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## **TACIS UKRAINE ACTION PROGRAMME 2004**

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

## **5<sup>th</sup> Progress Report**

Project title	Support to Good Governance – Project against Corruption in Ukraine (UPAC)
Reference number	TACIS 2006/120-157
Project starting date	8 June 2006
Project duration	7 June 2009
Implementation	Council of Europe (Economic Crime Division, Directorate General of Human Rights and Legal Affairs)
Project budget	1 750 000 Euros
Date of report	15 February 2009
Reporting period	15 July 2008-15 February 2009

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For any additional information please contact:

Corruption and Fraud Unit  
Economic Crime Division  
Directorate of Co-operation - DG-HL  
Council of Europe  
F-67075 Strasbourg Cedex FRANCE  
Tel +33 388 41 29 76/Fax +33 390 21 56 50  
Email: [lado.lalicic@coe.int](mailto:lado.lalicic@coe.int)  
Web: [www.coe.int/economiccrime](http://www.coe.int/economiccrime)

The views expressed in this technical report do not necessarily reflect official positions of the Council of Europe or of the donor funding this project.

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# **1 Background Information**

UPAC – Support to Good Governance: Project against Corruption in Ukraine started on 8 June 2006. The present report summarises the activities carried out since the last project report of 8 August 2008 until 15 February 2009.

## **Beneficiary country and institutions**

Ukraine

Primary beneficiary: Ministry of Justice of Ukraine.

Project Partners: Ministry of Justice, Council of National Security and Defence, office of the Prosecutor General, Ministry of Interior, and other institutions represented in the Steering Committee.

## **Contracting authority**

European Commission (EC).

## **Implementing organisation**

The Council of Europe is responsible for the implementation of the project and the use of the project funds under the contract with the European Commission. Within the Secretariat of the Council of Europe in Strasbourg, the Economic Crime Division (Technical Co-operation Department, Co-operation Directorate, Directorate General of Human Rights and Legal Affairs) is responsible for overall management and supervision of the project. The Team Leader and local support staff, based in Kyiv, have been working directly with, and through, the Ministry of Justice and other project partner institutions.

# **2 The Project**

## **2.1 Project Objectives and activities**

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

1. It aims at supporting the adoption, elaboration and implementation of a Ukrainian National Anti-corruption Strategy and Action Plan against Corruption, and the creation of an efficient and effective monitoring mechanism to oversee and co-ordinate the implementation of the Strategy and Action Plan;
2. It supports policies aimed towards strengthening the institutional capacities of Ukraine against corruption;
3. It assists Ukraine in the approximation and harmonisation of its legal framework against corruption with European and international standards and legal instruments, in particular those set by the Council of Europe Criminal and Civil Law Conventions against Corruption, and the United Nations Convention against Corruption.

UPAC aims 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 stakeholders and civil society on the expertise acquired. UPAC Working plan contains also study tours to European partner institutions to facilitate networking and lessons learned and best practices sharing.

## **2.2 Project Team**

Ms Kateryna Gayevska joined the project team as of 1<sup>st</sup> December 2008 in the capacity of project senior legal assistant.

The recruitment process is now closed and the UPAC team is complete. It includes: Mr Roman Chlapak, Team leader, Ms Kateryna Gayevska, Senior legal assistant, Ms Valeria Reva, Junior legal assistant as well as Ms Vlasta Sposobna, Project Assistant.

### 2.3 Project Office

As during the previous reporting period, the UPAC Project office has been located within the Council of Europe Office in Ukraine, Khmelnytskoho street no. 70-A in Kyiv.

### 2.4 Summary of Project Outputs/Purposes

<b>Overall objective</b>	<b>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</b>
<b>Purpose 1</b>	<b>To improve the strategic and institutional framework against corruption in Ukraine</b>
Output 1.1	Anti-corruption strategy and Action Plan available
Output 1.2	Effective monitoring, coordination and management of anti-corruption measures ensured
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
<b>Purpose 2</b>	<b>To enhance capacities for the prevention of corruption</b>
Output 2.1	Anti-corruption concerns incorporated into the process of public administration reform ("anti-corruption mainstreaming")
Output 2.2	Risks of corruption reduced in the judiciary
Output 2.3	Risks of corruption reduced in the prosecution and the police
Output 2.4	Conflicts of interest reduced in the political process
Output 2.5	Capacities enhanced at the level of local and regional authorities for the prevention of corruption and strengthening of integrity
Output 2.6	Public participation in the anti-corruption effort promoted
<b>Purpose 3</b>	<b>To strengthen the anti-corruption legal framework and effective and impartial enforcement of the criminal legislation on corruption</b>
Output 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 and other relevant international legal instruments
Output 3.2	Judges trained and specialised in adjudication of corruption, law enforcement officials trained in the investigation and prosecution of corruption offences

### 2.5 Inputs

The project provides funding for:

- National conferences
- Expert advice
- Written expert opinions/assessments (expertises)
- Workshops, roundtables and in-country training activities
- Study visits
- Surveys
- Awareness raising activities
- Translations and publications
- Risk analyses

- Development of the terms of reference for a grant programme
- IT equipment (ToRs)

### 3 Overview of Activities

The project has implemented the activities pursuant the revised Workplan (Annex II: Revised Workplan of Activities 2008-2009) and a Calendar of Activities which have been agreed upon during the Steering Committee meeting of 21 November 2008.

Following the revised Workplan, the activities 3.2.1 (proposed as Multidisciplinary Conference on issues related to investigation and prosecution of corruption related offences) and 3.2.7 (proposed as technical advice on case management systems for the Ministry of Interior and the Prokuratura) have been postponed. However, their preparations have started. The Roundtable on "The necessity of introduction and implementation of sectorial codes of ethics", Activity 2.3.5, planned for February 2009 has been postponed following consultations with the Main Civil Service Department. Its content and mode of implementation will have to be cleared up during the next (Extraordinary) Steering Committee Meeting scheduled at the end of February.

During the reporting period a particular emphasis was put on:

- Implementation of GRECO recommendations contained in the Evaluation Report from the 1st and 2nd Evaluation Rounds (adopted in March 2007);
- Assistance in reviewing the effectiveness of the National Anti-Corruption Strategy and Action Plan and in raising awareness of the civil society organisations and the private sector on anti-corruption measures, European and international standards and GRECO recommendations;
- Assistance in incorporating anti-corruption concerns into the process of public administration reform ("anti-corruption mainstreaming");
- Assistance in strengthening of the preventive capacities against corruption in the public administration, the judiciary, the prosecution and the police;
- Assistance in enhancing the transparency of the system of political funding and in reducing corruption in the political process;
- Assistance in improving the current legal framework and system of identification, seizure and confiscation of proceeds from crime, in particular from corruption, in line with European standards and relevant GRECO and Moneyval recommendations;

As a result, the following activities were carried out during the reporting period.

Activities	Status
Expert comments on the draft Amendments to the Criminal Code and Criminal Procedure Code of Ukraine ("On improving confiscation procedures") (August 2008), Activity 3.1.5	Completed
Roundtable on "Identification, seizure and confiscation of proceeds from corruption" (September 2008), Activity 3.1.5	Completed
Roundtable on "Effectiveness of the national anticorruption policy, role of the civil society and private sector" (October 2008), Activity 1.1.2	Completed
Steering Committee Meeting (November 2008)	Completed
Expert comments on the Draft Law on Civil Service (Draft Law elaborated by the Main Department for Civil Service) (November 2008), Activity 2.1.6	Completed
Roundtable on "Legislation on civil service and conflicts of interest" (December 2008), Activity 2.1.2	Completed
Expert mission in the framework of three micro system studies on corruption risks within the Public Administration (in particular, administrative services, control and supervision), Judiciary and the	Completed

bodies in charge of investigation and prosecution of criminal cases (December 2008), Activities 2.1.4-2.2.1-2.3.1-2.3.3	
Three micro system studies on corruption risks within the Public Administration (in particular, administrative services, control and supervision), Judiciary and the bodies in charge of investigation and prosecution of criminal cases, including analytical reviews and sociological surveys (December 2008-May 2009) Activities 2.1.4-2.2.1-2.3.1-2.3.3	Underway
Concept Paper and Expert workshop to formulate amendments to the domestic legislation in order to enhance transparency in funding of political parties and electoral campaigns (December 2008), Activity 2.4.2	Completed
Debriefing on models of anti-corruption bodies of France, Slovenia and Croatia (recapitulative tables) following the study visit in May 2008 (December 2008), Activity 3.2.2	Completed

### 3.1 Steering Committee Meeting

The Steering Committee meeting took place as scheduled on 21 November 2008 at the premises of the Ministry of Justice of Ukraine. Representatives of partner institutions: Ministry of Justice, Ministry of Interior, National Security and Defence Council, Prosecutor General's Office, Presidential Secretariat, Secretariat of the Cabinet of Ministers, Verkhovna Rada, Main Civil Service Department, Parliamentary Institute, Accounting Chamber, High Council of Justice, National Academy of *Prokuratura* and the Academy of Judges participated in the meeting. Also, the UPAC Team Leader, representatives of the Council of Europe Secretariat and the European Commission Delegation were present (Annex I: List of Participants).

The Steering Committee meeting provided an opportunity to review the progress made since the last meeting held in April 2008.

The representative of the European Commission (EC) in Kyiv, Mr Andrey Spivak, also underlined the EC's satisfaction with the project achievements during the reported period. However, he underlined that the EC would switch from project assistance (TACIS) to sector based assistance. He encouraged the Ukrainian institutions to submit proposals to the European Commission on possible future actions in the anti-corruption field.

The Workplan was further updated following the presentations delivered by the partner institutions. The stakeholders agreed on the future activities and the manner in which they should be carried out (Annex II: Updated Workplan of Activities 2008-2009). Thus, the following activities shall take place by the end of the project implementation:

- One expert (national and international) study on the compliance of domestic legislation with UNCAC that will replace the seminar on UNCAC applicability in Ukraine initially planned in the Workplan (activity 1.3.1).
- System studies on corruption risks within the Public Administration, in particular the fields of administrative services, control and supervision (System Study No 1; activity 2.1.4), the judiciary and the bodies in charge of investigation and prosecution of corruption offences (System Study No 2 and 3; activities 2.2.1, 2.3.1, 2.3.3). The methodologies of these studies, including analytical reviews and sociological surveys, have been approved and the Center for Political and Legal Reforms (System Study No 1) as well as the Kharkiv Institute of Applied Humanitarian Research (System Studies No 2 and 3) have been endorsed (on the proposal of the Ministry of Justice) as the Ukrainian expert institutions in charge of the system studies. They will be partly assisted by the Basel Institute on Governance. As the Ministry of Interior has requested, the methodology of the micro system-studies has been submitted to them and to *Prokuratura*.
- Training of public officials on public administration reform in the light of relevant international and European standards (activity 2.1.3). This activity will be jointly organised with the National Academy of Public Administration of Ukraine as a videoconference which will enable around 800 persons to undergo the training in the 5 regional branches of the National Academy of Public Administration.

- One roundtable on code of ethics of public officials, sectorial codes and conflicts of interest. The Main Civil Service Department suggested the implementation of the activities 2.3.5 and 2.3.6 in this form (to be confirmed).
- Expert opinion in aligning the draft law "On State Service" (new version) with the "Anti-corruption package" (activity 3.1.7). As proposed by the Ministry of Justice, it should take into consideration the results of the roundtable held on 5 December 2008 (activity 2.1.2) and the expert opinion on the draft law "On the State Service". The implementation of this activity depends on the adoption of the anti-corruption package
- Training activities will remain the same as planned by the Workplan. The beneficiaries agreed to implement these activities in cooperation with the Academy of *Prokuratura* (activities 3.2.1, 3.2.3, 3.2.6), the Ministry of Interior (activity 3.2.4) and the OECD project "Strengthening the capacity to investigate and prosecute corruption in Ukraine" (activity 3.2.5).
- Case management systems study for the *Prokuratura* and the Ministry of Interior (activity 3.2.7). This study will consist in an expert mission and a technical paper focusing on the analysis of the existing case management systems and the elaboration of a strategy for improvement.
- ToR's/advice on IT equipment for specialised anticorruption bodies. These ToR's will be elaborated through the project whereas no IT equipment will be provided (activity 3.2.8).
- Closing conference. It will not be held in April 2009 as previously planned but presumably at the end of May (activity 1.2.3).

Moreover, the partner institutions agreed to define at a later stage the manner in which the following activities should be implemented:

- Activity 3.2.2 - The roundtable on specialised anti-corruption bodies as direct expert consultations with the government are currently conducted to support the approval of a mandate for the Government Anti-corruption Agent.
- Activity 3.1.1 - The expert opinion and review of coherence of Draft Concept of Administrative Reform with European anti-corruption standards (because the draft Concept is still under preparation).

Finally, the participants decided to implement the following additional activities:

- Elaboration of a Concept Paper (December 2008) and organisation of an expert workshop aimed at formulating amendments to legislation in order to enhance transparency of the system of funding of political parties and election campaigns on 19-20 December 2008 (Activity 2.4.2). Both activities will be implemented by the Agency (Laboratory) for Legislative Initiatives.
- Expert study on models of specialised bodies in charge of seizure and confiscation of proceeds from crime (activity 3.1.5) following a proposal of the Ministry of Justice.
- Roundtable on methodology to conduct system studies within the Ministry of Defence requested by the National Council for Security and Defence.

Following the Steering Committee Meeting, the Main Civil Service Department has also requested expert assistance in the finalisation of draft provisions on conflicts of interest.

The next Steering Committee meeting has been scheduled for February 2009.

### **3.2 Activities Implemented during the reporting period**

<b>PURPOSE 1:</b>	<b>TO IMPROVE THE STRATEGIC AND INSTITUTIONAL FRAMEWORK AGAINST CORRUPTION IN UKRAINE</b>
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#### **Output 1.1                      Anti-corruption strategy and Action Plan available**

*Activity 1.1.2                      Assessment/Review and Recommendations on the effectiveness of the National Anti-corruption Strategy, its Action Plan and other policy related reforms in Ukraine*

**- Round table "Effectiveness of the national anti-corruption policy, role of the civil society and private sector" (Kyiv, 16 October 2008)**



On **16 October 2008**, the project held a round table on "Effectiveness of the National anticorruption policy, role of the civil society and private sector". The conference aimed at strengthening the role of the civil society and private sector in the national anti-corruption efforts, as well as at reviewing the effectiveness of the national anti-corruption strategy and action plan by civil society organisations, raising awareness on proposed reforms and at contributing to enhancing compliance with GRECO recommendations, European and other international standards.

