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Istanbul Anti-Corruption Action Plan for

Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine

Monitoring of National Actions to Implement Recommendations Endorsed During the Reviews of Legal and Institutional Frameworks for the Fight against Corruption

UKRAINE

MONITORING REPORT

Adopted at the 6th Monitoring Meeting of the Istanbul Anti-Corruption Action Plan
on 12 December 2006 at the OECD Headquarters in Paris

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GLOSSARY

ACN	-	Anti-Corruption Network for Eastern Europe and Central Asia (also known as Anti-Corruption Network for Transition Economies)
CPI	-	Corruption Perception Index (by Transparency International)
FATF	-	Financial Action Task Force on Money Laundering
FIU	-	Financial Intelligence Unit
GDP	-	Gross Domestic Product
KRU	-	Main Control and Revision Department
MCSD	-	Main Civil Service Department
NGO	-	Non Governmental Organisation
NSAA	-	National State Administration Academy
OECD	-	Organisation for Economic Co-operation and Development
OSCE	-	Organisation for Security and Cooperation in Europe
SCFM	-	State Committee for Financial Monitoring
SIGMA	-	Support for Improvement in Governance and Management (a joint EU/OECD initiative)
STA	-	State Tax Administration
STR	-	Suspicious Transaction Report
UNCAC	-	United Nations Convention against Corruption

BACKGROUND

This **report** provides information about measures taken by Ukraine to implement the recommendations received in January 2004 under the Istanbul Anti-Corruption Action Plan. The report was prepared on the basis of the answers to the Questionnaire provided by Ukraine on 7 August 2006 and the information gathered during the on-site visit in October 2006 and immediately after. The report is structured along the January 2004 recommendations. For each recommendation, summary of measures, analysis and rating of compliance is given in order to reflect the progress achieved by Ukraine. The report is structured in three parts:

- National Anti-Corruption Policy, Institutions and Enforcement,
- Legislation and criminalisation of corruption and the related money-laundering offence,
- Transparency of the Civil Service.

The report was prepared by the team of examiners and edited by the OECD Secretariat.

The **review of Ukraine** took place at the 2nd Istanbul Action Plan Review meeting on 19-21 January 2004 in Paris, at the OECD headquarters. The review was based on the self-assessment report presented by Ukraine. An expert team prepared an assessment and recommendations. Recommendations were discussed and endorsed by the meeting.

The **on-site visit** to Ukraine was organised on 2-6 October 2006. Its goal was to assess the actions taken to implement the recommendations endorsed in January 2004. Ukraine filed out a preparatory questionnaire in August 2006; after the mission Ukraine provided additional information.

The **team of examiners** was led by Daniel Thelesklaf (Switzerland), Financial Integrity Network, and comprised Laura Stefan, Ministry of Justice, Romania; Tina Burjaliani, Office of the Prosecutor General, Georgia; Julio Nabais and Joop Vroljik, OECD/SIGMA. The OECD Secretariat was represented by Olga Savran, ACN manager, Anti-Corruption Division.

The team of examiners had **meetings** with several government and public institutions involved in the fight against corruption; these meetings were organised by the National Security and Defence Council. Examiners also met with non-governmental organisations and business representatives with assistance of the Freedom House Ukraine. Finally, examiners participated to a panel with foreign missions and representatives of international organisations and international financial institutions, which was hosted by OSCE (a list of meetings is set out in Annex I).

Box 1: The Istanbul Anti-Corruption Action Plan

The Anti-Corruption Action Plan for Azerbaijan, Armenia, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine was endorsed in the framework of the Anti-Corruption Network (ACN) in September 2003, in Istanbul. The ACN Secretariat, based at the OECD Anti-Corruption Division, provides support for the implementation of the Action Plan. An Advisory Group provides guidance on the implementation of the Action Plan.

The implementation of the Istanbul Action Plan includes several phases: review of legal and institutional framework for fighting corruption; implementation of the recommendations endorsed during the reviews; and monitoring progress in implementing the recommendations.

In September 2003 the Advisory Group endorsed the Terms of Reference for the reviews of legal and institutional frameworks for fighting corruption in the Action Plan countries based on self-assessments reports prepared by their governments. The reviews of Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, Tajikistan and Ukraine have been completed in 2004-2005. The review of the Russian Federation has not been completed yet. The recommendations are made public.

In May 2005 the Advisory Group endorsed the Terms of Reference for the monitoring of implementation of recommendations. The objective of the monitoring is to assess progress achieved by each country in implementing its recommendations. It does not aim to amend endorsed recommendations or to formulate additional ones, but to assess how the measures taken by the country comply with the recommendations. The monitoring consists of: (i) regular *progress updates* by countries; and (ii) *country examinations* by peers. In the framework of *progress updates*, countries are invited to submit their written updates about the national actions to implement the recommendations, which were taken since the previous meeting of the Istanbul Action Plan, approximately twice a year.

