

# **Fighting Corruption in Eastern Europe and Central Asia**

THE ISTANBUL ANTI-CORRUPTION  
ACTION PLAN

PROGRESS AND CHALLENGES



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

## ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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## FOREWORD

Corruption is a key threat to good governance, democratic processes and fair business practices. Fighting corruption is therefore one of the main priorities of the OECD. In addressing corruption, the OECD takes a multidisciplinary approach, which includes fighting bribery of foreign public officials, combating corruption in fiscal policy, public and private sector governance, and development aid and export credits. The OECD has been leader in setting and promoting anti-corruption standards and principles. It ensures their implementation through peer reviews and monitoring of member states. It also helps non-members to improve their domestic anti-corruption efforts by fostering sharing of experience and analysis, and through regional anti-corruption programmes.

The Anti-Corruption Network for Eastern Europe and Central Asia (ACN) is one such regional anti-corruption programme. Over the past decade, the ACN has been the main vehicle for sharing OECD experience and promoting anti-corruption reforms in this region. In 2003 the ACN launched a special anti-bribery programme for Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Ukraine, which aimed to apply the key OECD working methods of peer review and mutual examination in these states. This report analyses regional progress and challenges in such areas as anti-corruption policies and institutions, criminal legislation and its enforcement, and preventive measures in public administrations. The report is rich in country data; it provides useful information about effective anti-corruption measures, and will be a useful reference not only for Eastern Europe and Central Asia, but for other regions in the world.

This report is based on individual reviews and monitoring reports of the Istanbul Action Plan countries, which were prepared by many national experts from the ACN countries during 2003-2007. It was compiled by Olga Savran and Daniel Thelesklaf, with the assistance of Dmytro Kotliar. Melissa Peerless edited the final English language version of the report.



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## EXECUTIVE SUMMARY

### Corruption in Eastern Europe and Central Asia

Eastern Europe and Central Asia are among the most corrupt regions in the world. Corruption is particularly high in the former Soviet states. Many politicians admit that corruption has become endemic, and have declared their will to fight it. Too often, however, these declarations are not followed by action. Even when actions are taken, they rarely bring immediate and visible results.

Eradicating corruption is a long-term challenge. There is no single solution; anti-corruption measures should always combine various incentives, including preventive and punitive measures. As anti-corruption programmes advance, it is important to identify what works and what does not, and to share best practices.

This report assesses progress in the countries of the Istanbul Anti-Corruption Action Plan, an OECD programme for eight ex-Soviet states: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Ukraine. The report studies anti-corruption policies and institutions, criminalisation of corruption, and measures to prevent corruption. It aims to identify main achievements and challenges, and to provide a basis for the future activities.

This report is based on country reviews and monitoring reports for the Istanbul Action Plan countries and draws on publicly available reports by NGOs, international organisations and press. The report covers the period of 2003-2007.

### Anti-corruption policies and institutions

In countries where levels of corruption are high, it is necessary to develop **special public policy against corruption**. Such policies – in the form of a strategy or programme – can give a clear message about government priorities, and ensure disciplined implementation. The majority of Istanbul Action Plan

countries adopted national anti-corruption strategies. Several countries also developed action plans. Moving forward, it will be crucial to ensure that the strategies – and particularly the action plans – provide effective and concrete implementation measures.

More efforts are needed to strengthen the analytical basis for anti-corruption work. This should include **research and surveys about the extent and patterns of corruption** in individual countries, sectors and institutions, collection and analysis of statistical data about anti-corruption law-enforcement activities.

Efforts in the area of **public participation in anti-corruption policy** are underway in most Istanbul Action Plan countries. But to move from formalised participation to meaningful dialogue, NGOs should be involved in more practical and result-oriented work. Special focus should be given to public participation in monitoring implementation of anti-corruption policies. Finally, it is important to ensure open and competitive participation by all NGOs in eligible government-funded projects.

**Awareness-raising** efforts by the Istanbul Action Plan country governments often consist of fragmented and incidental activities, mostly media appearances and conferences. Well-designed, practical and regular campaigns are urgently needed. If the governments really aim to change the deeply rooted tradition of bribery in their countries, they must develop and lead such campaigns. NGOs will continue to play an important role in awareness-raising, and governments could develop partnerships with them.

Some progress was recorded in the area of **institutional support for anti-corruption reforms**. A number of countries have established corruption prevention institutions or consultative councils. Specialised anti-corruption prosecution units were established or strengthened in several countries. However, low numbers of convictions for corruption, especially involving high-level officials, may indicate that law enforcement and the political will to fight corruption need to be strengthened. It is necessary to ensure independence of anti-corruption bodies from undue interference, to strengthen their specialisation and provide them with adequate resources. Training and co-ordination are among the main priorities for anti-corruption bodies.

**Ratification of the UN and Council of Europe anti-corruption conventions** by the Istanbul Action Plan countries is well advanced. But transformation of these international standards into national legislation is slow, and implementation of legislation requires major effort.

## **Criminalisation of corruption**

Several Istanbul Action Plan countries introduced substantial changes in their criminal legislation in order to bring it into compliance with international anti-corruption standards established by the OECD, Council of Europe and UN anti-corruption conventions. Most others prepared amendments, but they have not yet been adopted by parliaments. This is a significant achievement, especially as criminal law reform is a slow process. In many cases changes were introduced immediately before the monitoring programme, confirming the effectiveness of the peer-pressure mechanism. However, many gaps remain and further efforts are still needed to achieve full compliance with international standards.

While international instruments require criminalisation of corruption, in many Istanbul Action Plan countries there are **parallel systems of administrative and criminal liability for corruption-related offences** which overlap and result in general weakening of measures to fight corruption. Furthermore, general laws against corruption adopted in many countries create an impression of a strong legal base – but they are often inactive, as their provisions are not supported by criminal or administrative laws. Istanbul Action Plan countries need to clarify and harmonise their anti-corruption legislation.

All Istanbul Action Plan countries have criminalised giving and taking bribes, but many have not established **offering, promising, requesting and soliciting bribes as separate offences**. Instead, they rely on “attempt” and “preparing” to commit active or passive bribery to cover such acts, which are insufficient for compliance with international instruments.

The majority of other corruption-related offences which are mandatory under the UN Convention against Corruption (UNCAC) exist in the Istanbul Action Plan countries, including **money laundering, accounting offences and embezzlement**. Optional offences are treated as follows: **abuse of office** is criminalised across the region; **trading in influence** has been criminalised by two countries so far; **illicit enrichment** has not been criminalised in the region.

There is a general lack of specific and explicit inclusion of **non-material benefits** in the definition of undue advantage as the subject of bribery. The **definition of public officials** requires streamlining and clarification in all Istanbul Action Plan countries.

There is some progress in the region regarding **criminalisation of bribery of foreign public officials**: Armenia, Azerbaijan, Georgia and Kazakhstan have recently criminalised this form of corruption. Although the new legislation

shows progress, a number of shortcomings persist, *e.g.* provisions are limited to the officials of international organisations of which these countries are members, or they refer back to the definition of a public official as established in a foreign country or international organisation.

In 2006 Georgia amended its legislation to introduce criminal liability of legal persons for corruption offences. All other Istanbul Action Plan countries have yet to introduce **criminal, administrative or civil liability of legal persons for corruption offences**.

**Mandatory value-based confiscation** of tools and proceeds of corruption is not universal in the region. Several countries have introduced confiscation of the proceeds of serious corruption offences, including value-based confiscation.

While legislation generally establishes sufficiently strong maximum sanctions for passive bribery, in practice courts apply much lower and weaker sanctions (like small fines). Giving a bribe is considered by many countries a less serious crime, and **sanctions for active bribery are not proportionate and dissuasive**.

While legislation in many countries provides a number of intermediary measures to identify, trace, freeze and seize the proceeds and instrumentalities of corruption, they are rarely used as investigative tools.

**Broad immunities for public officials and lack of precise procedures to lift them** remain an obstacle for effective investigation, prosecution and adjudication of corruption offences in the Istanbul Action Plan countries. Reforms should therefore move towards only functional and temporary immunities and provide for clear procedures to lift them.

Although some countries have improved their **extradition and mutual legal assistance** (MLA) legislation, further analysis is necessary to identify problems and solutions in this area. In particular, it may be useful to examine whether countries have an adequate treaty and legislative framework for co-operation, or whether international co-operation may be hindered by dual criminality requirements. The absence of legislation to deal with MLA relating to proceeds of corruption is a concern.

It is difficult to assess the effectiveness of criminal anti-corruption legislation in the Istanbul Action Plan countries. Little analysis is available about **how it is applied in practice**; the available **law-enforcement statistics** on corruption are fragmented and unclear. Istanbul Action Plan countries need to strengthen analysis of practical implementation of anti-corruption legislation.

## Prevention of corruption

Basic elements of **merit-based and competitive recruitment** of public officials are in place in most countries in the region. However, more needs to be done to strengthen these new systems, and to extend merit-based and competitive principles to jobs in all categories, as well as to the promotion systems. Recruitment and promotion systems must be harmonised and unified across all public administrations. Systematic anti-corruption training for staff should become an integral part of personnel policy.

**Conflicts of interest** are a serious problem in the Istanbul Action Plan countries. Basic restrictions for employment in public service exist; however, legal provisions to prevent and manage conflicts of officials' private and public interests need to be strengthened. Particular focus should be on the development of practical guides and training, and on the strengthening of institutional mechanisms to support implementation.

General **codes of ethics**, as well as codes for specific public institutions, should include clear anti-corruption principles and non-compliance sanctions. The main focus should be disseminating these codes of ethics, and ensuring high-quality ethics training programmes as a part of both academic curricula and in-service training for public officials.

The majority of the Istanbul Action Plan countries have established systems for **declaration of assets for public officials**. If these systems are to play a role in preventing corruption, they must have a mechanism to verify and control the data declared by the public officials by a specially assigned institution and/or through public disclosure and scrutiny. It is also important to ensure that law-enforcement bodies have access to the declarations when they investigate alleged crimes committed by public officials.

**Internal investigation** units exist in many law-enforcement and other agencies in the Istanbul Action Plan countries. They can play an important role in uncovering violations by public officials and in applying disciplinary sanctions. It is necessary to study how these units can be used better to prevent corruption, and ensure that corruption offences are reported to law-enforcement bodies for criminal proceedings.

Improved **reporting of corruption-related crimes and other misconduct** by public officials and ordinary citizens will increase the chances of detecting these offences. Stronger legal obligations to report is one approach; however, this should be supported by other measures, such as the protection of whistleblowers, and removal of overly strict provisions against defamation.

**Liberalisation and administrative simplification of the business environment** is probably the strongest instrument to limit opportunities for corruption, and should be actively promoted. Efforts could include removal of unnecessary certification, permitting and licensing regulations, screening new legislation to limit discretionary powers and increasing officials' accountability. These measures should be implemented as a part of comprehensive sectoral reforms. It may be useful to implement **targeted anti-corruption measures in sectors with high risk of corruption** to produce rapid and visible results.

**Public procurement** is one sector with a high risk of corruption. There is, however, little information about cases of corrupt officials prosecuted for abuse of public procurement rules. This area requires particular attention, including: making legal improvements; strengthening control mechanisms over procurement operations; providing anti-corruption training for procurement bodies; and ensuring that anti-corruption law-enforcement bodies focus on procurement.

There is progress in the region in the area of **financial control**, which can prevent various forms of corruption – accounting offences, abuse of office, and embezzlement in particular. However, further efforts are required to strengthen financial control bodies, to clarify roles of various bodies to avoid overlaps, and to improve exchange of information between them. Exchange of information with law-enforcement bodies is particularly important for fighting corruption, and should be improved.

Fundamental legal provisions to ensure **public access to official information** are in place in all Istanbul Action Plan countries. But access to information continues to present a serious problem: officials abuse discretion in determining what constitutes confidential information, or do not follow the rules. There are delays in the provision of information, or such information is not precise or is incomplete. Enforcement of access to information laws should be strengthened, especially at the local level. Complaint mechanisms should be improved to allow quick and simple access to justice.

**Political corruption** is an increasingly topical issue in the region. Laws which regulate political parties and election campaigns exist, but there is a variety of gaps and parties in power have been known to re-write laws to fit their needs and to misuse administrative resources. Financial controls and transparency of parties' activities must be strengthened. Additionally, countries need to ensure that anti-corruption criminalisation and prevention measures apply wholly to the high-level officials and politicians (*e.g.*, effective prosecution for corruption-related offences, control of conflict of interests). Finally, freedom of the press is a fundamental pre-condition for transparency and fighting political corruption.

## CORRUPTION IN EASTERN EUROPE AND CENTRAL ASIA



### Level of corruption in the region

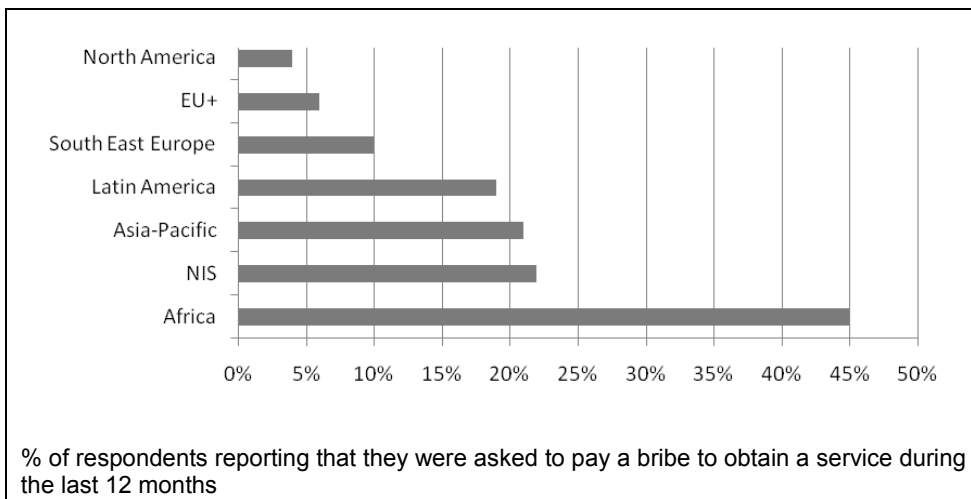
Corruption has penetrated all spheres of life in the countries of Eastern Europe and Central Asia. It is widespread in interactions between individual citizens or businesses and the public administration, as well as among high-level officials and politicians. National anti-corruption strategies and programmes in these countries often recognise that corruption has become endemic and systemic; this is the political basis for the anti-corruption work in the region.

According to the World Bank<sup>1</sup> there is steady but slow progress in fighting corruption in transition economies. This progress is not homogeneous across Eastern Europe and Central Asia: the new EU members from this region have

advanced the most, while the ex-soviet states – referred to as CIS<sup>2</sup> –remain the least successful. Indeed, a European Bank for Reconstruction and Development study confirmed that about 67% of citizens in the CIS believe that corruption is worse now than at the beginning of transition in 1989<sup>3</sup>.

The Global Corruption Barometer 2007 recently published by Transparency International (TI) rates the level of demand for bribery in the ex-soviet states – referred to as NIS<sup>4</sup> – as the second highest in the world after Africa, followed by Asia-Pacific, Latin America and South East Europe.

**Figure 1. Demands for corruption by region**



Source: Transparency International Global Corruption Barometer 2007.

### **Political will to fight corruption**

A decade ago, not many people were brave to talk about corruption; now, many voices are raised against it. Corruption is a primary threat to sustainable economic and social development, democratic process and fair business practices. It has a corrosive effect on public institutions and undermines public trust in governments. Failure of certain countries or regions to effectively combat corruption undermines global efforts as well – they generate demand for international bribery, and produce corrupt assets and dirty money which finance illicit activities and crime globally.

Although corruption is not a taboo topic any longer, and many people say that it has to be controlled, in reality few act against corruption. Genuine



willingness and resolution to fight corruption is the first and most important step. Governments must take the leading role in the fight against corruption. However, in order to succeed, they must have support throughout society. In several transition economies, allegations of corruption – especially political corruption – led to major political changes, including changes of presidents and governments.

In the transition economies, international organisations and donor agencies were among the first to raise the issue of corruption. They often provided powerful incentives for change through assistance programmes or conditions for membership (*e.g.* EU accession process). While such incentives and support can be very compelling, external leadership of the anti-corruption agenda alone is not sustainable in the long run; it must be supported by domestic political forces.

### **Evidence that change is possible**

Levels of corruption remain high in the region; progress is very limited and very slow. This reality can be discouraging for individuals and organisations aiming to fight corruption. However, practice demonstrates that change is possible. In fact, many efforts are underway and there have been successes in some countries and sectors. It is therefore important to show intermediary progress, identify trends and effective solutions, and to be aware that some of the measures implemented today will only bring positive results much later.

It is also important to recognise that there is no “magic wand” or miracle solution in the fight against corruption. Counter measures must be multi-disciplinary and well designed to adequately address diverse forms of corruption. They must combine incentives to be honest (*e.g.* acceptable salaries) with disincentives to bribe (*e.g.* high chances to get caught) and should provide ways in which citizens can obtain services without resorting to bribes. In summary, success requires political will and the right combination of “sticks and carrots”. Governments must put this formula into action through a combination of anti-corruption policy, criminalisation of corruption and prevention measures.

## NOTES

1. Anticorruption in Transition 3, World Bank, 2006.
2. CIS stands for Commonwealth of Independent States, and includes 12 former Soviet Union countries but excludes 3 Baltic States.
3. Life in Transition, A survey of people's experiences and attitudes, EBRD, 2007.
4. NIS stands for Newly Independent States, and normally covers same countries as the CIS. However, in the Global Corruption Barometer 2007, NIS covers only Moldova, Russia and Ukraine.

## ANTI-CORRUPTION POLICIES AND INSTITUTIONS

### Anti-corruption strategies and action plans

An anti-corruption strategy is a policy document which analyses problems, sets objectives, identifies main areas of action (*e.g.* prevention and repression of corruption and public education) and establishes an implementation mechanism. A strategy can be supported by an action plan which provides specific implementation measures, allocates responsibilities, establishes schedules and provides for a monitoring procedure. Strategies and action plans can be adopted by parliaments, presidents or heads of governments as national policies. Anti-corruption strategies are important statements of political will and policy direction. They can provide a useful tool for mobilising efforts by government and other stakeholders, for structuring the policy development process, and for ensuring monitoring of policy implementation.

However, anti-corruption strategies themselves are not the goals. In fact, parties to the OECD Anti-Bribery Convention rarely develop special anti-corruption strategies or similar stand-alone policy documents. One can therefore ask if these strategies are useful. Indeed, technical availability of the strategies alone is not a significant achievement, and can even be an obstacle if all attention goes towards their development rather than actual implementation. However, in countries with high levels of widespread corruption and weak public administrations, it may be helpful to have explicitly formulated anti-corruption policies agreed by all key players, which clearly state how the government plans to fight corruption. Action plans with clear allocations of responsibility can strengthen implementation discipline.

The majority of the Istanbul Action Plan countries have developed first generations of anti-corruption policy documents (Georgia, Kyrgyzstan, Tajikistan and Ukraine). Several countries have started or completed development of the second generation-documents (Armenia, Azerbaijan and Kazakhstan). The summary of available strategies is provided in Table 1.