CoE experts - Ms Marijana Trivunovic and Ms Anne Lugon-Moulin (Basel Institute on Governance), presented in details the role of the civil society and private sector in the national anti-corruption efforts and practical measures to enhance it whereas Ms Cristina Cojocaru (Center for the Analysis and Prevention of Corruption of Moldova) and Ms Tamar Chugoshvili (Association of Young Lawyers of Georgia) shared their national experiences on involvement of the civil society and private sector with a special emphasis on possible ways of collaboration between the latest and national authorities. Experts from the Ukrainian civil society and private sector presented the main features of their experience as well as the flaws of the anticorruption policy. Finally, representatives of Ministry of Justice, Accounting Chamber, the Committee on Fighting Organised Crime and Corruption of the Verkhovna Rada, Ministry of Interior elaborated their anti-corruption activities, experience of cooperation with NGOs and private sector and pointed out the difficulties in countering corruption in Ukraine.

The following debate pointed out the necessity to increase the collaboration with public institutions, the risks of manipulation of NGOs, the role of NGOs to educate the public and relatively high level of public trust in NGOs. Besides success stories sharing, the prospect of a partnership between the civil society and the private sector has been discussed.

However, NGOs need capacity and knowledge development in the following areas is project management, communication, advocacy and design of reforms based on research of the phenomenon of corruption. The development of partnerships between the civil society organisations themselves as well as between the civil society and the private sector has been discussed as a way to increase capacities against corruption. The participants also called for a more systemic approach of the coordination between civil society and state bodies. In that respect, the use of existing participatory/consultative mechanisms within the state institutions to monitor their work and obtain information has been identified as the useful tools. Moreover, the need to develop specific anticorruption methodologies and tools (e.g. diagnostic/assessment methodologies) as well as to exchange experiences in good practices has been emphasised.

The discussion demonstrated that the private sector, particularly small and medium enterprises, are among the segments of society hardest hit by corruption, and have a great deal to gain from an efficient anti-corruption policy. It has been underlined that the private sector could better address the issue of corruption by advocating reforms aimed at doing business more transparent and competitive and by gathering support for anti-corruption reforms among the private sector as well as by raising awareness of the benefits to be gained for business by projecting and maintaining a "clean" image.

In assessing the current anti-corruption policy, the participants underlined the huge gap between existing laws and their implementation in practice. They considered that a number of anti-corruption reforms are still to be undertaken especially in the public procurement sector, the budget system, the public administration (adoption of a new law on the Civil Service and Code of Administrative procedures, introduction of an effective conflicts of interest regime for all public officials) and the judiciary. The adoption of the "Anti-corruption package" by the Parliament has been defined as a priority.

The necessity to develop a methodology of "anti-corruption proofing", to rationalise and strengthen the system of anti-corruption bodies as well as to define the mandate and duties of the Government Anti-corruption Agent has been emphasised.

Moreover, the participants called for the improvement of the system of whistleblower protection and access to information, the reorganisation of state media into a public

broadcasting service as well as for the increase of civic education efforts targeting the youth and strengthening of the educational role of the media.

Finally, the discussion pointed out the need of a clear and unambiguous commitment to anti-corruption reforms from the very top of Ukrainian leadership in order to implement the necessary changes.

An event report/technical paper prepared by Ms Marijana Trivunovic, Council of Europe expert, summarising the main findings and recommendations formulated during the conference, has been disseminated among the participants (Annex III: Event report/technical paper on the roundtable "Effectiveness of the National anti-corruption policy, role of the civil society and private sector", 16 October 2008).

<b>PURPOSE 2: TO ENHANCE CAPACITIES FOR THE PREVENTION OF CORRUPTION</b>
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**Output 2.1                      *Anti-corruption concerns incorporated into the process of public administration reform ("anti-corruption mainstreaming")***

*Activity 2.1.2                      RTD to Follow up on implementation issues with regard to the draft Code of Ethics on behaviour of the Public Officials*

**- Roundtable on "Legislation on civil service and conflicts of interest" (Kyiv, 5 December 2008)**

On **5 December 2008**, in cooperation with the Main Civil Service Department of Ukraine and SIGMA (joint OECD/EU initiative "Support for Improvement in Governance and Management") a roundtable on "Legislation on civil service and conflicts of interest" was organised. This roundtable was a follow-up to a CoE expert opinion on the Draft Law on Civil Service (draft of the Main Civil Service Department) provided in November 2008 (activity 2.1.6).

The roundtable's objective was to review the Ukrainian legislation on civil service, discuss the issue of the legal regulation of conflicts of interest in line with International and European standards and formulate recommendations for improvement. Council of Europe and SIGMA experts, representatives of the Main Civil Service Department and other relevant Ukrainian institutions as well as representatives of international anticorruption projects took part in the discussion.

In assessing the draft law on civil service, the participants pointed out the necessity to adopt a framework law on civil service that would regulate the distinction between political and administrative position, a merit based selection, salary scheme as well as the trainings for public servants in order to ensure their professionalism, stability and competence.

Moreover, the participants called for the adoption of regulations regarding conflicts of interest that would include provisions on prevention, management and resolution of conflicts of interest, on protection of rights of persons reporting conflicts of interest as well as liability for non compliance with conflicts of interest provisions.

Following the discussion, the participants adopted detailed recommendations (Annex V: Recommendations adopted at the roundtable on "Legislation on civil service and conflicts of interest", 5 December 2008):

The participants advised to review the Draft Law on Civil Service in order to:

- Ensure the separation of political and administrative positions by appointing State Secretaries as highest level civil servants responsible for appointment and dismissal of all civil servants, for staff management and sustainability (State Secretaries should not be dismissed based on political motives);
- Protect the civil servant's professional activities from any undue political and private influences by introducing key mechanisms such as direct reporting to civil service responsible for ethics or possibilities to appeal decisions regarding appointment and dismissal of all categories of civil servants;

- Improve the competences of civil servants through competitive procedures of selection and the right and obligation for civil servants to be trained throughout their careers;
- Set forth disciplinary responsibility for all categories of civil servants which requires to specify the types of disciplinary violations, sanctions and proceedings and the possibilities to appeal disciplinary decisions;
- Increase the attractiveness of the civil service by raising salaries, ensuring constant career growth and adequate pension. However, financial incentives to enter civil service should not be the only way to make the civil service more attractive.

As legislative provisions on conflicts of interest in the civil service and local authorities have not been established by law yet, the participants pointed out that the Draft on Conflicts of interest at the Civil Service and in Local Authorities should:

- 1) determine conduct criteria and standards for civil servants regarding conflicts of interests;
- 2) fix by law efficient procedures for evaluating conflicts of interest risks;
- 3) determine adequate mechanisms of external and internal reporting of public officials;
- 4) create an efficient mechanism for managing conflicts of interest situations;
- 5) define sanctions to ensure personal responsibility of public officials.

*Activity 2.1.6      Expert Opinion on the Draft Legislation on Civil Service (Draft of the Main Civil Service Department)*

**- Expert Opinion on the Draft Law on Civil Service (draft elaborated by the Main Civil Service Department, November 2008)**

As part of UPAC activities to support the reform of the civil service in Ukraine and pursuant the relevant GRECO recommendations of the 1st and 2nd Evaluation Rounds, Mr Jean-Pierre Bueb, Council of Europe expert, submitted in November 2008 his comments on the Draft Law on Civil Service prepared by the Main Civil Service Department. This expert opinion was also presented at the UPAC roundtable on "Legislation on civil service and conflicts of interest" held on 5<sup>th</sup> December 2008 (see above).

Mr Jean Pierre Bueb underlined the overall high quality of the draft law and considered it as a comprehensive piece of legislation. However, he emphasised that an essential provision regarding the possibilities for the different categories of civil servant to appeal the decisions of the administration is missing. Moreover, he suggested the following improvements regarding:

- The definitions of civil service and civil servant: In order to include the notions of democracy, professionalism, ethics and behaviour, the expert proposed the following definition of civil service: "a form of organisation of the State administration that allows the government to implement the decisions taken by elected representatives and to serve the public interest pursuant the law and the Constitution". As the definition of civil servant is too general and does not include the notions of salary and duration of work, the expert suggested to define the civil servant as "a person appointed to a permanent position who gets a permanent status at a rank within the hierarchy of State administrations or public State institutions".
- The functions and role of the Central Agency as well as of the decentralised authorities in the Autonomous Republic of Crimea, Kyiv and Sebastopol should be better defined. The Central Agency should be in charge of the implementation of the State policy and of the interpretation of the legislative texts on civil service through legal circulars.
- Rights, duties of civil servant before and while serving the public interest: The expert emphasised that declarations of assets should be done when the civil servant takes his/her office as well as annually and after his/her retirement in order to reduce corruption risks and avoid any conflict of interests. Moreover, the trainees (3-6 months before the appointment as a permanent civil servant) should be subject to the Law on civil service as all civil servants. Finally, he advised to dissociate the grade within the civil service from the position of a civil servant and thus to simplify the repartition of civil servants into 7 ranks foreseen in the draft.

- The political activities of civil servant: loyalty and political neutrality requested from a civil servant should not mean a full prohibition to create a political party or to participate in electoral campaigns. Therefore the rights of civil servant carrying out elective duties should be specified and the right for any civil servant candidate at an election to take special leaves introduced.

- Transfer, dismissal and disciplinary sanctions: The expert underlined that a transfer should not be a form of sanctions and could be decided only pursuant the public interest and with the approval of the civil servant. The expert pointed out the necessity to specify the status of a civil servant during proceedings before a Court as his/her dismissal should be decided only by a judicial decision. The expert recommended to better define the grounds for resignation of a civil servant and for his/her discharge by the administration. The refusal of a civil servant to communicate on his/her assets and incomes or wrong or incomplete information should be included as grounds for disciplinary sanctions. Mr Bueb also specified that whereas disciplinary sanctions could ban civil servants from the civil service (unless this decision is turn down by a judicial decision), any conviction for an offence not linked to the civil service should not prevent civil servants to work again in this quality.

- Salary and pension: while acknowledging that the increase of the minimal salary to 150% of the national minimal salary represents an important increase of public expenditures, the expert pointed out that it will contribute to reduce corruption risks and improve the quality of the work. Moreover, the draft law should incorporate provisions on payment of the pension by the State and the access of retired civil servants to prime rate loan.

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

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 service, control and supervision)*

**Output 2.2 Risks of corruption reduced in the judiciary**

Activity 2.2.1 *Corruption Risk Assessment and Prevention Plans: System Study No. 2 on Corruption Risks within the Judiciary*

**Output 2.3 Risks of corruption reduced in the prosecution and police**

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*

Activity 2.3.3 *Corruption Risk Assessment and Prevention Plans: System Study No. 4 on Corruption Risks within the bodies in charge of prosecution of criminal offences*

As agreed during the 5<sup>th</sup> Steering Committee meeting, three system studies on corruption risks within the public administration (in the fields of administrative services, control and supervision), the judiciary and the bodies in charge of investigation and prosecution of criminal cases were launched on 1<sup>st</sup> December 2008.

The studies will last until 15 April 2009 and entail the formulation of proposals for improvement that will be discussed during roundtables to be organised within the relevant state institutions between 15 April and 1 May 2009.

The system study on corruption risks within the public administration is conducted by the NGO Centre for Political and Legal reforms whereas the two other studies are implemented by the NGO Kharkiv Institute of Applied Humanitarian Research.

Moreover, the three system studies will include sociological surveys. From 1<sup>st</sup> February 2009, the Democratic Initiatives Foundation and MA Consulting LTD are conducting two surveys on corruption risks, respectively, within the public administration (in the field of administrative services, control and supervision) as well as within the judiciary and the bodies in charge of investigation and prosecution of criminal cases. The questionnaires of these surveys have been elaborated by these NGOs in cooperation with the Center for Political and Legal Reforms and the Kharkiv Institute of Applied Humanitarian Research.

Furthermore, the Basel Institute on Governance (Switzerland) assists the Ukrainian institutions in conducting these studies through on-site missions and advice. The first mission took place from 7 December to 11 December 2008 and aimed at assisting the Ukrainian institutions in launching studies by sharing good practices on methodology to be adopted, theoretical knowledge on corruption and advice on how to draft sociological surveys.

Ms Zora Ledergerber, from the Basel Institute on Governance, met the representatives of the international anti-corruption projects in Ukraine and of two Ukrainian institutions in charge of the studies. Since some surveys on corruption risks within the judiciary and several administrative services have already been conducted by other international projects, the need to design the questionnaire and compose the target groups to avoid possible duplication with what has already been done was the major point emphasised to the Ukrainian partners.

Experts of the Basel Institute on Governance will continue to assist the Ukrainian expert institutions and their next meeting is expected to take place in March/April 2009 when the reports and recommendations shall be finalised.

Finally, the UPAC team has conducted a joint meeting on 14 January 2009 with the Center for Political and Legal Reforms and the Kharkiv Institute of Applied Humanitarian Research and was updated on progress made and current status of their research.

#### **Output 2.4 Conflicts of interest reduced in the political process**

*Activity 2.4.2 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)*

##### **- Elaboration of a Concept Paper and organisation of an expert workshop to formulate amendments to legislation to enhance transparency of the system of funding of political parties and election campaigns (19-20 December 2008, Simeiz, Crimea)**

Following the UPAC conference on "Prevention of political corruption" of 1-2 July 2008 and the request of the Ministry of Justice, a draft Concept Paper on amendments to the domestic legislation in order to enhance transparency of funding of political parties and electoral campaigns was elaborated by the Agency (Laboratory) of Legislative Initiatives.

An expert workshop was held on 19-20 December 2008 and gathered representatives of the Ministry of Justice, the Central Electoral Commission and the Agency (Laboratory) of Legislative Initiatives as well as 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 its restructuring and agreed on the key points to be included in the Draft Law. Some of the very specific questions still have to be studied, in particular in the light of GRECO requirements for the 3rd Evaluation Round focusing on incriminations of corruption and transparency of political funding. The Ministry of Justice has requested the Agency (Laboratory) of Legislative Initiative to conduct the additional study (to be added as an annex to the draft Concept).

Following the discussions, the participants adopted detailed recommendations (Annex VI: Recommendations on the Concept Paper of amendments to laws of Ukraine on improvement of the transparency in the financing of political parties and electoral campaigns, 19-20 December 2008) on:

- public funding of the political parties' statutory activities;
- donations;
- reporting to the relevant control bodies;
- electoral campaigns;
- role of the relevant control bodies in the financing of the political parties and electoral campaigns;
- sanctions for violations in the field of financing of parties and electoral campaigns.

