the basis of the nomination of the Minister of Justice, agreed by the Prime Minister), whereas the Cabinet of Ministers' draft described the Agent as being part of the structure of the Cabinet of Ministers (appointed and dismissed by the Cabinet of Ministers upon nomination by the Prime Minister). The only real difference among these

⁸ GRECO Evaluation Report on Ukraine, Joint 1st and 2nd Evaluation Rounds, Adopted on 21 March 2007 – page 47 – Recommendation i; [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval1-2\(2006\)2_Ukraine_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval1-2(2006)2_Ukraine_EN.pdf)

two proposals was the existence of the "State Service for Anti-corruption Policy" (as an expert anti-corruption body) in the MoJ's draft, whereas in the draft prepared by the CM it remained unclear how the Agent could work without proper expert support. Moreover, the MoJ draft was not clear enough in defining proper co-ordination and cooperation of different stakeholders in anti-corruption activities. At the end, the Cabinet of Ministers' proposal was accepted as the final one. Eventually, the Government Agent for Anti-corruption Policy (GAAP) was created by Decree n°410 of the Cabinet of Ministers on 24 April 2009. The very same day, Mr Drago Kos, President of GRECO, visited Ukraine and held meetings with the President of Ukraine, Prime Minister of Ukraine and the Minister of Justice. This visit, and the follow-up meetings were organised within the framework of UPAC project (see Activity 3.2.2). The Government of Ukraine appointed Mr Yuri Sukhov as the Government Agent (on 24 April 2009 by Decision n°436), thus fulfilling the above quoted key recommendation by GRECO.

A number of other activities were organised in the framework of the project that preceded the establishment of the GAAP, and that were dedicated to the topic of specialised anti-corruption bodies:

- Round-table "Looking for the Optimal Model of a System of Anti-corruption Bodies in Ukraine" (April 2008), organised in co-operation with the MoJ and the OECD technical co-operation project "Strengthening the Capacity for Investigation and Prosecution of Corruption in Ukraine", during which different types of anti-corruption bodies were discussed, and recommendations on the creation (within the MoJ) of a body empowered to co-ordinate the formulation and implementation of anti-corruption policy (with sufficient autonomy in the decision-making process and proper resources) were made;

- Study Visits (May 2008): a delegation of representatives of various Ukrainian institutions visited Paris and Ljubljana to study models of preventive and law enforcement anti-corruption bodies of France, Slovenia, and Croatia. The participants from the Ukrainian side included representatives of the Parliament (2 MPs and the Head of Secretariat of the Committee on Fighting Organised Crime and Corruption), the Secretariat of the Cabinet of Ministers, the Secretariat of the President, the Secretariat of the National Council for Security and Defence, the MoJ, the Ministry of Interior (including a Deputy Minister), the Office of the Prosecutor General, the Main Civil Service Department, as well as Ukrainian delegates to GRECO. In France, the delegation met with judges dealing with corruption cases (Pôle économique et financier), representatives of the Central Service for the Prevention of Corruption (Service Central de prévention de la corruption), the Central Brigade for the Fight against Corruption (Brigade Centrale de lutte contre la corruption), the Financial Brigade of the Department of Economic and Financial Cases of the Criminal Police (Brigade financière de la Sous-direction des affaires économiques et financières de la police judiciaire), as well as the representatives of the Asset Recovery Service (Plate-forme d'identification des Avoirs criminels), and OECD/Sigma. Moreover, the two MPs, the Head of Secretariat of the Committee on Fighting Organised Crime and Corruption and the Deputy Minister of Interior met with Mr Eric Diard, Chair of the Group of Friendship with Ukraine at the National Assembly to exchange experiences in the legislative process.

In Slovenia, the Commission for the Prevention of Corruption, the Group of State Prosecutors for the Prosecution of Organised Crime, and the Anti-corruption Unit of the Economic Crime Section within the Criminal Investigation Police Directorate were visited. They also met representatives of the MoJ. Finally, the delegation had an opportunity to hear an in-depth presentation by a Croatian expert from USKOK (Office for the Suppression of Organised Crime and Corruption) on its structure and case studies in combating corruption.

Recapitulative tables on the main characteristics of the preventive and law enforcement anti-corruption bodies of France, Slovenia and Croatia have been disseminated among the participants in December 2008 (see Activity 3.2.2).

- Expert opinion on draft legal acts regarding the introduction of the internal control units: following the proposal by the GAAP, the Government of Ukraine introduced "divisions for prevention and counteraction of corruption in the bodies of executive power" (internal control units with preventive and repressive tasks, Regulations of 8 December 2009). A CoE expert opinion was provided on the draft legal acts regarding the introduction of internal control units (November 2009). These draft legal acts include the draft Law on Amendments to the Law of Ukraine on the Principles of Prevention and Counteraction of Corruption and draft Standard Regulations on Divisions for Prevention and Counteraction of Corruption in the Bodies of Executive Power. The CoE expert opinion indicated that the idea of introduction of internal control units might really help to reduce corruption in public institutions in Ukraine; however, the expert opposed the idea of the units

reporting to the GAAP. However, the regulations adopted by the Government of Ukraine on 8 December 2009 did not take into account the CoE expert's comments and kept the provision on internal control units reporting to the Government through the GAAP (without having any further changes in the mandate of GAAP) in its entirety.

- UPAC organised several other activities to study different models of anti-corruption bodies (preventive and law enforcement) and to formulate recommendations for Ukraine; the project has also supported the Parliamentary Committee on Combating Organised Crime and Corruption in the elaboration of the draft Concept Paper on Anti-corruption Bodies in Ukraine.

Activity 1.2.3	Closing conference: Support to national anti-corruption conference to review the implementation of anti-corruption measures in Ukraine
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The final conference of UPAC was held on 9 December 2009, the International Anti-Corruption Day, with participation of high-level representatives of the Delegation of the European Union to Ukraine, the CoE Secretariat, the Ministry of Justice, the GAAP, and other stakeholders. Prior to that, a press conference was held which attracted significant media attention.

The representatives of the Ukrainian authorities highlighted the important contribution of UPAC in the adoption of international standards (UNCAC and CETS 173 entering into force in Ukraine together with the anti-corruption package of laws), institutional reforms (the creation of the Government Agent), the elaboration and implementation of the national anti-corruption strategies and action plans (incl. improvement of dialogue with civil society), public administration and criminal justice reforms, strengthening the integrity at the level of local self-government, raising awareness on the need to prevent political corruption, as well as to design legal reforms to enhance transparency in financing of political parties and electoral campaigns.

The representatives of the CoE and EUD emphasised the need for further anti-corruption reforms, strengthening of the newly established institutions and comprehensive implementation of the GRECO recommendations.

The conference was concluded by unanimous support to the idea of a follow-up project to UPAC which would enable further international support to the anti-corruption reforms in the country.

Output 1.3 Proposals available to ensure the implementation of Article 6 of the United Nations Convention against Corruption regarding preventive anti-corruption body or bodies

Activity 1.3.1	Seminar on implementation of UN Treaty Law focussed on issues related to UNCAC applicability in Ukraine and its domestic legislation ⁹
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The round-table discussions on the implementation of Article 6 of the UN Convention against Corruption and GRECO recommendations related to anti-corruption bodies was held on 15 January 2008. Following the round-table and follow-up bilateral meetings, the MoJ proposed the preparation of draft legal acts in the field of anti-corruption. UPAC has continuously supported these activities as described under Output 1.2.

From April to June 2008, UPAC assisted the Parliamentary Committee on Combating Organised Crime and Corruption and the relevant Working Groups of experts to finalise the texts of the laws of the "Anti-corruption Law Package" for the 2nd reading (see Output 3.1). Since the laws of the "Anti-corruption Package" were adopted by Parliament in June 2009, and the project was extended until December 2009, the Steering Committee of 25 June 2009 decided to satisfy the proposal of the MoJ to conduct, instead of the initially foreseen second event on UNCAC, a series of regional seminars for judges and prosecutors, and to prepare a manual containing legal commentaries on the laws of the package. The seminars have been organised in cooperation with the Kharkiv Institute of Applied Humanitarian Research in Simferopol, Zaporizhia, Kharkiv and Odessa (October-November 2009), while two more seminars were held in Lviv and Kyiv in December 2009. The General Prosecutor's Office, the Prosecutor's Academy (Academy of Prokuratura), the Council of Judges and the local appellate courts have supported the regional seminars moderated by leading Ukrainian legal experts (from the Supreme Court and the National Academy of the General Prosecutor's Office/Prokuratura). The regional seminars contributed to raising awareness on the

⁹ The activity 1.3.1 was implemented in a much broader way than originally foreseen, as can be seen from the explanatory text of the activity.

new anti-corruption laws among prosecutors and judges. Furthermore, UPAC facilitated the preparation of commentaries by a group of legal experts (including judges of the Supreme Court, experts from the MoJ, and the General Prosecutor's Office) on the texts of laws of the "Anti-corruption Law Package". These commentaries are expected to be included in a manual, which should also comprise relevant national and international legal documents. The commentaries were finalised in December 2009. The manual is still in the process of preparation by the MoJ. The MoJ is expected to consult and coordinate with the GAAP on the issue of commentaries to the laws and their publication.