### **Box 1. Anti-Corruption Programme of Lithuania**

The *National Anti-Corruption Programme of Lithuania* was launched in 2000, on the initiative of the anti-corruption agency *Special Investigation Service* (STT). Several STT staff members took the lead at the outset of the work, along with the Department of Corruption Prevention. One foreign expert with experience from the Hong Kong anti-corruption commission was hired to help build political support for the Programme. Later, an EU Phare project provided assistance in the development of the Implementation Plan for the Programme. Some NGOs were involved in elaboration of the Programme, but the public at large was not very active in the early stages.

The Parliament approved the Programme on 17 January 2002. The Programme was supposed to be reviewed and amended every two years; but in practice there appeared no need for such regular review. Recently, on 12 October 2007, the Prime Minister established a working group to update the Programme; the new draft has been developed and is currently going through the approval procedure. The Implementation Plan has already been updated, when the current Plan for 2006-2007 was approved by the Parliament on 12 January 2006.

The objectives of the Programme were to implement radical anti-corruption measures, reduce the level of corruption, and support the implementation of national anti-corruption legislation as well as international anti-corruption conventions and treaties ratified by Lithuania. One of the main objectives of the Programme was to support Lithuanian accession to the EU.

The structure of the Anti-Corruption Programme has remained consistent since its adoption and includes the following sections:

1. General provisions
2. Analysis of environment
  - 2.1. Factors of corruption
  - 2.2. Level and prevalence of corruption
  - 2.3. Consequences of corruption
  - 2.4. Development of the framework of anti-corruption legislation
3. Objective of the programme
4. Main tasks of the fight against corruption
5. Conception of corruption
6. Prevention of corruption
  - 6.1. Strategic provision of corruption prevention
    - 6.1.1. Constraining political corruption
    - 6.1.2. Constraining administrative corruption (public administration, tax and customs, public procurement and privatisation, health care, law-enforcement and judiciary, international co-operation)
    - 6.1.3. Public involvement in the fight against corruption
7. Investigation of corruption related offences
  - 7.1. Strategic provisions
  - 7.2. Public involvement in the investigation of corruption related offences

8. Anti-Corruption education of the general public and mass media

8.1. Strategic provisions

8.2. Public involvement in anti-corruption education

9. Implementation of the programme

10. Implementation plan for 2006-2007

A table with description of: measure, objective, implementation period and implementing authority including 57 measures on prevention of corruption, 14 measures on prosecution of corruption offences, and 11 measures on anti-corruption education.

The STT assesses the implementation of the Programme at least once a year, or more frequently if a situation requires. It reports to the Inter-Institutional Commission for the Co-ordination of Fight against Corruption, which was established by the Prime Minister and includes the Minister of Interior, Chancellor of Government, Head of the STT, Representatives of the Prosecutor General, Head of National Security, Head of the Ethics Commission, representatives of the Ministries of Justice, Economy, and Finance, Deputy Commissioner General of Lithuania, representative of the Presidency, National Audit Office, Association of Municipalities and Anti-Corruption Commission of the Parliament. It also reports to the Anti-Corruption Commission of the Parliament, sends copies of its reports to the President, Prime Minister, Speaker of Parliament and Head of National Security Office.

The Programme is expected to be carried out by all public institutions and civil society, including political parties, government and non-governmental organisations, law enforcement bodies, local authorities, educational institutions, auditing organisations, expert groups, etc. However, many authorities saw the fight against corruption as the task of STT alone, and were not very active in the implementation of the Programme.

To address this problem, the new draft of the Programme will introduce more detailed descriptions of implementation and monitoring mechanisms. Implementing authorities will now have to report STT quarterly, and STT will report to the Inter-Institutional Commission for the Co-ordination of Fight against Corruption twice per year and annually to the Parliament. All information about the implementation of Programme must be made public as well.

Source: Special Investigation Service of Lithuania, <http://www.stt.lt>.

Georgia has argued that it does not need any specific new anti-corruption strategies, as anti-corruption provisions should be included in development strategies for various sectors. However, it appears that a broad strategy cannot replace a sector-specific approach, and vice versa. More recently the Government agreed that it would be useful to update the specialised anti-corruption strategy as a tool for communication about its anti-corruption work and for co-ordinating various activities of the sectoral ministries and other stakeholders.

**Table 1. Anti-Corruption Policies and Action Plans**

<b>Country</b>	<b>Policy Document</b>	<b>Comment</b>
<b>Armenia</b>	Anti-Corruption Strategy Programme and Action Programme, adopted in 2003 by the government  The development of the new Anti-Corruption Strategy was initiated at the end of 2007	
<b>Azerbaijan</b>	State Programme for Fighting Corruption, enacted in 2004 by the Presidential Decree  New Strategy with an Action Plan enacted in July 2007 by the Presidential Decree	Separate action plans for the 2004 Programme were supposed to be developed by sector ministries
<b>Georgia</b>	National Anti-Corruption Strategy, adopted in 2005 by the Presidential Decree; Action Plan, adopted in 2006 by the Government and updated in May 2007	An umbrella document, main anti-corruption provisions were supposed to be included in sector specific programmes  Recently, an intention to prepare a new and more focused anti-corruption strategy was announced
<b>Kazakhstan</b>	State Programme for the Fight against Corruption and Action plan for 2001-2005, adopted in 2001 by the President  State Programme for the Fight against Corruption and Action Plan for 2006-2010, adopted in 2005 by the President	
<b>Kyrgyzstan</b>	State Anti-Corruption Strategy and Action Plan for 2006-2007, adopted in 2005 by the President	Amendments to the Action Plan to include measures for 2008-2010 are being prepared.
<b>Tajikistan</b>	Strategy to Combat Corruption in Tajikistan for 2008-2010, adopted in January 2008 by the Government	
<b>Ukraine</b>	Concept of Overcoming Corruption in Ukraine "On the Way to Integrity", adopted in 2006 by the President  Action Plan for the implementation of the Concept "On the Way to Integrity" for the period until 2010, adopted in 2007 by the Cabinet of Ministers	Government of Ukraine plans to revise the 2007 Action Plan.

The quality of anti-corruption policy documents in the Istanbul Action Plan countries generally needs to be improved: strategies, programmes and concepts are often declarative and not concrete. Sometimes, they only serve as umbrellas for other anti-corruption policies and action plans developed by various ministries and agencies, without clear guidelines or timeframes. Some strategies are missing action plans for implementation, or the available action plans do not provide for practical and effective actions, measurable results and clear deadlines and allocation of responsibilities. One common shortcoming of the anti-corruption strategies and action plans is the lack of explicit analysis of their implementation. New generations of policy documents being developed do not contain assessments of the achievements and failures of the previous strategies and action plans.

International organisations and foreign donor agencies played an important role in stimulating, initiating and supporting the development of anti-corruption strategies in the region. Some people even say that these strategies were written only to satisfy donors' demands or recommendations of international organisations; however, this is probably only partially true. The strategies provided important frameworks for policy debates and possibilities for reformists in the governments, as well as civil society and other partners, to raise awareness and to launch some anti-corruption measures.

### **Research on corruption and statistical data**

In order to develop evidence-based, targeted anti-corruption policies, responsible government officials should have a good picture of the scope and patterns of corruption in their country. Regular measurements of the levels of corruption, which could indicate improvements or degradation over time, are also necessary in order to assess the effectiveness of governments' anti-corruption measures and to adjust these policies. Surveys and studies of corruption – including public opinion polls, sociological studies, risk assessments, and statistical data about enforcement of anti-corruption laws – can provide valuable information.<sup>1</sup>

The governments of the Istanbul Action Plan countries often believe that it is not their role to conduct surveys and studies, and consider that they should be done by NGOs. While it is true that the governments are not well placed to conduct public opinion polls and sociological studies themselves, they should either initiate and/or fund them, *e.g.* by commissioning specialised agencies or NGOs to do the work and directing donor agencies to fund such work. More importantly – they should make direct use of the results of available surveys and studies undertaken by non-governmental partners in their policy work.

The governments of this region also express concern that most surveys and studies undertaken by international and national NGOs, sociological institutions and other non-governmental agencies – often based on public perceptions and interviews with various target groups – are not objective and can be misleading. Despite the valid criticism and known weaknesses of the surveys, they provide unique and valuable information, and therefore cannot be ignored.

For instance, the Corruption Perception Index (CPI) regularly published by Transparency International indicates countries' overall progress in fighting corruption. The comparison of the 2003 and 2007 CPIs for the Istanbul Action Plan countries indicates a very high level of corruption in this region. It further indicates that most countries in the region have shown little or no improvement during the past four years: only Georgia shows a significant decrease in perception of corruption, while Russia and Kazakhstan show degradation. While the CPI provides useful information about relative progress by different countries, it alone is not sufficient to provide guidance for reforms at the country level and needs to be backed by more detailed and country-specific research.

**Table 2. TI ratings**

	CPI 2007		CPI 2003	
	Country Rank <sup>1</sup>	Score <sup>2</sup>	Country Rank <sup>3</sup>	Score <sup>4</sup>
Armenia	99	3.0	78	3.0
Azerbaijan	150	2.1	124	1.8
Georgia	79	3.4	124	1.8
Kazakhstan	150	2.1	100	2.4
Kyrgyzstan	150	2.1	118	2.1
Russia	143	2.3	86	2.7
Tajikistan	150	2.1	124	1.8
Ukraine	118	2.7	106	2.3

1. Country rank out of 179 countries covered by the survey.

2. Higher score indicates "cleaner" country, and lower score indicates "more corrupt" country

3. Country rank out of 133 countries covered by the survey.

4. Same as note 2 above.

There are no examples among the Istanbul Action Plan countries of governments undertaking regular, comprehensive anti-corruption surveys or studies. But some governments have developed methodologies for such studies or undertaken separate stand-alone surveys. For example, the government of



Azerbaijan supported and took into account some anti-corruption surveys developed by NGOs; the government of Georgia publicised the results of a public opinion survey about the most corrupt institutions, which showed an improved image of police after reform of the traffic police; the Kazakh Agency for Public Service Affairs commissioned an NGO to conduct a survey of incidence of corruption in 34 public institutions; and a Kyrgyz NGO carried out a survey of corruption in public procurement. However, these fragmented efforts have had little impact on the development of anti-corruption policy and very limited practical use in the monitoring of its implementation.

Available statistical data about corruption-related offences often show a gap between a perceived high level of corruption and a small number of convictions for corruption, which usually involve low level or junior public officials. The available law-enforcement statistical data is very fragmented and unclear, and does not provide information necessary for policy development. Information about sectors or institutions where corruption offences were detected, types of offences committed, law-enforcement actions (including detection, investigations, prosecutions and convictions, sanctions applied by courts) or comparative data for several years is rarely available.

Some governments took steps to improve statistical analysis. For instance, the Armenian Anti-Corruption Monitoring Commission adopted a framework for statistical reporting of 59 corruption-related offences<sup>2</sup>. Government of Tadjikistan approved regulations on statistical reporting of corruption crimes, which included 42 offences. In Kazakhstan, a special department in the Prosecutor General's office is responsible for collecting and processing data about various offences, including those related to corruption. However, further work is needed to produce reliable and meaningful statistical data on corruption-related offences, to show trends of corruption-related criminality and effectiveness of the law-enforcement over periods of time.

### **Public participation in anti-corruption policy**

Public participation in the development and monitoring of anti-corruption policies is useful to identify policy priorities and effective implementation measures, and is vital to ensure the support of society for government policies. This is particularly valid in countries where the public perceives the government as corrupt, and the governments have to develop democratic habits and procedures for listening to citizens.

Mechanisms for public participation in anti-corruption work can range from informing the public about certain plans or measures (*e.g.* publishing a draft plan in the media, holding press conferences and other events, creating

special websites), responding to public inquiries and complaints (*e.g.* telephone or electronic “hotlines”, open hours for public meetings, rules for public officials to respond to public inquiries), and holding public consultations (*e.g.* discussions of draft programmes or laws), to setting up temporary or permanent structures for dialogue between the governments and the citizens (*e.g.* anti-corruption working groups, councils or commissions with government and public representatives) or involving civil society representatives directly in the development of policy or legal documents as experts (*e.g.* citizens participate as experts in legal drafting, or act as observers to governmental discussions or actions, such as the public procurement process).

Public participation can also be less structured, or based on specific needs. In addition to the public participation mechanisms established by the government, NGOs (on their own and together with the media) can play an important role of “watch dogs” of governments’ anti-corruption efforts. The final goal is to reflect civil society’s recommendations in the governmental or national policy and legal documents.

Governments of the Istanbul Action Plan countries recognise the importance of public participation, and there are many examples of public participation. The permanent Anti-Corruption Monitoring Committee of Armenia, which is in charge of regular progress reviews of anti-corruption strategy implementation, involves both public officials and NGOs. The Azerbaijani Commission for the Fight against Corruption invited NGOs to take part in the working group established to draft a number of anti-corruption legal acts. In Kazakhstan all public agencies, including the Agency for the Fight against Economic and Corruption Crimes, establish expert councils which include selected NGO delegates. The Tajik authorities were recommended to significantly improve their work with the civil society and ensure an open dialogue with citizens.

It is interesting to note that while there was no structured process to involve the public in the development of the current anti-corruption strategy and action plan in Georgia, it appears that support from NGOs and the public for government anti-corruption was widespread in 2006, when Georgia was monitored by the Istanbul Action Plan. Transparency International Georgia developed a special programme to monitor the government’s progress in implementing the recommendations. This monitoring programme involved several Georgian NGOs, which provided their own assessment of progress in addition to the reports produced by the government.

Despite multiple examples of public participation in anti-corruption policies in the Istanbul Action Plan countries, this participation often remains

formalistic. Many NGOs quickly become disillusioned with bureaucratic procedures, and discouraged when anti-corruption strategies or action plans do not provide concrete and immediate results. Anti-corruption issues require special qualification and can be difficult to comprehend for grass-roots organisations; few groups can engage in a constructive and substantive dialogue. This leads to the problem of “selecting” of NGOs by governments, and sometimes “monopolisation” of public participation by a few groups. For instance, there are cases when one NGO is repeatedly invited by the government, or receives funding from the government without an open tendering procedure. NGOs’ dependence on funding from foreign donors or national governments can lead to a lack of legitimacy and objectivity.

It is worth noting that these problems are not unique to the Istanbul Action Plan countries – even the parties to the OECD Anti-Bribery Convention face similar challenges. A balance between broad participatory approaches and efficiency must be carefully sought. Transparency and equal treatment of civil society groups are key.

### **Raising public awareness and public education about corruption**

The general public in the Istanbul Action Plan countries is strongly aware of the existence of corruption through both individual interactions with corrupt public and private officials, and media scandals. Much less is known about: the damage and losses corruption brings to ordinary people; practical and effective ways to address this problem; positive examples and solutions; and the gains that citizens can receive by personally resisting corruption. The ultimate aim of any public awareness raising efforts should be to stimulate citizens not to offer bribes on their own initiative and to refuse to give bribes when they are solicited by the officials.

Awareness raising campaigns and public education programmes can take a variety of forms, such as: printed advertising (announcements, information posters, leaflets and brochures with practical information, *e.g.* explanation of the rights and duties of specific public services, what services they must provide, how to complain about non-delivery and sanctions for bribery), mass media (newspaper articles, television and radio programmes, press conferences), training for targeted groups (seminars for NGOs and business associations, and other interest groups) and educational programmes (special anti-corruption training courses at schools and universities). The goal is to change the public attitude accepting corruption as a normal way of doing business and an inevitable evil, and to explain what can be done in practice to protect rights and interests of individual citizens without resorting to bribery.

Governments of the Istanbul Action Plan countries report large numbers of awareness raising activities. In most countries, governments publish anti-corruption strategies and action plans, the first step in awareness raising. The most common public relations work involves media and press conferences to inform the general public about public agencies' achievements or plans: *e.g.* the Kazakh Agency for Fighting Economic and Corruption Crime was cited by various mass media outlets approximately 4 500 times in 2006. Many governments organise generic conferences about fighting corruption. A few governments have allocated funds for public awareness raising, *e.g.* the Armenian government provided about USD 398 000 USD as grants to NGOs, a portion of these funds was used to prepare awareness raising campaigns on anti-corruption issues. More often, however, it is the NGOs and international organisations that play the main role in organising and sponsoring anti-corruption awareness raising campaigns.

### **Anti-corruption institutions: Corruption prevention bodies and law-enforcement bodies<sup>3</sup>**

In order to ensure effective implementation of anti-corruption policies, responsibility for implementation should be clearly allocated to specific institutions. The UNCAC obliges Parties to demonstrate the existence of specialised bodies in charge of preventing corruption. Parties to the UNCAC and the Council of Europe Criminal Law on Corruption are also obliged to create specialised bodies or persons in charge of combating corruption through law enforcement.

Corruption prevention encompasses broad variety of issues such as: policy development, research, monitoring and co-ordination; education and awareness raising; prevention of corruption in power structures (prevention of corruption in public administration recruitment systems, promotion of ethics and enforcement of conflict of interest legislation; prevention of corruption through financial control; anti-corruption measures in public procurement and other public systems; prevention of political corruption and others). These functions are often allocated to a large number of public institutions; in some countries in Eastern Europe and Central Asia there is a trend to centralise some corruption prevention functions in one agency.

In many countries around the world, police and prosecution play the key role in combating corruption through law-enforcement; some countries also engage specialised and autonomous anti-corruption law-enforcement bodies. A few countries use multi-purpose anti-corruption agencies that combine preventive functions and law-enforcement powers.

While specific institutional arrangements can vary from country to country, it is important to ensure that all key anti-corruption functions are properly allocated to a specific agency. It is also important to ensure that these various anti-corruption bodies meet international standards – specialisation in corruption, independence from undue interference, and availability of necessary resources. Finally, co-ordination among various bodies involved in the fight against corruption is an important success factor.

In the past, specialised anti-corruption bodies did not exist in the Istanbul Action Plan countries. Traditionally, only small sections in the departments for combating organised and economic crime in ministries of internal affairs (police) had an explicit mandate to detect and investigate corruption offences. But recent times have brought rapid institutional changes.

### ***Institutions with responsibility for preventing corruption***

In 2007 the Kyrgyz Republic established the National Agency for Prevention of Corruption. Strictly speaking, this is the only institution explicitly responsible for prevention of corruption among the Istanbul Action Plan countries. It has a broad mandate: to develop, co-ordinate and monitor national anti-corruption programmes; develop anti-corruption laws and regulations; evaluate the efficiency of anti-corruption efforts; and develop new methods for fighting corruption. It is also responsible for anti-corruption education and public participation. However, this agency is very young and weak, and requires major strengthening of its legal basis and staff capacity to be able to implement its broad mandate.

Armenia and Azerbaijan have created corruption-prevention bodies with a more focused mandate to develop and monitor the implementation of anti-corruption programmes. These bodies are not permanent institutions but consultative mechanisms, which involve representatives of various branches of public authorities and work through regular meetings with the support of small permanent secretariat based in an existing public institutions (*e.g.* the Armenian Anti-Corruption Council is served by the Office (Apparatus) of the Government; the Commission for the Fight against Corruption in Azerbaijan has a Secretariat of five staff members).

In other countries, policy development and monitoring functions are assigned to other existing public institutions (*e.g.* until recently Minister of Reforms Co-ordination in Georgia; National Security and Defence Council in Ukraine). In these cases, there are often several staff members responsible for drafting and monitoring anti-corruption policies – one of many tasks of these employees. In Kazakhstan, the State Agency for the Fight against Economic and

Corruption Crime is responsible for developing and monitoring anti-corruption policy, as well as combating corruption through law enforcement. The newly established Agency on State Financial Control and Fight against Corruption in Tajikistan is also responsible for anti-corruption policy.