The Agency (Laboratory) of Legislative Initiatives redrafted the Concept Paper along the lines agreed by the participants.

**PURPOSE 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 3.1.5*                      *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*

**- Expert comments on the draft Amendments to the Criminal Code and Criminal Procedure Code of Ukraine ("On improving confiscation procedures") (August 2008)**

According to the 11<sup>th</sup> Recommendation of the GRECO Evaluation Report from 1st and 2nd Evaluation Rounds (adopted in March 2007), Ukraine should:

*"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)".*

Indeed, confiscation and other similar measures are the main tools to tackle the financial purpose of criminal enterprises and other financially motivated offences. 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 in the area of the right to private property and in accordance with standards and principles of criminal law and criminal procedure law.

Therefore, as part of the UPAC activities supporting the implementation of GRECO recommendations as well as the strengthening of the anti-corruption legal framework and an effective and impartial enforcement of the criminal legislation on corruption, Mr Bostjan Penko, Council of Europe expert, submitted in August 2008 his comments to the draft law on Amendments to the Criminal Code and Criminal Procedure Code of Ukraine regarding confiscation procedures ("On improving confiscation procedures") elaborated by the Ministry of Justice. This expert opinion aimed at reviewing the draft law on amendments on confiscation procedures in the light of European and international standards, human rights law and good practices.

The expert formulated the following recommendations:

- To delete any references to "forfeiture" defined in the Criminal Code as a punishment that could violate the basic human rights standards (it provides the possibility for the State to seize all, or part of, property of a convicted person without compensation). If the forfeiture remains as such in the Criminal Code, a more detailed legal framework (on when, where and against whom may this type of punishment be applied) should be enacted.
- To clearly define confiscation and provisional measures. Confiscation should not be defined as a "compulsory" measure (as proposed) and a separate article or chapter should be dedicated to it. It was also recommended to replace the term "special confiscation" by "confiscation"
- To not abolish the provisions of the Criminal Code dealing with forfeiture and confiscation for individual offences as proposed in the amendments. The expert emphasised that these provisions are not doubling the regulation of these issues. Indeed, confiscation is a tool

for the restoration of the previous condition whereas forfeiture is a type of punishment. Moreover, even if provisions concerning confiscation as such would be adopted, the need for the specific type of punishment would still remain.

- To make a clear distinction in the Criminal Procedure Code (through separate provisions) between confiscation and forfeiture, and, on the other hand, securing the objects related to the commission of a criminal offence which can serve as exhibits to resolve a crime. The Criminal Code should therefore be amended accordingly.

As a conclusion to the submitted opinion, the expert supported the introduction of clearer and more concise definitions as well as more consistent distinction between specific measures in order to comply with the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and other relevant international documents.

### **Roundtable on "Identification, seizure and confiscation of proceeds from corruption" (Kyiv, 19 September 2008)**

On 19 September 2008, the round table on "Identification, seizure and confiscation of proceeds from corruption" was held. This event was jointly organised with the Embassy of France in Ukraine and the Ministry of Justice. The round table was a follow-up to the expert opinion submitted by the Council of Europe expert, Mr Bostjan Penko, on the amendments to the Criminal Code and Criminal Procedure Code of Ukraine related to the confiscation of proceeds from crime. The above-mentioned expert opinion was delivered to the Ministry of Justice in August 2008.

The round table provided an opportunity for the representatives of the Ukrainian authorities and institutions as well as to the international experts to discuss the legislative and institutional reforms aimed at enhancing the current system of identification, seizure and confiscation of proceeds from crime (in particular from corruption related offences). The participants pointed out difficulties in detecting and investigating corruption offences (incl. collection of evidence), the lack of specialisation of police, prosecutors and judges in corruption matters. They also underlined certain problems, such as the lack of coordination among law enforcement authorities and in between the law enforcement authorities and the State Committee of Financial Monitoring (FIU). It was agreed that clear definitions of bribery offences, proceeds from crime, instrumentalities and proper regulation of provisional measures and confiscation should be introduced in the current legal framework. Based on experience of Belgium and France, the specialisation in detecting, investigating and prosecuting corruption offences should be further strengthen. Following the presentation by Mr Francis Desterbeck, Council of Europe expert and Director of the Central Authority for Seizure and Confiscation of Belgium, 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.

Apart from Belgian and French experts, the activity benefited from presentations by representatives of the Ministry of Justice, Ministry of Interior, National Academy of *Prokuratura*, Academy of Judges, State Committee of Financial Monitoring as well as a presentation by a US Resident Legal Adviser

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 Justice, Freedom and Security). This was done following the request from the Ministry of Justice to prepare a study on models of specialised bodies in charge of confiscation and seizure of proceeds from crime. The request was confirmed at the Steering Committee of 21<sup>st</sup> November 2008.

### **Output 3.2**

#### ***Judges trained and specialised in adjudication of corruption; law enforcement officials trained in the investigation and prosecution of corruption offences***

#### ***Activity 3.2.2***

*Debriefing on models of anti-corruption bodies following the study visit. Expert review and recommendations on the effectiveness of bodies responsible for the pre-trial investigation and prosecution of corruption offences*

## **- Dissemination of recapitulative tables on anti-corruption bodies of France, Slovenia and Croatia (December 2008)**

Following the study visit on specialised anti-corruption bodies in Paris and Ljubljana from 26 to 30 May 2008, 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. The participants of the study visit comprised representatives of the Parliament (2 MPs and Head of Secretariat of the Committee on fighting organised crime and corruption), Secretariat of the Cabinet of Ministers, Secretariat of the President, Secretariat of the National Council for Security and Defence, Ministry of Justice, Ministry of Interior (including a Deputy Minister), Office of the Prosecutor General, Main Civil Service Department and also Ukrainian delegates to GRECO.

## **4 Other meetings and missions**

During the reporting period, a number of meetings with representatives of the partner institutions have been held. The UPAC team leader met in particular:

1. Mr A. Bohdan, Deputy Minister of Justice and Mr R. Riaboshapka, Project Coordinator from the Ministry of Justice;
2. Mr I. Kalietnik, Head of Committee on fighting organized crime and corruption of the Verkhovna Rada and several heads of subcommittees – Mr O. Riabeka, Mr M. Dzhyha, as well as members of the Secretariat of the Committee;
3. Mr O. Shynalsky, Deputy Prosecutor General of Ukraine;
4. Mr V. Bedrykivsky, Deputy Minister of Interior and Ms L. Butenko, Deputy Head of Division, Main Department of the Fighting against Organised Crime of the Ministry of Interior;
5. Mr T. Motrenko, Head of the Main Civil Service Department;
6. Mr Volodymyr Vyshnevsky, Deputy Head of the Main Civil Service Department.
7. Mr Grygoriy Sereda, Rector and Mr Mykola Yakymchuk, 1st Prorektor of the National Academy of Prokuratura of Ukraine

Moreover, the UPAC team leader made a presentation on "Council of Europe: Standards on Criminalisation of Corruption, GRECO monitoring and anti-corruption technical assistance" during the Third Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities (IAACA) (6/10/2008).

The UPAC team also took part in a roundtable on "Anti-corruption specialisation of prosecutors: European experience and prospects in Ukraine" organised within the framework of the OECD Project "Strengthening the Capacity to Investigate and Prosecute Corruption in Ukraine". Based on the presentation of foreign models of specialised prosecutor's services, the participants discussed the applicability of anti-corruption specialisation in the Ukrainian prosecution bodies (8/10/2008).

The UPAC Team Leader was invited to a roundtable at NATO Liaison Office to discuss the Defence Integrity Building Initiative and more specifically the issue of corruption in the security and defence sector and recommendations for improvement (23/10/2008).

The UPAC Team Leader and Mr Ake Peterson, SRSG in Ukraine, presented the new Council of Europe Action Plan for Ukraine and Council of Europe activities against corruption at the European Business Association Summit. The participants, mostly the representatives of the private sector, advocated for more awareness raising activities to explain the negative effects caused by corruption and also asked for further support to the civil society. (11/11/2008).

The project legal assistant took part in the roundtable "The Concept of Reforming of the Public Administration in Ukraine" organised by the Secretariat of the Cabinet of Ministers of Ukraine and the TC Project "Technical Support to Public Sector Reforms in Ukraine". The participants (representatives of state and educational institutions and several national NGOs) discussed the draft Concept, which also referred to anti-corruption measures, as well as how it should be adopted (11/12/2008).



The project legal assistant participated in the regular meeting of the Inter-institutional Working Group, set up by Decree of the President of Ukraine of 17 April 2008, during which the role of Ukrainian and international NGOs initiatives against corruption were discussed. The project legal assistant presented the results of the UPAC Project roundtable "Effectiveness of the National anticorruption policy, role of the civil society and private sector" held on 16 October 2008 (18/12/2008).

The UPAC team leader contributed to the meeting of the Ukrainian internet association on cybercrime by presenting the Guidelines on cooperation between the law enforcement bodies and internet service providers against cybercrime elaborated within the Council of Europe project against cybercrime. (17/12/2008).

The UPAC Team continued to maintain regular contacts with other international anticorruption projects and donors, in particular with representatives of EC Delegation, ABA/ROLI, MCC, USAID, OECD, US DoJ resident experts, the embassies of France and US.

The UPAC team attended the different monthly Rule of Law Implementers meetings (10 September, 9 October, 12 November, 8 December 2008) organised by the USAID Rule of Law project in Ukraine in order to coordinate efforts related to the reform of the judiciary.

The team also participated in the meetings of the Anti-corruption Co-ordination Initiative led by ABA/ROLI on 17 September, 29 October, 25 November and 16 December. During these meetings, Mr V. Nevidomyi (Chief Controller, Head of the Department of Defense and Law Enforcement Activity of the Accounting Chamber of Ukraine), Ms Oksana D. Markeeva (Head of the Department on Combating Corruption, Apparatus of National Security and Defense Council of Ukraine), Mr. Serhiy Yaremenko (Deputy Head of the Control and Revision Department of the Main Department for Civil Service of Ukraine) and Mr Olexander Riabeka (Chairman of the Sub-Committee on control and adherence to human rights and cooperation with non-governmental and other organisations, Committee on Fighting Organised Crime and Corruption of the Verkhovna Rada) shared their views on the national anticorruption efforts. Moreover, the representatives of the international community in Ukraine had the opportunity to present their activities and discuss ways to ensure successful and well coordinated implementation of the international projects against corruption.

During the reporting period, the UPAC team closely collaborated with NGOs to (Anti-corruption Committee and Eastern Europe of Saferworld) to ensure the follow up of the roundtable held on 16 October 2008 on "Effectiveness of the National anti-corruption policy, role of the civil society and private sector". The project also cooperated with the Center for Political and Legal Reforms and the Kharkiv Institute of Applied Humanitarian Research of Mr Buromenski concerning the system studies on corruption risks as well as with the Agency (Laboratory) of Legislative Initiatives.

UPAC continued to raise the visibility of the project through its updated website, articles in local press and in the EC Delegation Newsletter in Ukraine as well as the weekly "flash notes" to the European Commission in Brussels to give information on ongoing activities.

## 5 Strategic Overview, Achievements and Conclusions

During the reporting period, UPAC successfully implemented activities following the defined objectives and timelines of the Workplan.

The project activities continued to support the implementation of GRECO recommendations contained in the report of the 1st and 2nd Evaluation Rounds<sup>1</sup> (on which Ukraine reported on 30 September 2008) and to assist the Ukrainian counterparts on issues that are covered under 3rd Evaluation Round, focusing on incriminations of corruption and transparency of political funding. The cooperation with the Ministry of Justice, Parliament, Ministry of Interior and other partner institutions has been fruitful and constructive during the reporting period.

During the next months the priority will be to carry out the remaining activities as foreseen by the Workplan updated in November 2008. The activities will continue to support and implement the relevant GRECO recommendations, transporting international and European standards into domestic legislation and with a special emphasis on strengthening the preventive capacities against corruption and on specialising the police officers, prosecutors and judges in investigating, prosecuting and adjudicating corruption offences.

Progress towards the achievement of project objectives can be summarized as follows.

### **Purpose 1: The improvement of the strategic and institutional framework against corruption**

The project has specifically supported the enhancement of the civil society and private sector's efforts against corruption by raising awareness and strengthening their role in the elaboration, implementation and monitoring of the National Anti-Corruption Strategy and Action Plan (roundtable on the "Effectiveness of the National anti-corruption policy, role of civil society and the private sector" of 16 October 2008 - Activity 1.1.2).

This activity closed a series of activities implemented through UPAC since 2006 to assist Ukraine in elaborating a National Anti-Corruption Strategy and its Action Plan, pursuant the 2<sup>nd</sup> GRECO Recommendation of the 1st and 2nd Evaluation Rounds.

Besides the closing conference, only one activity remains to be held under the Purpose 1. The project will contribute to the implementation of the United Nations Convention against corruption (UNCAC) through an expert study on its applicability in Ukraine and the compliance of the domestic legislation with the Convention (Activity 1.3.1). This activity will be a follow up to the support already provided by the project to the implementation of UNCAC (seminar on Article 6 of UNCAC and relevant GRECO Recommendations regarding the establishment of a specialised anti-corruption body, 15 January 2008 - Activity 1.3.1).

### **Purpose 2: To enhance capacities for the prevention of corruption**

In the past, the UPAC activities implemented to enhance the preventive capacities against corruption mainly focused on the political process and the civil service reform.

During the reporting period, the project conducted the final activities under Output 2.4 aimed at reducing conflicts of interest in the political process. They include the elaboration of the Concept Paper on amendments to the domestic legislation in order to enhance transparency in funding of political parties and electoral campaigns and the organisation of an expert workshop to discuss the Concept Paper on 19-20 December 2008 - Activity 2.4.2.

Moreover, the project has started to focus its activities on the improvement of the preventive capacities in the public administration, the judiciary and the prosecution/police sectors following the relevant GRECO recommendations.

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<sup>1</sup> [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval1-2\(2006\)2\\_Ukraine\\_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval1-2(2006)2_Ukraine_EN.pdf)

During this phase of implementation, the project launched three system studies on corruption risks in the public administration (in particular the field of administrative services, control and supervision), the judiciary and the bodies in charge of investigation and prosecution of criminal cases. These studies aim at supporting the reforms of the above mentioned sectors, at formulating recommendations and at elaborating methodologies for risk assessment studies to be conducted in the future (Activities 2.1.4, 2.1.5, 2.2.1, 2.2.2, 2.3.1, 2.3.2).

