

**OECD Anti-Corruption Network
for Eastern Europe and Central Asia**

Prevention of Corruption in the Public Sector in Eastern Europe and Central Asia



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Foreword

This cross-country report on prevention of public sector corruption analyses the preventive measures that have proven to be effective and successful in Eastern Europe and Central Asia. The review focuses on twenty-one countries in Eastern Europe and Central Asia and includes examples from OECD countries. The report is based on questionnaires that were completed by governments, NGOs and international partners in participating countries. In addition, good practice examples presented during expert seminars in 2013 and 2014, contributions by the Advisory Group and additional research also feature in the report. The majority of the report was prepared in 2014.

The purpose of this review is to highlight national practices that may be of wider interest. It serves as a valuable reference point for policy reforms and reviews in this region.

The report is prepared as part of the OECD Anti-Corruption Network for Eastern Europe and Central Asia Work Programme for 2013–2015. It is one of three cross-country studies within the programme: prevention of corruption in the public sector, law enforcement and criminalisation of corruption, and business integrity.

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Introduction

Prevention, together with criminalisation and law enforcement, constitutes a key tool in the fight against corruption. The UN Convention against Corruption (UNCAC) defines main international standards in the area of prevention of corruption.¹ A number of other binding and non-binding international standards cover this area. The OECD has developed guidelines, principles and practical tools addressing various aspects of corruption prevention.²

During past several years, many countries in Eastern Europe and Central Asia have introduced policies and legal and institutional measures to prevent corruption and enhance integrity. There is a wide range of anti-corruption strategies and action plans, institutions specialised in prevention of corruption, conflict-of-interest prevention and ethics rules, codes of conduct, formal requirements for public officials to declare their assets, improvements in civil service recruitment policies and public procurement, laws on access to information, political party financing and others aimed at preventing corruption.

However, as the recent ACN report highlights it, the implementation of corruption prevention policies and sometimes also legal provisions themselves remain weak.³ Strong enforcement of corruption prevention rules on the ground remains a problem. Little information is available about measures taken in practice, about what has worked well in which country, and what the results and impact of preventive measures really are on the ground. Also, the GRECO's Fourth Evaluation Round country reports, published since December 2012 (on corruption prevention in respect of members of parliament, judges and prosecutors), often underline the lack of practical guidance, counselling, internal rules and effective supervision in the area of conflict of interest prevention, gifts, incompatibilities, asset declarations and related issues.⁴

Besides, there is a growing interest in sectoral approaches, how public institutions could identify risks in their own systems and what they could do in order to prevent corruption within their own ranks, what is the responsibility of each minister and what role coalitions within sectors could play. Integrity plans for institutions and sectors seem to become increasingly used in Eastern Europe and Central Asia, but also in the OECD countries where they have originally started.

In the Statement of the High-Level Meeting “Reinforcing Political Will to Fight Corruption in Eastern Europe and Central Asia” on 10 December 2012, ACN countries committed to support: effective implementation of anti-corruption policies; transparency and integrity in the sectors with high risk of corruption; and prevention of corruption in public administration, including through: merit-based recruitment and promotion, ethical rules, effective conflict of interest prevention, asset disclosure systems, promoting reporting of corruption, and protecting whistle-blowers.⁵

As part of the ACN Work Programme for 2013 – 2015⁶, the **Cross-Country Thematic Study on Prevention of Corruption in Public Sector in Eastern Europe and Central Asia** is conducted and has the objectives to:

- Identify effective and successful policies and tools to prevent corruption, common trends and challenges;
- Describe innovative and well-designed approaches to prevention of corruption;
- Develop regional policy recommendations; and
- Build capacity and promote exchange of good practice and useful tools among ACN countries and with OECD countries through a series of seminars.

How can the “effectiveness” and “success” of preventive measures be assessed?

For the purposes of this thematic study, the “*effectiveness*” and “*success*” of preventive measures or whether it is a “good practice” is judged based on various criteria, such as the self-assessment of countries/organisations in answering the questionnaire, opinions of other state institutions, national NGOs and international partners, qualitative assessments by third parties, where available, as well as the judgment of the Advisory Group, ACN Secretariat and the Consultant.

An effective and successful measure, for the purposes of this study, **means** a measure, which is effectively implemented and enforced in practice/widely used/works well in daily life in country context, or had manifest results or impact on corruption within the institution/sector/country (especially if it addresses a particularly significant corruption risk common to many ACN countries).

The **outputs of this regional thematic study** are this report and two regional expert seminars on "Prevention of Corruption: Effective Measures and their Practical Implementation. Institutional and Sectoral Approaches" in Jūrmala, Latvia in 26-28 June 2013; and on "Prevention of Corruption - Main Trends and Examples of Successful Practice in Eastern Europe and Central Asia" on 26-27 June 2014, in Tirana, Albania. Both expert seminars were co-organised with the OSCE and the UNDP, as well as with the Corruption Prevention and Combating Bureau in Latvia and the Minister of State on Local Issues in Albania. Besides, these issues were also discussed at the regional seminar on Prevention of Corruption in Batumi on 16-17 December 2014, which was organised by the OSCE and co-organised by the OECD ACN.

This report provides a regional comparative overview, “good practice boxes” from ACN and OECD countries and it also contains policy recommendations. The report focuses on ACN countries, but many useful examples from OECD and its Member Countries are also included. The data gathering and consultation efforts involved both governments and the civil society. Answers to the standard questionnaire served as the basis to develop this report. Also, additional research, presentations and discussions at ACN seminars in Latvia in 2013 and in Albania in 2014 and inputs from the Advisory group members are used.

It is hoped that this report will serve as a practical guide for public officials in charge of corruption prevention, for instance, a newly appointed head of anti-corruption department or ethics officer, as well as civil society activists and international partners who aim to propose new or improve existing prevention measures. This report will help

to identify good practice in other countries and use this information for the substantiation of relevant proposals. Moreover, public officials in charge of the introduction and implementation of preventive measures will find examples of implemented measures that can be, after due consideration, adapted in their own environments. In particular, the report will be helpful to those who are new to the field and need to absorb relevant knowledge quickly.

The answers to the standard questionnaire were received from government, civil society and international partners. Altogether 17 governments responded to the questionnaire: Albania, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kyrgyz Republic, Latvia, Lithuania, the former Yugoslav Republic of Macedonia (FYROM), Moldova, Montenegro, Romania, Serbia, Slovenia, and Uzbekistan. Armenia and Estonia provided information on selected practices. Also Mongolia and Tajikistan are covered in this report. The questionnaire was answered also by a number of civil society organizations, including Armenian Young Lawyers Association, Azerbaijan Research Foundation “Constitution”, Georgian Young Lawyers’ Association, civic foundation “Sange Research Center” in Kazakhstan, Transparency International Kyrgyz Republic and the Anti-Corruption Business Council of Kyrgyz Republic, Transparency International Mongolia, Romanian Expert Forum, and the Slovenian Association of Judges. Swiss Cooperation Offices in Serbia, Tajikistan and Kyrgyz Republic provided answers.

The report was prepared in 2013 – 2015. In September 2013, the terms of reference of the thematic study were approved by the ACN Steering Group. The outline of the report was presented at the regional expert seminar in June 2014. The draft report was discussed with the Advisory Group and the ACN Steering Group in October 2014 and revised in the light of these discussions. Final comments of the Advisory Group and the ACN Steering Group were received by end February 2015 and reflected in the report. The final version of the report was presented at the ACN Steering Group meeting on 24 March 2015. The report was published in May 2015.

Part I.

International standards and approaches to the prevention of corruption

Chapter 1.

Approaches to the prevention of corruption

There is a strong international consensus that corruption cannot be tackled with repressive actions alone and a great variety of measures is needed to eradicate conditions that lead to its occurrence. Currently the elements of prevention and awareness-raising have been firmly established in the international standards.

The Council of Europe Twenty guiding principles for the fight against corruption (the Guiding Principles) start with the provision: “take effective measures for the prevention of corruption and, in this connection, to raise public awareness and promoting ethical behaviour”.⁷ Also several of the other principles are of preventive nature. For example, the Principle 9 envisages ensuring “that the organisation, functioning and decision-making processes of public administrations take into account the need to combat corruption, in particular by ensuring as much transparency as is consistent with the need to achieve effectiveness”. The idea of preventing corruption through raising public awareness and promoting ethical values is a part of the reasoning behind the Recommendation No. R (2000) 10 of the Committee of Ministers to Member states on codes of conduct for public officials (Recommendation on Codes of Conduct).⁸

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the OECD Anti-Bribery Convention) has been complemented with the Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions, which also features strong appreciation of the importance of awareness-raising and prevention.⁹

Above all, the structure of the main international standard – the UNCAC – reflects the division into preventive measures (Chapter II), criminalization and law enforcement (Chapter III) and other measures such as provisions related to international co-operation.

The international mandatory and recommendatory standards keep developing. For example, on 5 December 2014, the Ministerial Council of the OSCE adopted the Decision No. 5/14 “Prevention of Corruption” encouraging its 57 participating States to develop and implement a wide range of preventive measures.¹⁰

Box 1. The United Nations Convention against Corruption: preventive functions

The United Nations Convention against Corruption (UNCAC) is the first international convention setting global standards in the area of corruption prevention. In Part II Preventive Measures of the UNCAC, States Parties are required to develop and maintain anti-corruption policies and effective measures to prevent corruption. The UNCAC contains a number of **mandatory requirements** regarding prevention of corruption:

- take measures that promote transparency and integrity in the public sector,
- ensure appropriate systems of public procurement,
- promote transparency and accountability in the management of public finances,
- promote integrity in the judiciary and take measures aimed at preventing corruption involving the private sector, including enhancing accounting and auditing standards,
- ensuring an appropriate regulatory and supervisory regime to prevent and detect money-laundering activities, and
- involve civil society in anti-corruption efforts and disseminate information concerning corruption.

Besides, the UNCAC includes preventive measures that its States Parties have **an obligation to consider**, including:

- transparent and merit-based employment policies and practices and appropriate remuneration in the public sector, education and training of public officials,
- transparency in funding of political parties, prevention of conflict of interest in the public sector,
- codes or standards of conduct for public officials,
- facilitation of reporting of corruption by public officials,
- declarations of assets of public officials.

Source: UNCAC, http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

The role of the prevention of corruption was appreciated long before the current international anti-corruption standards came about. In the 1970's the Independent Commission against Corruption (ICAC) of **Hong Kong** introduced the now famous three pronged approach to countering corruption – enforcement (i.e. repression), prevention (i.e. measures aimed to eliminate factors that foster corruption) and involvement of citizens. The two latter elements of the Hong Kong approach can be summarized as follows:

[...] emphasize prevention. Systematically analyse government functions. Move to reduce monopoly power, clarify and streamline discretion, and promote accountability. Work with government agencies, not against them. At the same time as this fights corruption, it enables radical changes in the delivery of public services.

Mobilize citizens in the fight against corruption by creating many new avenues to receive information from them about corruption and to educate them about its harms. At the same time as this battles corruption, it enables radical changes in citizens' participation and support.”¹¹

Still today the duties of the prevention department of the ICAC remain to examine practices and procedures and secure revision of those that may be conducive to corruption as well as provide advice to private entities and citizens on the prevention of corruption.¹² Even before ICAC, investigation of corrupt practices was coupled with the prevention of “corruption by examining the practices and procedures in the public service to minimize opportunities for corrupt practices”¹³ in the mandate of the Corrupt Practices Investigation Bureau of **Singapore** – one of the arguably least corrupt countries of the world. In 2012, the World Bank control of corruption indicator for Singapore was 2.15 from 2.5 and the percentile rank in global comparison 97.13 from 100.¹⁴ Nowadays the model of a multi-functional anti-corruption body combining investigating and preventive functions has spread to a number of countries around the world including in Eastern Europe.

The importance of preventive measures is appreciated also in countries with no autonomous, specialized anti-corruption bodies but with well-established public administration and low levels of administrative corruption. The World Bank control of corruption indicator for **Finland** was 2.2 from 2.5 in 2012 and the percentile rank 98.1 from 100.¹⁵ Being among global top anti-corruption performers, Finland still does not prioritize the repression of corruption. Instead, the high reputation of the country’s public administration is said to rest on a number of well-established principles, which are preventive against corruption.

Box 2. Finland: Underlying principles for the good reputation of the Finnish public administration

- A strong sense of the rule of law: public officials and citizens take it for granted that the law must and will be followed;
- Prevention of conflicts of interest: the general and absolute requirement that no public official (or magistrate) may participate in making a decision in which he or she (or close relatives or dependants) has a personal interest;
- The referendary system: any decision must be signed off by more than one official;
- The simplicity and transparency of the administrative and judicial system: all parties with an interest in the decision have a constitutional right to be heard by the appropriate authority, all administrative and judicial decisions must be made in writing, with the substantive and legal grounds for the decision clearly laid out, and instructions given for appeal;
- Public scrutiny of the work of the public officials; anyone, anywhere can request information regarding any documents held by the public authorities, unless a specific exception is laid down in law;
- Education and awareness of what the law requires: citizens tend to be well-informed about their rights and about the law, and will insist on having a matter dealt with properly;
- Innovative e-democracy: to a large extent, applications and requests can be submitted to the authorities online;
- Ease and affordability of taking a case to court for those who believe that their rights have been violated.

Source: The European Commission (2014), *Annex Finland to the EU Anti-Corruption Report*, p. 6, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_finland_chapter_en.pdf

Germany's score on the World Bank control of corruption indicator is also fairly high – 1.8 in 2012 and the percentile rank – 93.8.¹⁶ Again the country's public administration shows considerable appreciation for preventive measures. According to a study from 2010, in Germany, 99% of agencies used the “four-eye principle”, 80% had internal anti-corruption guidelines, 77% used education measures for the prevention of corruption, 74% carried out random controls of corruption-prone proceedings, 62% had defined corruption-risk-prone areas of operation, and 56% had designated authorised employees on corruption matters.¹⁷ However, note also that obviously not all authorities employ the full set of available anti-corruption means. It could be either because the prevention practice in Germany was not yet fully developed or because there is the appreciation of the fact that different agencies may experience different risks and hence need different prevention tools. Still the Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration requires that federal agencies identify and analyse areas of activity especially vulnerable to corruption, employ the principle of greater scrutiny and select staff members with particular care in such areas, appoint contact persons for corruption prevention, etc.¹⁸

A wide use of preventive measures is found also in countries, which are yet to achieve the level of top performers. For example, **Romania** has approved an inventory of preventive measures (or areas of prevention) and indicators for the evaluation of their implementation.

Table 1. Romania: Inventory of anti-corruption preventive measures and evaluation indicators¹⁹

Preventive measures	Examples of indicators
Code of ethics /deontology/conduct	Number of intimations regarding rules breaching (also pending and solved)
Assets declarations	Degree of knowledge of the rules regarding the assets declarations by employees (evaluation questionnaires)
Gifts declaration	The value of received gifts (per gift and total amount)
Conflict of interests	Number of abstention statements
Ethics advisor	Number of cases, differentiated by types of ethical dilemmas
Incompatibility	Number of incompatible persons
Transparency in decision making	Number of complaints before courts for breaches of legal obligations
Access to public interest information	Number of answers communicated after the legal deadline
Whistleblowers' protection	Number of situations where compensations were awarded to the whistleblowers
Random distribution of cases or duties	Number of irregularities in the random distribution system, differentiated by types
Pantoufage	Number of internal regulations which stipulate the procedure for monitoring pantoufage situations
Register for misbehaviours of the officials, public servants, contractual personnel with attributions in the field of protecting the EU financial interests	Number and type of complaints (compendium of the breached rules)
Code of conduct of the personnel with control attributions in the field of protecting the EU financial interests	Number and type of rules breached (compendium)

Daniel Kaufman even identified an excessive focus on enforcement as one of the biases that are counterproductive to the success of the fight against corruption. The action after the corrupt act has already taken place may come at the expense of focusing on systemic changes that provide incentives to engage or not to engage in corruption (the *ex ante* approach).²⁰ Repressive action alone is unlikely to succeed in the overall reduction of corruption if incentives to engage in corrupt activities remain by and large intact.

Nevertheless it is disputable what concrete impact preventive measures could and should produce. According to the study in **Germany**, along with control measures, also prevention measures sensitize about corruption problems and at least initially lead to detection of more corruption violations.²¹ This may appear even shocking as more preventive actions may seem to enhance corruption although in reality they contribute to the reduction of the dark area of undetected violations. In the long run, effective preventive policies should reduce the total of both detected and undetected acts of corruption.

Another side-effect of preventive measures could be what some people call the bureaucratization of anti-corruption. Growing layers of preventive regulations can require ever greater effort from civil servants and others who shall implement them until the stage where the involved individuals lose the sense of real purpose of the rules. The scepticism that breeds on such perceptions of burden may have some legitimacy but it would be wrong to conclude that all prevention is a pure distraction from productive work. Rather the awareness of the burdens of regulation should remind policy makers that prevention measures should be used sparingly and in a focused manner – so much and in those places how much and where necessary. Careful risk assessments should provide clues as to what measures are really needed.

Not least it is important to take into account that procedures should not lead to the neglect of the human agency. Most procedures can be subverted if the people in charge of their implementation do not appreciate their importance or ignore the rules outright. The four-eye principle may be rendered useless if the “second pair” of eyes colludes with the first civil servant or simply signs all documents automatically. Codes of conduct will produce little effect on the actual behaviour if the leadership style of managers signals disinterest in them. Even well-elaborated integrity plans can be left in the drawer untouched right after their adoption. Therefore all prevention policies should be accompanied by the service morale through the recruitment and promotion of the personnel, training and awareness raising, and committed leadership.

Chapter 2.

Frameworks of corruption prevention policies

Across Eastern Europe and Central Asia, prevention measures are not adopted and implemented randomly but rather are parts of comprehensive anti-corruption policies. In all of the reviewed countries, anti-corruption policy makers strive to make those policies systematic and comprehensive. Sets of measures are embodied in policy planning documents and special anti-corruption legislation. This chapter will provide a brief overview of some key features in the national anti-corruption policy and legislative frameworks as well as in approaches to the institutional setup of corruption prevention.

Anti-corruption policies: Overall, the approaches to anti-corruption policy planning are quite uniform across Eastern Europe and Central Asia. Most of the countries, which submitted questionnaires in the course of the preparation of this report, have anti-corruption strategies at the top of the planning paper hierarchy. Steps to achieve the strategic objectives and implementation mechanisms are then concretized in national programs or action plans. Still only one “level” of national anti-corruption planning documents (i.e. programs) is found in such countries as **Kazakhstan**, **Lithuania**, and **FYROM**. It is also common to have anti-corruption plans in individual institutions and, to a lesser extent, sectors or branches of power. Finally, it is common practice to anchor all anti-corruption measures under a set of broadly defined strategic objectives/areas. It is very important for policy planning and prioritisation although there can be a risk of too much of the top-down approach (when all particular measures are embedded into centrally set priorities).

It is most common to adopt anti-corruption strategies by the government (**Armenia**, **Georgia**, **Estonia**, **Latvia**, **Kazakhstan**, **Romania**, **Ukraine**), while in a few countries it was done by the parliaments (**Croatia**, **Lithuania**, **Moldova**, **Serbia**, and **Slovenia**). In **Kyrgyzstan** national anti-corruption strategy is adopted by the President. Until 2013 both strategies and action plans were adopted by the President also in Georgia. In principle, the adoption at the top level of the state can be a way of placing more political weight behind the strategy and emphasising the importance of the document. Meanwhile, in a couple of countries (**FYROM** and **Slovenia**) anti-corruption programs/ actions plans have been adopted on the level of the prevention bodies. The dominating trend has been to adopt anti-corruption policies not just in the form of technical documents on the agency level but to use them as manifestations of high-level political commitments.

Anti-corruption laws: During the last ten-twenty years, anti-corruption laws of various kinds have proliferated in the region. By now the majority of countries have dedicated anti-corruption, corruption prevention or conflict-of-interest prevention laws. The exact scope of covered measures differs from law to law. In some countries a single law may cover a variety of anti-corruption measures such as rules on the conflict of interest, declarations of public officials, setup and mandate of anti-corruption bodies, reporting of corruption and protection of those who report, anti-corruption expertise of

legal acts, corruption risk assessment in public bodies, principles and obligations for the planning of the anti-corruption policy, etc. Such complex anti-corruption or integrity laws, which comprise a number of anti-corruption measures, are found in **Azerbaijan, Estonia²², Georgia, Kazakhstan, Kyrgyz Republic, Lithuania, FYROM, Moldova, Mongolia, Montenegro, Romania, Serbia, and Slovenia²³**.

Certain elements of corruption prevention may be separated in *specific, dedicated legislative acts*. There may be a separate law on prevention of corruption, conflicts of interest, on asset declarations of public officials or a law governing the work of an anti-corruption agency. Laws covering exclusively or mainly conflict-of-interest issues are found in **Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Latvia, Lithuania, FYROM, Moldova, Mongolia and Montenegro**. Separate laws on asset declarations of public officials are less common and found, for example, in **Albania, Bulgaria, Moldova, and Romania**. Laws that govern exclusively or mainly the status of anti-corruption agencies are found in **Bosnia and Herzegovina, Croatia, Latvia, Lithuania, Moldova, and Romania**. In **Georgia**, primary legislative basis for prevention of corruption and integrity in civil service is the Law on Conflict of Interests and Corruption in the Civil Service of Georgia adopted in 1997. The Law foresees conflict of interest regulations, the whistleblowers' protection provisions as well as obligation of public officials to submit annual asset declarations. There is no reason to claim that one approach to structuring the legislative framework is superior or inferior to another. Rather it is important that the legislative framework as a whole covers all anti-corruption elements crucial for the country and that it is working in practice.

Another approach is the *incorporation of anti-corruption measures in the mainstream legislation*, which governs the state administration or specific sectors. This approach is found in, for example, **Scandinavian** countries and **Germany**. Provisions concerning conflicts of interests or ethics may be enacted as part of civil service law or a law of, for example, the judiciary, prosecutors, in administrative procedure law or similar. Using this approach would mean that, for instance, for civil servants all provisions related to their recruitment, performance, rights and duties as well as requirements related to prevention of corruption are found in the main piece of legislation governing their sector – the Law on Civil Service.

From the countries that submitted questionnaires, **Armenia** and **Uzbekistan** are rare examples where no dedicated anti-corruption laws exist. This is not to say that the countries do not have the legal basis for the prevention of corruption, for example, in **Armenia** provisions regarding the conflict of interest and declarations for public officials as well as the prevention body (the Commission on Ethics of High-Ranking Officials) are found in the Law on Public Service. Unless there is a need to send a strong political signal to the society about new efforts against corruption, mainstreaming of prevention provisions in the general framework, which governs the public sector, is a sound approach.

Anti-corruption coordination and preventive bodies: Under the UNCAC, it is the obligation of each state party to ensure the existence of a body or bodies that prevent corruption by implementing preventive policies and overseeing and coordinating their implementation, and “increasing and disseminating knowledge about the prevention of corruption”. The body or bodies shall be granted the necessary independence to enable it/them “to carry out its or their functions effectively and free from any undue influence”. Material resources, specialized staff as well as training thereof should also be provided (Paragraphs 1 and 2, Article 6 of the UNCAC).

Hence, as already underlined in the UNCAC, preventive bodies have dual functions. First is coordination of anti-corruption work in the country and second - the actual work on prevention of corruption. In practice it is either entrusted to two different or to one and the same body.

Bodies coordinating anti-corruption policy. This function implies administering the implementation of national anti-corruption strategies and action plans, the work of different state institutions, the monitoring of this implementation, and ensuring the visibility of this work. It is often also the central contact point for anti-corruption in the country. In several countries the coordination of national anti-corruption policy is the responsibility of the Ministry of Justice (**Estonia, Georgia** and **Romania**), in **Albania** it is the Minister of State on Local Issues, the Defence Council Secretariat in **Kyrgyzstan**, the State Chancellery in **Lithuania**, the Corruption Prevention and Combating Bureau in **Latvia**, the Commission on Combating Corruption in **Azerbaijan** and in **Kazakhstan**, since August 2014, the Agency of Civil Service and Anti-Corruption (formerly the Financial Police, but it was dissolved in August 2014).

Bodies implementing preventive measures. Such bodies range from *dedicated integrity and prevention bodies* (for example, in **Albania, Armenia, Bulgaria, Bosnia and Herzegovina, FYROM, Montenegro, Romania, Serbia, and Slovenia**), *multifunctional anti-corruption agencies* dealing with both prevention and enforcement (for example, in **Latvia, Lithuania, Moldova, and Mongolia**) or *departments within existing public institutions assigned with prevention functions* (for example, in **Albania, Armenia, Azerbaijan, Croatia, Estonia, Georgia, Kazakhstan, and in Kyrgyz Republic**). Finally, a number of *anti-corruption councils* of representatives of various state agencies and non-governmental partners have emerged and they also have a role as preventive and coordination institutions (for example, in **Armenia, Georgia** or **Tajikistan**).

Clearly quite numerous anti-corruption coordination and preventive bodies have emerged over the past decade or so in Eastern Europe and Central Asia. Meanwhile, how efficient these institutions are in practice differs. Also, their sustainability is a challenge. In many countries prevention institutions have been dissolved, merged, new ones created and at present also being shaped. Some corruption prevention institutions have been around for the last decade and have shown results. Overall, in the coordination area, it seems that institutions often struggle with lack of real political support, administrative resources and qualitative implementation of anti-corruption measures that often does not depend from them directly. However, the practice shows that without such anti-corruption coordinators the situation stagnates even more. In the field of prevention, it is clear that results require more time to be seen than enforcement. In many countries prevention bodies appear to be efficient, but often because of their control functions or their work aimed at uncovering specific cases rather than achievements in form of more systemic changes, changes in attitudes or similar. In the ACN region there seems to be space to increase efficiency of corruption prevention work, developing a more clear vision what needs to be done, giving sufficient resources to implement preventive measures and more systematically assessing their results.

A couple of arguments can be taken into consideration when setting up a new corruption prevention body: what is the anti-corruption commitment and expertise in existing state institutions?; what is the best placement for the protection against illegitimate interference in the particular country?; what resources are available?.

The choice would depend also on the perceived urgency of the corruption problem. Where the public sector is viewed as reasonably clean, the existing agencies alone can be relied on to carry out preventive work. Where the perception is more negative and there is less trust in existing institutions, it can be argued that a momentum outside the existing state structures is needed to invigorate anti-corruption activities. There a separate, autonomous anti-corruption body may have its crucial role to fulfil.

Chapter 3.