In many countries agencies for public service are responsible for public service reform and for promoting integrity in public service. Ministries of Justice often play a leading role in reforming legal frameworks for public service, administrative reforms and access to information. Financial control bodies, including external and internal financial audit institutions, play a role in ensuring control over and transparency of budget and finance procedures.

Overall, while there are many bodies in charge of preventing corruption, the focus on practical corruption prevention measures is not strong. It is often difficult to find employees in these agencies who have specialised knowledge and explicit responsibility for prevention of corruption. Co-operation among various bodies with the responsibility to prevent corruption must be strengthened in order to promote exchange of information and co-ordinate specific implementation measures.

### ***Institutions responsible for combating corruption through law enforcement***

In the law-enforcement field, police and prosecution services are the key bodies responsible for detection, investigation and prosecution of corruption offences. National Security Services often play a law-enforcement role in detection of corruption and investigation of corruption offences in this region. Institutional reforms of law-enforcement systems are underway in several countries, generally in the framework of broad reforms of criminal justice systems moving from the post-soviet repressive role to ensuring the rule of law and protecting human rights.

Several countries recently achieved some progress in improving specialisation of corruption law-enforcement bodies. Azerbaijan has established and strengthened a specialised anti-corruption department in the Office of the Prosecutor General. In Georgia, the Main Investigative Department of the Office of the Prosecutor General has unique responsibility for and exclusive jurisdiction over corruption offences. Kazakhstan established a separate specialised body with responsibility for corruption and economic law-enforcement actions; the Agency for the Fight against Economic and Corruption Crime has a unit responsible for detection and investigation of financial crime and corruption, but there is no anti-corruption specialisation in the Prosecution Service. A body with an apparently similar mandate was recently established in

Tajikistan. Debate about establishing a specialised anti-corruption law-enforcement body is also underway in Ukraine.

While there has been some progress in strengthening anti-corruption law-enforcement bodies, it is still difficult to assess how well they meet the key international standards: specialisation in anti-corruption, independence from undue interference, and sufficient resources. There are no explicit mechanisms to ensure independence from undue interference (*e.g.* procedure of appointment and dismissal of the heads of specialised anti-corruption bodies, budget autonomy, or specific rights to initiate, terminate or transfer criminal proceedings). It is very difficult to obtain information about the number of specialised anti-corruption detectives, investigators and prosecutors. Financial and economic expertise vital for investigation of complex corruption cases is rarely available within law-enforcement bodies; such experts can be invited only to provide expertise on selected cases. Powers and capacity for the use of special investigative means (*e.g.* surveillance of communication, undercover operations, etc.) are usually limited. Bank secrecy presents a serious obstacle for investigation of corruption cases in many countries, such as Kyrgyzstan.

In addition to traditional law-enforcement bodies, tax and customs services, financial control, and state audit bodies are expected to play a role in detecting corrupt activities. Armenia, Georgia, Kyrgyzstan and Ukraine have established Financial Intelligence Units to fight money laundering, which can also play a role in detecting financial transactions related to proceeds of corruption.

Many law-enforcement bodies and some other public agencies also have units for internal security and investigations. They are responsible for identifying various violations committed by their employees, including possible corrupt behaviour. These bodies usually have the right to enforce administrative laws and apply disciplinary sanctions. If they discover information that can indicate a criminal case, they are supposed to report it to the law-enforcement bodies for criminal proceedings. In Kazakhstan, Disciplinary Councils established in all regions and subordinate to the Public Service Agency are responsible for enforcement of disciplinary measures.

In many countries of the Istanbul Action Plan, corrupt acts are covered by both criminal and administrative sanctions; investigation authorities may tend to use softer administrative sanctions, because criminal procedures require much higher threshold of proof and more complicated processes. Such distinction also allows manipulation by authorities: they can cover up serious cases of corruption inside their institutions, or imitate active anti-corruption efforts by reporting a large number of corrupt officials who were punished through soft administrative sanctions.

Training on modern methods for detecting and investigating corruption is provided to various law-enforcement bodies, but mostly in a fragmented manner. It appears that the training needs greatly exceed what has been provided so far. The recommendation to carry out joint training for law-enforcement officials, judiciary, and other bodies involved in the fight against corruption has not yet been implemented; it can help to both increase the knowledge of individual officers from these bodies, and promote their ability to co-operate more effectively on anti-corruption cases.

Co-ordination among law-enforcement bodies responsible for fighting corruption was identified as an important problem in the majority of the Istanbul Action Plan countries. This includes exchanges of information about and co-operation on specific corruption cases, along with joint analytical work in a broader context (*e.g.* assessment of corruption situation in various sectors, development of effective ways to combat specific forms of corruption using a variety of tools and multidisciplinary approaches).

**Table 3. Specialised Anti-Corruption Institutions**

Country	Anti-Corruption Institution	Comment
Armenia	<ul style="list-style-type: none"> <li>• Anti-Corruption Council and Monitoring Commission established in 2004 to co-ordinate and monitor the implementation of the Anti-Corruption Strategy; the Council consists of governmental representatives, and works through meetings; the Monitoring Commission consists of state officials and NGOs, has a permanent secretary, and has 12 working groups on different issues.</li> <li>• Anti-corruption Division in Prosecution Service, established in 2005, 8 staff.</li> <li>• Division for the Fight against Corruption and Other Economic Crime in the Police, established in 1991, number of staff is not reported.</li> </ul>	<p>The Council and the Monitoring Commission were established through the first anti-corruption programme; this institutional structure may be changed for the second programme.</p> <p>Since 2007 the Prosecution Service is no longer responsible for investigation, and only carries out general supervision of law-enforcement bodies.</p>
Azerbaijan	<ul style="list-style-type: none"> <li>• Commission for the Combating Corruption, established in 2004, with the main task to develop and monitor the implementation of the Anti-Corruption Strategies, consists of 15 members (including 5 senior officials from each branch of pwoer), and has a permanent Secretariat of 5 staff.</li> </ul>	



Country	Anti-Corruption Institution	Comment
	<ul style="list-style-type: none"> <li>Special Anti-Corruption Department in the Office of the Prosecutor General, established in 2004 by the Presidential Decree, became operational in 2005 has 40 prosecutors and investigators.</li> </ul>	
Georgia	<ul style="list-style-type: none"> <li>State Minister for Reforms Co-ordination and his staff (5) were responsible for the co-ordination of the anti-corruption strategy, since 2005.</li> <li>Main Investigative Department of the General Prosecutor's Office with exclusive jurisdiction and responsibility for investigation of corruption-related crimes (this is the only type of crime investigated by the Prosecution service), established in 2005, has a total of 26 staff.</li> </ul>	<p>Anti-Corruption Bureau was the main body responsible for anti-corruption from 2001 until 2004; this function was moved to National Security Council from 2004 through 2005.</p> <p>Since February 2008, when the post of the State Minister for Reforms Co-ordination was liquidated, the Government of Georgia is discussing several possibilities to assign its functions to other state bodies: President's Secretariat, State Chancellory, or National Security Council.</p>
Kazakhstan	<ul style="list-style-type: none"> <li>State Agency for the Fight against Economic and Corruption Crime (Financial Police), established in 2003; 43 staff members in the central office and 353 staff members in territorial bodies are responsible for developing and monitoring the Anti-Corruption Strategy implementation, and for detection and investigation of corruption-related crimes.</li> <li>Anti-Corruption Commission under the President of Kazakhstan.</li> </ul>	Overall control of the implementation of the Anti-Corruption Programme is carried out by the Presidential Administration.
Kyrgyzstan	<ul style="list-style-type: none"> <li>National Agency for Prevention of Corruption, established in 2005 (functional from 2006), 49 staff.</li> <li>Main Department for the fight against Official Crimes of the Ministry of Interior, established in 2006, with 49 officials in the central office and 250 officials in the regional departments.</li> </ul>	

Country	Anti-Corruption Institution	Comment
	<ul style="list-style-type: none"> <li>Specialised Department in the Prosecutor General's Office, established in 2005, with 12 staff.</li> </ul>	
Tajikistan	<ul style="list-style-type: none"> <li>Agency for governmental and financial control and anti-corruption efforts, established in 2007 by the President with broad financial control and law-enforcement functions, 150 staff in the central office, and 538 in the regions.</li> </ul>	Anti-Corruption Department at the Office of the Prosecutor General was established in 2004, and was operational through 2006.
Ukraine	<ul style="list-style-type: none"> <li>Interdepartmental Commission for Comprehensive Solutions in the Area of Prevention and Fight against Corruption under the National Security and Defense Council established in 2005, responsible for co-ordination of anti-corruption activities, consists of government and law-enforcement officials, has a Secretariat of 5 staff (responsible for corruption and other issues).</li> <li>Division for supervision of the implementation of anti-corruption legislation within Department for supervision of the observance of laws by special units and other institutions combating organised crime and corruption, within the Main Department for supervision of the observance of laws during detective and search activity, inquiry and pre-trial investigation (established in 2005, staffed with 6 prosecutors), and Division for investigation of criminal cases related to the official activity within Main Department for Investigation of specially important cases (established in 2002, with 16 investigators) at the Prosecution Office.</li> <li>Organised Crime Department (established in 1991, with approximately 3,000 staff) and State Service for the fight against economic crime (established in 1993, number of staff is not reported) at the Ministry of Interior.</li> </ul>	<p>Previous Anti-Corruption Co-ordination Committee under the President was dismantled in 2005.</p> <p>A debate about the need to establish a specialised anti-corruption body lasted for several years. Creation of such agency was included in the Government's Programme for 2008 and declared as one of priorities of the President.</p>

## **Ratification of international anti-corruption conventions**

International conventions establish standards for preventing and combating corruption and provide important incentives for anti-corruption reform in the Istanbul Action Plan region. The Council of Europe Criminal Law Convention against Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions were the main relevant international legal tools at the launch of the Istanbul Action Plan. The UN Convention against Corruption (UNCAC) was adopted soon after the Istanbul Action Plan was launched in 2003, and entered into force in 2005 – it is of the highest importance for the region. Typically, recommendations adopted under the Istanbul Action Plan call on individual countries to adhere to international legal tools and to introduce these international standards into national legislation.

Five Istanbul Action Plan countries – Armenia, Azerbaijan, Kyrgyzstan, Russia and Tajikistan – have ratified/acceded to the UNCAC. Ukraine has signed, but still has to finalise ratification of the UNCAC. Georgia is the only country that has neither signed nor ratified the Convention; however, preparatory work has started. Ratification is an important step, but it is not sufficient for the implementation of the UNCAC standards. Often, national legislation is not brought into compliance with the requirements of the UNCAC, there are major time delays, or the requirements are not fully fulfilled.

Armenia, Azerbaijan, Georgia and Russia ratified Council of Europe Criminal Law Convention on Corruption, and Ukraine has signed it; all these countries became members of GRECO. Armenia, Azerbaijan, Georgia and Ukraine have already been reviewed by GRECO; Russia is scheduled for its first examination in 2008. GRECO has become an important and powerful framework for anti-corruption reforms and international co-operation for the countries in Eastern Europe and Southern Caucasus.

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is a focused international legal instrument, and is of relevance for countries where the threat is high that private companies from these countries might bribe officials of foreign countries. Russia applied to join the OECD Anti-Bribery Convention and its monitoring mechanism – the OECD Working Group on Bribery – in 2000. Russia's past progress towards the OECD Convention has been slow, but it is expected that it will accelerate in the future in the framework of Russia's possible accession to the OECD, launched in 2007.

There are a number of other international conventions which do not address corruption directly, but provide very relevant tools. The 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime and the UN Convention on Transnational Organised Crime are among them. The majority of the European Istanbul Action Plan countries have signed and ratified these conventions. The 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism was also signed by Armenia and Ukraine.

The role of the Istanbul Anti-Corruption Action Plan itself in promoting international anti-corruption conventions in the region is worth noting. While the Action Plan does not contain its own anti-corruption standards, it provides an effective framework to support the implementation of existing conventions, other international standards and good practice in a comprehensive and country-specific manner.

**Table 4. Signature/Ratification status of international anti-corruption conventions**

	<b>UN Convention against Corruption</b>	<b>Council of Europe Criminal Law Convention on Corruption</b>	<b>OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions</b>
Armenia	8 March 2007	9 January 2006	--
Azerbaijan	1 November 2005	11 February 2004	--
Georgia	--	10 January 2008	--
Kazakhstan	18 June 2008 (accession)	--	--
Kyrgyzstan	16 September 2005	--	--
Russia	9 May 2006	4 October 2006	Applied in 2000
Tajikistan	25 September 2006 (accession)	--	--
Ukraine	11 December 2003 (signature only)	27 January 1999 (signature only)	--

## Conclusions

Based on the analysis of the implementation of the Istanbul Action Plan recommendations by participating countries, it is possible to identify the following main achievements and challenges in the field of anti-corruption policies and institutions:

- *The majority of the Istanbul Action Plan countries demonstrated significant progress in developing and updating anti-corruption strategies. Several countries also dedicated special attention to the development of detailed implementation action plans to support these strategies. It will be crucial to ensure high-quality new strategies, and especially to focus on the action plans in order to support effective and concrete implementation measures. No examples of sector- or agency-specific anti-corruption pilot projects were identified in the region, despite the fact that this approach was often recommended to the countries.*
- *More efforts are needed to strengthen the analytical basis for evidence-based anti-corruption work in the region. This should include research and surveys about extent and patterns of corruption in individual countries, sectors and institutions, as well as collection and analysis of statistical data about anti-corruption law-enforcement activities.*
- *Most Istanbul Action Plan countries have started to address public participation in anti-corruption policy. To move from formalistic participation to a meaningful dialogue, it is important to involve NGOs in more practical and results-oriented work, carried out on a regular basis. The development and implementation of more detailed and practical action plans, including concrete anti-corruption plans for individual public authorities or agencies, can provide a useful framework. The action plans should contain practical and specific measures, which can be best implemented by, or jointly with, the NGOs. A special focus should also be public participation in monitoring implementation of anti-corruption policies. Finally, it is also important to ensure transparent and competitive participation of all public associations in government-funded projects eligible to NGOs.*
- *Awareness raising efforts by the governments in the Istanbul Action Plan countries often consist of fragmented and incidental activities, mostly media appearances and conferences. Well-designed, comprehensive, targeted, practical and regular campaigns –*

*implemented as a part of the overall strategy – are urgently needed. If the governments really aim to change the deeply rooted tradition of bribery in Istanbul Action Plan countries, they must build professional expertise and to allocate sufficient financing to develop such carefully planned and wide-ranging campaigns. NGOs and other non-governmental partners will continue to play an important role in this area, and governments could develop partnerships with them.*

- *Some progress was recorded in the area of institutional support for anti-corruption reforms: several countries strengthened their specialised anti-corruption bodies in the prosecution service, in prevention of corruption or for policy monitoring. However, further efforts to strengthen specialisation and ensure adequate resources are needed. Training and co-ordination are probably the main priorities for strengthening anti-corruption institutions in the region. Furthermore, assessing independence from undue interference (necessary for effective work of these bodies) is a challenging task; low numbers of convictions for corruption or lack of convictions of high-level officials may indicate the weakness of anti-corruption law-enforcement systems and missing political will to fight corruption.*
- *Ratification of UNCAC by the Istanbul Action Plan countries is well advanced, but transformation into national legislation is slow and its implementation requires major efforts. The Council of Europe legal tools and monitoring mechanism provided by GRECO are important frameworks in support of anti-corruption reforms in Armenia, Azerbaijan, Georgia, Russia and Ukraine. The Istanbul Action Plan itself plays an important role in promoting the implementation of international anti-corruption standards in the region.*

## NOTES

1. For more information about various methods to assess levels of corruption, please refer to the discussion paper on “Assessing Trends in Corruption and Impact of Anti-Corruption Measures” by Valts Kalnins, available at [www.oecd.org/corruption/acn](http://www.oecd.org/corruption/acn).
2. Reportedly, the Order of the Prosecutor General of December 2006 reduced the number of corruption-related offices from 59 to 22; only offences which involve public officials remain subject to reporting, while offences related to private sector were excluded. The new format has not been used yet.
3. For more information about international standards and existing models of anti-corruption institutions, please refer to “Specialised Anti-Corruption Institutions: Review of Models”, OECD, 2008, available at [www.oecd.org/corruption/acn](http://www.oecd.org/corruption/acn).





## CRIMINALISATION OF CORRUPTION

Istanbul Anti-Corruption Action Plan countries share common history and legal traditions. Since independence, several countries implemented significant reforms of their criminal justice systems; however, substantive reform of criminal law is a slow and long-term process. It is therefore not surprising that many of the Istanbul Action Plan countries share similar shortcomings in the area of criminalisation of corruption. As a result, all countries received a general common recommendation – to introduce international anti-corruption standards for criminalisation of corruption established by the OECD, Council of Europe and UN anti-corruption conventions, supported by a set of country specific recommendations. Further, to help countries understand the requirements of international standards, the OECD developed a Corruption Glossary of International Criminal Standards<sup>1</sup>. This chapter builds on both this Glossary and Istanbul Action Plan country reports.

Since the adoption of Istanbul Action Plan recommendations, and immediately before the monitoring of their implementation, several countries introduced significant and substantive changes in their anti-corruption criminal law provisions. In 2006, Armenia, Azerbaijan and Georgia introduced amendments to their criminal codes. In 2007, Kazakhstan adopted the Law on Introduction of Amendments and Additions to Some Legal Acts on Improvement of the Fight against Corruption, which includes a range of amendments to administrative and criminal offences. Drafts of new anti-corruption legislation which aim to introduce international standards in national legislation have been prepared in Ukraine, and have been considered by the parliament, but have not yet been adopted. The new Law on the Fight against Corruption, which introduced a number of positive changes, was adopted by Tajikistan in 2005; however, these provisions have not yet been introduced in the Criminal Code and remain inactive. No changes to the anti-corruption criminal provisions of the Kyrgyz Republic were introduced since the review by the Istanbul Action Plan.

## **Clarification and harmonisation of national anti-corruption legislation**

Corruption is often treated as an administrative offence in the region. Some corrupt acts are covered by both criminal and administrative sanctions with different enforcement mechanisms; administrative sanctions are supposed to be applied when the offence does not qualify for criminal responsibility. Given this overlap, law-enforcement or internal investigation authorities tend to use softer administrative sanctions, as criminal procedures require higher threshold of proof and more complicated procedures. However, international instruments recognise the danger of corruption, and require criminalising corruption-related offences. Therefore, despite the trends in many ex-soviet states to decriminalise and to humanise legislation – in particular to declassify offences from criminal to other types of liability – corruption offences should generally be treated as criminal and prosecuted by law enforcement bodies. Bringing corruption offences within the scope of the criminal justice system will also guarantee fair trials for offenders, which are sometimes missing in administrative proceedings.

Most Istanbul Action Plan countries have introduced special laws to combat corruption. These laws are much broader than criminal codes, anti-corruption provisions in administrative laws or laws on public service. They usually establish broad anti-corruption offences and provide for strict sanctions, and therefore create an impression of a strong legal base. But they cannot be implemented directly, unless their provisions are also introduced in criminal or administrative legislation, and therefore remain ineffective. For example, a law on the fight against corruption can say that some specific action should constitute a criminal offence, and should be punished by the criminal procedure. But if this same action is not included in the Criminal Code, the law against corruption remains ineffective.