Furthermore, the project supported the "anticorruption mainstreaming" in the reform of public sector by providing expert comments on the Draft Law on civil service and organising a roundtable on the legislation on civil service and conflicts of interest. In the future, the project will continue to assist Ukraine in reforming the public administration through training/videoconference on issues related to legislation on civil service, international standards and best practices (Activity 2.1.3). It is foreseen to organise a roundtable on Code of Ethics of public officials and conflicts of interest (Activity 2.3.5).

The roundtable on sectorial codes of ethics, in particular, for police officials and prosecutors will be cleared up during the next Steering Committee meeting (Activities 2.3.5 - 2.3.6).

### **Purpose 3: To strengthen the anti-corruption legal framework and effective and impartial enforcement of the criminal legislation on corruption**

During the reporting period, the UPAC project mainly focused on the issue of identification, confiscation and seizure of proceeds from crime in line with the 11<sup>th</sup> and 12<sup>th</sup> GRECO recommendations (expert opinion and one roundtable on this topic). As requested by the Ministry of Justice, the project will continue to assist Ukraine in establishing (a) specialised body(ies) in charge of confiscation and seizure of proceeds from crime (Activity 3.1.5).

From now on, the project will strongly support the specialisation of judges and law enforcement officials in the adjudication, investigation and prosecution of corruption offences. UPAC will therefore assist Ukraine in complying with GRECO recommendations that underlined the insufficient level of specialisation to investigate and prosecute corruption offences and called for the development of training curriculum for law enforcement staff, prosecutors and judges.

As a consequence, a series of in-country training activities will be organised in Kyiv (Activities 3.2.3, 3.2.4) as well as a joint multidisciplinary training for judges, prosecutors, police and other law enforcement officials (Activity 3.2.6) and a multidisciplinary conference on investigation and prosecution of corruption related offences (Activity 3.2.1). A model/pilot training should be prepared and tested during these events. Moreover, an UPAC Project Manual on Training on Investigation and Prosecution of Corruption Related Offences is expected to be elaborated in cooperation with the OECD project "Strengthening the Capacity to Investigate and Prosecute Corruption in Ukraine" (Activity 3.2.5).

Besides these training activities, the project will provide technical advice on case management systems for the Ministry of Interior and the Prosecution (Activity 3.2.7) as well as the terms of reference on IT equipment for specialised anticorruption bodies (Activity 3.2.8).

Moreover, the project will continue to strongly support the definition of the mandate of the Government Anti-corruption agent (Activity 3.2.2) in line with the 1<sup>st</sup> GRECO recommendation of the 1<sup>st</sup> and 2<sup>nd</sup> Evaluation Rounds.

Finally, the UPAC activities will remain aimed at strengthening the anti-corruption legal framework and their alignment with the relevant international (in particular Council of Europe and UN) standards and GRECO Recommendations. The "Anti-corruption law package" is expected to be voted in the 2<sup>nd</sup> Reading in the near future. The adoption of the package is necessary in order to implement the Activity 3.1.7. The project is planning to provide experts comments on the (draft) Concept of Administrative Reform (Activity 3.1.1) as well as expert support in aligning the draft law on Public Service with the "Anti-corruption law package" (Activity 3.1.7).

## **Assumptions**

The project is based on the assumption that the Ukrainian authorities are committed to tackling corruption in a comprehensive manner in line with European and other international standards. Since autumn 2007, the political situation in Ukraine has allowed the UPAC project to implement planned activities successfully. Earlier in 2007, the project experienced difficulties due to the change of government and a period of political instability following the dissolution of the Parliament. The continuing implementation of project activities will depend to a large extent on the commitment of the partner institutions, in particular the Ministry of Justice. It is assumed that this commitment will remain consistent even with possible changes of government.

## **Timeframe of the project**

Since the UPAC is scheduled to end on 7 June 2009, the next Steering Committee meeting will aim at defining the objectives and the manner in which the remaining activities should be implemented.

Taking into consideration the funds unspent since the beginning of the project, the Steering Committee Meeting may discuss additional activities to be carried out.

Moreover, Council of Europe will propose to the European Commission the extension of the project for seven months – up to 31 December 2009. The extension would not require any additional funding. Depending whether or not the extension is granted possible additional activities shall be discussed with the respective project partners.

## 6 ANNEXES

### Annex I: List of Participants–UPAC Steering Committee meeting (21 November 2008)

#### UPAC Steering Group Meeting

#### List of Participants

21 November 2008

Ministry of Justice  
10, provulok Rylsky

#### Ukraine

Name	Institution/Function	Contact phone and e-mail
	<b>Ministry of Justice</b>	
Rouslan Riaboshapka	Head of the Department for Judicial Legislation, Law Enforcement and Anti-corruption Policy	tel.: (+380 44) 271-1569 fax: (+380 44) 271-1695 e-mail: riaboshapka@minjust.gov.ua
Olena Smirnova	Deputy Head of the Department for Judicial Legislation, Law Enforcement and Anti-corruption Policy	tel.: (+380 44) 271-1668 fax: (+380 44) 271-1695 e-mail: smirnova@minjust.gov.ua
Olena Sinchuk	Senior Specialist, Anti-corruption Policy Division	tel.: (+380 44) 271-1615 e-mail: korz@minjust.gov.ua
	<b>Council of National Security and Defence</b>	
Oksana Markieieva	Head of the Anti-corruption Department	tel.: (+380 44) 255-0537 fax: (+380 44) 255-0636 e-mail: mod@rainbow.gov.ua
Oleksiy Synitsyn	Head of the Anti-corruption Coordination Division	tel./fax: (+380 44) 255-0856 e-mail: say@rainbow.gov.ua
	<b>Secretariat of the Verhovna Rada</b>	
Serhiy Sylkin	Senior Consultant, Committee on the Fight against Organized Crime and Corruption	tel.: (+380 44) 255-3496 e-mail: sylkin@rada.gov.ua
	<b>Ministry of Interior</b>	
Lubov Butenko	Deputy Head of the Anti-corruption Office (Department), Main Department of the Fighting against Organized Crime	tel.: (+380 44) 461-1899 tel./fax: (+380 44) 461-1872 e-mail: but@guboz.gov.ua
	<b>Office of the Prosecutor General</b>	
Stanislav Turovskiy	Deputy Head of Department	tel.: (+380 44) 200-7520, 200-7609, 280-8161
	<b>Presidential Secretariat</b>	
Valeriy Putiato	Head of the Anti-corruption Policy Division, the Main Service on the Law Enforcement	tel.: (+380 44) 255-7287 fax: (+380 44) 255-6479 mob.: (+38 067) 342-9111 e-mail: valerii_putiato@stpu.gov.ua
	<b>Cabinet of Ministers Secretariat</b>	
Andriy Petrusenko	Senior Specialist	tel./fax: (+380 44) 226-2904

	<b>Main Department of Civil Service</b>	
Yuriy Yurchenko	Head, Monitoring and Inspection Department	tel.: (+380 44) 278-2205 fax: (+380 44) 279-0529
	<b>Academy of Judges</b>	
Tetyana Pustovoitova	Head, International Department	tel./fax: (+380 44) 230-9775 e-mail: pustovoitova@aj.court.ua
	<b>National Academy of Prosecution</b>	
Vitaliy Kutz	Vice-Chancellor, Director of Scientific and Research Institute	
Bohdan Lyzohub	Head of International Department	tel./fax: (+380 44) 206-0062 e-mail: apu2005@ukr.net
Vladyslav Yakymenko	Deputy Head of International Department	tel./fax: (+380 44) 206-0062 e-mail: apu2005@ukr.net
	<b>High Council of Justice</b>	
Grygoriy Zayets	Deputy Head of Secretariat, Head of Department of Nomination and Dismissal of Judges	tel.: (+380 44) 235-0012
	<b>Accounting Chamber of Commerce</b>	
Serhiy Sorochynskyi	Senior Specialist of the Anti-corruption Sector	tel.: (+380 44) 206-0760 mob.: (+38 067) 501-7635

#### **Council of Europe/Delegation of EC/Donors**

Ake Peterson	Representative of the Secretary General of the Council of Europe for the co-ordination of co-operation programmes with Ukraine	tel./fax: (+380 44) 234-6140 234-6210 e-mail: office@coe.int
Lado Lalicic	UPAC Project Manager Council of Europe, Directorate General of Human Rights and Legal Affairs	tel.: + 33 (0)3 88 41 29 76 fax: + 33 (0) 390 21 56 50 e-mail: Lado.LALICIC@coe.int
Roman Chlapak	UPAC Project/Team Leader	tel./fax: (+380 44) 234-6140 234-6210 e-mail: Roman.CHLAPAK@coe.int
Vlasta Sposobna	UPAC Project/Project Assistant	tel./fax: (+380 44) 234-6140 234-6210 e-mail: Vlasta.SPOSOBNA@coe.int
Valeria Reva	UPAC Project/Legal Assistant	tel./fax: (+380 44) 234-6140 234-6210 e-mail: Valeria.REVA@coe.int
Lucile Sengler	UPAC Project	tel./fax: (+380 44) 234-6140 234-6210 e-mail: Lucile.SENGLER@coe.int
Andriy Spivak	EC Delegation to Ukraine/JSF Project Manager	tel.: (+380 44) 390-8010, 253-3020 fax: (+380 44) 253-4547 e-mail: andrei.spivak@ec.europa.eu
Vadym Kuzyk	TACIS Monitoring/Expert	tel.: (+380 44) 278-4455 fax: (+380 44) 287-1505 e-mail: vkuzyk@monis.org

## **Annex II: Revised Workplan of Activities 2008 - 2009**

European Commission  
Commission européenne



Council of Europe  
Conseil de l'Europe

### **Support to Good Governance: Project against Corruption in Ukraine (UPAC)**

## Updated Workplan of Activities

***Draft of 16 February***

*Implementation status and changes as agreed at the 5<sup>th</sup> Steering Committee meeting on 21 November 2008*

Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
<b>Purpose (1): To improve the strategic and institutional framework against corruption in Ukraine</b>						
<u>Objectives supported through activities under Purpose 1:</u> <ul style="list-style-type: none"> <li>Anti-corruption strategy and Action Plan;</li> <li>Effective and efficient coordination and monitoring mechanisms of Anti-corruption Strategy and Action Plan.</li> </ul> <u>Sources of verification of objectives reached:</u> <ul style="list-style-type: none"> <li>GRECO reports, communications and web-sites of the government and administration of Ukraine; media coverage of strategy and action plan etc.</li> </ul> <u>Assumptions/risks:</u> <ul style="list-style-type: none"> <li>Commitment of the Ukrainian authorities to counter corruption in coordinated and coherent manner.</li> </ul> <u>Counterpart/beneficiary institutions:</u> <ul style="list-style-type: none"> <li>Ministry of Justice, Cabinet of Ministers, Presidential secretariat, Ministry of Interior, National Defence Council, State Prosecutor's Office, State Audit Office.</li> </ul>						
<b>Output (1.1): Anti-corruption strategy and action plan available</b>						
Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
October 2006 – March 2007  <b>Expert opinion provided in</b>	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	Workshop/Consultative meeting reports, recommendations, and final outcomes from the drafting process of Action Plan; Action Plan document and content including any potential	Delays and controversies on asserting or merging Concept 2006 into a NACS version; Clarity of assignation of tasks and responsibilities	Presidential Secretariat; Ministry of Justice; Cabinet of Ministers;	3-4 Experts; Desk Review/Field Work (3-4 days each); Delivery of Training, Technical Papers and



June 2007		consultations (civil society and business community representatives).	evaluation/assessment carried out prior to its finalisation; Participatory data of all relevant institutions and key stake holders; Systematic and verifiable outreach efforts to the public and between institutions; Projects reports; Other reporting and communications of relevant Ukrainian institutions; GRECO Evaluation Report[s] and recommendations and GRECO compliance reports	in relation with implementing, operationalising and monitoring NACS. Lack of the institutional capacities and absorption of relevant tasks and responsibilities in line with the endorsed NACS. Political will and continuous institutional support in launching, implementing and monitoring the NACS. NACS not met with broad based public support; Institutional commitment throughout the drafting process, and recognition of assigned lead authority in coordinating the action plan drafting process; Clear time-line for the process to be finalised	All institutions as assigned by the president's decree.	guidelines  4-6 working Sessions or Round Table Discussion (RTD);  Public Participation
Round table held on 16 October 2008	Activity 1.1.2	Round table "Effectiveness of the National anti-corruption policy, role of the civil society and private sector"/ <i>Assessment/Review and Recommendations on the effectiveness of the National Anti-corruption Strategy, its Action Plan and other policy related reforms in</i>	Reports available;  Recommendations and Observation as issued.	Assessment unable to draw clear conclusions and recommendations due to the limited time and experience to produce results as per required reforms and measures against corruption	Designated institution in charge to monitor implementation of the Anti-corruption Strategy and Action Plan;	2 Experts; 1 Local Expert; Desk review and field work; TP; RT discussion to present findings to counterpart institution

		<i>Ukraine</i>				
October 2006 – January 2007  <b>Survey methodology and questionnaire finalised in February 2007</b>	Activity 1.1.3	<b>1<sup>st</sup> National (and regional) Public Baseline Survey:</b> - Perception, experience, and attitude on corruption and service delivery in the system of justice (police, prosecution, notary service, enforcement of civil and criminal judgements); 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)	1st Survey Report (in both languages); Other international community reports; All forms of media reporting; GRECO evaluation report[s]; Government response and acknowledgment of findings (reports, interviews, press releases); Specific measures designed in response to system identification tools; Reports on implementation of the Anti-corruption Action Plan	Quality and Professionalism of Survey Providers (Contractor); Time line; Survey findings are not received adequately and therefore are not incorporated into policy making; Restriction of distribution and publication of Survey findings by beneficiary; A survey on corruption in the Judiciary has been carried out in spring 2006, albeit with a different methodology	All relevant institutions which will be determined by Survey Providers and Service Provider ToR.	Independent institution as an outside contractor (Survey Provider)
<b>Output (1.2): Effective monitoring, coordination and management of anti-corruption measures ensured</b>						
<b>Timing</b>	<b>Level/ Activity</b>	<b>Description</b>	<b>Sources of verification</b>	<b>Assumptions /Risks</b>	<b>Responsible Institutions</b>	<b>Possible Input Required</b>
January 2008 - September 2008  <b>RT held on 22 April 2008</b>	Activity 1.2.1	Workshop on models, types and tools used of and by different anti-corruption bodies/structures in view of a feasibility of such structures in Ukraine; their role and their establishment of a structure/body to: Monitor; Manage; and Coordinate The implementation of the National Anti-corruption Strategy and its Action Plan	Monitoring reports; reports assessing the efficiency of the NACS and AP	Sufficient resources (human and financial) made available to establish efficient and effective monitoring and coordination mechanism	Central Department of Civil Service and Ministry of Justice as co-implementer	1 CoE Experts; 1 Local Expert.