Inventory of reviewed prevention measures

As shown already in Chapter 1, the whole range of available preventive measures is broad. It is beyond the scope of this study to provide analysis of all of the measures found in countries of Eastern Europe and Central Asia. Prevention consists of areas that in themselves consist of a large number of elements and possible approaches. Such are the systems of regulation of conflicts of interest, declarations of public officials, sets of ethical requirements (codes, etc.), education and awareness raising, etc. Also accountability elements, which are not strictly anti-corruption focused but have strong preventive effects, for example, the judicial review of administrative decisions or general freedom of information provisions cannot be reviewed here.

This chapter will provide an overview of the kinds of prevention measures that are covered in this study. Mostly such measures were selected, for which well-designed, innovative and/or effective examples have been identified. For broad areas, such as the conflict-of-interest regulation and ethics, not whole systems but rather noteworthy elements from particular countries were selected (for example, the use of IT tools for the control of incompatibilities and advanced ethics training). Given that the range of particular measures is large, they are grouped into 16 clusters. Examples of concrete actions are presented in the Part II where experiences of particular countries are reflected.

Using results of corruption research in policy-making: Systematic and deep knowledge about corruption, its levels, main risk areas, attitudes of public officials and ordinary citizens, common practices in the public service and other aspects related to the problem of corruption are crucial for the design of effective anti-corruption policies. The phenomenon of corruption can be complex, diffuse and often hidden. Therefore, it is instrumental to have adequate data as to what and where exactly has to be prevented.

One of the Guiding Principles is to encourage research on corruption. Also according to Paragraph 1, Article 61 of the UNCAC “Each State Party shall consider analysing, in consultation with experts, trends in corruption in its territory, as well as the circumstances in which corruption offences are committed.” Moreover Paragraph 4, Article 60 requires that States Parties “consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes, effects and costs of corruption in their respective countries, with a view to developing, with the participation of competent authorities and society, strategies and action plans to combat corruption.” Certain research methodologies have become widely used internationally, for example, the National Integrity System assessments that focus on 13 so-called pillars of integrity (from the legislative branch of government to the business) have been carried out in numerous countries based on a uniform approach.²⁴

Corruption-related research often includes quantitative surveys or qualitative interviews of members of the general public or civil servants about their perceptions,

values, experiences, etc. When drafting anti-corruption action plans, such information can be used in order to decide where and what kind of activities are needed. Research results can be used also as data for performance indicators of anti-corruption policies. Moreover research does not need to be only surveys. It can also be, for example, legal or econometric analysis (for example, on relationships between certain corrupt practices and economic indicators).

Assessing corruption risks in legislation: An important part of the prevention of corruption is the elimination of rules and practices that create favourable conditions for corruption or preventing adoption of such rules. In practical terms, this requires the elaboration of methodology as to what provisions facilitate corruption and the application of the methodology to concrete existing or draft regulations. Also known as corruption proofing of legislation, it was defined in a comparative study of 2014 in the following way: “Anti-corruption assessment of legislation is a review of the form and substance of drafted or enacted legal rules in order to detect and minimize the risk of future corruption that the rules could facilitate.”²⁵ According to Paragraph 3, Article 5 of the UNCAC state parties “shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption”. In 2012, the Inter-Parliamentary Assembly of the member states of the Commonwealth of Independent States adopted the Model Law “On Anticorruption Expertise of Normative Legal Acts and Draft Normative Legal Acts”.²⁶

A number of options are possible for this measure. The expertise may be carried out concerning all or selected legal acts, only drafts or also existing legislation, done by a designated state agency or by non-governmental experts, with a uniform or ad-hoc methodology, and it may be published or kept confidential (although in most cases it would be difficult to find legitimate grounds for such confidentiality). It also needs to be taken into account that conclusions of assessments are not (indeed often could not be for constitutional reasons) legally binding on the decision makers, for example, legislators in the parliament.

Assessing corruption risks in public institutions and sectors at risk: It has been recognized that “one increasingly popular way to determine integrity is by focusing on the risks to integrity. In a process of risk analysis one would map sensitive processes (*e.g.* procurement, promotion of staff members, inspection, etc.) and sensitive functions (typically staff-members with a responsible role in the sensitive processes or in decision making in general) and identify the points where there is a significant vulnerability for integrity violations (*e.g.* selection of method for tendering or modification of rewarded contract). This analysis would then be the basis for recommendations to the organisation on how to increase the organisation’s resilience towards these vulnerabilities, in particular its resistance to corruption. Given that the analysis focuses on risks that are embedded in the structure of the organisation (processes and functions), the solutions are also typically of a structural nature, *e.g.* function rotation, conflict of interest regulations, regulations about the acceptance of gifts and gratuities, etc.”²⁷

The UNCAC mentions effective and efficient systems of risk management and internal control in the context of measures to promote transparency and accountability in the management of public finances (Article 9, Paragraph 2). Article 10 also proposes publishing information, which may include periodic reports on the risks of corruption in the public administration. Similarly to research, corruption risk assessment helps anti-

corruption practitioners to focus their efforts on particular processes and functions. In most countries, where institutional anti-corruption/ integrity plans are used, corruption risk assessment is a part of approved methodologies or standard practice.

Developing anti-corruption and integrity plans in public institutions: International standards do not oblige states to develop specific corruption prevention/integrity plans within particular public bodies. However, the elaboration, adoption and implementation of such plans are in line with general requirements to prevent corruption opportunities. They are one of the available tools to “set high integrity standards and control mechanisms to address and reduce opportunities for corruption within the public administration, justice system and political parties” as foreseen in the measure 3 of the Declaration on 10 joint measures to curb corruption in South Eastern Europe.²⁸ Such plans can be viewed as one of the standard tools in the international anti-corruption arena. For example, in 2008 the European Union used to set a requirement that Serbia develops “sectoral action plans to fight corruption”.²⁹ Agency-level or sectoral integrity or anti-corruption plans may be legally mandatory (based on the requirements of an anti-corruption law), foreseen in government policy documents such as national anti-corruption strategies and plans or recommended, for example, by specialized anti-corruption agencies.

Box 3. Slovenia: Main characteristics of an integrity plan

“Integrity plan is devoted to:

- identifying relevant corruption risks in different working fields of an individual organization;
- assessment, what danger corruption risks may pose to individual organization;
- determining measures to reduce or eliminate corruption risks;

In the sense of implementation, the integrity plan is basically a systematic and documented process in which all employees are actively involved. They identify risks, analyse and evaluate them and propose appropriate measures, meanwhile they constantly debate and communicate with each other. In the creative process of communication and finding a consensus on possible best solutions all the individuals and organization spontaneously learn together. Moreover, in this way they create and enhance a common (institutional) knowledge and integrity, which is particularly important when solving complex problems, which require cooperation and balanced activity, which is also a characteristic and a necessity of effective prevention of corruption.”

Source: Commission for the Prevention of Corruption. *Prevention and Integrity.*
<https://www.kpk-rs.si/en/prevention>

From the practical point of view, it is important that institutional anti-corruption/integrity plans are actually implemented. In many countries leaving their implementation entirely up to every head of agency would result in the neglect of the plans in some of the institutions. Therefore some monitoring mechanism run by an anti-corruption body, collective coordinating body or the government itself is essential.

Measuring, assessing and monitoring implementation of anti-corruption measures: Monitoring is an important element in virtually any public policy. Monitoring can be done on a basic, quantitative level and result in a catalogue of types and numbers of activities carried out. Or it can be a more analytical assessment where the quality and

impact of the activities is considered. In the field of prevention and fighting corruption monitoring should allow policy-makers and citizens seeing what the key measures taken by the government to fight corruption are, but also if and how level of corruption changes. Such more analytical monitoring can be a powerful tool with which to put pressure on decision-makers to take more active and more serious steps to fight corruption. Monitoring can be done by one public agency on the situation across the whole of the public sector, it can be a self-assessment of a certain public body over its own activities, or it can be carried out by outside actors – NGOs or academic institutions.

Engaging civil society in the fight against corruption: Effective involvement of the civil society is universally regarded as a cornerstone of successful anti-corruption policy. Statistical analysis of EU member states has shown that “control of corruption is significantly better in countries with a larger number of CSOs [...] and with more citizens engaged in voluntary activities”.³⁰ This is not surprising because in many contexts civil society actors have better incentives to counter corruption than government bodies, which often may themselves form a part of the corruption problem.

The importance of the engagement of non-governmental actors is recognized in Article 13 of the UNCAC, which calls for measures “to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption”. Suggested measures include enhancing the transparency of and promoting the contribution of the public to decision-making processes; ensuring that the public has effective access to information; undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programs, including school and university curricula; respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. The Guiding Principles envisage to “ensure that the organisation, functioning and decision-making processes of public administrations take into account the need to combat corruption, in particular by ensuring as much transparency as is consistent with the need to achieve effectiveness”.

NGOs can play many particular roles, for example, they can operate like observing watchdogs, which call the public attention to failures of public bodies, or they can actively participate in the design of anti-corruption policies and even their implementation.

Training public officials about anti-corruption and ethics: Effective control of corruption is contingent on the knowledge and skills of public officials in a variety of public bodies both with direct responsibility for anti-corruption efforts and with primary tasks in other issue areas. Regarding the former, the seventh of the Guiding Principles recognizes this need with regard to personnel directly involved in anti-corruption activities and requires providing persons or bodies in charge of fighting corruption with appropriate means and training to perform their tasks. Paragraph 2, Article 6 of the UNCAC addresses the training of specialized staff of preventive anti-corruption bodies.

Regarding the public sector more generally, the item d in Paragraph 1, Article 7 of the UNCAC requires state parties endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials that among other things “promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them

with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.” Item b of the same paragraph envisages adequate procedures for the training of individuals for public positions considered especially vulnerable to corruption. Generally it is possible to distinguish two focuses in training – helping the officials to better counter corruption of others and uphold high standards in their own conduct. In the latter case, training becomes an essential element in the socialization of civil servants into proper service ethics culture.

Raising public awareness about corruption: Awareness about the problem of corruption, intolerant attitude towards it and skills to handle ethical challenges in the general population are qualities that anti-corruption champions often try to achieve. Not infrequently the whole long-term success of anti-corruption policies is linked with changes of attitudes among the general population as a precondition. Such awareness and skills can be promoted with the help of both awareness-raising activities for the general public and rather targeted educational activities in, for example, schools. Public campaigns such as social advertising and educational programs for schools are typical means for these purposes although the full range of possible means is broad and can include the use of booklets, buttons and other souvenirs for handing out, open lectures, TV discussions, public hearings, etc.

The first of the Guiding Principles envisages raising public awareness and promoting ethical behaviour in connection with the prevention of corruption. Article 13 of the UNCAC addresses the education of the general public as the need to “raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption” and undertake “public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula”.

Preventing and managing conflicts of interest: According to the OECD guidelines “a “conflict of interest” involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities”.³¹ A conflict of interest does not always involve an actual inappropriate gain for the public official or persons related to him/her because after all the official could uphold the public interest regardless of his/her personal interest. Still a conflict of interest is widely regarded as a precursor or even an element of corruption. Almost all countries have some legal provisions for the management of conflicts of interest of civil servants and other categories of public office holders. It is beyond this study to describe the whole variety of available means but the principal approaches involve prohibitions to act in the situation of a conflict of interest, prohibitions to act in a way, which increases the risk of conflicts of interest (incompatibilities, for example, a prohibition to combine two jobs of a particular type regardless of whether such combination causes an actual conflict of interest at any given moment) and requirements to disclose the private interests that may or do cause a conflict of interest.

Article 13 of the model code, which is included in the Recommendation on Codes of Conduct, imposes a personal responsibility on the public official to:

- be alert to any actual or potential conflict of interest;
- take steps to avoid such conflict;

- disclose to his or her supervisor any such conflict as soon as he or she becomes aware of it;
- comply with any final decision to withdraw from the situation or to divest himself or herself of the advantage causing the conflict.

The UNCAC addresses the issue of the conflict of interest from several angles starting with a general requirement to “endeavor to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest” (Paragraph 4, Article 7) and going on to the requirement for public officials to declare their private interests (Paragraph 5, Article 8) and particularly in the context of the public procurement (Item e, Paragraph 1, Article 9). Further issues regarding the conflict of interest are addressed in the Article 12 on the private sector.

Fostering the role of administrative agencies in preventing corruption in their ranks: Setting up of specialized anti-corruption bodies often prompt a belief that responsibility for countering corruption should rest solely on the specialized institution. In practice it may also cause the negative side effect of overly concentrated expertise in a single point. Adequate assessment of integrity challenges can be difficult if the controlling officials are far remote from the environments where problems occurred. Therefore responsibility and expertise in the area of prevention of corruption should be at least to some extent decentralized across the public administration. Such decentralization can be viewed through the prism of mainstreaming anti-corruption, i.e. “integrating an anti-corruption perspective into all activities and levels of an organization, a sector, or government policies”.³²

An earlier OECD publication addressed this issue from the point of view of anchoring the integrity management into the structure of public bodies. At the core of integrity management are the managers who are expected to provide moral leadership and the “integrity actors” whose main task is stimulating integrity with the help of available integrity instruments.³³ The paper recognized that assigning integrity a place in the organization structure may be done in several forms:

“The recommendation to assign integrity a place in the organisational structure definitely does not imply that all organisations, large or small, should set up a large integrity bureau. Which form this structural anchoring will take will depend on all kinds of organisational characteristics, including, of course, its size. Given this context, many options will be open.

On the one hand, one could indeed opt for a large “integrity bureau” that assembles all the core tasks of integrity management in one place and can thus accumulate significant amounts of expertise. An important challenge for such a construction will be to avoid that this office works in isolation, far from the daily reality on the workflow. A common way to avoid this, particularly in large organisations, is by appointing what could be described as “integrity-administrators”: administrators in particular units who combine their normal job with a responsibility in the integrity management framework. These administrators would act as the local representatives of the integrity bureau, stimulating their supervisors to keep the integrity management framework alive and in line with the bureau’s recommendations. Conversely, thanks to their understanding of the local circumstances, they could also provide very useful information to the integrity bureau. They could provide information about areas where integrity guidance is needed and they could also help the bureau in

evaluating its policies: how useful are their recommendations and instruments for the local units?

*At the other side of the continuum would be the absolute minimum any organisation would need, whatever its size or context: there should at least be one person in the organisation who has a formal responsibility to ensure that the basic elements of an integrity management framework are in place and who will have to report about its progress. We could call this person the “integrity coordinator”. In larger organisations, this could be a fulltime position; in smaller organisations this person could combine this responsibility with other assignments. In any case, this is the person who will worry about integrity when all the other organisational members, including management, are focusing on other, seemingly more pressing, issues.*³⁴

Coordination of anti-corruption efforts: Countering of corruption requires co-operation of a large number of state, municipal and civil society actors. In the realm of the state alone, the collaboration of law enforcement, judicial, public administration and other bodies is required to achieve sustainable improvement in any particular corruption-prone sector.

According to the UNCAC anti-corruption policies shall be effective and coordinated (Paragraph 1, Article 5). Overseeing and coordinating the implementation of anti-corruption policies are also among the means that preventing bodies shall use (Item a of Paragraph 1, Article 6). Article 38 addresses particularly the cooperation between national authorities and requires each state party to

“take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

- (a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or*
- (b) Providing, upon request, to the latter authorities all necessary information.”*

Coordination may take the form of formal arrangements such as different anti-corruption councils or informal networks where representatives of various institutions meet for discussions. In certain cases formal agreements, memoranda between particular bodies can be used to streamline their cooperation, for example, on how information about suspected offences shall be provided to the competent investigating agency.

Preventing corruption in the management of public finances: Impartial distribution of public financial resources lies at the core of an honest state. Budget formation in the interests of a narrow circle of politically well-connected individuals, failure to tax entities that bribe high office holders, payments from the treasury without proper legal grounds and authorization are just a few of the principal ways how corruption can distort the management of public money. According to Paragraph 2, Article 9 of the UNCAC states parties shall “take appropriate measures to promote transparency and accountability in the management of public finances”. The convention further lists such measures as:

- Procedures for the adoption of the national budget;

- Timely reporting on revenue and expenditure;
- A system of accounting and auditing standards and related oversight;
- Effective and efficient systems of risk management and internal control; and
- Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

State parties shall also take such civil and administrative measures as may be necessary to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents. Nowadays IT solutions, which make it easy to process large amounts of financial data, are essential in facilitating transparency and control. It is the use of such means that this study particularly focuses on.

Fostering the role of state audit institutions in preventing corruption: The eleventh of the Guiding Principles invites “to ensure that appropriate auditing procedures apply to the activities of public administration and the public sector”. Independent audit provided by (usually) constitutionally anchored, independent state audit institutions is particularly well placed to provide valuable data on suspected corruption. Also the International Organisation of Supreme Audit Institutions (INTOSAI) has recognized the important role of State Audit Institutions “in fighting corruption and preventing fraud at both the national and international levels”.³⁵

Both irregularities found in the course of regularity audit and weaknesses found in performance audit can be red flags for not just the lack of professional qualification or poor planning of activities but also for possible corruption with malicious intent. Usually auditors do not aim directly at detecting corruption-related criminal offences. However, the implementation of their recommendations may close gaps that facilitate such offences and information on the red flags can prompt criminal investigations by law enforcement bodies. Indeed some state audit institutions perform assessments of irregularities “to target financial impropriety, fraud and corruption”.³⁶

Improving public services: Delivery of public services is a common area of corruption risk particularly if the procedures and environment allow the civil servants to either extract illicit benefits from clients or collude with the clients at the expense of the public interest. With a reference to the corruption formula by Robert Klitgaard³⁷, corruption in the service delivery could be prevented by reducing the monopoly of any single civil servant, reducing the discretion of service deliverers and strengthening their accountability. Two of the ways how this can be done are to shift more of the service delivery online or concentrate it in specially designed service centers. The impersonal character of the service provision online and the necessarily standardized algorithm of most electronic services virtually eliminate the individual monopoly and discretion of civil servants. Plus the traceability of all electronic transactions appears to provide almost perfect possibilities to ensure accountability. On the other hand, well-designed service centers address the same problems by, for example, guiding the client to a random staff member of the service provider, providing the client with clear information about each of the steps in the service provision and maintaining open-space environment where the interaction between the client and service provider proceeds in a semi-public way (indirectly seen by all other people in the premises or even supervised with the help of cameras, etc.). Moreover the preventive effects would be strengthened if unnecessary steps and burdensome requirements were removed.

Due to size limitations, this report focuses on one particular type of online services, namely, the e-procurement. There are many international standards on public procurement (for example, by OECD and UN). An example of a prominent international standard in the area of public procurement is the UNCITRAL Model Law on Public Procurement, which provides, among other things, a model regulation on electronic reverse auctions.³⁸ In addition to strengthened transparency, reduced abusive discretion and enhanced accountability, data generated by e-procurement allow for better screening and detection of suspected bid-rigging and collusive arrangements as well as unreliable and/or disreputable providers.³⁹

Promoting access to information as a tool to prevent corruption: Transparency has been long recognized as a means to prevent wrongdoing. The recognition is often demonstrated by quoting the famous words of Jeremy Bentham “Without publicity, no good is permanent: under the auspices of publicity, no evil can continue.”⁴⁰ Nowadays transparency and access to information are commonly a part and parcel of demands for anti-corruption reforms.

The importance of access to information in the context of anti-corruption is recognized in numerous international legal and recommendatory documents. The Guiding Principles touch several angles of transparency and express the link between combating of corruption and transparency most comprehensively in the commitment to “ensure that the organisation, functioning and decision-making processes of public administrations take into account the need to combat corruption, in particular by ensuring as much transparency as is consistent with the need to achieve effectiveness”.

Article 10 of the UNCAC obliges states to take such measures as may be necessary to enhance transparency. Suggested measures include adopting procedures or regulations allowing the general public to obtain information as well as the publication of information. Also the Council of Europe Convention on Access to Official Documents (not yet in force as of December 2014) encourages proactive publication through the requirement of Article 10 to “take the necessary measures to make public official documents which [a public authority] holds in the interest of promoting the transparency and efficiency of public administration and to encourage informed participation by the public in matters of general interest”.⁴¹ The explanatory report of the Convention suggests that frequent requests of a document or a particular kind of document could be used as a criterion for the determination of “which documents should be published proactively”.⁴²

Considering the above, in addition to the legal guarantees of freedom of information, proactive publications and disclosure with the help of electronic platforms (websites, online databases such as those containing asset declarations of officials, tools for requesting information) have potential preventing effects against corruption. The focus of the respective chapter in Part II of this study will be particularly on such proactive disclosure.

Reporting corruption – protecting and rewarding whistleblowers: The nature of most corruption offences is latent because often there is no tangible victim and no person with direct personal interest to report the crime. Still detection of corrupt offences is particularly difficult if nobody provides information to the law enforcement or other competent bodies. Therefore public authorities try to encourage reporting of corruption with the help of publicity campaigns, dedicated reporting channels (hotlines, web platforms and special reception offices) and obliging civil servants to report acts of wrongdoing that they become aware of.

The protection of persons who report corruption is the most sensitive element in systems for reporting of corruption. Such protection is essential because fear from retaliation from the suspected wrongdoers can effectively reduce the amount of information available to law enforcement and other controlling bodies. The risk is particularly high in situations where the reporter finds him/herself in a situation of dependence on the offender. This is often the case in whistleblowing where the reporter discloses corruption or other breaches in the agency where he/she works.

Whistle-blower protection is an area where a thick layer of international standards exists. Article 33 of the UNCAC requires each State party to “consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.” Provisions aimed at the protection of whistle-blowers are found also in the anti-corruption conventions of the Council of Europe.⁴³

Recommendatory standards are even older. The Guiding Principles envisaged “protecting the persons who help the authorities in combating corruption”. According to the OECD recommendation on Improving Ethical Conduct in the Public Service Including Principles for Managing Ethics in the Public Service “public servants need to know what their rights and obligations are in terms of exposing actual or suspected wrongdoing within the public service. These should include clear rules and procedures for officials to follow, and a formal chain of responsibility. Public servants also need to know what protection will be available to them in cases of exposing wrongdoing.”⁴⁴ The OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions recommends ensuring easily accessible channels for reporting of suspected bribery, appropriate measures to facilitate reporting by public officials, and appropriate measures to protect from discriminatory or disciplinary action public and private sector employees who report suspected bribery.⁴⁵ Later also G20 proposed a set of guiding principles and examples of best practices to strengthen whistle-blower protection.

The Council of Europe has developed the most recent important recommendatory instrument in this area – the Recommendation CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistle-blowers, which was adopted on 30 April 2014. The document recommends designing and developing the national normative, institutional and judicial framework, including, as appropriate, collective labour agreements to facilitate public interest reports and disclosures by establishing rules to protect the rights and interests of whistle-blowers. It applies to both public and private sectors, and suggests among other things that clear channels should be put in place for public interest reporting (comprising reports within an organisation or enterprise, reports to relevant public regulatory bodies, law enforcement agencies and supervisory bodies, and disclosures to the public, for example to a journalist or a member of parliament).⁴⁶

Part II.

Successful preventive measures taken in Eastern Europe and Central Asia

Chapter 4.

Using research on corruption in anti-corruption policy making

There is a considerable number of studies on trends in corruption and corruption in different sectors, as well as regular opinion polls on the extent of corruption and attitudes towards it. The results of corruption research are increasingly used in anti-corruption policies, but often it remains a challenge for ACN countries how can the results of such research be used in developing new anti-corruption policies or in the efforts to measure the results of the measures taken.

For authorities it is a quite common practice to **commission surveys on corruption and perception of corruption** by the general population or selected groups, for example, business or civil servants. To name a few examples, in 2009 the government of **Georgia** commissioned surveys of the general public and government officials including on perceptions of corruption.⁴⁷ In 2011-2012, the EU-funded Crime and Security Survey conducted in Georgia measuring victimization level and perception in relation to crime included corruption experience and perception issues.

Many countries in the region practice commissioning of research on corruption, for example, **Armenia, Estonia, Latvia, Lithuania, FYROM, Mongolia, Montenegro, Romania, Slovenia**. In 2014, a comprehensive study “Corruption in Kyrgyzstan: trends, causes and avenues for improvement” was commissioned by the Ministry of Economy of **Kyrgyz Republic**. This major survey of 2000 inhabitants, 350 companies, 400 private entrepreneurs and 50 institutions of the civil society and experts provided an independent analysis of causes, levels and scope of corruption in this country. The study was used in the development of the new 2015-2017 government’s anti-corruption action plan.⁴⁸

An interesting example of survey data used further by the government is the regular Supreme Court User Satisfaction Surveys in **Georgia**. These surveys include a question on corruption levels in the judiciary. Judicial corruption perception index is then counted based on the answers of respondents of these surveys.

Some countries have established good practice of gathering comparable **time series of data** and using them in elaboration of anti-corruption policy. In **Estonia**, comparable surveys on the roles and attitudes of the civil service were carried out in 2005, 2009 and 2013 and covered questions such as factors that shape the motivation to work, how serious in the opinion of respondents are different types of breaches of ethics norms and how important are particular measures in order to change the ethics of the public service.⁴⁹ Moreover, there is a special study “Corruption in Estonia” (2004, 2006, 2010), which is regularly prepared and studies perceptions, attitudes and experiences with corruption among three target groups: businessmen, ordinary citizens, public officials⁵⁰. Some aspects covered in the Anti-Corruption Strategy of Estonia 2013-2020 stem from the findings of this study (for example, which groups should be mainly targeted by awareness-raising).

In **Latvia**, Transparency International and later the Corruption Prevention and Combating Bureau (KNAB) commissioned representative population surveys in 1999, 2005, 2007 and 2012 with a number of identical and therefore comparable questions. The surveys revealed changes in popular attitudes towards corruption (for example, attitudes towards the statement that it is morally justifiable to give bribes because everyone does it) and the experiences of having to pay unofficially or use acquaintances when handling matters in particular public agencies or receiving certain services, for example, from the healthcare.⁵¹

Questionnaires show various uses of the results of research. Findings of research and analysis are almost always published. While this is the most basic way of using research results, such publications can be of applied nature with a great potential of use. For example, in **Azerbaijan** the Anti-corruption Directorate published methodological books such as “Corruption crimes: detection, investigation and public prosecution” in 2012 and “Combating corruption: institutional measures and criminal prosecution” in 2013. Several countries also indicate that research results are submitted for consideration or discussion among state bodies. For example, in **Mongolia** biannual findings of the Mongolia Corruption Index are submitted to the parliament and other central and local government authorities.

