



## TACIS UKRAINE ACTION PROGRAMME 2004

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

#### Third Progress Report

<b>Project title</b>	Support to Good Governance – Project against Corruption in Ukraine (UPAC)
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<b>Project duration</b>	7 June 2009
<b>Implementation</b>	Council of Europe (Economic Crime Division, Directorate General of Human Rights and Legal Affairs)
<b>Project budget</b>	1 750 000 Euros
<b>Date of report</b>	27 February 2008
<b>Reporting period</b>	7 June-15 February 2008

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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 7 June until 15 February 2008.

### **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 Group.

### **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. A Team Leader and local support staff, based in Kyiv, have been working directly with, and through, the Ministry of Justice.

## **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 in the fight 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 to deliver 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 also foresees a number of

study tours to European partner institutions to facilitate networking and lessons learned and best practices sharing.

## 2.2 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

## 2.3 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.

### 3 OVERALL ACHIEVEMENTS

#### 3.1 Steering group Meeting

The Steering Group Meeting took place as re-scheduled, in Kiev on 29 November 2007 at the premises of the Ministry of Justice of Ukraine. Representatives from all Steering Group - institution members were present and notably: Ministry of Justice, Ministry of Interior, National Security and Defence Council, Prosecutor General's Office, Presidential Secretariat, Verkhovna Rada, Main Civil Service Administration, Parliamentary Institute, and the Academy of Judges. Also, the UPAC Project Manager and representatives of the Ukraine's Cabinet of Ministers Secretariat, the Council of Europe Secretariat and the European Commission Delegation participated in the meeting (**Annex I- List of Participants**).

Invitations to the meeting had been distributed among the participants by the Ministry of Justice along with the updated version of the Workplan and proposals on the priority activities for the next 6 months (**Annex II-List of Priorities from MOJ**). Prior to this meeting, all Steering Group members had been invited to prepare their suggestions and comments with respect to the continuation and nature of activities of the project on the basis of the existing Workplan of Activities.

The meeting was opened and then addressed by the following institution representatives:

Ms I. Yemelyanova, Deputy Minister of Justice, who welcomed the SG members and noted that corruption control was a very important and pressing issue for Ukraine, emphasized the importance of and need for continuation of the Project's activities by proposing also that a revised Workplan addressing the current new government priorities be introduced.

Mr M. Schieder, from the Delegation of the European Commission to Ukraine, noted that in initiation of the "Support to Good Governance: Project against Corruption in Ukraine" the Council of Europe set as its goal corruption control in Ukraine. Also, he drew attention of the audience to that the specified project would contribute to the fulfilment by Ukraine of GRECO recommendations, and reminded that the reporting date for their fulfilment should be August, 2008 and, therefore, it was required that accelerated measures should be taken to implement activities provided for by the project.

Mr A. Seger, Head of the Economic Crime Division from the Directorate General of Human Rights and Legal Affairs, Council of Europe stated that publication of GRECO recommendations by the Ukrainian Government was already a basis for an open way of continuing the implementation and the use of the resources that UPAC project is offering to the Ukrainian authorities. He also suggested that a revision of the existing plan and in particular, defining concretely assignments and timelines will be key to a successful implementation of the project.

Based on the proposals' discussion, the following decisions were made:

1. Revision of the Workplan of Activities, and in particular of the timelines and deadlines (**Annex II-Revised Workplan of Activities 2007**);
2. Inclusion of priority activities in light of upcoming GRECO reporting which is due by August 2008;
3. List of Activity Priorities be integrated into the revised Workplan of Activities;
4. Approval of the list of priority activities to be implemented from December 2007 – March 2008 was approved;
5. The next Steering Group Meeting be held end of March/Early April 2008;
6. The revised Workplan of Activities shall be the leading document from December 2007 in implementing activities of the project;
7. The Revised Budget will be submitted to the European Commission along with this current Third Progress Report.

### 3.2 Overview of Activities

A number of activities carried out under the project during the first part of the reporting period (June-November 2007) has been substantially lower that was initially foreseen in the Workplan, which was also reported for period December 2006-June 2007.

The political situation following the Presidential decree of 2 April 2007 on early elections and suspending the Verkhovna Rada, has continued to influence the project implementation in the first part of the reporting period. Lack of progress for the period of June-September 2007 was discussed after the elections (held on 30 September 2007) at the Steering Group meeting which took place on 29 November 2007. The new government composition took place in early December on its first sessions of the newly elected Verkhovna Rada.

Following the Steering Group meeting, a series of activities and a revised workplan (with new deadlines and some modified activities) were launched, and are currently leading the project implementation. In view of this, implementation of the workplan has been carried out in a normal pace as of November 2007. As a result, the following activities were carried out during the reported period and which constitute now the progress made so far in the implementation of this project as of June 2007.

<b>Description of activity</b>	<b>Status</b>
Reset-up of the Project Team	Completed
Reset-up of the Project Office	Completed
Expertise on the Anti-corruption Action Plan emanating from the Anti-corruption Strategy "On the Road to Integrity"	Completed
Expertise on Draft Law of Ukraine "Code of Ethics for Persons Authorised to Perform State Functions"	Completed
Terms of Reference for Corruption Risk Assessment in Law Enforcement Agencies	Completed
National Training Seminar on Public Ethics Benchmarking and Improvement Programme	Completed
Capacities enhanced at the level of local and regional authorities for the prevention of corruption and strengthening of integrity	Completed
Steering Group Meeting (November 2007)	Completed
Two Seminars on the implementation of the UN Treaty Law focuses on issues related to UNCAC applicability in Ukraine and its domestic legislation	Completed
Expert Opinion of the Draft Law on Ethical Behaviour for Public Officials in order to facilitate the adoption of the new law	Completed

### **3.3 Project Team**

The Team Leader Ms Vera Devine left the project at the end of her contract (June 2007). Due to a reduced amount of activities it was decided not to proceed immediately with replacement for the Team Leader until more clarity on project's future had been reached and discussed with the counterpart institutions.

Following the decision of the Steering Group meeting held on 29 November 2007, and the selection process organised by the Council of Europe in January, Mr Roman Chlapak has been offered the position of the Team Leader of the UPAC project in replacement to the vacant place. Mr Chlapak after being endorsed by both, European Commission Delegation in Kyiv and the Ministry of Justice of Ukraine, will be deployed in Kiev and initiate his full time service under this project as of 1 March 2008.

The position of full-time National Legal Adviser was filled in December 2007 with the recruitment of Ms Irina Zaretska. Both the National Legal Adviser and the existing Project Assistant Ms Vlasta Sposobna are recruited as Council of Europe Secretariat members.

### **3.4 Project Office**

Even though the Ministry of Justice had given some indications in earlier 2007 that the office premises might be available and allocated to the Project Office by the end of June 2007, this has not been realised due to office space restrictions that the Ministry of Justice is undergoing. Therefore it was decided to discontinue renting private office premises for issues of visibility and public access and move the UPAC Project Office in September 2007 within the newly opened Council of Europe Special Representation office in Khmelnytskoho street no. 70-A in Kyiv.

### **3.5 Project Workplan and Budget**

At the Steering Group meeting (29 November 2007), following the discussions and proposals concerning the need for some activities to be revised in light of the priorities of the new Ukrainian Government as well as of the Ministry of Justice it was decided that the revised Workplan of Activities 2007 and Revised Budget be submitted in order to continue the implementation of the project under the current priorities and commitments as expressed by the Ministry of Justice of Ukraine.

The attached Revised Workplan (Revision of December 2007) reflects the following:

- Previously planned activities as carried out;
- Previously planned to activities to be carried under new timelines for 2008 and 2009;
- Few planned activities being replaced with other few high priorities.

Among main issues that were emphasised at the Steering Group meeting was the need that the implementation of this project will continue to support and reinforce the capacities of the Ukrainian authorities in implementing the recommendations of GRECO evaluation report in line with government priorities with regard to anti-corruption reforms.

## 4 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 1.1.1** *Support to the drafting and elaboration of the Anti-corruption Action Plan in accordance with the National Anti-corruption Strategy*

Following the request from the Ministry of Justice in early June 2007, the UPAC project provided an Expertise on Draft Anti-corruption Action Plan Implementing the Concept: on the Road to Integrity. The technical paper containing this expertise was prepared by Mr Drago Kos and Ms Vera Devine and was submitted to the Ministry of Justice on 28 June 2007.

The main concerns of the experts were as follows:

- The link between the “Concept on the Road to Integrity” and the Action Plan were considered to be very weak, with the strategic document (i.e. the Concept) providing more level of detail than the supposedly operational – level Action Plan;
- The overall level of detail of the proposed measures, was very weak, raising questions as to whether it had been thoroughly contemplated what each of the measures would specifically entail for implementation, and hence, forecasting the likelihood of the measures’ success;
- Attribution of roles to the different line ministries and institutions was equally weak, raising questions as to the ownership of the plan, and whether the measures had been properly co-ordinated;
- No provisions were made on monitoring and reporting on the implementation of the plan; risk analyses and indicators measuring success were missing, so were realistic timelines and budgetary implications;
- There was a disconnect between the proposed measures and other ongoing sectoral reforms;
- Some of the proposed measures had no relation to corruption as such; one measure was raising substantial questions as to its nature and the impression it could create that the Ministry of Justice is funding certain NGOs with resources from the State budget;
- The process of drafting the document had been in-transparent and non-inclusive, in particular with regards to civil society and the wider public.

On 15 August 2007 the Anti-corruption Action Plan was adopted by Decree of the Prime Minister of Ukraine.

Comparing this adopted version of the Anti-corruption Action Plan, the following can be summarised:

- The Action Plan is accompanied by a, albeit extremely vague, reporting obligation. Given that risk analysis and indicators of success are still missing in the final document, it is unclear according to which criteria reporting will be carried out, and which institution will be in the lead;
- The overall structure of the document has been brought into line with the “Concept on the Road to Integrity by organising the different measures according to the chapter foreseen in the Concept. The format has been somewhat eased by organising the content into table form;



- The number of measures has increased from 51 to 55, including the creation, under the Cabinet of Ministers, a body that would co-ordinate anti-corruption policies. However, the level of detail of measures has not increased at all;
- The embeddedness of the Action Plan measures into wider sectoral reforms is still missing;
- Timelines have remained unspecific, as have the costs of the implementation of the plan;
- Attribution of responsibilities to line ministries has not changed;
- Measures not directly pertaining to corruption have remained, as has the disputable provision of budget support to a certain NGOs;
- Although some of the institutions in charge have participated in at least on public event on the Action Plan, the substantial concerns with regards to the drafting process and the real possibilities for civil society and the wider public to make a contribution to the plan remain.

In other words, while some formal and superficial changes have been made, none of the substantial concerns raised by the Council of Europe experts have been taken into account.

Following the adoption of the Anti-corruption Action Plan, according to media reports, Vice-Prime Minister Kuzmuk stated in a press conference on 15 August 2007, that in the adopted version all the recommendations from the Council of Europe experts had been taken into account. Since this was not entirely correct a letter from Director General of Human Rights and Legal Affairs Mr Boillat was sent on 28 August 2008 to the Minister of Justice Mr Lavrynovych to inform him that the Anti-corruption Action Plan in its present form has neither been endorsed by the CoE/GRECO, nor all the recommendations from the CoE experts has been taken into consideration.

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

*Activity 1.3.1                      Two Seminars on the implementation of the UN Treaty Law focuses on issues related to UNCAC applicability in Ukraine and its domestic legislation*

A Round Table Discussion with regard to discuss issues of the implementation aspects of the Article 6 of the UN Convention against Corruption and relevant GRECO recommendations concerning the establishment of the anti-corruption body took place on 15 January 2008. The activity brought together about 50 participants and mainly representatives from Anti-corruption Parliament Committee, Ministry of Justice, Presidential Secretariat, General Prosecutors Office, Council of National Security and Defence, anti-corruption NGO's and International Organisations<sup>1</sup>.