In September 2009, the Cabinet of Ministers of Ukraine adopted Resolution n°1057 "On Issues Related to the Implementation of the Anti-corruption Policy", which approved the procedure for anti-corruption "expertise" (proofing) of draft legal acts (draft laws, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, and other central bodies of executive power). Basically, the anti-corruption proofing concept aims at identifying corruption risk factors that may be found in legal regulations (laws, decrees and other secondary legislation). The typology proposed may serve during the legislative process as a basis for conducting analysis of existing laws or draft laws in order to minimise the risks of corruption created by those laws.

The Government Agent for Anti-corruption Policy has already started to apply "expertise" of draft legal acts (which has to be conducted in 15 days with possible prolongation for 10 days) in order to detect potential corruption risks ("corruptive factors"). The following areas were identified as particularly vulnerable to corruption: execution of decisions, management of public property, customs, fiscal, financial and budget matters, public procurement, investments and innovation, attribution of privileges to some economic actors, discretion mechanisms in public authorities, subcontracting by public authorities, administrative services, control, and supervision activities. Furthermore, the Government Agent is given a possibility to request additional documents for expertise and, in difficult cases, to involve experts, state organs, or independent researchers. The results of any such expertise are subject to compulsory consideration during the process of the adoption of the respective legislation, and is made public on the Government website for 15 days following the adoption of a legal act (except for those legal acts which are subject to restrictions on access and/or are considered state secret).

Initially, the Decree № 80/2008 of the President of Ukraine "On Certain Measures for Improving the Formulation and Implementation of State Anti-corruption Policy" and finally the framework "Law on Principles of Prevention and Counteraction of Corruption" provide sufficient grounds for anti-corruption proofing ("expertise") of (draft) legal acts. The MoJ elaborated the methodology of the anti-corruption proofing ("expertise"), and submitted it for expert comments to the CoE. Two Ukrainian experts, from the National Law Academy of Kharkiv, contributed to the process of improving the text of the draft methodology in view of compliance with domestic legal standards. In support to elaboration of the anti-corruption proofing the UPAC project also shared with the Ukrainian authorities (MoJ and GAAP) the anti-corruption proofing methodology and a respective guide elaborated by the Centre to Combat Economic Crimes and Corruption of Moldova. An alternative and quite successful civic anti-corruption proofing ("expertise") of the Centre for the Analysis and Prevention of Corruption was presented at the Round-table "Effectiveness of the National Anti-corruption Policy, the role of civil society and the private sector" (Activity 1.1.2, October 2008).

The CoE also provided an expert opinion on the draft methodology (April 2008). The Resolution n°1057, adopted by Government in September 2009, took into account comments by CoE experts, but only to a limited extent.

Several activities of UPAC project were aimed at strengthening capacities to conduct analysis of corruption risks. A Round-table on identification of corruption risks was organised jointly with the Embassy of France in Ukraine and the MoJ (April 2009), allowing discussions on methodologies for the assessment of corruption risks and the elaboration of prevention plans that could be implemented in Ukraine pursuant to international standards and best practices. The event was also an opportunity to identify corruption risks existing within the public administration (administrative services, control and supervision), the judiciary and the bodies in charge of investigation and prosecution of corruption offences pursuant to the preliminary findings of the relevant system studies conducted by the Center for Political and Legal Reforms and the Kharkiv Institute of Applied Humanitarian Researches.

Project objective 2: To enhance capacities for the prevention of corruption

Output 2.1 Anti-corruption concerns incorporated into the process of public administration reform ("anti-corruption mainstreaming")

Activity 2.1.1	Promotion and introduction of the Draft Law on the Ethics Behaviour for Public Officials in order to facilitate the adoption of the new law
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The Main Civil Service Department elaborated the draft Law of Ukraine on the Code of Ethics for Persons Authorised to Perform State Functions, which was appraised by two Council of Europe experts (July-August 2007). The experts indicated that the draft law was covering too many different categories of officials, that certain principles of ethics enumerated in specific sections of the draft were not consistent with the rest of text, and that there seemed to be an ambiguity in the term "all persons" as opposed to "only [...] public officers and officials of local authorities". Council of Europe comments, with certain exceptions, were taken into account. Later on the draft law was gradually improved, went through the Cabinet of Ministers and was submitted to the Verkhovna Rada (Parliament), which failed to pass it in the first reading in March 2009.

The revised draft Law on Integrity of Persons Authorised to Perform Functions of the State and Bodies of Local Self-Government became subject of discussions during a round table held on 26 March 2009 organised jointly by UPAC, the SIGMA programme and the Main Civil Service Department.

Activity 2.1.2	Round-table "Legislation on civil service and conflicts of interest" RTD to follow up on implementation issues with regard to the draft Code of Ethics on Behaviour of the Public Officials
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Prior to this Round-table (held in December 2008) the Council of Europe had submitted an expert opinion on the draft Law on the Civil ("State") Service. This expertise was subject to discussions during the Round-table. It also provided an opportunity to discuss the issue of legal regulation of conflicts of interest, more specifically the draft Law on Conflicts of Interest in the Civil Service and in Local Authorities. Participants indicated that the scope of the persons covered by the law needs to be additionally studied – especially, there was a need to cover elected officials and judges. It was also underlined that the regulation of conflicts of interest is a central issue for public servants' ethics. Finally, the draft law was renamed into draft Law on Conflicts of Interest in the Activities of Public Servants and was submitted by five MPs to the Verkhovna Rada (Parliament) in April 2009 (n°4420). To a certain extent, CoE comments were taken into account and were partially incorporated into the final draft.

Activity 2.1.3	Videoconference to support the reform of public administration - training of public administration members on issues related to legislation on civil service in the light of international standards and best practices (i.e., OECD, WB)
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The videoconference "Reform of public administration to ensure democratic governance in Ukraine" (March 2009), which was organised in cooperation with the National Academy of Public Administration of Ukraine and the SIGMA programme, allowed to gather 200 auditors undergoing training in Kyiv and in the 4 regional branches of the Academy of Public Administration in Ukraine (Dnipropetrovsk, Odessa, Kharkiv, Lviv). The representatives of central (incl. Cabinet of Ministers) and local public authorities, international projects, media and the civil society as well as Council of Europe and SIGMA experts also participated in this event. New approaches and draft laws for the reform of the public administration, covering the issues of professional ethics, conflicts of interest and declarations of revenues, assets and expenditure, including a series of controversial issues, were presented and discussed. Participants pointed out that public administration reform is key to conduct other reforms in Ukraine and called for the adoption of the Concept of Public Administration Reform as well as other crucial laws such as new Law on the Civil Service (with rigorous separation of political and administrative functions), the Law on Ministries and Other Bodies of the Executive Power, and the Code of Administrative Procedures. They underlined the necessity to create a professional, stable, politically neutral public service, to strengthen the level of trust of society towards it, and to overcome the existing hindrances to the reform. Participants recommended to create, within the government of Ukraine, a separate position responsible for public administration reform, make recruitment centralised and merit-based, establish legally clear ethical standards of

conduct for public officials, including clear regulation of conflicts of interest, and to create by law an effective system of revenues/assets declarations. It is, at this stage, unclear whether and how these recommendations will be taken forward.

Activity 2.1.4	Corruption Risk Assessment and Prevention Plans: System Study No. 1 on Corruption Risks within the Public Administration (in particular, the field of administrative services, control and supervision) (Development of methodology; system study analysis; identification of risk areas and their causes; and developing prevention proposals and plans.)
Activity 2.1.5	Presentation of the methodology, reports, and results, reports of the System Study No. 1

The system study, including an analytical research and a sociological survey, on corruption risks in the field of administrative services and control-supervision activities of public administration in Ukraine was launched in December 2008. It was conducted by the Centre for Political and Legal Reforms (analytical part), together with the Democratic Initiatives Foundation (sociological part) and lasted until April 2009. The Basel Institute on Governance (Switzerland) assisted the Ukrainian institutions in charge of the system study through on-site missions (December 2008 and March 2009) and continuous advice (in particular on methodology, the questionnaire for the survey and on the finalisation of the report and recommendations).

The system study was a pilot activity in which the results of an analytical legal study were confronted with the findings of a special sociological survey (general population, special target group - entrepreneurs, focus groups, expert interviews). The final report was completed in May and contains both analysis and recommendations for improvement. These recommendations are expected to be used to further improve the Concept (Strategy) of Public Administration Reform, currently under consideration of the Cabinet of Ministers. Once adopted, a special post in the Cabinet of Ministers would be created (at least temporarily) to deal only with public administration reform.

The results of the system study on corruption risks in the fields of administrative services, control and supervision were presented during a round-table held in the MoJ on 16 June 2009.

The follow-up press conference attracted considerable attention of media and gave place to a wide range of interesting questions and debates. After the presentation of the system study Radio Liberty interviewed UPAC Team Leader on 16 June ("Is there a light at the end of the corruption tunnel?") and Mirror of the Week published a long article on 18 June ("Bribery prone..."). The report of the system study (both analytical and sociological parts) was published in Ukrainian and English, and disseminated among government decision-makers.