Among the most straightforward ways of use is the **evaluation of the implementation** of anti-corruption strategies and incorporation of **research findings and recommendations into new strategies**, plans and legislative proposals. For example, in **FYROM** the State Commission for the Prevention of Corruption (SCPC) and TI have carried out qualitative analysis of several sectors covered in the State Programme for the Prevention and Repression of Corruption and Conflict of Interests 2011-2015. The approach consists of the analysis of the legal framework, desk research of the actual practices in the sector, in-depth interviews with stakeholders, scoring of indicators based on the data and recommendations. In addition to the qualitative analysis, the SCPC commissioned surveys on corruption perception of the public for particular sectors covered in the State Programme.⁵² Findings of both analysis and surveys are to be used for the evaluation of the implementation of the state program as well as for setting up next steps and activities for the prevention of corruption.

Box 4. Estonia: Survey results used as indicators for anti-corruption strategy

Action Plan of the Anti-Corruption Strategy 2013-2020 of Estonia

Objective 1: Promoting corruption-awareness.

Measure 1.2: Shaping anti-corruption attitudes and increasing awareness in the public sector.

Activities: New training-programmes for public sector target groups, updating electronic training materials, updating handbook on conflict of interest.

Indicators from the survey used to assess the implementation of the Measure 1.2:

- The share of public sector employees who condemn corruption (78%);
- The share of public sector employees who recognize corruptive activities (84%);
- Percentage of officials who consider accepting benefits for performing public service a serious violation (96%).

Source: http://www.korruptsioon.ee/sites/www.korruptsioon.ee/files/elfinder/dokumendid/estonian_anticorruption_strategy_2013-2020.pdf

A questionnaire submitted by **Kyrgyz Republic** refers to a particular example where anonymous questionnaires of patients of territorial health organizations are used since 2012 in order to elaborate anticorruption activities in the health system. Another concrete example stems from **Moldova** where the Supreme Court issued a recommendation for courts on particular issues related to criminal sentencing in cases of corruption, based on the analysis of criminal sentencing for corruption offences elaborated by the National Center for the Fight against Corruption together with partners. According to information provided by **Armenia**, the Commission on Ethics of High-Ranking Officials used a survey in order to map the practice of combining high-ranking public offices with other paid positions. Survey findings showed that many high-level officials combined their jobs with positions in the boards of public enterprises where they received high salaries and bonuses. To resolve the situation, the Law on Public Service was amended to allow high-ranking officials to combine their jobs only with such other positions that do not provide any kind of remuneration, compensation, social and other benefit.

Box 5. Serbia: Assessing integrity plans based on the experience of service users - health care, local self-government and judicial system

The Law on the Anti-Corruption Agency (ACA) established the obligation of introducing integrity plans (IPs) to Serbian public authorities. According to estimates, approximately 5,000 public authorities in Serbia are legally obliged to introduce IPs. The ACA shall carry out the oversight of the IP introduction process and the assessment of IP quality. Public authorities had a deadline of 31 March 2013 for the adoption of their IPs. This was to be followed by their implementation and evaluation.

The ACA conducted IP verifications in the health care system, local self-government system and the judicial system by analysing user experiences as well as the experience of employees of these institutions. For example, for the verification in the health care system, 1,452 users of services provided by health care centres, hospitals/ clinical centres and units of the Republic Institute for Health Insurance were interviewed.

The basic hypothesis in conceiving the research was that stronger institutional integrity of public authorities and their employees leads to higher quality and a wider range of services provided to citizens. That is to say that the integrity enables a logical and rational manner of providing services and accomplishing the institution's purpose to meet citizens' needs and interests – the reasons for which it was founded in the first place. In other words, if an institution's service users – for different reasons and in varying intensity and scope – find it hard to meet their needs and interests, it might be a sign of the institution's lack of integrity. However, the reasons may lie not only in a single, specific institution (for example, the integrity and quality of work of its staff, internal work organization, existence of clear procedures) but also in the broader regulatory framework and context, within which the institution's competences over the citizenry are carried out, and which cannot always be controlled.

Of course, the citizens are not necessarily aware of the reasons why a service was not provided to them or was not provided well enough. Therefore possible lack of integrity and its causes will be analysed using other methods, primarily by analysing the IPs adopted by public authorities and the framework within which they are meant to operate. For the time being, the emphasis of this control mechanism is on analysing service users' responses in order to check the objectivity of institutions' self-assessment as regards risks of corruption, regardless of where the causes of such risks are to be found.

The real value of the findings will become apparent after the ACA carries out the analyses of integrity plans and compares the results with the research on service users. Moreover, the research of users' experiences has its own value because it reveals in what manner and in which areas there is a need for integrity strengthening from the point of view of the users of institutions' services.

Source: Material submitted by Serbia in 2014.

Findings can be used also in order to develop the *communication strategy* as in the case of **Montenegro** where a poll of 2014 showed that people in the Northern part of the country were least familiar with the mandate of the Directorate for Anti-Corruption Initiative (DACI) and its last campaign while in the Southern part people were least familiar with ways on how to report corruption. These findings were to be taken into account in the communication strategy of DACI.

An interesting case of innovation is the co-operation between the Commission for the Prevention of Corruption of **Slovenia** and the Jožef Stefan Institute to develop methods of advanced, *large data analytics and modelling* to detect, for example, conflicts of interests in cases where companies are related to public employees through complex networks of silent partners or otherwise hidden in sophisticated corporate networks.⁵³

The questionnaires do not cite difficulties related to research, analysis and their use in the prevention of corruption. Concerns about the validity of surveys for purposes of assessing the actual corruption level are known (for example, the question whether perceptions of corruption reflect the real corruption situation). Since they have been widely discussed elsewhere, they need not be dealt with here. A recurring aspect of financing of research is the use of support from international actors. While such support can provide valuable assistance to anti-corruption efforts, a potential concern is the ability of countries to ensure sustainable research work should the funding of international donors cease. It appears that the practical usefulness of research findings is stronger where research is clearly linked with some prevention policies, for example, where it is designed to systematically detect change in areas targeted by anti-corruption activities. However, in countries where general public debates on corruption still need an impetus, the results of mapping the corruption situation on the whole can trigger attention.

Chapter 5.

Anti-corruption assessments of legal acts

The legislation of many countries of Eastern Europe and Central Asia provides for some kind of anti-corruption screening of regulatory acts. For example, according to the questionnaire by the Research Foundation “Constitution” in **Azerbaijan** the law “On Normative Legal Acts” forms the legal basis for the expertise of regulatory acts (and their drafts). The subject of misuse and anti-corruption is one of the mandatory elements of the expertise. The preparation of further regulations on the anti-corruption expertise of regulatory acts is included in the national anti-corruption action plan. In **Slovenia**, according to the Integrity and Prevention of Corruption Act the Commission for the Prevention of Corruption shall “provide its opinion on proposals for laws and other regulations before they are discussed by the Government, particularly in respect of the conformity of the provisions contained within these proposals for laws and other regulations with the laws and regulations regulating the prevention of corruption, and the prevention and elimination of conflicts of interest”.⁵⁴ In both of these countries, such assessments has been made **mandatory** with the force of the law (nevertheless this does not imply that the conclusions of the assessments are necessarily mandatory for implementation). Anti-corruption screening of draft regulatory acts is mandatory also in other countries, for example, **Armenia, Kyrgyz Republic, Moldova** and **Uzbekistan**.

In a number of countries anti-corruption assessments are foreseen in the law but is **not mandatory** in all cases of new draft legislation, for example, in **Lithuania** and **Serbia**. Some countries undertake also the screening of **current legislation**, for example, **Lithuania**. **Ukraine** has introduced screening of the current legislation according to a set annual plan.⁵⁵

Box 6. Moldova: Comprehensive anti-corruption assessment of legislation practiced since 2006

Moldova has been implementing and refining a comprehensive practice on anti-corruption assessment of legislation since 2006. The law “On Legislative Acts” makes anti-corruption assessments “mandatory for all draft legislative acts”. The law “On Normative Acts of the Government and Other Authorities of the Central and Local Public Administration” states that “the draft normative act of the Government shall be submitted, in a mandatory manner, with an anti-corruption assessment to verify whether it complies with the national and international anti-corruption standards as well as to prevent appearing of new regulations that favour or might favour corruption”.

According to the law the National Anti-corruption Centre (NAC) has the function “to carry out anti-corruption assessment of draft legislative and draft normative acts of the Government and to verify their compliance with the state policy regarding the prevention and fight against corruption.” The NAC developed its methodology in close cooperation with the civil society organisation the Centre for Analysis and Prevention of Corruption (CAPC).

The methodology used by the CAPC is described the “Guide on Corruptibility Expert Review of Draft Legislative and Other Regulatory Acts” of 2007 (almost identical to the official methodology of the NAC). The Guide is divided in two parts.

The first chapter provides brief definitions, such as what “elements of corruptibility” in legislation are (i.e. regulatory provisions which favour or which may favour corruption). It also lists all categories of draft legislative acts and regulatory acts subject to the assessment. Furthermore, it also points out the particularities that each category entails for the assessment.

The second chapter of the Guide is dedicated to the “Corruptibility Expert Review” itself. It sets out guidance for the necessary preparatory analysis, in particular:

- on which sources of information the review should rely;
- other legislation in the field to be considered;
- jurisprudence influencing legislation;
- statistical and sociologic studies;
- relevant statements by the Court of Accounts;
- functional analysis of the main public body/ies in charge of implementing the law.

In section 4, the second chapter provides a list of “elements of corruptibility”.

- Lack of a comprehensive justification of the need for drafting the act:
 - lack of justification of the draft, lack of scientific enquiry, etc;
 - negative contradictory and unqualified advisory notes or expert reviews;
 - lack of impact assessment;
 - producing the legal effects.
- Promotion of interests and benefits:
 - group or individual interests and benefits/damages;
 - group interest and state policies, constitutional and provisions of international acts.
- Interaction of the draft law with other legislative and regulatory acts:
 - reference provisions and carte blanche provisions (regulatory competence);
 - compliance with provisions of the Constitution, the Law “On the Government” and other provisions;
 - conflict of legal provisions, lacunas in law.

- Manner of exercising public authority duties:
 - extensive duties of regulation attributed to the competence of central and local public administration;
 - situations of parallel duties;
 - competence of the public authority to draft acts, to control their application and to sanction;
 - determination of competences when the expressions “is entitled” and “may” are used;
 - listed rights should comply with set obligations;
 - duties should be regulated in a sufficiently complete and clear manner in order not to allow unjustified derogations or various interpretations;
 - lack or ambiguity of administrative procedures;
 - lack of balance between responsibility and violation;
 - lack of transparency in the functioning of the public authority;
 - other elements of corruptibility.

For each corruptibility risk, the Guide provides several sub-categories. The Guide explains each sub-category and illustrates it for the reader with a real-life example.

The NAC drafts its reports using specific software developed for this exercise. Experts insert the recommendations into the software while assessing the draft law. The report itself is generated by the software. As soon as the legislative draft is adopted the NAC checks whether the recommendations have been taken into account and therefore in this way the software facilitates monitoring of compliance.

According to law the author of the draft law has to consider the expert review and, “in case of conflicts, the authority which has drafted the draft normative act shall organize a debate with the participation of interested institutions and authorities for making the decision based on mutually acceptable principles. Otherwise the draft shall contain the point of view of the authority that has elaborated it and the list of conflicts shall be attached in a form of a table, containing the substantiation of the rejection of the proposals and the advisory notes.” From a practical point of view, the question of urgent legislation is interesting. In Moldova, the Parliament resolved this question by granting the NAC a shortened period of three days in which to provide the assessment.

The NAC presented corruption proofing reports on 338 draft laws in the first six months of 2014. Although mandatory, 144 draft laws initiated by parliamentary deputies were not referred for corruption proofing assessment. Consequently, the NAC only carried out its duties on conducting corruption proofing assessment for 70% of drafts. The corruption proofing reports identified 35% of drafts as lacking sufficient justification for their promotion, while 7% failed to comply with the rules of transparency within the decision-making process. Half of the drafts that entailed financial costs for their implementation lacked a specified source of funding. A quarter of the draft laws concerned regulation of business. Yet despite the fact that a regulatory impact analysis is required in such cases, only 2% of these drafts contained such an analysis.

Of the drafts reviewed by the NAC, 15% promoted the interests of certain groups or private individuals and several had the potential to damage the rights and interests of the public. The corruption risks most frequently identified by the NAC were excessive administrative discretion (37%), conflicting provisions (22%) and ambiguous linguistic provisions (14%) allowing public officials to interpret the law abusively. At the same time, these are the categories where the draft authors most frequently accepted the recommendations made by the NAC. Overall, the corruption proofing assessment by the NAC had an acceptance rate of 68.5% for the NAC recommendations.

Source: Abridged from Hoppe, T. (2014), *Anti-Corruption Assessment of Laws*, pp. 70-78. http://www.raisee.org/doc/Comparative_Study-Methodology_on_Anti-corruption_Assessment_of_Laws.pdf

Box 7. Armenia: Regulatory guillotine

Besides the *anti-corruption* screening of draft legislation, “regulatory guillotine” is another tool, which could have mitigating effect on corruption risks. It is used in **Armenia** since 2011, where, with the assistance of the OSCE Office in Yerevan and a multi-donor consortia, the National Centre for Legislative Regulation screens the *legality, user-friendliness and necessity* of regulations and then identifies outdated or unnecessary regulations, and proposes to the Reform Council to repeal, merge or replace such regulations.

The ambition of the project was to review over 2500 legal acts containing regulatory norms out of 26000 total legal instruments during a 24 month period. The political target was to reduce the costs of doing business by 50% in 17 sectors (8 sectors were reviewed by July 2014). Customized “e-Guillotine” software was created representing a database of business processes and regulating legal acts. Each regulation was reviewed 3 times: by ministries, by business associations, NGOs and private companies, and by the guillotine unit against checklists to answer 3 questions: Is the regulation legal? Is it needed for Armenia’s future? Is it business friendly?

To date 1,100 regulations were repealed or changed, e.g. job record books were eliminated, licences for gas and electricity were merged, regulations regarding health checks of taxi drivers were simplified, and many other. Business representatives interviewed during the on-site visit confirmed that this project has simplified regulations to some extent; however they insisted that further clarifications of regulations and improvements of transparency and efficiency of public services are needed in all sectors.

Sources: OECD Anti-Corruption Network for Eastern Europe and Central Asia. Armenia. Round 3 monitoring report, 8-10 October 2014, p. 57, <http://www.oecd.org/daf/anti-bribery/Armenia-Round-3-Monitoring-Report-ENG.pdf> ; Sukiasyan, T. (2014), Presentation “Regulatory Guillotine in Armenia as a measure to prevent corruption” at the regional expert seminar on prevention of corruption in Tirana, Albania, on 26-27 June 2014.

It is particularly difficult to assess the effectiveness of the anti-corruption assessment of legal acts because it largely depends on the quality of the assessment, which cannot be evaluated based on the secondary analysis of published sources, and the degree of adoption of well-grounded conclusions of the assessment. At the most basic level, *extensive legal requirements* for the provision of anti-corruption screening and taking into account thereof could be taken as an “on-the-face-of-it” indication of a strong system. For example, in **Kyrgyz Republic** the following elements of assessment have been identified in the monitoring carried out within the Istanbul Action Plan:

- Requirement for various types of “scientific assessment” for draft normative legal acts;
- Since 2008 mandatory anti-corruption screening for draft laws regulating areas such as constitutional rights and powers of public authorities;
- According to the rules of procedure of the Parliament adopted in October 2011 all submitted draft laws should include a description of their impact on corruption;
- Expert Department of the Parliament prepares an anti-corruption assessment of draft laws, of amendments made in the draft law, and of the revised draft law that takes into account objections of the President (if there were such);
- The Parliament’s rules also allow independent experts and civil society organizations to submit their evaluations of draft laws, including on anti-corruption matters; such evaluations are to be considered by the relevant

commission with participation of the persons who conducted the evaluation; the commission then has to prepare a substantiated reply explaining why proposals contained in the evaluation were endorsed or rejected;

- The Government Instruction on the procedure for conducting legal, human rights, gender, environmental, and anti-corruption screening of draft secondary legislation approved in December 2010;
- The missing requirement to publish results of the anti-corruption screening of draft legal acts and no screening of active legal acts have been found as limitations of the system.⁵⁶

However, the presence of legal requirements of anti-corruption screening does not automatically guarantee that corruption risks are actually identified correctly and the conclusions of analysis are taken into account. Generally data on major success of systems of anti-corruption assessment are scarce. In **the Russian Federation**, a separate law governs the anticorruption assessment (“On the anti-corruption assessment of normative legal acts and draft normative legal acts”, 17 July 2009, No. 172-FZ).⁵⁷ The law sets grounds for anti-corruption assessment to be carried out by public bodies and independent assessment carried out by accredited civil society institutions and citizens. A small survey of employees of the public prosecution service in one of the regions of the Russian Federation showed mixed results in 2012. The respondents were asked how the level of corruption in one or another area had changed after corruption promoting factors were removed from normative legal acts. Nine respondents replied that it led to real lowering of the level of corruption while 11 respondents claimed that there was no influence on the level of corruption.⁵⁸

Available data show that results of anti-corruption screening are indeed introduced in the adopted legislation and hence produce *impact* at least in some of the covered countries. According to the questionnaire submitted by **Moldova** 319 draft laws and 214 draft regulatory acts of the government were subject to anti-corruption assessment in 2013. Out of all the draft laws, 28% contained vague linguistic formulations, 31% – excessive discretion for public authorities, and 13% – provisions that refer to other provisions as supplements/ conditions for their effect (*ссыпочные и отсылочные нормы* in the Russian language). Out of approximately 470 corruption factors, 68% were taken into consideration and excluded from the drafts. These statistical data have become available in particular due the innovative software introduced in 2009 that is used in carrying out the anti-corruption assessment and production of statistical information (see Box 6). The OECD ACN monitoring report of **Uzbekistan** of 2012 found that the mandatory screening of corruption risks in draft legal acts “resulted in concrete proposals sent to relevant bodies and on the basis of this review many changes have been initiated in the legislation (for example, fine for road traffic violations in Code on Administrative Responsibility was clarified, competence to exempt from administrative liability was passed to courts, electronic tax declarations and forms, one-window approach to declare income, etc.).”⁵⁹ In **Lithuania**, the Special Investigation Service (SIS) carries out anti-corruption assessment of existing or draft legislation upon own initiative or upon proposal the President, the Speaker of the Parliament, the Prime Minister, parliamentary committee, commission or faction (Paragraph 2, Section 8, Corruption Prevention Law⁶⁰). It is done according to a procedure set by the Director of the SIS.⁶¹ In 2011, the SIS carried out 203 analyses of laws and regulations and their drafts, in 2012 – 220, in 2013 – 180.⁶² The European Commission took notice of two cases when the President vetoed draft legislation that had received objections by the SIS.⁶³

In some situations, the non-binding character of the results of the anti-corruption assessment may cause frustration. Analysis of 2012 concerning the anti-corruption assessment in the context of regional anti-corruption programs in **the Russian Federation** noted the low effectiveness of independent assessment. In some regions, no interaction between the independent experts and specialized public bodies was detected. On the federal level, requirements for the independent experts to be accredited were not determined and no time-schedule for the independent assessment was established. Typical omissions included failure of state bodies to publish draft normative-legal acts and failure to fulfil the legal requirement to review conclusions of the independent assessment and provide a reasoned response.⁶⁴ However, all such difficulties can be overcome if the authorities recognize the value of both non-governmental and official anti-corruption review of draft legislation.

A full review of relevant legislation requires major resources. Where a mandatory assessment has been introduced relatively recently, the lack of review of the existing legislation can leave extensive risks and inconsistencies. It is often not realistic to aim for a review of all laws and regulations. Therefore also findings of corruption-risk assessments, where carried out in the public administration, can be used in order to identify regulatory provisions that should be changed.

Box 8. Lithuania: Anti-corruption body assesses anti-corruption risks in various sectors

Healthcare. The Lithuanian anti-corruption body, the Special Investigation Service (SIS), performed an anti-corruption assessment of legal acts and drafts related to the reimbursement of joint endoprosthesis purchasing costs. The SIS proposed to improve the procedure under which the patient who should undergo a planned joint endoprosthesis surgery purchases the endoprosthesis with his/her own money and is not required to queue up for it. The SIS repeatedly recommended setting concrete deadlines for the operation and notification of the State Patients Fund about a patient failing to come for the operation, etc. The SIS found out that there is no criterion under which endoprosthesis purchasing costs are cofinanced or when reimbursement is denied. Therefore, quite opposite decisions can be made with regard to the amount of reimbursement costs. The Ministry of Health has taken the SIS proposals into consideration and modified the description of the procedure.

Public procurement in the activities of political parties. SIS performed an anti-corruption assessment of the draft amending the Article 4(2) of the Law on Public Procurement (No. XIP-4024). The draft provided that procurement organised by political parties and political campaigns should not be subject to public procurement procedures. The SIS thinks that such provisions would be faulty from the anti-corruption point of view. The exceptions applied to the political parties and political campaign participants would conflict with the main principles of the Public Procurement Law and the essence of public procurement, i.e. ensuring transparency of procurement using state budgetary funds. The Committee on Economics of the Seimas disapproved of the SIS proposals. The President of the Republic vetoed the draft law and the Seimas adopted the law with only minor amendments.

Territorial planning. The SIS conducted the anti-corruption assessment of the draft Law Amending the Law on Territorial Planning (No. XIP-3897). According to the SIS, the special procedures applied to territorial planning for projects of national importance did not ensure the protection of public interests and therefore posed anti-corruption problems. The draft law offered discretion to the developers of special territorial plans to ignore the feedback obtained from competent authorities on the terms and conditions of such planning. The SIS noted that there was no clear definition of public participation in planning territories. Moreover, the special planning publication procedures of the projects of national importance were not adjusted with other provisions of the Law on Territorial Planning, which opened room for their different interpretation.

Energy sector. The SIS performed an anti-corruption assessment of the Description of the Procedure for Promoting the Use of Renewable Resources approved by Government Resolution (No. 827) of 4 July 2012. The SIS concluded that the description opened up opportunities for abuse in purchasing surplus energy from renewable resources, reserving the power and capacity of power grids, taking part in the auctions of power production from renewable resources. The SIS also determined that there was a lack of legal acts regulating the use of electricity by the heat generators. SIS shared its comments and proposals with the Ministry of Energy.

Source: 2012 Performance report of the Special Investigation Service of the Republic of Lithuania, pp.31-33. http://www.stt.lt/documents/Ataskaita_2012_EN.pdf

Chapter 6.

Corruption risk assessment in public institutions

A review of the questionnaires shows that *country-wide obligations* or at least *officially endorsed methodologies* to carry out corruption-risk assessments are found in most of the countries. A number of countries have elaborated and adopted fairly sophisticated approaches to risk assessment. Of the ACN countries whose authorities provided questionnaires, **Bulgaria** and **Lithuania** are examples of countries with rather sophisticated approaches.

In **Bulgaria**, corruption risks in executive bodies are assessed in accordance with the Corruption Risk Assessment Methodology approved by the Prime Minister.⁶⁵ The methodology identifies four categories of indicators of corruption risk – objective (for example, monopoly position in the administration – autonomous decision making), subjective (for example, ignorance about regulatory acts relevant to the activity of the administration), internal (for example, insufficient administrative capacity or absence of effective control), and external (for example, frequent changes in the legislation). Inspectorates, which are set up in ministries and other authorities, plan the assessments and qualify degrees of risk as low, average or high. The degree is determined through a simple formula (high risk when more than a half of risk conditions exists, average when more than a third of conditions exists, low when less than a third of the conditions exists). Depending on this degree, risk management measures are proposed. Activity of units with average or high risk is subject to regular monitoring.

For example, in 2013, the Inspectorate of the Ministry of Health identified the following areas of activity for monitoring: the regime of authorizations, accreditation of health institutions, subsidizing the activity of health institutions performed outside the scope of compulsory health insurance, postgraduate studies, normative acts for the regulation (optimization) of packages of medical services that are financed by the National Health Insurance Fund with a view to reduce informal payments, activities related to the management of public companies and running of competitions for the selection of members in the governing bodies of companies, expertise of permanent and temporary disability, and management of medical institutions.

Based on corruption risk assessments, measures are proposed such as collecting signatures of employees on the relevant procedures in order to ensure their awareness of the rules, the introduction or improvement of systems for continuous monitoring and analysis of the risks of corruption in the administration and reporting of the results of their operation, improving the organization of work through rules establishing mobility and rotation of staff involved in processes particularly susceptible to corruption pressures (public procurement commissions, concessions, assessments, permits, etc.), improvement of the publicity and accessibility systems created for the gathering of signals of corruption, the results of follow-up inspections and actions in case of violations.⁶⁶

Corruption-risk assessment seems to play a significant role also in **Lithuania**. The Law on Prevention of Corruption defines corruption risk analysis as “anti-corruption analysis of the activities of a state or a municipal institution following the procedure prescribed by the Government, and presentation of motivated conclusions about the development of an anti-corruption programme and proposals about the content of the programme; recommendations concerning other corruption prevention measures to state and municipal institutions which are responsible for the implementation of such measures.”⁶⁷

The process comprises two stages. All state and municipal institutions shall determine the probability of the manifestation of corruption according to set criteria. They shall send the information to the SIS. The areas of activity, which are thus found particularly prone to corruption, may be subjected to corruption risk analysis. The Special Investigation Service shall determine whether there is a need for corruption risk analysis in certain areas (again based on criteria defined in the law). It shall carry out the analysis based on the procedure stipulated by the Government.

When performing a corruption risk analysis, the following is considered:

- grounded opinion on the probability of corruption and related information;
- findings of social surveys;
- opportunity for one employee to make a decision with regard to public funds and other assets;
- distance of employees and units from the central unit;
- independence and discretion of employees in making decisions;
- level of monitoring over employees and structural units;
- requirements to comply with the normal operational procedure;
- level of staff rotation (cyclical change);
- documentation requirements applied to operations and concluded transactions;
- external and internal auditing of state or municipal entities;
- framework for the adoption and assessment of legislation;
- other information which can lead to the rise of corruption.⁶⁸

Annually the Special Investigation Service carries out corruption risk analysis in about 10-15 state or municipal institutions.

According to the questionnaire submitted by **Romania** “the corruption risk assessment was a precondition for developing sectoral anti-corruption plans under the National Anticorruption Strategy 2012-2015 [...]. Each institution had to identify the institution’s specific risks and vulnerabilities as well as the measures to address the specific vulnerabilities of an institution”. Moreover public institutions shall implement internal/managerial control systems through a number of standards concerning among other things ethics and integrity, sensitive positions.