As stated above, many Istanbul Action Plan countries introduced substantive changes in their anti-corruption legislation over the past several years. In most cases, the countries made efforts to strengthen and clarify the criminal provisions. Kazakhstan also introduced some measures to clarify the relationship between the criminal and administrative provisions against corruption; Georgia introduced amendments to its Public Service and Conflict of Interest legislation in order to harmonise them with international standards. In many cases, the harmonisation of the new criminal procedures with the other pieces of legislation relating to anti-corruption is not yet completed, and should be pursued. One obstacle to this harmonisation was the fact that one institution (e.g. the General Prosecutors office) has responsibility for the criminal legislation, while a different authority deals with the anti-corruption law. This lack of co-ordination affects the efficiency of the implementation.

## **Box 2. Overlapping anti-corruption, criminal and administrative laws in Ukraine**

The Law of Ukraine on the Fight against Corruption defines “corruption”. Under Article 1 of the law, corruptive deeds include: illegal acceptance by a person authorised to perform public functions, in connection with the performance of such functions, of material benefits, services, privileges or other advantages, including the acceptance or receipt of objects (services) by their purchase at prices (tariffs) which are considerably lower than their actual (genuine) value; as well as the acceptance by a person authorised to perform public functions of credits or loans, purchase of securities, immovable and other property using the privileges or advantages not stipulated by effective law.

Violations of the law entail administrative liability; thus, it is an independent statute, which has no role in criminal proceedings. However, Article 1 of the law is broad enough to encompass bribe-taking, which is a criminal offence under Article 368 of the Criminal Code of Ukraine. This makes it difficult to draw the line between these two statutes. Therefore, it is possible for this overlap to be used in order to avoid criminal liability for bribe-taking and other criminal offences.

Source: Istanbul Action Plan, review and monitoring report on Ukraine.

## **Elements of the offence**

### ***Bribery and other corruption-related offences***

All Istanbul Action Plan countries had the main corruption offences in their legislation before the review and monitoring programme. Primarily, this included criminalisation of *taking* and *giving* a bribe. Legislation across the region also contained criminalisation of other corruption-related offences, such as *forgery* (including false accounting), *embezzlement of public property* and *abuse of office*. The offence of *money laundering* has been established recently by most countries. *Trading in influence* is a new notion in the region; so far, Azerbaijan and Georgia have introduced this legal provision. *Illicit enrichment* has not been criminalised in the region. Offences of *obstruction of justice* and *concealment* were not studied under the Istanbul Action Plan.

### ***Offer, promise and solicitation of a bribe***

International standards require criminalising *offering*, *promising* and *giving* a bribe. All three types of conduct represent corrosive behaviour that should be prohibited and punished. While all Istanbul Action Plan countries have criminalised giving a bribe, many have not established offering and promising bribes as complete offences. Instead, these countries have criminalised *preparing* or *attempting* to commit a crime (including bribery), which may cover some, but not necessarily all, instances of offering and promising a bribe.

For example, the courts of some countries may consider that an oral offer of a bribe does not constitute attempted bribery; the briber must take further steps before the offence is complete, *e.g.* withdrawing the bribe money from a bank. As proving the act of bribery requires proving the criminal pact between two parties, preparing or attempt may not cover cases of offering when the official for who the bribe was intended never learned about it or refused to accept the bribe, or if the official refrained from acting, or the bribe was offered through an intermediary.

International standards also require criminalisation of *requesting, soliciting, accepting* and *taking* a bribe. Requesting and soliciting occurs when an official indicates to another person that the latter must pay a bribe in order that the official act or refrain from acting. The offence is complete once the official requests or solicits the bribe; there need not be an agreement between the briber and the official. Moreover, the person solicited need not be aware of nor have received the solicitations (*e.g.* the solicitation is intercepted by the law enforcement authorities before it is delivered). By contrast, receiving a bribe occurs only when the official actually takes the bribe. Accepting a bribe occurs when a public official accepts an offer or promise from a briber, but may not yet have received the bribe.

All Istanbul Action Plan countries have criminalised receiving and taking bribes, but many have not established requesting, soliciting or accepting a bribe as complete offences. Some countries rely on the offences of *extortion* and *provocation* to fill this gap. This may not be adequate, since requesting or soliciting a bribe does not always constitute extortion or provocation, *e.g.* when the request or solicitation does not involve a threat to injure.

So far, three countries in the Istanbul Action Plan – Armenia, Azerbaijan and Georgia – have included complete offences of offering, promising, requesting and soliciting a bribe in their amended criminal codes. Many countries claim that they will face significant practical problems in providing sufficient evidence to prove these acts. In Kazakhstan, for example, the legal community believes that provisions relating to offering or promising a bribe would lead to substantial difficulties in practice. Apparently, more training is needed to build knowledge in this area. As a result, the majority of the countries continue to rely upon attempt and preparing, extortion and provocation. At the same time, little is known about the case law or practice of using of these offences in bribery cases in order to establish if they provide sufficient legal basis for criminalisation of all forms of offering, promising, requesting and soliciting.

### *Non-material benefits*

An undue advantage may be of material or non-material nature. It may be tangible or intangible, such as a holiday, food and drink, sex, enrolment in a school for an official's child, a copyright, the status as beneficiary of a life insurance policy or a trust, membership in an exclusive club, granting a political position, or a promotion. However, the definition of a bribe in Istanbul Action Plan countries is often more narrow. These countries define bribes in a way which does not explicitly include all non-material and intangible benefits.

The coverage of non-material benefits in Armenia and Azerbaijan has been introduced in recent amendments to the criminal codes. The new Kazakh Criminal Code only covers material advantages and property rights. In Ukraine and Georgia, legislation is not explicit about non-material benefits, and it should be further specified that the undue advantage also covers non-material benefits. The Criminal Codes of Kyrgyzstan and Tajikistan do not cover non-material benefits.

As the number of corruption cases in all Istanbul Action Plan countries is very low, there is a lack of case law to allow for an accurate assessment if non-material benefits are sufficiently covered. Of course, it is also more demanding to prove the offering or acceptance of a non-material benefit, compared to the relatively straightforward transfer of cash from a briber to a public official.

**Table 5. Non-material benefits**

Country	Non-material benefit	Quote from the legislation
Armenia	Included	Article 311 of the Criminal Code: Receiving of a bribe by an official, <i>i.e.</i> receiving by an official personally or through an intermediary, for himself or another person of money, property, property right, securities or other advantages.
Azerbaijan	Included	Section 311 (passive bribery) and Section 312 (active bribery) "... any material and other values, privileges or advantages...".
Georgia	Not included	
Kazakhstan	Not included	
Kyrgyzstan	Not included	
Tajikistan	Not included	
Ukraine	Not included	

Source: Istanbul Action Plan country reports.

### ***Definition of official***

The definition of a national public official for the purposes of criminalisation of corruption should be broad and include, *inter alia*, any person who holds a legislative, executive or administrative office, at all levels of government, including heads of state, ministers and their staff. There are various approaches for ensuring adequate coverage of all categories of public officials for the purposes of criminalisation of corruption. Criminal legislation can refer to a definition established in another legal act (*e.g.* laws on public service); or it can contain a complete definition in the criminal code.

In the Istanbul Action Plan countries, a variety of approaches can be found: criminal legislation often defines a public official for the purposes of criminal proceedings, and can also contain references to other legal acts; other legal acts provide varying definitions for their own purposes. One of the shortcomings identified in the region is that the definition of official is not clear enough and fragmented among many legal acts, which contain partially overlapping and varying provisions (as demonstrated by the case of Kazakhstan). While law-enforcement authorities argue that this does not present a problem in practice, this lack of clarity and contradictions sends an unclear message to public officials about their rights and duties, and may become a source of legal disputes in the future when defence lawyers become more active in corruption cases in courts.

#### **Box 3. Definitions of public officials in Kazakhstan**

In Kazakhstan, several statutes provide different notions of potential perpetrators of corruption offence – whether of disciplinary, administrative or criminal nature.

Perpetrators of corruption *criminal* offences could be persons authorised to perform public functions or equivalent persons, public officials and persons holding major state posts. The last two categories are not mentioned in the Law on Anti-Corruption Efforts of 1998 as subjects (perpetrators) of corruption offences. In addition, the Law on Civil Service of 1999 provides a legal basis for the disciplinary liability for corruption offences, and classifies public officials into two categories: political and administrative public officials. Further, the Code of Administrative Offences, which provides the legal basis for administrative liability, recognises the notion of “public officials” that only partly encompasses the definitions of “public official” and “persons equated to those authorised to perform public functions” in the Criminal Code. These multiple and contradicting definitions do not provide a clear guidance for determining the type of liability in cases that do not clearly fall under criminal jurisdiction.

The Kazakh authorities, however, claimed that law enforcement agencies face no problems in this regard.

The other main shortcoming is that the definitions of public officials are too narrow (e.g. the Georgian legislation only covers public servants who perform “paid work”). Furthermore, local officials, legislators from regional parliaments and officials representing state interests in commercial companies are not clearly covered in the region.

### *Active bribery of foreign public officials*

To combat bribery in globalised economies, it is important to criminalise the active bribery of foreign public officials. This needs to be explicit, either by expanding the definition of a national public official, or by introducing a separate criminal offence of bribing foreign and international public officials. Like the definition of national public officials, definition of foreign and international public officials should be sufficiently broad to cover various categories.

In 2003, none of the Istanbul Action Plan countries had criminalised bribery of foreign public officials. Since the beginning of the review and monitoring programme, the situation has improved: four countries (Armenia, Azerbaijan, Georgia and Kazakhstan) introduced criminal responsibility for active bribery of foreign and international public officials; Ukrainian Government prepared draft legal act to introduce foreign bribery and submitted it to the parliament.

This is a positive development; however, there are still a number of shortcomings in the new legislation. Some national legislation qualified that bribery of international public officials is limited to the international organisations of which the country is a member (Armenian Criminal Code contained such a provision, but was repealed in 2006). Also, the countries often refer back to the definition of a public official as established in the legislation of a foreign country or international organisation, which may provide a problem in practice, if the foreign or international legislation is not broad enough, or difficult to locate or interpret. Finally, as these legal provisions are very new, it is too early to judge how effectively they can apply in practice.

**Table 6. Criminalisation of foreign bribery**

Armenia	Covered since 2006
Azerbaijan	Partially covered since 2006 - international public officials are covered, while foreign are not
Georgia	Covered since 2006
Kazakhstan	Covered since 2007
Kyrgyzstan	Not covered
Tajikistan	Not covered
Ukraine	Not covered

### ***Bribery through intermediaries and for the benefit of a third person***

In many large-scale bribery cases, the bribe is not offered, promised or given to a public official directly, but through an intermediary. The intermediary can be a natural person or a corporate vehicle.

Istanbul Action Plan countries use different means to address bribery through intermediaries. The bribery offences in many countries specifically cover giving or receiving an undue advantage *directly or indirectly*, which could be sufficient. More problematic are countries which rely on provisions in their criminal codes that stipulate that *accomplices* to a crime are also liable, sometimes to lesser punishment. When a briber uses an intermediary to give, offer or promise a bribe, these provisions may hold the intermediary liable, but may not deal with the liability of the briber. These countries (namely Kyrgyzstan and Ukraine) should amend their legislation to expressly deal with bribery through intermediaries.

Under all relevant international conventions, bribery is committed when undue advantage is provided to a public official or to a third party beneficiary. In order to close all loopholes, the bribery offence should cover cases where an advantage is transmitted directly to a third party with the agreement or awareness of a public official. As with intermediaries, the beneficiary may be anyone – irrespective of his/her association with the official. The beneficiary can thus be a family member, company, political organisation, trade union or charity.

The bribery offences in Georgia, Kazakhstan, Kyrgyzstan, Tajikistan and Ukraine do not expressly cover undue advantages provided to third party beneficiaries. These countries should amend their legislation to do so.

### ***Trading in influence***

Trading in influence occurs when a person who has real or apparent influence on a public official's decision-making offers this influence in return for an undue advantage, even if the public official does not receive any advantage personally. The public official may even remain unaware of the corrupt deal.

Criminalising trading in influence seeks to reach the official's close circle or the political party to which he/she belongs, and to tackle the corrupt behaviour of those persons who are in the neighbourhood of power and try to obtain advantages from their situation – contributing to the atmosphere of corruption. In these cases, there is a corrupt trilateral relationship where a person having real or supposed influence on officials exchanges this influence for an undue advantage



from someone seeking this influence. It is different from bribery in that the influence peddler is not required to “act or refrain from acting” himself or herself, but to induce the public official “to act to refrain from acting”. “Improper” influence requires that the influence peddler show corrupt intent. Therefore, permitted forms of lobbying do not fall under this area.

Azerbaijan and Georgia are the only countries so far that have introduced trading in influence in their criminal codes (in 2006). The lack of progress in the other countries may be due to problems in distinguishing between acceptable lobbying and illegal trading in influence, or difficulties in obtaining sufficient evidence to prove the crime. The absence of such an offence denies Istanbul Action Plan countries a powerful tool to tackle “background corruption” and may undermine citizens’ trust in the fairness of the public administration.

## **Sanctions and confiscation**

### ***Mandatory confiscation of tools and proceeds, provisional measures***

To many corrupt officials or bribe givers, the risk of imprisonment is part of the cost they are prepared to pay for eventually enjoying the proceeds of their often lucrative criminal activities. Incentive to commit bribery can be reduced by ensuring that profits from this crime will be confiscated. The complex financial aspects of many corruption crimes require a number of provisional measures to identify, trace, freeze and seize proceeds and instrumentalities of corruption, in order to ensure their eventual confiscation. These measures are essential: corruption should not pay.

The legislation in Istanbul Action Plan countries generally falls short of international standards with regards to confiscation and provisional measures. (In many ex-soviet countries, confiscation is widely seen as an additional penalty that is applicable in grave or very grave crimes only.) In most Istanbul Action Plan countries, confiscation is not mandatory for all corruption-related offences. There is also a narrow view of what is considered as proceeds of crime. Sometimes, only instrumentalities can be seized and confiscated. Proceeds of corruption should include any economic advantage, as well as any savings by means of reduced expenditure derived from such offence. A typical example is a case where a company gets a contract from a government agency and has bribed the public official responsible for selecting the bidder. Both the bribe (given to the public official) and the profit the company made from this contract must be confiscated. Such proceeds should be confiscated as a monetary value or a physical object, such as an asset that the briber purchased as a result of a contract awarded by the bribed official. They may also be intangible, such as shares in a company.

#### **Box 4. Siemens: EUR 1+200 million**

In Germany, pursuant to section 30 of the Administrative Offences Act, a maximum fine of EUR 1 million can be imposed on a legal person for administrative offences, which include corruption. In addition, the court can skim off of the “financial benefit” gained due to these offences, without maximum threshold.

In October 2007, the Munich district court sanctioned Siemens for corruption offences committed by its telecommunications division. According to the court’s decision, a former manager of this division committed bribery of foreign public officials in Russia, Nigeria and Libya in 77 cases during the period from 2001 to 2004 for the purpose of obtaining contracts on behalf of Siemens; he is believed to have acted in concert with others.

The court imposed a pecuniary sanction of €201 million on Siemens, consisting of the maximum possible fine of EUR 1 million for the offence and the confiscation of the proceeds of bribery amounting to EUR 200 million. The court considered that Siemens unlawfully obtained economic advantages in the amount of at least EUR 200 million through the illegal acts of the former employee.

Other cases are still pending against the company and several managers in Germany and other countries, after authorities in Liechtenstein discovered that part of Siemens’ slush fund was used to bribe foreign public officials.

Source: Wall Street Journal, 28 December 2007.

However, the situation has improved in some countries since the launch of the Istanbul Action Plan. In Armenia and Azerbaijan, since 2006, confiscation of the proceeds of serious corruption offences has become mandatory. These countries have also introduced value-based confiscation. However, the new provisions are not yet tested and it therefore remains to be seen if they are efficient. Georgia provides for confiscation of proceeds of corruption not only within the criminal procedure but also through administrative means. Forfeiture of proceeds of corruption is ordered by the Court for all corruption-related offences.

Kazakhstan officials claim that bribes can be confiscated, although this is not explicitly apparent in the criminal provision. New Kazakh legislation also intends to cover value based confiscation. While Kyrgyzstan, Tajikistan and Ukraine all mandate confiscation of proceeds of serious crimes (*e.g.* bribe taking is considered a serious crime), there is no mechanism for confiscation in connection with less serious crimes (*e.g.* bribe giving is not considered a serious crime) or value-based confiscation, nor for cases where the object of the bribe has been turned over to a third party. The lack of these mechanisms also hampers the execution of foreign requests to confiscate proceeds of crime (see paragraph 148).

None of the Istanbul Action Plan countries have introduced comprehensive legislation to protect *bona fide* third parties from undue confiscation.

Provisional measures – such as tools to identify, trace, freeze and seize the proceeds and instrumentalities of corruption – are essential for preserving the proceeds of corruption before a court orders confiscation. To avoid jeopardising an ongoing investigation, the courts in some countries may prohibit the financial institution where an account is frozen from informing the account holder of the freezing order. It can also be promising to use the freezing and seizing mechanisms to identify the beneficial owners of accounts. The courts in some countries may also freeze an account but allow small payments to be made from the account. Although most Istanbul Action Plan countries have legal instruments for freezing and seizing potential proceeds of crime, these instruments are very rarely used as an investigative tool.

### ***Proportionate and dissuasive sanctions for active bribery***

Effective, proportionate and dissuasive sanctions are important elements in the fight against corruption. While sanctions for passive bribery (taking bribes) appear strong enough in the laws of many Istanbul Action Plan countries, the sanctions for active bribery (bribe giving) are not dissuasive. The current maximum sentences for active and passive bribery are presented in Table 7.

**Table 7. Sanctions for active and passive bribery**

Country	Sanction for active bribery	Sanction for passive bribery
Armenia	imprisonment for up to 5 years	imprisonment for up to 5 years
Azerbaijan	imprisonment from 2 to 5 years	Imprisonment from 4 to 8 years; in aggravated cases from 8 to 12 years
Georgia	deprivation of liberty for a term up to 3 years; in aggravated cases up to 9 years	Imprisonment from 6 to 9 years; in aggravated cases for up to 15 years
Kazakhstan	imprisonment for up to 3 years, in aggravated cases for up to 15 years	Imprisonment for up to 5 years; in aggravated cases for up to 15 years
Kyrgyzstan	imprisonment for up to 3 years, in aggravated cases from 3 to 8 years	imprisonment from 5 to 8 years, in aggravated cases from 7 to 12 years
Tajikistan	imprisonment for up to 5 years, in aggravated cases from 5 to 10 years	imprisonment for up to 5 years, in aggravated cases for up to 12 years
Ukraine	imprisonment from 2 to 5 years	imprisonment from 2 to 5 years; in aggravated cases from 3 to 8 years

Sanctions for bribery must also be sufficiently strict to allow for extradition and mutual legal assistance. Most countries can seek and provide extradition and mutual legal assistance only for crimes that are punishable by adequately severe sanctions. If the corruption-related offence is below this threshold, international co-operation becomes impossible.

In practice, it appears that sanctions actually used by the courts of the Istanbul Action Plan countries are much lighter than maximum punishment allowed by law. In most cases that have been reported in the framework of the evaluations, small fines were the normal punishment. It is important to study the reasons for this lack of serious punishments.

