

Strengthening Capacity for Investigation and Prosecution of Corruption in Ukraine

Project is implemented by the Organization for Economic Cooperation and Development and supported by the US Department of State's Bureau for International Narcotics and Law Enforcement Affairs

Project Description

Introduction

A project on comprehensive law enforcement reform, including a holistic way to investigating and prosecuting corruption, in line with European norms was implemented jointly by the OECD/ACN and ABA/CEELI in 2005-2006 and funded by the U.S. Department of State's Bureau for International Narcotics and Law Enforcement Affairs. The main outputs included a study of the European and international models of anti-corruption agencies, as well as studies of the Ukrainian and European Union law-enforcement systems. The results of this project set the basis for the following project proposal to strengthen Ukraine's law-enforcement community's capacity to investigate and prosecute corruption in line with European norms and standards.

Focus of the project

The main goal of the project is to strengthen institutional capacity to effectively detect, investigate and prosecute corruption in Ukraine. Primarily, project activities will support national efforts aimed at defining and then establishing a new body/departments, within or separate from existing law enforcement bodies, which will be responsible for investigation and/or prosecution of corruption. The approach will be guided by European standards on specialisation in prosecution of corruption.

Project activities will include commissioning of experts to provide tailor-made, regular and targeted advice to the Ukrainian counter-part institution(s) as they shape and develop consensus on what is the appropriate European compliant model for Ukraine and afterwards implement it.

It is proposed to focus the project activities on supporting practical measures taken by Ukraine to strengthen the law enforcement institutions. It is advisable to refrain from developing a detailed action plan, with clearly defined outputs, timelines, and budget lines. In order to maximize the impact of project activities, it is proposed to adopt a flexible, demand-driven approach and to engage in concrete activities when Ukrainian counterparts express their clear commitment to and support for such initiatives.

Ukrainian counterparts

The success of the project will be determined primarily by the will and ability of the Ukrainian authorities to launch a comprehensive, focused and sustained reform process, as well as to utilise external expertise and financial assistance. The Ukrainian counterpart will be Secretariat of the President and advisory bodies to the President, the National Security and Defence Council Secretariat, Ministry of Justice, Anti-Corruption Committee of the Parliament, relevant law enforcement agencies, etc.

Project building blocks/modules

1. Expert panel for ad-hoc advice during the phase of establishment of the new body: maintain a pool of best available experts/practitioners on corruption, mostly from European transition countries as well as selected OECD countries, to be available on-call to provide specific advice on demand, as well as to review/comment various documents coming from the Ukrainian authorities.

In substantive terms, the issues should include primarily the institutional set-up and the related legal framework (development of the decree, which will identify responsibilities and powers, institutional placement, subordination, external controls and reporting, clarify the jurisdiction of the body/departments and their relations with other relevant law-enforcement bodies, including mechanisms for coordination and exchange of information in regard to detection, investigation and prosecution of corruption). Additional issues may concern the role of the anticorruption body/departments in the development and implementation of the anti-corruption strategy and action plan, and in the elaboration and execution of sector-specific anti-corruption action plans.

This block also includes expert assistance to Ukrainian authorities in designing and implementing anti-corruption specialisation of prosecutors.

2. Management and communication advice. To ensure successful functioning of the body/departments, a number of policies regulating specific areas – human resources, reporting and accountability, coordination with other bodies – should be put in place. Therefore, one of the project activities will focus on developing appropriate policies and building managerial and professional skills within the anticorruption institution(s).

These shall include:

- a) *Human Resources:* Development and application of competitive recruitment procedures for hiring the head, senior management and other staff members; professional tests and skills assessments; integrity screening; staff rules and procedures, ethics code; staff development through merit-based promotion rules; performance management; in-service training; etc.
- b) *Strategic planning:* Development of short-range (1-2 years) and medium- (3-5 years) action plans; indicators and criteria for performance assessment; monitoring mechanisms and procedures; methodologies for aligning financial resources with strategic objectives (programming budget); etc.
- c) *Reporting and accountability:* Development of a performance reporting system, including preparation of reports for the management and supervision bodies, media, civil society, international community, etc; policies for accessing and working with confidential material and sensitive information; policies for liaising with media and for handling public inquiries; etc.
- d) *Inter-institutional cooperation:* Development of procedures for coordination of efforts and co-operation with other law enforcement agencies and line ministries, including the development of procedures and memorandums of understanding; rules and procedures for sharing information, resources, and confidential data; review of legislative acts; preparation of anti-corruption strategies, sector specific strategies and action plans; etc.

3. Professional training on detection, investigation and prosecution of corruption: Depending on the stage in establishing of the new body, the project may provide targeted trainings for its staff.

This shall include:

- a) *Management of corruption related cases:* methods of detecting corruption instances; exchange of information and coordinating among agencies; jurisdiction of cases and making decisions on starting, transferring and closing cases; creating anti-corruption teams of investigators and prosecutors, ensuring effective team leadership by prosecutors and managing necessary

specialised expertise within the teams; collecting evidence, documenting and reporting on cases; presenting and supporting cases in courts by specialised prosecutors; evaluation of cases; etc;

b) *Criminal investigation and prosecution methods specific to corruption*: special investigation techniques (wiretapping, forensic techniques in IT and finances); specific issues for investigating and prosecuting legal persons and foreign and international officials; confiscation of proceeds of crime, value based confiscation and confiscation from third persons; mutual legal assistance and extradition in corruption related cases; etc;

4. Resident expert/advisor: as the establishment of the anti-corruption law enforcement body advances, the project can base a resident advisor to work with the newly appointed management as an in-service coach on a variety of issues, including management and professional issues.

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