Activity 2.1.6	Expert Opinions on the Draft Law on the Civil Service (draft of the Main Department for the Civil Service)
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CoE expert comments have been provided to the draft Law on the Civil ("State") Service in November 2008. The expert suggested to review the definitions of civil service and civil servants; to better define the functions and role of the Central Agency, and the rights/duties of civil servants (including the obligation to declare assets when entering the civil service, annually on service, and after retirement), to dissociate the grade within the civil service from the position of a civil servant and simplify the proposed system of seven ranks, and to increase the salaries of civil servants. The expert opinion was presented at the UPAC round-table on "Legislation on civil service and conflicts of interest" (Activity 2.1.2, December 2008), organised in cooperation with the Main Civil Service Department and the SIGMA programme.

Another draft law regulating the issue of ethics of public officials and conflicts of interest was elaborated by the working group supported by the Component Three of Millennium Challenge Corporation Program. It was submitted by eight MPs to the Verkhovna Rada (Parliament) in May 2009 as the draft Law on Rules of Professional Ethics in the Public Service and the Prevention of Conflicts of Interest (n°4420-1), together with the draft Law on Financial Control of the Public Service (assets disclosure) also elaborated by Component Three of MCC (n°4472).

The above mentioned draft laws regulating the issue of ethics of public officials/conflicts of interest, as well as assets disclosure, were in the centre of discussions during the Parliamentary Hearing "Anti-corruption aspects in ensuring transparency in the public sector" (held on 3 June 2009, Activity 3.1.7-3.1.8) jointly organised with other international anti-corruption projects (UPAC, Component Three of MCC, USAID and Parliamentary Development Project). Drago Kos, CoE expert, underlined the high quality of the draft laws on professional ethics and financial disclosure by public servants, and urged the members of the Committee to support and adopt these draft laws, which were of key importance in the reform of public administration and reduction of corruption risks. He reminded the participants that the adoption of such draft laws would allow Ukraine to implement relevant GRECO recommendations (focusing on the public administration reform) from the 1st and 2nd evaluation rounds. It would also establish a clear set of rules governing the administrative process and decision-making, as well as the new model code of conduct/ethics for public servants. These laws were submitted to Verkhovna Rada but have not yet been adopted.

Output 2.2 – 2.3 Risks of corruption reduced in the judiciary, Prokuratura (Prosecution) and police

Activity 2.2.1	Corruption Risk Assessment and Prevention Plans on the Judiciary: (System Study No. 2) (Development of methodology; system study analysis; identification of risk areas and their causes, and developing prevention proposals and plans.)
Activity 2.2.2	Presentation of methodology, report, and results of the System Study No. 2 Provision and training of standard guidelines and methodologies in carrying out periodical corruption risk assessments based on the System Study No. 2 provision of methodology on the implementation of prevention plans
Activity 2.3.1	Corruption Risk Assessment and Prevention Plans: System Study No. 3 on Corruption Risks within the bodies in charge of investigation of criminal offences (initially proposed as a system study within the system of the Ministry of Interior) (Development of methodology; system study analysis; identification of risk area and their causes; and developing prevention proposals and plans.) Corruption risks within the bodies in charge of investigation and prosecution of criminal offences were analysed in one single study (two separate studies initially planned)
Activity 2.3.2	Presentation of methodology, report, and results of the System Study No. 3 Provision and training of standard guidelines and methodologies in carrying out periodical corruption risk assessments based on the System Study No. 3 provision of methodology on the implementation of prevention plans
Activity 2.3.3	Corruption Risk Assessment and Prevention Plans in System Study No. 4 on corruption risks within the bodies in charge of prosecution of criminal offences (initially proposed as a system study within the System of Prosecutorial Services) (Development of methodology; system study analysis; identification of risk areas and their causes; and developing prevention proposals and plans.)
Activity 2.3.4	Presentation of results, report and methodology of System Study No. 4 Provision and training of standard guidelines and methodologies in carrying out periodical corruption risk assessments based on the System Study No. 4 provision of methodology on the implementation of prevention plans

Following the decision of the UPAC Steering Group meeting of March 2007, and the submission of a rough outline by the MoJ on "Corruption in Law Enforcement Agencies – Research Description" in June 2007, two Council of Europe experts elaborated the terms of reference for a comprehensive survey on corruption in the law enforcement agencies of Ukraine. The final version of the ToRs was

submitted to the MoJ in February 2008. Later, the ToRs were used for the preparation of the system study on corruption risks in the criminal process/criminal justice system of Ukraine (initially referred to as a system study of corruption risks in the bodies in charge of investigation and prosecution of criminal cases).

The system study on corruption risks in the criminal process, but also the system study on corruption risks in the judiciary, was launched in December 2008. Both studies were conducted by the Kharkiv Institute of Applied Humanitarian Research (analytical part), together with the company MA Consulting (sociological surveys part), and lasted until April 2009.

According to this system study, the corruption exists to the largest extent in the proceedings concerning commercial law cases, whereas the criminal and civil proceedings were also considered to be highly corruption-prone. The least corrupted appeared the administrative proceedings. The majority of interviewees from the general population stated that they would preferred to use corruption rather than lawful ways when dealing with judicial and law enforcement bodies also notifying that apart from bribes, the corruption was also exercised through the trading in influence. According to the system study findings the main factors contributing to such presence of corruption in the judiciary include: existence of a network of informal local contacts between judges, advocates, prosecutors, police, local authorities etc.; dependence of judges and prosecutors from superiors, local public officials and politicians; system of administration in courts (attribution of cases, management of documents); impunity for corruption offences of judges; absence of internal control of judicial ethics and gaps in legislation.

The main factors of corruption in the law enforcement include: performance ("statistics") indicators of law enforcement, low salaries of law enforcement officials, inefficient internal and external control of inquiry and pre-trial investigation bodies, network of informal contacts locally (with judges, advocates and prosecutors).

The results of the system study on corruption risks in the criminal process and the judiciary were presented during a round-table held in the Ministry of Justice on 26 June 2009, including a press conference at the UNIAN Information Agency. The press conference attracted considerable attention of the media and gave place to a wide range of interesting questions and debates. The report of the system study (both analytical and sociological parts) was published in Ukrainian and English and disseminated among government decision-makers. It is expected to be used in the process of criminal justice and judiciary reforms. The system study delivered includes a detailed analysis of the vulnerability to corruption of key sectors in the criminal process/criminal justice system. The above-mentioned report provides not only an analysis of the situation in these institutions, but also recommends actions to be undertaken. These recommendations, if properly used by the respective authorities, can be of significant importance in further efforts to inform and formulate reform policies in these areas.

Output 2.4 Conflicts of interest reduced in the political process

Activity 2.4.1	Round-table discussion on European standards of legislation, regulations and practices on financing of political parties and electoral campaigns in the light of European standards and good practices: Council of Europe guidelines "Financing political parties and election campaigns", (GRECO documents) related to immunities, lobbying and corruption of members of national assemblies.
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In November 2006, UPAC supported the participation of a Ukrainian delegation (MoJ, PGO, NCSD, PS, High Administrative Court) at the Council of Europe benchmark conference on political corruption which took place in Strasbourg. The purpose of the conference was to identify the risks that corruption poses to the future of democracy in Europe, to share experience and good practice to prevent corruption from undermining democracy, and to determine whether current anti-corruption standards are sufficient to meet the challenges ahead or whether additional work would be required by the Council of Europe and other organisations.

Activities 2.4.2, 2.4.3, 2.4.4, 2.4.5	Workshop to support disclosure, reporting, monitoring and enforcement of legislation and regulations on financing of political parties and electoral campaigns (follow-up to recommendations from GRECO);
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	<p>Elaboration of a Concept Paper and organisation of an expert workshop aimed at formulating amendments to legislation to enhance transparency of the system of funding of political parties and election campaigns;</p> <p>Elaboration of a study on international experience in funding of political parties and electoral campaigns based on the GRECO 3rd Evaluation Round reports (United Kingdom, Estonia, Iceland, Latvia, Luxembourg, Netherlands, Slovakia, Slovenia, Finland, Poland).</p>
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In July 2008, a two-day conference on prevention of political corruption (Activities 2.4.2, 2.4.3, 2.4.4, 2.4.5) was organised in co-operation with the Ministry of Justice and the Agency of Legislative Initiatives (which played a decisive role in the elaboration, in 2003, of the current law which formally introduced direct state funding of political parties¹⁰). The conference provided an opportunity to analyse the issues of funding of political parties, immunities, conflicts of interest, and lobbying. Special emphasis was put on the analysis of the effectiveness of the system of funding of political parties and electoral campaigns in the light of European standards and the perspective of the upcoming 3rd GRECO Evaluation Round, as well as on the analysis of the system of immunities taking into account the relevant GRECO recommendations from the 1st and 2nd Evaluation Rounds. Prior to this conference, a group of national experts (Agency of Legislative Initiatives) prepared technical papers providing a comprehensive review of the system of financing of political parties and electoral campaigns; the system of immunities; analysis of the national legal framework and European practices on conflicts of interest of elected representatives; and analysis of the system of lobbying in Ukraine. The presentations delivered provoked interesting discussions among the over 50 participants, including the MPs from different VR committees, political parties representatives, MoJ, CEC, MoF, NCSD, SP, CM, GPO, SSU and NGOs. The participants adopted detailed recommendations on how to:

- Improve transparency of funding of political parties and electoral campaigns;
- Simplify too complicated and lengthy procedures of lifting immunities to comply with recommendations 9 and 10 of the GRECO Report of the 1st and 2nd Evaluation Rounds;
- Improve the system of regulation of conflicts of interest and establish a comprehensive system of declarations of financial interests by public servants, ensuring proper institutional set-up and transparency;
- Improve access to public information and ensure transparency of lobbying.