Box 9. Lithuania: Examples of results of corruption risk analysis in 2012

Vilnius city municipality: administration of social housing

The Special Investigation Service of Lithuania (SIS) discovered that the activities of the Vilnius city municipality are insufficiently regulated concerning the lists of persons entitled to social housing; the procedure for informing persons about adopted decisions and transfer from one list to another is not comprehensive; there are no criteria established on the basis of which a person is entitled to a concrete housing; the procedure of priority allocation of housing is not comprehensive; the time periods for priority rent of housing have not been set; the control of provision of social housing rent has not been regulated; the procedure for crossing out persons from the list of qualified persons to obtain social housing rent has not been established.

SIS proposed to eliminate the aforementioned shortcomings as corruption risk factors.

Waste management and administrative monitoring of Vilnius Region Environmental Department by the Ministry of Environment

SIS discovered that the legal regulation of the activities of environmental agencies is not sufficient: the powers of monitoring exercised by inspectors are too wide, their actions with regard to inspections of persons or imposition of administrative fines are not adequately controlled; legal acts do not clearly regulate the time period during which mandatory instructions given by inspectors should be implemented.

SIS proposed to eliminate the aforementioned shortcomings as corruption risk factors.

Purchasing hip and knee endoprosthesis by the State Patients' Fund

SIS discovered that individual phases of purchasing hip and knee endoprosthesis are not performed fully transparently; the persons taking part in procurement have an opportunity to protect the interests of individual suppliers of hip and knee endoprostheses.

SIS proposed to develop specifications of joint endoprostheses purchased using the budgetary funds of the Mandatory Health Insurance Fund (MHIF); make a list of potential producers (suppliers) of joint endoprostheses; when drawing up a list of joint endoprostheses purchased with the MHIF funds lay down the qualification and reputation requirements; provide for a personal liability of experts who do not perform their functions properly; make sure that when choosing the means for public procurement of joint endoprostheses from the MHIF, clear and transparent decision-making motives should be established; consider conducting public procurement through the Central Procurement Authority.

Šakiai municipality region: Issuance of construction and other licenses

SIS discovered that the legal acts regulating the operation of the Architecture and Urbanistics Division do not clearly mark the limits of powers exercised by the division, employee functions are not clearly described in their job descriptions; internal rules regulating the operation of the Support Unit of the municipal administration contain corruption prone procedures for issuing licences and permits because according to them an employee of the same division develops the documents for a licensed activity, issues licenses and performs oversight over compliance with rules of the licensed activity; some descriptions of the procedure for issuing licenses by the division are missing.

SIS proposed to eliminate the aforementioned shortcomings as corruption risk factors.

Box 9. Lithuania: Examples of results of corruption risk analysis in 2012 (cont.)

Prisons Department: execution of conditional release

SIS analysed the actions undertaken by the Prisons Department and the bodies subordinate to it in performing the procedure of conditional release from correctional establishments, the procedure for drafting social survey findings, the procedure for employment of convicts and the procedure of assessing behaviour of convicts. SIS discovered that in certain instances there are no transparent and clear assessment criteria to be followed by the Prisons Department and accountable bodies when performing individual stages of procedures and making decisions; in individual cases it is not ensured that the procedures could be performed only by highly qualified and reputable persons.

SIS proposed to eliminate the aforementioned shortcomings as corruption risk factors.

Source: 2012 Performance Report of the Special Investigation Service of the Republic of Lithuania.
http://www.stt.lt/documents/Ataskaita_2012_EN.pdf

In particular, the Ministry of Internal Affairs (MoIA) has its methodology for the management of corruption risks in the ministry's structures. The Anticorruption General Directorate of the MoIA supports the Ministry of Public Finances, the National Agency for Fiscal Administration, the Ministry of Education, the Ministry of Health and the National Administration of Penitentiaries within the Ministry of Justice in implementing uniform methodology for assessing corruption risks for the development of internal integrity plans.

Overall it is not easy to identify indicators of the impact of the risk assessments. One of the reasons is that they are not always expected to cause direct impact. Rather a key purpose of risk assessments is to produce inputs in the elaboration of corruption-prevention or integrity plans (agency-level plans are reviewed in the next chapter). The other reason is that detailed reports on follow-up to the risk assessment are either not available at all or are available only in national languages, which constitutes a barrier for this study. The evidence of certain impact is mostly anecdotal like, for example, the observation of the European Commission concerning Montenegro in 2012 that "the recommendations contained in the risk assessment of areas vulnerable to corruption started to be implemented, in particular in the areas of education, spatial planning and public procurement."⁶⁹

In **Kazakhstan**, the Corruption Risks Analysis and Detection Division of the Agency of Civil Service Affairs and Anti-Corruption analyses causes and conditions that facilitate corruption in the activities of public officials, public bodies and organisations and develops recommendations for the Government, public officials and public bodies. When concrete corruption loopholes are identified, proposals for the elimination of causes and facilitating conditions for corruption crimes are submitted.⁷⁰

In **Latvia**, in addition to risk assessments carried out by all administrative agencies, the Corruption Prevention and Combating Bureau carried out the assessment of corruption risks in law enforcement institutions (the State Border Guard, the State Police and the Customs Board of the State Revenue Service) and published recommendations for the prevention of the risks in 2012.⁷¹

Since 2014, in the **Kyrgyz Republic** assessments of corruption risks and causes are conducted by the Secretariat of the Defence Council (Apparatus of the President). By

January 2015, in 15 of 63 state institutions such assessments have been conducted. In 11 cases plans for eradication of corruption risks in these institutions were developed. A positive moment is also that the implementation of such plans is then monitored independently (through monitoring of the implementation of the Anti-corruption Programme and Action Plan of the Government by the Ministry of Economy of the Kyrgyz Republic).

Box 10. Kazakhstan: Risk analysis in the Ministry of Emergency Situations

In 2008-2014, the Financial Police had detected about 120 crimes committed by employees of the Ministry of Emergency Situations (MES). In most cases, the perpetrators were state fire inspectors who abused their office and asked for bribes during control activities. The Financial Police found that legislation allows inspections on various grounds and promotes a high corruption-proneness of state fire inspectors. Statistical data indicated a growing number of inspections.

The risk analysis has revealed that in the case of scheduling an inspection, results from a previous review - scheduled or unscheduled - are not considered. At sites with a high degree of risk, scheduled inspections of compliance with fire safety requirements are carried out annually. In such sectors as education and health care inspections are carried out repeatedly. The existing procedure leads to unwarranted interference in business sector, as well as additional contacts between the official and entrepreneur increasing the risks of corruption. Such wide possibilities of control show the ineffectiveness of the risk management system in this field. The legal provision banning repeated inspections of enterprises checked previously regarding the same question for the same period do not function in practice.

The requirement of the Law “On the State Control and Supervision” regarding the inspection no more often than once every five years is not implemented properly. In the opinion of the Financial Police the results of the initial inspection conducted upon starting a business should serve as grounds for the denial of additional unscheduled audits of the premises, including on the orders of government agencies, counter-inspections, etc. Upon the receipt of such requests, fire services should refer to the results of the initial inspection.

Based on the above, it was recommended to inform the government about the conditions and causes of corruption in the State Fire Service, as well as propose measures for improvement, in particular:

- legislative regulation of the provision prohibiting the conduct of unscheduled inspections of SMEs, and, when such inspections are applied (in connection with special conditions) to take into account the results of the earlier conclusion;
- introducing an option for SMEs to pass the fire-technical survey in accredited organizations whose findings shall have the same force as the result of an inspection by a fire inspector and exclude the need for the inclusion of the SME in the inspection schedule;
- setting a particular period of the procedure for fire-technical survey by state inspectors and experts from independent organizations without a possibility of an expedited review;
- considering the possibility to abolish the institute of unscheduled inspections.

Source: Abridged from the material provided by Kazakhstan in 2014.

From among OECD countries, an interesting practice is the use of the self-assessment tool *Self-Assessment INTegriteit* or ‘SAINT’ in **the Netherlands**. The tool represents a workshop, which consists of two parts. First, participants “select the most vulnerable processes on the basis of an inventory of the primary and support processes of the assessed organisation. Subsequently, the most significant integrity risks within the selected processes are described”. Then “the existing integrity system of the organisation is assessed on its efficacy and adequacy”. Finally the participants map, which measures of the integrity system “are most suitable to strengthen the defences against the vulnerabilities posed by the most vulnerable processes.”⁷² Based on the results of the workshop, the management of the organization can plan and develop further integrity-strengthening measures. A variety of institutions have used the SAINT methodology such as the National Ombudsman and the Court of Audit.⁷³ The Integrity Office of Amsterdam has created another tool called Integrity Index (*Integriteitindex*), which enables organizations to place themselves on one out of five steps as to where they stand in terms of integrity and identify measures to achieve a higher step.⁷⁴

Even the best risk-assessments methods are not perfect. Thus it has been noted that, while the speed of the SAINT methodology is an advantage, it can also be perceived as superficial and doubts may remain as to whether the identified top risk processes are the right ones.⁷⁵ Regarding the MoIA of **Romania**, the questionnaire notes shortcomings in identifying and describing corruption risks, their causes and effects at the level of the MoIA structures.

It is fair to assume that similar shortcomings are present to a lesser or greater degree also in other countries and their institutions. Over years a number of countries have developed such body of methodologies for risk assessments that finding out how to assess risks should not represent the most difficult challenge. Rather the key challenge may be to ensure that the findings of corruption risk analyses are channelled into the development of follow-up actions to manage the risks.

Chapter 7.

Internal anti-corruption or integrity plans in public institutions

Many of the covered countries have country-wide *legal obligations, political commitments* (for example, in the form of government programs) or at least *officially endorsed methodologies* to develop integrity/ anti-corruption plans of public institutions. In some countries particular areas of the public sector are selected as priorities. For example, the Government of Armenia has defined 4 primary sectors for the implementation of anti-corruption programmes, including education, health care, state revenue collection and the police, with respect to provision of services to citizens. Persons responsible for the development and implementation of strategies and action plans have been designated in the above-mentioned sectors.⁷⁶

Several countries provide *methodological support* for agency-level plans. In 2013, the Ministry of Economy of Kyrgyz Republic adopted methodical recommendations for the elaboration and implementation of agency programs and plans for countering corruption. According to the recommendations goals of a program shall be specific (corresponding to the sphere of implementation of the program), concrete, measurable, achievable, and relevant. The recommendations define the system of management and control of the implementation of a program, steps for the preparation of a program, principal directions of countering corruption (such as the improvement of the human resource (cadre supply) system and control of compliance with restrictions and prohibitions in the state service or engagement of the civil society institutions in the process of countering corruption in state bodies), means for the implementation of a program (such as joint activities, exchange of information and other forms of co-operation with state and local government bodies and other organizations), reporting requirements (including main results achieved, results that were planned but not achieved, analysis of factors that influenced the pace of implementation), etc.⁷⁷

The basic elements of integrity plans are determined in a centralized manner also in other countries. What varies is whether they are established in the law or other government documents. In Slovenia the obligation to develop and adopt integrity plans is established in the Law on Integrity and Prevention of Corruption and covers state bodies, local authorities and other institutions (Paragraph 1, Article 47).⁷⁸ The authorities shall inform the Commission for the Prevention of Corruption about their plans. The law establishes the main elements of the integrity plan: assessment of exposure to corruption of the institution, names of persons responsible for the plan, description of typical work processes and approaches of decision-making with the assessment of exposure to corruption and proposals to enhance integrity, measures to detect, prevent and eliminate risks of corruption in a timely manner (Paragraph 2, Article 47). The Commission has the authority to check the adoption and implementation of the plans. The Commission shall also prepare and publish guidelines for the design of the integrity plans, verification of their functioning and assessment of integrity. In Romania the National Anti-Corruption

Strategy 2012-2015 contains the obligation for each public institution to elaborate its own sectorial anti-corruption plan. According to the questionnaire of Romania the strategy contains the inventory of mandatory preventive measures, associated performance indicators, the standard structure of the action plan and the coordination and monitoring mechanism.

An innovative approach is to use *web-based platforms* for the elaboration of agency-level plans. Such approach is used in Serbia and Montenegro. In **Serbia** public authorities were due to adopt integrity plans by 31 March 2013. While the process was apparently somewhat delayed, the support provided by the Anti-corruption Agency is of interest for this study. The Anti-corruption Agency had developed 69 models of draft integrity plans covering 14 systems and made them available on the Agency's server as an application. An institution can access the application and generate its own plan automatically by answering questions in the draft plan for the system that the institution belongs to.⁷⁹ Also in **Montenegro** a web application has been developed, which supports risk management for the creation of integrity plans. The user has to fill a comprehensive form and insert risks in predefined fields. Adding planned and/or adopted measures to counter risks generates an integrity plan.⁸⁰

Box 11. Slovenia: Implementation of integrity plans

According to the Commission for the Prevention of Corruption the main achievements of the integrity plans are the following:

Raising awareness on the protection of whistleblowers, the conflict of interest, receipt of gifts for public officials, restriction of business activities, integrity plans as such and lobbying – not only in the public sector but also in the general public;

The Commission trained representatives of all public institutions obliged to develop integrity plans to be able to recognize risks for corruption and other unethical practices. All public institutions should now be trained to be able to perform this task;

Public institutions are obliged to submit their integrity plan to the Commission. The Commission is now using the information from those integrity plans to analyse integrity and corruption risks in the public sector and its subsectors;

In the near future, the Commission will establish a national registry of risks for corruption and other unethical practices that will be useful for the Commission's investigations, for auditors, inspectors etc.;

Auditors see the integrity plan as an additional source of information and as a tool for management of risks for corruption and other unethical practices;

The Investigation and Oversight Bureau of the Commission is using the integrity plans of particular public institutions they are investigating as a source of information and as a tool they use to influence such public institution to prevent future reoccurrence of corrupt practices they identified (the Commission may request public institution to assess specific risks).

Source: Questionnaire submitted by the Commission for the Prevention of Corruption

Box 12. Latvia: Management of corruption risks in the Road Traffic Safety Directorate

In Latvia advanced management of corruption risks is not necessarily found in each public agency but a few successful examples exist. The state-owned company “Road Traffic Safety Directorate” (RTSD) carries out the registration and technical supervision of road vehicles, testing of qualification of drivers and issuance of driving licences and provides other services. Between 2004 and 2012, three officials of the RTSD were convicted for corruption. Meanwhile surveys show low presence of corruption in the provision of services of the RTSD. In 2012, out of the respondents who had used the services (registration or technical inspection of vehicles), 92.7% answered that they did not use any private relationships, gifts or unofficial payments. Only 0.8% admitted giving a gift or paying unofficially LVL 5 (approx. EUR 7.11) or more.

The RTSD has adopted an elaborate Corruption Prevention Programme with detailed addenda for specific areas of work – the technical control of vehicles, qualification of drivers, registration of vehicles, the economic activity (procurement, etc.), public relations, cash transactions, and information technologies. The system uses the concept of warning signs. For the area of the technical inspection of vehicles, unrealistically short time between the primary and repeated inspections (when it is apparently insufficient for correcting of the deficiencies found in the primary inspection) or situations when the same individual has the inspection carried out by the same inspector repeatedly are examples of such warning signs. According to the Programme the warning signs shall be detected by analysing the database of technical inspections. The analysis of video recordings shall be used to verify that vehicles entered in the inspections database were in reality subject to the inspection. Repeated inspections of random or specifically selected vehicles are used in order to detect omissions in the primary inspection.

Particular control measures are undertaken based on a wide range of information such as informal communication from employees of the RTSD, signs of unusual activity identified through the analysis of databases of the RTSD, and even discussions of drivers in online forums or advertisements where private persons promise success in settling particular kinds of matters in the RTSD in return for money. A procedure for action is approved for situations when an employee has been offered a bribe.

Sources: Author’s interview with Ivars Rullers, Head of Anticorruption Department of the RTSD, 16 December 2013; Ceļu satiksmes drošības direkcija (2005), Par korupcijas novēršanas programmu. Rīkojums, 06/12/05; Ceļu satiksmes drošības direkcija (2005), CSDD korupcijas novēršanas programmas 1. pielikums CSDD pretkorupcijas programmas pasākumi transportlīdzekļu tehniskās kontroles jomā; Corruption °C (2013), Trial Statistics for Offences Committed in Public Service in Latvia 2004 – 2012. Centre for Public Policy PROVIDUS. <http://corruption-c.wikidot.com/statistics-on-trials-of-corruption-cases>; Latvijas fakti un Korupcijas novēršanas un apkarošanas birojs (2012), Attieksme pret korupciju Latvijā; http://www.knab.lv/uploads/free/attieksme_pret_korupciju_2012.pdf

Among the challenges related to the integrity plans is the proclivity of agencies to neglect the plans after they are adopted. According to the questionnaire of **Slovenia** challenges related to the integrity plans include, among other things, the perception of the majority of public institutions of the integrity plans as a bureaucratic administrative burden as well as the lack of familiarity of public institution employees with the content of the integrity plan.

The European Commission claimed in its 2013 Progress Report on Serbia that “half of the public authorities obliged to draft Integrity Plans did not fulfil their obligations

without any statutory sanctions being provided".⁸¹ According to Serbia's own report on the implementation of the national anti-corruption strategy and action plan for the year 2012, of the 237 institutions within the judicial system, 179 (75%) institutions had notified the Anti-corruption Agency "that they had formed working groups to design the integrity plans and 13 reported that they had adopted their integrity plans."⁸² Most likely Serbia is not the only country where a significant implementation gap has been found between the requirement to develop plans and compliance by public agencies.

The questionnaire answers submitted by the Anticorruption General Directorate of the Ministry of Internal Affairs of **Romania** also mention several shortcomings related to plans/ measures to counter corruption risks:

Insufficient coordination between the content of the Risks Registries and the Plans for preventive measures, which affects the efficiency of prevention measures;

Planning control/prevention measures on corruption risks which are not adequate to the concrete/specific circumstances encountered within current activities of MoIA structures.

More widely speaking, an opposition against strict internal control requirements focusing on, among other things, corruption can be a challenge. The Corruption Prevention and Combating Bureau of **Latvia** (KNAB) has elaborated extensive methodological support for public bodies such as guidelines for the development of an agency's anti-corruption action plan⁸³, standards of internal control in the context of organizational anti-corruption measures⁸⁴, and methodology for assessing the ratio between an employee's income and debt liabilities that would warrant qualifying the person in the risk group.⁸⁵ However, the legal grounds for public agencies to introduce such measures are relatively weak – the general logic of internal control as stipulated in the Internal Audit Law (without explicit mention of corruption) and anti-corruption policy planning documents approved by the government. KNAB drafted amendments to the regulation on the internal control system of public administration bodies that would set legally binding requirements regarding corruption risk detection, analysis and prevention as well as set minimum control measures to prevent corruption and conflicts of interest. However, the draft met opposition and was withdrawn in 2013 even before reaching the government agenda.⁸⁶ The proposal of KNAB went in line with an observation mentioned by **Slovenia** that the integrity plan – specifically its part with the registry of risks – would have to be connected to other risk management tools and integrated with them.

Chapter 8.

Measuring, assessing and monitoring implementation of anti-corruption measures

Different countries use different approaches to the monitoring of the implementation of anti-corruption measures. In terms of *the organisation of monitoring*, typically the responsibility for monitoring is shared between some central body, which gathers data on implementation, and all of the agents who are involved in the implementation and provide the data. Sometimes such central body also elaborates methodology for the monitoring. For example, according to the submitted questionnaire **Croatia** has established a complex institutional structure for the monitoring of anti-corruption measures – the Committee for the Monitoring of the Implementation of Anti-corruption measures (presided by the Minister of Justice) and the National Council for Monitoring of the Implementation of the Anti-corruption Strategy (body of the parliament). Implementers of anti-corruption measures report regularly to the Minister of Justice. Another example of a mixed (centralized/ decentralized) approach is found in **Lithuania** where state and municipal institutions shall regularly measure the efficiency of the anti-corruption activities they conduct (for example, assess the quality and efficiency of measures provided for in the plans of measures for the implementation of the anti-corruption programs approved by their internal legal acts). On the central level, the Special Investigation Service regularly assesses how state and municipal institutions implement anti-corruption measures and provides proposals concerning their improvement. The SIS analyses the efficiency of anti-corruption activities conducted by state and municipal institutions (for example, anti-corruption reports made by the departments of these institutions, etc.) and regularly provides methodical assistance for the staff of state and municipal institutions performing the functions in the area of corruption prevention.

Box 13. Romania: Integrity in public institutions - independent evaluations

An innovative approach is found in Romania, where a mechanism of thematic evaluation missions or peer reviews on integrity in public institutions is in place. Expert teams are formed, including civil society and business partners. The teams then carry out evaluation visits in particular institutions and assess integrity in them. According to the questionnaire, 38 such evaluation missions took place in 2013 in the central public administration and local authorities.

Moreover, the Romanian government reported another good practice: periodical evaluation of “institutional responsiveness” assessing improvements in public institutions where cases of violating integrity rules or corruption were detected by law enforcement of control bodies. Within three months since such “integrity incident”, the respective institution has to present the adopted measures for addressing the factors, which favored the commission of the violation.

Source: Questionnaire submitted by the National Anticorruption Directorate, Romania.

Some countries use a strictly structured approach to the monitoring of the implementation of anti-corruption measures. For example, in **Serbia** monitoring of the implementation of the anti-corruption strategy and action plan shall be based on quarterly reports that comprise:

Information on activities implemented in accordance with and in time set in the action plan, activities not implemented in accordance with and in time set in the action plan, and activities not implemented, for which the implementation deadline has not yet come;

Short description of all measures taken in relation to a particular activity, for example, a decision to form a working group for drafting of a new piece of legislation or hiring of a consultant, information on new legislative acts or amendments with an explanation how they will further the particular measure;

Evidence of the implemented activity in accordance with the indicator and remark in the action plan, for example, a report on performed analysis. All evidence may be provided in an electronic format, for example, as scanned documents or internet links;

Brief explanation when an activity has not been implemented at all or not in due time, for example, the lack of resources or disagreements within a working group. It is recommended to support such explanations with evidence.

As an optional part, recommendations for further activities and changes in the Action Plan.⁸⁷

Box 14. FYROM: Monitoring implementation of the State Anti-Corruption Programme

In 2011 the State Commission for the Prevention of Corruption (SCPC) adopted the third state anti-corruption programme with action plan for the period 2011-2015. The SCPC is also in charge of monitoring the implementation of the planned activities.

The Action Plan includes 156 specific activities and designates responsible institutions in charge of their implementation. Each activity has been assigned activity indicators, prioritization, effectiveness indicators and a time frame for its implementation. All institutions have appointed focal persons to provide data to the SCPC. The SCPC monitors the implementation of the activities through a web-based application for electronic (on-line) entry and submission of data on the status of realization. Considering that approx. 100 entities are obliged to report on the implementation, this on-line tool was developed in order to avoid lengthy procedures of requesting and receiving information on the implementation of activities and meeting indicators of the action plan. This system allows efficient collection and automatic processing of the data and analysis of the implementation.

In order to ensure easy and efficient use of the web-application, the SCPC has held several trainings for focal points and published guidance (http://www.dksk.org.mk/images//upatsvoinstitucijabooklet_dp.pdf) on using the application for on-line submission of the information.

The SCPC collects data twice a year (in May and November). Based on that, the SCPC produces an internal interim report and an annual report each year. Annual reports are presented to the public and to the competent institutions at annual conferences on the assessment of the implementation of the state programme.

Source: material provided by the FYROM.

A step yet further in streamlining monitoring is the development of special online tools. For example, in FYROM, the State Commission for the Prevention of Corruption (SCPC) uses a web-based application for collecting reports on the implementation of activities of the action plan of the state anti-corruption program Action Plan. According to the SCPC this system ensures efficient collection of data, processing and analysis of the implementation of the activities.

Along with the organization aspect of measuring achievement, the choice of appropriate *indicators* is crucial. Typically anti-corruption policy planning documents are designed at least partly as tables with appropriate indicators. These may be indicators of outputs (direct actions as such) and outcomes (substantial impact of the actions). For example, according to the questionnaire, in Lithuania, the National Anti-Corruption Programme (NACP) is the main interinstitutional action plan and anti-corruption programmes adopted by other institutions must be oriented towards the objectives and goals specified in the NACP. The measures should attain tangible and measurable results and the NACP specifies criteria of the results (for example, increase of confidence in state institutions, quick provision of public services, simplification of the procedures for issuing licences and other administrative requirements laid down in legal acts, public involvement in the law-making process, etc.).

Table 2. Moldova: Indicators of achievements in the National Anti-Corruption Strategy

Objectives and general tasks	Expectations	Indicators of achievement (organization)	Indicator at the starting point of the implementation of the Strategy	Expected indicator at the end of the implementation of the Strategy	Achievements	Range of values of the indicator	
			units/year	units/ year		Units	%
Objective (ultimate expectations)	Reduction of the level of corruption in the public and private sectors	TI Corruption Perceptions Index	2,9/(2010)	4,0/(2015)	1,1	11,0	0÷10
		Heritage Foundation Index of Economic Freedom	55,7/(2011)	62,0/(2015)	6,3	6,3	0÷100
		Presumed amount of bribes paid by households and entrepreneurs (source: TI-Moldova)	894 mio leu (2008-2009)	570 mio leu (2015)	324 mio leu	36,2	-
General tasks (intermediary expectations)	Transformation of corruption from a profitable and low-risk activity to an unprofitable and extremely risky activity	Worldwide Governance Indicators; "Control of corruption"	-0,74/(2009)	-0,24/(2015)	0,5	10,0	-2,5÷2,5
		Indicator "Regulatory quality" (WGI)	-0,15/(2009)	0,15/(2015)	0,3	6,0	-2,5÷2,5
	Contribution to the creation of the climate of zero tolerance toward corruption	Share of persons who have paid a bribe in the last 12 months (GCB-TI)	28% (2009)	18% (2015)	10	10,0	0÷100
		Share of households (HH) and entrepreneurs (E) likely to give a bribe (source: TI-Moldova)	64,3% – HH 76,5% – E (2008–2009)	50% – HH 45% – E (2015)	14,3 31,5	14,3 31,5	0÷100

The self-assessment report of the Ministry of Internal Affairs of **Romania** provides such data as the number of anti-corruption information/ training sessions, the number of MoIA officers who notified the Anticorruption General Directorate on attempted bribery or denounced corrupt officers, the number of positive and negative results in the integrity testing of employees of the MoIA, training events related to the management of corruption risks, statistical data on criminal investigations, etc. The document contains conclusions about the existing situation as well as measures for increasing efficiency.⁸⁸ An example of a rather outcome-focused approach (mostly using international indicators) from **Moldova** is presented in table 2.