The Council of Europe Expert CoE expert Mr. Bertrand de Speville (United Kingdom) presented “The essentials of fighting corruption”, and mainly the issues of such reforms related to the political will, legislation improvements, anti-corruption strategy, coordinated action, and resources, as well as public support (**Annex IV- Essential of Fighting Corruption, B. de Speville**).

The activity was opened by Minister of Justice of Ukraine Mykola Onishchuk who shared his opinion on the need of establishing an anti-corruption body in Ukraine. Minister Onishchuk, emphasised that there could be two separate Anti-corruption Bodies: First Body could be the one with prevention functions – to research a phenomena of corruption, improvement of legislation in this field, evaluation of risks, international co-operation and co-operation with civil

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<sup>1</sup> [http://www.minjust.gov.ua/photoalbum/photoalbum\\_77](http://www.minjust.gov.ua/photoalbum/photoalbum_77)

society. This type of an Anti-Corruption body could be established within MoJ structure. The Second Body could be within the MoI structure and vested with law enforcement functions - detection, stopping, disclosing and investigation of corruption crimes connected to official activity.

In addition the representative from the OECD presented the experience of OECD states in establishing anti-corruption bodies.

As a conclusion of this activity, as well as bilateral meetings between the Council of Europe expert and authorities of the Ministry of Justice it was agreed that the Ministry of Justice will consider to initiate the drafting of law(s) "On Establishing of Anti-Corruption Body in Ukraine". MoJ will be expecting the advice and support of the Council of Europe's expertise throughout UPAC project.

**PURPOSE 2: TO ENHANCE CAPACITIES FOR THE PREVENTION OF CORRUPTION**

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

*Activity 2.1.1:                      Promotion and introduction of the Draft Law on Ethical Behaviour for Public Officials in order to facilitate the adoption of the new law*

Following the request dated 5 July 2007 from the Main Department of the Civil Service for provision of comments/opinion on the Draft Law of Ukraine "Code of Ethics for Persons Authorised to Perform State Functions", an expert opinion prepared by Dr. Jacek Czaputowicz (Poland) and prof. Matti Niemivuo (Finland) was submitted on 3 August 2007 to the Main Department of Civil Service.

In summary the expert opinion states that:

- the draft law appears to be very ambitious in the sense that it aims at covering many different categories;
- the draft law has some ambiguity in terms of "all persons" as mentioned in Article 2 as apposed to "only to public officers and officials of local authorities";
- the standard behaviour for politicians is usually regulated separately and not through these laws as common practice in most of the states belonging to the European Union and OECD;
- certain principles of ethics enumerated in specific sections of the draft should be consistent with the rest of the Code.

Since the Workplan foresees a number of the activities in the area of public administration reform, the Council of Europe sent a letter on 21 September to the Main Department of Civil Service in which the intention was expressed to organise training on implementation issues with regard to the Code of Ethics and the reviewed Workplan of activities after the Steering Group meeting which took place on 29 November 2007, a Round Table Discussion will take place on this topic will take place in summer 2008.

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

*Activity 2.3.1                      Corruption Risk Assessment and Prevention Plans: System Study No.3 (Ministry of Interior) in cooperation with,*

*Activity 2.3.3*                      *Corruption Risk Assessment and Prevention Plans: System Study No.4  
(Prosecutor's Office)*

Although the initial Workplan did not foresee any activity under this output in the reporting period, following the submission from the Ministry of Justice request in late June 2007 of a rough outline of "Corruption in Law Enforcement Agencies – Research Description", the Council of Europe experts Ms Vera Devine and Mr Dmytro Kotliar has developed a detailed Terms of Reference for a comprehensive Survey on Corruption in Law Enforcement Agencies.

The Terms of Reference for the Comprehensive Survey on Corruption in Law Enforcement Agencies (covering two System Studies areas: No 3 and No. 4) has been submitted to the Ministry of Justice in early February 2008, aiming at launching this two activities during Spring 2008. (**Annex VII—Terms of Survey on corruption in Law Enforcement Agencies**)

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

*Activity 2.4.1*                      *Workshop on European standards of legislation, regulations and practices on financing of political parties and electoral campaigns in the light of European standards*

A workshop on analysis of GRECO materials, Venice Commission and other COE standards and guidelines with respect to the regulations and practices in financing political parties and election campaigns took place, in cooperation with the Ministry of Justice took place on 29 January 2008. It should be noted that despite being invited, no representatives of political parties attended, and neither did any representative of the Central Election Commission<sup>2</sup>.

Mr Quentin Reed (United Kingdom), the Council of Europe expert presented a Technical Paper outlining the Council of Europe Recommendation on financing of political parties and election campaigns and explaining the GRECO Third Evaluation Questionnaire on Transparency of Political Party Funding (**Annex V -Technical Paper, Q. Reed**). The expert stressed that the Ukrainian authorities (as the authorities in many other countries) should not expect to perform well in the evaluation of political party funding, and recommended that the authorities use the Evaluation as one of the bases for developing reforms of the current regulatory framework. The expert recommended that to complement the evaluation, a comprehensive assessment of regulation, supervision and enforcement of political party and election campaign finance regulation should be conducted by Ukrainian experts and reviewed by international experts.

The discussion made clear that there are very serious gaps in the current system for regulating political funding in Ukraine. For example, ordinary (as opposed to election campaign) funding of political parties is not regulated at all, and according to participants effectively outlaws any sources of funds with the exception of membership contributions; there is no public financing for political parties; and there is effectively no regulation of spending by third parties (entities which are not political parties) on election campaigns.

However, the Ministry of Justice officials present seemed serious about initiating reforms, and indicated they would conduct a review of the vulnerability to corruption of the existing regulations. The expert underlined the need for the review of the current framework to be comprehensive and not just focused on corruption.

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<sup>2</sup> [http://www.minjust.gov.ua/photoalbum/photoalbum\\_86](http://www.minjust.gov.ua/photoalbum/photoalbum_86)

**Activity 2.4.2**                      *Support disclosure, reporting, monitoring and enforcement of legislation and regulations on financing of political parties and electoral campaigns (follow up to GRECO recommendations)*

Although this activity is supposed to be finalised upon the evaluation and recommendations of the Third Evaluation of GRECO on the financing of political parties, an initial separate meeting on that subject at the Council of Europe office with the participation of the same expert Mr Reed (UK) took place on 29 January 2008 in addition to the workshop. With regard to the relevant subject matter reforms and the enforcement of legislation on financing of political parties, the expert recommended to the authorities of the Ministry of Justice that any reforms should be kept as simple as possible and designed if possible so that parties will have positive incentives to comply (for example by introducing public subsidies to match small private donations). The expert also underlined the importance of ensuring a system of supervision and enforcement. Following the activity, there was a feeling that political parties were regarded as systemically corrupt. This was due to the fact that at the workshop of the same topic, several participants expressed the view that parties would evade any tightening of the rules, and in particular public funding would serve only to allow parties to pay back money to corrupt donors. However, in view of this activity and for future actions there was a consensus on the following:

- As part of the UPAC project a comprehensive assessment of and recommendations concerning political party finance and election campaign regulation should be commissioned from a local organization – the Laboratory of Legislative Initiatives headed by Ihor Kohut was suggested - and then commented by Council of Europe experts.
- Any proposals for reform will have to be formulated very clearly and leveraged very skilfully to have a chance of being approved in the Ukrainian Parliament.
- The GRECO Evaluation will be a key tool for exerting pressure for reforms to be passed.
- There is an urgent need for coordination with other donors, in particular the MCC.

In view of the upcoming GRECO evaluation on the financing of political parties theme, and within the framework of this activity, the UPAC project provided the translation into Ukrainian of the Council of Europe's "Financing of Political Parties and election campaigns-Guidelines"<sup>3</sup> publication. This activity will also follow with more support once the GRECO recommendations are issued in due course.

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

**Activity 2.5.1**                      *Support the drafting of a short manual on ethics in local government based on the Public Ethics Handbook, and translation of other relevant documents into Ukrainian*

The draft Ukrainian Handbook on Public Ethics at Local Level which was prepared in January-February 2007 with the help of a local consultant and Council of Europe expert is a detailed and structured, non-narrative document which presented the situation in Ukraine in the following fields:

- status of local elected representatives;
- funding of political parties and campaigns at local level;
- control and audit of local authorities' activity;
- status of local public servants;
- transparency and administrative procedures;

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<sup>3</sup> Council of Europe Publishing "Financing of Political Parties and election campaigns-Guidelines", Ingrid Van Biezen, University of Birmingham, ISBN (ISBN 92-871-5356-6), December 2003.

- relations of the local authorities with the private sector.

The National Handbook includes a very large number of suggestions and recommendations made to all stakeholders (central and local authorities, local elected and appointed officials) for improving the legislation, the institutions, the operation and the day-to-day practice in order to foster public ethics at local level.

The revised version of the National Handbook on Public Ethics at Local Level, is now final and has been endorsed by the Steering Group at its second meeting (22-23 January 2008) (**Annex VI-Revised National Handbook on Public Ethics at Local Level**)

An adoption of the Ukrainian Score Card has been prepared in February 2007 by the local consultant and the Council of Europe expert, adapting the European Score Card at the local circumstances. In view of the above mentioned activity several documents have been translated into Ukrainian: the European Handbook, the codes of conduct of England, Wales and Serbia, the Recommendation 60 (1999) of the Congress of Local and Regional Authorities.

*Activity 2.5.2                    Raise interest among local government stakeholders and create a Steering Group for supporting public ethics in local government*

As this activity was implemented in co-operation with the Club of Mayors of Ukraine, the Club of Mayors assisted in setting up a group of stakeholders (Steering Group) in order to orient the programme and to draw conclusions from its findings. The Club of Mayors also contacted several municipalities and, on the basis of the interest expressed and according to the project description included in the Council of Europe tool suggested the list of five municipalities to pilot the programme on this relevant topic.

*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*

A first meeting of the Steering Group was organised on 15-16 March 2007 in Kyiv. During this meeting, the stakeholders:

- examined and approved the methodology for the programme;
- revised the draft National Handbook (Appendix I);
- revised and adopted the National Score Card;
- agreed that the programme be piloted by the following municipalities: Trostianets, Artemivsk, Slavutysh and Kamyranets-Podilskiy and Vinnytsa;
- adopted an Action Plan for the programme.

Representatives from the selected pilot municipalities also took part in this meeting.

*Activity 2.5.4                    Organise the first round of self-assessments and preparation of the National Benchmark on public ethics at local level*

After this meeting of the Steering Group during the period of April-May 2007, the five municipalities participating in the programme conducted self-assessments based on the Ukrainian Score Card. The local expert guided them through the process. In view of this, the five municipalities sent the self-assessment forms (Score Cards filled in) to the project coordinator. According to the definition of the programme, these forms are confidential and only

exist in paper version. They are kept by the project co-ordinator. However, municipalities accepted to disclose their self-assessment forms to the peer reviewers for the preparation of the peer reviews.

On the basis of the self-assessment forms, the project co-ordinator calculated the National Benchmark (end of April 2007). This document is the Score Card with average scores resulted from self-assessment filled in respect of each question, section and chapter. The self-assessment seems to have been performed seriously: the total average score obtained by the five participating municipalities was 626 out of a possible 1086 points, or 57% (as an example, in Spain this score was around 73%, however out of a far larger total, as Spanish municipalities have a larger freedom to take initiatives in this respect).