Furthermore, a workshop to analyse the respective European standards and guidelines on financing political parties and election campaigns (incl. GRECO and Venice Commission documents) was held in cooperation with the MoJ in January 2008. The CoE expert presented a Technical Paper outlining the CoE Recommendation Rec (2003) 4 of the Committee of Ministers to member states on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and also elaborated on the GRECO 3rd Round Evaluation Questionnaire on Transparency of Political Party Funding. The expert recommended Ukrainian national experts to carry out a comprehensive assessment of legislation on financing of political parties and electoral campaigns focusing on supervision and enforcement, which would be subsequently reviewed by international experts. The discussion made clear that there were very serious gaps in the current system for regulating political funding in Ukraine. The participants indicated that the state funding of statutory activities of political parties was not introduced in practice in Ukraine (as initially foreseen by law). Moreover, there is no effective regulation of spending by third parties (entities which are not political parties) on election campaigns. The MoJ proposed to conduct a study/review of the national legislation on financing of political parties and electoral campaigns on compliance with European standards and GRECO requirements. The workshop was followed by a separate meeting of the CoE expert with MoJ officials concerning supervision and enforcement. The expert recommended to the authorities to conduct reforms step by step and also to create incentives (for parties concerned) to comply. The discussion gave the impression that the political parties were regarded as systematically corrupt and, therefore, would evade any tightening of the rules.

Following the UPAC Conference on Prevention of Political Corruption (July 2008) and on the request of MoJ, the draft Concept Paper on Amendments to Domestic Legislation in Order to Enhance Transparency of Funding of Political Parties and Electoral Campaigns was elaborated by the Agency (Laboratory) of Legislative Initiatives (October-November 2008). On the proposal of the

¹⁰ Law "On Amendments to the Legal Acts of Ukraine in Relation to the Introduction of State Financing of Political Parties in Ukraine", N 1349-IV, adopted by the Verkhovna Rada in November 2003.

MoJ, the project organised a two-day expert workshop (December 2008), which gathered representatives of the MoJ, CEC, VR COOC, Agency of Legislative Initiatives (ALA) and representatives of international projects to discuss the draft Concept Paper and propose provisions for the draft Law Amending Domestic Legislation on Funding of Political Parties and Electoral Campaigns. The participants reviewed the draft Concept Paper, recommended to restructure it, and agree the key points to be included in the draft law. Some of the very specific questions still have to be studied additionally in light of the GRECO requirements for the 3rd Evaluation Round. The MoJ has requested the ALA to prepare an additional (comparative) study on European practices in funding of political parties and electoral campaigns, based on the GRECO 3rd Evaluation Round reports. Following the discussions, the participants adopted detailed recommendations on how to improve the draft Concept (covering the issues of public funding of the political parties' statutory activities, donations, reporting to the relevant control bodies, electoral campaigns, role of the relevant control bodies, sanctions for violations). Following the Workshop, the ALA finalised the draft Concept Paper and prepared a comparative study on European experience in funding of political parties and electoral campaigns based on the GRECO 3rd Evaluation Round reports (United Kingdom, Estonia, Iceland, Latvia, Luxembourg, Netherlands, Slovakia, Slovenia, Finland, Poland). The draft concept and the study were shared with the MoJ in June 2009.

This concept, if properly used by the competent authorities, shall enable them to implement necessary reforms and better prepare for the 3rd Round of GRECO evaluations, thus fulfilling one of the project objectives, which is 'to reduce conflict of interests in the political process'¹¹.

The GRECO 3rd Round Evaluation will be a key tool to measure the reforms conducted and recommend further improvements and reforms to be passed. In view of the upcoming GRECO 3rd Round Evaluation, UPAC translated, into Ukrainian, the Council of Europe's "Financing of Political Parties and Election Campaigns-Guidelines"¹² publication.

Output 2.5 Capacities enhanced at the level of local and regional authorities for the prevention of corruption and strengthening of integrity

Activities 2.5.1 – 2.5.10	Support the drafting of a short and structured National Handbook on ethics in local government; raise interest among local government stakeholders and create a Steering Group for supporting public ethics in local government and organise its first meeting; organise the first meeting of the Steering Group to revise the National Handbook and to revise and adopt the National Score Card for the benchmarking exercise; organise the first round of self-assessments and preparation of the National Benchmark on public ethics at local level; selection and training to use the peer review and benchmarking process for 15 peer reviewers; organise peer reviews in the 5 pilot municipalities to evaluate their experience in view of its improvement and, if appropriate, dissemination and replication throughout Ukraine; support the preparation and implementation of Corruption Prevention Plans in the 5 pilot municipalities; revise the National Handbook on public ethics in the light of the results of the Benchmarking exercise; organise the Second Steering Group meeting to adopt the revised National Handbook; publish the revised National Handbook.
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The activities of this output were implemented in cooperation with the Club of Mayors (NGO) and the Department of Local and Regional Democracy and Good Governance (Directorate of Democratic Institutions) of the CoE. A separate Steering Group was created to coordinate the implementation of Output 2.5 activities and raise the interest of local government stakeholders. The two main documents "The European Score Card" and "On the Implementation of the Model Initiatives Package on Public Ethics at Local and Regional Levels" were adapted to local circumstances and disseminated to all municipalities.

The first meeting of the Steering Group (March 2007) examined and approved the methodology and action plan for the relevant activities, revised the draft National Handbook, revised and adopted the National Score Card and approved five pilot municipalities to be involved in the output activities concerning self-assessment and preparation of National Benchmark on public ethics at local level.

¹¹ Project Description of Action, page 22 [http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/upac/344-upac-d-tor8%20\(June%2006\)%20final.PDF](http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/upac/344-upac-d-tor8%20(June%2006)%20final.PDF)

¹² Council of Europe Publishing "Financing of Political Parties and Election Campaigns-Guidelines", Ingrid Van Biezen, University of Birmingham, ISBN (ISBN 92-871-5356-6), December 2003.

The National Handbook, a detailed and structured non-narrative document, presented the situation in Ukraine concerning the status of local elected representatives, funding of political parties at local level, control and audit of local authorities' activities, status of local civil servants and relations of the local authorities with the private sector. Following the suggestion of the Club of Mayors five municipalities were chosen on the basis of the interest expressed to be involved in the pilot project activities: Artemivsk (Donetsk oblast), Vinnytsiya, Kam'ianets – Podilskiy (Khmelnitskyi oblast), Slavutych (Kyiv oblast), Trostianets (Sumy oblast). None of these towns, except Vinnytsiya, had a Code of Ethics in their municipalities and therefore expressed a great interest in participating in the programme. Taking inspiration from the National Handbook and Score Card and from the experience of Vinnytsa, the other four participating municipalities (Trostianets, Artemivsk, Slavutych and Kamyanets-Podilskiy) also developed and adopted codes of conduct during the period of July-August 2007. Moreover, participating municipalities expressed their interest in setting up Ethics Committees composed of a majority of non-Council members. The role of these Committees would be to receive complaints, to investigate them and to make recommendations to the Council. The participants asked the CoE to support the preparation of a model Code of Conduct for local elected officials for Ukraine, based on the codes already prepared and on the experience of other countries, and also a Model Regulation for the Ethics Committees. This Code could either be adopted in the form of a law (the Government has marked its interest for this solution) or sent by the associations of local authorities to their members with an invitation to prepare and adopt similar codes. The Centre of Expertise¹³ has prepared this model Code of Conduct and the model Regulations for the Ethics Committees and presented them at the second meeting of the Steering Group (January 2008). The Second Steering Committee meeting finalised and endorsed the National Handbook on Public Ethics at Local Level, which was published in May 2008.

Moreover, the first round of self-assessments exercise (based on the Ukrainian Score Card) by the above-mentioned municipalities was conducted in March and April 2007 following the first Steering Committee meeting. The municipalities accepted to disclose their self-assessment forms (Score Cards filled in) and share them with all participating municipalities. It was also published on the website of the Centre of Expertise (www.coe.int/local). On the basis of the self-assessment forms, the National Benchmark (average scores) was circulated (end of April 2007). The total average score obtained by the five participating municipalities was 626 out of a possible 1086 points, or 57% (as an example, in Spain this score was around 73 %).

As a follow up to the self-assessment exercise the training concept for peer reviewers was developed. The training of the peer reviewers was performed during a two-day seminar organised on 31 August 2007. The participating municipalities continued to use the peer review methodology on other topics throughout the project lifetime while the Centre for Expertise has also prepared a new programme of activities to be undertaken in 2010 to further support municipalities and regions to run the self-assessment/benchmarking/peer review cycles including a new round of peer reviews aimed at measuring changes since 2007.