Montenegro is another example of quite a thorough monitoring. Since 2011, the National Commission publishes reports on the implementation of the anti-corruption policy two or three times per year.⁸⁹ The reports feature a combination of different types of data and assessment. First, quantitative data on numbers and percentages of implemented, continuously implemented, partially implemented and not implemented measures defined in the Action plan for the implementation of the Strategy for the Fight against Corruption and Organized Crime. Second, an extensive table provides a detailed overview of the actual state of implementation of each of the measures. Third, there is also some qualitative assessment of the implementation or non-implementation of the measures. For example, concerning free access to information the assessment runs as follows:

***OBJECTIVE 17:** Effective supervision of the implementation of regulations on free access to information is provided; **Measure 41:** Regular informing of public on the implementation of the Law on Free Access to Information. **Deadline:** II Q 2013 - IV Q 2014; **Assessment:** Implemented. Two quarterly reports on the implementation of the Law were developed and one was published. Number of requests received is 421. The total number of decisions in the first instance is 402. Number of resolved requests is 402, while 104 requests were not resolved within the statutory prescribed period. The total number of submitted appeals to the Agency is 208. Conclusion suspended 36 cases. In 154 cases appeals were fully adopted, in 4 cases appeals were partially adopted, while in 14 cases appeals were rejected. Eight complaints were submitted to the Administrative Court against the decision of the Council of the Agency. During the reporting period, no decisions of the Council of the Agency were cancelled, for the proceedings are pending before the Administrative Court. **Measure 42:** Perform inspection control in accordance with the Law on Free Access to Information; **Deadline:** II Q 2013 - IV Q 2014; **Assessment:** Not implemented. Due to the lack of administrative capacity, during the reporting period no inspection controls were performed, no minor offense charges were filed because no violation of the Law on Free Access to Information was determined in the second instance. The Agency has not imposed any administrative measures. In three cases the Agency addressed the Ministry of Interior – Directorate for Inspection Control to perform control on whether the first-instance bodies are in possession of the requested information.”⁹⁰*

Fourth, the report contains an annex with case analysis in the field of corruption and organised crime containing data on cases received by the Supreme Public Prosecutor's Office broken down by articles of the Criminal Code and type of perpetrator, data (including value) on seized properties in the result of financial investigations in the fields of corruption and organized crime, data on resolved and unresolved cases with indictments, non-final and final court judgments.

Box 15. Georgia: Monitoring and evaluation methodology

In 2015, the Anti-Corruption Council (ACC) of Georgia along with the new Anti-Corruption Strategy and Action Plan (2015-2016) as well as a new Monitoring and Evaluation Methodology, which enables permanent tracking of the status of implementation of measures, comprehensive assessment of the quality of implementation, evaluation of impact and identification of any existing gaps and challenges, as well as necessary budgetary, human or other resources to implement the envisaged measures.

The Methodology was developed by the Secretariat of ACC as a result of a participatory process in the format of the Expert Level Working Group of the ACC with the involvement of civil society, businesses and academia. The Methodology includes both monitoring and evaluation components and consists of three elements:

a) **Tracking Progress with the Monitoring Tool Biannually** – the Monitoring Tool allows constant tracking of the progress of implementation through a participatory process within the framework of the Expert Level Working Group of ACC, stimulating the action by the implementing agencies and making them accountable to deliver the results on time. The tool enables to see how much the specific action has progressed and what are the challenges in the process of implementation. The implementing agencies fill out the tool and submit it to the Secretariat biannually indicating under each activity: (a) what has been done to implement it (b) what are the challenges and needs at hand; (c) what is the status of implementation, and (d) what is the quality of implementation or the rating of assessment. The filled out tool is sent to the Civil Society members of the Expert Level Working Group for their assessment to be reflected in the respective section of the tool. Based on the collected information and the discussion at the working group session, the final assessment is prepared by the Secretariat.

The tool enables tracking the **status of implementation** of a measure by looking at the following criteria: (a) implementation has not started; (b) is underway; (c) was suspended; (d) was terminated; (e) was completed; as well as the assessment of the **level of implementation** using the following ratings: (a) fully implemented; (b) largely implemented; (c) partially implemented and (d) not implemented.

b) **Monitoring the Results through the Progress Reports Annually** – compiled by the Secretariat, based on the narrative submissions of the responsible agencies and the monitoring tool. It describes the measures carried out, status as well as ratings of the implementation through the same participatory process as described above. Annual reports are submitted for adoption to the ACC, presented to the Government of Georgia and made public.

c) **Evaluating Impact through Evaluation Report at the End of the Planning Cycle** – an analytical document produced by the Secretariat as a result of the participatory process (including civil society inputs, round table discussion and ratings) at the end of the planning cycle (every 2 years) containing the comprehensive assessment of Action Plan's implementation and the impact the anti-corruption policy had on the anti-corruption outlook of the country as well as critical analysis of existing challenges and needs for future action. The result-oriented indicators of the Action Plan are used in evaluation. Sources of the Evaluation Report include the assessments and ratings of international organizations, NGO reports and other relevant available material; in addition procedure involves the visits and interviews in the relevant implementing agencies. Annual Reports are submitted for adoption to the ACC, presented to the Government of Georgia and made public.

Source: information provided by Georgia in February 2015.

A noteworthy example of **external monitoring** is the annual assessment of the quality of services of the tax authorities of **Kazakhstan** carried out by the Association of

Taxpayers of Kazakhstan and the Research Centre Sange.⁹¹ According to the Research Centre Sange, “as a result of wide public discussions, the quality of services increased while the level of corruption decreased from 5% in 2008 to 1% in 2013.” Kazakhstan is not the only country where NGOs monitor the implementation of anti-corruption measures. For example, the Freedom of Information Centre of Armenia conducted a survey of access to information in state governance bodies, regional administrations, municipalities and organizations of public importance in 2011. The main method was sending of information requests and analysis of responses.⁹² In Azerbaijan, Transparency Azerbaijan and the Research Foundation “Constitution” carried out the monitoring of the implementation of the National Anti-Corruption Action Plan 2012-2015.⁹³ Monitoring carried out by Transparency International in Georgia has produced relevant findings such as evidence regarding preferential treatment (non-competitive government contracts, public tenders tailored to specific suppliers, tax write-offs, etc.) of companies with connection to public officials.⁹⁴

An interesting example of monitoring/ assessment approaches among OECD countries is the integrity assessment of public organizations in Korea. The model was designed first in 1999 and revamped several times afterwards. Particular objectives of the assessment are to:

- Identify corruption-prone areas in the public sector and root causes of corruption;
- Understand trends in corruption levels of public organizations;
- Encourage public institutions to engage in voluntary anti-corruption efforts;
- Provide basic data for devising government-wide anti-corruption strategies.

At the core of the assessment are surveys of public service users, public officials as internal customers and policy customers, for example, policy experts. The Anti-Corruption and Civil Rights Commission collects basic data for the assessment (lists of target institutions and stakeholders), manages the assessment, analyses and discloses the assessment results. The assessment covers corruption-prone work areas among major services provided to the public and organizations. A professional research organization carries out the surveys where respondents are asked to share their personal perceptions of corruption and actual experiences with corrupt practices (offering of money, gifts, entertainment or favours). The assessments produce voluminous data (662 central government agencies, local governments, offices of education and public service-related organizations were assessed in 2012). One of the results is indicators of integrity, which prompt public organization to compete and undertake anti-corruption measures voluntarily in order to increase their integrity levels.⁹⁵

To conclude, the impact of various anti-corruption measures remains a matter of dispute. Governments often present outputs of anti-corruption policies while outcomes remain ambiguous. It is obvious that designing of a monitoring mechanism involves a number of tradeoffs. The readily available data such as international indices may be not the most accurate measures for the success of particular anti-corruption activities. Setting of more precise indicators of achievement require more effort in gathering the relevant data. Not all countries will find it affordable to carry out comprehensive integrity assessments like in Korea and manage expert teams for the evaluation like in Romania. However, it is fair to say that no long-term anti-corruption policy can be adequately focused without at least a few relevant indicators of outcomes. The registration of the mere fact of some action taken (output) is not enough to demonstrate that an impact is achieved.

Chapter 9.

Effective and innovative engagement of civil society organizations

Two of the most typical arrangements with the civil-society representatives include *deliberations on draft policy planning documents and legal acts* (for example, in Albania, Armenia, Azerbaijan, Georgia, Croatia, Latvia, FYROM, Moldova, Montenegro, Romania) as well as their involvement in *consultative and/or monitoring bodies* (for example, in Armenia, Azerbaijan, Georgia, Kazakhstan, Latvia, Moldova, Montenegro). Such institutionalized forms of involvement have a number of advantages, no least in that they provide a certain “guaranteed” avenue for inputs from the civil society. However, their effectiveness with regard to the actual anti-corruption efforts is likely to depend, in large degree, on the actual nature of relationship between the authorities and NGOs in any particular country with or without formal arrangements.

A less common but, on the face of it, effective engagement is an *institutionalized involvement to ensure independent monitoring and assessment* of the anti-corruption activities of public agencies, particularly in countries where the civil society possesses necessary expertise. In **Romania**, civil society representatives are involved in thematic evaluation missions in public institutions and participate in peer-review expert teams. In **Kyrgyz Republic**, according the questionnaire answers the Anti-corruption Forum (Space) of state bodies and civil society institutions holds regular meetings where issues of countering corruption in particular state bodies are reviewed. Civil society institutions carry out analysis of corruption schemes and risks in the particular body. Representatives of the state body, in turn, prepare information about measures to prevent corruption. In Forum meetings, the head of the state body presents information on the particular question. Afterwards representatives of the civil society present their analysis. Eventually a resolution is adopted, which is sent to the parliament, apparatus of the President and the Government, and the Council of Defence. Based on the resolution, the state body carries out measures to implement decisions of the Forum and the results are reviewed in a further meeting of the Forum. In 2013, the Forum reviewed corruption schemes and risks in the energy sector, public procurement, distribution and transformation of land.

Even without the creation of formal procedures from the side of the state, NGOs are in a good position to monitor actions of the authorities. One example of this kind is a working group, which was set up by the Initiative for a Clean Justice in **Romania**. The tasks of the working group include monitoring and informing the public about the quality of acts of justice and reforms in the area of justice as well as assessment of government decisions concerning the justice sector.⁹⁶

The **Romanian** case shows also possibilities to draw upon *expertise of non-governmental actors* in addition to monitoring and assessment as seen, for example, in the involvement of the Romanian Academic Society in a project to increase the capacity of the judiciary in the area of asset/interest disclosure and tackling of unjustified wealth.

Another project in partnership with the Romanian Academic Society in 2009-2011 aimed to increase the capacity of the National Integrity Agency. Within the project two guidelines were developed and published (on incompatibilities and conflicts of interest and on filling of assets and interests disclosures).

Box 16. Bulgaria, Latvia: Civil society monitoring of candidates for public posts

Monitoring of candidates for public posts is another way in which NGOs play a significant preventive role. The EU Anti-corruption Report noted as an example of good practice the Transparent Judicial Appointments Initiative by the **Bulgarian** Institute for Legal Initiatives. The methodological approach of the initiative consists of three stages: (1) Gathering of open-source information about candidates for judicial positions, its presentation in the form of detailed, standardized profiles, which are then discussed with the magistrates; (2) publication of the profile on the official website of the Initiative; (3) promotion of public debates. The profiles contain information from public organs such as registers, declarations, decisions, other documents and data as well as an auxiliary source – information from respected media, whose content can be verified. The persons whose profiles are prepared may also themselves add information. The project appears to be an apt tool to promote the public scrutiny of judicial appointments and the weight of merits and integrity in nominations.

The **Latvian** chapter of *Transparency International* publishes an online database of election candidates where open source information is compiled concerning corruption cases, other crime, conflicts of interest, engagements in acts of bad governance or breaches of ethics (www.kandidatiuzdelnas.lv). Depending on the gravity of the problems, existence of court sentences or prosecutions, one-off or repeated character, impact on the broader society and other factors, candidates may be assigned one of the marks – dangerous, high risk, medium risk, low risk and information for consideration.

Sources: The European Commission (2014), Annex Bulgaria to the EU Anti-Corruption Report, p. 10. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_bulgaria_chapter_en.pdf; Български институт за правни инициативи (2013), Инициатива за прозрачни съдебни назначения. <http://judicialprofiles.bg/pages/Методология/> Sabiedrība par atklātību – Delna (2014), *Kandidāti uz delnas.lv*. <http://www.kandidatiuzdelnas.lv/lv>

In addition to the participation of typical civil society organizations, there are efforts to **engage commercial business actors** in anti-corruption activities. An example of innovation in this regard is the business-labelling initiative Clear Wave reported in the questionnaire of **Lithuania**. The main objective of the initiative is to encourage transparent business practice. Companies involved in this project commit themselves to operate in a responsible and transparent manner and encourage their business partners to:

- participate in public procurement tenders transparently and fairly – without corruption and resorting to illegal financial and non-financial measures to gain advantage against other participants;
- comply with laws and pay fees and taxes honestly;
- maintain transparent accountability and payment to their employees.

Also the questionnaire by the **Slovenian** Commission for the Prevention of Corruption reports a non-governmental initiative to promote honest business as a factor of growth for companies – ETHOS initiative within the framework of the UN Global Compact. The activities of the initiative featured the Declaration of Fair Business with an

invitation for companies to sign it and conduct business according to its principles as well as seminars and roundtables.

In Armenia, in 2014, the Commission on Ethics of High-Ranking Officials has initiated a capacity building training for a group of about 15 civil society representatives. The aim was to empower them to **monitor and analyse asset declarations of high-ranking officials** that are published. The training intends to transfer skills and knowledge of detecting hidden income, suspicious records, false data and elements of illicit enrichment in the asset declarations of high-ranking officials based on the practical handbook on asset declaration analysis elaborated by the Council of Europe experts. The Armenian government claims that the project is an important step towards building partnership with civil society, increasing watchdog and monitoring capacities of it and most importantly increasing corruption control in the country.

In Georgia, civil society is **involved in legislative and policy reforms**. Civil society participated in drafting of the Anti-Corruption Action Plan for 2014-2016. Along with the state institutions, business sector and international organizations, civil society organisations participated in thematic working groups created by the Anti-Corruption Council in 2013. Each of them was chaired by representatives from state and non-governmental sector. In 2012, civil society in Georgia was actively involved in reforms in freedom of information area, drafting recommendations to the government about the Freedom of Information Act and, in 2015, in the development of the Civil Service Reform Concept.

Despite a great number of successful projects, the engagement of civil society actors in the prevention of corruption meets considerable challenges. Particular difficulties vary strongly from country to country and are related sometimes to the relations between the authorities and NGOs, sometimes to the state of the civil society itself or to both. A common complaint from NGOs concerns a formalistic approach to the implementation of measures to engage civil-society organizations⁹⁷ (for example, proposals by NGOs might be listened to but not seriously considered for adoption even when they are of high quality and adequate to the situation). In situations when there is an institutionalized framework of cooperation with a limited number of possible participants, a division between the included and excluded actors appears and so do doubts about the legitimacy and clarity of criteria for selection. Barriers for access to public information represent another challenge in some countries.

Other difficulties may relate to the nature of the civil society itself in the particular country, for example, the lack of bottom-up/ grassroots involvement in anti-corruption NGOs, weak resources of NGOs in terms of funding and qualified expertise as well as short-term focus on particular issues because of the project-by-project type of work.

Chapter 10.

Anti-corruption and ethics training and education

Virtually all of the countries, which submitted questionnaires, provide or have provided some anti-corruption training for their civil servants. The effectiveness of training and the achievement of training goals cannot be evaluated with the help of remote desk research. Therefore this chapter is limited to brief description of some of the examples from the region.

Training opportunities may be provided *permanently* or on an *ad-hoc basis* to selected groups of civil servants (newly recruited, senior-level, working in particular agencies, for example, the law enforcement) or the civil service employees in general. For example, the questionnaire by the Prosecutor General's Office of **Kyrgyz Republic** describes training seminars provided by the Ministry of Economy for the authorized anti-corruption personnel of state bodies (as well as for business and civil society representatives). Seminars have been provided also to regional bodies of the state administration and bodies of local governments.

Another example of a specifically *targeted program* is the training programme “Education of Ethics Commissioners” provided by the Ministry of Public Administration and the National School of Public Administration of **Croatia** since 2009. The programme is obligatory for all ethics commissioners nominated in state administration bodies, and it has been conducted on a regular basis 3-4 times a year (by the end of 2013, 190 participants had attended the workshop). The training is envisaged as an interactive workshop, with two thematic objectives: (1) ethics and morality issues in relation to the Civil Servants Code of Ethics as well as the suppression of corruption; and (2) rules of conduct and conflict of interest as laid down in the Civil Servants Act. According to the questionnaire the aims of the training are to:

- familiarize participants with main issues of ethics, morality and corruption;
- provide basic knowledge on how to perform the enquiry procedure regarding complaints on un-ethical behaviour of public servants, based on practical examples;
- familiarize participants with the rules of conduct as laid down in the Civil Servants Act and the procedures in case of breach of the official duty;
- acquaint with the conflict of interest rules and procedures as laid down in the Civil Servants Act.

Among the many training activities carried out in the last years in **Romania**, an example of specifically-targeted training is 20 seminars organized in 2010-2011 for civil servants and magistrates within the Wealth Investigation Commissions on the implementation of legal provisions concerning wealth statements and declarations of

interests. Some of the major target groups of the training activities of the **Serbian** Anti-corruption Agency in 2012 were local self-government members of work groups in charge of integrity-plan development (on the process of adopting the integrity plans) and persons dealing with human resource issues at the level of the local self-government (on individual and institutional integrity and ethics). The planning of training efforts reflected the need to serve various cities and municipalities rather than just the capital. The questionnaire of **Azerbaijan** mentions regular joint trainings for the personnel of internal audit units and the Anti-Corruption Department of the Public Prosecutor's Office.

A target group of special relevance is trainers themselves who later spread the acquired knowledge and skills. The Commission on Ethics of High-Ranking Officials of **Armenia** designed training and trained some twelve trainers in 2014 with the intention to institutionalize ethics education for public servants and high-ranking officials. The trainers were selected from all the branches of state authority – judiciary, legislative and executive – as well as from academic institutions affiliated with state institutions (the Public Administration Academy and the Judicial Academy of Armenia) to contribute and invest in the institutionalization of ethics education. The methodology was based on interactive discussions of ethical issues and case studies including those elaborated by the training participants. The approach focused not only on the knowledge transfer but also on behavioural change of training participants.

Several countries such as **Kazakhstan**, **Kyrgyz Republic**, **Moldova** and **Uzbekistan** report that anti-corruption training is incorporated into *curricula of professional development* (often referred to as the qualification raising). Within such approach, anti-corruption and ethics issues are often just one of the many available subjects of training. In **Estonia** materials, including video materials, are being prepared for school teachers to include corruption topic in the lessons.

Training also has a major potential of development in the online environment, among other things, in the form of *massive open online courses* (MOOC). An example of this kind is the online courses on the social consequences of corruption, corruption in business and corruption in public administration launched by the Central Anticorruption Bureau of **Poland** on a dedicated e-learning internet platform in Polish and English languages.⁹⁸

It has been proven in different places that well-designed ethics training improves the competence of trainees considerably. In the past, **the United States** Office of Government Ethics (OGE) carried out a survey and “found that employees who had received ethics training were more aware of the ethics requirements and more apt to seek guidance when questions arose.”⁹⁹ Training also tends to increase the activity of employees in seeking advice on ethics-related matters. The OGE also found that more training should focus on heads of agencies because employees judged the ethics environment in their workplaces largely by the conduct of their supervisors and leadership.

Still change in the general level of knowledge and behaviour can be hard to achieve. In **Estonia**, despite continuous, extensive and well-elaborated training efforts, the proportions of civil servants who have relied on the Public Service Code of Ethics in their work and those who have not read it has remained rigidly stable between 2005 and 2013 (ranging between 15-16 per cent for the first category and 23-26 per cent – for the second).¹⁰⁰ This could happen, for example, when such organizations decide to send their employees to training which have already ensured a reasonable level of awareness of the code.

Box 17. Estonia: Public service ethics training

In Estonia, the preference to attend the training programme on public service has been given to officials who are responsible for developing measures on anti-corruption at the organisational level, or who are faced with situations involving ethical dilemmas or corruption more frequently – namely inspectors, heads of departments, accountants, personnel officials, etc. As a considerable part of learning takes place through a discussion of real-life cases, the suggested group size is 20 participants.

The aim of the training programme is to raise the competence of officials to recognise ethical problems in practical life and to make ethically reasoned decisions. The focus is not so much on requirements included in the regulations but on the essence of public service values and officials' competence to recognise and analyse ethically problematic situations. Those situations are often out of the scope of laws or are only partially regulated – e.g. using frequent flyer bonus points that have been earned via work-related meetings abroad, accepting gifts etc.

Topics covered in the introductory module on public service ethics are as follows:

- Public service ethics and values; private vs. public roles of the civil servant; politics vs. public service ethics; discretion as a source of ethical dilemmas;
- Ethics and corruption, including role of laws, value declarations, codes of ethics, codes of conduct, and integrity-based vs. compliance-based approach;
- Development of ethical competence, including the model on ethical decision-making and discussion of the case studies;
- Values in public service organisations, including the development of a value-based organizational culture.

The second module of the programme covers the most frequent ethics-related cases in the Estonian public service. As participants will have obtained an overview of the model for analysing ethical situations during the first module, the second module focuses on applying this model into practice. Participants in the training may also send their cases to the trainer in advance.

The participation in the training programmes on public service ethics is voluntary. Despite this, the demand and interest in attending the programme has constantly been very high. Between 2005 and 2011, 758 state and local government officials and 129 employees of other public sector target groups have passed central training programmes on ethics. The proportion of participation has been the highest in terms of boards and inspectorates (47% of all participants in 2010-2011) and local government agencies (28%).

Three main pillars have substantially contributed to the productive training programmes: (1) political commitment, (2) focus on value-based reasoning (instead of introducing regulations) and (3) the competence of ethics trainers to actively involve participants and moderate discussions.

The value-based approach of the training does not assume that all participants reach consensus regarding the cases under discussion. Ethical dilemmas often have contextual nuances and one seemingly similar situation may have several possible solutions. Instead of finding one right solution, the aim of the training has been to develop the competence to recognize ethically problematic situations and to systematically analyse them based on public service values. Although it is difficult to make conclusions about real impact of training programmes on values and attitudes, the survey conducted among officials in 2009 showed that the officials who had passed training courses on public service ethics are more critical towards ethically questionable activities compared to those officials who had not attended any such kind of courses.

Source: Abridged from: OECD (2013), *Ethics Training for Public Officials*, Chapter 3.2, pp. 34-39.
<http://www.oecd.org/corruption/acn/library/EthicsTrainingforPublicOfficialsBrochureEN.pdf>

Another challenge is participation of public officials due to purely formal reasons (for example, to satisfy a legal requirement for a certain amount of training). This issue has been described in a material provided by **Serbia**:

"The training system for public sector representatives is such as to keep taking up the issue of their motivation, interest, and the practical value of knowledge and information obtained in this way. For the most part, the obligation of civil servants to pursue professional specialization has remained at the level of a legal formality, seeing as a considerable number of public sector representatives undergoes training reluctantly, for "instrumental" reasons. In other words, this makes it easier to comply with the rules determined by the regulation, which might prove useful later on, if an advancement opportunity comes along, which in fact would not be the result of performance, but of a mere passing of the official number of years required by law in order to obtain a higher rank or salary category. At the same time, there are a number of civil servants who understand the importance of professional specialization, and who constantly pursue it through training. The current system does not favor such individuals, nor does it reward them for being prepared to apply the newly acquired knowledge and skills in their working environment. In the best case scenario, the fact that certain public officials attend some trainings may be considered a sign of their opportunism, that is to say, of the awareness that this might be a shortcut to get information on what needs to be done so as to formally implement certain legislative provisions, but not to understand the essence of the phenomenon which that legislative provision seeks to regulate."

To conclude, effective training is contingent not only on the quality and access to the training activities per se but also largely on the environment in which civil servants work. If the work environment encourages civil servants to use new knowledge and appreciates civil servants who continuously improve their skills, the demand for quality training is likely to raise as well as the training will produce better outcomes.

Chapter 11.

Awareness raising campaigns

A number of the countries that responded to the questionnaire in 2014 have carried out major public awareness/ educational anti-corruption campaigns. One type of awareness-raising activities is ***advertising campaigns***.

An apparently effective integrated public awareness-raising campaign took place in **Serbia** in 2013, using print, electronic media and social networks. This campaign was commissioned by the Anti-corruption Agency. It lasted four weeks and targeted three groups – first of all the citizens and the entire society of Serbia, then the state and local administration representatives and eventually also the business sector, employees of NGOs and media. The campaign used a variety of communication tools – a radio spot, a TV spot, micro website, info phone line, internet banners, daily newspaper inserts, posters, a major national conference, etc. It was supported by strong messages, which emphasized the damage inflicted by corruption expressed in quantitative terms as supporting facts.



The campaign ensured presence on *Facebook* and *Twitter* achieving an increase of the number of “likes” for the *Facebook* page of the Anti-corruption Agency from 1305 at the beginning of the campaign to 3165 at its end and of followers in *Twitter* from 1299 to 1420. Both figures continued growing after the end of the campaign.¹⁰¹ Major PR campaigns for the awareness raising and public education have been reported also in questionnaires by **Albania, Kyrgyz Republic, Lithuania, Montenegro, Romania, and Uzbekistan**.

The questionnaire by the Secretary of the Anti-corruption Council, the Ministry of Justice of **Georgia** reports a more specific campaign in terms of the use of communication tools. Large-scale *public consultations* have been launched by the Secretariat in cooperation with the civil society in the framework of the Open Government Partnership (OGP) initiative. The purpose of the campaign is to raise awareness of the public about open, transparent, accountable and participatory government, incentivise the public to use the existing tools for participation in the work of the government, encourage to contribute with ideas and voice to the development of the transparency, openness and accountability agenda of the Government, which would be enshrined in the Open Government and Anti-Corruption action plans.

The plan of public consultation has been put on the website. At the same time, in order to contribute to the development of the OGP Action Plan, a space for online consultations was created where citizens are asked to reach to the Secretariat with their ideas about what is necessary to make the Government of Georgia more open, transparent and accountable to its citizens.

Public consultations were held in 15 cities of Georgia with the support of USAID Civic Engagement Centers and Community Centers of the Public Service Development Agency. Up to 700 people participated in 19 meetings conducted across the country. Target groups for the public consultations included: representatives of local government, media, NGOs, political parties, librarians, students, teachers and professors. Five universities were involved in the consultations. Local media contributed to the processes as well, they were not only involved in consultations as participants but also ensured the coverage of the process and disseminated the information about the possibility for citizens' engagement in the Action Plan elaboration process.