May 2008 <b>Study visit held on 26-30 May 2008</b>	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 in one trip: Croatia, Slovenia, France)	Study visit reports; evaluation/feedback of Study visits by participants.	Genuine readiness and capacity to share lessons learned and best practices and to incorporate them into day-to-day operations	Central Department of Civil Service And Working Group	CoE Kiev Project Team Experts from counterpart (receiving) institutions (in-kind contribution)
May 2009	Activity 1.2.3	Closing conference: Support to national anti-corruption conference to review the implementation of anti-corruption measures in Ukraine	Final report of project activities against purposes, stipulating achievements	Project has managed to carry out activities for all purposes foreseen	All SG/stakeholder institutions reached by the project	6 experts (international and national) having been involved in key project activities
<b>Output (1.3): Proposals available to ensure the implementation of Article 6 of the United Nations Convention against Corruption (UNCAC) regarding preventive anti-corruption body or bodies</b>						
Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
May 2008 <b>1<sup>st</sup> Activity Seminar held on 15/01/2008</b>  December 2008-April 2009	Activity 1.3.1	1 Seminar on implementation of UN Treaty Law focussed on issues related to UNCAC applicability in Ukraine and its domestic legislation.  (One Seminar designed for Codification Department of MOJ); one expert study on compliance with UNCAC <i>(initially proposed as one seminar designed for all main key players and specifically on Article 6 of UNCAC)</i>	Proposals reflected in legislative changes.	Continued commitment of Ukrainian authorities to the implementation of the UNCAC	Codification Department of the MoJ; SG members/stakeholders of the projects	1 Seminar 1Expert study  (1 international) 2 local experts  Desk review In-country visits Follow-up recommendations

<b>Purpose (2): To enhance capacities for the prevention of corruption</b>						
<u>Objectives supported through activities under Purpose 2:</u> <ul style="list-style-type: none"> <li>Documents related to the public administration reform amended in the light of anti-corruption standards and best practices;</li> <li>Guidelines for risks analysis, prevention of corruption and elaboration / implementation of codes of conduct in the judiciary, public administration (in particular in the Ministry of Interior, Prosecution and local and regional authorities available;</li> <li>Recommendations and draft laws aimed at reducing conflicts of interests in the political process available.</li> </ul>						
<u>Sources of verification of objectives reached:</u> <ul style="list-style-type: none"> <li>Activity reports; Web-site and documents of the Central Department of Civil Service, High Council of Justice, Ministry of Justice, CEC, Prosecution, Ministry of Interior, National associations / Congress of local and regional authorities of Ukraine, GRECO, Congress of local and regional authorities (CoE), media</li> </ul>						
<u>Assumptions/risks:</u> <ul style="list-style-type: none"> <li>Cooperation of relevant stakeholders</li> </ul>						
<b>Output (2.1): Anti-corruption concerns incorporated into the process of public administration reform (“anti-corruption mainstreaming”)</b>						
<b>Timing</b>	<b>Level/ Activity</b>	<b>Description</b>	<b>Sources of verification</b>	<b>Assumptions /Risks</b>	<b>Responsible Institutions</b>	<b>Possible Input Required</b>
February 2007 <b>Expert opinion provided in August 2007</b>	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	Number of participants in the promotion and introduction event	Delays on finalising the parliamentary sessions and reading of the draft law	Members of Parliament  Public Administration	1 expert
<b>Round table</b>	Activity	Round table “ Legislation on civil		Delays in adopting the	Main Civil	

to be held on 5 December 2008	2.1.2	service and conflicts of interest" <i>RTD to Follow up on implementation issues with regard to the draft Code of Ethics on behaviour of the Public Officials</i>		new law by parliament	Service Department	
25 March 2009	Activity 2.1.3	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) <i>This activity will be implemented in the form of a videoconference in cooperation with the National Academy of Public Administration, linking the Academy with 4 regional centres</i>	GRECO and other international reports acknowledging progress on this issue.  Stakeholder/beneficiary feedback	Need for this type of training (need not covered by other donors/organizations)	National Academy of Public Administration	Videoconference (TBC)
1 December 2008-15 April 2009  <b>Under way</b>	Activity 2.1.4	Corruption Risk Assessment and Prevention Plans: <b>System Study No. 1</b> 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 area and their causes; and Developing prevention proposals and plans.)	Various reports (international/local)  Media reports (TBC)  Sociological survey (TBC)  Stakeholder feedback	Need and readiness of relevant stakeholder institutions to participate in survey  Relevance and adequacy of methodology developed	Proposed to be implemented by the Centre of Political and Legal Reforms	2 international (incl. in-country visit(s)) 2 local experts Scoping study  Presentation of findings to stakeholders
April-May 2009	Activity 2.1.5	Presentation of results, report and methodology of the System Study No. 1 <i>Provision and training of standard guidelines and methodologies in</i>	Various reports (including GRECO reports).  Reports used as starting point for initiation of policy changes	Need for corruption risk assessments and its periodic repetition understood by stakeholders	Proposed to be implemented by the Centre of Political and Legal Reforms	RTD  2 international 2 local experts

		<i>carrying out periodical corruption risk assessments based on the System Study No. 1 provision of methodology on the implementation of prevention plans</i>				
November 2008	Activity 2.1.6	Expert Opinions on the Draft Law on Civil Service (draft of the Main Department for civil service)	Expert Opinion	Draft law delayed	Civil Service Department	2 International experts
<b>Output (2.2): Risks of corruption reduced in the judiciary</b>						
<b>Timing</b>	<b>Level/ Activity</b>	<b>Description</b>	<b>Sources of verification</b>	<b>Assumptions /Risks</b>	<b>Responsible Institutions</b>	<b>Possible Input Required</b>
1 December 2008-15 April 2009  <b>Under way</b>	Activity 2.2.1	Corruption Risk Assessment and Prevention Plans on Judiciary: <b>(System Study No. 2)</b> (Development of methodology; System Study Analysis; Identification of risk area and their causes; and Developing prevention proposals and plans.)	Various reports (national/international), including GRECO  Media reports (TBC)  Sociological survey (TBC)	Cooperation of Ukrainian judicial authorities in particular of the High Council of Justice. Cooperation of the Ministry of Justice	Proposed to be implemented by the Institute of Applied Humanitarian Research (Kharkiv)	2 international expert (including in-country visit) 2 local experts  Scoping study  Presentation of findings to stakeholders
April-May 2009	Activity 2.2.2	Presentation of results, report and methodology of the System Study No. 2  <i>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</i>	Various reports (including GRECO reports).  Reports used as starting point for initiation of policy changes	Need for corruption risk assessments and its periodic repetition understood by stakeholders	Proposed to be implemented by the Institute of Applied Humanitarian Research (Kharkiv)	Experts who participated in 2.1.1

Output (2.3): Risks of corruption reduced in the prosecution and police						
Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
1 December 2008-15 April 2009  <b>Under way</b>	Activity 2.3.1	Corruption Risk Assessment and Prevention Plans: <b>System Study No. 3</b> on Corruption Risks within the bodies in charge of investigation of criminal offences ( <i>initially proposed as a system study within System of Ministry of Interior</i> ) (Development of methodology; System Study Analysis; Identification of risk area and their causes; and Developing prevention proposals and plans.)	Various reports (national/international), including GRECO  Media reports (TBC)  Sociological survey (TBC)	Commitment of Mol and relevant departments to participate in survey	Proposed to be implemented by the Institute of Applied Humanitarian Research (Kharkiv)	1 international expert (including in-country-visit)  2 local experts  Scoping study  Presentation of findings to stakeholders
April-May 2009	Activity 2.3.2	Presentation of results, report and methodology of the System Study No. 3 <i>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</i>	Various reports (including GRECO reports).  Reports used as sources for initiation of policy changes	Need for corruption risk assessments and its periodic repetition understood by stakeholders	Proposed to be implemented by the Institute of Applied Humanitarian Research (Kharkiv)	Experts who participated in 2.3.1
1 December- 15 April 2009  <b>Under way</b>	Activity 2.3.3 in coop with  Activity 2.3.1	Corruption Risk Assessment and Prevention Plans in): <b>System Study No. 4</b> on Corruption Risks within the bodies in charge of prosecution of criminal offences ( <i>initially proposed as a system study within the System of</i>	Various reports (national/international), including GRECO  Media reports (TBC)  Sociological survey (TBC)	Commitment of prosecution and relevant departments to participate in survey	Proposed to be implemented by the Institute of Applied Humanitarian Research	1 international expert (including in-country visit) 2 local experts Scoping study

		<i>Prosecutorial Services</i> ) (Development of methodology; System Study Analysis; Identification of risk area and their causes; and Developing prevention proposals and plans.)			(Kharkiv)	Presentation of findings to stakeholders
April-May 2009	Activity 2.3.4	Presentation of results, report and methodology of the System Study No. 4 <i>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</i>	Various reports (including GRECO reports).  Reports used as sources for initiation of policy changes	Need for corruption risk assessments and its periodic repetition understood by stakeholders	Proposed to be implemented by the Institute of Applied Humanitarian Research (Kharkiv)	Experts who participated in 2.3.2
January-March 2009  Postponed, needs to be specified	Activity 2.3.5	Workshop and expert advice for the elaboration, introduction and implementation of codes of conduct in the Prosecution system	Reports and public communications on Codes of Conducts in the prosecution system	Issue not yet covered by other TA programmes; Prosecution committed to introducing Codes of Conduct; Commitment translates into the allocation of human and financial resources to make system efficient and effective	Prosecution	1 – 2 Experts (national and international)  TP (TBC)  Workshop (TBC)
January-March 2009  Postponed, needs to be specified	Activity 2.3.6	Workshops and expert advice for (the elaboration) and implementation of codes conduct and disciplinary and redress/appeal procedures in the Ministry of Interior bodies	Reports and public communications on Codes of Conducts	Issue not yet covered by other TA programmes;  Prosecution committed to introducing Codes of Conduct;	Ministry of Interior	2-3 experts (national and international)  TP (TBC)  Workshop(s) (TBC)



specified				<p>Commitment translates into the allocation of human and financial resources to make system efficient and effective</p> <p>Ministry of Interior is ready to implement such measures</p>		
<b>Output (2.4): Conflicts of interest reduced in the political process</b>						
Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
January/ February 2008  <b>Held on 29 January 2008</b>	Activity 2.4.1	RTD 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. (identification of issues of concern as per subject)	Relevant reports, including GRECO reports  Public debate on identified issues	Continued commitment of Ukrainian authorities to tackle issues	MoJ  Central Election Commission  Parliament	1 international expert  2 national experts  Desk review and TP paper  Workshop
June –	Activity	Elaboration of a Concept Paper and	Relevant reports, including	Continued commitment of	Central Election	2 international

September 2008  <b>Concept Paper prepared by November 2008</b> <b>RT held on 19-20 December 2008</b>	2.4.2	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 <i>Workshop to support disclosure, reporting, monitoring and enforcement of legislation and regulations on <u>financing of political parties and electoral campaigns</u> (follow-up to recommendations from GRECO)</i>	GRECO reports  Public debate on identified issues	Ukrainian authorities to tackle issues	Commission  MoJ  Parliament Concept Paper and Expert Workshop: proposed to be elaborated/organised by the Agency for Legislative Initiatives	experts  2 national experts Desk review and TP paper  Workshop
June - September 2008  <b>RT held on 1-2 July 2008</b>	Activity 2.4.3	Analysis of tools to minimise the vulnerability of the legislative process to corruption including regulation of <u>lobbying</u> (analysis of national practices, case studies from Europe and USA, elaboration of proposals). <i>To be implemented in connection to activities 2.4.2, 2.4.5</i>	Relevant international reports (including GRECO)  Issues at stake discussed through public hearings, in parliament and in the media	Continued commitment of Ukrainian authorities to advance issues  UPEPLAC project findings/recommendations to be incorporated and considered	Ministry of Justice	2 international experts  2 national experts  Desk review and TP paper Workshop
June - September 2008  <b>RT held on 1-2 July 2008</b>	Activity 2.4.4	Workshop to support the implementation of obligations of elected office holders to <u>declare assets and conflict of interests</u> as well as other measures to reduce, and control conflict of interests in general. <i>The issue of declaration of assets of elected representatives to be covered in connection to activities 2.1.2, 2.1.3, 2.1.6 related to civil service</i>	Relevant national and international reports (including GRECO).	Continued commitment of Ukrainian authorities and relevant stakeholders to advance issues	Tax administration  MOJ (TBC)	2 international experts  2 national experts  Desk review and TP paper  Workshop