Output 2.6 Public participation in the anti-corruption effort promoted

Activity 2.6.1	Develop the terms of reference for a grant programme open to NGOs and other civil society organisations aimed at promoting public involvement in the anti-corruption effort
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UPAC ToRs identified the need to consult with the public and solicit their feedback and buy-in for its work to be successful. The civil society groups were not considered as primary target groups and beneficiaries of project activities, except through Output 2.5, and indirectly, Output 2.6. Output 2.5 focused on disseminating 'The European Score Card' and 'On the Implementation of the Model Initiatives Package on Public Ethics at Local and Regional Levels' to five municipalities. It was implemented in cooperation with national associations of regional and local authorities and in particular with the Club of Mayors (NGO). Specifically, Activity 2.6.1 required development of the terms of reference for a grant programme to support civil society in anti-corruption efforts. The UPAC Team Leader elaborated the terms of reference for the grant scheme in coordination with the competent project manager from Delegation of the European Union. The work was finalised in January 2007, but a decision was taken at the level of the DEU not to proceed with the grant scheme.

¹³ Centre of Expertise for Local Government Reform is a part of the Directorate of Democratic Institutions - Directorate General of Democracy and Political Affairs of the Council of Europe

However, the project team showed flexibility, and in the course of implementation involved civil society groups to a greater extent than initially planned. A round-table called "Effectiveness of the national anti-corruption policy, role of the civil society and private sector" was held in October 2008. It contributed to strengthening the role of the civil society and private sector in national anti-corruption efforts (in particular through an exchange of good practices), reviewing the effectiveness of the national anti-corruption strategy and action plan, raising awareness on ongoing reforms and GRECO recommendations. The project actively involved a vast number of national NGOs and also international anti-corruption projects (including the USAID/MCC Action project).

UPAC has also involved Ukrainian non-governmental think tanks in the implementation of project activities. The Agency of Legislative Initiatives played a crucial role in the implementation of activities under Output 2.4 on prevention of political corruption, and in particular on the issue of prevention of corruption in financing of political parties and electoral campaigns. The Centre for Political and Legal Reforms was in charge of the system study of corruption risks in public administration (administrative services, control and supervision) and for submitting an expert opinion on the draft legal acts needed in aligning the domestic legislation with the "anti-corruption law package". The Kharkiv Institute of Applied Humanitarian Research was in charge of the system studies of corruption risks in the criminal process and the judiciary, a series of regional seminars on the "Anti-corruption Law Package" for prosecutors and judges and commentaries to the laws of the package (Act. 1.3.1 as revised by the last Steering Committee of 25 June 2009). The sociological surveys for the system studies were conducted by the Democratic Initiatives Foundation and MA Consulting, a national NGO/think tank and a company, respectively. The project has actively involved experts from the Basel Institute on Governance for expert advice for the elaboration of methodologies and implementation of the system studies on corruption risks, the elaboration and implementation of 3 module pilot training sessions on detection, investigation and prosecution of corruption; expert advice to the working group on finalisation of laws of the "Anti-corruption Law Package"; expert involvement in the round-table "Effectiveness of the National anticorruption policy, role of the civil society and private sector". The project has involved civil society experts from Georgia and Moldova (Center for the Analysis and Prevention of Corruption of Moldova and Association of Young Lawyers of Georgia, round-table "Effectiveness of the National anticorruption policy, role of the civil society and private sector"). Apart from being engaged to provide certain expert opinions (as mentioned above) the national civil society representatives were also participating and were providing their inputs practically in almost every UPAC project activity.

Saferworld, an independent international non-governmental organisation, prepared a case study "Public security needs and perceptions in Ukraine", which focused on two EU-funded projects in Ukraine, including UPAC (the other being EUBAM – the European Union Border Assistance Mission to Moldova and Ukraine). The Saferworld case study report praised UPAC for focusing as much as possible on the involvement of the private sector and civil society. The UPAC team participated in the conference organised by Saferworld in Odessa, where their report was presented (March 2009).

Project objective 3: To strengthen the anti-corruption legal framework and effective and impartial enforcement of the criminal legislation on corruption

Output 3.1 Draft laws available to improve the prevention and control of corruption in accordance with the Criminal and Civil Law Conventions of the Council of Europe (ETS 173/174), the United Nations Convention against Corruption and other relevant international legal instruments

Activity 3.1.1	Expert Opinion and Review of coherence of Draft Concept of Administrative Reform with European anti-corruption standards
Activity 3.1.2	Expert Opinion and Review of the Draft Concept of the Reform of Criminal Justice and Law Enforcement Agencies in line with European anti-corruption standards

Since SIGMA experts have provided comments on the draft Concept of Public Administration reform in March 2009, and following consultations with the EU Delegation, it was decided to drop this activity in order to avoid overlapping with the SIGMA project.

The draft "Concept of the State Policy in the Sphere of Criminal Justice and Law Enforcement in Ukraine" was assessed by CoE experts in May 2007. This Concept was drafted by the National Commission for the Strengthening of Democracy (NCSD) and the Rule of Law. CoE experts' comments were taken into consideration when the final draft of the Concept was submitted. The most important novelty to the draft Concept was the inclusion of the concept of corporate criminal liability. The NCSD supported the Concept for Criminal Justice Reform in February 2008. It has been approved by Decree n°311 of the President of Ukraine in April 2008.

Activity 3.1.3	Expert Opinion and Review on the coherence of: - Draft Law on the Judiciary; and - Draft Law on the Status of Judges, with European anti-corruption standards
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Expert advice and an opinion to the draft Law on Judiciary and draft Law on the Status of Judges¹⁴ were delivered in October 2006, following requests from the MoJ and the National Commission for the Strengthening of Democracy and the Rule of Law. The lack of institutional independence of the judiciary; inadequate transparency and accountability provisions in a variety of decision-making processes, including selection, appointment and discipline of judges; overlapping, overly complicated governing structures within the judiciary; the lack of statutory guarantees for individual judges' independence; and the lack of clear performance evaluation criteria for judges were the issues that needed further improvements. The USAID Rule of Law Project also provided an expert opinion on these draft laws; therefore a round-table was held in Kyiv (October 2006) in cooperation with the ROL Project to discuss the draft laws and the expert opinions. The participants included representatives from the Supreme Court, the MoJ, Secretariat of the President of Ukraine, international projects and organisations, and the media. The quality of CoE expertise was unanimously lauded by participants and partners. CoE expertise was complemented by comments from Justice John Dooley of Vermont/USA, who provided an American comparative perspective to the issues at stake. Closing remarks were given by Mr Lavrynovych, Minister of Justice and Mr Holovatyj, Head of the National Commission for the Strengthening of Democracy and the Rule of Law. The UPAC Team Leader had separate meetings with Mr Holovatyj, and with members of the presidential secretariat to promote the expert's findings. As a result, the drafters of the legislation held a closed door session on 25 and 26 November 2006 to incorporate the recommendations by the Council of Europe. The Presidential Secretariat also asked for follow-up assistance in order to convince MPs to adopt this legislation. CoE follow-up assistance on the issue of reform of judiciary was provided through another joint EU/CoE Project "Transparency and Efficiency of Judicial System of Ukraine", which started in August 2008. The unified draft Law on the Judiciary and Status of Judges has been submitted to the Verkhovna Rada (Parliament) for adoption.

The National Commission for the Strengthening of Democracy and the Rule of Law also elaborated a new Criminal Procedure Code of Ukraine. This draft was also a subject to CoE expertise (September 2009). The draft Law has generally been positively assessed, while certain shortcomings were underlined. The Cabinet of Ministers has submitted the draft CPC to public discussion and is planning to propose its adoption in the near future.

Activity 3.1.5	Expert opinion on the Draft Amendments on the Confiscation of Crime Proceeds provisions; RTD on the expert opinion with regard to the draft amendments and the impact in the legal system as well as their implementation in practice
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In August-September 2008, UPAC provided an expert opinion and a framework for discussion on the draft Law on Amendments to the Criminal and Criminal Procedure Code¹⁵ of Ukraine concerning improvement of confiscation procedures provided. GRECO recommended that Ukraine (1st and 2nd Rounds Evaluation Report) "introduce regulations with respect to confiscation and seizure of proceeds from crime which could make it possible to apply measures with regard to direct as well as indirect (converted) proceeds, the value of the proceeds and in respect of proceeds held by a third party in conformity with the Criminal Law Convention on Corruption (ETS 173)." However, measures establishing adequate grounds for confiscation of property obtained through or with criminal offences must be in accordance with the basic human rights standards and in accordance with

¹⁴ The unified draft law on the judiciary and statutes of judges is under consideration of the Verkhovna Rada (Parliament).

¹⁵ The draft Law on amendments to the Criminal and Criminal Procedure Code of Ukraine regarding improvement of confiscation procedures was submitted for consideration to the Verkhovna Rada (Parliament).

standards and principles of criminal and criminal procedure codes. The CoE expert opinion recommended to clearly define confiscation and provisional measures; to delete any references to "forfeiture" defined in the Criminal Code as a punishment; leave provisions in the CC dealing with forfeiture and confiscation for individual offences; to make a clear distinction in the CPC between confiscation and forfeiture, on one hand, and securing the objects related to the commission of a criminal offence, on the other. These comments were partly taken into account when the revised draft law was finalised. This draft law is still pending in the Verkhovna Rada.