The meetings were facilitated by two speakers – one government and one NGO representative. They included motivational videos about why citizens need to be active and have their say in the government, about 30 minute presentations by speakers (on the OGP, the Anti-corruption Council, delivery of public services, civil service reform, asset declaration monitoring, freedom-of-information legislative changes, etc.) and around 2 hours of discussion on problematic issues and the need of future reforms.

Awareness-raising campaign can also *target specific sectors*. The questionnaire submitted by **Moldova** described as an example the campaign “For Education through Integrity”, which was run in the State University. The target groups of the campaign were students and professors. It included a number of activities, among other things – a signed agreement between the National Anticorruption Centre (NAC), the administration of the State University and the Student Senate on the implementation of anti-corruption measures (for example, the administration committed itself to eliminate contact between a student and a teacher who solicited a bribe), lectures by employees of the NAC in each of the faculties with an emphasis on the ways of submitting complaints, and the distribution of buttons to students “I do not give a bribe” and professors “I do not take a bribe” as well as bookmarks with printed rights and obligations of all of the involved parties on them.

In 2013, the Corruption Prevention and Combating Bureau of **Latvia** carried a social advertising campaign on television on the harm of corruption in the health sector. Posters stressing the inadmissibility of illicit benefits in relationships between doctors and patients were distributed among health institutions.¹⁰² A particular type of education activities is programs or projects for school children – reported in questionnaires by **Latvia, Lithuania¹⁰³, FYROM, Mongolia, and Slovenia**.

Box 18. Measuring the impact of awareness-raising activities

A few countries have provided information on not just information activities as such but **on measures of their impact**. In the above-mentioned case of Serbia, the achievable results were presented as follows:

At least 80% of the adult population of Serbia have seen the TV spot once (at least 70% – twice, at least 60% – three times);

At least 200 000 persons have been exposed to the radio spot based on the ratings of the selected radio station;

At least 250 000 persons have seen the leaflet insertion in the newspapers. At least 30% of those directly exposed to the awareness raising campaign can quote at least one message/aspect of the campaign related to the fight against corruption in Serbia (verification through separate public survey mechanism implemented upon the finalisation of the campaign by specialised public survey agency);

Provision of printed campaign materials (posters and manual) to at least 200 media institutions at the national and local level as well as to at least 50% of local and national government institutions;

Provision of printed materials to at least 50% of the relevant NGOs in Serbia.

Lithuania carried out an active awareness-raising campaign in 2008-2009, which included broadcasting of video clips, anti-corruption information stickers on public transport, stickers on headrest casings for police cars with a warning for citizens against bribing police officers, drawing and essay contest for pupils, etc. According to the questionnaire the implementation of these initiatives resulted in the increased number of people who addressed the SIS. In 2008, compared to 2007, the number of filed reports increased by 29%. The encouragement by the SIS not to ignore the problem of corruption was noticed by 34.1% of the population of Lithuanian cities.

In Montenegro an opinion poll was used to measure the percentage of the target audience that was familiar with the awareness-raising campaign “Not a cent for a bribe” in 2012 (the percentage was more than 50%). However, the most common measures remain numbers of events, participants or participating organizations, for example, the increase of the number of schools that applied for a contest of works of art (drawings, essays, etc.) of pupils in Slovenia (6 schools in the first year, 16 schools in the second year, and 60 schools in the thirds year).

Sources: Anti-corruption Agency [Serbia] (2013), Presentation „Raising Public Awareness Campaign. Serbia, April 2013”; Questionnaires submitted by Lithuania, Montenegro and Slovenia.

The review of country experiences suggests that it is almost impossible to measure the isolated impact of particular awareness-raising campaigns on the public attitudes, which are certainly influenced also by other factors – the general political and economic climate, etc. In fact, the effectiveness of such campaigns must depend also on the general credibility of anti-corruption policies in the country.

Chapter 12.

Innovative approaches and measures to prevent conflicts of interest

All the countries, which are covered in the study, have policies or at least a few legal provisions against conflicts of interest of public officials. Meanwhile it is extremely hard to find evidence that confirms success of the overall approach towards the conflict of interest. Rather the existing international assessments tend to emphasize unresolved problems related to the conflicts of interest. The approach here is not to review the general elements of policies against conflicts of interest, for example, generally on the identification of conflicts of interests, internal and external disclosure requirements, management of conflicts of interest with the help of restrictions, recusals, resignations, transparency, etc.¹⁰⁴ Instead the focus is on innovation – rarely found, innovative means designed in particular countries, which on the face of it appear to provide strong protection of the public interest. In what follows, particular elements of policies for the control of the conflict of interest are shown from **Albania, Croatia, Estonia, Latvia, Romania, and Slovenia**.

Declaration of conflicts of interest on a case-by-case basis: In general, the requirement for public officials to declare the existence of a conflict of interest when it is about to occur is not a new mechanism. However, countries of the region occasionally tilt the control of conflicts of interest excessively toward reliance on regular (usually annual) declarations. In this context, the example of **Albania** may be highlighted where the law “On the Prevention of Conflicts of Interest in the Exercise of Public Functions” envisages detailed procedures for both the case-by-case system and the periodic system of the identification and registration of interests. In addition to periodic declaration of private interests, every official, on the basis of his/her knowledge and in good faith, is obligated to make a self-declaration in advance, case by case, of the existence of his private interests that might become the cause for the emergence of a conflict of interests (Section 7, Paragraph 1). All such cases of conflict of interest shall be registered (Section 11) and, for purposes of an administrative proceeding, the registrations of interests are put at the disposition of the parties to the proceeding in a reasonable time (Section 12, Paragraph 2).

Moreover the law stipulates that provision of information on private interests of an official is a duty for every other official and every public institution that has such knowledge (e.g. a colleague), as well as a right of interested parties who are affected by the actions of the official and of every person who has knowledge and who has an interest in general (Section 8). No data were available during this study of the implementation of these provisions. Legal requirements to declare conflicts of interest on a case-by-case basis are not unique to Albania. However, it is noteworthy that the language of the Albanian law places a not so common emphasis on the necessity to use a combination of different means (case-by-case and regular declaration) and providers of information (the official him/herself and third persons) for the control of conflicts of interest.

Ex-ante verification: The European Commission positively appraised the new system of **Romania** with regard to ex-ante verification of conflicts of interest in the award of public procurement contracts where EU funds are used. The approach would ostensibly allow an advance identification and avoidance of conflicts of interest before the signing of contracts. It still remained to be implemented at the time of analysis by the European Commission and was based on a Memorandum of Understanding between the National Integrity Agency (ANI) and the National Authority for Regulating and Monitoring Public Procurement. The idea is that procurement authorities would notify the ANI in a standard form about individuals to be involved in procurement decisions. The ANI would check their interests and provide feedback to the contracting authority in advance if a problem can be expected. Thus conflicts of interest could be detected and avoided pre-emptively. The European Commission expressed its opinion also about needed further steps to ensure that the system works effectively:

"A legal obligation on contracting authorities to respond to problems identified by ANI will be important to make the system work. Also important would be a provision that, if the contract went ahead and the ANI ruling was confirmed, the official in conflict of interest would be liable for a minimum proportion of the cost of the contract. If successful, the approach should swiftly be extended from EU funds to all procurement procedures.

*It would be logical to learn the lessons of ANI's current work in order to refine its legal framework. A package now discussed with the government would include important steps such as the immediate cancellation of a contract when a decision on conflict of interest becomes final, more controls at the stage of appointment, and easier access to declarations of interest. This would also be a good opportunity for ANI to steer a codification of the integrity framework, which should also ensure that any perceived ambiguities in the current framework are removed."*¹⁰⁵

Institutional approach to the conflict of interest: In **Croatia**, a new public procurement law was adopted in July 2011. An innovative provision of the law is a prohibition for the contracting authority to conclude public procurement contracts with economic entities with which it is in a situation of conflict of interest (i.e. if the representative of the contracting authority/entity at the same time performs management-related activities in the economic operator, or if the representative of the contracting authority/entity holds a business share, stock or other rights entitling it to participate in management, that is, capital of the economic operator by more than 0.5%).¹⁰⁶ The authority shall list such economic entities or declare in the tender documentation and on the website that such entities do not exist. A public contract shall be null and void if awarded contrary to the mentioned conflict-of-interest provisions (Article 176). This is an innovative advance in the regulation of conflicts of interest in that it does not only addresses the private interests of particular officials who are involved in the decision making but rather focuses on the private interests of officials of the whole authority. An interesting and somewhat similar approach is found in Portugal where companies where public officials or their close relatives hold more than 10% of shares may not tender for public procurement supply or service contracts.¹⁰⁷ Also in this case the involvement of the particular official in decision making concerning the particular procurement does not matter for the prohibition to be in force.

Box 19. Slovenia: Cross-checking databases to control incompatibilities

The Commission for the Prevention of Corruption in Slovenia uses databases to enhance control of compliance of public officials with limitations regarding business activities. There is a periodic and automatic crosscheck of data from the *Supervizor* system, the commercial register and reports of public institutions of entities, in relation to which limitations of business activities would apply. The automatic control is possible largely due to the existence of the *Supervizor* system:

“*Supervizor* is an online application that provides information to users on business transactions of the public sector bodies – direct and indirect budget users (bodies of the legislative, judicial and executive branch, autonomous and independent state bodies, local communities and their parts with legal personality, public institutes, public funds, public agencies etc.).[.]

The application indicates contracting parties, the largest recipients of funds, related legal entities, date and amount of transactions and also purpose of money transfers. It also enables presentation of data using graphs as well as printouts for specified periods of time and other. [.] The application enables insight in financial flows among the public and the private sector not only to the public, the media and the profession, but also to other regulatory and supervisory bodies. [.]

Transparency of financial flows among the public and the private sector achieved through this application increases the level of responsibilities of public office holders for effective and efficient use of public finance, facilitates debate on adopted and planned investments and projects as well as decreases risks for illicit management, abuse of functions, and above all, limits systemic corruption, unfair competitiveness and clientage in public procurement procedures.”

Source: The Commission for the Prevention of Corruption. *Supervizor*. <https://www.kpk-rs.si/upload/datoteke/Supervizor%281%29.pdf>

Also the new system of ex-ante verification in **Romania** shall detect conflicts of interests automatically. It has been reported that the system, which is expected to be ready in 2015, will “automatically detect whether participants in the public bid are relatives, or are connected to people in the contracting institution’s management”. In such cases, the system would send a warning to the contracting authority.¹⁰⁸ An apparently similar tool is referred to in the EU Anti-Corruption Report concerning **Italy**: “CAPACI (Creation of automated procedures against criminal infiltration in public contracts): an EU-funded project for monitoring financial flows in the supply chain of large public contracts. The system will enable authorities to prevent the infiltration of capital of illicit origin by creating a database of bank transfers and alerts to identify abnormal behaviour. The project is at a piloting stage in a number of regions in Italy.”¹⁰⁹

Effective communication of rules: It is not uncommon that civil servants get confused about complex conflict-of-interest rules or are not always fully aware of them. **Estonia** is one of countries that try to address the problem with the help of practical manuals based on actual cases. The manual for local government has been prepared, which includes 13 concise cases and answers, for example, whether it is acceptable for the chairman of the municipal council to participate in the preparation and discussion concerning a municipal grant to an NGO where his mother is a board member (the correct answer is no).¹¹⁰ The dissemination of this manual is accompanied by face to face trainings.

In 2007-2008, the Corruption Prevention and Combating Bureau (KNAB) of **Latvia** prepared three manuals in co-operation with the NGO the Centre for Public Policy “Providus” on the conflict of interest for police officials, civil servants, and public officials in state-owned enterprises and ports.¹¹¹ The website of the KNAB features also many other explanations of particular legal provisions related to the management of conflicts of interest.¹¹² There is no doubt that public officials should know legal requirements. However, the preparation of such publication shows the recognition that the effective implementation of conflict-of-interest rules requires targeted communication and explanations. The mere publication of laws and regulations may not be enough.

The approaches shown in this chapter attest that effective policies against conflicts of interest require more than just the definition of the rules and sanctions. Many different kinds of private interests can influence public officials. Some of these interests are so vague that even the officials themselves may have a hard time deciding whether the interests can improperly influence the performance of their duties. Other interests are indirect or hidden and therefore controlling authorities find it difficult to identify and pinpoint them. Therefore various forms of guidance, training, discussions together with well-working monitoring and control tools are key in countries where improper influence of public official’s private interests or affiliations is a problem.

Chapter 13.

Responsibility for and expertise in corruption prevention within public institutions

This chapter looks at positive instances where responsibility and expertise in the area of prevention of corruption is decentralized across the public administration, i.e. arrangements where particular employees or units within administrative authorities (line ministries, subordinate administrative bodies, or other agencies) are assigned a formal role regarding the integrity management. This role may be their sole occupation or a task alongside others. It may consist of such tasks as designing internal integrity standards and routines, monitoring the integrity situation, counselling other employees on integrity issues, receiving reports of suspected corrupt activity and reporting further to competent bodies, etc.

The appointment of dedicated ethics contact persons is not so common in the countries of the ACN region. However, there are some examples of individuals/ units within administrative authorities created or designated to fulfil a certain role to uphold the integrity. In 2014, the institute of corruption prevention official was created in **Kyrgyzstan**. In the beginning of February 2015, such dedicated corruption prevention officials were appointed in 47 institutions. In 2013, **Azerbaijan** introduced ethics commissioners in some public bodies with a task to supervise compliance with the rules of ethics for public employees and analyse the practice. A list with names, official positions and contact details of the ethics commissioners is posted online.¹¹³ In **Croatia**, the head of each state body shall appoint an ethics commissioner who shall, among other things, supervise the implementation of the code of ethics, provide advice to civil servants and review complaints by citizens regarding possible misconduct.¹¹⁴ In 2014, the Agency for State Service Affairs of **Kazakhstan** decided to introduce ethics advisors with a prospect to introduce them also in other state agencies.¹¹⁵ The ethics advisors shall be elected by secret vote. Their main tasks are the prevention of corruption and ethics violations as well as counselling and assistance to civil servants of the Agency to comply with rules on the state service, fight against corruption and service ethics.¹¹⁶ Note that countries may choose to appoint designated officials also for areas of responsibility only indirectly related to the prevention of corruption. The questionnaire submitted by the Research Foundation “Constitution” of **Azerbaijan** described as successful the introduction of persons responsible for access to information in a number of bodies.

The decentralization of responsibility for the control of corruption can also be achieved with the help of setting up dedicated units in different sectors of the executive. For example, **Bulgaria** has set up inspectorates within ministries and other government agencies. According to the Law on Administration inspectorates shall be set up in ministries and other authorities. Specifically in relation to countering corruption, the inspectorates assess corruption risks and propose measures to limit the risks, collect and analyse information as well as carry out verifications on, among other things, occurrences

of corruption, control and check according to the Law on the Prevention and Detection of the Conflict of Interest. The inspectorates may also propose the initiation of disciplinary proceedings, carry out other types of control activity concerning administrative bodies and civil servants and prepare protocols of administrative violations. The Chief Inspectorate coordinates and guides activities of the inspectorates as well as itself carries out certain functions in the area of countering corruption.¹¹⁷ In its report of 2014, the European Commission noted that “the internal inspectorates of the state administration working under the guidance of the Inspectorate General under the Prime Minister's Office have been strengthened. They have the potential to play an important role in detecting and preventing irregularities as well as in presenting proposals for further improvements in the anti-corruption system.”¹¹⁸ The inspectorates carry out a substantial number of verifications (1388 in 2012¹¹⁹) based on which numerous disciplinary actions have been initiated but the actual effectiveness of the work of the inspectorates remains somewhat unclear.¹²⁰

Appointed ethics/ confidence persons are an important element of the integrity framework in the public administrations of such OECD member countries as the **United States, the Netherlands, and Germany**.

Box 20. The United States: Designated agency ethics officials

In the United States, the head of each federal executive agency is responsible for and shall exercise personal leadership in establishing, maintaining, and carrying out the agency's ethics program. The head of each agency shall appoint an individual to serve as the designated agency ethics official (DAEO).

DAEOs shall ensure the management of agencies' ethics programs. The general duties of DAEOs are to coordinate and manage the agency's ethics program, which consists generally of (1) liaison with the Office of Government Ethics, (2) review of financial disclosure reports, (3) initiation and maintenance of ethics education and training programs; and (4) monitoring administrative actions and sanctions. Such duties of each agency head and DAOEs are a means for the decentralization of the implementation of the executive branch ethics policy. Importantly the heads of agencies are required to provide sufficient resources for the DAEOs and additional necessary staff so that the DAEOs could carry out their duties, not least in order to spare the limited resources of the central body in charge of, among other things, the prevention of conflicts of interest – the Office of Government Ethics. Especially in a larger public administration, such network of designated officials is probably the most effective means for the achievement of consistency in the implementation of a policy on ethics and prevention of conflicts of interest.

Sources: The Code of Federal Regulations, Title 5, § 2638.202, § 2638.203. <http://www.law.cornell.edu/cfr/text/5/part-2638/subpart-B>; OECD (2002), Public Sector Transparency and Accountability: Making it Happen, p. 83. http://www.oecd-ilibrary.org/governance/public-sector-transparency-and-accountability_9789264176287-en

In the **Netherlands**, the regulation on reporting of suspected wrongdoing requires that the competent authority shall designate one or more confidence persons in the organization. Such person shall provide advice to the official who has reported, inform the highest official of the organization on the issue as well as provide advice to the competent authority and the highest official (Article 8).¹²¹ Note, however, that not all of the integrity confidence persons have been designated as the reporting points within the

organizations (rather in some organizations they may act just as a sounding board for the potential reporter).

A review of thirteen ministries and six agencies of 2009 showed that integrity confidence persons were appointed in all of them.¹²² A recent survey of public officials showed equivocal attitudes towards the integrity confidence persons. More than a half of the respondents agreed that the confidence persons were seen as reporting points for (alleged) abuse (67.1% agreed) and as a sounding board for advice concerning (alleged) abuse (56.6% agreed). Slightly less than a half agreed that the confidence persons were sufficiently visible and known by employees within the organization (45.7% agreed and 26.2% disagreed) and were trusted and had a good reputation among the employees within the organization (46.3% agreed and 11% disagreed). There were less positive answers about the ability of the confidence persons to provide sufficient protection to persons detecting abuses in the organization (28% agreed and 15.1% disagreed) and sufficiency of the independence of the confidence persons from the administrative and political top of the organization (35.7% agreed and 15.5% disagreed).¹²³ Meanwhile the instituting of the integrity confidence persons should still be seen as success because in all of the important aspects that are shown above the share of agreeing answers exceeds the share of disagreeing answers by a large margin.

In **Germany** the Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration requires that a contact person for corruption prevention shall be appointed based on the tasks and size of the agency:

“The contact persons may be charged with the following tasks:

- serving as a contact person for agency staff and management, if necessary without having to go through official channels, along with private persons;
- advising agency management;
- keeping staff members informed (e.g. by means of regularly scheduled seminars and presentations);
- assisting with training;
- monitoring and assessing any indications of corruption;
- helping keep the public informed about penalties under public service law and criminal law (preventive effect) while respecting the privacy rights of those concerned.”¹²⁴

Along broad lines, the roles of the confidence persons in the Dutch system and the contact persons in the German system appear similar as far as the mediation of information between the regular employees and the management is concerned. According to a study of 2010 56% of surveyed federal, land and communal authorities had installed contact persons for corruption (97% of federal authorities). An indirect indication of success of the institution of contact persons is the high preparedness in 59% of authorities to report suspicions of corruption to the contact persons (only in 17% of the authorities such preparedness was present regarding reporting to the law enforcement agencies).¹²⁵

Estonia appointed anti-corruption contact persons in each ministry. Their task is to oversee implementation of tasks foreseen in the anti-corruption strategy and propose new anti-corruption measures in their field of activity. Contrary to Netherlands and Germany, they are not consulting colleagues on specific matters. In the long run it is intended to nominate integrity officials.

Where most of the public sector is considered heavily corrupt, the decentralization of responsibility for the prevention of corruption is probably not a promising strategy. Nevertheless the mainstreaming of anti-corruption meets its challenges also in reasonably clean environments. According to a survey of seven partner agencies of U4 in 2013 the most important obstacles included time constraints, lack of internal capacity for designing and evaluating anti-corruption approaches, lack of training of staff to identify how governance problems or corruption may cause failure to achieve results, lack of expertise for tackling corruption, and reluctance to raise corruption problems with partners.¹²⁶ The role of designated confidence persons may be complicated due to their institutional position somewhat between the management and other co-workers. They may feel a conflict of loyalty between the organization and the person who makes a report on suspected wrongdoing as has been found in the Netherlands.¹²⁷ Hence the applicable confidentiality rules and the exact duties of the confidence persons vis-à-vis other civil servants (including superiors) have to be as clear as possible.

Apart from administrative systems with widespread endemic corruption, the role of leadership of each agency cannot be underestimated. Hence the special responsibility of agency heads for handling ethics issues in the United States. Also in well-developed administrations in Europe, the key responsibility for the control of conflicts of interests of civil servants often rests with the very agency where the servant works. For example, in **Germany** the “employer office of the civil servant plays a crucial role in the daily management of preventing and resolving conflict-of-interest situations. The responsibility of the employer to decide in cases of application for permission for outside private activities is the key controlling function.”¹²⁸ The responsibility of the employer office and superior civil servants is crucial also in the Scandinavian countries – **Denmark**, **Norway**, and **Sweden**. In these countries no central, independent anti-corruption bodies exist and the reliance is largely on the mainstream management. For sure, managers of public agencies are obliged to control conflicts of interests and other ethics-related issues of their subordinates also in many countries of the ACN region. Therefore the integrity of this particular layer of civil servants is a fundamental condition for the overall success of corruption prevention.

Chapter 14.

Approaches to anti-corruption coordination

Different types of intra-governmental coordination arrangements and activities are used in the reviewed countries. Concrete indicators are hardly ever available regarding the effectiveness of the existing coordination arrangements. Hence, this chapter just briefly presents the main approaches to the way of organizing coordination and cooperation among anti-corruption stakeholders.

Inter-agency councils: Arrangements where leadership or working level representatives of different agencies responsible for anti-corruption measures meet aim to ensure the exchange of information, building of joint commitments and coordination of efforts of multiple parties. This is a straightforward response to the recognition that effective anti-corruption policies cannot be planned and effectively implemented in isolation. For example, in **Georgia**, the Anti-corruption Council coordinates anti-corruption activities. In 2015, an Anti-Corruption Council, as well as an expert panel were created by a Government decree in Armenia. In **Lithuania**, the Interdepartmental Commission for the Coordination of Fight against Corruption has been set up since 2003. In **FYROM**, in 2006 the government established the Inter-ministerial body for coordination on activities against corruption. Members of the body are the Ministry of Justice (chair), the State Commission for Prevention of Corruption, the Ministry of Interior, the Bureau for Public Procurements, the Public Revenue Office, the Financial Police, the Ministry for Local Self Government, the Agency of Administration, the Secretariat for European Affairs, the Supreme Court, etc. The body's tasks are the coordination of the activities of institutions with competence in fighting corruption, strengthening of their mutual cooperation and sharing information as well as the realization of recommendations from GRECO and other international organizations. The body meets 2-3 times per year. In **Serbia**, the Anti-corruption Agency organizes high level coordination meetings on a monthly basis in order to discuss disputable anti-corruption issues and adopt conclusions or recommendations for further/immediate actions.

In the Central Asian countries of Kazakhstan and Kyrgyz Republic the public prosecutor's offices play a particular coordinating role. In **Kazakhstan** coordination councils work with the Prosecutor General's Office and other prosecutor's offices. The Prosecutor General and authorized public prosecutors are responsible for the coordination of the activities of law-enforcement, fiscal and other state bodies as well as local government bodies in the area of anti-corruption in **Kyrgyz Republic**.

Box 21. Georgia: Anti-Corruption Council

The Anti-Corruption Council (ACC) in Georgia consists of 41 members – representatives of government agencies, international and local organizations, as well as the business sector. The functions of the ACC include coordination of anti-corruption activities in Georgia, update of the Anti-corruption Action Plan and Strategy, as well as supervision of their implementation, monitoring, accountability towards international organizations, initiation of relevant legislative activities and drafting recommendations. The meetings of the Council are held twice a year. The Council's work is supported by the Expert Level Working Group comprising designated representatives of ACC members. These contact persons are in charge of supporting implementation of the respective parts of the Action Plan/Strategy and reporting on the status of implementation using a standard procedure. Expert Level Working Group meetings are regular.

More information available at: <http://www.justice.gov.ge/Ministry/Index/172>

Coordination based on anti-corruption strategies and programs: Apart from councils and the like, national anti-corruption strategies/ programs with tasks assigned to a variety of state institutions often serve as tools of coordination as reported by Armenia, Latvia, Croatia, Moldova, Montenegro and Romania. Usually this coordination is managed by the body that is designated as responsible for the overall implementation of the strategies/programs. For example, in **Latvia**, the Corruption Prevention and Combating Bureau has the task of coordinating the cooperation of state institutions that have been assigned tasks in the Corruption Prevention and Combating Program.¹²⁹ In **Romania** the implementation of the national Anticorruption Strategy takes place under the authority and coordination of the Minister of Justice. For this purpose, the Minister of Justice organizes high level coordination meetings at least every six months. At the coordination meetings, representatives of the three branches of power (the legislative, judiciary and executive) as well as the local public administration, business environment and civil society participate. To support the monitoring process, five cooperation platforms operate (the platform of independent authorities and anti-corruption institutions, the platform of central public administration, the platform of the local public administration, the platform of the business environment, and the platform of the civil society). The platforms meet once every two months. In **Croatia** coordinators have been selected in every institution that is assigned tasks under the Anticorruption Action Plan in order to communicate with the Independent Anti-corruption Sector in the Ministry of Justice, which coordinates the implementation of the Anticorruption Strategy and Action Plan. With a narrower function, in **Moldova**, the monitoring group has been set up to review information provided by public bodies on the implementation of the National Anti-corruption Strategy and action plans (national and sectoral). The group contains representatives of the state, local and civil-society institutions. In Armenia, the anti-corruption programmes monitoring division within the Government Staff is to ensure the implementation of organisational-technical activities and participate in the monitoring of reports on the implementation of the Anti-Corruption Strategy and the related Action Plan as well as the fulfilment of commitments for the fight against corruption according to international treaties.

