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Implementation of Anti-corruption Plans in South-east Europe (Impact)

**REPORT: EVALUATION CONFERENCE OF THE IMPLEMENTATION OF THE STATE PROGRAMME
FOR THE PREVENTION AND REPRESSION OF CORRUPTION OF
"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"**

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The views expressed in this report are solely those of the experts' one and do not necessarily reflect official positions of the Council of Europe

1 INTRODUCTION

This meeting, organised by the State Commission for Prevention of Corruption under the auspices of the PACO Impact Project, was attended by representatives of almost all institutions involved in the implementation of the State Programme for the Prevention and Repression of Corruption.¹ The purpose of the meeting was to consider the progress made in carrying out the programme since the first such meeting a year previously and to discuss what needed to be done over the following 12 months. The role of the Council of Europe's expert was to intervene as appropriate in this internal working session.

2 THE COURSE OF THE MEETING

The format of meeting consisted of presentations from representatives of the various institutions in turn, setting out the progress in the areas for which they had prime responsibility. The presentations were grouped under the following items:

- I. The judicial system; the criminal law system; institutional reform
- II. The economic and financial system
- III. Control mechanisms and institutional reforms
- IV. Reforms in the state administration, NGO's activities and cooperation
- V. Civil society, media, and cooperation

At the end of each group of presentations, questions and discussions ensued and the expert was invited to comment. The final part of the Agenda provided the opportunity for closing remarks and recommendations, including a final contribution from the expert.

3 COMMENTS AND RECOMMENDATIONS

The government authorities have made substantial progress on many of the items of the State Programme. As is to be expected, much of that progress has been in the preparation and enactment of laws. Some of these laws have focused on anticorruption, such as the amendments to the Criminal Code, the Criminal Procedure Code and the Law of Prevention of Corruption, and the protection of witnesses and informants. Others have had more to do with good governance.

As several participants observed, the time has come to put these laws into practice and to take into consideration the resource implications of doing so. Resources being limited, it is necessary to prioritise. It is also necessary to measure more precisely the progress being made in the fight against corruption.

3.1 SETTING UP PRIORITIES

To assist in prioritising future work, the expert makes the following suggestions:

- The items in the State Programme that have been completed (for example the enactment of a piece of legislation) should be omitted from the new version. There is little point in the document becoming longer and longer. Progress can be adequately reported in the State Commission's annual report.
- Each group of remaining items of the State Programme should be categorized as an item of "good governance" or as an item specifically "anticorruption". The anticorruption items should be

¹ The specialised unit of the Public Prosecutor's Office could not be represented.

further categorized as “enforcement”, “prevention” and “education and support”. The objective is to make the nature of the item readily identifiable, to enable the State Commission to attach the priority it deems appropriate to a particular item, and more readily to allocate prime responsibility for implementing the item.

3.2 STRENGTHENING THE STATE PROGRAMME

With the aim of focusing the State Programme, the expert suggests that:

- The Anti-corruption Plan should increasingly include, on the prevention element of fighting corruption, the examination of particular systems (sometimes called “micro system studies”), especially those that deliver services to the public.
- If the government authorities feel it would be helpful, technical assistance in the preparation of micro system studies should be offered. The importance of this form of prevention work justifies such assistance to ensure that the first examples of such studies are done efficiently and effectively. It would be essential that the Secretariat staff of the State Commission should be involved in the conduct of these studies.
- The emphasis of the State Programme and the focus of the State Commission have so far been directed at the public sector and civil society. Equally important to the well-being of the country is the private sector and, more particularly, the incidence of corruption in that sector. The State Programme might include firstly, the preparation and enactment of a provision in the Criminal Code that makes private sector bribery an offence² and secondly, the anticorruption education of the private sector, including the adoption of codes of ethics or conduct by private sector companies for their employees.
- The need for increased involvement by civil society and by public institutions was referred to by participants at the meeting. One method of involvement that elsewhere has proved to be effective is the use of advisory committees of citizens in each of the three elements of the national anticorruption strategy to help the anticorruption authority in its work. The call by one participant for an increase in the membership of the State Commission could be met by creating such committees without amending the law to increase the number of members from the present seven.

These three advisory committees have distinct roles. The investigation review committee is asked to advise whether the proposal to close an investigation should be endorsed. Its work is necessarily confidential.

The prevention committee is asked to advise on which systems need examination and in which order of priority, and to advise on the draft recommendations for change to a system.

The public education and support committee, comprising educationists and experts in mass communication, is asked to advise on the most effective ways of conveying the anticorruption message to the community.

The State Commission may find it helpful to have some technical assistance in the establishment of such committees, the appointment of its members, their terms of service, their terms of reference and the method of working.

² The criminalisation of bribery in the private sector is contained in the Council of Europe's Criminal Law Convention on Corruption and the United Nations Convention Against Corruption.

- The question was raised whether it would be desirable to establish a parliamentary committee to support the State Commission. The expert advises that such a committee could be most valuable provided members avoid the temptation to become too closely involved in the State Commission's work and running the risk of being perceived to be interfering. A public perception that the fight against corruption had become politicized would preclude the development of public trust and support.
- Political will was said by some participants to be minimal or even non-existent. The expert's impression is that the enactment of the Law on Prevention of Corruption, the establishment of the State Commission and the provision of resources from state funds indicate a considerable degree of political will. He suggests that growing public support would result in stronger political will. An even greater effort to develop public support would therefore be justified. Furthermore, although the Law on Prevention of Corruption makes clear that it is for the State Commission to adopt a State Programme, he endorses the suggestion that steps should again³ be taken to have the State Programme approved by the Government and/or the National Assembly.

3.3 ASSESSING PROGRESS

In order to assess the progress being made in the fight against corruption, the expert suggests that a number of measurements should be initiated:

- The cost of state resources invested in fighting corruption should be calculated and compared to the investment (as a percentage of the government's annual recurrent budget) made in countries that are succeeding in the fight.
- Statistical data of the sort set out at the end of the State Commission's annual report could be amplified to give a fuller picture in all three elements of the national strategy, namely enforcement, prevention and public education and support. The expert provided a list of such measurements.
- The measurement of public perception of the corruption situation, of the public's personal attitude to corruption and of the level of public support for the anticorruption authorities should be initiated as soon as possible to provide a management tool for the progress of the State Programme and a benchmark against which to measure future progress. The opportunity should be taken to ensure that the public survey proposed in September 2005 meets these objectives.

Acknowledgements

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³ A previous attempt is reported in the State Commission's 2004 Annual Report.