The round-table to discuss legislative and institutional reforms to enhance the current system of identification, seizure and confiscation of proceeds from crime, in particular from corruption, was organised jointly with the Embassy of France in Ukraine and MoJ (September 2008). The participants (including representatives of MoJ, MoI, AP, AJ, FIU) pointed out difficulties in detecting and investigating corruption offences (incl. collection of evidence), as well as the lack of specialisation of police, prosecutors and judges in corruption matters. They also discussed the lack of coordination among law enforcement authorities and between law enforcement bodies and the State Committee of Financial Monitoring (FIU). The participants called for the improvement of the current legal framework by introducing a clear definition of bribery offences, proceeds from crime, instrumentalities and proper regulation of provisional measures and confiscation. It was underlined that an effective assets confiscation regime requires not only adequate legislation (incl. regulations) but also specialisation, training and funding. Based on presented experiences from Belgium and France, the participants proposed to enhance specialisation in detecting, investigating and prosecuting corruption offences. Following the CoE expert presentation, the participants proposed to create a specialised body in charge of seizure and confiscation of proceeds from crime in Ukraine with adequate funding and well-trained personnel.

Besides this roundtable, the UPAC team shared with the Ministry of Justice the European Commission report "Assessing the effectiveness of EU Member States' practices in the identification, tracing, freezing and confiscation of criminal assets" (prepared by Directorate-General of Justice, Freedom and Security). This was done following the request from the Ministry of Justice to prepare a study of models of specialised bodies in charge of confiscation and seizure of proceeds from crime. The Ministry of Justice has carefully studied this document and is, at the time of writing of this report, drafting a legal act to regulate the confiscation matters.

Activities 3.1.7 – 3.1.8	Expert consultations and comments on the proposals of change to the draft laws and opinions before the 2nd reading; Participation in the hearings in the Committee against Organised Crime and Corruption of the Verkhovna Rada on the topic "Anti-corruption policy and practice: problems of the legislative framework"; Expert support/opinion in aligning the draft Law of Ukraine "On Public Service" (new version) with the Anti-corruption Law Package; Support to publicising the contents of the Anti-corruption Law Package.
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The "Anti-corruption Law Package" including three laws (Law on the Principles of Prevention and Counteraction of Corruption; Law on the Responsibility of Legal Persons for Corruption Offences and Law on Amending Certain Legal Acts Regarding Responsibility for Corruption Offences) was originally submitted by the President of Ukraine in September of 2006 to the Verkhovna Rada (VR). The original drafts were prepared by MoJ to implement relevant provisions of the Action Plan on Honouring of Ukraine's Obligations and Commitments to the Council of Europe. In the VR, the draft laws were revised by the profile Committee on Combating Organised Crime and Corruption – COCC - and later resubmitted by individual MPs. The "Anti-corruption Law Package" aimed at bringing Ukrainian national legislation in line with international standards and its commitments in the area of anti-corruption. According to the Laws of Ukraine on Ratification of UN Convention against Corruption from 18 October 2006 (251-V), and Law on Ratification of the Criminal Law Convention on Corruption from 18 October 2006 (252-V), these Conventions will enter into force in Ukraine with the entry into force of the Anti-corruption Package. The Civil Law Convention on Corruption of the Council of Europe was ratified by Ukraine in September 2005 and entered into force in 2006.

UPAC provided extensive and continuous assistance to the improvement of the draft laws of the package. It provided a series of detailed expert opinions on each of the three draft laws in 2006 and 2008. The VR adopted the package in the first reading in December 2006 and acknowledged the need for certain redrafting of the texts. The Working Group within the Standing Committee was created to come up with changes. CoE experts assessed the draft Law on the Principles for the

Prevention and Counteraction of Corruption, draft Law on the Responsibility of Legal Persons for Corruption Offences and the draft Law on Amendments of Certain Legal Acts Regarding Responsibility for Corruption Offences in December-January 2006/2007. The three draft laws of the package and the CoE expert opinions were discussed at the round-table held in the VR in January 2007 in cooperation with the VR Committee on Combating Organised Crime and Corruption. The CoE experts presented their findings and concerns to a group of MPs, their assistants and technical advisors, NGOs and the media.

As a part of the activities dedicated to preparation of this package of laws, in March 2007, UPAC supported the participation of three Ukrainian experts at a regional seminar in Almaty/Kazakhstan that dealt with the issue of corporate liability for corruption offences.

Also, in March 2008, UPAC provided all MPs, members of the VR Committee on Combating Organised Crime and Corruption, with booklets (in Ukrainian language) containing the GRECO Evaluation Report of March 2007, a synopsis of UPAC activities, all CoE expert opinions provided through UPAC, and a translation of some materials and activity reports carried out within the project's framework.

CoE expert comments concerning the language of the draft Law On the Principles of Prevention and Counteraction of Corruption proposed by Mr Olexander Riabeka (MP) were provided in April 2008. Following this expertise, the UPAC Team continued to assist MPs, and in particular the VR Committee on Combating Organised Crime and Corruption, and the relevant Working Group to finalise the draft laws of the package for the 2nd reading through inclusion of the CoE expert comments. Moreover, the project supported the translation (into Ukrainian language) of the explanatory reports to the CoE Criminal and Civil Law Conventions on Corruption and also supported the Parliamentary hearing "Anti-corruption policy and practice: problems of the legislative framework" in the VR in June 2008. Furthermore, booklets with relevant international and national documents (in particular CoE Conventions and GRECO recommendations) were disseminated to MPs. The Parliamentary hearing focused on draft laws of the "package". A CoE technical paper on "Transposing international standards into domestic legislation—proposals for Ukraine", which elaborates the importance of incorporating international anti-corruption standards into domestic legislation to effectively combat corruption and to adopt a new anti-corruption framework for Ukraine, was presented. This event, which was broadcast by the Parliament TV channel, was attended by MPs, MoJ, Mol, PGO, international experts, civil society and private sector representatives. The participants called for submission of the draft laws of the "anti-corruption package" for the 2nd reading following improvements suggested by the Council of Europe and national experts.

In June 2008, CoE expert comments were provided to the draft laws of the "Anti-corruption Package", which had been prepared for the 2nd reading. While further improvements made to the draft Law on the Principles of Prevention and Counteraction of Corruption were considered relevant, certain other provisions needed further improvements: the concept of conflicts of interest should be defined as a real but also apparent contradiction between individual and public interests; "corruption" should be understood clearly as both receiving of unlawful benefits and acceptance of promises or offers of such benefits; provisions about specialised institution(s) should be included, at least regarding preventive anti-corruption bodies; the right and the duty of all employees of public authorities, legal entities and their structural units to notify special authorities about their suspicions concerning behaviour of their superiors should be provided; local elected representatives ("deputies") should be included in the general system of restrictions. Also, the expert underlined that the draft Law on Liability of Legal Entities for Corruption Offences also needed further improvement. In the expert's opinion, one piece of legislation should cover liability of legal entities for all criminal offences; legal entities subject to private law and fully maintained at the expense of the State or local budgets should not be excluded from the scope of the law; the list of offences serving as the ground for liability of legal persons has to be extended (currently only 5 articles of the Criminal Code are mentioned); owners should have formal managerial positions and tasks in order to fall under the scope of the law; effective court sentence for a physical person should not be a pre-condition for initiation of proceedings against a legal entity, a possibility should exist to conduct in parallel proceedings against physical and legal persons; the term of 15 days for considering a case against a legal entity is too short, the possibility of an extension should be added. The expert underlined that liability of legal persons is a mandatory international standard. The CoE expert deplored that many of the observations, comments and remarks made by CoE expert Marin Mrcela to a previous version of the draft Law on Amending Certain Legislative Acts Regarding Liability for Corruption Offences had not been taken into account. The expert suggested the authorities to carefully review

his and Mr Mrcela's remarks and to ensure compliance with relevant international standards: mandatory criminalisation of active and passive bribery in both public and private sectors (covering "promising" and "offers"), criminalisation of obstruction to justice and of money-laundering. The expert indicated that abuse of authority should cover omissions (failure to perform an act) and receiving benefits for a legal person (entity). There should be a possibility to release the persons having granted or conveyed the undue benefits if the latter voluntarily report corruption to the authorities. The expert recommended deleting Art. 27-1 of the Criminal Procedure Code, as it contradicts provisions on mandatory prosecution. This article specifies that a criminal case may be initiated exclusively on request from the (co-)owner of a legal entity of private law that suffered damage. Furthermore, the expert praised the proposed changes to the Code of Administrative Offences and suggested some minor improvements.

In February 2009, the UPAC Team Leader and a CoE expert participated in the working session of the competent expert group on the "Anti-corruption Law Package", organised by the VR Committee on Combating Organised Crime and Corruption. The meeting was organised to discuss the criticism raised by the Main Legal Department of the Verkhovna Rada regarding the "Anti-corruption Law Package". Solutions were found for almost all controversial points raised at an earlier stage (in particular during the VR Hearing in June 2008). Finally, the Main Legal Department and almost all those who intervened supported the draft laws that are part of the package and recommended them for adoption in the 2nd reading. Moreover, the awareness of all stakeholders, including MPs, improved on a number of issues, such as corporate liability and criminalisation of corruption offences as set by international standards.