June – September 2008  <b>RT held on 1-2 July 2008</b>	Activity 2.4.5	Workshop and follow-up on GRECO recommendations with regard to <u>immunities and privileges of parliamentarians and judges</u> and other categories. <i>To be implemented in connection to activities 2.4.2, 2.4.3</i>	International reports, incl. GRECO. Media reports  Public discussions	Continued commitment of Ukrainian authorities to tackle issues at stake.  (TBC)	MoJ; Parliament; Supreme Court High Judicial Council of Judges	2 international experts 2 national experts Desk review and TP paper Workshop (TBC)
<b>Output (2.5): Capacities enhanced at the level of local and regional authorities for the prevention of corruption and strengthening of integrity</b>						
<b>Timing</b>	<b>Level/ Activity</b>	<b>Description</b>	<b>Sources of verification</b>	<b>Assumptions /Risks</b>	<b>Responsible Institutions</b>	<b>Possible Input Required</b>
November 2007  <b>Completed March 2007</b>	Activity 2.5.1	Support the drafting of a short and structured National Handbook on ethics in local government, based the European Public Ethics Handbook, and translation of other relevant documents into Ukrainian	Draft National Handbook	Identification of a competent local expert Help from national and local stakeholders in identifying and accessing sources of information		1 local expert 1 international expert
December 2007  <b>Completed in March 2007</b>	Activity 2.5.2	Raise interest among local government stakeholders and create a Steering Group for supporting public ethics in local government	Letters of interest in taking part in the Steering Group Other forms of interest expressed in relation to the benchmarking programme Clear commitment expressed by at least 5 municipalities in implementing the full programme	Identification of a committed local partner Interest from local stakeholders 5 municipalities are committed to the programme		1 local expert
February 2007  <b>Completed in May 2007</b>	Activity 2.5.3	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	Documents of the Steering Group meeting Meeting report Revised National Handbook National Score Card	Identification of a committed local partner Interest from local stakeholders 5 municipalities are committed to the		1 local expert 1 international expert 1 workshop

				programme		
March – April 2007 <b>Completed in May 2007</b>	Activity 2.5.4	Organise the first round of self-assessments and preparation of the National Benchmark on public ethics at local level	Self-assessment forms National Benchmark (composed of the National Score Card plus average scores)	Identification of a committed local partner Interest from local stakeholders 5 municipalities are committed to the programme		1 local expert
May - June 2007 <b>Completed in August and September 2007.</b>	Activity 2.5.5	Selection and training to the use of the peer review and benchmarking process for 15 peer reviewers (5 local elected representatives, 5 senior local public servants and 5 specialists in public administration)	Training report Training evaluation forms filled in by the trainees at the end of the training session	Identification of a local partner Identification of a competent local expert Identification of 15 qualified volunteers for the role of peers		1 Training workshop 1 local expert 1 international expert
February 2008 <b>Completed in December 2007</b>	Activity 2.5.6	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. Each peer review should lead to the preparation of reports including Recommendations for the improvement of the situation in the municipality under review	5 reviews reports 5 review Recommendations Reports on Dissemination	Identification of a local partner Commitment of peer reviewers 5 municipalities are committed to the programme		1 local expert 5 review visits of 4 days for peer review teams of 4 persons each
December 2007 – February 2008 <b>Completed in January 2008</b>	Activity 2.5.7	Support the preparation and implementation of Corruption Prevention Plans in the 5 pilot municipalities (risk analyses and benchmarking, review status of local officials, review effectiveness of internal and external monitoring and control mechanisms, implementation	5 Corruption Prevention Plans	Identification of a local partner 5 municipalities are committed to the programme		1 local expert

		of codes of conduct)				
March - April 2008  <b>Completed in January 2008</b>	Activity 2.5.8	Revise the National Handbook on public ethics in the light of the results of the Benchmarking exercise (Score Card, Benchmark, peer review recommendations and Corruption Prevention Plans) and, if appropriate, prepare a draft National Strategy to improve public ethics at local level	Revised National Handbook Possibly, the National Strategy	Identification of a local partner Identification of a competent local expert		1 local expert 1 international expert
June 2008 <b>Completed in January 2008</b>	Activity 2.5.9	Organise the Second Steering Group meeting to adopt the revised National Handbook (and, if appropriate, the National Strategy) and to assess the implementation of the programme	Meeting report Meeting documents Handbook on Public Ethics at local level	Identification of a local partner		1 international expert 1 local expert 1 workshop
April 2008  <b>Completed in May 2008</b>	Activity 2.5.10	Publish the revised National Handbook. Subject to agreement by participating municipalities, review Recommendations and Corruption Prevention Plans could be appended to the Handbook	Publication "Handbook on Public Ethics at local level" Distribution list Reactions from addressees and the media	Identification of a local partner		
<b>Output (2.6): Public participation in the anti-corruption effort promoted</b>						
<b>Timing</b>	<b>Level/ Activity</b>	<b>Description</b>	<b>Sources of verification</b>	<b>Assumptions /Risks</b>	<b>Responsible Institutions</b>	<b>Possible Input Required</b>
October 2006  <b>Completed in January 2007</b>	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	Call for submission of proposals from NGOs	N.A.	Council of Europe Kyiv Project Team	Team Leader in conjunction with EC consultants.
<b>Purpose (3): To strengthen the anti-corruption legal framework and effective and impartial enforcement of the criminal legislation on corruption</b>						

<p><u>Summary of objectives supported under Purpose 3:</u></p> <ul style="list-style-type: none"> <li>Relevant draft amendments in line with international anti-corruption standards and technical reports on specialisation, training, and multidisciplinary approach of law enforcement and judicial authorities in the fight against corruption elaborated</li> </ul> <p><u>Sources of verification of objectives reached:</u></p> <ul style="list-style-type: none"> <li>Activity reports, GRECO reports, draft amendments, technical reports, partner institutions documentation</li> </ul> <p><u>Assumptions/risks:</u></p> <ul style="list-style-type: none"> <li>Commitment and co-operation of relevant partner institutions</li> </ul>						
<p><b>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</b></p>						
Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
November 2008 – March 2009  <div>Needs to be specified</div>	Activity 3.1.1	Expert Opinion and Review of coherence of Draft Concept of Administrative Reform with European anti-corruption standards.	Projects reports;  Other reporting and communications of relevant Ukrainian institutions;  Relevant institutions' web-sites disseminating information and providing feed back;  Media coverage;  GRECO Evaluation Report[s] and recommendations and GRECO compliance reports	Draft Concept available for review by responsible institutions;  Political will to undertake necessary reforms, and review the on-going legislative process in line with the European standards;  Consistency of coordination and cooperation among all relevant institutions and key players during the entire process;	Main Civil Service Department of the of Ukraine;  MOJ;  National Commission for the Strengthening of Democracy and Rule of Law;  Secretariat of the President of Ukraine;	2 Experts Desk review;  1 Fact finding mission;  Delivery of Technical Paper (Expertise Opinion); Round Table Discussion (RTD);  Follow up.

				<p>Clear transparent process and a thorough stake holder consultation mechanism;</p> <p>Available resources provided and committed by the relevant beneficiary and coordinating bodies/institutions.</p>	<p>Council of National Security and Defence;</p> <p>School of Public Administration;</p>	
<p>January 2007</p> <p><b>Expert opinion provided in May 2007.</b></p>	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.	<p>Projects reports;</p> <p>Other reporting and communications of relevant Ukrainian institutions;</p> <p>Relevant institutional web-sites disseminating information and providing feed back;</p> <p>Media coverage;</p> <p>GRECO Evaluation Report[s] and recommendations and GRECO compliance reports</p>	<p>Draft Concept available for review by responsible institutions;</p> <p>Political will to undertake necessary reforms, and review the on-going legislative process in line with the European standards;</p> <p>Consistency of Coordination and Cooperation among all relevant institutions and the key players during the entire process;</p> <p>Clear transparent process, including thorough stake holder consultation mechanism;</p>	<p>Ministry of Justice;</p> <p>National Commission for the strengthening of democracy and the rule of law;</p> <p>Secretariat of the President of Ukraine;</p> <p>Council of National Security and Defence.</p>	<p>2 Experts;</p> <p>Desk Review;</p> <p>1 Fact finding Mission;</p> <p>Technical Paper (Expertise Opinion);</p> <p>Round Table Discussion (RTD);</p> <p>Follow up.</p>

				Available resources provided and committed by the relevant beneficiary and coordinating bodies/institutions.		
October 2006 <b>Expert opinion provided in October 2006</b>	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.	Projects reports;  Other reporting and communications of relevant Ukrainian institutions;  Relevant institutions' web-sites disseminating information and providing feed back;  Media coverage;  GRECO Evaluation Report[s] and recommendations and GRECO compliance reports	Draft Concept available for review by responsible institutions;  Political will to undertake necessary reforms, and review the on-going legislative process in line with the European standards;  Consistency of coordination and cooperation among all relevant institutions and key players during the	Ministry of Justice  National Commission for Strengthening Democracy and the Rule of Law  Supreme Court  Council of Judges  Secretariat of the President of	2 Experts  Desk review  1 Fact-finding mission  Technical Paper (Expertise Opinion)  Round Table Discussion (RTD)  Follow up.



				<p>entire process;</p> <p>Clear transparent process, including a thorough stake holder consultation mechanism;</p> <p>Available resources provided and committed by the relevant beneficiary and coordinating bodies/institutions;</p> <p>In addition a financial feasibility concept has been provided and agreed/committed by government</p>	<p>Ukraine</p> <p>Association of Judges of Ukraine</p>	
<p>June 2007</p> <p><b>14 December 2007</b></p>	Activity 3.1.4	<p>Support the implementation of GRECO recommendations on compliance with relevant international anti-corruption legal instruments.</p> <p>(Activities need to be defined upon issuance of GRECO report)</p>	<p>Database of legal acts of Ukraine</p> <p>GRECO compliance reports</p> <p>Other relevant monitoring reports (OECD)</p>	Continuous commitment of Ukrainian authorities to adhering to international legal standards.	MoJ	<p>Council of Europe local project team</p> <p>Relevant international and national experts</p>
<p>July 2008</p> <p><b>19 September 2008</b></p>	Activity 3.1.5	<p>Expert opinion on the Draft Amendments on the Confiscation of Crime Proceeds provisions;</p> <p>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</p>	<p>Expert Opinion</p> <p>Evaluation reports from monitoring mechanisms</p> <p>Activity reporting</p>	Draft Amendments are available and presented in time to parliament	MOJ	<p>1 Council of Europe Expert</p> <p>Council of Europe local project team</p>

December 2006 – August 2007  <b>Expert opinions provided in December 2006 and January 2007</b>	Activity 3.1.6	Support to the drafting of legislation that results from anti-corruption law package, submitted by the President of Ukraine to the Parliament.  Follow-up will be defined further after review. <i>(Note: the provisions on the liability of legal persons is included in this package)</i>	Database of Legal Acts  Criminal Code  Code of Administrative Offences	Continuous commitment of Ukrainian authorities to align Ukrainian legal framework with international standards;  Sufficient resources (human and financial) made available	MoJ	6 TP's 2-6 experts
April - May 2008  <b>Hearing held on 4 June 2008</b>	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 legislative framework"	Database of Legal Acts  Criminal Code  Code of Administrative Offences	Continuous commitment of Ukrainian authorities to align Ukrainian legal framework with international standards;  Sufficient resources (human and financial) made available	Anti-corruption Commission at the Parliament	2 experts Expert opinions
November 2008-April 2009 <b>Needs to be specified, depends on adoption of the anti-corruption package</b>	Activity 3.1.7	Expert support/opinion in aligning the draft Law of Ukraine "On Public Service" (new version) with the anti-corruption law package, submitted by the President of Ukraine to the Parliament	GRECO compliance reports  Other relevant monitoring reports (OECD)	Continuous commitment of Ukrainian authorities and parliament to align Ukrainian legal framework with international standards	MoJ	2 experts to carry the review
<b>Output (3.2): Judges trained and specialised in adjudication of corruption; law enforcement officials trained in the investigation and prosecution of corruption offences</b>						
<b>Timing</b>	<b>Level/ Activity</b>	<b>Description</b>	<b>Sources of verification</b>	<b>Assumptions /Risks</b>	<b>Responsible Institutions</b>	<b>Possible Input Required</b>
May 2009	Activity	Multidisciplinary Conference on issues	Various reports (including	Issue not yet covered by	Academy of	TP

	3.2.1	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)	GRECO)	other donors	Procuratura	
November 2008-May 2009 <b>Debriefing tables summarising models of ac bodies of France, Slovenia and Croatia sent to participants of study visit</b>	Activity 3.2.2	Debriefing on models of anti-corruption bodies following the study visit Expert Review and Recommendations on the effectiveness of bodies responsible for the pre-trial investigation and prosecution of corruption offences (follow-up to recommendations from GRECO, special emphasis on specialisation and from the Multidisciplinary Conference Conclusions)	GRECO reports	Reform of system of prosecution is underway/finished in conjunction with international legal standards	Bodies responsible for pre-trial investigation and prosecution	2 experts (international and national)  Recapitulative tables on Anticorruption bodies in France, Slovenia and Croatia  RTD (to be confirmed)
April 2009	Activity 3.2.3	In-country training activity for prosecutors and investigators from central and regional offices (case studies, pro-active and multidisciplinary approach, participation of relevant bodies, including supreme audit institutions)	Reports, including GRECO  Training Package	Reform of system of prosecution is underway/finished in conjunction with international legal standards	Academy of <i>Prokuratura</i>	1 Training Activity  2 international experts  2 national experts
March 2009  (back to back)	Activity 3.2.4	In-country training activity for police officers and other law enforcement officials from central and regional offices (case studies, pro-active and	Reports, including GRECO  Training Package	Reform of system of prosecution is underway/finished in conjunction with	Mol,	1 Training activity  2 international experts

		multidisciplinary approach, participation of relevant bodies, including supreme audit institutions		international legal standards		2 national experts TP
May 2009	Activity 3.2.5	Upon adoption of relevant legislation: Provide training tools through a Manual of Training on Investigation and Prosecution of Corruption related offences. <i>(Note: training manual will be drafted and improved during the above mentioned trainings)</i>	Training Manual	Reform of system of prosecution is underway/finished in conjunction with international legal standards  Legal acts have adopted	Mol, Prosecution Proposed to be elaborated in cooperation with OECD Project "Strengthening the capacity to investigate and prosecute corruption in Ukraine"	2 international experts  2 national experts  TP
March 2009	Activity 3.2.6	Joint multidisciplinary training for judges, prosecutors, police and other law enforcement officers from central and regional levels on pro-active and multidisciplinary approach, specialised officers on finance and economics, inter-agency and international cooperation during criminal proceedings on corruption related offences.	GRECO reports  Training Package	Reform of system of prosecution is underway/finished in conjunction with international legal standards	Academy of <i>Prokuratura</i>	2 international experts  2 national experts  TP
March-April 2009	Activity 3.2.7	Provide Technical Advice on the introduction and application of case management systems for the Ministry of Interior and Prosecution services, in particular of a unique system for registration of corruption and economic crime related offences	Technical Paper	Need not yet covered by other donors	Mol, Prosecution  Proposed to be conducted by the Basel Institute on Governance	2 International experts (including in-country visits) 2 Local experts Scoping Study TP 2 Workshops (introduction and

						feedback)
March-April 2009	Activity 3.2.8	TOR's/advice on IT equipment for specialised anti-corruption bodies	To be specified	To be specified	To be specified	To be specified

Last update: 19 November 2008

**Annex III: Event report/technical paper on the roundtable "Effectiveness of the National anti-corruption policy, role of the civil society and private sector" (16 October 2008), Marijana Trivunovic (United Kingdom)**

**Round table "Effectiveness of the National anti-corruption policy, role of the civil society and private sector"**

*16 October 2008*

**EVENT REPORT**

**1. INTRODUCTION**

UPAC project aims to contribute to the prevention and control of corruption. Its three principal objectives are as follows:

- To improve the strategic and institutional framework against corruption in Ukraine
- To enhance capacities for the prevention of corruption
- To strengthen the anti-corruption legal framework and effective and impartial enforcement of the criminal legislation on corruption

The October 16, 2008 Round Table was organised with the following objectives:

- To contribute to strengthening the role of the civil society and private sector in the national anti-corruption efforts;
- To review the effectiveness of the national anti-corruption strategy and action plan by civil society organisations; to raise awareness on proposed reforms; contribute to enhancing compliance with GRECO recommendations as well as international and European standards.