The issue of maximum sentences is closely linked to the issue of statute of limitations. If sanctions are not dissuasive, and active bribery is not considered as a grave or especially grave crime, the statute of limitations can be too short – particularly given the concealed nature of corruption.

### **Immunity and statute of limitations**

#### ***Who is granted immunity, types of immunity and criteria to lift immunity***

In many countries, certain public officials are granted immunity from prosecution to ensure their independence and to protect them from malicious prosecutions. Conversely, immunity can seriously hinder investigations and prosecutions of corruption committed by these officials. This can undermine the public's confidence in its civil service and the rule of law. Immunity for judicial and prosecutorial officials can also hinder the prosecution of a person who has engaged in corruption with a judicial or prosecutorial official, even if this person is not immune.

There are no strict international standards in the area of immunities. However, the UNCAC requires its Parties to strike “an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, if necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention”. Best international practice suggests that immunities should be *functional* in nature – *i.e.* should apply only to acts carried out in the performance of official duties – and *temporary* – *i.e.* should apply only while an official is in office. An effective system for *lifting immunities* is also essential.

The immunities systems in many Istanbul Action Plan countries need reform. Immunities are excessively granted to a very large number of officials

at the national and even local levels. In Armenia the scope of immunities was not reduced, as recommended, but enlarged in 2005: immunity accorded to the President was broadened, and the Ombudsman was also granted immunity.

Immunities in the Istanbul Action Plan countries are not functional but absolute, and cover all acts of a public official, carried out in the execution of official duties or outside. For instance, if a public official drives a car above the speed limit, breaks driving rules and as a result injures a person, he/she can be protected by immunity, even if his duties did not require him to drive at high speed (which can be a requirement for a police officer who is chasing a criminal by car). Officials with immunity can only be arrested if they are caught red handed while committing a crime (however, *e.g.* in Ukraine even this is not allowed).

The rules for lifting immunities are often very general and lack clear criteria; the process for lifting immunity also calls for increased transparency. In most Istanbul Action Plan countries, immunities may be lifted through a parliamentary or constitutional court process. Countries should ensure that these processes are transparent and publicly accountable, and that immunities must be lifted for “serious” crimes like corruption. The process must also allow gathering of evidence that would support lifting the immunity. In other words, it must permit normal investigative techniques, such as interviewing witnesses and search and seizure of bank and financial records.

### ***Statute of limitations***

Because corruption and corruption-related offences are often concealed, it is important that the statute of limitations allows enough time to conduct an investigation. Many corruption offences do not come to light for many years, for example, until a regime change occurs or when an official leaves his/her post. Cases may also be complex and require gathering voluminous evidence and analysing complicated accounting and financial records. Evidence may also have to be gathered from abroad, which can be extremely time-consuming.

As mentioned earlier, some Istanbul Action Plan countries have relatively low sanctions for active bribery (bribe giving), which is not always considered a serious crime. The limitation period is only two years for this crime in some countries (Georgia and Kyrgyzstan). Armenia increased the maximum sentence for bribe giving in 2006, and as a result the statute of limitations was extended to 10 years.

## **International co-operation and mutual legal assistance**

Many large-scale corruption cases have an international dimension – be it that the briber is located abroad, that the proceeds of the crime have been exported, or that the offender has fled the country. Therefore, effective extradition and mutual legal assistance (MLA) are of utmost importance to combating corruption.

Countries use different arrangements to seek or provide extradition and MLA in corruption cases. Bilateral treaties are a common solution; an alternative is multilateral treaties or conventions. These treaties could apply to criminal offences generally, like the Minsk treaty to which most Istanbul Action Plan countries are party. They could also be conventions that apply specifically to corruption crimes, such as the UN Convention against Corruption. Finally, some Istanbul Action Plan countries (*e.g.* Armenia) have passed legislation that allows co-operation in the absence of a treaty. Regardless of the type of arrangement involved, the ultimate test is whether Istanbul Action Plan countries can seek and provide extradition and MLA not only within the region, but to major trade and investment partners, as well as significant economies worldwide.

The legal frameworks for extradition and MLA generally impose preconditions for co-operation. One common pre-requisite is dual criminality: a requesting state can only seek co-operation on an offence that exists in the requested state. If the offence does not exist, co-operation may be refused. This could occur for offences such as trafficking in influence or illicit enrichment, which is not a crime in some Istanbul Action Plan countries. Other legal conditions worthy of examination include treatment of cases involving nationals of the requested state and evidentiary thresholds for providing assistance.

Another deficient area is MLA relating to proceeds of corruption. None of the Istanbul Action Plan countries can execute foreign requests to trace, freeze, confiscate or repatriate proceeds of corruption. The ability to do so is important for both investigating crimes of corruption and recovering the proceeds of corruption.

It is also unclear how well extradition and MLA function in practice. Experience in other countries has shown that an adequate treaty and legislative framework does not guarantee efficient international co-operation. Effective institutions – such as an adequately trained judiciary and a properly resourced central authority – are equally crucial. Detailed and complete statistics are also vital to evaluating how the MLA and extradition system functions in practice. Further inquiries are needed to ascertain how Istanbul Action Plan countries perform in this regard.

## **Responsibility of legal persons for corruption**

The attribution of responsibility to legal persons for criminal offences is a well-entrenched principle in common law systems. However, it is a relatively new concept for most Western European countries, and it is just beginning to emerge in many other countries, including those in Eastern Europe.

Although several international conventions require the liability of legal persons for corruption, debate about the rationale for such liability continues in the Istanbul Action Plan countries. Opponents believe it is artificial to treat a corporation as if it has a blameworthy state of mind. They add that it is impossible to imprison an organisation or attain many of the purposes of penal sanctions, such as rehabilitation and punishment. On the other hand, proponents recognise that corporations play an important role in society and the economy, and as such are capable of doing significant harm. They must therefore be expected to uphold the law just like individuals. Sanctions do impact corporations – by affecting their reputation and, through monetary sanctions, their financial positions.

Imposing liability against legal persons may be particularly important in corruption cases. Corporations are increasingly large and decentralised, resulting in diffuse operations and decision making. It is often difficult to hold one or more individuals in a company responsible for a particular decision. Companies may thus be more inclined to engage in bribery, because it is less likely that any individuals will be held accountable. Corporations also often have elaborate financial structures and accounting practices that make it easier to conceal bribes and the identity of decision makers. For these reasons, making legal persons liable for bribery will have a deterrent effect. It will also force companies to take preventive measures, such as implementing corporate *compliance programmes* and *codes of ethics*.

So far only Georgia has introduced liability (criminal) of legal persons for criminal acts of their managers or employees. Armenia, Azerbaijan, and Ukraine are working on a draft law introducing corporate liability for corruption. In Kazakhstan, a Committee of the Parliament has rejected a proposal initiated by the Ministry of Justice.<sup>2</sup>

## **Anti-money laundering legislation and institutions**

The goal of corruption is to generate a profit for the offenders who carry out the crime. The profit can include the bribe itself (for corrupt officials), or the benefits obtained from corrupt deals (for bribers). Money laundering is the process to disguise the illegal origin of these criminal proceeds; it is of critical

importance, as it enables the criminals (bribe takers as well as bribe givers) to enjoy the profits of corruption without jeopardising their source.

Corruption can generate huge amounts of proceeds. When a criminal activity generates substantial profits, the offender must find a way to control the funds without attracting attention to the underlying activity or the persons involved. Criminals do this by disguising sources, changing forms, or moving funds to a place where they are less likely to attract attention.

Anti-money laundering legislation comprises, *inter alia*: criminalisation of laundering the proceeds of crime; preventive obligations for financial institutions and designated non-financial businesses and professions to report suspicious transactions; establishment of a financial intelligence unit; and establishment of an effective system for supervising financial institutions and freezing, seizing and confiscating proceeds of crime.

All Istanbul Action Plan countries have criminalised money laundering. However, in most countries, the scope of the money laundering offence is too narrow and does not specifically cover the possession of proceeds of corruption.

Armenia, Ukraine and Georgia introduced comprehensive anti-money laundering legislation some years ago in the framework of their participation in a regional evaluation mechanism (Moneyval). Azerbaijan and Kazakhstan have prepared a set of preventive measures, but not yet decided on the establishment of the financial intelligence unit (FIU). Kyrgyzstan has enacted a basic anti-money laundering law and has successfully set up a FIU. Tajikistan lags behind, but is currently preparing a draft anti-money laundering law.

Financial intelligence units (FIUs) have been established in most countries (Armenia, Georgia, Kyrgyzstan, Russia and Ukraine); only Azerbaijan, Kazakhstan and Tajikistan have yet to establish these bodies. FIUs of Georgia, Armenia and Ukraine are members of the Egmont group. Russia, Kazakhstan, Kyrgyzstan and Tajikistan are members of the Eurasian Group – a Financial Action Task Force on Money Laundering (FATF) style regional body – while Armenia, Georgia and Ukraine are observers. Typical concerns include the capacity of FIUs to deal with the growing number of suspicious transaction reports, and issues related to the integrity of banks which are required to report such transactions to the FIUs. Co-operation between FIUs and law-enforcement bodies have improved in some countries: reports by FIUs in Georgia and Ukraine helped to uncover predicate corruption offences.



## **Corruption in the private sector**

Traditionally, criminal law has focused on the active and passive bribery of public officials, while bribery in the private sector (*i.e.* bribery between two private entities involved in business activity) was primarily dealt with by civil (*e.g.* competition) or labour laws or general criminal law provisions. However, criminalising bribery in the private sector is increasingly seen as necessary to avoid gaps in a comprehensive strategy to combat corruption – especially since corruption in the private sphere undermines values like trust, confidence and loyalty, which are necessary parts of social and economic relations, and erodes the basic principles of fair competition. This is especially important in Istanbul Action Plan countries because of the ongoing privatisation process, which entails transfers of important budgetary means and regulatory powers from the public to the private sector.

Majority of the Istanbul Action Plan countries have addressed corruption in the private sector (*e.g.* Article 200 of the Criminal Code of Armenia; Article 308 of the Criminal Code of Azerbaijan; Article 221 of the Criminal Code of Georgia; Article 224 of the Criminal Code of Kyrgyzstan; Article 279 of the Criminal Code of Tajikistan) by extending the definition of officials to cover officials in private sector. For instance, according to the Ukrainian Criminal Code, the following categories of officials are liable for office crime, including corruption: “persons holding in enterprises, institutions and organisations of all ownership forms posts related to organisational, managerial, administrative duties.” This apparent progress is probably due to the socialist history in the region, when there was no private business and therefore no important distinction between public officials and officials of public enterprises.

## **Nexus between organised crime and corruption**

Although not all corruptive practices are associated with organised crime, a strong nexus can exist between the two. For instance, corruption is a major factor in drug smuggling. It can involve customs officials and police on both sides of a border. Organised crime uses corruption to obtain influence over different segments of the administrative and political decision-making process – particularly judiciary and law enforcement structures. In parallel with violence (and other means of intimidation) and money laundering, corruption is one of the dominant instruments of organised crime. None of the Istanbul Action Plan countries has gathered comprehensive intelligence on the nexus between organised crime and corruption.

**Table 8. Pillar II Criminalisation of Corruption Summary Table**

	<b>Armenia</b>	<b>Azerbaijan</b>	<b>Georgia</b>	<b>Kazakhstan</b>	<b>Kyrgyzstan</b>	<b>Tajikistan</b>	<b>Ukraine</b>
Explicit coverage of promising and offering a bribe	Yes	Yes	Yes	No	No	No	No
Explicit coverage of bribery through an intermediary	Yes	Yes	No	Yes	No	Yes	No
Dissuasive sanctions for active bribery	Yes	Yes	No	No	No	No	Yes
Sufficient period of limitation	Yes	Yes	No	No	No	No	Yes
Sufficient definition of public official	Yes	Yes	Partially	YES	YES	Partially	NO
Sufficient coverage of foreign bribery	Yes	Partially	Yes	Yes	No	No	No
Confiscation and provisional measures	Partially	Yes	Yes	Yes	Partially	Partially	No
Effective immunity system: Scope and lifting procedures	No	Yes	Yes	Yes	No	Partially	No
Sufficient money laundering legislation	Yes	Yes	Yes	Partially	Partially	Partially	Yes
Liability of legal persons	No	No	Yes	No	No	No	No

Source: Istanbul Action Plan countries reports.

## Conclusions

Main achievements and challenges in criminalisation of corruption by the Istanbul Action Plan countries are presented below:

- *Several Istanbul Action Plan countries introduced substantial changes in their criminal legislation to bring it into compliance with international anti-corruption standards established by the OECD, Council of Europe and UN anti-corruption conventions. Most others prepared comprehensive amendments, but they have not yet been adopted by parliaments. This is a significant achievement, especially as criminal law reform is a naturally slow process. It is worth noting that in many cases changes were introduced immediately before the monitoring programme, confirming the effectiveness of the peer pressure mechanism. However, many legal gaps remain and further efforts are needed to achieve full compliance with international standards.*
- *While international instruments require criminalisation of corruption, in many Istanbul Action Plan countries there are parallel systems of administrative and criminal liability for corruption-related offences; these often overlap, resulting in general weakening of corruption repression mechanisms. Furthermore, broad general laws against corruption adopted in many countries create an impression of a strong legal base; but these laws are often inactive, as their provisions are not supported by criminal or administrative laws. Istanbul Action Plan countries need to clarify and harmonise their anti-corruption legislation to ensure effective prosecution of corruption offences.*
- *All Istanbul Action Plan countries have criminalised giving and taking a bribe, but many have not established offering, promising, requesting and soliciting bribes as separate offences. Instead, they rely on “attempt” and “preparing” to commit active or passive bribery to cover such acts; this is insufficient for compliance with international instruments.*
- *Majority of other corruption-related offences which are mandatory under the UN Convention against Corruption (UNCAC) exist in the Istanbul Action Plan countries, including money laundering, accounting offences and embezzlement. Abuse of office is criminalised across the region; trading in influence has been criminalised by two of Istanbul Action Plan countries so far; and illicit enrichment has not been criminalised in the region. Some countries also have to amend*

*their criminal legislation to expressly cover bribery through intermediaries and for the benefit of a third person.*

- *There is a general lack of specific and explicit inclusion of non-material benefits in the definition of undue advantage as the subject of bribery. Only few countries have introduced relevant amendments; in some others, additional clarification of legislative provisions is required.*
- *The definition of “public officials” should be broad enough not to exclude any category that falls under criminal sanctions for corruption-related offences. Criminal, administrative and all other laws have to be coherent in their definition of public officials. All Istanbul Action Plan countries should streamline and clarify the definition of “public official” in their relevant legislation. Despite some progress in the region towards criminalisation of bribery of foreign public officials, work lies ahead in all countries to reach conformity with international standards.*
- *Progress related to introduction of criminal, administrative or civil liability of legal persons for corruption is limited. So far only Georgia has introduced criminal liability of legal persons for corruption offences. Some other countries have started relevant work, which must be pursued vigorously in the future.*
- *Confiscation of tools and proceeds of corruption is not mandatory throughout the region. Several countries provide for confiscation of the proceeds of serious corruption offences, including value-based confiscation. While legislatively established maximum sanctions for passive bribery are generally strong enough, in practice courts apply much lower and weaker sanctions (like small fines). The situation for active bribery is quite different, and sanctions for such offences are not proportionate and dissuasive. These problems are often compounded by too short statutes of limitations restraining effective prosecution of corruption.*
- *Broad immunities for public officials and lack of precise procedures to lifting them remain an obstacle for effective investigation, prosecution and adjudication of corruption offences in the Istanbul Action Plan countries. Reforms in this regard should therefore move towards only functional and temporary immunities, and provide for clear procedures to lift them.*

- *Although some countries have improved their extradition and mutual legal assistance (MLA) legislation, further analysis is necessary to identify problems and solutions in this area. In particular, it may be useful to examine whether Istanbul Action Plan countries have an adequate treaty and legislative framework for co-operation. Also of interest is whether international co-operation may be hindered by aspects of the legal framework, such as dual criminality. The absence of legislation to deal with MLA relating to proceeds of corruption is a clear and substantial concern. Finally, Istanbul Action Plan countries could also benefit from a closer examination of how international co-operation functions in practice.*
- *Most Istanbul Action Plan countries criminalise corruption in the private sector by including private sector officials among the individuals who can be liable for corruption-related offences.*
- *It is extremely difficult to assess the effectiveness of criminalisation of corruption in the Istanbul Action Plan countries due to the limited or inaccessible analysis of legal practices or meaningful law-enforcement statistics. Some recent improvements in anti-corruption laws are very new indeed and lack case law. Istanbul Action Plan countries need to strengthen analysis of practical implementation of anti-corruption legislation in order to identify ways to further improve it.*

## NOTES

1. Corruption. A Glossary of International Criminal Standards, OECD, 2008, available in English and in Russian at [www.oecd.org/corruption/acn](http://www.oecd.org/corruption/acn).
2. According to the Azerbaijani authorities, the legislation of Azerbaijan provides for civil and administrative liability of legal persons, also emanating from criminal activity of their managers, and may be sufficient to meet the international standards on liability of legal persons for corruption.



## MEASURES TO PREVENT CORRUPTION

Preventive measures cover a very broad and diverse range of issues, including strengthening the integrity of the public service, streamlining regulations and administrative simplification to reduce opportunities for corruption, improving financial controls, and ensuring access to information. Most corruption-prevention instruments are not stand-alone or corruption-specific measures. Rather, they are integral parts of public administration and regulatory reforms, which aim to increase transparency and accountability of public institutions.

For most of these issues there are no clearly and formally established international standards, but good practices are emerging. Because it is difficult to acquire the diverse expertise and specialisation required to review and monitor preventive measures, these issues are treated rather unevenly under the Istanbul Action Plan. However, preventive measures are of central importance in the Istanbul Action Plan, and will be subject to further work.

### **Integrity in public service**

To prevent and reduce corruption in the public administration, it is important to ensure that the most capable individuals are recruited to the public service, and that administrative systems promote professional and honest officials and punish corrupt ones. Public administration reforms should therefore aim at fostering professionalism and impartiality of public services and should include other important elements, such as capacity and career development, job security and remuneration policy. These reforms should also aim to establish clear and effective administrative procedures, harmonious standards across public administrations to prevent misuse of discretion, and tools to control and review actions of individual public servants in order to ensure their accountability. Finally, they should include specific anti-corruption tools, such as conflict-of-interest regulations, codes of ethics, whistleblower protection and others.

### ***Merit-based and competitive recruitment***

Merit-based and competitive recruitment and promotion can help to attract and retain the most qualified individuals in public service, prevent nepotism and promote the creation of institutional culture where corruption is not tolerated. Open competitions for existing vacancies as well as competitive promotion are among the most common approaches in this field.

Open competitions for vacancies in public administrations are becoming common in many countries of the region; for example, they have been introduced in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan and Ukraine. But multiple gaps remain in these systems: open competitions often do not apply to higher-level vacancies, and not all categories of public servants in all branches of the public administration are covered by the system. Selection procedures leave ample room for discretion (*e.g.* criteria for assessing candidates are not well developed, rules and procedures for selection committees are not well regulated, or final decisions rest with one person only) – or existing rules are simply ignored.