While individual self-assessment forms (individual scores) are confidential, by the very construction of the project the Benchmark (average scores) is public and was communicated to all participating municipalities. It was also published on the website of the Centre of Expertise ([www.coe.int/local](http://www.coe.int/local)). The benchmark was sent to all participants with an invitation to all to improve in the fields where they underscore and to communicate to the others their experience and practice in the fields where their scores were above the average. Following this process, the municipality of Vinnytsa sent its Code of Conduct for elected officials (to its partners (other municipalities and project co-ordinator).

*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)*

Following the self-assessment exercise, a Training Concept for peer reviewers was developed by the Centre of Expertise in July-August 2007. As this concept was developed specifically for this project, it had already served in the training of peer reviewers in Moldova and Romania and will be included in the next capacity-building Toolkit of the Centre, together with the whole model programme. Moreover and in line with the Training Concept, the Centre also developed a series of Communication skills training modules in August 2007.

The training of the peer reviewers (3 per local authorities, plus potential peers from other municipalities and two oblasts) was performed during a two-day seminar organised on 31 August – 1 September 2007.

*Activity 2.5.6                      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*

Following the peer review organised in Vinnytsa in May 2007 where three peers from each of the other participating municipalities, together with the local expert and co-ordinator and two Council of Europe experts met with all local stakeholders and examined the practice of Vinnytsa, in particular in respect of its Code of Conduct. After this activity in June 2007, the peers prepared a report, including conclusions derived from the visit, as well as a list of recommendations for improvement. In October – November 2007, three-day peer reviews were organised in the other four participating municipality. The sensitive nature of these reports (they include criticism and recommendations for improvement led the local authorities in question to require maintaining them confidential. These reports are kept by the project co-ordinator.

*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 of codes of conduct)*

On the basis of these recommendations, the five municipalities undertook a series of actions, in particular related to the preparation of codes of conduct which included rights and obligations (and, in some cases, also recommendations of good practice) derived from the Handbook and the Score Card. Taking inspiration from the Ukrainian Handbook and Score Card and from the experience of Vinnytsya, the other four participating municipalities (Trostianets, Artemivsk, Slavutych and Kamyranets-Podilskiy) also developed and adopted codes of conduct during the period of July-August 2007. Despite the fact that they are quite different in nature, content and form, the preparation and adoption of these codes of conduct are an important outcome of the programme. Moreover, participating municipalities expressed their interest in setting up Ethics Committees composed in majority by non-Council members. The role of these Committees would be to receive complaints, to investigate them and to make recommendations to the Council.

Participants consequently asked the Centre of Expertise to prepare a model Code of Conduct for local elected officials for Ukraine, based on the codes already prepared and on the experience of other countries, as well as a Model regulation for the Ethics Committees. This Code could either be adopted in the form of a law (the Government has marked its interest for this solution) or sent by the associations of local authorities to their members with an invitation to prepare and adopt similar codes. The Centre of Expertise has prepared this model Code of Conduct and the model Regulations for the Ethics Committees and it presented them at the second meeting of the Steering Group (22-23 January 2008).

*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*

The National Handbook was revised by the local expert in December 2007 and was presented to the Steering Group at its second meeting (22-23 January 2008). A narrative Strategy for public ethics was considered by the stakeholders to be of a lesser importance. The National Handbook already includes a large number of recommendations addressed to central and local authorities in respect of legal and institutional reform, as well as of change of practice in order to strengthen public ethics at local level.

*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*

The second (and last) meeting of the Steering Group was held on 22-23 January. At this meeting:

- the National Handbook was finalised and endorsed, and which should be published in the first quarter of 2008;
- the five participating municipalities present the actions already taken or envisaged in order to improve the situation of public ethics following the peer review visits;
- the model Code of Conduct and the Model Regulations were presented, adopted and the participants discussed their implementation; opinions concerning the best way to promote varied: some participants considered that they should better be adopted in the

form of a law, some others that they should be put forward by the association(s) of local authorities. As no strong consensus was found, participants considered that the issue should depend on the initiative and interest of the government and the association(s).

As a result of this, consultations with representatives of the government are expected to take place in order to determine the adoption/implementation modus of these regulations.

*PURPOSE 3: TO STRENGTHEN THE ANTI-CORRUPTION LEGAL FRAMEWORK AND EFFECTIVE AND IMPARTIAL ENFORCEMENT OF THE CRIMINAL LEGISLATION ON CORRUPTION*

The remaining Activities under this Purpose have been now rescheduled at later dates during 2008 and 2009 in accordance to the revised workplan after the steering group meeting.

## **5 OTHER MEETINGS AND MISSIONS**

- On 12 July 2007 the project was subject to a performance audit by representatives of the European Court of Auditors. A full range of questions were posed to the Project Manager, Project Assistance and the EC Delegation Project Manager.
- During the reported period the Project Assistant attended Ukrainian Anti-corruption Co-ordination Initiative, regular meetings organised by the American Bar Association which took place on 19 July and 20 September 2007.
- UPAC project was invited to participate in a quarterly consultative Advisory Board meeting of the Promoting Active Citizen Engagement in Combating Corruption in Ukraine (USAID) that was held on 4 September 2007 in Kyiv, in order to discuss the current situation and future activities in anti-corruption area in Ukraine. Head of the CoE Information Office Mr Pavlichenko participated in the meeting as an observer.
- The Project Assistant participated at a Round Table Discussion on Ethics and Conflicts of Interest Codes on 19-21 September 2007 organised by the US Embassy in Ukraine/Millennium Challenge Corporation Programme. About 30 representatives from the international and local institutions: USAID/Rule of Law Project, US Embassy, the Romanian and US experts, MoJ, Mol, the Prosecutor's General Office, NSDC and the Main Civil Service Department, NGOs were present. The international experts provided an overview of the models of European and US Ethics Codes. Then the participants focused on discussing the latest version of the Ukrainian Ethics Code and its comments. The expert opinion on the Draft Code of Ethics provided by the Council of Europe in response to a request from the Main Department of Civil Service was a part of handout materials and as a background material for discussion disseminated during the event.
- On 29 October 2007 UPAC Project Assistant together with Deputy Representative of the Secretary General, CoE office in Kyiv participated in a first of series of expanded meetings arranged by the Anti-Corruption Coordination Initiative (ABA/CEELI). The topic of the meeting was "Activities of Governmental Bodies of Ukraine and Technical Assistance of International Organizations on Countering Corruption". The invited included representatives of Office of the Prosecutor General, Council of National Security and Defence, Ministry of Interior, Ministry of Justice, Supreme Court, Main State Civil Service Department, Security Service of Ukraine, donor organizations, INGO/NGOs and civil



society agencies involved in the fight against corruption in Ukraine. The issues addressed on behalf of each of the governmental institutions included:

- anti-corruption mandates of the governmental institution;
  - relevant actions and activities to be implemented by mid-2008;
  - the need for technical assistance and/or areas for possible cooperation with donors and international organizations.
- On 15 November 2007 UPAC Project Assistant together with other CoE projects and CoE Office representatives took part in the working meeting at the Ministry of Foreign Affairs where the Ukraine – Council of Europe Action Plan was discussed with all Ukrainian stakeholders.
  - The Office of the Council of Europe together with UPAC project organized a presentation of the GRECO Evaluation Report on Ukraine prepared and adopted by GRECO at its 32 Plenary Meeting in March 2007. The invited presenters included representatives of the Presidential Secretariat, The National Council for Security and Defence, Ministry of Foreign Affairs, Ministry of Interior, Ministry of Justice, The Main Department of Civil Service, General Prosecutor's Office, EC Delegation along with invited guests from the donor organizations involved in the fight against corruption and, also, representatives of mass media. The meeting was held on 23 November 2007 at the Office of the Council of Europe. The presentation was followed by a lively discussion, with questions & answers on GRECO recommendations to Ukraine. The GRECO report has been disseminated among the participants.
  - On 30 November 2007, UPAC project and representatives of the CoE Office were invited to take part in the regular meeting of the ABA-Ukraine Anti-Corruption Coordination initiative. UPAC project Assistant participated together with Deputy Representative of the Secretary General, where she presented the GRECO report and answered questions.
  - The Main Department of Civil Service/Ministry of Justice organized a round table discussion on establishing the anti-corruption body in Ukraine. UPAC Project Assistant participated in the meeting that was held on 20 December 2007 in the Main Department of Civil Service. Representatives of the government institutions and donor community involved in anti-corruption area were presented. During the meeting the participants discussed an anticorruption body model under the Cabinet of Ministers as well as other possible models, also the OECD expert (Ms Inese Gaika) shared the experience of the European countries and Latvia's in particular in establishing of various models of anti-corruption bodies.
  - On 4 February 2008 UPAC Project Legal Adviser Irina Zaretska together with Representative of the Secretary General of the Council of Europe for the co-ordination of co-operation programmes with Ukraine Ake Peterson met with the Minister of Justice of Ukraine Mr Onishchuk Mykola. The focus of this meeting was as follows:
    - Support and assistance from UPAC/CoE on advising and supporting the idea of establishing in a near future an Anti-corruption body, by determining clearly its functions and responsibilities;
    - Discussion on the Draft Concept for the Reform of the Criminal Justice of Ukraine;
    - Discussion on the Anti-corruption package of laws; and
    - Judiciary reform.

Minister of Justice confirmed that by a recent Presidential Decree the Ministry of Justice will be in charge to establish an Anti-corruption body (Central authority of executive power with special status) with prevention functions. In addition the public participation over the

implementation of anti-corruption reforms in Ukraine will be carried out by the support and leading role of the Council of Civil Society which is yet to be established. The members of this Council will be representatives of mass media, NGOs, international organizations, scientists, experts etc. On the other hand the investigatory and law enforcement powers with respect to corruption as a criminal offence will be introduced to a another specialised Anti-corruption Body (in addition to the one with prevention nature), and therefore through a separate legal framework.

At the end of the meeting the Minister received once again the assurance and commitment of the Council of Europe on the readiness to continue to support, particularly through the UPAC project the above mentioned challenging reforms.

## **6 STRATEGIC OVERVIEW AND CONCLUSION**

On 1<sup>st</sup> of February 2008 a Decree of the President of Ukraine "On some measures of improving the formation and realization of the anticorruption state policies" was issued and therefore creates a very strong basis for the UPAC project to continue in line with the reforms and priorities of the new government. Since this decree recognizes the need for implementation of urgent measures on improving the government actions in formulation and implementation of the national policies in preventing corruption, the UPAC project will be the possibility and the tool to support and technically assist in close cooperation with the Ministry of Justice on the following issues:

- Evaluation of the current legislation to identify systemic drawbacks which facilitating corruption offences (corruption proofing);
- Improving the current legislation on prevention and counteraction of corruption;
- Collection and analysis of the statistical data/survey results on the implementation of measures on prevention and combating of corruption;
- Evaluation of the impact of anti-corruption measures through survey exercises, followed by recommendations for improvement of systems that are prone of corruption;
- Strengthening the role of civil society in prevention of corruption;
- Introduction of the Code of Ethics for Persons Authorised to Perform State Functions and the Local and Self Government Bodies; and
- Continue to implement fully the recommendations provided by GRECO in 2007.

Therefore it is expected that, the year 2008, will be a busy period in terms of implementing activities that are already foreseen in the Revised Workplan as of December 2007, and at the same time supporting the above mentioned reforms.