**2. SUMMARY OF PROCEEDINGS**

**Session 1: The role of the civil society in national anti-corruption efforts**

Ms. Marijana Trivunovic, Council of Europe expert, presented the many possible roles civil society organizations can have in the process of anti-corruption reforms in countries in transition, ranging from diagnostic research necessary to identify appropriate remedies, to analyses of good practices for their applicability to the specific context of Ukraine, to advocacy for the adoption of particular reform measures, to ongoing monitoring of the implementation of these interventions, to ensure that laws and procedures are implemented as intended.

Mr. Juhani Grossman, representing ACTION Project Ukraine implemented by Management Systems International and funded by USAID, discussed activities supported by this project as well as the challenges identified under this project. He suggested that the four general challenges that NGOs face are (a) lack of capacity to run more complex, multi-objective projects/campaigns, (b) lack of capacity to advocate at the national level, (c) difficulty in explaining complex, corruption-related issues to the 'ordinary citizen' and the general public, and (d) adequately reporting on achievements. The NGOs involved in the ACTION Project formed seven coalitions to address corruption in land management and construction, the budget process, higher education, as well as promote access to information, and provide citizen advice on corruption-related matters.

Mr. Ihor Kolyushko, Head of the Board of the Center for Political and Legal Reforms identified the following priorities to reduce opportunities for corruption: (a) elaborating and adopting a code of administrative procedures; (b) elaborating and adopting laws regulating activities of

ministries and other central bodies of executive power; (c) addressing serious problems in the judiciary, in particular the issue of acceding to judicial posts and disciplinary responsibility of judges; (d) ensuring transparency of public information; (e) reforming the public service and adopting the new legislation on civil service; (f) reforming the field of education; (g) creating a specialised anti-corruption body at the policy level; and (h) reforming the public procurement system as well as the budget system, which has not seen changes since the Soviet times and is extremely opaque.

Mr. Mykhailo Buromenskiy, President of the Institute for Applied Humanitarian Research and Ukrainian delegate to GRECO, noted that NGOs have had quite an opportunity to promote reforms in Ukraine after the Orange Revolution, when they were rated as the most trusted segment of society in public opinion surveys. Three years later, their status has declined somewhat, but nevertheless the opportunities are there. The focus of the work should be on improving the role of the parliament and the quality of the legislative process, as well as promoting the protection of those who would stand up to corruption but are afraid of retribution or other negative consequences for doing so. Finally, there should also be more work done with the media who are essential in exposing corruption and promoting anti-corruption efforts, but are distrusted by the general public.

## **Session 2: The role of the private sector in national anti-corruption efforts**

Ms. Anne Lugon-Moulin, Executive Director of the Basel Institute on Governance, presented the key private sector anti-corruption initiatives, seen as important by the business community as they not only contribute to a more efficient and competitive environment for doing business, but also enhance the reputation of the participating enterprises. There are a number of voluntary initiatives at the general, cross-industry, and sector-specific levels. These typically involve quite rigorous compliance programmes that include codes of conduct, advice/help lines on implementing or complying with the set standards, as well as protection of employees who wish to report on unacceptable practices.

Ms. Oksana Yelmanova, Director General of the group of companies FIM presented a rather bleak but realistic picture of how it is impossible to do business in Ukraine without, at a minimum, tolerating corruption. She noted a gap between law and practice that often pushes business and society to act illegally. Contributing factors include generally underpaid and unprofessional public officials who often "sell" services, acting in their own rather than public interests. To counteract this, she proposed to minimize direct contacts between individual officials and receivers of services, to reduce discretionary powers of public officials and to ensure providing public services in simple and clear ways (e.g. simplification of administrative procedures). This is particularly important, from a business perspective, for licensing and other business-related authorisations, and registration of companies. Also needed is a formalisation of property rights, fair judicial proceedings, and a transparent system of lobbying business interests (e.g. law on lobbying).

Mr. Evgueni Solodko, Advocate (Kyiv), Co-founder of the "Anti-raider Front" of Ukraine, proposed promoting electronic systems for registration, licensing, and other public services in order to reduce corruption. He also advocated for clarity and transparency of procedures, revision of the legal framework regulating inspections of business entities, and allowing anonymous reporting of corruption.

## **Session 3: Good practices**

Ms. Cristina Cojocaru, representing the Center for the Analysis and Prevention of Corruption (CAPC) of Moldova, described a legislative screening initiative that has received quite a lot of positive attention in Moldova and internationally. The initiative essentially involves an analysis of all draft laws against a number of indicators of shortcomings that open opportunities for corruption, such as too wide scope for interpretation of the law's provisions, or even shortcomings in the 'implementability' of the proposed law (e.g. no costing performed and thus no resources for implementation secured). One of the major achievements of the effort is that formalized cooperation with the parliament has been achieved.

Ms. Tamar Chugoshvili, representing the Association of Young Lawyers of Georgia (GYLA), described a number of GYLA's anti-corruption initiatives ranging from promoting the adoption and implementation of the freedom of information law, to the building of specific databases that track relationships and interests, e.g. cross referencing public officials asset and income declarations, political party financing, public procurement tenders for the further use of journalists, other civil society groups, and the general public.

Ms. Olga Mashtaler and Mr. Yuri Gavryliuk presented the work of the Ukrainian NGO "Anti-corruption Committee" which includes not only surveys for the purposes of including Ukraine in the TI global indices, but also the operation of anti-corruption telephone hotlines and citizens advice centres.

#### **Discussion 1—summary of points made:**

**Transparency of central-level state institutions**, in particular, is still rather inadequate, and much more effort needs to be made to increase transparency. The Parliament and the Courts stand as the first priority of such efforts.

On a related matter, **access to information regime needs to be improved**. It appears not only a matter of improving implementation and practices, but also improving the regulatory framework that governs this issue.

A more **systematic** approach needs to be developed in **coordination between civil society and state bodies**. While exchange exists, it often takes place on an ad hoc basis or is otherwise inefficient.

**Anti-corruption measures are discussed**, and sometimes adopted as policy choices, **without an estimation of the costs** of their implementation. Future efforts should correct this omission.

The legislative process needs to be enhanced to ensure an **improved quality of laws that are passed**; improved quality includes careful elaboration of the modalities of their implementation and all the necessary procedural details.

Corruption has not been researched adequately. More should be invested in doing so, in particular by NGOs. Reform efforts should be designed based **on more reliable diagnostic research**.

Corruption became a sort of "service". It is necessary to **decrease the benefits** of this "service" and **increase its cost by making it more risky and unattractive**.

#### **Session 4: Civil Society and Anti-Corruption Policy in Ukraine, Proposed Reforms**

*Consultation with civil society regarding strategic anti-corruption framework (strategy and action plan) and law drafting process*

- Mr Ruslan Ryabochapka, Director of the Department for legislation on judiciary, law enforcement and anti-corruption policy, Ministry of Justice of Ukraine, pointed to the current crisis of trust in public administration and the high level of public tolerance of corruption in the Ukrainian society. He argued that political commitment and public support are key for the success of the anti-corruption policies. On the positive side, Mr Riaboshapka mentioned the "Concept of development of civil society" that establishes the obligation of authorities to cooperate with civil society, and the draft law on "Principles of prevention and counteraction of corruption," which specifies the possibilities for civil society input into the anti-corruption policy, the obligation for the authorities to report to the public about anti-corruption measures, and the obligation to protect witnesses and other "collaborators of justice." He noted that NGOs proposals were taken into account during the elaboration of the updated government anti-corruption action plan that is expected to be approved by the Cabinet of Ministers.

*The role of the Accounting Chamber against corruption*



- Mr Vassyl Nevidomy, Member of Accounting Chamber of Ukraine, Main Comptroller, Director of Department of Defence and Law Enforcement, underlined that the Chamber was open to cooperation with civil society and underlined that, according to a special audit conducted by the Chamber, the budgetary means allocated for the anti-corruption policy (267 millions UAH for the last 1.5 years) were ineffectively used. Ukraine has not implemented GRECO recommendations, with only 12 out of the 90 expected anti-corruption laws having been adopted, the issue of specialised anti-corruption bodies not resolved (the institution of the Government anti-corruption agent is not operational, the Instruction on Ministry of Interior Anti-corruption Bureau has not been approved), the new system of declaration of revenues and expenditure of public servants not introduced, the code of ethics/integrity of public officials not adopted, and the database of persons convicted for corruption offences not yet created.

*Civil society and the Verkhovna Rada (Parliament) of Ukraine, legislative framework against corruption, "anti-corruption package of laws"*

- Mr Yuriy Sorochyk, Head of the Secretariat of the Committee on Fighting Organised Crime and Corruption of the Verkhovna Rada discussed the importance of cooperation with civil society organisations. The Committee received about 23,000 proposals of amendments from the public during last 3 years. NGOs have been involved in the hearings organised by the Committee, including the 4 June 2008 hearing "Anti-corruption policy and practice: problems of legislative framework" dedicated to the "anti-corruption package" of laws. Mr Sorochyk informed the participants about the recent approval of the "anti-corruption package" by the Committee, and recommendation that Verkhovna Rada adopt it in the second reading. He noted the provisions of the draft law on "Principles of prevention and counteraction of corruption" regarding civil society and underlined that they are aimed at the implementation of specific GRECO recommendations.

*Cooperation of civil society with the law enforcement authorities*

- Mr Andriy Tolopilo, Department of Monitoring of respect of human rights in the activities of the Ministry of Interior bodies, Assistant to the Minister of Interior spoke about the positive experience of public councils that are composed of officials and NGOs representatives and monitor the activities of the Ministry of Interior bodies.

*Access to information and ethics in media environment: European experience and Ukrainian context*

- Mr Ad van Loon, Council of Europe expert, Joint Project of the European Commission and Council Europe "Promotion of the European Standards in the Ukrainian Media Environment" presented how access to information standards have evolved within the Council of Europe.
- Mr Taras Schevchenko, Media Law Institute, presented the weaknesses of the existing freedom of information regime in Ukraine despite the fact that the first law providing for freedom of information was adopted already in 1992. While there are some shortcomings in the legislation itself, the principal problem is (non-)implementation. Challenging shortcomings is extremely difficult due to the fact that the available administrative remedies are weak and litigation takes an extraordinarily long time. Fortunately, some positive prospects lie in the new draft law which is currently being reviewed in parliament.

*Judiciary system reform*

- Ms Iryna Zaretska, legal adviser, Joint Project of the European Commission and Council Europe "Transparency and efficiency of judicial system of Ukraine," described key activities of this project including trainings on management skills, creating the legal basis for a transparent and efficient judiciary, and the implementation of certain transparency measures such as public availability of all court rulings.

*Civil service reform and anti-corruption: questions of conflicts of interest, ethics and declaration of assets and expenses of the public servants*

- Mr Viktor Tymoshuk, expert of the Center for Political and Legal Reforms emphasized the key challenges in the field of the civil service reform including the failure to adopt a code of administrative procedures, code of ethics for public officials, and provisions on conflicts of interest. He noted a lack of political will to adopt the Concept of reform of public administration as well as of the new Law on Civil Service which is needed to ensure its professionalism, depolitisation, openness, accountability and institutional stability.
- Ms. Oksana Klymovych, MCC Legal Specialist, discussed the need for a more effective system of enforcement of the regime of declaration of revenues, assets and expenditures and of the regulation of conflicts of interest regime. The rules are poorly understood and an awareness campaign would be useful in changing that.

## **Discussion 2—summary of points made:**

The **relationship between the civil society and the media** is complex and problematic at times. On one side, media interest in corruption cases often focuses on the simplistic/sensationalistic stories and less in more nuanced/complex explanations of systemic issues. On the other side, the media are essential in promoting anti-corruption activities and necessary reforms. Further still, many NGOs do not approach the media effectively. More attention needs to be paid to improving the relationship between the media and civil society, particularly with regard to anti-corruption efforts.

In Ukraine, there is still an urgent need to **create public broadcasting**.

Beyond outreach/working with media, **many NGOs are not aware or do not make use of the tools and opportunities** (such as consultative mechanism with state institutions) available to them in the fight against corruption.

On a related note, **success stories are under-represented**, while there are a number of them. There are many positive changes taking place, many successful initiatives are implemented, and there are good and responsible politicians. Knowledge about the positive responses and the effective tools should be much more actively publicized, as enthusiasm and success can be contagious.

**Partnerships between civil society and the private sector should be strengthened**, as there are a number of issues, particularly with regard to fighting corruption, where they would benefit from alliances.

## **3. SUMMARY OF FINDINGS AND RECOMMENDATIONS**

While efforts and progress have been made, **there are a number of anti-corruption reforms still to be undertaken in Ukraine**. Some of the key areas requiring urgent attention include the following:

- Increasing transparency across the public sector, including making administrative procedures clear and easily accessible; making more transparent public procurement and key public financial management processes such as the budget process. Improving the freedom of information regime, including a "positive" obligation of authorities to inform the public about their work, is essential in this regard.
- Reforming the budget system in line with international standards.
- Reforming the public administration, particularly adopting a new framework law on civil service, a uniform administrative procedures code; introducing a code of ethics for civil servants that would, inter alia, regulate conflicts of interest, with appropriate oversight (monitoring) mechanisms; reviewing the system to reduce officials' discretionary powers; and, introducing additional targeted measures to reduce the gains and increase the risks of engaging in corruption.
- Introducing an effective conflict of interest regime for *all* public officials.