Procedures for merit-based promotion are less developed. As in the past, attestations (a kind of in-service exam) provide the main tool for periodic verification of public servants' qualifications. However, attestations appear too formal and are not useful for promotion purposes; additionally, they do not identify training needs and cannot provide the basis for staff development. Many countries also retained old systems of staff reserves – pools of potential candidates who can fill vacancies – which are not transparent and may not be useful. Some countries provide for periodical staff rotations to reduce possibilities for corrupt behaviour, but little is known about the application or effectiveness of these measures.

To support these reforms, some Istanbul Action Plan countries recently provided significant salary increases for public officials. While pay systems often remain opaque, fragmented by agency, and marred by unlimited discretion of senior managers overall salary increase is a positive move. But it is worth noting that in some countries in the region objective factors continue to stall public service reforms, including mere lack of qualified individuals and unattractively low salaries or other benefits in public-sector jobs.

### ***Conflict of interest regulations***

According to NGO and media reports, conflict of interest is widespread in the region, from top-level (*e.g.* when members of parliament and ministers or local officials own or control businesses under their supervision and receive



state benefits, budget subsidies and public contracts) to lower-level officials (*e.g.* exchange of favours and by-passing various regulations to protect private or business interests, etc.) and even in the non-governmental sector (*e.g.* when NGOs with favourable positions to governments receive state funding, or when government members sit on their boards).

At the same time, regulations to prevent and to manage conflict of interest situations are underdeveloped across the region. Conflict of interest in most countries is not defined by laws, or the definitions are not clear enough. Available conflict-of-interest regulations are often included in laws on public service or special laws regulating specific agencies. They define basic restrictions for public service: hiring individuals with criminal records, working under direct supervision of close relatives, participating in commercial remunerable activities, disclosing official secrets, or using public property and services for private needs; some public servants are banned from participating in strikes, manifestations and political activities which may disturb the functioning of public bodies. Less attention is paid to special procedures which may be necessary to resolve conflict-of-interest situations, which may emerge during officials' terms in office, or to the post-office restrictions.

Little is known about rules or procedures for the enforcement of the existing conflict-of-interest provisions. No practical guidelines or training materials for implementation of conflict of interest provisions were found during the reviews or monitoring of the Istanbul Action Plan countries.

In Georgia, a special Law on Conflict of Interest and Corruption in Public Service took a step forward by providing more detailed restrictions (*e.g.* prohibiting officials and members of their families from occupying any position, performing any activity, or possessing shares in an enterprise, controlled under the official's authority) and more specific implementation provisions (*e.g.* obliging officials to declare their conflicts of interest, to abstain from making decisions in areas of conflict of interest, or to stop the problematic activity). There is no central body in Georgia responsible for the implementation of this law, and little is known about its application in practice. However, it appears that General Inspectors' units, recently established in many public agencies, could be instrumental in this direction.

### ***Codes of ethics, practical guides and training on corruption***

Codes of ethics or rules of behaviour have existed for some time in the ex-soviet states. Some Istanbul Action Plan countries have recently developed new and more modern codes, which include some definitions of the basic values and principles for non-partisan and professional public service. However, they are

often perceived as old fashioned propaganda, and are therefore not practical tools for preventing corruption. In many cases, even the modern codes do not contain practical anti-corruption principles and provisions, and are not supported by enforcement tools or sanctions for non-compliance.

Reviews and monitoring of the Istanbul Action Plan countries showed that public administration academies and similar institutions provided some general ethics training as a part of basic academic curricula for students, or during short-term advanced training courses for public officials. Little is known about the substance and quality of such programmes, or their effectiveness.

Practical tools to educate public officials about the risks of corruption, sanctions for corrupt behaviour, or practical solutions to prevent corruption in the region are very much in need to substantiate ethical training for public officials. Such tools can include practical guidelines, instructions or rules; and can be adapted to specific conditions of a particular public agency. These practical guidelines must be widely disseminated and supported by workable, regular in-service training programmes for public officials.

### ***Declaration of assets and gift regulations***

There is a widespread belief among transition economies that declarations of assets by public officials can be a powerful tool to prevent corruption. Accordingly, many Istanbul Action Plan countries have introduced some form of asset declaration systems: Armenia, Georgia, Kazakhstan, Kyrgyzstan and Ukraine have already introduced such systems; Azerbaijan and Tajikistan have adopted laws which require asset declarations, but the systems are not yet fully operational.

While formal systems for declaration of assets by public officials have been established, they suffer from multiple deficiencies. The main problem is a lack of control of the information provided: asset declarations by public officials are not verified (even randomly) by any public institution, and the information is not fully open to allow public scrutiny. Additionally, law-enforcement bodies in some countries do not have access to these declarations. In some countries, declarations have a narrow scope, *e.g.* pursuing tax raising purposes, and cannot provide useful information indicating possible illicit enrichment or conflicts of interest.

As a result, there is little evidence that asset declaration systems have achieved the desired effect of preventing corruption and conflicts of interest. However, they can still be considered useful tools for introducing transparency and accountability of public officials. Some experts and officials in the region

suggest that these systems have to be changed completely – replaced by income tax declarations, or expanded to cover public officials’ expenditures, etc. International experience shows many different approaches; experts have not agreed on which is the most efficient. More analytical work and policy debate is required to help countries improve asset declaration systems to become useful anti-corruption tools.

**Table 9. Asset declaration systems**

Country	General Description	Verification	Disclosure	Notes
Armenia	Since 2001, public officials and members of their households have to declare their income to the Tax Service annually. There are sanctions for failure to submit declarations.	There is no system to verify the declared information.	Only limited information from the declarations is open to media, NGOs and other organisations on their request.	The new Law on declaration of property and income of natural persons will enter into force in 2008 and will replace the current system.
Azerbaijan	Anticorruption Act of 2005 obliges officials to submit declarations. But so far the forms for such declarations were not adopted, and the system is not yet operational.	The Commission on Combating Corruption is expected to collect declarations of senior officials, and will have the right to send any suspect dossiers to competent authorities for examination.	According to the Law on Submission of Financial Information, all information contained in the asset declarations is considered private and confidential.	
Georgia	Public officials annually submit their property and financial declarations to the Information Bureau of Public Officials Property and Financial Status under the Ministry of Justice.	There is no requirement or empowerment to verify the submitted information.	There is no requirement for automatic public disclosure of the declarations; this information can be provided on request of an interested party.	

Country	General Description	Verification	Disclosure	Notes
Kazakhstan	Candidates for public positions must submit their declarations during the application period; public officials and their spouses must submit declarations of assets and income annually to the Tax Committee.	The Tax Committee may verify the declarations from the point of view of tax purposes only.	Information contained in declarations is secret.	
Kyrgyz Republic	The Laws on Public Service and on Disclosure of Publication of Incomes, Liabilities and Property of Political and other Special Public Officials and their Close Relatives require that public officials and their close relatives annually submit declarations to the Agency for Public Service Affairs.	The Agency for Public Service Affairs has the right to verify declared information, but in practice does not have the capacity to do so.	Aggregated data on income, property and financial liabilities of public officials occupying political and other special state positions are published annually.	
Tajikistan	Law on the Fight against Corruption and Government Decree on the approval of the income tax and assets declarations of 2005 require public officials to file two declarations – one on assets and one on income – when they apply to posts, and annually during the term of office.	The current legislation provides that Tax Department of the Ministry of Income and Taxes and the Civil Service Administration will be responsible for control over the implementation of the system.	Disclosure of declarations is not foreseen under the current legislation.	

Country	General Description	Verification	Disclosure	Notes
Ukraine	Candidates for positions in public administration submit their asset declarations as a part of the application procedure. Public officials submit their declarations annually to their employer.	Only declarations of candidates are verified. Annual declarations by officials are not subject to verification.	Declarations are not disclosed as a rule. Sometimes some high-level officials are requested to authorise disclosure of their declarations. Such declarations are sometimes disclosed, during election campaigns or when high-level officials are appointed to their posts.	Draft Law on Prevention and Fight against Corruption proposes some changes to the system of verification of declarations, but it has not been adopted.

The tradition of giving gifts to public officials; high managers, teachers and doctors; various registry, IDs and certification offices; and many other categories of officials is very strong in the region. While gifts as such are not illegal, they often constitute a round-about way to pay an undue advantage for past or future undue benefits. Some countries have developed regulations on acceptance of gifts by public officials. However, attempts to regulate this area do not seem to be very effective so far. Some regulations are too prohibitive (*e.g.* acceptance of any gifts, except for symbolic souvenirs, is completely forbidden in Kyrgyzstan), or too relaxed (*e.g.* in Tajikistan, while only symbolic souvenirs are allowed, every year a Tajik official can accept such gifts valued at up to 50 times monthly minimum salary). Some countries require that gifts above a certain value threshold be declared or deposited by officials for the benefit of the state. The threshold may not be clear, as it applies only to the value of one gift but not the total value for a month or a year. Also, it is not clear whether all gifts above the legal threshold are considered as bribes, and the practice to treat gifts which officials accepted after having performed their tasks.

Regulations on acceptable gifts are declarative; they lack detailed provisions necessary for implementation, or mechanisms for enforcement in practice. Many public officials interviewed during the monitoring visits to the Istanbul Action Plan countries confirmed that they did not know which body, if

any, was responsible for implementation of regulations on gifts, and could not give any examples of application in practice.

#### **Box 5. Regulations on gifts in Armenia**

The 2003 Criminal Code of Armenia stated that receipt of property, right of property or other non-pecuniary gain as a gift by a public official, without a preliminary agreement, for the acts or omissions committed under his/her competencies shall not be considered a bribery if the value of the gift does not exceed five-fold of a minimum salary. It would therefore not be an offence.

The Istanbul Action Plan recommended to Armenia to remove this provision, which provided a possibility for very broad interpretation and effectively legalised bribery. The 2006 legislative amendments implemented this recommendation, and the provision was removed from the Criminal Code of Armenia.

Source: Istanbul Action Plan, review and monitoring reports on Armenia.

#### ***Internal investigations and disciplinary measures***

Many Istanbul Action Plan countries cited bodies responsible for detection and internal investigations of violations of rules, statutes and laws by public agency employees. Most often, such internal security offices exist in law-enforcement and security agencies, in customs and tax services, and in some other agencies. In Kazakhstan, the Agency for Public Service Affairs is a central body with responsibility *inter alia* to review disciplinary cases and co-ordinate disciplinary councils at the local and regional levels. In Georgia, as mentioned, General Inspectors' units were created in many public agencies.

These internal security or ethics bodies can often apply disciplinary sanctions, such as reprimanding, demoting, or even firing of an official. If internal investigations indicate that a crime has been committed by the official in question, the investigation is supposed to be transferred to law-enforcement bodies for criminal proceedings. However, little is known about the effectiveness of the internal bodies in detection and prevention of corruption, or about effectiveness of disciplinary measures they apply.

There is an additional danger that the agencies may be reluctant to expose cases of corruption in their ranks, even when they identify them. In addition, because the threshold between criminal offences related to corruption and disciplinary or administrative wrongdoings are unclear and overlap in the Istanbul Action Plan countries, investigators may prefer using administrative or disciplinary procedures and sanctions rather than criminal sanctions; such procedures are generally less complicated. As a result, it is common in the

region that an official can be fired for alleged corruption, but no criminal investigation follows.

### ***Requirements to report corruption and protection of whistleblowers***

Corruption is a hidden crime – its participants have a shared interest in concealing their acts, and the direct victims (*e.g.* competitors in public procurement or tax authorities) may not be aware of the offence. Reporting suspicions of corruption can increase the chances of detecting and punishing this behaviour, and can be a powerful preventive measure. Reporting can constitute an important source of information for investigators, increase citizens' trust in law enforcement, and break habits of accepting corruption as a normal phenomenon. Reporting should therefore be encouraged, but in many transition countries it is still not common and is often regarded as unsocial behaviour. While this area was not studied sufficiently during the review and monitoring process under the Istanbul Action Plan, a number of relevant findings can be noted.

In some countries, *e.g.* Armenia, Azerbaijan, Georgia and Tajikistan, failure to report serious crimes by any citizen – which include corruption-related crimes – entails criminal responsibility. However, in many countries very strict provisions against defamation discourage reporting of corruption-related crimes. Anonymous reports are not considered by law-enforcement authorities.

In addition, in Kazakhstan and Kyrgyzstan public officials are obliged to inform management and relevant public bodies about acts in violation of legislation, which may include corruption-related violations. Because the official reporting offences committed by colleagues or superiors may fear retaliation, whistleblower protection should be carefully considered. For instance, “hotlines” for reporting various violations, including corruption, are becoming popular with many agencies in the region, but their effectiveness is not well known.

Finally, not a single country in the region has effective legal provisions to protect whistleblowers in either the private or public sectors. The concept of a whistleblower is not well understood in the region, and is often confused with protection of witnesses and persons co-operating with law-enforcement authorities in criminal cases. Since corruption is generally a hidden offence, insiders hold principal knowledge. Efforts to introduce the concept and adequate tools to protect whistleblowers of corruption, including targeted awareness-raising and training campaigns, are needed.

### **Box 6. Who is a whistleblower?**

A whistleblower is a public- or private-sector employee who reports misconduct to a person or entity that has the power to take corrective action. The alleged disclosed misconduct can range from the breach of an internal rule to criminal offences, including bribery and corruption. The disclosure can be internal, typically to the superior or the audit committee, or external, to a supervisory agency or law-enforcement authorities.

Whistleblower protection relates to protection against retaliation, mobbing, dismissal, etc. at the workplace. When they exist, whistleblower protection rules for the private sector are provided in labour code (Slovak Republic, Sweden) or in specific laws on protection of whistleblowers (Japan, United Kingdom). Whistleblower protection in the public sector is usually provided in administrative laws or regulations (Mexico).

In most cases, whistleblowers will not be part of a criminal procedure – either because the private company or public administration solved the problem internally, or because the law enforcement authorities found sufficient material evidence and do not require the testimony of the whistleblower.

Witnesses and persons co-operating with law-enforcement authorities are part of the criminal procedure. The protection no longer relates to work conditions but to the person's physical integrity.

The difference between witnesses and persons co-operating with law-enforcement authorities is that the first are external to the offence, while the latter are involved in the offence under investigation. Co-operating persons are protected and usually negotiate acquittal or reduced penalty in exchange for their help in uncovering the main offenders.

Source: OECD Secretariat.

## **Improving regulatory frameworks to limit incentives and opportunities for corruption**

### ***Liberalisation and administrative simplification of business environments***

Complicated, overly stringent, ambiguous and unpredictable regulations open to arbitrary decisions create multiple opportunities for corruption. There is an impression that some new regulations are created with the sole purpose of raising revenues for corrupt bureaucrats. Therefore, streamlining various types of regulations in a multitude of sectors could significantly cut opportunities for corruption.

Review and monitoring under the Istanbul Action Plan did not systematically examine liberalisation and administrative simplification in all countries. Overall, according to the World Bank and the EBRD<sup>1</sup>, there has been some progress in reducing corruption through liberalisation of business



environments in transition economies. One indicator – frequency and amount of bribes given by firms to various state regulators – has decreased among the Istanbul Action Plan countries. However, it is worth noting that progress among ex-soviet states is much less than in the Eastern European countries that recently joined the EU.

Countries in the region use many approaches to tackle the challenges of liberalisation and regulatory reform. For instance, as a part of major regulatory and administrative reforms, the Russian Federation in 2002 adopted the Law on Technical Regulation; it provided for a major review of norms and regulations concerning product certification with the view to make many previously mandatory norms voluntary, and make the regulatory process more predictable and transparent. However, there is no information about the outcome of this initiative or its impact on the level of corruption in the country.

Experts and officials from the Istanbul Action Plan countries often mention anti-corruption screening, or auditing, of legal drafts and acts as a potentially useful approach to reducing opportunities for corruption. Russia<sup>2</sup>, Moldova and some other countries in the region report that they carry out such screening; Ukraine has also declared that it will introduce this system in the near future. The anti-corruption screening can help identify areas that provide incentives for corruption, such as excessive discretion on the side of public officials (*e.g.* a very broad scope of rights and unclear scope of duties of an official), legal gaps (*e.g.* lack of a clear regulatory provision or a mechanism for implementation) and contradictions with other legal norms. Anti-corruption screening can be regarded as a part of the regulatory impact assessment (RIA). However, like the RIA, anti-corruption screening is a very ambitious, resource-intensive approach; it requires diverse and specialised expertise and political support. It can probably be used in transition economies only on a case-by-case basis, rather than as an attempt to review large blocks of legislation.

Georgia introduced impressive and rapid measures to deregulate its economy – including a significant reduction in the number and rates of taxes – and important liberalisation measures in such areas as certification, permitting, licensing and customs regulations. These measures resulted in a measurable decrease in administrative burdens on business and increase in economic activities, and were among the key factors which led to a visible reduction in the level of corruption in Georgia.

### ***Anti-corruption measures in sectors with high corruption risk***

A number of surveys carried out in the Istanbul Action Plan countries identify a range of sectors perceived as most corrupt. The judiciary and

parliaments, as well as customs and tax administration, and public procurement systems<sup>3</sup> are subject to grand corruption. There is also a long list of areas subject to petty corruption, where citizens frequently have to provide “irregular payments”<sup>4</sup> including public health and education, road police, official documents, unemployment and other benefits.

The reviews under the Istanbul Action Plan recommended that the countries focus on these high-risk areas and implement pilot projects. Tax and customs were among the sectors covered in some countries (*e.g.* Kazakhstan and Ukraine) due to extensive discretionary powers provided to officials by legislation. Such pilot projects should combine regulatory reforms with measures to promote integrity and strengthen controls in selected sectors. However, it appears that this recommendation remained largely unaddressed by the countries. While campaigns to catch corrupt officials in public agencies are common in many countries, they are only “shows” for the public and do not lead to comprehensive, fundamental and sustainable reforms.

There appears to be a cultural problem in implementing pilot projects. In one Central Asian state, an official explained that it would be unacceptable for the government to publicly name a specific agency as corrupt; if this happened, the head of the agency should resign immediately. During the monitoring interviews in the countries, officials commonly accepted the fact that there was corruption in their country, and even possible dishonest individuals in their agencies, but would not agree that their agency – or any other specific agency – could be more corrupt than others. This indicates that in some countries there is little trust in the possibility to “clean” corrupt institutions from the inside or from the top.

It therefore appears to be easier to address anti-corruption issues through general sector reforms. There are examples where corruption was addressed among many other issues in the frameworks of large sector reforms, *e.g.* unified exams to enter universities to prevent corruption in public education; one-window approach in customs and permits areas. For instance, in Kazakhstan there is a Programme of Fighting Abuses within the System of the Customs Administration. If targeted and well implemented, these measures can indeed bring about important improvements. However, little is known about the results of such programmes in practice. Sometimes technical solutions alone are not always effective, *e.g.* as e-procurement or unified exams system can be cheated by making deals before submitting e-bids or tempering with the computers during exams. Sometimes, anti-corruption measures can be lost in a large number of other priorities for sector reforms.

There is one example in an Istanbul Action Plan country where a highly corrupt sector was simply eliminated. Traffic police in Georgia, like in many countries in the region, was notorious for corruption. To address this problem, the President of Georgia decided to get rid of traffic police all together. Road safety concerns were not included in this decision, but many argued that the traffic police did not ensure safety anyway: Georgians continued to drive in their own way, as before. While such radical measures can be necessary to bring rapid results in cutting corruption, they can only be effective in the short-term and in some sectors. Complex measures are required for long-term and comprehensive solutions (*e.g.* driving licensing, technical control, better roads and signs, insurance, public education about the benefits of safe driving).