The "Anti-corruption Law Package" was among the main issues discussed at the meetings of Mr Drago Kos, President of GRECO, with the President, the Prime Minister, and the Minister of Justice of Ukraine (June 2009). This mission was organised through UPAC. The Prime Minister indicated that she would address the Speaker of the Verkhovna Rada to include the "Anti-corruption Law Package" on the agenda of the VR. In early June 2009, Mr Kos met leaders of parliamentary fractions in VR (Bloc Lytvyna, ByuT faction, Our Ukraine – National Self-Defence faction, Party of Regions' faction, Communist Party faction) to discuss the reform of the anti-corruption policy and legislation, in particular the adoption of the "Anti-Corruption Law Package". Mr Kos participated in the meeting of the inter-institutional working group on combating corruption during which he intervened on the topic "National anti-corruption policy and interagency coordination especially between law enforcement agencies – GRECO recommendations and best practices". Finally, the President of GRECO took part in the parliamentary hearing "Anti-corruption aspects in ensuring transparency in the public sector" organised by the VR Committee on Combating Organised Crime and Corruption and supported jointly by UPAC, Component Three of MCC Program and USAID, Parliamentary Development Project. In the course of his mission in Ukraine, Mr Kos and the UPAC team leader participated in "Schuster Live" TV show on Ukraina TV channel to inform the general public on the state of corruption in Ukraine and to discuss anti-corruption measures.

The Verkhovna Rada (Parliament) of Ukraine adopted all three laws of the "Anti-corruption Package" on 11 June 2009. Some of the provisions of the laws (including those concerning illicit enrichment) have been redrafted before the adoption to ensure a positive vote. In overall, CoE experts' comments were partly taken into consideration in the adopted texts, while the most significant improvement was made in the "framework" law. Although the President of Ukraine has signed the package of Anti-corruption Package") on 14 July 2009, their entry into force was subsequently postponed to 1 April 2010 by another law adopted in late December 2009.

Law on Principles for Prevention and Combating Corruption (№ 1506-VI) provides the basis for the preventing and countering corruption. Some of its provisions need to be detailed in specific laws/regulations – such as for the "conflicts of interest" concept introduced by this law (a special draft Law on Conflicts of Interest is pending in the VR/Parliament). Other provisions concern limitations imposed on persons covered by the law (including limitations on gifts, on employment of close relatives, on persons which have resigned, etc.), on a procedure of special checks, on financial control of public officials, on anti-corruption expertise of the draft legislation, codes of conduct etc. The law contains two general articles regarding liability. The law covers also the issues of recovery of damage, seizure of corruption proceeds and international cooperation.

Law on Introducing Amendments into Some Legislative Acts Regarding Liability for Corruption Offences (№1508-VI) introduces amendments to the Criminal, Criminal Procedure and Administrative Offences Codes of Ukraine. It was developed in particular to ensure that corruption acts are criminalised as required by international standards (novelties include, inter alia, criminalisation of corruption in the private sector, criminalisation of proposing a bribe, criminalisation

of trading in influence), and to ensure a clearer division between criminal and administrative liability for corruption.

Law on Liability of Legal Entities for Corruption Offences N°1507-VI is aimed at introducing the absolutely new, within the Ukrainian legal tradition, concept of corporate liability for corruption offences. It also defines corporate liability, lists the categories of offences for which such liability is introduced, and defines the order of proceedings in such cases. Corporate liability for corruption offences is an international standard regulated in the CoE Criminal Law Convention on Corruption, the 2nd Additional Protocol to the Convention on the Protection of the European Communities' Financial Interest, the OECD Convention on Combating Bribery of Foreign Public Officials, the UN Convention against Corruption and the UN Convention against Transnational Organised Crime.

Following the adoption of these laws, UPAC supported the publication of their texts (September-December 2009), jointly with Component Three of Millennium Challenge Corporation Programme, USAID, Parliamentary Development Project and ABA/ROLI.

Moreover, a series of 12 seminars was organised in the framework of UPAC, in cooperation with the Kharkiv Institute of Applied Humanitarian Research and the MoJ to raise awareness on laws of the "Anti-corruption Package" among prosecutors and judges (Activity 1.3.1 as amended following the Steering Committee meeting of June 2009). The seminars were held in Simferopol, Zaporizhia, Kharkiv and Odessa (October-November 2009) and in Lviv and Kyiv (December 2009). The GPO, AP, Council of Judges and local appellate courts supported the regional seminars moderated by leading Ukrainian legal experts (incl. those from the Supreme Court and the National Academy of the Prokuratura). Furthermore, the commentaries on the texts of laws of the "Anti-corruption Law Package" have been prepared by a working group of legal experts - including judges of the Supreme Court, experts from the MoJ, and AP. These commentaries will be included into a manual, which should also comprise relevant national and international legal documents. The manual and commentaries are expected to be published and distributed through the MoJ. The MoJ will also conduct consultations and coordination with the GAAP on the issue of commentaries to the laws and their formalisation.

On the MoJ's request, and within the project's framework, experts from the Centre for Political and Legal Reforms provided a legal opinion on the draft legal acts aimed at aligning the domestic legislation with the "Anti-corruption Law Package".

Output 3.2 Judges trained and specialised in adjudication of corruption, law enforcement officials trained in the investigation and prosecution of corruption offences

Activity 3.2.1	Multidisciplinary Conference on issues related to investigation and prosecution of corruption-related offences (challenges, national practices and foreign experience, case studies, pro-active and multidisciplinary approach, participation of relevant bodies, including supreme audit institutions)
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The conference "Corruption offences: Detection, Investigation, Prosecution and Adjudication" organised by UPAC in May 2009 was held in cooperation with the National Academy of the Prokuratura. It provided an opportunity to discuss the political, social and legal obstacles to the effective prevention and repression of corruption. More than 80 representatives of law enforcement agencies, judges and academic staff, as well as Council of Europe and OECD experts discussed the issues of specialisation, multidisciplinary approach and interagency cooperation in detecting, investigating, prosecuting and adjudicating corruption crimes. The impact of the criminal justice reform in Ukraine on prosecution of corruption and the introduction of specialised training programmes and methodologies pursuant to international best practices were also debated. At the end of the conference, the participants welcomed the recent appointment of the GAAP, recommended the adoption the "Anti-corruption Law Package", the reform of the criminal justice in accordance with the Concept of Criminal Justice Reform, reform of the criminal procedure and legislation on the Prosecutor's Office in accordance with the conclusions of the Venice Commission; supported the need for specialisation in combating corruption; emphasised the need to establish a legislative framework and financial support for the system of protection of witnesses and justice collaborators; highlighted the need to address the issues of the use of special investigative means in the light of the European Convention on Human Rights and ECHR case law; supported the setting-up of the registry of confiscated proceeds from crime, considered as necessary to introduce a special training on detection and investigation of corruption offences, as well as to ensure the appropriate training of judges dealing with "corruption cases"; stressed the importance of building

international cooperation in combating corruption, exchange experiences and best practices between countries; underlined the necessity to strengthen civil society anti-corruption monitoring.

Activity 3.2.2	Debriefing on models of anti-corruption bodies ¹⁶
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Comprehensive tables containing relevant details concerning the different models of anti-corruption bodies (French, Slovenian and Croatian) were prepared and submitted to the relevant counterparts in December 2008.

Activities 3.2.3 – 3.2.4 – 3.2.5 – 3.2.6	Module trainings on detection, investigation and prosecution of corruption offences; Expert opinion on and publication of the Manual on Detection of corruption-related offences (elaborated by Mol)
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The GRECO Evaluation Report from the 1st and 2nd Evaluation Rounds (adopted in March 2007) emphasised the need to enhance the specialisation of law enforcement bodies in detecting and investigating all forms of corruption, as well as to strengthen interagency coordination between them in order to increase the effectiveness of detection and investigation of corruption offences (4th and 6th Recommendations).

Project activities under Output 3.2 have contributed to strengthening the capacities of the Prokuratura and Mol bodies, as well as SCFM/FIU in the field of detection and investigation of corruption offences, and also in strengthening the capacities of judges in adjudicating corruption cases. The General Prosecutor's Office (GPO) and Academy of Prokuratura indicated that they were planning to use the model of pilot interactive training sessions as well as the training manual for prosecutors for training on a permanent basis.

A training seminar on detection and investigation of corruption offences was held in Kyiv in cooperation with Mol (March 2009). Prior to this seminar, the CoE experts reviewed the Training Manual on Detection of Corruption-related Offences elaborated by the Mol. The seminar contributed to improve the functional capacities of Mol specialised units against corruption in detecting and investigating corruption offences (central and regional offices). Furthermore, an opportunity was given to discuss cooperation and coordination among the authorities involved in the fight against corruption. Several case studies were also presented. The training seminar gathered around 80 police officers from both Kyiv and the regions, as well as four CoE experts, representatives of central and regional offices of the Anti-corruption Bureau (Main Department on Combating Organised Crime, Mol), the State Committee for Financial Monitoring (FIU of Ukraine) and the GPO and international projects. Finally, a Training Manual on Detection and Prevention of Corruption Offences elaborated by the Ministry of Interior has been disseminated to the participants of the seminar. This Manual has been reviewed by Council of Europe experts, and most of their comments shall be included in the Manual's updated version foreseen to be finalised and published in 2010.