Box 22. Albania, Estonia, Turkey: Developing anti-corruption networks

It is increasingly common for anti-corruption stakeholders to engage in networking without necessarily creating rigid structures such as councils or committees. The Council of Ethics for Public Service of **Turkey** engages in networking in several ways, for example, it has created a network of certified ethics trainers throughout the public service. Recently the Council established the Ethics Platform where stakeholders are invited to participate in discussing the policy and implementation issues on ethics. The Council is also running a project for fostering collaboration among public, private sector and NGOs based on an informal network. In **Albania**, the National Coordinator against Corruption works in a network with 16 anti-corruption coordinators (deputy ministers), contact points in all ministries, 4 important directorates (customs, taxation, prevention of money laundering, and public procurement), 6 independent institutions, and 12 prefectures. Also **Estonia** is developing informal anti-corruption networks on various topics with the aim to provide training, discuss and raise anti-corruption issues. There is already an informal anti-corruption network of contact points of ministries to discuss anti-corruption matters and encourage the involvement of different ministries in the anti-corruption work. Other thematic networks are considered in order to involve all relevant stakeholders of the particular issue area. The first of the thematic networks (coordinated by *Transparency International*) is devoted to the topic of political parties (the healthcare network is considered as next).

Sources: Coskun, A. (2014), Presentation “Public Integrity Networks in Turkey” at the regional expert seminar on prevention of corruption in Tirana, Albania, on 26-27 June 2014; http://www.korruptsioon.ee/sites/www.korruptsioon.ee/files/elfinder/dokumendid/estonian_anti-corruption_strategy_2013-2020.pdf; Questionnaire and additional material submitted by the National Coordinator of Albania.

The questionnaire by the Anti-corruption Directorate with the Prosecutor General of **Azerbaijan** provides information on two more specific coordination tools – **joint orders** of the Prosecutor General and various ministers (for example, the Joint Order with the Minister of Internal Affairs on Proper Registration of Criminal Offences) and **memorandums of cooperation** signed between the Prosecutor General’s Office and a number of law enforcement and other agencies (for example, with the Chamber of Auditors and the FIU). There are also parliamentary committees with a certain coordinating role as the Corruption Prevention Sub-committee in the **Latvian** parliament and the Standing Committee responsible for the national security, defence and public order in **Moldova**.

The review of international practice shows that one of the most important challenges in the cooperation of various agencies is to achieve a reasonably high level of commitment among all of them. Hence coordinators of anti-corruption policies have to find ways to move from a situation where one agency pulls the policy to a situation where a truly concerted action is taking place. Probably one of the ways to achieve it is to ensure a high degree of transparency so that the public can see which bodies are seriously committed to tackling corruption problems and which of them are not. Therefore coordination arrangements with certain participation of non-governmental actors could be preferred to purely intra-governmental formats (perhaps except for coordination regarding particular investigations, etc.).

Chapter 15.

Prevention of corruption in management of public finances

Greater transparency and use of IT technologies are the main anti-corruption relevant innovations in the management of public finances reported by countries of Eastern Europe and Central Asia in the questionnaires. A key advantage of the IT solutions is enabling of ordinary citizens or controlling bodies to process large amounts of data easily and detect suspicious correlations or transactions that would otherwise be hidden in the sheer amount of information.

For example, **Kyrgyz Republic** has obliged state bodies to publish in the media and on their websites reports on the execution of budgets of all levels and on investment projects as well as materials of audit reports of the State Audit Institution (save for information containing the state secret). Information on budgets is available on the web-portal “Open Budget” (<https://budget.okmot.kg/en/>). Also **Armenia** provided information about an online visualization tool that allows citizens to follow the state budget along sectors, divisions and expenditure lines down to particular projects (including information on how much of the allocated money has been already spent and details on concluded procurement contracts) (<http://www.mfe.am/index.php?cat=71&lang=1>).

Box 23. Estonia: Open data on local budgets

In an ambitious project, **Estonia** has launched an online publication (<http://riigiraha.fin.ee>) of accounting data of all local governments for the period 2004-2014 with unlimited public access to view, download, compare and analyse the data. The online resource allows users to see, for example, the distribution of their taxes for different tasks of any particular local government and compare the distribution with other local governments, the distribution of liquid assets of a local government among banks, correlations such as between the location (for example, non-peripheral, peripheral) of the local government and the amount of primary expenses per resident. It is further planned to add the whole of the government sector and publish local governments’ transaction partners by name (including owners and board members of the partners).

Source: Jõgi, A. (2014), Presentation “State finances as OpenData” at the regional expert seminar on prevention of corruption in Tirana, Albania, on 26-27 June 2014.

The other trend is the use of electronic tools in the budgeting and control of risks. For example, in **Georgia** in 2010 the Electronic Program for Budgeting was developed and launched by the Ministry of Finance. The electronic program enables all budgetary institutions to plan their budgets electronically and thereby simplifies and systematizes the process of budget planning; introduces automated stages of budget planning and improves time- and human-resources efficiency; reduces mistakes significantly in the

budget elaboration process, etc. Since 2009 the pilot ministries (such as the Ministry of Education and Science, the Ministry of Labour, Health and Social Affairs and the Ministry of Justice) were required to prepare their budget proposals for 2010 in the traditional-organizational as well as in program format. The number of pilot ministries was increased in 2010. The draft budget for 2011 of the pilot ministries as well as budget execution reports of the 2010 pilot ministries were prepared in the program format in a parallel regime to the traditional budget process.

Georgia moved to program budgeting since 2014. At present in-house web-based E-Budget and E-treasury (electronic) systems are used for budget planning and execution and the two systems are fully harmonised.

Since the beginning of 2013, the IT sub-system “Financial control. Risk Management System” has been introduced in the trial use in the Ministry of Finance of **Kazakhstan**. The aim of this tool is to strengthen the effectiveness of financial control through assessing risks in how public bodies execute budget and conduct public procurement. Measures for improvement are determined based on the results of the risk assessment. The sub-system has been integrated with IT systems of several other state bodies. In **Slovenia** the *Supervizor* web application that tracks every transaction of the public sector was created to increase transparency and prevent corruption in the public procurement (and in the public expenditure in general).¹³⁰ According to the questionnaire by the Commission for the Prevention of Corruption both journalists and investigators often use the *Supervizor* tool to confirm or reject suspicions regarding business transactions.

On-line resources that allow users to trace budget expenditure are found also in non-ACN OECD countries. In the **United States**, a web resource was created that showed the distribution of funds under the American Recovery and Reinvestment Act (ARRA) of 2009, known as the stimulus package to spur the economic activity with the total cost of more than 800 billion USD. The available information includes the total amounts for the ARRA contracts, grants and loans on a state by state basis, more specific information concerning projects and recipients in particular cities and neighbourhoods (with a possibility to search recipients by name and see the geographical distribution of supported projects on a map), and the overall categories of expenditure funded under the ARRA (education, health, housing, etc.). The website also invites users to submit complaints if they suspect fraud in any of the projects and allows downloading of the data for further use.¹³¹ The update of the information was stopped in 2014 due to the decision of the Congress to repeal quarterly reporting by the recipients.

Relevant in the context of transparency is the State Internal Financial Control Council, which functions as an advisory body with the Ministry of Finance of **Moldova** for the purposes of the monitoring of the state internal financial control. According to the questionnaire submitted by the National Anticorruption Centre the council has the authority to provide agreement to draft regulatory acts in the area of the state internal financial control, provide agreement to the consolidated annual report on the state internal financial control, and review problematic aspects of the functioning of the system of the state internal financial control as well as present recommendations. The composition of the council includes representatives of the Ministry of Finance, representatives of internal units of public entities, teachers with scientific degrees, and other experts of the field. All state agencies provide the council with their annual reports assessing the internal financial control. The council elaborates the annual consolidated report on the state internal financial control.

The digitalization and presentation in a user-friendly format of data on the budget execution could not be expected immediately in all countries. For such publication to be possible, it is necessary that the execution of the budget takes place through a uniform electronic mechanism. Moreover the impact of these open data will be visible when there is active civil society and media environment, i.e. committed people who use the data. Nevertheless it seems that electronic systems for budgeting and financial risk control plus online publications of open budget data are turning into the gold standard of transparency in the modern public financial management.

Chapter 16.

The prevention role of state audit institutions

Among the most straightforward ways for the State Audit Institution (SAI) to play a role in countering corruption is to *provide information on suspected offences to law enforcement agencies*. However, the majority of collected questionnaires provided little information about the practical role of the SAI in detecting suspected corruption, apart from the visibly active State Audit Office in **Georgia** (see Box 24). Also the questionnaire submitted by **Moldova** cites 16 files forwarded to the law enforcement by the SAI in 2013 (6 criminal cases were initiated based on them).

Box 24. Georgia: State Audit Office contributes to uncovering corruption

In Georgia the State Audit Office (SAO) cooperates with the State Prosecutor's Office and other law-enforcement bodies by:

sending referral of cases identified through SAO budget monitoring and audit activities including involving misappropriation of public assets, irregularities in procurement, bribery and corruption schemes; and

SAO auditors are involved as forensic auditors in complex financial crime cases. Factual findings and results of the criminal investigation of the above cases, including relevant amounts of misappropriated budgetary funds reimbursed to the state budget are regularly made public and reported to the parliament in SAO annual reports.

In 2011-2013, SAO referred up to 30 audit reports along with evidence on alleged corruption acts to law-enforcement bodies, resulting in criminal indictment of 75 public/private officials. Upon request from the law-enforcement bodies, SAO auditors performed forensic investigations of 84 public entities/entities entitled to manage public assets. As a result of joint investigation and coordinated audit efforts, approximately 13,8 million Georgian Lari were returned to the State budget.

Source: Information provided by Georgian State Audit Office, February 2015.

Several countries point out to the important role of SAIs in the *identification of systemic weaknesses and recommendations for improvement*. In **Lithuania** in 2013, “performance auditors checked how state institutions carry out corruption prevention. It was established that state institutions fail to properly identify the likelihood of corruption, so not all causes of and conditions for corruption are revealed, state institutions do not always develop and implement anti-corruption programmes in a proper manner, which results in a failure to ensure the management of risk factors. Auditors made recommendations to improve corruption prevention in state institutions and to ensure transparent provision of services to the public.”¹³²

In **Croatia** the SAI provides recommendations and directs attention – wherever possible – to the possibility of fraud and corrupt activities. The recommendations are aimed at improving the control system and procedures, including the legal environment. Audit reports comprising the description of established facts and irregularities as well as recommendations are considered useful for the strengthening of ethical behaviour in the public sector as well as the prevention of fraud and corruption. The SAI follows up the implementation of recommendations within audited bodies on a regular basis. The reports are submitted to the Parliament (if needed, also to other relevant institutions) and are published on the Internet.

Also SAI in Georgia has an important role in addressing cross-cutting, systemic corruption risks in public financial management administration.

SAIs can also play an important role in the *education and awareness rising* with regard to the prevention of corruption and, not least, they themselves should have implemented measures to prevent possible corruption of their own staff as described in the questionnaire submitted by **Uzbekistan**.

Overall it appears that the work of SAIs is often not regarded as one of the primary anti-corruption measures. Probably one of the problems is difficulties to link observed irregularities with possible corrupt offences and guilt of particular officials. Many reasons may be behind these difficulties such as the lack of communication between the auditors and officials of law enforcement bodies, the lack of clarity about how to recognize the red flags of corruption and how to deal with them, or the unwillingness of the SAIs to address the corruption issue directly. Given these difficulties, well-elaborated methodologies as well as assessments of the performance of internal anti-corruption systems of public bodies seem to be some of the ways to strengthen the anti-corruption role of SAIs.

Chapter 17.

Electronic services, simplification and unification of public services

There are many different public services that can be moved online just as there are many different ways in which their provision in the physical environment can be organized. Since the analysis of all of them would warrant a whole study of its own, one kind of e-service and one kind of the physical organization of service delivery are reviewed in this chapter – e-procurement and unified service centres.

The European Commission defines e-procurement as “the use of electronic communications and transaction processing by public sector organizations when buying supplies and services or tendering public works”.¹³³ The anti-corruption rationale of e-procurement rests on several considerations – such system facilitates full equality in access to information and limits subjectivity in relations between the involved parties. E-procurement has been viewed as a major integrity-enhancing tool.¹³⁴ In 2012 the European Commission proposed as an objective a full transition to e-procurement in the EU by mid-2016.¹³⁵

The e-procurement includes a broad set of elements and practices. A study by PwC created a catalogue of 24 e-procurement good practices from 18 European countries, for example:

- Platforms automatically transmit all their notices to a single point of access for publication;
- Economic operators can access and retrieve contract notices and tender specifications as anonymous users;
- Economic operators can search contract notices using a set of search criteria;
- Economic operators are notified of any changes to tender specifications;
- Economic operators receive a proof of delivery upon successful submission of their tender;
- Platforms keep tenders encrypted until the opening session;

Contracting authorities can evaluate part of their tenders automatically based on pre-defined criteria.¹³⁶

Countries can consider differentiating between full e-procurement, where all procedures are done electronically, and semi e-procurement, where, for example, scanned documents are inserted in the e-procurement system. Electronic tender calls and e-mail announcements are part of semi e-procurement. The aspiration could be full e-procurement, but this could stimulate a gradual process.

In broad terms, based on this review of good practices, e-procurement platforms can serve as tools for publication and search of information, submission of documents, at least partially – also pre-structuring of tender information to be submitted, evaluation of tenders and control.

The questionnaires show that many of the surveyed countries use the Internet for the publication of procurement notices and other documents (for example, **Albania, Armenia, Azerbaijan, Croatia, Georgia, Kazakhstan, Kyrgyz Republic, Latvia, Lithuania, Moldova, and Uzbekistan**). For example, in **Kyrgyz Republic**, information such as tender announcements, protocols of the opening of bids and winners of tenders are published on the dedicated procurement site (www.zakupki.okmot.kg).

A few countries have increased the use of the e-procurement rapidly during the last years. The EU Anti-Corruption Report noted that “**Lithuania** has made progress in providing online access to combined data on public procurement, with institutions required to publish procurement plans and reports on the internet. The range of information due to be published exceeds the requirements of EU law, including draft technical specifications. Suppliers are also required to indicate subcontractors in their bids. Since 2009, the Law on Public Procurement obliges purchasing organizations to procure at least 50% of the total value of their public bids electronically. Since the introduction of this requirement, the share of e-procurement rose to 63 % in 2010, 76 % in 2011 and 83 % in 2012.”¹³⁷

An increasing share of public procurement is carried out in the e-procurement procedure in **Estonia**: “Since 2003, all public procurement notices are published electronically in the State Public Procurement Register (SPPR), an eTenders portal. The Public Procurement Act provides for further development of the SPPR and eProcurement (eAuctions, ePurchasing system, eCatalogues, etc.) Aiming at a fully electronic tendering process in future, the Act requires electronic tenders for 50% of overall public procurement from 2013. In 2012, about 15 % of public tenders were conducted via e-procurement, three times more than in 2011. Electronic reporting supports transparency and improves quality management. The e-procurement portal also includes information about relevant Ministry of Finance decisions and the most frequent violations of the Public Procurement Act. However, local governments are not required to submit electronic records to the SPPR if the value of contracts falls below certain thresholds.”¹³⁸ Further plans include the publication of all source documents of procurement without the need to log in and unrestricted publication of questions and answers regarding the procurement source documents.¹³⁹

Also **Georgia** and **Kazakhstan** appear to have advanced systems of e-procurement. In **Georgia**, simplified electronic tenders and electronic tenders shall be carried out electronically. The e-procurement system allows for the publication of tender announcements, upload of tender documentation, payment of bid submission fees, electronic submission of bids by registered suppliers, asking of online questions and provision of answers publicly on the tender page, making of appeals at any stage of the tender process, digital detection of risks within tenders for the monitoring of the Competition and State Procurement Agency, etc. As of 2013, allegedly more than GEL 400 million have been saved since the introduction of the e-procurement platform in 2010.¹⁴⁰ According to the questionnaire submitted by the Georgian Young Lawyers’ Association the electronic bidding process provides possibilities of monitoring for interested parties. As of mid-March 2014, the test version of the Unified Electronic System of State Procurement was online.¹⁴¹ According to the questionnaire by Georgia

the competition in the public procurement increased between 2011 and 2013 (the average number of participants per tender increased from 1.75 in the first half of 2011 to 2.11 in the first half of 2013).

Box 25. Successful e-procurement solutions: Examples from an EU study

Hospitals in Portugal. Following the introduction of e-procurement, Portuguese hospitals were able to achieve price reductions of 18% on their procurement contracts. In aggregate, the switch-over to e-procurement in Portugal is estimated to have generated savings of about €650 million in the first year and could have reached €1.2 billion if all contracting authorities had fully implemented e-procurement. The potential savings therefore amount to between 6% and 12% of total procurement expenditure. Most of the savings were due to lower prices resulting from higher competition (more bids per procedure), although administrative savings were also achieved.

XchangeWales – the Welsh e-procurement programme – delivered benefits of £58 million (December 2011), three years after it was launched. The investment costs of setting up the programme were recouped in only one year. To date, the programme has saved about 15 million sheets of paper, equivalent to 101 tonnes of CO₂. So far, 56 000 suppliers registered in the system and £18 billion of contracts were advertised electronically.

UGAP (Union des groupements d'achats publics) – the French central purchasing body – estimates that the progressive switch to e-procurement reduced the administrative burden for buyers by 10% (e.g. through faster analysis of bids and easy access to documents) and by another 10% for the legal services involved (as less legal control was required when e-procurement is used). The cost of implementing the system was minimal compared to the benefits that have already been realised, although effort was required to train staff and change internal working methods.

A study of 400 **local authorities in the Netherlands** shows that switching to e-procurement generates process cost savings of over €8 500 per tender. This is based on using electronic means from the publication of notices through to submission, but does not include automatic evaluation (which was unavailable on the platforms at the time of the survey, but which is now creating further significant savings). Two of the key factors contributing to these cost savings are: time reduction – per procedure, contracting authorities save on average up to 3 days and bidders up to 1 day; and reduced printing and postage costs (estimated at €2 350 per tender).

A recent survey of **Norwegian public procurement** managers found out that none of the managers surveyed would consider returning to manual, paper-based tendering. The survey indicates that the use of e-procurement: increased participation by foreign firms (22% of respondents) and by SMEs (30% of respondents), resulted in a larger number of bids per tender (74% of respondents), reduced purchase costs (70% of respondents) and reduced the time spent on each tender by more than 10% (73% of participants). While these results may not be fully representative due to the limited sample size used, they illustrate the benefits that e-procurement can deliver.

Source: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A strategy for e-procurement /* COM/2012/0179 final *, see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0179:FIN:EN:HTML>

According to the questionnaire of **Kazakhstan** all competitive procurement methods are allegedly carried out in an electronic format (although statistical data show that the share of the procurement carried out electronically was still very small in 2013¹⁴²). Respective changes in the legislation were adopted in 2012 and the country appears to have the most advanced e-procurement platform in its region. The wide use of web-based resources as means of communication and rationalization of procurement processes was noted already in the monitoring report of the Istanbul Anti-Corruption Action Plan in 2011.¹⁴³ The system allows providers to search tender announcements and download tender documentation with templates for documents to be submitted, provides a forum for communication with a possibility to ask questions anonymously (the questions and answers are seen in the forum for all users), allows request/ search for electronic documents (such as necessary licenses and permissions) and add them to the tender application, submit tender applications with all necessary supporting documentation, correct and submit an application repeatedly, recall an application, see notifications on changes in tender conditions, etc.

According to **Armenia**, its e-procurement system was introduced in 2013 and is used for open procedures of central governmental bodies (www.armeps.am). The electronic system allows for the registration of economic operators and contracting authorities, announcement of the procurement, posting online all bidding documents, revision or amendments in bidding documents, bid submission, formulation of bid opening and evaluation committees, bid opening and evaluation, auction, and selection of the winner. All the actions taken through the system are recorded. Any intervention in the system is backed up and cannot be changed or hidden from future examinations. In this way, risks of manipulation with the procedures should be reduced. The system guarantees confidentiality of bidders and submitted documents until the time of bid opening. Also the questionnaire of **Albania** reports a web-based e-procurement platform that supports the automation of tendering activities (www.app.gov.al).

E-procurement remains an area where further development is still needed across the region. Even in some of the countries with advanced e-procurement systems, in practice a relatively small share of the procurement is carried out electronically or important categories of procurement are permitted outside the e-system. In **Kazakhstan**, in 2013 completed electronic competitions constituted only 0.8273% of all completed procurements (with an increase to 1.0658% during the first four months of 2014).¹⁴⁴ Transparency International has voiced a concern in **Georgia** where governmental or presidential consent allowed the use of simplified procurement, which was not carried out through the electronic system.¹⁴⁵

The state-of-the-art *service centres* require major investment. Therefore they might not be affordable under all circumstances. However, in the context of the prevention of corruption, their advantages lie not only in reducing opportunities for corruption but also in serving as tools to send strong messages to the public. User-friendly and reliable service centres are signs of commitment to serve citizens well and move away from the corrupt mode of operation. On the other hand, even the best-designed procedures and environments do exclude at least some potential corruption schemes, especially on the managerial level where individuals might have tools that allow overruling some regular practices or accessing sensitive inside information (for example, on some staff rotation schedules). Therefore regular risk assessment should be a part of routine also in modern service centres.

Box 26. Azerbaijan, Georgia: Public service halls

Prime examples of unified service centres are found in **Azerbaijan** and **Georgia**.

In Georgia the Public Service Hall concept was developed in 2010. *Everything in one space* concept was brought to life in May 2011, when first Public service hall opened in Batumi. This new approach to public service delivery was a response to widespread petty corruption and inefficiency. Public service halls operate with consumer-focused orientation, new physical and IT infrastructure, simplified procedures, branding and motivated human resources. As of February 2015, Public Service Halls are functioning in 13 cities of Georgia. Some 300 services from more than 7 different public agencies are delivered by them. All thirteen branches serve up to 23 000 costumers per day with average waiting time 3-4 minutes. Information about these services is available on the website of the Public Service Hall (www.psh.gov.ge).

The State Agency for Public Service and Social Innovations (the State Agency) and the “ASAN service” of **Azerbaijan** were established by a presidential decree in 2012. The “ASAN Service” centres are based on the “one-stop-shop” concept. Within the centres, ten state entities provide over 150 public services. The key feature of the “ASAN Service” is that it provides the space where governmental agencies directly render their own services. The arrangement is based on the separation of the quality control ensured by the “ASAN Service” and the actual provision of services ensured by the different governmental agencies. The State Agency, to which the “ASAN service” is subordinated, sets up the standards, work principles and regime as well as monitors and assesses the daily functioning while the governmental agencies fulfill the substance of the service. The State Agency itself is a new, neutral body that does not provide any public service. To prevent corruption and strengthen transparency, no hand-in-hand payments are allowed in the “ASAN Service” centres and all communication between citizens and serving officers is recorded. The walls of rooms where the services are rendered are transparent in order to facilitate observation. In addition to government agencies, also private service providers such as banks and insurance companies can use the “ASAN Service” centres. Citizens can obtain information about the services, fees, procedures and required documents via a call centre or the website (www.asan.gov.az). Each centre receives around 1500-2000 applications per day and had served more than 2 million citizens between January 2013 and mid-2014.

Sources: Jafarli, A. (2014), Presentation “ASAN service – preference of the citizens” at the regional expert seminar on prevention of corruption in Tirana, Albania, on 26-27 June 2014. Sukhishvili, N. (2014), Presentation “Public Service Hall. Hub of Public Services” at the regional expert seminar on prevention of corruption in Tirana, Albania, on 26-27 June 2014.

Chapter 18.

Access to information as a tool for preventing corruption

Without engaging in a full review of freedom of information regimes, the chapter looks at *proactive publications* and *disclosure with the help of electronic platforms* (websites, online databases (for example, of asset declarations), tools for requesting information) with potential preventing effects and any indications of success thereof. Most of the countries of the region appreciate the importance of proactive disclosure of information.

For example, a study on *asset declarations* of public officials of 2011 surveyed countries of Eastern Europe and Central Asia and found that 11 out of 19 countries published some or all of the declarations.¹⁴⁶ To give a recent example, in 2014, a new electronic system of asset declarations was launched in Armenia for high-ranking officials to submit their asset declarations which are then automatically being published on the web site of the Commission on Ethics of High-Ranking Officials.¹⁴⁷ This electronic system will soon be connected with other state databases (State Cadastre, Police, State Registry and others) to allow verification of data provided in the declarations.

Within this study, important examples of publication were already described in the chapter on the management of public finances (**Estonia**, **Kyrgyz Republic**), on electronic services (regarding the e-procurement) and elsewhere. **Georgia** and **Latvia** represent examples where extensive information of various kinds is published online.

In **Latvia**, some of the online resources, which are most relevant in the context of anti-corruption, are:

- Comprehensive and up-to-date searchable database of draft legislation and proposals of the parliament;
- Extensive and up-to-date searchable database of draft regulatory acts and policy papers of the government;
- Comprehensive and searchable database of public officials declarations;
- Comprehensive, up-to-date and searchable databases of donations and membership dues given/ paid to political parties;¹⁴⁸
- Details including names of public officials who have been punished administratively for violations of the Law “On Prevention of the Conflict of Interest in the Activities of Public Officials”;¹⁴⁹
- Anonymized decisions of the Disciplinary Committee and the Disciplinary Court of Judges;¹⁵⁰
- Searchable database of anonymized court judgments that have entered into force;¹⁵¹

- Opinions of the Ethics Commission of Judges;¹⁵²
- Detailed data on monthly amounts of money paid to public officials as salaries, etc.¹⁵³

Box 27. Georgia: Mandatory proactive online publication

In Georgia, the General Administrative Code obliges all administrative bodies to disclose public information electronically on their web-sites. A decree of the Government defines the list of information to be published by executive branch bodies:

- General information, including on structure, functions, documents concerning its policy, main principles and directions, contact information.
- Information on human resources.
- Information on public procurement and privatisation.
- Information on state financing and expenditures of the administrative body.
- Information on legislative acts adopted or related to the functions of the administrative body.
- Information on public services and fees, tariffs and rates established by administrative body.

In addition, Freedom of information page shall be created and include contact details of freedom of information officers, legislative acts and regulations related to public information, complaint forms/samples, “10 December reports”¹⁵⁴.

There are a number of examples of proactive on-line publication:

- Information on procurement tenders according to “simplified electronic procurement” and “electronic procurement” procedures;
- On-line asset declarations system (www.declaration.gov.ge);
- Draft laws initiated by the government ([https://matsne.gov.ge](http://matsne.gov.ge));
- Online database of the Supreme Court with a search system for finding court decisions, which comprises all Supreme Court judgments (<http://prg.supremecourt.ge>);
- A centralized portal (<http://info.court.ge>), which should include all decisions of all Georgian courts (the degree of completeness of its functionality was not known at the time of writing this report);
- Since 2012, a test version of a web site where all electronically available public information should be disclosed (<http://data.gov.ge/>).
- Citizens’ Portal of Georgia www.my.gov.ge created in 2012 allows individuals to submit requests of public information to 60 public organizations (by using their e-documentation management systems), track the request sent and receive replies electronically, and it has an innovative tool - *Electronic Communication Service* - to interact with the Government electronically.