### ***Preventing and prosecuting corruption in public procurement***

Public procurement is an area of high risk for corruption, not only in the transition economies but in all countries around the world, including the OECD members. Reportedly, corruption in public procurement in the Istanbul Action Plan countries is widespread, and continues to grow following the upward trend in the total value of public contracts. The Istanbul Action Plan did not aim to review the totality of the public procurement systems in the region, but to identify issues which may be particularly related to corruption.

All Istanbul Action Plan countries have basic legal and institutional frameworks for public procurement. The laws usually contain fundamental provisions, including defining participants in public procurement, procurement methods, and requirements for transparency of tender announcements, selection procedures and complaint mechanisms. All countries have central authorities responsible for oversight of public procurement, while actual purchasing of goods and services is decentralised to various public agencies (procurement is centralised in some sectors, *e.g.* large infrastructure projects in Kazakhstan or energy supplies in Kyrgyzstan). In many countries there are ongoing debates and attempts to introduce e-procurement, which may reduce opportunities for corruption (*e.g.* Armenia and Kyrgyzstan are at work on projects to introduce e-procurement).

Although basic legal frameworks are in place, they are not perfect and require further improvements, some of which may help prevent corruption (*e.g.* ensuring transparency at all stages of the public procurement process, clarifying criteria and procedures for selection of awardees). In some cases the least competitive and transparent forms of procurement are favoured (*e.g.* emergency procurements which do not follow any regulations, large shares of procurement from a single source, and procurement without tenders), or ignored by procuring agencies (*e.g.* tender announcements are not always published fully and on

time). Central bodies responsible for public procurement must be strengthened (*e.g.* the Public Procurement Agency in Armenia's capacity to check procedures), or even majorly reformed (*e.g.* in Ukraine, state responsibility for public procurement was transferred to a non-governmental entity, which does not allow for usual accountability and control procedures).

However, existing legislation in the region does not contain specific anti-corruption provisions, like requirements for anti-corruption declarations by bidders or "black listing" of bidders with corruption track records. One of the main problems is that there is no specific focus on prevention, detection and prosecution of corruption in the operations of the agencies responsible for public procurement (who focus exclusively on compliance with formal procedures) or of the law-enforcement authorities (who do not know public procurement systems and have no means to detect crimes). Existing control procedures do not address potential violations at the pre-tender and post-contract award stages. There are no special procedures or mechanisms to prevent and detect kickbacks, awarding contracts to friends and relatives, and other most common forms of corruption in public procurement. There is no specialised training for public procurement or law-enforcement officials on practical methods to identify corruption.

### **Financial control**

Effective financial control can be a strong barrier against various forms of corrupt behaviour, especially misuse and embezzlement of public funds. The Istanbul Action Plan countries have established basic infrastructures for financial inspection: financial inspection departments in ministries of finance are responsible for ex-post internal financial control, and audit chambers are responsible for ex-post external audit. In many countries financial inspection units also exist in individual public agencies or public budget spending entities. It is also worth noting that many countries in the region saw improvements in financial discipline due to the growing role of ex-ante controls by treasuries in the management of public expenditures.

Reviews and monitoring under the Istanbul Action Plan did not aim to analyse financial control systems as a whole, but rather to identify some key areas where improvements are needed in order to fight corruption. The most typical findings were the following: status of Supreme Audit Institutions (SAI) needs strengthening (*e.g.* in Armenia, Kazakhstan and Tajikistan); division of responsibilities among external audit, internal audit and financial inspection need clarification to avoid duplication and competition (*e.g.* Kazakhstan and Kyrgyzstan); capacity of SAIs and financial inspection bodies to carry out various controls needs to be strengthened significantly across the region. In

some countries, there were additional problems: some sectors responsible for significant spending are not subject to public audit (*e.g.* military and law-enforcement bodies in Armenia); it appears that financial inspections at the local level are not well developed (*e.g.* Kazakhstan). Additionally, the large number of state-owned enterprises presents a challenge for public control bodies in many countries. More generally, financial control bodies in this region still have to transform themselves from soviet-type repressive structures into modern institutions with sound financial management and controls.

The main issues concerning the specific role of financial inspection, and internal and external audit bodies, in the fight against corruption are: their capacity to detect corruption-related acts, co-ordination of various financial inspection bodies (*e.g.* tax, treasury and procurement), and exchange of information among these bodies and with law-enforcement bodies. Normally, financial inspection bodies are supposed to pass information about possible violations, including corruption, to law-enforcement bodies; however, it is not clear how strong the obligation to report is. Co-ordination and exchange of information were uniformly identified as weak during the monitoring. Finally, the integrity of financial inspection bodies themselves needs to be addressed, as the multiple inspections, which are not well co-ordinated, provide opportunities for corruption; sometimes financial inspection is used as a tool in political fights and repressions.

### **Access to information**

In all countries in the region, there are legal provisions for public access to information. Most countries adopted special Laws on Access to Information; some addressed this issue through other legal acts (*e.g.* Georgia has a Freedom of Information Chapter of the General Administrative Code; in Kazakhstan, the Law on Administrative Procedure regulates access to administrative information). In a few cases, there seem to be problems with the legal framework (*e.g.* the Tajik Law on Information guarantees access to information for professional duties rather than as an essential right of all citizens, and establishes an open-ended list of confidential information which is not subject to public disclosure). Generally, these laws appear adequate; however, citizens and NGOs face multiple difficulties in their implementation, despite some general improvements across the region.

Typical concerns are: public officials' discretion in determining what constitutes confidential information; access to information at the local level and access to internal ministerial decisions remain difficult; quality, completeness and timeliness of provided information are not satisfactory. Complaint mechanisms seem to be bulky and slow across the region. Except in Azerbaijan

where the Law on the Right to Obtain Information created an institution of Ombudsman for information, there are no information commissioners responsible for access to information complaints; citizens have to complain to the involved agencies, courts, or general Ombudsmen. Even NGOs have to use professional lawyers for appeal procedures concerning access to information. There is no systematised information about the number of appeals or sanctions for failure to provide information.

### **Political corruption**

Concerns about political corruption are on the rise in the region. However, the Istanbul Action Plan did not examine this issue systematically for all countries, and only addressed it for Kazakhstan and Kyrgyzstan – countries which were reviewed and monitored last among the group. The situation in these two countries is not necessarily typical for all countries in the region; however, the following findings should be noted.

In both countries, as is the case across the region, there are laws regulating activities of political parties and laws regulating election campaigns. Laws on Political Parties in both countries define sources of financing and rules for expenditures. But there are loopholes which can be used by groups or individuals to influence parties, *e.g.* there are no limits for donations to support party activities or transparency concerning the amount of donations from each source; there are no mechanisms to control donations provided by intermediaries. In both countries laws on elections establish rules concerning election funds and limit donations to the election funds of the parties. However it appears that these laws do not ensure sufficient transparency about the sources of donations or spending from the election funds, and annual financial reports of political parties are not public. There are no clear legal provisions for the most common abuse of rules for elections, such as rigging elections by officials in office, known in the region as the abuse of administrative resources, and media control. In addition to the legal gaps, institutions to ensure financial control of political parties and election campaigns either do not exist (*e.g.* in Kyrgyzstan) or their capacity is not sufficient for the task (*e.g.* in Kazakhstan).

In many countries in the region, especially where election campaigns involve open and pluralistic political competition, there are multiple loopholes for abuse of administrative resources. The most typical are the following: hurdles for registration of candidates, administrative obstacles for campaigns, and media control by candidates from ruling parties. During the recent election process in several Istanbul Action Plan countries, typical violations related to the abuse of absentee ballots and “round-about” voting (same voters cast their vote many times in different voting stations), intimidating or blackmailing voters (*e.g.*

threatening students with difficult exams if they do not vote for the suggested candidate among other methods), etc. New tools against such rigging have been quickly adopted, including exit polls, public and international monitoring, as well as the use of court appeals against the results of corrupt elections.

Corruption among political persons in office can be addressed by effective detection and prosecution. In this respect, it is important to repeat that immunity of high-level officials continues to block prosecution. A system for the prevention of conflicts of interest and asset declarations for high-level officials and political figures can also be strengthened. The media has a fundamental role in fighting political corruption; however, this was not examined by the Istanbul Action Plan.

A number of international soft standards exist in the area of prevention of political corruption, including the 2001 resolution by the Parliamentary Assembly of the Council of Europe, the guidelines of the Venice Commission on Financing Political Parties and the 2003 recommendation of the Committee of Ministers of the Council of Europe on Common Rules against Corruption in the Financing of Political Parties and Electoral Campaigns. These international tools – together with best practices emerging in various countries – should be used in the future to provide a framework for a more systematic analysis of political corruption in the Istanbul Action Plan countries.

## Conclusions

Main achievements and challenges of the Istanbul Action Plan countries in prevention of corruption are summarised below:

- *Most corruption-prevention measures are not stand-alone activities; rather they are integral parts of public administration and regulatory reforms. However, in countries with high levels of corruption – like the Istanbul Action Plan countries – anti-corruption requires a special focus and more explicit measures, and should not be considered among other competing priorities.*
- *Initial and basic elements of merit-based and competitive recruitment are in place in most countries in the region. However, much more needs to be done to further develop and strengthen these new systems, and to extend merit-based and competitive principles to all categories of posts, as well as to the internal public administration promotion system. Development and unification of recruitment and promotion systems across all public administrations are needed. Systematic staff training and development, including anti-corruption and ethics*

*training, should become an integral part of personnel policy, in addition to recruitment and promotion rules.*

- *Conflict of interest is a serious problem in the Istanbul Action Plan countries. Basic restrictions for employment in public service exist in the region; however, legal provisions necessary to prevent and manage conflict of public officials' private and public interests need to be strengthened. Particular focus should be placed on development of practical guides and training for implementation of the regulations, and strengthening institutional mechanisms necessary to support this implementation. In other words, there must be some agency or body in charge of enforcing conflict-of-interest regulations.*
- *General codes of ethics, as well as codes for specific public institutions, should be further strengthened with clear anti-corruption principles and non-compliance sanctions. The main focus should be disseminating these codes of ethics and ensuring high-quality training programmes on ethics both as part of both academic curricula and in-service training for public officials.*
- *The majority of the Istanbul Action Plan countries have established systems for declaration of assets by public officials. If these systems are to become instrumental in preventing corruption, they need to be strengthened. In particular, there must be a mechanism to verify and control the data declared by public officials – either by a specially assigned public institution and/or through public disclosure and public scrutiny. It is also important to ensure that law-enforcement bodies have access to the declarations when they investigate corruption-related offences committed by public officials.*
- *Internal investigation units exist in many law-enforcement and other agencies in the region. They can play an important role in uncovering various violations of rules by public officials, including those related to corruption, and in applying disciplinary sanctions. There is a need to study how these units can be better used to prevent corruption, and ensure that corruption offences are duly reported to law-enforcement bodies for criminal proceedings.*
- *To increase chances that corrupt officials will be caught, there is a need to promote reporting of corruption-related crimes by public officials and ordinary citizens. Stronger legal reporting obligations can be one approach; however, it should be supported by other*



*measures, such as protection of whistleblowers, and removal of overly strict provisions against defamation.*

- *Liberalisation and administrative simplification of the business environment is probably the strongest instrument to limit opportunities for corruption, and should be actively promoted by all countries in the region. There are a variety of options, such as removal of unnecessary certification, permitting and licensing regulations, anti-corruption screening of new legislation aimed at limiting discretionary powers, and increasing officials' accountability. These measures normally should be implemented as part of comprehensive and systemic sectoral reforms. However, it may also be useful to implement targeted anti-corruption programmes in the sectors with a particularly high risk of corruption in order to produce rapid and visible results.*
- *Public procurement is one of sectors with a high risk of corruption. However, there is little information about cases in which corrupt officials have been exposed and prosecuted for abuse of public procurement rules. This sector requires particular attention, including further legal improvements; strengthening control mechanisms over procurement operations by separate entities; anti-corruption training for procurement bodies, and focus on procurement by anti-corruption law-enforcement bodies. While the Istanbul Action Plan did not examine corruption in privatisation, it appears that stripping of public assets by high level officials (e.g. transferring public property to the ownership of companies controlled by political elites) is one of the widespread forms of corruption at present, and should be addressed by the countries.*
- *There has been some overall progress in the area of financial control in the region; this can prevent various forms of corruption, in particular accounting offences, abuse of office and embezzlement. However, further efforts are required to strengthen financial control bodies, to clarify roles of various bodies to avoid overlaps, and to improve exchange of information among them. From the point of view of fighting corruption, exchange of information between the financial control and law-enforcement bodies is particularly important, and should be improved across the region.*
- *Fundamental legal provisions to ensure public access to official information may require further improvements, but they are in place*

*in the Istanbul Action Plan countries. Access to information remains an important problem: public officials continue to abuse discretion in determining what constitutes confidential information, or do not follow the rules. There are often delays in the provision of required information, or such information is not precise or incomplete. Enforcement of access to information laws should be strengthened, especially at the local level. Complaint mechanisms should be improved to allow quick and simple access to justice. It would be useful to collect data on the number of public appeals, and sanctions for failure to provide access in order to assess the legal practice in this area.*

- *Political corruption is an increasingly topical issue in the region. Laws which regulate operations of political parties and election campaigns exist in the region, but a variety of gaps, and instability, allow parties in power to re-write laws to fit their immediate needs and to abuse administrative resources. Financial controls and transparency of both parties' regular work and their election campaigns need major strengthening. Additionally, countries need to ensure that the complete set of anti-corruption criminalisation and prevention measures apply fully to the high-level officials and politicians in power (e.g. effective prosecution for corruption-related offences, control of conflicts of interest). Freedom of media is a fundamental pre-condition for transparency and fighting political corruption.*

## NOTES

1. The Business Environment and Enterprise Performance Survey (BEEPS) 2005, World Bank and EBRD, and Transition Report 2005, EBRD.
2. More information about anti-corruption screening in Russia, including a methodology for such screening, can be found on the website of the Russian Centre for Strategic Research, [http://www.csr.ru/event/original\\_979.stm](http://www.csr.ru/event/original_979.stm).
3. Anti-Corruption in Transition 3, World Bank, 2007.
4. Life in Transition, A survey of people's experiences and attitudes, EBRD, 2007.

## **ROLE OF OECD ANTI-CORRUPTION NETWORK IN FIGHTING CORRUPTION IN EASTERN EUROPE AND CENTRAL ASIA**

### **Anti-Corruption Network for Eastern Europe and Central Asia (ACN)**

The Anti-Corruption Network for Eastern Europe and Central Asia (ACN)<sup>1</sup> was established by national governments, civil society organisations, international organisations and donor agencies at the regional workshop “Combating Corruption in Transition Economies” convened by the OECD and the USAID in October 1998 in Istanbul, Turkey. The main objective of the ACN is to support exchange of experience, mutual learning and development of best practices in the field of fighting corruption in the region. To reach this objective the ACN organises a range of activities, including General Meetings to discuss achievements, challenges and emerging priorities on the anti-corruption agenda in this region, and expert seminars to address selected priority issues in more detail. The ACN also undertakes research studies and prepares analytical papers to provide practical reference materials to practitioners in the region. The Secretariat of the ACN is based at the OECD Anti-Corruption Division<sup>2</sup>. Information about the ACN activities is provided on the ACN website.<sup>3</sup>

In addition to the activities involving all countries of the region, the ACN has also served as an umbrella for several sub-regional initiatives over the past decade. The Baltic Anti-Corruption Initiative (BACI) for Estonia, Latvia and Lithuania was launched in 2001, and was completed in 2004; since then, the Baltic States have joined the EU and one – Estonia – was invited to accede to the OECD. The Stability Pact Anti-Corruption Initiative (SPAI) for Albania, Bosnia and Herzegovina, Croatia, Serbia, Montenegro, FYR of Macedonia, Moldova and Romania was launched in 2000. In 2004 the Secretariat was transferred from the ACN to the SPAI Regional Secretariat Liaison Office (RSLO), which in 2007 was transformed into the Regional Anti-Corruption Initiative (RAI) with a Secretariat in Sarajevo (Bosnia and Herzegovina).

In 2003, a new initiative was proposed to the ACN countries which did not participate in any other specialised sub-regional programme or initiative, focusing on the countries of the former Soviet Union. Common history and the

Russian language were among important factor which allowed this diverse group of countries to be grouped into one regional initiative – known as Istanbul Anti-Corruption Action Plan.

### **Istanbul Anti-Corruption Action Plan**

Invitations to participate in this new initiative were extended to all the countries of the former Soviet Union not involved in other ACN sub-regional programmes. The ACN Secretariat developed a draft Anti-Corruption Action Plan for this sub-region and presented it to governmental officials for consideration during preparatory country visits. The main objective of this Action Plan was to help these transition economies address high levels of corruption by bringing them closer to international anti-corruption standards, involving them in international dialogue and exchange of experiences, and equipping them with the OECD peer review methods.

It is important to note that participation in this initiative is on a *voluntary basis*. Initially, six countries accepted the invitation to join this new Anti-Corruption Action Plan: the governments of Armenia, Azerbaijan, Georgia, Russia, Tajikistan and Ukraine formally announced this decision at a special session of the ACN General Meeting in September 2003 in Istanbul, Turkey. Two more countries joined later: Kyrgyzstan immediately after the Istanbul meeting in October 2003, and Kazakhstan in December 2004.

As mentioned, the Russian Federation joined the Istanbul Action Plan at the time of its official launch in September 2003. However, this country did not complete the full programme. It submitted a self-assessment report, but did not attend a review meeting; as a result, no recommendations were adopted and no monitoring was carried out. It is expected, however, that the Russian Federation will be subject to an anti-corruption review in the framework of its accession to the OECD, which started in 2008.

While these eight countries are the main targets of the Istanbul Action Plan, its implementation involves other ACN and OECD countries and international organisations, including the Council of Europe's Group of States against Corruption (GRECO). Since the launch of the Action Plan, these countries and organisations have delegated experts to participate in review and monitoring of the Istanbul Action Plan countries and participated in the work of the Istanbul Action Plan Advisory Group.

Civil society plays an important role in the implementation of the Istanbul Action Plan, which varies from country to country. It can involve development of "shadow" country reports, participation in special NGO panels during on-site

monitoring visits and participation in ACN plenary meetings, which discuss and adopt review and monitoring reports. TI Georgia went even further – it supports an NGO coalition which continues permanent monitoring of government efforts to implement the Istanbul Action Plan recommendations.

As stated previously, the State Parties to the OECD Anti-Bribery Convention participate in the implementation of the Istanbul Action Plan in various ways. In addition to delegating their experts to examine individual countries and participating in special international panels during on-site visits and in plenary meetings, they also provide voluntary contributions to finance the implementation of this initiative. Switzerland, Norway and Italy were the main donors to the Istanbul Action Plan.