- Reforming the judiciary, including addressing the issues of judicial appointments and disciplinary responsibility of judges, to reduce opportunities for corruption, strengthen the independence of judiciary, and prevent undue political pressure on judges
- Implementing the institute of juries to ensure fair and impartial trial
- Restructuring state media into a public broadcasting service.
- Rationalising and strengthening the system of anti-corruption bodies, including the Anti-Corruption Agent, and introducing additional preventive/oversight bodies, as necessary. Adopting of the package of anti-corruption package of laws by the Verkhovna Rada.
- Establishing an effective system of whistleblower protection and other measures to encourage citizens to report and resist corruption.
- Undertaking macro- (institution- or sector-level) analyses of key public sectors and key governance procedures and systems to reduce opportunities for corruption (in-depth “diagnostics”- system studies).
- Introducing legislative screening with a view to corruption opportunities for all laws introduced (“corruption proofing”).
- Increasing civic education efforts, including ethics components, for Ukraine youngest citizens who will be tomorrow’s leaders.
- Strengthening the educational role of the media by increasing the capacity to undertake investigative journalism and report on the complex reforms needed to reduce corruption.

In order to effect the necessary changes, **there needs to be a clear and unambiguous commitment to anti-corruption reforms from the very top of Ukrainian leadership.**

**Civil society organisations can play a key role** in this process, particularly considering the relatively high level of trust they enjoy from the public. However, **capacity and knowledge development is needed** in a number of areas, including the following:

- Project management skills, including project design, implementation, and evaluation skills;
- Specific tools needed to promote change, such as effective communication and advocacy skills;
- Existing participatory mechanisms through which civil NGOs can have an input into government policies (e.g. public councils, Committee on Combating Organised Crime and Corruption of the Verkhovna Rada etc.) and information available to monitor the work of the authorities (e.g. reports produced by the Accounting Chamber). NGOs should use of such opportunities, but remain vigilant of attempts to misuse such avenues through non-critical GONGOs;
- Specific anti-corruption methodologies (e.g. diagnostic/assessment methodologies) and good practices in combating corruption, with due attention to exploring the appropriateness of “good practices” for the Ukrainian national and local context;
- Analysis and exchange of experiences, particularly national good practices and other success stories that effective strategies can be replicated; partnering up and with organisations with similar objectives (including with different skills/expertise) to increase capacities, create alliances and synergies, and contribute to building a critical mass in the fight against corruption.

The **private sector**, particularly, small and medium enterprises, are among the segments of society hardest hit by corruption, and **has a great deal to gain through anti-corruption measures.** The private sector can begin to be more pro-active addressing in particular the following issues:

- To identify and advocate, possibly in cooperation with NGOs, reform measures that will make the process of doing business more transparent and competitive (e.g. simplification of administrative procedures, especially relating to registration, licensing and other authorisations, reinforcing property rights, etc.);
- To gather support for anti-corruption reforms among the private sector through educating the business community about the costs of corruption;
- To raise awareness of the benefits to be gained for business by projecting and maintaining a “clean” image.

#### **Annex IV: Recommendations adopted at the roundtable on "Legislation on civil service and conflicts of interest" (5 December 2008)**

Development of Ukraine as a sovereign and democratic country respecting the society and the law, along with its strategic tendency of European integration, require a new philosophy for the establishment of an efficient state governance system, and for the settlement of conflicts of interest emerging at civil service and in local authorities.

The Central Administration of Civil Service in Ukraine has done a great deal to design the Civil Service (new version) and the Conflict of Interests at Civil Service and in Local Authorities Draft Laws. This proves determination to set up an up-to-date, competent and politically neutral European-type civil service in Ukraine.

When revising the Draft Law of Ukraine On Civil Service (new version), the roundtable participants see it necessary to focus on key priorities whose implementation is critical for the elaboration of an up-to-date, competent and politically neutral civil service able to operate efficiently in a democratic country ruled by law:

##### *1) Separation of political and administrative positions*

For this, introduce the staff management institution through State Secretary post, to perform the following functions:

- appoints and dismisses all civil servants in the state authorities;
- is responsible for staff management in such body according to a procedure, common for the entire civil service, determined by the agency authorized to implement state policy in the civil service sector;
- ensures consistent operation of the body when political management changes, and makes sure that the new management learns all the business as soon as possible; cannot be dismissed based on political motives.

##### *2) Rule of law*

Ensure protection of professional activities of a civil servant from political and private influences by setting forth firm legal mechanisms that allow every civil servant perform his/her obligations in a professional and unbiased way, independent of subjective will of their management or external factors. The key mechanisms include:

- direct reporting to the civil service director within the body, not a political player;
- only a small part of the civil servant's fee depending on the manager's will;
- clear plan of the civil servant's actions in the event of an illegal order or instruction coming from his/her managers, and responsibility for breach of such plan;
- mechanisms for appealing decisions regarding appointment and dismissal of all categories of civil servants.

##### *3) Improved competence of the civil service*

Start a public competition for employment in the civil service, including senior administrative positions; include key mechanisms for such competition in the law, and prevent by means of the law any ways to avoid such competition; implement a right and obligation of civil servants to get educated throughout the entire time of carrier growth.

##### *4) Responsibility of civil servants*

Set forth disciplinary responsibility for violation of legal and ethical requirements. For this purpose, list the following aspects for all categories of civil servants in the law:

- disciplinary violations;
- disciplinary sanctions;
- describe disciplinary proceedings;
- describe procedure for appealing disciplinary decisions.

##### *5) Attractiveness of civil service*

In the law, set forth foreground for a radical change of motivation for entering civil service, from hidden privileges to transparent incentives, with equal access for all civil servants to them:

- fixed salary in the structure of a civil servant's compensation must be at least 80-90%;
- bonuses for professional skills not included in the qualification requirements for the position, shall not be determined, and those included in the qualification requirements must be included in the fixed salary;
- a constant career growth opportunity due to the implementation of a totally new classification of civil service positions;
- a civil servant's pension must be adequate to the personal contribution of the civil servant, and should not depend on the compensation terms of effective civil servants; the terms of civil servants' pension should not provoke pre-retirement individuals to enter civil service with an exclusive aim of getting a civil servant's pension. .

Talking about the settlement of conflicts of interest at the civil service and in local authorities in Ukraine this notion has not yet been established by law. This may lead to the cases of corruption at the civil service. Therefore, when revising the Draft Law of Ukraine On the Conflict of Interests at the Civil Service and in Local Authorities, first of all, attention should be paid to the key problems that need legal regulation, such as:

- 1) determine conduct criteria and standards for civil servants in the event of a conflict of interests;
- 2) fix by law the efficient procedures for discovering conflict of interest risks;
- 3) determine appropriate mechanisms in state and local authorities;
- 4) create an efficient mechanism for managing conflict situations;
- 5) define sanctions to ensure personal responsibility of officials.

In their reports and speeches, the roundtable participants confirmed that the approval of the draft laws presented is an important political step. These Laws aim at serving both national interests of the society and the state providing a new quality of state administration, and external political goals of the Ukrainian nation addressing European Union integration.

Foreign participants of the event admitted, too, that Ukraine must choose its own means to move the European way, through the development of the civil service.

**Annex V: Recommendations on the Concept Paper of amendments to laws of Ukraine on improvement of the transparency in the financing of political parties and electoral campaigns (Expert workshop, Simeiz, 20 December 2008)**

1. Public funding should be in the form of financing statutory activities of political parties, not related to the participation of parties in the elections, and in the form of refunding of the electoral campaign funds.

2. The maximum volume of the public funding for the statutory activities of parties will be determined on the basis of additional studies of international practice.

3. Public financing of activities of political parties is provided for expenditures clearly defined by Law (support for youth, women and other associations of citizens, parties' internal development).

4. The right to public funding of statutory activities belongs to the party, whose candidates obtained during the latest elections of members of Parliament of Ukraine not less than 2% of vote of electors.

5. The State budget's funds allocated to finance the statutory activities of parties shall be deposited on a separate account, opened by the party. Such funds can be transferred to the accounts of local party organisations only if they have opened a separate account for this purpose. It is forbidden to transfer funds from these accounts to accounts that received funds from physical and legal persons as well as the accounts of election funds. The deposit of physical and legal persons' funds on the accounts receiving the State budget's funds is prohibited.

6. The State budget's funds allocated to finance the statutory activities of parties which have not been used during the financial year, must be returned to the State Budget of Ukraine.

7. The procedure of purchase of goods and services at State budget's expenses is not applied to parties.

8. The Law on political parties in Ukraine and the laws on elections provide a definition of a donation, which meets the definition of the common rules against corruption in the funding of political parties and electoral campaigns' definition of donation to a political party(i.e., the donation should be understood as monetary and donation in kind).

9. All existing amount limitations on funding political parties by physical and corporate persons listed in Article 15 of the Law on Political Parties in Ukraine still remain.

10. The maximum limit of the annual donation to the party from same physical and same corporate person is to be set up in light of international experience in the field, which will be studied additionally.

11. It makes sense to prohibit donations to parties from legal entities which provide goods or services for any public administration and local authorities income from the supply of goods and services to public authorities and local authorities exceeds a certain limit provided by law. Such a limit should be set up in the light of international experience in the field, which will be studied additionally.

12. The due consideration by Ukrainian laws of the common rules against corruption in the funding of political parties and electoral campaigns' provisions on conflict of interests in regulating the donation, provision on regulation of funding and recording of persons related to the party, will be appreciated following the consultation with the Secretariat of GRECO.

13. The maximum limit for membership donation to the party from one person during the year can not exceed the limit of the annual donation to the party from a physical person.

14. Credit granted to the party, is considered as a donation and is subject to maximum limit according to the general maximum limits for donations.

15. A physical person can make a direct donation to the party via bank institution only upon presentation of passport and the original identification code.

16. A person who makes a donation in kind to the party, shall inform in the written form the party (local party organisation) to which such a donation has been made, and specify the monetary value of the donation made in kind. During the national or local elections a person can make a donation in kind to the party bloc, the local party, a candidate in the elections only with prior consent of the relevant subject of electoral process.

17. Parties prepare reports to be submitted to the Tax Service and trust funds according to the normal procedure.

18. Parties prepare annual reports on revenues and expenditures of funds to be submitted to the control body no later than on the twentieth day of the month following the end of the reporting period (the date should be specified through additional study of the

current legislation regarding the timeframe of reporting to ensure the coherence of the date of submission by parties of relevant reports).

19. Report on revenues and expenditures of funds by a party should contain a general and a special part. The general part deals with direct and indirect donations to party from physical and legal persons and the state budget made during the reporting period (in total for each source), the use of appropriate funds during the reporting period (in total for each ways of use); the special part discloses the information relating to each contribution from each person (indicating the name of a physical person, entities names, code ЄДРПОУ, individual identification number of the physical person). The report (the general and the special parts) include the report of concerned persons.

20. Parties which were financed for their statutory activity from the State budget funds have to attach to the report the auditor's conclusion

21. The report on revenues and expenditures of funds is submitted to the primary check by the body controlling the financing of parties; the length of the check should not exceed 10 days, besides the cases in which the conclusion of the auditor is added to the report- in this case the report is not submitted to the primary check. Should any inexactitudes or errors be found out in the report, the party has to correct them in the timeframe which is defined by the control body. Following the results of the primary check the report is placed on the official web-site of the control body for public information. After the report is placed on the web-site a substantial check of the report is carried out by the control body; the term of this check should not exceed 60 days. As a result of the substantial check the body of control either approves the report, or sends it back to the party requiring to correct the inexactitudes found out during the substantial check in the timeframe defined by the body of control, applying sanctions for the violations if necessary. After the report's approval its general part is published in the statewide press media with the link to the web-site on which the report (the complete version of the report) is found, the complete version of the report is disposed on the web-site of the control body. The parties must provide the reports on revenues and expenditures of funds (in full) on demand of any person.

22. The regulation of financing of the electoral campaign is brought in line with the rules on financing of the parties (concerning the amount and the sources of donations, the reflection in the reporting of indirect donations)

23. The donations of the parties to their own electoral funds (electoral funds of the blocks which include relevant parties) are not submitted to any restrictions on quantity and donation amounts.

24. The maximum amount of electoral funds is limited for all the elections. The amount of limitations is defined taking into consideration the precedent elections according to a formula which contains the product of the part of the minimal salary, multiplied by the quantity of the electors on these or that elections.

25. The report of the subject of the electoral process on the sources of financing of his participation in the elections and the ways of use of funds from these sources is submitted in the certain period before the day of elections (this period will be specified after the results of the complementary analysis of the provisions of the Law on elections) and not later then the period after the day of elections defined by the relevant laws. Such a report should contain the information on the sources of direct and indirect donations and the ways of their use. The first report is submitted to the primary check and to the publication, and the second report - to the primary check, to the substantial one, and to the publication.

26. The law contains the provisions according to which the statute of a political party must define the way of creation and the mandate of the inner-party control body of its financing.

27. The Central Electoral Commission is the body controlling the financing of the parties and the statewide electoral campaigns.

28. The verification of legality of use of the funds by a party of the State budget of Ukraine is effectuated by the Central Electoral Commission with involvement of the Accounting Chamber. The bodies of auditing control do not take part in the verification of legality of use of State budget funds. The Accounting Chamber and the Central Electoral Commission control only the legality of use of the State budget funds which are intended for the statutory activity of the parties; herewith the control of the effectiveness of use of such funds is not carried out.

29. The checks (the primary and the substantial ones) of financing of parties and nationwide electoral campaigns are realized by the Central Electoral Commission. The checks (the primary and the substantial ones) of financing of electoral campaigns on the local level are

realized by the relevant territorial electoral commissions. The Central Electoral Commission (on local elections- the territorial electoral commission) has an exclusive right to apply sanctions for the detected violations. Should the detected violations contain signs of crimes, the Central Electoral Commission (on local elections- the territorial electoral commission) transmits the information on such violations to the relevant law enforcement authorities (to the special anti-corruption body after its creation) for taking measures in the prescribed manner.

30. The sanctions for the violation in the field of financing of parties and electoral campaigns will be defined on the basis of analysis of the foreign experience and the domestic legislation in this field, in particular contained in separate chapters of the Law on political parties in Ukraine and laws on elections. The prescription of bringing to responsibility for violations in the field of financing of political parties and electoral campaigns can not be less than 5 years. One of the sanctions can be the suspension of financing of parties.

31. The body controlling the financing of political parties is raising awareness of the citizens on the issues of financing of political parties, organizes the preparation (studies) of managers of electoral funds and employees of inner-party control of financing of parties.

32. To be appointed as a manager of the electoral fund of a party, block or a regional organization of a party, candidate on elections the person is obliged to complete a training according to the programme approved by the Central Electoral Commission.