Source: Anti-Corruption Network for Eastern Europe and Central Asia. Georgia. Monitoring Report, 25 September 2013, pp.53, 78, 79; <http://www.oecd.org/corruption/acn/GEOGRAPHThirdRoundMonitoringReportENG.pdf>; and information by Georgia provided in February 2015.

In Armenia, a number of tools are in place to easily access information:

- Section *Track Your Letter* on www.e-gov.am allows businesses and citizens of Armenia to track on-line documents and applications. The letters and applications submitted to government can be followed through universal tracking number and the system shows the entire process of application or letter;
- The Interactive budget initiative allows citizens to follow the revenues and expenses of the state budget and its changes online. It allows to see details of contracts concluded at the expense of budgetary funds;
- Electronic system of the Real Property Cadastre (www.e-cadastr.am) allows to submit an on-line application for registering real property and track applications;
- State Electronic Payment System (www.e-payments.am) allows making online payments for state fees, local duties, the administrative penalties or services provided by state and local self-government bodies;
- Judicial information system (www.datalex.am) allows searching for court cases, similar cases and judgments, timetable of court proceedings, e-filing of case applications and opportunity to track them;
- Legal information system of Armenia (www.arlis.am) that gives an access to comprehensive electronic database of legal acts of Armenia and opportunity to get familiar with the Armenian legislation (from international treaties to decisions adopted by local councils).

A variety of proactive online publications is found also in many other countries. Another example of access to open data is the platform (date.gov.md) launched by the Centre of Electronic Governance of **Moldova**. The platform contains information packages provided by government institutions, for example, the State Tax Service, the Ministry of Economy, the Ministry of Finance, the National Health Insurance Company, the Centre for Electronic Governance, and the Agency for Tourism. Users have the possibility to access posted packages of information as well as request information through the platform.

Certainly publication of information alone does not ensure the desired anti-corruption effects. For that it is necessary that committed people in the civil society and media sift through the data and challenge the authorities when suspected wrongdoing is found. Moreover it requires that the authorities are sensitive to public resentment with regard to corruption. Nevertheless the availability of data remains a necessary precondition for the public oversight. Therefore across the region further development of proactive publication is probably one of the most promising avenues for the prevention of corruption. On the other hand, it is important to be aware of the limitations of proactive publication of information. No matter how broad is the scope of published information, there will always be types of information that, while not posted for the public insight, are helpful for ensuring public accountability and are not covered by legitimate legally-established restriction of access. Publication of data should be coupled with possibilities to effectively request and obtain other information as well even when the authorities would prefer to keep it secret without a legitimate reason.

Chapter 19.

Tools for reporting corruption, whistleblower protection and rewards

Virtually all of the surveyed countries recognize the need to *facilitate reporting* of corruption. Many of the submitted questionnaires provide information on special telephone hotlines for the reporting of corruption and/or specially designed online reporting tools (such as in **Albania, Bosnia and Herzegovina, Bulgaria, Kyrgyz Republic, Lithuania, Mongolia, Montenegro, Romania, and Slovenia**). For example, in **Slovenia**, an online form guides the user by asking to first identify to which of the nine pre-defined categories the report would relate, then describe what, where and when happened, data about the offender, etc.¹⁵⁵ In **Lithuania**, all the ministries and institutions subordinate to them are required to publish on their websites information about where and how to apply concerning corruption-related cases. In addition, some agencies such as the Anti-corruption Service of **Kyrgyz Republic** and the Special Investigation Service of **Lithuania** have opened reception/complaints offices/units in the capitals and regions of the countries.

The criminal legislation of different countries contains *obligations to report* crime and liability for a failure to do so. However, the scope of such criminal-law provisions and conditions for the liability varies (this issue is not reviewed in this report). In some countries, for example, in **Latvia** there are special provisions that impose the obligation to report corruption or conflicts of interests. The Latvian Law on Prevention of Conflict of Interest requires from public officials to provide information regarding conflicts of interest known to them, in which other public officials of the relevant authority are involved, to the head of the authority or to the Corruption Prevention and Combating Bureau, while public officials employed in state security bodies shall report to the director of the Constitution Protection Bureau. On duties to report private interests in Albania see Chapter 12 of this report.

A few countries such as **Armenia** and **Moldova** have special *government regulations on reporting*. In 2013, the government of **Moldova** approved the procedure on integrity whistleblowers. According to the procedure notifications may be submitted to one or several of the following persons or bodies: the superior manager of the integrity whistleblower, a specialized unit within the body of the public authority, a body of criminal prosecution, the head of the body of the public authority, the National Anti-corruption Commission, a prosecutor, NGO or mass media. The provided information shall be entered in a special register. The data therein shall be kept confidential. In **Armenia** the regulations were adopted in 2011 and define the procedure for the provision of information by civil servants on illicit acts committed by other servants while on duty.

Policies of different countries and bodies differ with regard to the treatment of *anonymous reports*. For example, in **Kazakhstan** the Agency for the Fight against Economic and Corruption Crime does not review anonymous reports. To the contrary, in

Latvia the Corruption Prevention and Combating Bureau reviews also anonymous submissions. A certain middle approach is reported in the questionnaire of **Lithuania** where unsigned reports are investigated in the same way as signed ones as long as they include data allowing identifying the person who wrote the report. The treatment of anonymous notifications is a controversial issue. On the one hand, an anonymous notification can be fabricated purely in order to harm certain persons and no liability can be applied to such reporter. On the other hand, fear from reprisals may discourage even reporters in the public interest if they cannot provide information anonymously.

Box 28. Austria: Online service for anonymous reporting of corruption

In the case of **Austria**, the European Commission noted positively the online service established in 2013, which allows submission of anonymous reports while disallowing the authorities to trace the identification data of the whistleblower. The Public Prosecutor's Office for Economic Cases and Corruption runs the system, which contains a possibility for the reporter to set up an anonymous mail box. This allows the authorities to provide feedback as to what has happened with the information provided by the reporter or ask additional questions while keeping the dialogue continuously anonymous.

Sources: The European Commission (2014), *Annex Austria to the EU Anti-Corruption Report*, p.7. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_austria_chapter_en.pdf Die Wirtschafts- und Korruptionsstaatsanwaltschaft, <https://www.bkms-system.net/bkwebanon/report/clientInfo?cin=1at21&language=ger>

In connection with reporting of corrupt acts, by far the most sensitive issue is how to protect people who choose to report corrupt acts found in their own employer organizations to the authorities or the media (often referred to as *whistleblowers*) against retaliation by the perpetrators and other people who somehow sympathize with the perpetrators or feel indirectly threatened by the reports. Notwithstanding comprehensive international standards, examples of successful policies and mechanisms for the protection of whistleblowers in Europe are relatively scarce. According to Transparency International, out of 27 EU countries, only four have advanced whistleblower protection laws – Luxembourg, Romania, Slovenia, the United Kingdom.¹⁵⁶

The **United Kingdom** Office of the Civil Service Commissioner, which is an independent body and can receive “public sector disclosures as a last resort”, the **United States** Office of the Special Counsel with the authority to protect whistleblowers who are federal employees, receive, investigate and prosecute “complaints from whistleblowers who claim to have suffered reprisals”, and the Merit Systems Protection Board, which has the authority “to adjudicate decisions and [was] established to protect federal employees against political and other prohibited personnel practices as well as to ensure that there is adequate protection from abuses by agency management”, are named in the international literature as being able to provide effective remedies.¹⁵⁷

Also **Romania** has a dedicated law for the protection of whistleblowers – Law on the protection of the personnel from public authorities, public institutions and from other units, notifying infringements of the law. The coverage in terms of protected persons is narrower than in the UK and captures essentially the national and local levels of the public sector and related entities, for example, state-owned enterprises. Importantly the protection applies not only to disclosures to the authorities but also to reports to NGOs

and the media. The personnel is protected against disciplinary action, among other things, through the presumption of the good faith of whistleblowers. Another measure of protection is a possibility to invite the media and a representative of the union or professional association to the meeting where the case is reviewed if the whistleblower so requests. Confidentiality of the identity of the whistleblower shall be ensured if the person denounced through the report is superior or has control, inspection or evaluation powers over the whistleblower (if the whistleblowing concerns corruption-related criminal offences, the concealment of identity is applied based on provisions of witness protection). Disciplinary or administrative sanctions can be annulled by the court in labour-related litigations if sanctions were applied after a good faith act of whistleblowing. The court verifies the proportionality of the sanction by comparing it to the sanctioning practice or other similar cases.

Box 29. The United Kingdom: The Public Interest Disclosure Act

Based on the Public Interest Disclosure Act, which was adopted in 1998, the United Kingdom system features the following main characteristics:

- Vast coverage – the majority of workers in government, private and non-profit sectors protected;
- Possibility to disclose a vast range of wrongdoings – corruption, dangers to public health and safety, etc.;
- If a whistleblower is fired, the burden of proof is on the employer to demonstrate that the dismissal was not related to the act of whistleblowing;
- Whistleblowers who suffer from retaliation can be compensated financially;
- Conditions for protecting the whistleblower depend on who the person has reported to – the employer, regulatory agencies, external individuals, or the media. The higher the tier of reporting, the higher the standards of accuracy and urgency that must be met by the whistleblower;
- Protections only when the whistleblower reasonably believes that the disclosure was made in the public interest;
- Even a bad faith report may be protected.

As indicators of success, the TI report refers to cases where courts have upheld protections to whistleblowers (including when the whistleblower has disclosed a confidential report directly to the media) and survey data of *Ernst & Young* whereby “86% of UK senior executives said they felt free to report cases of fraud or corruption, compared to 54% in the rest of Europe”.

Source: Transparency International (2013), Whistleblowing in Europe. Legal Protections for Whistleblowers in the EU, pp.83-84.

http://www.transparency.org/whatwedo/pub/whistleblowing_in_europe_legal_protections_for_whistleblowers_in_the_eu

In Slovenia, the legal basis for reporting corruption is established in the Integrity and Prevention of Corruption Law. According to the law the Commission for the Prevention of Corruption is the designated body for the protection of whistleblowers. The coverage is broader than in Romania and applies to any person in the public or private sector who reported on any acts or practices containing corruption. The protection applies to good

faith reports. The identity of the reporting person shall not be made public and the Commission for the Prevention of Corruption may propose the inclusion of the reporting person in the witness protection program or taking of urgent protection measures by the Prosecutor General. The law provides for a possibility to claim compensation from the employer for unlawfully caused damage in the case of retaliatory measures. If the Commission establishes a causal link between the report and the retaliatory measures, it shall demand immediate discontinuation of such measures. Where civil servants are concerned, their transfer to another equivalent post is also an option for their protection under certain circumstances. If a reporting person provides grounds for the assumption that he/she has been subject to retaliation by the employer, the burden of proof shall rest with the employer.¹⁵⁸ It is also possible to fine those who retaliate against or disclose the identities of whistleblowers. The Whistleblower Protection Law exists also in **Bosnia and Herzegovina**.

Certain provisions for the protection of whistleblowers are found also in other countries of the region. These may be provided in labour laws (for example, **Croatia, Latvia, Montenegro**), civil service laws (for example, **Croatia, Montenegro**), anti-corruption/corruption prevention/conflict-of-interest laws (for example, **Georgia, Kyrgyz Republic, Latvia, Montenegro**) or special government regulations (for example, **Moldova**). In some countries, for example, **Kyrgyz Republic** and **Uzbekistan**, the protection seems to be mainly guaranteed in relation to assistance provided to bodies, which carry out investigative operations, as well as to victims, witnesses or other participants of criminal cases.

Kazakhstan is one of the few countries with a functioning mechanism for awarding reporters of corrupt acts financially. According to the questionnaire, in 2013, 172 persons were awarded in total about 19 million tenge (approximately 92 thousand euros).

The question of the effectiveness of measures of whistleblower protection remains a matter of controversy even in countries with advanced regulations such as **Romania** and **Slovenia**. The Transparency International report claims that the Romanian Whistleblower Protection Law “has been effectively applied in numerous cases – including that of a Public Health Ministry employee who won a court case after being dismissed for exposing the allegedly improper hiring of a manager” but also admits that the implementation is generally weak.¹⁵⁹ The questionnaire submitted by the Expert Forum of Romania claims that, during the decade of the existence of the law, the practice is limited and civil servants remain afraid from retaliation and wary of using the legal protection. The questionnaire cites also the lack of incentives for the potential whistle-blowers as one of the discouraging factors.

Also in the case of Slovenia, the Transparency International report criticizes inadequate protection provided to a number of whistle-blowers, in particular situations when whistle-blowers are disclosed before the court (in order to allow defendants to question witnesses).¹⁶⁰ However, in the questionnaire, the Commission for the Prevention of Corruption provides as evidence of effectiveness the fact that no identity of any whistle-blower has been revealed so far (apparently referring to procedures within the Commission) and the increasing number of reports made by persons who seek protection. To conclude, it should be mentioned that difficulties in the protection of whistle-blowers are by no means a problem of just the countries of Eastern Europe and Central Asia. For example, also the National Integrity System Assessment of the Netherlands strongly laments the ineffectiveness of whistle-blowers protection measures.¹⁶¹

Part III.

Trends and recommendations

Chapter 20.

Trends in prevention of corruption in Eastern Europe and Central Asia

Across Eastern Europe and Central Asia, a variety of prevention measures represent important parts of comprehensive anti-corruption policies. Many of these measures are explicitly embodied in policy planning documents and dedicated anti-corruption laws. Most of the reviewed countries have strategies at the top of the anti-corruption planning paper hierarchy. Steps to achieve the strategic objectives are concretized as actions in national programs or actions plans. The anchoring of anti-corruption measures into broadly defined strategic objectives appears to be an actual standard that has grown out of practice. This is a sign of rational policy planning although it could also imply an excessive degree of the top-down approach.

The region shows a variety of choices regarding bodies that prevent corruption. At least three distinct institutional approaches are rather widespread:

- Separate, autonomous institutions with a mandate to deal exclusively with the prevention of corruption;
- Branches or units within multifunctional, dedicated anti-corruption bodies (that alongside possess also law enforcement functions); or
- Dedicated units within rather more “traditional” institutions, for example, ministries or public prosecutor’s offices.

Across the region, research is increasingly used in connection with anti-corruption efforts. It is most common to commission surveys of the general population or selected groups. A few countries have established the good practice of gathering comparable time series of data. For policy purposes, the most straightforward ways to use results from surveys and other research are to evaluate the implementation of anti-corruption strategies and incorporate research findings into government’s anti-corruption policy. The practical usefulness of research findings seems stronger in those countries that link research clearly with prevention policies and activities, for example, where research is designed to systematically detect change in areas targeted by anti-corruption activities or where surveys are used to monitor increase of ethics awareness.

In many countries in the region, legislation provides for some kind of anti-corruption screening of regulatory acts. In several countries, such expertise has been made mandatory while in others anti-corruption expertise is foreseen in the law but is not mandatory in all cases. A few of the covered countries provide evidence that results of anti-corruption screening are indeed introduced in the legislation. While certain screening is a common practice, its effectiveness is uneven. In some countries, the non-binding character of the screening recommendations leads to poor implementation. Elsewhere the lack of review of the existing legislation leaves substantial risks and inconsistencies uncorrected. Not so widespread but promising novel activity is a systematic review of

existing regulations to assess their necessity and make proposals for repealing or simplification.

Country-wide obligations or at least officially endorsed methodologies to carry out corruption-risk assessments in public bodies are found in most of the countries. Fairly sophisticated approaches to the risk assessment have been elaborated and adopted in a number of countries. Over years advanced methodologies have become increasingly common although still not found everywhere. Many of the covered countries also have legal obligations, established political commitments or at least officially endorsed methodologies to develop integrity/ anti-corruption plans within public bodies. This can apply to the whole of the public sector (most commonly) or to particular areas of priorities. It is common to determine the basic elements of integrity plans in a centralized manner – in the law or non-legal government documents. The use of web-based platforms for the elaboration of agency-level plans is one of the observed novelties in the area. Meanwhile the proclivity of agencies to neglect the integrity plans after they are adopted is a common challenge.

It is key to properly track progress in implementation corruption prevention policies and to report on the main achievements to the public. Most typically this responsibility is shared between some central body, which gathers data on implementation, and all of the bodies involved in the implementation, which provide this data. A couple of innovations with regard to monitoring are the use of thematic evaluation missions of experts in public institutions and web-based collecting of reports on the implementation. Still the impact of anti-corruption measures remains a matter of concern in many places. Governments often register policy outputs while outcomes remain ambiguous.

In some way, virtually all of the countries of the region engage civil society representatives in the anti-corruption policy process. Two of the most typical arrangements are the inclusion of civil-society representatives in deliberations on draft policy planning documents and legal acts as well as in consultative and/or monitoring bodies. Such institutionalized forms of involvement provide a certain “guaranteed” avenue for inputs from the civil society although their actual effectiveness depends on many different factors. A less common form of intensive engagement is formalized involvement of civil society representatives into the monitoring and assessment of the anti-corruption activities of public agencies. This is done in a few countries where the civil society possesses high-quality expertise. Even without formal procedures, a number of countries have seen well-designed and implemented monitoring actions by NGOs, for example, with regard to candidates to public posts. Meanwhile, in many places in the region, a common complaint from NGOs concerns a formalistic attitude of authorities toward the engagement of the civil-society (for example, proposals by NGOs might be listened to but not seriously considered for adoption). In a few countries, the legitimacy and clarity of criteria for the inclusion of civil society actors into consultative bodies prompt concerns among the outsiders. Insufficient access to public information represents another challenge in at least a few countries.

Virtually all of the covered countries provide or have provided some anti-corruption training for their civil servants. Several ways to organize training are common. Training opportunities may be provided permanently or on an ad-hoc basis to selected groups of civil servants (newly recruited, senior-level, working in particular agencies, for example, the law enforcement) or the civil service employees in general. Still some countries face difficulties to change the general level of knowledge and behaviour with the help of

training. In these cases, one of the reasons may be the participation of civil servants in training due to purely formal requirements.

Many of the countries have carried out major public awareness/ educational anti-corruption campaigns. It is common to use advertising campaigns and increasingly also the Internet social media. It is common to see campaigns that address the whole public and the problem of corruption in general as well as targeted campaigns addressing issues of corruption in particular sectors or even institutions, for example, health or education. Large-scale public consultations on corruption are less common but nevertheless they have taken place in a few countries. Meanwhile country experiences show that it is almost impossible to measure the isolated impact of particular campaigns on the public attitudes and behaviour.

All the countries have policies or at least some legal provisions for the management of conflicts of interest of public officials. The review shows that a few countries have designed quite innovative measures in this regard such as verification by a specialized body of possible conflicts of interest before public officials engage in certain actions, focus on the whole institution rather than on just particular individuals when assessing the existence of a conflict of interest and the control of compliance with incompatibility rules with the help of automated systems. Several of the countries recognize that effective policies against conflicts of interest require more than just the definition of the rules and sanctions. Therefore they publish various forms of guidance (and provide training) alongside monitoring and control.

The appointment of ethics/ confidence/ contact persons for corruption issues within public bodies is not so commonly found in the countries of the region although a few such examples do exist. Still it is common that managers of public agencies are obliged to control conflicts of interests and other ethics-related issues of their subordinates.

The reviewed countries use different types of intra-governmental coordination arrangements and activities. It is common to find arrangements, for example, councils where heads or other representatives of different agencies meet to exchange information, build joint commitments and coordinate efforts of multiple parties. In a few countries, the public prosecutor's offices play a particular coordinating role. Moreover national anti-corruption strategies/ programs with tasks assigned to a variety of state institutions often serve as tools of coordination. There are also cases where networking has been engaged in among the relevant stakeholders without necessarily creating formalized structures such as councils or committees.

Greater transparency and the use of IT technologies are the main anti-corruption relevant innovations in the management of public finances reported by several countries of Eastern Europe and Central Asia. A few countries have disclosed major amounts of budget data on dedicated budget portals. The other new trend started by a few countries is the use of electronic tools in the budgeting and control of risks. The majority of countries reported little information about the role of the state audit institutions in detecting suspected corruption. The SAIs tend to focus on the identification of systemic weaknesses and sometimes also on the possibilities of fraud and corrupt activities. Overall it appears that the work of SAIs is often not regarded among the primary anti-corruption means.

Many of the countries of the region have started to use the Internet for the provision of public services. It is common to publish procurement notices and other procurement-related documents. A few countries have increased the use of the e-procurement rapidly during the last years beyond mere publication. Still even in some of the countries with

advanced e-procurement systems, a relatively small share of the procurement is carried out electronically or important categories of procurement are permitted to run outside the e-system. Aside from electronic services, a few countries have made major investments into the physical infrastructure for the service provision such as the state of the art unified service centres with reduced opportunities for corruption.

Many of the countries of the region have freedom of information laws and they also appreciate the importance of proactive disclosure of information, for example, publish some or all of public officials' declarations. A few countries stand out with a particularly vast range of information to be published online with or without particular legal rules that so require.

Virtually all countries in the region recognize the need to promote reporting of corruption. Special telephone hotlines for the reporting of corruption and/or specially designed online reporting tools are common. A few countries have opened special reception/complaints offices/units. In connection with reporting of corrupt acts, by far the most sensitive issue is whistleblower protection. Successful policies and mechanisms for the protection of whistleblowers are rare. Comprehensive whistleblower protection laws covering the public sector or both the public and private sectors are seldom found in Eastern Europe and Central Asia. Certain provisions for the protection of whistleblowers are sometimes introduced also in labour laws, civil service laws, anti-corruption laws or special government regulations. Some countries guarantee protection only in relation to assistance provided to law enforcement bodies. At least in one case, financial awards are granted to people who report corrupt acts.

Chapter 21.

Regional policy recommendations

- **Use research findings to more efficiently tackle corruption.** Ensure findings in national and international studies and opinion polls are taken into account in developing new anti-corruption policies and prevention tools, and are used in analysing the outcomes and impact of anti-corruption measures;
- **Ensure that the anti-corruption assessment of legal acts covers all actual, major risk areas by defining criteria for selecting drafts, laws and regulations that are subject to review.** Involve non-governmental partners, for instance, civil society, businesses or sector specialists. Publish the findings of the anti-corruption expertise of legal acts. Use the outcomes of the anti-corruption expertise of legal acts. Consider a requirement that provisions associated with strong risk may not be adopted or may only be adopted in exceptional cases when accompanied with detailed and publically available reasoning as to why they had to be adopted regardless of expected risks;
- **Conduct corruption risk analysis in public sector institutions, use its findings for adopting corruption prevention measures and report publicly about improvements it helped to create.** To ensure the relevance of the assessments and the ownership, involve concerned public bodies and a central body. Ensure that the risk assessments are comprehensive and meaningful, and reflect external views, among others, by involving civil society, academia, businesses, sector specialists or other stakeholders;
- **Raise senior management awareness and accountability for anti-corruption (integrity) plans in public sector institutions.** Further engage senior management in the implementation of anti-corruption measures through clear political leadership, guidance and support. Disseminate progress in implementing these plans through regular public reports and press conferences;
- **Build adequate corruption prevention systems in public sector institutions, including clear rules and practical tools, guidance, training, as well as proper monitoring and efficient enforcement.** Among others, further explore new methods of automated control of conflicts of interest by using pools of data on public officials, their private transactions and transactions by public bodies. Strengthen particularly the integrity of heads of agencies due to their crucial role in the context of preventing corruption;
- **Develop indicators demonstrating changes achieved with anti-corruption measures, include these indicators in anti-corruption policies and measure progress in fighting corruption using them.** Where civil society organizations, businesses or sector specialists have relevant expertise, involve them as much as

possible in defining such indicators and monitoring the implementation of anti-corruption measures;

- **Further engage civil society and business organizations in anti-corruption policies** both in institutional formats (councils, working groups, etc.) and also at any time proactively when they can contribute. On behalf of authorities, make sure that the selection of civil society partners is inclusive and does not discriminate against critically minded organizations;
- **Promote public sector ethics training and ensure its quality.** Encourage public officials to develop new knowledge and improve skills and ethical competence. Regularly provide anti-corruption and ethics training for public officials ensuring its of high quality and practical. The training could be mandatory for certain target groups, for example, designated ethics officials and officials with high exposure to corruption risks, for example, those who are in charge of public money and allocation of projects, recruitment, procurement, drafting of laws, etc.;
- **Complement anti-corruption public awareness campaigns with relevant indicators** of outputs, outcomes and wider impact;
- **Designate ethics officials or confidence persons with counselling and preventive tasks in various public sector agencies** in order to build anti-corruption/ ethics expertise across the public sector. The preventive tasks could include, for example, performing risk assessments in co-operation with managers, promoting existing rules, counselling on their interpretation. Ensure due independence of the ethics officials or confidence persons from pressure by the leadership of their agencies;
- **Ensure working and transparent inter-institutional coordination in the anti-corruption area** to mobilise all relevant stakeholders from the public sector – not only central anti-corruption bodies – and encouraging good and smooth co-operation between preventive and law enforcement anti-corruption bodies. Involve civil society and other non-governmental partners. Promote active public reporting about results of anti-corruption measures;
- **Publish budget data online in such detail and form that is relevant and useful for citizens.** The data should provide both ready-made important information that is understandable and relevant to the average citizen and opportunities to download and process the data for further, more-in-depth analysis by specialists.
- **Strengthen the role of the Supreme Audit Institutions in prevention of corruption** by, among others, more actively fostering good governance and transparency in public administration, helping to detect irregularities, assisting in developing methodologies for assessing performance of internal anti-corruption systems of public bodies;
- **Extend the use of e-procurement in practice and beyond publication,** for example, to allow online submission of tender documents. Use e-procurement methods for most of competitive procurement procedures (with due consideration for the features of particular methods);
- **Consider unifying public service provision,** including, when appropriate, within special service institutions with efficient and transparent mode of work. Consider

introducing service quality control by units that are not subordinate to the officials who are themselves in charge of organizing the services;

- **Ensure possibilities to effectively request and obtain information alongside increasing publication of data by public institutions;**
- Introduce **legal measures to protect whistle-blowers and take steps to ensure this protection is actually provided**, including raising awareness about the importance of whistleblowing and preventing negative prejudices against people who report concerns in the public interest. Encourage anonymous reporting on suspected corruption when done in good faith;
- Design **specific anti-corruption programs for municipalities and regions**, if the national anti-corruption policy does not address these issues.

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