**Table 10. Voluntary contributions and other support of the Istanbul Action Plan, 2003-2007**

Agency	Contribution	Purpose
<b>Secretariat</b>		
OECD		Support the ACN Secretariat, including staff costs of 1 programme manager and 1 assistant
		Operational costs, including translation of documents, use of OECD meeting facilities, interpretation during meetings, other overhead, etc.
<b>Voluntary contributions</b>		
Switzerland SECO	EUR 100 000	Development and endorsement of the Action Plan; preparation of the reviews programme and first review meeting (travel and per diem for delegates, fees for experts)
Norway	EUR 40 000	Second review meeting (travel and per diem for delegates, fees for experts) and preparation of publication of country review reports
Italy	EUR 40 000	Third review meeting (travel and per diem for delegates, fees for experts) and preparation of the publication of country review reports
EU	EUR 30 000	Review of the Russian Federation, fourth review meeting (through a bilateral programme for Russia)

Switzerland SECO	EUR 100 000	Preparation of the monitoring programme, including on-site missions and one monitoring meeting (travel and per diem for delegates)
<i>Total</i>	<i>EUR 310 000</i>	
<b>Other support</b>		
SECO	Direct financing of an expert	Support to the ACN Secretariat, including consultancy fees for the team leader for the monitoring process
Canada	Direct financing of a project	Development of the glossary of international anti-corruption legal standards (through a bilateral programme with Ukraine)
US	Financing of a separate project	Development of a Study of Models of Specialised Anti-Corruption Institutions (through a bilateral project with Ukraine)
Slovenia, Bulgaria, Latvia, Lithuania, Estonia, US, Canada, Italy, Norway, Romania	Country experts	Nomination of national officials to act as review and monitoring experts for the Istanbul Action Plan countries
UNDP, UNODC, ABA	International experts	Experts' participation in the review and monitoring process
UNDP, OSCE, Soros Foundation, Council of Europe	Additional financial and logistical support to delegates	Support for the civil society and official delegates' participation in the review meetings (travel and per diem), hosting meetings during on-site visits

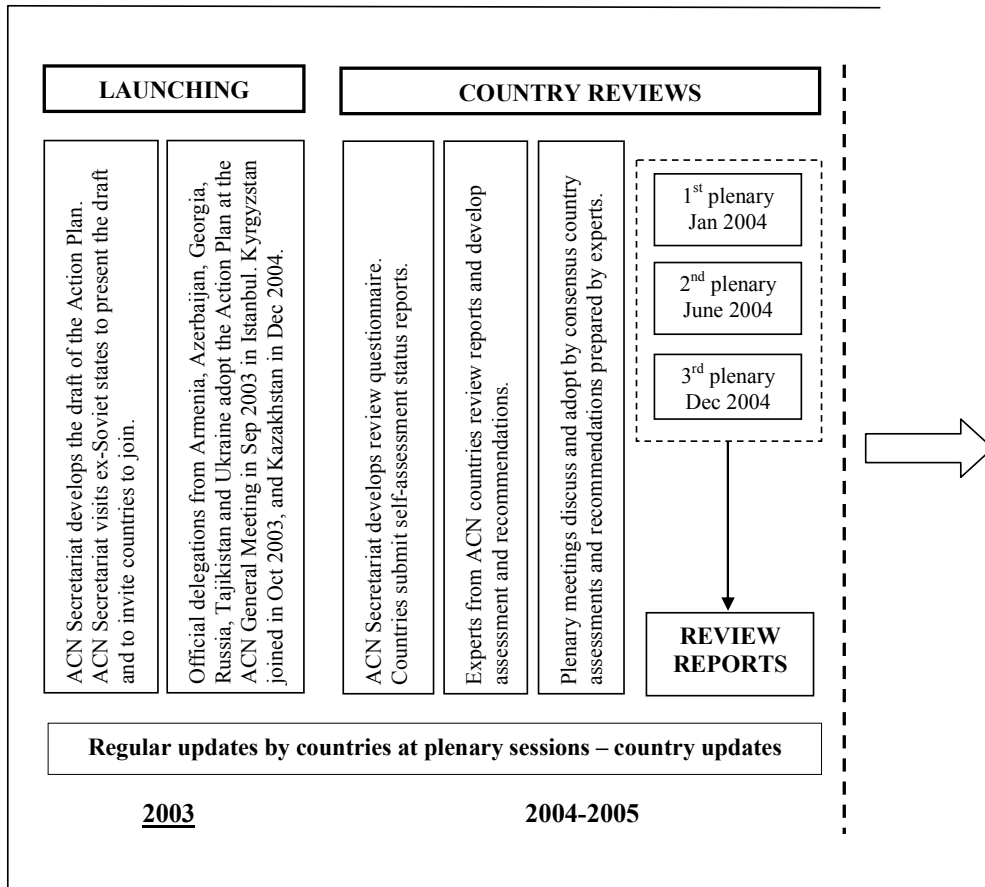
### Peer review and monitoring

*Peer review* and evidence-based policy dialogue are the main working methods of the OECD – they have been the core of the Istanbul Action Plan approach. Peer review involves mutual assessment and development of recommendations for individual member countries by other member countries through an open dialogue among governments, as opposed to the assessment of individual countries carried out by foreign and external agencies. In a peer review process the participating countries agree on rules and procedures equal for everybody and delegate their own officials to carry out the assessment. The participating countries also take responsibility for implementing the recommendations adopted in such assessment processes – peer pressure being the main tool to support the enforcement.

The country review and monitoring procedures were prepared by the Secretariat, and adopted by the Istanbul Action Plan members. These procedures draw on the experience of the OECD Working Group on Bribery, and take into account the experience of GRECO. The implementation of the Istanbul Action Plan during 2003-2007 involved the following stages:

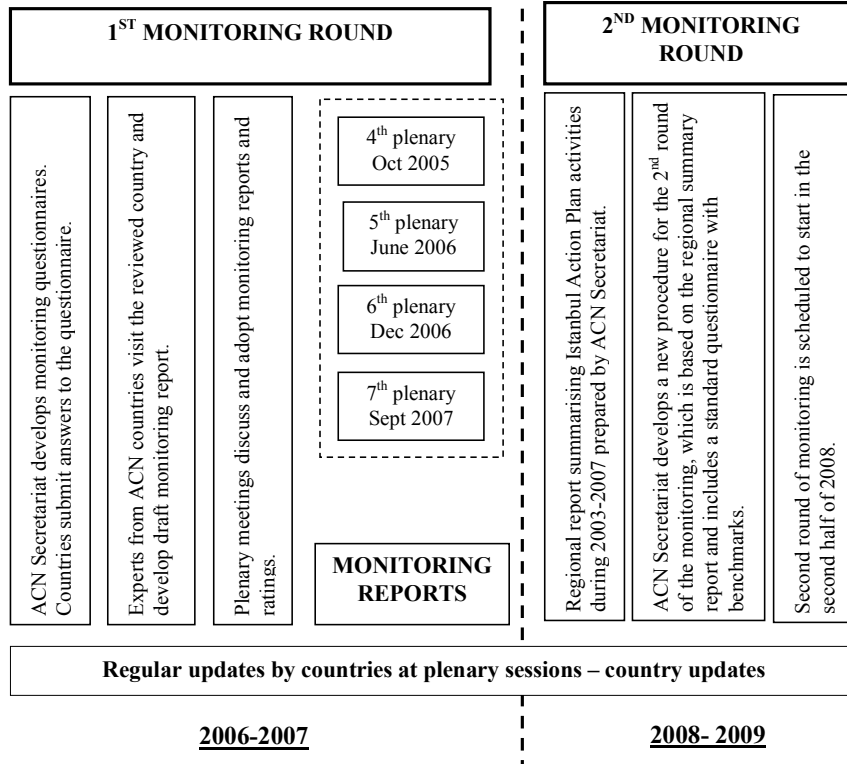
- *Reviews of legal and institutional frameworks for fighting corruption and adoption of recommendations* (similar to the Phase 1 reviews carried out by the Working Group on Bribery). Reviews were based on status reports prepared by the governments following standard guidelines. Groups of peer review experts from ACN and OECD countries reviewed these self-reports and developed draft assessments and recommendations. Plenary meetings of the Istanbul Action Plan discussed and adopted country assessment reports and recommendations based on consensus. Reviews were completed during 2003-2005. (For more information about the reviews, please refer to “Terms of Reference for the Review of Status Reports”, 2003, “Guidelines for Status Reports”, 2003.)
- *Updates on measures taken by governments to implement the recommendations* (similar to the Tour de Table of the Working Group on Bribery). Self-reports describing measures taken to implement the recommendations were regularly prepared by the governments of the Istanbul Action Plan countries and presented for information and discussion at each plenary session, which took place once or twice per year between 2004 and 2007.
- *Country examinations to assess progress in implementing recommendations and adoption of monitoring reports* (similar to Phase 2 reviews of the Working Group on Bribery). Country examinations are based on answers to Monitoring Questionnaires prepared for each country, and include on-site visits by a group of experts – or peers – from other ACN and OECD countries. On the basis of the answers to the questionnaire and information gathered during the on-site visit, the expert groups developed draft monitoring reports, which included assessment of progress and ratings for all recommendations as fully, largely, partially or not implemented. The draft monitoring reports were presented for discussion and adoption at Istanbul Action Plan plenary meetings. Examinations were completed during 2005-2007. (For more information about the examinations, please refer to “Terms of Reference for the Monitoring of National Actions to Implement Recommendations”, 2005.)

**Figure 2. Istanbul Action Plan**





**Figure 2. Istanbul Action Plan (cont.)**



Country reviews and recommendations adopted in the framework of the Istanbul Action Plan cover three main areas: (1) anti-corruption policies and institutions, (2) criminalisation of corruption and law enforcement, and (3) preventive measures in public service and financial control.

The structure of the country recommendations is the same for all countries, but substantive recommendations are individual and specific to each country. It is therefore difficult, or even impossible, to compare countries simply by comparing monitoring ratings.

While the methodology for Istanbul Action Plan reviews and monitoring builds on the practices of the OECD Working Group on Bribery and GRECO, there are some important differences. The ACN Advisory Group also identified a number of methodological challenges, which will need to be addressed in the future. A non-exclusive list of such methodological differences and challenges includes:

- *The scope of country reviews and monitoring* under the Istanbul Action Plan is much broader than the scope of examinations by the OECD Working Group on Bribery (which focus on foreign bribery), or by GRECO (which address a limited number of issues selected for each examination round). Such a broad approach allows for a comprehensive and holistic assessment of a country. But, at the same time, it is difficult to ensure sound and even quality for all areas of assessment, which require a variety of specialised expertise. Additionally, although the scope is broad, it still does not cover some important issues such as corruption in political bodies or the judiciary, assets recovery or corruption in the private sector.
- The reviews and monitoring under the Istanbul Action Plan, as well as the OECD and GRECO procedures, aim to *examine not only adopted laws, but also their implementation and enforcement*. This is a challenging task for all countries in the world. In the transition economies it is further complicated due to challenges in finding case law and law-enforcement statistics related to corruption, and a lack of analytical and sociological studies related to corruption in various sectors. There are other methodological challenges in assessing a country's overall progress in addressing corruption, e.g. in *measuring political will to fight corruption*, which is the main pre-requisite for any real progress.
- The criteria for country reviews and monitoring are based on *multiple and evolving standards*. The OECD Working Group on Bribery

examines its member states against the provisions of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related legal tools; GRECO uses the Council of Europe Criminal Law Convention against Corruption and the 12 Guiding Principles as its benchmark. The broad scope of the Istanbul Action Plan requires the use of multiple standards, the OECD and GRECO legal instruments together with a range of other benchmarks including emerging and often-unrecorded best practices or common approaches. The recent UN Convention against Corruption provided a useful, comprehensive set of standards for a large number of issues examined under the Istanbul Action Plan.

- The Istanbul Action Plan used a *consensus approach* in its reviews and monitoring. This differs from the “consensus minus one” approach of the OECD Working Group on Bribery – where a country under examination must abstain from the vote and accept the consensus judgement of the rest of the group – and can reduce the level of criticism or ambition of recommendations. Mutual examination between countries with limited expertise in fighting corruption can sometimes result in recommendations below the highest international standards. However, this softer approach was a useful tool for developing a group spirit among the countries, based on equal treatment and taking into account the specific situation in each country and varying levels of economic, social and political development. The consensus approach also reinforces the countries’ commitment to implement the recommendations of this legally non-binding programme.
- The *role of the governments, experts, donors and of the Secretariat* is equally important under the Istanbul Action Plan. Initially, the Secretariat took the lead in elaborating review and monitoring procedures, while the official delegates from the Istanbul Action Plan countries played a passive role and adopted proposed procedures without major comments. However, during 2003-2007 the ownership of the Istanbul Action Plan by the member countries visibly increased. The role of experts from the region in the monitoring programme has been growing rapidly; their level of participation in strategic decision making is also on the rise. The OECD member states which fund the Istanbul Action Plan participate in the Advisory Group guiding its Work Programme.

Country reviews, updates and monitoring reports are made public immediately after their adoption, and are available in English and in Russian on the ACN website [www.oecd.org/corruption/acn](http://www.oecd.org/corruption/acn).

### **Future regional anti-corruption activities**

The first round of country examinations was completed between 2003 and 2007, including reviews, monitoring and updates. Upon its completion, the participating countries agreed that the monitoring process should be continued. They instructed the ACN Secretariat to develop a new procedure for the second round of monitoring. They also identified several features which should be reflected in this new procedure, including:

- The next round of monitoring should aim to update the ratings from the first monitoring round, and should also allow for the review of existing recommendations in order to update those which have become outdated, cancel those which are no longer valid, and possibly add new and different recommendations. The UN Convention against Corruption can serve as the main guiding standard for this monitoring, together with the OECD and Council of Europe anti-corruption legal tools, and other best practices.
- The next round should be dynamic, allowing ratings to be updated as quickly as possible in order to reflect progress made by countries, but not too fast to jeopardise quality; on-site visits and plenary adoptions of country reports should remain an important element of the monitoring programme to ensure high quality, objectivity and equal treatment of the assessments.
- Special focus should be on the preparatory stages, including development of the standard questionnaires for all monitored themes, which will also allow for better comparison among countries, and sufficient time for preparation of the assessment before the on-site visits.
- Qualification and expertise of the monitoring experts is one key element to ensure high-quality assessments. It is therefore important for countries to nominate their best experts for this work. The Secretariat should develop a roster of experts based on these nominations, to ensure that expertise is available for all monitored themes. The Istanbul Action Plan should also provide training and preparation for experts before the on-site visits.

- The implementation of the Istanbul Action Plan has been financed through voluntary contributions of OECD member states, with limited co-financing by the participating countries. It will therefore be important to secure new grants for the second round of monitoring, and to increase the share of co-financing by the Istanbul Action Plan countries.

It is important to note that when the Istanbul Action Plan was launched, only one country (Georgia) was the member of Council of Europe's GRECO. Since then, Armenia, Azerbaijan, Russia and Ukraine have also joined this anti-corruption monitoring programme. Additionally, many Istanbul Action Plan countries have ratified, or intend to ratify, the UN Convention against Corruption and will be covered by the monitoring programmes of this convention when it is developed. It is therefore important to ensure proper co-ordination among Istanbul Action Plan, GRECO and UNCAC monitoring activities. This can be achieved by harmonising monitoring procedures, participating in others' evaluation processes including on-site visits and meetings, exchanging reports, and other approaches. It may also be useful to foresee a sunset clause for the Istanbul Action plan, when UNCAC monitoring becomes fully operational and covers all the countries in the region.

The main focus of the Istanbul Action Plan during 2003-2007 was the review and monitoring programme, which aims to maintain peer pressure on countries. However, pressure alone is not sufficient – especially when countries are requested to implement significant reforms in challenging and rapidly developing areas of public policy, where there are no ready-made, easily available or universal solutions. Major technical assistance programmes implemented by bi-lateral donors and international organisations in all Istanbul Action Plan countries support individual agencies and corruption-related projects. However, many conceptual problems remain unclear, and require analytical work and cross-country exchange in order to formulate best practices. For example, countries are told ensure effective declaration of assets for public officials – but there is still very little guidance how this can be done in practice.

In the next phase of Istanbul Action Plan implementation, peer learning and development of best practices be given equal priority as the monitoring work. This, however, will largely depend on available resources. OECD member states – together with the governments of the Istanbul Action Plan countries – should provide funding, if they believe this work is important. The Secretariat will also explore further possibilities of co-operation with other international organisations, including the Council of Europe, UNODC, OSCE, UNDP and others.

## Conclusions

The main achievements and future challenges of the Istanbul Action plan are:

- *The Istanbul Action Plan is a productive process, which has delivered two main results: specific improvement in anti-corruption legislation and institutions, and building up human capital and anti-corruption expertise in the region. More specifically, the Action Plan resulted in practical reforms of anti-corruption legislation and institutions, which were recommended in the peer reviews and enforced by the monitoring procedure. It also provided a practical learning process for country experts, who significantly improved their knowledge of international anti-corruption standards and monitoring procedures, and built a very valuable capacity necessary to promote in-country reforms and to ensure effective international co-operation.*
- *The Istanbul Action Plan received high visibility at the country level. Public officials from a large number of institutions, foreign missions, and international and civil society organisations were well aware of the country reviews and monitoring, participated in meetings and submitted comments to the country reports. This high visibility was a useful tool for mobilisation of political attention for anti-corruption issues among all key public institutions, and provided useful pressure for speeding reforms in different sectors.*
- *The Istanbul Action Plan benefited from strong ownership by the participating countries. They recognised that this process did not aim to solely criticise countries, but to identify problem areas and propose practical solutions based on experiences of both their neighbours and more advanced OECD countries. The regional approach was an important factor, as the peer review and monitoring processes were carried out by experts from countries with shared history, comparable starting conditions and recognisable cultural transitions. However, it was also important that experts from more advanced tradition economies (e.g. new EU members) and OECD member states participated and shared their experience.*
- *It has been a cost-effective programme: a large amount of work was implemented with a relatively small financial and human resources commitment. This was possible due to a combination of factors: a small but stable Secretariat at the OECD, effective use of donor grants, significant intellectual inputs and even limited financial*

*contribution by governments of the transition countries, and support of many international organisations and NGOs.*

- *Building on the work carried out during 2003-2007, Istanbul Action Plan countries agreed to continue the monitoring process in order to maintain the reform momentum achieved at present. They also decided that future monitoring should be more structured to provide clear benchmarks to countries, to help compare countries progress in a healthy competition, and to steer the process to support UNCAC implementation.*
- *Finally, the peer pressure provided by the Istanbul Action plan should be supported by peer learning to help countries implement reforms in conceptually difficult areas. Such peer learning should focus on analysis of regional and international approaches and development of best practices in new and unexplored areas. This would also help technical assistance programmes supported by donors and international organisations at the country level.*

## NOTES

1. The ACN involves the anti-corruption officials from Eastern Europe and Central Asia (Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Montenegro, Romania, Russia, Serbia, Slovenia, Tajikistan, Ukraine, Uzbekistan and Turkmenistan) and some OECD countries. It also involves international organisations and multi-lateral development banks (UNDP, UNODC, OSCE, Council of Europe, EBRD, World Bank), civil society, business, professional and think-tank associations (Transparency International, American Bar Association and many others) actively working to fight corruption in the region.
2. The Anti-Corruption Division at the Directorate for Financial and Enterprise Affairs (DAF) at the OECD is the secretariat to the OECD Working Group on Bribery – the body responsible for monitoring implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International

Business Transactions. The ACN is one of the outreach programmes of the Working Group on Bribery, together with the OECD/ADB Asia-Pacific Anti-Corruption Initiative, Latin American anti-corruption programme, and emerging work on the Middle East and North Africa (MENA). For more information please refer to [www.oecd.org/daf/nocorruption](http://www.oecd.org/daf/nocorruption).

3. For more information about ACN activities, please refer to [www.oecd.org/corruption/acn](http://www.oecd.org/corruption/acn).