\* \* \*

## 7 Annexes

Annex I: List of Participants at the Steering Group Meeting

**UPAC Steering Group Meeting**  
**List of Participants**  
**29 November 2007**  
 Ministry of Justice, 10, provulok Rylsky

### Ukraine

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Annex II: List of Priorities of Ministry of Justice – Ukraine

**PROPOSALS TO THE UPAC Workplan (1 December 2007 – 31 March 2008)**

	Time	Activity	Stakeholders	Notes	Proposed by
1	14 December 2007	Conference on participation of civil society in anti – corruption activities (Activities 1.1.3, 1.3.1, 3.1.4, 3.1.7)		Discussion outcomes will be used for implementation of point 4 of the Action plan "Legal support for involvement of civil society in anti-corruption activities"	MoJ
2	End of December 2007 (Activity 1.2.1)	Technical consultations concerning monitoring, management and coordination of the implementation of the Anti-corruption Strategy "On the Way to Integrity" and its Action Plan	Ministry of Interior (MoI), Ministry of Justice (MoJ), Cabinet of Ministers Secretariat (CoMS), Security Service(SS), National Security and Defence Council (NSDC), Presidential Secretariat (PS), State Tax Administration (STA)	The results of consultations will be used by MoI for monitoring and coordination of the activities foreseen in the National Anti-corruption Plan	MoI
3	January 2008 (Activity 2.4.1)	Round table – analysis of GRECO materials, Venice Commission and other CoE institutions' documents on financing political parties	MoJ	Round table outputs will be used for development of the Draft Law "On Amendments to the Law of Ukraine "On Political Parties"	MoJ, PS
4	First decade of February 2008 (Activity 2.4.2)	Workshop on financing political parties (standards, good practices of other countries, recommendations)	MoJ	The results of the workshop will be used in drafting the Law "On Amendments to the Law of Ukraine "On Political Parties"	MoJ, PS
5	February 2008 (under Activity 3.1.4)	Conference "Compliance of the confiscation system in Ukraine with international standards"	MoJ	The results of the conference will be used in implementation of the activity foreseen in para 39 of the National Anti-corruption Plan and realization of GRECO recommendations	MoJ
6	End of January 2008 (Activity 1.3.1)	Round table discussion regarding Article 6 of the UN Convention against Corruption, GRECO recommendations on establishing of anti-corruption body	Anti-Corruption Parliament Committee, NSDC, CoMS, PS, Prosecutor General Office (PGO), MoI, MoJ,	It would be reasonable to use the findings – as the round table recommendations – for improvement of the basic anti-corruption draft law, preparation of possible new draft law on establishment of such body. Tthe experts from the EC countries where corruption preventive institutions have been established	MoJ, PS
7	December – January 2008 (Activities 1.1.4-2.3.1)	Survey on perception of corruption risks and its reasons in law enforcement bodies. Development of recommendations for their possible use in reorganization of the law enforcement system. Round table on approval of the survey results	Organizations and institutions selected through tender, MoJ, MoI, PGO, STA, CoMS, SS, NSDC, PS	Possible approach: 1) carrying out of tender, determining the implementing agencies; 2) survey execution; 3) discussion and approval of the recommendations	MoJ, PS
8	March 2008 (Activity 2.4.3)	Workshop on regulation of lobbying		Outputs will be used in preparation of CoM's proposals on the need of development of the Daft Law 'On Lobbying'	MoJ, PS
9	February 2008 (Activity 3.1.7)	RTD at Verkhovna Rada to discuss anti-corruption draft laws that should be submitted to the second reading at VR		Activity will help to improve draft laws and to approve it by Verkhovna Rada (VR)	
10		Expertise of the Draft Law 'On the National Anti-corruption Bureau'		To be discussed	NSDC
11		Public discussion of expert opinion of the Draft Law 'On the National Anti-corruption Bureau'		To be discussed	NSDC
12		Expertise of the Draft Law "On Incentives and Disciplinary Liability of Civil Servants"		Publicly available for comments and discussion by 10.12.2007	Dep. Civil Service



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

Revised Workplan of Activities

*Implementation status and changes as agreed at the SG meeting on 29 November 2007*

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	Delays and controversies on asserting or merging Concept 2006 into a NACS version;  Clarity of assignment of	Presidential Secretariat;  Ministry of Justice;	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).	<p>content including any potential evaluation/assessment carried out prior to its finalisation;</p> <p>Participatory data of all relevant institutions and key stake holders;</p> <p>Systematic and verifiable outreach efforts to the public and between institutions;</p> <p>Projects reports;</p> <p>Other reporting and communications of relevant Ukrainian institutions;</p> <p>GRECO Evaluation Report[s] and recommendations and GRECO compliance reports</p>	<p>tasks and responsibilities in relation with implementing, operationalising and monitoring NACS.</p> <p>Creation of a working group;</p> <p>Lack of the institutional capacities and absorption of relevant tasks and responsibilities in line with the endorsed NACS.</p> <p>Political will and continuous institutional support in launching, implementing and monitoring the NACS.</p> <p>NACS not met with broad based public support;</p> <p>Institutional commitment throughout the drafting process, and recognition of assigned lead authority in coordinating the action plan drafting process;</p> <p>Clear time-line for the process to be finalised.</p>	Cabinet of Ministers; All institutions as assigned by the president's decree.	<p>guidelines</p> <p>4-6 working Sessions or Round Table Discussion (RTD);</p> <p>Public Participation</p>
September 2008 –	Activity 1.1.2	Assessment/Review and Recommendations on the	Reports available;	Assessment unable to draw clear conclusions	Designated institution in	2 Experts;



		effectiveness of the National Anti-corruption Strategy, its Action Plan and other policy related reforms in Ukraine.	Recommendations and Observation as issued.	and recommendations due to the limited time and experience to produce results as per required reforms and measures against corruption.	charge to monitor the implementation of the Anti-corruption Strategy and Action Plan;	1 Local Expert; Desk review and field work Technical Paper; Round-table discussion to present findings to counterpart institution.
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>						

Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
January 2008 - September 2008	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	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)
April 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  1 <sup>st</sup> Activity Seminar held on 15/02/2008	Activity 1.3.1	2 Seminar[s] 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 Seminar designed for all main key players and specifically on Article 6 of UNCAC).	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	2 Seminars 1 international 1 local expert  Desk review In-country visits Follow-up recommendations
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**Purpose (2): To enhance capacities for the prevention of corruption**

Objectives supported through activities under Purpose 2:

- Documents related to the public administration reform amended in the light of anti-corruption standards and best practices;
- 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;
- Recommendations and draft laws aimed at reducing conflicts of interests in the political process available.

Sources of verification of objectives reached:

- 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

Assumptions/risks:

- Cooperation of relevant stakeholders

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

Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
February 2007	Activity 2.1.1	Promotion and introduction of the Draft Law on the Ethics Behaviour for	Number of participants in the promotion and introduction	Delays on finalising the parliamentary sessions	Members of Parliament	1 expert

Expert opinion provided in August 2007.		Public Officials in order to facilitate the adoption of the new law.	event;	and reading of the draft law.	Public Administration	
July 2008- August 2008	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		Delays in adopting the new law by parliament.	Members of Parliament Public Administration	
April 2008	Activity 2.1.3	Training of public administration members on issues related legislation on Civil Service Draft Law in light of international standards and best practices (i.e., OECD, WB) <i>Note: the current draft law is expected to change the system</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)	Civil Service Department	TBD
February- August 2008	Activity 2.1.4	Corruption Risk Assessment and Prevention Plans: <b>System Study No. 1</b> on Corruption Risks within the Public Administration Services (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  Stakeholder feedback	Need and readiness of relevant stakeholder institutions to participate in survey.  Relevance and adequacy of methodology developed.	Civil Service Department	2 international 2 local experts  Scoping study  In-country visits to carry out survey and analyse findings  Presentation of findings to stakeholders
June 2008	Activity 2.1.5	Provision and training of standard guidelines and methodologies in carrying out periodical corruption risk assessments based on the System	Various reports (including GRECO reports).  Reports used as starting point	Need for corruption risk assessments and its periodic repetition understood by	Civil Service Department	RTD  2 international 2 local experts

		Study No. 1 provision of methodology on the implementation of prevention plans.	for initiation of policy changes.	stakeholders.		
February 2008	Activity 2.1.6	Expertise Opinion on the Draft Law “On Incentives and Disciplinary Liability of Civil Servants”	Expert Opinion	Draft law delayed	Civil Service Department (TBC)	2 International experts

**Output (2.2): Risks of corruption reduced in the judiciary**

Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
May 2008- November 2008	Activity 2.2.1	Corruption Risk Assessment and Prevention Plans on Judiciary: <b>System Study No. 2</b> on Corruption Risks within the System of 3 different level courts and their administration Services (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  Survey findings acknowledged by stakeholders and publicly discussed (incl. in media)	Cooperation of Ukrainian judicial authorities in particular of the High Council of Justice. Cooperation of the Ministry of Justice.	MoJ, High Judicial Council	2 international 2 local experts  Scoping study  In-country visits to carry out survey and analyse findings  Presentation of findings to stakeholders
December 2008	Activity 2.2.2	Provision and training of standard guidelines and methodologies in carrying out periodical corruption risk assessments based on the System Study No. 2 provision of methodology on the implementation of prevention plans.	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.	MoJ, High Judicial Council	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
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January 2008 – June 2008  <b>ToR finalised in August 2007.</b>	Activity 2.3.1	Corruption Risk Assessment and Prevention Plans: <b>System Study No. 3</b> on Corruption Risks within the System of Ministry of Interior (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  Survey findings acknowledged by stakeholders and publicly discussed (incl. in media)	Commitment of Mol and relevant departments to participate in survey	Mol	1 international 2 local experts  Scoping study  In-country visits to carry out survey and analyse findings  Presentation of findings to stakeholders
August 2008	Activity 2.3.2	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	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.	Mol	Experts who participated in 2.3.1
February 2008 – July 2008	Activity 2.3.3 in coop with  Activity 2.3.1	Corruption Risk Assessment and Prevention Plans in Prosecutorial Services: <b>System Study No. 4</b> on Corruption Risks within the System of Prosecutorial Services (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  Survey findings acknowledged by stakeholders and publicly discussed (incl. in media)  Various reports (national/international), including GRECO  Survey findings acknowledged by stakeholders and publicly discussed (incl. in media)	Commitment of prosecution and relevant departments to participate in survey	Prosecution	2 international 2 local experts  Scoping study  In-country visits to carry out survey and analyse findings  Presentation of findings to stakeholders
August 2008	Activity 2.3.4	Provision and training of standard guidelines and methodologies in	Various reports (national/international), including GRECO	Need for corruption risk assessments and its	Prosecution	Experts who participated in 2.3.2

		carrying out periodical corruption risk assessments based on the System Study No. 4 provision of methodology on the implementation of prevention plans	Survey findings acknowledged by stakeholders and publicly discussed (incl. in media) Various reports (national/international), including GRECO  Survey findings acknowledged by stakeholders and publicly discussed (incl. in media)	periodic repetition understood by stakeholders.		
June 2008	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  Workshop
June 2008	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;  Commitment translates into the allocation of human and financial resources to make system efficient and effective	Ministry of Interior	2-3 experts (national and international)  TP  Workshop(s)

				Ministry of Interior is ready to implement such measures		
<b>Output (2.4): Conflicts of interest reduced in the political process</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/ February 2008  Held on 29 January 2008	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
	Activity 2.4.2	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)	Relevant reports, including GRECO reports  Public debate on identified issues	Continued commitment of Ukrainian authorities to tackle issues	Central Election Commission  MoJ  Parliament	2 international experts  2 national experts  Desk review and TP paper  Workshop



March 2008	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).	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
April/May 2008	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.	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
March 2008	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.	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)

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

Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
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 programme		1 local expert 1 international expert 1 workshop
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</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	5 reviews reports 5 review Recommendations Reports on Dissemination	Identification of a local partner Commitment of peer reviewers 5 municipalities are		1 local expert 5 review visits of 4 days for peer review teams of 4 persons each

<b>2007</b>		peer review should lead to the preparation of reports including Recommendations for the improvement of the situation in the municipality under review		committed to the programme		
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 of codes of conduct)	5 Corruption Prevention Plans	Identification of a local partner 5 municipalities are committed to the programme		1 local expert
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	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		

**Output (2.6): Public participation in the anti-corruption effort promoted**

Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
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.