Two module pilot training sessions on detection, investigation and prosecution of corruption offences were held in cooperation with the Academy of the Prokuratura and the OECD Project "Strengthening the capacity to investigate and prosecute corruption in Ukraine", in April and May 2009. The training sessions were prepared and conducted by experts from the Basel Institute on Governance and targeted prosecutors-investigators. The training sessions simulated the investigation of a corruption case with a special emphasis on circumstantial evidence and mutual legal assistance mechanisms. Trainings were aimed at improving the capacities of district-level prosecutors in investigating corruption offences and at strengthening the quality of advanced training in this field. The methods and techniques of detection of corruption offences identified by various international standards were analysed. CoE experts explained the critical need for identifying and understanding the elements of the crime and including the money laundering processes, schemes and concepts as well as official and non-official types of mutual legal assistance necessary to be followed in the context of corruption investigations. The training sessions also represented a practical exercise regarding the use of existing instruments on mutual legal assistance and its informal methods of functioning.

¹⁶ Activity 3.2.2 was originally foreseen to review the 'effectiveness of bodies responsible for pre-trial investigations and prosecution of corruption offences' but was redesigned into 'debriefing on models of anti-corruption bodies' following the study visit held in May 2008 (activity 1.2.2) and decision of the Steering Committee

A five-day interactive pilot training session on detection, investigation and prosecution of corruption was held in September 2009 in Lviv. The MOLI UA 2 project contributed to the preparation of this event in cooperation with experts from the Basel Institute of Governance. The event contributed to improving the capacities of SCFM/FIU and the Prokuratura at central and regional levels in detecting, investigating and prosecuting corruption and money laundering-related offences. It gathered professionals from 7 regions of Western Ukraine and Kyiv. The session covered the detection and investigation stages in line with international standards and best practices, GRECO and MONEYVAL recommendations and the Ukrainian legislative framework (focusing also on changes introduced by the "Anti-corruption Package of Laws").

The module pilot training sessions served as the basis for the development of a Training Manual on Investigation and Prosecution of Corruption Crimes, carried out in co-operation with the OECD anti-corruption project. The terms of reference for the preparation of the Manual have been jointly defined by the two projects. The draft Manual consists of three main parts focusing on the international standards and the Ukrainian system of investigation and prosecution of corruption, the methods for investigation and prosecution of corruption (based on a case study) and a training methodology.

In September 2009, the UPAC and OECD anti-corruption project teams organised a series of working meetings between experts from the Basel Institute on Governance and Ukrainian officials from the Prokuratura (representatives of the Main Investigative Department, Department on Supervision of the Law on Combating Corruption and the International Cooperation Department) and the Academy of the Prokuratura (Deputy Rector and representative of the International Cooperation Department), in view of preparing the training manual and course on detection, investigation and prosecution of corruption-related offences for prosecutors. Additional areas for co-operation projects have been discussed in view of future possible follow-up to existing technical assistance projects. Representatives of the Prokuratura and the National Academy have expressed their interest in continued cooperation on the development of the specialised anti-corruption course and of the manual. They have highly appreciated the format of the first two UPAC model trainings and supported the use of the methodology for a training that would be organised on a permanent basis and delivered by the National Academy.

Moreover, the module pilot training sessions were also presented during the conference "Corruption Offences: Detection, Investigation, Prosecution and Adjudication" organised by UPAC in May 2009, held in cooperation with the National Academy of the Prokuratura.

The module training developed in the framework of UPAC represents an important and useful tool for the National Academy of the Prokuratura in conducting further trainings, thus ensuring sustainability of what has been delivered. On the other hand, through the activities of this Output (3.2) a number of Ukrainian judicial and law-enforcement agents were trained and became familiar with international tendencies and standards in combating corruption. They have been also provided an opportunity to comment and exchange views on novelties in the national legal framework. It can be said that, through the above-mentioned activities, UPAC has achieved one of its main objectives – to strengthen the institutional capacities to investigate and prosecute corruption cases.

10. CONCLUSIONS AND RECOMMENDATIONS

The joint EU/Council of Europe anti-corruption project of technical assistance UPAC ("Support to Good Governance: Project against Corruption in Ukraine") provided valuable assistance to Ukraine in the process of adopting international anti-corruption standards and implementing relevant GRECO recommendations. Not only were the project activities implemented in accordance with the Workplan and in close cooperation and coordination with partner institutions and civil society organisations, but they had a clear impact on the reforms of the anti-corruption legislative and institutional frameworks in Ukraine in light of relevant international standards.

The project has continuously and consistently supported Ukrainian legal and institutional reforms and policies in the area of anti-corruption.

The major achievements of the project are the creation of favourable conditions which enabled the adoption of the "Anti-corruption Law Package" on 11 June 2009 by the Verkhovna Rada of Ukraine, and the setting up, by the Government, of a national policy-level anti-corruption body (Government Agent for Anticorruption Policy - GAAP) on 24 April 2009. By doing so, the Ukrainian authorities enabled incorporation of a number of international anti-corruption standards into domestic legislation

and the implementation of several recommendations formulated by GRECO in its evaluation report of the 1st and 2nd Evaluation Rounds. Throughout the project implementation, the Council of Europe undertook various efforts and has continuously supported the Ukrainian authorities in moving closer towards the adoption of the "Anti-corruption Package of Laws" and in setting up of the institution of the GAAP. Moreover, once the anti-corruption package of laws was adopted, a number of awareness-raising events concerning their content were held within the project's framework in different regions of Ukraine. The project supported the publication and dissemination of these laws. Following the introduction of the GAAP, UPAC supported expert opinions and discussions on a series of draft legal acts proposed by the newly created institution, including the ones related to the the national anti-corruption strategies and action plans.

UPAC provided expert support to the elaboration, implementation and revision of the National Anti-corruption Strategy and Action Plan. The Government revised the Action Plan in August 2009, and adopted a new Strategy in December 2009. However, CoE expert support was only taken into account to a limited extent in the final versions of these strategic documents.

Focused and timely assistance that contributed to the reforms of the judiciary and the criminal justice system provided useful added value. The project supported the work on the Concept for the Reform of the Criminal Justice System (approved by President of Ukraine in April 2008), draft laws on the judiciary and amendments to the Criminal and Criminal Procedure Codes concerning the improvement of confiscation procedures (pending in the Verkhovna Rada),¹⁷ as well as the new Criminal Procedure Code (submitted to public discussion and awaiting consideration by the Government).

UPAC has been involved in a number of initiatives regarding public administration reform that are currently in the pipeline. The draft Law on the Civil Service (like the Concept for the Reform of the Public Administration) has been submitted to the relevant Cabinet of Ministers' Committee. Draft laws regarding conflicts of interest and State financial control of the public service have been submitted to the Verkhovna Rada (Parliament).

Pilot system studies of corruption risks in the public administration, as well as the judiciary and criminal justice system combining analysis of legislation and as sociological surveys are expected to serve as a valuable input into reforms underway and can be replicated to other fields.

Furthermore, the project supported efforts aimed at introducing European standards of transparency in funding of political parties and electoral campaigns as well as the system of prevention of corruption in local self-government. A draft Concept on Amendments to Domestic Legislation to Increase Transparency in the Funding of Political Parties and Electoral Campaigns has been elaborated by CoE experts upon request of the Ministry of Justice.

The project's training activities contributed to strengthening the capacities of the law enforcement and judicial authorities to fight corruption. Pilot interactive training sessions on investigation, prosecution and adjudication of corruption offences based on simulation of real cases inspired the Prokuratura to prepare a new anti-corruption training course for magistrates (currently under elaboration). The pilot training sessions served also as the basis for the development of a Training Manual on Investigation and Prosecution of Corruption Crimes. Practitioners considered the training events as very useful for their professional activities, in particular concerning international cooperation (mutual legal assistance) and the use of circumstantial evidence.

Involvement of national NGOs and local experts together with European experts proved to be very useful. The project focused more than initially foreseen on the involvement of civil society. Although the executive power bodies were the main project partners, involving and developing cooperation with Parliament and elected representatives (of all political forces) was of critical importance in promoting the adoption of European legal standards.

The project coordinated its activities with other international anti-corruption projects and CoE projects implemented in Ukraine, thus avoiding any duplication and creating synergies.

In all of these areas, UPAC completed the activities in the Workplan. For the project results and achievements - to be sustainable and that is, for the indicators stated in the Workplan to be fulfilled - it is necessary for the assumptions stated in the Workplan to hold, including the commitment by

¹⁷ A draft Law on the National Bureau for Anti-corruption Investigations (a specialised anti-corruption law enforcement body) has also been submitted to the Verkhovna Rada.

the Ukrainian authorities to further use the outputs of the project to implement specific measures or reforms.

Nevertheless, certain recommendations are to be followed up in support of the work of the project, with particular reference to certain areas where further improvements are needed. Continuing work is necessary to: increase the capacities for the prevention of corruption; strengthen the law enforcement agencies' institutional capacities to investigate and prosecute corruption-related offences; and to reform the domestic anti-corruption legislation and to ensure its proper implementation.

11. ANNEXES

- Annex 1: Workplan of Activities¹⁸
- Annex 2: List of Council of Europe experts engaged in UPAC activities
- Annex 3: List of Technical Papers
- Annex 4: Inventory list

¹⁸ Revised version approved by the Steering Committee on 25th June 2009.