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

Summary of objectives supported under Purpose 3:

- 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

Sources of verification of objectives reached:

- Activity reports, GRECO reports, draft amendments, technical reports, partner institutions documentation

Assumptions/risks:

- Commitment and co-operation of relevant partner institutions

**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**

Timing	Level/ Activity	Description	Sources of verification	Assumptions /Risks	Responsible Institutions	Possible Input Required
February – April 2008	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	Draft Concept available for review by responsible institutions;  Political will to undertake necessary reforms, and review the on-going	Main Civil Service Department of the of Ukraine;  MOJ;	2 Experts Desk review;  1 Fact finding mission;  Delivery of Technical Paper (Expertise Opinion);

			<p>disseminating information and providing feed back;</p> <p>Media coverage;</p> <p>GRECO Evaluation Report[s] and recommendations and GRECO compliance reports</p>	<p>legislative process in line with the European standards;</p> <p>Consistency of coordination and cooperation among all relevant institutions and key players during the entire process;</p> <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>National Commission for the Strengthening of Democracy and Rule of Law;</p> <p>Secretariat of the President of Ukraine;</p> <p>Council of National Security and Defence;</p> <p>School of Public Administration;</p>	<p>Round Table Discussion (RTD);</p> <p>Follow up.</p>
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<p>January 2007</p> <p><b>Expert opinion provided in May 2007.</b></p>	<p>Activity 3.1.2</p>	<p>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>	<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>Available resources provided and committed by the relevant beneficiary and coordinating bodies/institutions.</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>
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<p>October 2006</p> <p><b>Expert opinion provided in October 2006.</b></p>	<p>Activity 3.1.3</p>	<p>Expert Opinion and Review on the coherence of:</p> <ul style="list-style-type: none"> <li>- Draft Law on the Judiciary; and</li> <li>- Draft Law on the Status of judges,</li> </ul> <p>with European anti-corruption standards.</p>	<p>Projects reports;</p> <p>Other reporting and communications of relevant Ukrainian institutions;</p> <p>Relevant institutions' 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 key players during the 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>Ministry of Justice;</p> <p>National Commission for Strengthening Democracy and the Rule of Law;</p> <p>Supreme Court;</p> <p>Council of Judges;</p> <p>Secretariat of the President of Ukraine;</p> <p>Association of Judges of Ukraine.</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>
<p>June 2007</p>	<p>Activity</p>	<p>Support the implementation of</p>	<p>Database of legal acts of</p>	<p>Continuous commitment</p>	<p>MoJ</p>	<p>Council of Europe local</p>

14 December 2007	3.1.4	GRECO recommendations on compliance with relevant international anti-corruption legal instruments.  (Activities need to be defined upon issuance of GRECO report)	Ukraine  GRECO compliance reports  Other relevant monitoring reports (OECD)	of Ukrainian authorities to adhering to international legal standards.		project team  Relevant international and national experts
March 2008  May 2008	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 Opinion  Evaluation reports from monitoring mechanisms  Activity reporting	Draft Amendments are available and presented in time to parliament	MOJ  Judiciary representatives and Prosecutorial Services	1 Council of Europe Expert  Council of Europe local project team
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
May 2008	Activity 3.1.7	RTD on the Anti-corruption Law Package (follow up) in reviewing the latest issues of concern with regard to the necessary proposed legislative changes	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



March 2008	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
January/ February 2008	Activity 3.1.8	Support to publicising the contents of the anti-corruption law package, submitted by the President of Ukraine to the Parliament	Database of Legal Acts	Broad-based commitment to fighting corruption, including through relevant legislation.	MoJ,  Parliament	Workshop;  Local and international experts.
<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>
April 2008	Activity 3.2.1	Multidisciplinary Conference on issues related to investigation and prosecution of corruption related offences (challenges, national practices and foreign experience, case studies, pro-active and multidisciplinary approach, participation of relevant bodies, including supreme audit institutions).	Various reports (including GRECO)	Issue not yet covered by other donors	SG partners	TP
March – May 2008	Activity 3.2.2	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)  TP and Fact Finding Mission
June 2008	Activity	In-country training activity for	Reports, including GRECO	Reform of system of	Investigation and	1 Training Activity

(back to back with Activity 3.2.4)	3.2.3	prosecutors and investigators from central and regional offices (case studies, pro-active and multidisciplinary approach, participation of relevant bodies, including supreme audit institutions)	Training Package	prosecution is underway/finished in conjunction with international legal standards.	prosecution authorities from central and regional level and other relevant authorities	2 international experts 2 national experts
June 2008 (back to back with Activity 3.2.3)	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 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.	Mol, Prosecution	1 Training activity 2 international experts 2 national experts TP
June 2008 – December 2008	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	2 international experts 2 national experts TP
September 2008	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.	MoJ, Prosecution, Mol	2 international experts 2 national experts TP
September 2008	Activity 3.2.7	Provide Technical Advice on the introduction and application of case management systems for the Ministry	Technical Paper	Need not yet covered by other donors.	Mol, Prosecution	2 International experts 2 Local experts Scoping Study

		of Interior and Prosecution services, in particular of a unique system for registration of corruption and economic crime related offences.				TP 2 Workshops (introduction and feedback)
January 2009	Activity 3.2.8	Provision of IT equipment / advice (to be specified if needed)			TBC	

Last update: 26 Feb. 2008

ROUND TABLE DISCUSSION  
ON  
CORRUPTION

under the auspices of the Council of Europe

KIEV, January 2008

**THE ESSENTIALS OF FIGHTING CORRUPTION**

Bertrand de Speville<sup>4</sup>

**The necessary elements**

Our leaders are worried by the growth of corruption. They see the consequences and they realise that things can only get worse if effective action is not taken quickly. It is little comfort to them (or us!) to know that ours is not the only country to be thus afflicted, nor that ours is nowhere near the worst of situations. Like all countries, our own country has its unique characteristics, and its corruption, no doubt, has some special features. However, corruption is a universal phenomenon – no country is devoid of it – and, despite its numerous manifestations, it has certain features wherever it appears. It is now widely recognised that combating corruption successfully in any country requires certain conditions. These are the seven essentials:

- ❖ *Will* There must exist the political will to act against the problem.
- ❖ *Law* There must be strong laws comprising clear offences that reflect the values of the community, effective powers of investigation and rules of evidence that assist the proper prosecution of those charged with corruption offences.
- ❖ *Strategy* Fighting corruption requires a clear, complete and coherent strategy and the strategy must include three elements:
  - effective enforcement of the laws;

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- prevention of corruption by eliminating from systems, large and small, the opportunities for corruption;
  - educating the public about corruption and persuading people to help fight it.
- ❖ *Coordinated action* To be effective, the implementation of these elements must be coordinated.
  - ❖ *Resources* National leaders must recognise that fighting corruption successfully requires resources, human and financial.
  - ❖ *Public support* The authorities cannot fight the problem without the help of the people. Therefore the community must be involved from the beginning.
  - ❖ *Time* Everyone must realise that beating corruption will take time and that, once the problem has been brought under control, it must be kept under control. In consequence the commitment must be long-term, and that means that the provision of adequate resources for the fight becomes a permanent item of annual national expenditure.

### **The strategy itself**

The objective of the strategy is to reduce corruption in each of our countries to the point where first, it no longer undermines what we are trying to build in our own country and second, our people will see corruption for the destructive menace that it is and guard against it.

As for the strategy itself, it is self-evident that one of its elements has to be the effective **enforcement** of the national laws against corruption. But it must be recognised that enforcement of the laws alone can never bring corruption under control. That lesson has been learned many times in different countries that have tried to deal with a growing problem by making and enforcing harsher laws, only to find that the problem gets worse. Prosecution and conviction do not in themselves provide a solution. While it is essential that there should be effective action in making corruption a crime that carries a high risk of being caught, convicted and punished, it is now generally recognised that there are two other elements equally essential to success. They are the product of two common sensical thoughts.

The first is that all of us live and work in and with **systems** – systems large and small. As members of an orderly society we function within them. These systems present us

with the opportunities to take improper advantage of them. We are only human; sooner or later most of us will yield to the temptation presented by the system we work in. It is rightly said that a system is only as good as the people who make it work. But the converse is equally true: people are only as good as the systems they have to work with. If a system is bad because it offers opportunities for corruption, the people who operate the system are likely themselves to become bad. So it makes sense to examine each of these systems, large or small, and make some changes to the system, or even replace it or remove it altogether, so as to minimise or eliminate the opportunities for corruption that currently exist in it.

The second line of thought concerns **people** – all of us in the community. If we are to turn against corruption, we must first learn about corruption – what it does to our community, how it spreads like dry rot. Then we have to realise that it can be beaten, but only if each of us is ready to play our part. Finally, we must shun corruption and determine that we will not allow it to be part of our daily lives, as it is now in so many countries including our own. So, for the whole community there must be education and there must be developed the willingness to help in the fight.

But people have an ambivalent attitude to corruption – an attitude of uncertainty compounded by tolerance, indifference or resignation, a feeling that corruption is so pervasive that nothing can be done about it and we might as well learn to live with it. There seems little point in helping the authorities to combat corruption – they themselves are corrupt!

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That attitude must be changed for two reasons. First, if the laws against corruption are to be enforced, the allegations and suspicions of corruption have to be investigated. But, corruption being secretive and complicitous, there is nothing to investigate unless those who know that something is going on are prepared to say so. It is very difficult to develop the willingness to help in this way, especially in countries where denunciation to the authorities is anathema or where the authorities are deeply distrusted. But it must be done, for unless the authorities are given good information about what is happening, they will be powerless to do anything about corruption. People must therefore be brought to feel that corruption has to be resisted, that the information they

have is essential in the fight and that in giving information they will be protected and respected.

The second reason why people's attitude to corruption must change is the practical recognition that in the long term success can come only with the development of intolerance of corruption in the hearts and minds of every one of us. The effectiveness of enforcement is limited – you can investigate and prosecute for ever; without a change of attitude throughout the community, enforcement will not overcome corruption. Eliminating the opportunities for corruption is limited - you can go on improving the systems for ever; without a change of heart and mind in the people who operate the systems, the corrupt will always find a way round them.

These three elements of the strategy – enforcement, prevention and education - must move forward together and complement each other; for when they are made interdependent, any success in one of them enhances the other two. Now the strategy is more powerful than the sum of its parts – truly an effective weapon.

### **The mechanism for implementing the strategy**

If it is decided that the three arms of the strategy must move forward together and complement each other, it follows that their implementation will have to be coordinated by a body or person. In many of our countries a special body has been created, or will be created, to perform that coordinating role. If coordination is to be effective, that anti-corruption body needs the power to direct the action to be taken. Our countries being countries governed in accordance with the rule of law, we probably insist that any powers granted to the coordinating body should be specified by law.

Implementing each of the arms of the strategy requires distinct skills, skills not usually found in a single individual. The investigator is unlikely also to be an educationist or a systems analyst. No doubt specialised people are to be found in existing agencies of government in our countries. So, one of the ways of implementing each arm of the strategy would be to make that arm the job of a particular agency or unit of government. That agency or unit should be part of the public administration, as opposed to a non-governmental organization, so that it can be properly kept under control and made properly accountable. If an existing government agency has the

capacity to undertake the implementation of one of the arms of the strategy and can be trusted to do the job properly, it may be better to use that agency than to create a new implementing agency. If, for example, the investigation of corruption allegations can safely be left in the hands of the police, it may be decided to leave investigation to the police. If however there is reason to doubt the ability or integrity of the police, it may be necessary to form an investigating unit separate from the police and to make it part of the anti-corruption body. That would also avoid the situation in which police officers responsible for investigating corruption have a dual system of accountability, namely accountability to the head of the police for administrative and personnel matters and operational accountability to the anti-corruption body as coordinator. This is a matter that the leadership of our respective countries will decide but, if the police are widely believed to be corrupt, a new and separate unit will have to be formed, at least so far as investigation is concerned.

The same reasoning applies in respect of the implementation of the two other arms of the strategy. If an existing agency can be given the responsibility and can be made operationally answerable to the anti-corruption coordinating body, that may be the better way to proceed.

All the details of implementing each arm of the strategy need not, indeed should not, be decided at the beginning. It is unnecessary to decide now exactly how the anti-corruption message will be conveyed to police recruits, nor whether the promotion system in the public administration should be the first system to be examined. It is the strategy and the institutional mechanism for putting it into practice that should be decided at this stage.

### **Steps for the adoption of the strategy**

The campaign against corruption should be built step by step:

1. the adoption of the strategy and the institutional mechanism by which it will be implemented;
2. the determination of the main policy issues that will affect the course of the campaign;



3. the making of a survey of the current state of affairs and of public attitudes to corruption so as to provide a benchmark against which to measure future progress;
4. the preparation and enactment of the legislation that will state the strategy, create its implementing mechanism, grant the necessary powers and provide the safeguards against abuse;
5. the appointment of the coordinating body and the provision of financial and technical support that will be needed at the outset;
6. the selection and training of the personnel who will be given the responsibility for carrying out the coordinator body's instructions;
7. the raising of public awareness and expectation of the government's determination to deal with corruption;
8. the start of operations by the coordinator;
9. the development of the campaign over time;
10. finally, the regular accounting for the conduct and progress of the campaign.

It is important that consensus should continue to be built at each stage in ever widening circles, so that before long the consensus becomes nation wide.

### **Priorities under each arm of the strategy**

Each arm of the strategy – enforcement, prevention and education - is equally important to the success of the campaign. They must advance together, work together and support each other. It has to be recognised however that for the public it is the enforcement arm that will provide evidence that the government means what it says. The evidence will have to appear reasonably quickly for there to be any chance of convincing a sceptical public. Therefore the coordinating body's priority task should be to get the investigating unit operational by the time the government launches the campaign. In quick succession the coordinating body will then want to get the prevention and public education teams moving.

Priorities are of two kinds – organisational and operational. We've just considered organizational priorities. Now let me say something about operational priorities because an important policy issue arises in connection with investigations. While it is perhaps obvious that, in relation to prevention and public education, those tasks that

are regarded as the most pressing or the most likely to succeed should be undertaken first, it does not follow that the most serious allegations of corruption should be given investigative priority. It is very important that every allegation should be quickly and properly investigated, no matter how insignificant it may seem to be. The reasons are these:

- ◆ What appears to be a minor matter quite often unravels into a much more serious case.
- ◆ For the citizen who has brought himself to make a complaint, the matter will be important. If it is dismissed as unimportant, he is unlikely ever to return to the authorities, perhaps with a crucial piece of information. If community support is to be won, the minor complaint must be taken seriously.
- ◆ Picking and choosing which reports to investigate and which to ignore gives rise to suspicion of improper influence having affected the decision or, worse, of corruption in the investigating unit.
- ◆ Ignoring some complaints gives the impression that some corruption is tolerated, that double standards apply.
- ◆ The fact is that widespread small scale corruption can do serious damage to the ethical climate of a country. Furthermore, a single small act of corruption can have catastrophic consequences.

Of course, the amount of resources put into investigating what is indeed a minor matter will be small in comparison to the resources put into investigating a major matter. What is important is that in both cases the public should feel the investigation has been properly done. And in that connection the community can have an important role to play.

### **8.1 The community's role in closing investigations**

Every day the headlines tell us "Corruption here" "Corruption there". It is not surprising we come to believe corruption is everywhere. Allegations of corruption fly around but never seem to be resolved. Nobody is charged, let alone convicted. We never know if the matter has been properly investigated. These allegations just accumulate, polluting the atmosphere. Before long we believe all our public figures, all our politicians and

public officials, indeed all those around us are corrupt. We are obviously in need of fresh air.

This state of mind is not peculiar to any one country – it occurs in every country where people believe that allegations of corruption are not properly investigated. One of the functions of an anti-corruption body is to investigate thoroughly corruption allegations that are made to it. But the public has to be satisfied about that. People have to be reassured that the anti-corruption body has done a proper job of investigation. Experience in places like Hong Kong and Singapore and Botswana shows us that most allegations or suspicions of corruption do NOT result in a prosecution in court. The reason is usually that the necessary evidence is lacking or even that the allegation was mistaken. The investigation can go no further and must therefore be closed, but not before we are satisfied it really has been properly investigated.

How can the anti-corruption body reassure the public about that? It would be disastrous to make available for public scrutiny all those investigations that have to be closed. It would wreck the confidentiality of the anti-corruption body. Some of the anti-corruption body's work must be confidential; the public expects it.

There is an alternative. It has been used successfully in Hong Kong over many years. A committee of trustworthy citizens is given the role of looking at investigations that investigators propose should be closed and of advising whether or not the investigation should be closed. These citizens meet about once a month for half a day and consider the cases that are to be closed. They can question the investigating officers. If they agree with the proposed closure, they advise accordingly. If they do not, they can advise that further investigation should be done or that the legal advice should be reconsidered. Their work is, of course, confidential.

In that way the people are reassured that ordinary citizens, acting in the public interest and on behalf of the public, have satisfied themselves that investigations have been thoroughly done and can properly be closed. The air begins to clear.

B.E.D. de Speville



de Speville & Associates, January 2008

## **Standards and evaluations of the financing of political parties and electoral campaigns**

*Prepared by: Quentin Reed (United Kingdom)*

### INTRODUCTION

This technical paper explains the Council of Europe standards relating to the financing of political parties and electoral campaigns, in the light of the Third Round evaluations currently being conducted by the Group of States Against Corruption (GRECO). The Third Round evaluations include scrutiny of the regulation of the financing of political parties and electoral campaigns, in particular through a 'Questionnaire on Transparency of Political Funding'.<sup>5</sup> The Questionnaire is based on the individual provisions of Council of Europe Committee of Ministers Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties<sup>6</sup>. The Recommendation effectively constitutes the only binding international standards on the financing of political parties and election campaigns. This is due to the fact that countries that are members of GRECO become automatically subject to evaluation of their anti-corruption policies, as summarised in the Council of Europe's Twenty Guiding Principles for the Fight against Corruption, Principle 15 of which calls for 'the adoption, by elected representatives, of codes of conduct and promote rules for the financing of political parties and election campaigns which deter corruption'.

In addition to the Recommendation itself and GRECO Questionnaire, in 2003 the Council of Europe published *Financing political parties and election campaigns – guidelines* (hereafter referred to the Council of Europe Guidelines). These are highly recommended as a source of more detailed information on what the Recommendation implies in terms of practical policy, as well as examples of regulations from a variety of countries.<sup>7</sup>

### **THE COUNCIL OF EUROPE STANDARDS**

#### Background and context

The standards established by Recommendation (2003)4 establish specific principles by which to assess a country's system for regulating political party and election campaign finance. They do not determine exactly how particular components of regulation should be formulated. For example, while the Recommendations establishes that states should provide support for political parties, it does not provide any detailed recommendation as to what form such support should take, or what should be the exact criteria for distributing such support beyond requiring that criteria should be 'objective, fair and reasonable'.

There are very good reasons why the Recommendation does not attempt to establish such a specific template for regulation. Countries differ in many ways – for example size, electoral

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<sup>5</sup> The Questionnaire can be found at

[http://www.coe.int/t/dg1/Greco/evaluations/round3/questionnaire\(round3\)\\_en.asp](http://www.coe.int/t/dg1/Greco/evaluations/round3/questionnaire(round3)_en.asp).

<sup>6</sup> The Recommendation can be found at [http://www.coe.int/t/e/legal\\_affairs/legal\\_co-operation/combating\\_economic\\_crime/1\\_standard\\_settings/Rec\\_2003\\_4.pdf](http://www.coe.int/t/e/legal_affairs/legal_co-operation/combating_economic_crime/1_standard_settings/Rec_2003_4.pdf).

<sup>7</sup> The Guidelines are available at

[http://www.coe.int/t/e/integrated\\_projects/democracy/05\\_key\\_texts/03\\_summaries\\_of\\_all\\_publications/Financing%20of%20political%20parties.pdf](http://www.coe.int/t/e/integrated_projects/democracy/05_key_texts/03_summaries_of_all_publications/Financing%20of%20political%20parties.pdf)

and party system, trends in political participation and so on – which should be reflected in the specific characteristics of political finance regulation. Moreover, even in similar countries, there may be no one ‘correct’ way to regulate political finance but a range of options among which a political choice must be made. The Recommendation does not provide a template, but it does provide specific principles that party finance regulations should observe. As the Council of Europe states, these are “standards to guide its member states towards finding their own answers” to the questions of how to regulate political party and election campaign finance, not answers on how exactly to regulate in a given country.

The key assumptions or tenets underlying the Council of Europe standards are the following:

- i) Parties need sufficient funds in order to function – and thereby for democracy to function.
- ii) Regulation should establish a level playing field for parties and electoral competition.
- iii) Regulation should preserve the independence of parties – both from the state and from private entities.

In general, the ideal situation in terms of party finance and its regulation is assumed to be where:

- parties receive funds and resources from a mixture of sources, including both public and private;
- the size of private contributions to parties are limited to prevent dependence on particular donors, and to encourage parties to attract large amounts of small contributions – thereby promoting political participation;
- expenditure on election campaigns is restricted in order to prevent it – and therefore the need to attract private donations - from spiralling out of control;
- effective mechanisms and institutions are in place to monitor political party financing, investigate possible violations and impose proportionate and dissuasive sanctions.

## Two cautionary notes

The expert wishes to underline two general points that are of fundamental importance. One concerns the difficulty of establishing functioning regulation, and a related point concerns the purpose of the GRECO evaluation process in this area.

### Political finance: wish-lists vs. effective regulation

While effective regulation of political finance is a desirable objective, it is extremely important to design regulations so that they will apply in practice. This means two things:

- The incentives for political parties and other entities to evade regulations and the ease with which they can do so must not be too great. It is advisable to build positive incentives into regulations that encourage compliance, rather than relying solely on monitoring and enforcement. An example of such incentives might be a system where the state provides subsidies to match contributions to political parties that do not exceed a certain amount, encouraging parties to attract small donations.
- The regulatory framework must establish a mechanism for enforcement and an institution or institutions with sufficient powers, resources and independence to conduct such enforcement.

Historically, political finance regulations have tended to be very poorly enforced, even in many consolidated democracies, and this is all the more true of transition countries. The temptation to write legislation as a wish-list of how reformers would like political finance to function, rather than a tool for establishing functioning regulation, must be avoided.

In this context, it is worth referring to two points underlined by the Council of Europe Guidelines:

- First, the Guidelines usefully point out that “[a]n unnecessarily detailed framework of legislation may in fact encourage parties and candidates to evade the rule of law and thus be counterproductive to its intentions.” While it is not the purpose of this paper to develop this point in detail, it is of fundamental importance. For example, countries with regulations requiring detailed disclosure of all donations to parties are all too often the countries whose regulations are ignored or not enforced. The lesson of this is that regulations should be designed to fulfill their role without imposing unnecessary burdens of disclosure or monitoring.
- Second, the Guidelines stress the key point that “Disclosure requires systematic reporting, auditing, public access to records and publicity. Monitoring requires an enforcing agency backed by legal sanctions, and enforcement demands a strong authority endowed with sufficient legal powers to supervise, verify, investigate and if necessary institute legal proceedings.” Without such mechanisms in place, party financing rules will be worth little more than the paper on which they are written.

### The purpose of GRECO evaluations of party finance regulation

A point that is directly related to this is that countries undergoing GRECO evaluation of their party finance regulations should not expect to perform well in the initial evaluation. Regulation of political party and election campaign financing has become a prominent issue only in the past decade or two. Some of the most advanced democracies have only moved to regulate party and election campaign finance only in the 5-10 years, for example the United Kingdom. In this situation, countries answering the GRECO questionnaire should not necessarily expect to receive a positive evaluation, and the evaluation should be seen as part of a process by which they can screen their regulatory framework and develop effective regulation. The conclusion of the Technical Paper develops this point further.

## III. EXPLANATION OF STANDARDS

This section summarises the standards contained in Recommendation (2003)4. It also provides brief guidance in italics on particular provisions of the Recommendation where the expert feels this is necessary. The breakdown of subsection 1 here is intended for clarification and is not exactly the same as in Recommendation (2003)4.

### Standards in Recommendation (2003)4

#### General

- State and citizens should both be entitled to support political parties.
- Support by the state or citizens should not interfere with independence of parties.
  - o *Parties need to be independent of both the state and private entities; dependence on the latter especially may lead to or constitute corruption.*

## State support for parties

- State should provide reasonable support to political parties; support may be financial.
  - o *State support may be provided in kind, e.g. provision of election campaign slots on public TV.*
- State support should be distributed on the basis of objective, fair and reasonable criteria.
  - o *State subsidies may be for ordinary activities or for electoral campaigns.*
  - o *Examples of criteria for distribution of state subsidies include votes or mandates won in previous election, participation in current election, votes/mandates won in current election.*

## Contributions/donations

- Definition of donation: 'any deliberate act to bestow advantage, economic or otherwise, on a political party'.
  - o *Definition should include not only financial contributions but also in-kind donations and provision of goods/services at a discount on normal market prices.*
- Donations over a fixed ceiling should be published.
  - o *Secret donations not covered in Rec(2003)4: in some contexts they should not be outlawed due to possibility of persecution of donors by authorities.*
  - o *Anonymous donations not covered – should be regulated so as not to overburden parties administratively.*
- Limits on donations should be considered.
  - o *Limits may be on total donations to a party, on individual donations from a single donor, or total donations from single donor within a defined period.*
- Measures to prevent circumvention of ceilings.
  - o *E.g. prohibition on splitting donations.*
- Tax deductibility OK, but should be limited.
- Regulation of donations by legal entities:
  - o Donations should be recorded in their books and accounts.
  - o Shareholders should be informed.
    - *These two recommendations are designed to reduce risk of corruption of parties by private companies by forcing companies to record donations and inform shareholders – but don't require companies to secure shareholder approval.*
  - o Limit/prohibit/strictly regulate donations by entities providing goods/services for public administration.
  - o Prohibit legal entities controlled by state/other public authorities from donating to political parties
    - *Definition of controlling stake is important.*
  - o Regulations should apply 'as appropriate' to entities directly or indirectly related to parties, otherwise under control of party or organisations affiliated to political parties (hereafter 'related entities'), with the exception of tax deductibility.

- *'As appropriate' = should apply to donations as defined above, i.e. deliberate acts to bestow advantage, economic or otherwise, on a political party'.*
- Limit/prohibit/regulate donations by foreign donors.
- Rules should apply *mutatis mutandis* to funding of electoral campaigns of electoral candidates and of political activities of elected representatives
  - Best solution: a single law covering financing of political parties and electoral campaigns.

### Election campaign expenditure

- Should consider limits on campaign expenditure
  - *These are important if the need for private funding is to be limited.*
  - *Limits may be financial or qualitative (prohibition on TV advertising).*
- Records should be kept of all expenditure on electoral campaigns for each party, list of candidates and each candidate.
  - *This is not same as requiring their disclosure – but is necessary for disclosure of expenditure and/or its supervision/audit to be possible.*

### Accounts and disclosure

- Parties and entities controlled by or related to them should be required to keep proper books and accounts.
  - *This is not same as requiring their disclosure – but is necessary for disclosure of expenditure and income and/or their supervision/audit to be possible.*
- Accounts should specify all donations (including the nature and value of each donation) and identity of sources of donations over a certain value.
- Accounts should be
  - presented at least annually to an independent authority;
    - *See comment under f) below.*
  - made public (or at least a summary of accounts including records of electoral campaign expenditure as appropriate and of donations) at least once a year.
    - *This is a key provision – for public scrutiny to be possible, essential that the summary includes at least: total expenditure; total income and breakdown into different categories of income; all individual contributions over a reasonable threshold and the identity of the donors.*

### Supervision

- Should be independent monitoring of funding of political parties and electoral campaigns, including i) supervision of accounts of political parties and election campaign expenses and ii) their presentation and publication.
  - *There must be an authority responsible for monitoring and enforcing political finance regulations that is sufficiently functionally independent, allocated adequate powers and equipped with sufficient resources and staff.*



- *Authorities may be e.g. Ministry of Finance, Supreme Audit Institution, anti-corruption agency, Electoral Commission.*
- Should promote specialisation of judiciary, police or other personnel in fight against illegal funding of parties and electoral campaigns.

## Sanctions

- Infringement of party and electoral campaign funding rules should be subject to “effective, proportionate and dissuasive sanctions”.
  - *Sanctions range from fines/forfeiture of illegal donations to imprisonment/cancellation of election results.*
  - *Important issues: to whom sanctions may be applied; sanctions must not serve as a tool for harassing opposition.*

## IV. THE GRECO QUESTIONNAIRE

This section briefly summarises the Questionnaire used by GRECO for its Third Round evaluation of the transparency of party funding. It should be noted that the Questionnaire in fact examines not only transparency of party funding, but the regulation of party finance and election campaign finance in general. However, the Questionnaire devotes more attention to the issues of accounting, disclosure, monitoring, enforcement and sanctions than it does to the regulations on political finance per se – that is the restrictions and rules on how parties and election campaigns may be financed.

### Contents of the Questionnaire

The GRECO questionnaire consists of two parts. The first ‘General part’ contains questions about the legal status and definition of political parties and about funding rules, in other words following the provisions of Recommendation (2003)4 up to sub-item d) as summarise in Section B.1 above. In particular the questionnaire requires information on the following:

- an overview of the laws and regulations on financing at national level of parties, related entities, electoral campaigns of political parties, and candidates for election;
- restrictions and/or limits on various sources of funding for the above, including on contributions and donations;
- laws/regulations on public funding;
- detailed regulations of private funding, for example from anonymous sources, entities providing goods or services to public administration etc;
- limits on private contributions;
- tax deductibility;
- quantitative and qualitative restrictions on expenditure by parties, related entities, electoral campaigns or candidates for election;
- any differences in rules at sub-national level.

The second ‘Specific part’ of the Questionnaire contains more detailed questions on the rules that are in place on transparency, supervision and sanctions:

- the keeping of books and accounts by political parties and related entities – including details of what must be recorded;
- the duties of contributors (donors) to record contributions they make to parties, related entities and candidates for election;

- duties of contributors, parties, related entities and candidates for election to report income and expenditure to competent authorities;
- how long records must be held by all the above-mentioned entities;
- whether and how parties, related entities and candidates are required to make their financial reports public;
- access by competent authorities to accounting records;
- whether parties, related entities, electoral campaigns and electoral candidates are subject to internal audit requirements;
- the mechanism for - and authority responsible for - monitoring adherence to political financing laws/regulations in general, and checking relevant accounting records and supporting documentation;
- details on this mechanism/authority – e.g. independence, structure, resources, powers;
- procedures for addressing suspected infringements of political financing regulations;
- information on numbers of investigations, prosecutions and convictions for such infringements since 1996;
- requirements on the competent authority to make reports on party finance public;
- what sanctions (administrative, civil or criminal) are envisaged by law for what violations of political financing laws and regulations, who can impose them, and on whom they can be imposed;
- immunities and statutes of limitation relating to violations of political financing laws and regulations;
- information on sanctions imposed since 1996.

## V. CONCLUSION: ISSUES FOR AUTHORITIES UNDERGOING EVALUATION

In conclusion, and as Section A.2.b already stated, most countries are likely to do relatively poorly in an evaluation of party finance regulations such as the one being conducted by GRECO. The expert wishes to stress that the best response to this fact is to regard the evaluation not only as a process of external review, but first and foremost as a useful *domestic* policy tool for a country to screen its own regulations, which can then be used to yield reforms.

For example, the recent GRECO Third Round Evaluation of Finland included quite extensive criticisms of and recommendations for the country's regulation of political party financing, significant in light of the fact that Finland has a better record than any other country in the Transparency International Corruption Perceptions Index. In this context it should also be noted that according to the GRECO evaluation report the Finnish Government openly acknowledged the shortcomings in its system and included in its programme of action the need to implement legal and procedural amendments in the light of GRECO recommendations.

Annex VI: Revised National Handbook on Public Ethics at Local Level

Due to the size of the document, below is the content of the final version of the Handbook.  
The full version can be found at: [www.coe.int/local](http://www.coe.int/local)

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# Suggested Terms of Reference for a Comprehensive Survey on Corruption in the Law Enforcement Agencies of Ukraine

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## Background

UPAC, the joint Council of Europe/European Commission 'Support to Good Governance – Project against Corruption in Ukraine', was launched in July 2006, and is anticipated to continue until June 2009. The project's beneficiaries include the Ministry of Justice, the National Security and Defence Council (NSDC), the Prosecutor General's Office (PGO), the Ministry of Interior, and the National Commission for the Strengthening of Democracy and the Rule of Law (NCSDR). The activities to be carried out in the framework of the project had been subject to extensive discussions prior to the start of the project, and have, in principle, been agreed upon with all the beneficiary institutions.<sup>i</sup>

Beneficiaries agreed that surveys of patterns and forms of corruption in Ukraine should be carried out in the framework of the project. Output 1.1.3 of the project's Workplan included law enforcement agencies to be part of such surveys. The objective of the survey is to provide as detailed a picture as possible about corruption in the respective sector (see below for detail on methodology). At the same time, the survey should result in recommendations that could be used by the senior leadership to guide policy reforms aimed at reducing corruption in respective agencies/institutions.

## Objective of the survey

### Overall objective

Various opinion surveys have shown that the public considers corruption in the law enforcement system to be widespread, and that trust in these institutions is low. This is all the more alarming since some of these bodies are responsible for tackling corruption in other areas and prosecute serious crimes.

A comprehensive corruption survey conducted in 2003-2004 by the Institute of Applied Humanitarian Researchii focused on corruption in the judiciary, elected offices, and civil service, and found that 85% of Ukrainians consider corruption widespread in the country.

According to a survey carried out in 2006 by the Kyiv International Institute of Sociology 2006, funded by the Council of Europe, on "Corruption and Service Provision in the Ukrainian Judiciary"iii, traffic police, police and customs service are leading the list of public institutions in the level of perceived corruption (followed by the courts, the state higher education system, the tax inspection, the Prokuratura, and the state healthcare system). A similar rating of corruption-perception was established by the May 2007 National Baseline Survey for the Millennium Challenge Corporation's Country Threshold Programme.<sup>iv</sup>

According to the 2006 Transparency International Global Corruption Barometer, police in Ukraine is perceived to be the sector most affected by corruption (on par with political parties, parliament, and the judiciary).<sup>v</sup>

In the mid-1990s, a research carried out by the Internal Investigation Unit of the Lviv Regional Department for the Fight against Organised Crime of the Ministry of the Interior had revealed that according to criminal case-files, every fifth criminal group had had support from within the state authorities, including from inside the law enforcement sector. Interviews with 200 law enforcers from the Department showed that 92% of them acknowledged the possibility of criminal groups having infiltrated in the bodies of the Ministry of Interior; and 69% confirmed that they had received proposals of illegal co-operation from criminal groups.<sup>vi</sup> According to a 2001 opinion poll by the Razumkov Centre, 45% of respondents considered that law enforcement agencies were influenced by criminal groups (the figure was 47% for the Prokuratura).<sup>vii</sup>

No survey to date has, however, been carried out to give a detailed, inside picture of the potential for corruption caused by a) weaknesses in the existing legal framework and b) structural and institutional weaknesses in which law enforcement agencies in Ukraine operate. This survey aims at closing this gap, and thereby, at contributing to the reform of the law enforcement system in Ukraine through providing, on the basis of its findings, recommendations on policy reforms aimed at the reduction of corruption in the law enforcement system in Ukraine and thus contributing to the fight against corruption in Ukraine in general.

#### Specific objectives

To obtain a systemic overview of the forms, factors, and extent of corruption in law enforcement agencies in Ukraine through analytical/desk review and field work aimed at:

1. Identifying the key forms of corruption practice in law enforcement agencies, including the specifics of the practices in certain types (militia, Prokuratura, Security Service, tax militia, and customs service) and kinds of law enforcement agencies' activities (inquiry [дiзнання], pre-trial investigation stage [слiдство]);
2. Determining the extent of the main corruption practices by the types of authorities and, ideally, regions;
3. Identifying the objective and subjective factors causing the occurrence of corruption practices. Specifically, the correlation between corruption and the following factors should be analysed:
  - a) The state of the legislative framework governing the activities of law enforcement agencies (corruption risks caused by the imperfection of existing legislation);
  - b) Institutional specifics of the law enforcement system in Ukraine (structure, functions, forms of financing, the level of provision of basic needs for their functioning, etc.);
  - c) The nature of relations with other public authorities and political forces (in the context of their dependence, control, etc.);
  - d) Subjective conditions (staffing and ways of recruiting, selection criteria, specifics of professional commitment to law and order, life focuses of the staff, etc.).
4. Evaluating the existing internal and external mechanisms for the prevention and counteraction of corruption in law enforcement agencies;

5. Analysing the specifics of the public perception of the situation in law enforcement agencies (both of the Ukrainian population on the whole, and of target groups which contact law enforcement agencies most frequently); and determine the extent, forms and impact of civil society participation in monitoring the activities of the agencies, including on corruption-prevention, detection and counteraction;
6. Providing an analysis of the factors that might prevent the successful implementation of international anti-corruption standards (with a focus on those set by the Council of Europe) in the activities of the law enforcement agencies. (These factors should include an analysis of the different forms of risks, such as deliberate resistance to the measures implementing international standards, lack of understanding of the standards by staff, institutional obstacles, etc.);
7. Making policy recommendations through the identification of priorities and prospective measures to decrease and, in the future, to overcome corruption in law enforcement agencies. Such measures should include improvement of the current legal framework (bearing in mind pending legislative initiatives) and organisational and normative mechanisms of fighting corruption in the law enforcement agencies.

#### Scope of work

To achieve its objectives, the research should cover the following areas, and use the following methodologies:

1. Analysis of the regulatory framework of the activities of law enforcement agencies.

The following legislation of Ukraine should be assessed:

- The Law “On the Militia” [Закон «Про міліцію»];
  - The Law “On the Prokuratura” [Закон «Про прокуратуру»];
  - The Law “On the Security Service of Ukraine” [Закон «Про Службу безпеки України»];
  - The Law “On the State Tax Service of Ukraine” [Закон «Про державну податкову службу України»];
  - The Customs Code [Митний кодекс України];
  - The Law “On Detective and Search Activity” [Закон «Про оперативно-розшукову діяльність»];
  - The Law “On the Organisational and Legal Basis for the Fight against Organised Crime” [Закон «Про організаційно-правові основи боротьби з організованою злочинністю»];
  - The Law “On Democratic Civilian Control over Military Organisation and Law Enforcement Agencies” [Закон «Про демократичний цивільний контроль над Воєнною організацією і правоохоронними органами держави»];
  - The Law “On the Fight against Corruption” [Закон «Про боротьбу з корупцією»];
  - The Criminal Code, Criminal Procedure Code, and Code of Administrative Offences [Кримінальний кодекс України, Кримінально-процесуальний кодекс України, Кодекс України про адміністративні правопорушення];
  - Other laws;
  - By-laws, in particular regulations on Internal Investigation Units in the law enforcement agencies.
2. Analysis of available statistical and other material, including previous public opinion surveys carried out in Ukraine, the review of judicial practice regarding corruption offences committed by law enforcers.
  3. Analysis of mass-media materials.

4. Social and legal research of the extent of corruption in law enforcement agencies through:

- 4.1. A public opinion survey (nationally representative sample, tentative number of respondents – 2,000);
- 4.2. An expert survey with lawyers, journalists, NGO activists, politicians);
- 4.3. Focus group meetings with target groups: staff at various levels of the respective law enforcement agencies; staff of the law enforcement agencies with control and preventive duties with regard to corruption in the law enforcement agencies;
- 4.4. Focus group meetings with target groups: those categories of the population that have more frequent contacts with the law enforcement agencies (e.g., entrepreneurs, attorneys, convictees, etc.);
- 4.5. In-depth interviews with law enforcement agencies' staff.

5. Sociological research of public involvement in the prevention and counteraction of corruption in the law enforcement agencies through:

- 5.1. A public opinion survey (as part of the survey under 4.1.);
- 5.2. An expert survey/in-depth interviews (as part of the survey under 4.2.);
- 5.3. Focus group meetings with representatives of civil society institutions (journalists, NGO activists, politicians, etc.).

The number of focus group meetings and interviews with law enforcement agencies' staff shall be proposed by the contractor as part of the inception report; the final number will be agreed in a meeting with the survey's Steering Group (see below) at the end of the inception phase.

#### Implementation of the survey

##### Lead agency

The National Security and Defence Council (NSDC) will be the agency in the lead for implementing this survey. The results of the survey are planned to feed into the NSDC's work on co-ordinating the implementation of the Concept of the Reform of the System of Justice and Law Enforcement, prepared by the National Commission on Strengthening Democracy and the Rule of Law, which is anticipated to be adopted in October 2007. The results and recommendations of the survey will also be put at the disposal of all law enforcement agencies and other relevant state authorities to guide their actions with regards to fighting corruption, in particular for the effective implementation of the Action Plan to the September 2006 Presidential Decree on the Concept for Overcoming Corruption in Ukraine to be approved by the Cabinet of Ministers. The NSDC will be in charge of preparing and organising the 3 meetings of the Steering Group to be held in the framework of this survey; it will also be in charge of disseminating the project results as appropriate.

##### Contracting authority and selection of contractor

The survey will be contracted by the Council of Europe secretariat in Strasbourg.

##### Organising the survey

The contractor will be in charge of organising all aspects of the work as specified in the 'Objectives' and 'Scope of Work' parts of these Terms of Reference. A letter of support/introduction from the NSDC and the Council of Europe will be provided to facilitate access to, and co-operation of, these stakeholders.

With regards to the law enforcement agencies (militia, prosecution, Security Service of Ukraine, tax militia, customs service), prior to the launch of the survey, Memoranda of Understanding between the NSDC and the agencies to be surveyed will be concluded, or a formal letter of support from the agency will be received, respectively, assuring their readiness to participate in this effort, as well as maximum co-operation and participation in the survey by the staff at all levels of these agencies.

## Overseeing the survey

### Steering Group

A Steering Group (SG) will be overseeing the successful implementation of the survey. It will consist of representatives of all agencies participating in the survey, as well as representatives of national or international organisations implementing, or planning to implement, technical assistance projects involving law enforcement agencies. These include, for example, ABA/ROLI, contractors implementing the Millennium Challenge Corporation programme etc.

Three meetings of the SG will be held: The first meeting will be at the end of the inception phase, at which the contractor will present the detailed methodology and workplan, including the sequencing of the different activities of the survey and the number of focus groups and interviews to be held. The Steering Group will give its input into the above, and the contractor will be obliged to take any changes that the Group agrees to into account when conducting the survey. The second meeting of the SG will be held after the focus group interviews and interviews of staff of the law enforcement agencies, and at which the contractor will give a preliminary overview over the findings. The third meeting will be held to present and discuss the draft final report of the survey, which will have to be distributed to the SG one week ahead of the meeting. The final report should be submitted by the contractor five days after the meeting.

### Day-to-day liaison between contractor and lead agency

The NSDC will assign a co-ordinator to assist in any day-to-day questions or problems that the contractor might experience in the framework of the survey and that he cannot resolve on his own. The NSDC will inform the Council of Europe UPAC project team of any problems that might need to be addressed jointly.

### Timelines

The survey is to be conducted between 1 October and 30 December 2007, along the following breakdown:

- By 15 October: Elaboration of workplan for the survey and accomplishment of the preparatory work (analysis of the regulatory environment/legislation in as far as relevant for the field work); presentation of workplan to the Steering Group for feedback and comments.
- By 17 October: Finalisation of the workplan and preparatory work.
- By 30 November: Finalisation of the field work (public opinion survey, experts' focus groups, interviews with law enforcement agencies' staff). In parallel, continuation of the analysis of the regulatory environment/legislation; presentation of preliminary findings to the Steering Group.

- By 18 December: Preparation of the draft final report and distribution, via NSDC, to Steering Group members.
- 25 December: Third and last Steering Group meeting to discuss draft final report.
- 30 December: Submission of final report.

## Deliverables

The contractor will produce a comprehensive report, which will include an executive summary with findings and recommendations based on the results of the survey, and a detailed description of the conducted research. The final structure of the report will be endorsed by the Steering Group at the end of the inception phase; an outline should be presented by the contractor along with the workplan.

## Funding

Short-listed potential contractors shall be aware that the funding available for this survey shall, under no circumstances, exceed the stipulated maximum ceiling established by the Tender Board of the Council of Europe.

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<sup>i</sup> For a summary description of UPAC, please consult the project's website at [http://www.coe.int/t/e/legal\\_affairs/legal\\_cooperation/combating\\_economic\\_crime/3\\_technical\\_cooperation/UPAC/](http://www.coe.int/t/e/legal_affairs/legal_cooperation/combating_economic_crime/3_technical_cooperation/UPAC/).

<sup>ii</sup> The survey was financed by the Canadian International Development Agency (CIDA).

<sup>iii</sup> The survey was commissioned by the Ministry of Justice of Ukraine, and supported by the CoE/EC and UNDP.

<sup>iv</sup> See [http://www.pace.org.ua/images/pace\\_baseline\\_survey2007\\_eng.doc](http://www.pace.org.ua/images/pace_baseline_survey2007_eng.doc). Corruption is perceived to be most widespread in the State Auto Inspection (traffic police), the militia, the healthcare system, the courts, universities, the prokuratura (Prosecutor's Office), the customs, the tax authorities, etc. This survey focused mainly on corruption in the healthcare sector, education establishments, and the traffic police.

<sup>v</sup> See [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb/2006](http://www.transparency.org/policy_research/surveys_indices/gcb/2006).

<sup>vi</sup> Cited from M.I.Melnyk, *Corruption and organised crime: problems of interrelation*, published in *Fight against Organized Crime and Corruption. Theory and Practice*, 2001, No. 3, <http://mndc.naiu.kiev.ua/Gurnal/3.htm>.

<sup>vii</sup> Dzerkalo Tyzhnia, 2004, No. 23, <http://www.dt.ua/1000/1030/46798>.