In the framework of *country examinations*, which are organised at least once for each country, the governments are invited to provide answers to a detailed questionnaire. A team of monitoring experts from other ACN countries visits the examined country and holds meetings with the public authorities involved in the fight against corruption, civil society and business representatives, foreign and international missions based in the countries, in order to form an objective opinion about progress made. The team of experts prepares its draft monitoring report, including ratings for each recommendation. The draft report is provided to the monitored country for comments. Next draft, which takes account of these comments, is presented to the meeting of the Istanbul Action Plan for discussion and adoption. Upon the adoptions monitoring reports are made public.

First round of *country examinations* is under way. It has examined Tajikistan, Georgia and Azerbaijan at the meeting of the Istanbul Action Plan in June 2006. The second round examines Armenia and Ukraine, aiding to adopt monitoring reports for these countries in December 2006.

For more information, please consult the following websites: www.oecd.org/corruption/acn.

MAIN FINDINGS

National Anti-Corruption Policy and Institutions

On the surface, there appears a broad political consensus about the urgent need to reduce corruption in Ukraine: the public, the business, major political parties and all branches of public powers agree on this. However, it remains unclear how this can be achieved. The vision and clear leadership in forming an anti-corruption agenda, as a part of a broad political and social consensus necessary for fundamental reforms, are still missing in the country, and need to be built up though a variety of practical and opportunistic steps.

In September 2006, the President of Ukraine adopted a Concept Paper "On the Way to Integrity", which analyses risks and elaborates possible ways to prevent and fight corruption. The Ministry of Justice is currently developing an action plan, which will need to identify clear responsibilities, deadlines, practical measures and budgetary allocations for implementation of the Concept. It is expected that once developed, the action plan will be submitted to the Cabinet of Ministers for adoption. A mechanism for effective coordination and monitoring of the implementation of the Concept and the action plan will need to be developed. Current coordination mechanism through the Interdepartmental Commission for prevention and fighting corruption at the National Security and Defence Council does not appear strong enough. A leading institution that would be in charge of taking further the anti-corruption agenda, and will ensure effective coordination of various institutions and the monitoring of implementation need to be nominated and supported with necessary mandate and resources.

In the area of implementation of the legislation, especially in law enforcement, the low level of communication between various agencies has a negative impact on anti-corruption efforts. Thus only a small number of cases find their way to courts, even fewer ending in convictions. Sharing of data and gathering consolidated statistics remains a challenge. Till present, in Ukraine there is no specialised anti-corruption prosecution unit empowered to detect, investigate and prosecute corruption offences. A wide debate continues over the need to set-up a unique structure that would include representatives from all law enforcement forces – either as an independent agency or within one of the institutions that already exist. There is the risk that a prolonged discussion and lack of practical steps might wear down the remaining public trust in the political class and their will to challenge the old patterns.

Legislation and criminalisation of corruption

No amendment has been made to the relevant Ukrainian legislation during the evaluation period. In particular, under the current Criminal Code, offer or promise of a bribe and solicitation of a bribe are only considered as attempt, aiding or abetting; bribery of third persons is not covered; sanctions for active bribery and the statute of limitations remain low; the definition of public servant in the Criminal Code is not reformed and does not cover foreign and international public officials. Ukraine is still to introduce the liability of legal persons for corruption.

The Draft Law of Ukraine on the Amendments to Some Legal Acts Concerning the Responsibility for Corruptive Offences prepared by the Ministry of Justice of Ukraine attempts to redress some of the above-mentioned deficiencies. However, the draft was rejected by the Parliament in the first reading, and was sent back for further elaboration without any clear deadlines for next steps.

The Criminal Code of Ukraine allows confiscation of property for grave and outmost grave crimes that specifically provide confiscation as a form of punishment. Only bribe-taking committed in aggravating circumstances falls within the ambit of the said regulation. At the same time, the criminal legislation provides confiscation of object, means and proceeds of crime. No review of the provisional measures for identification and seizure of corruption proceeds in the criminal investigation has been conducted.

There are no comprehensive law-enforcement statistics available to evaluate the effectiveness of the fight against corruption. The information received during the onsite mission shows only the repressive measures taken against low level public officials.

No measures have been taken to amend the current legislation concerning immunities. Although the criminal legislation expressly states that the immunity does not prevent from criminal investigation against a person enjoying the immunity to be conducted, the measures that can be taken without contradiction with the immunity principles are very limited. During the evaluation period, there were no cases of lifting immunity of parliament members for investigation of corruption.

The revision of the criminal legislation remains important for the effective fight against corruption. Development of statistics on the enforcement of anti-corruption criminal and other legal provisions should be encouraged.

Transparency of the Civil Service and Financial Control Issues

Weak professionalism and low integrity are the main problems of civil service in Ukraine. The need for civil service reform is widely acknowledged, a number of conceptual proposal were developed, but remained unimplemented. The Current Law on Civil Service, passed in 1993, is largely outdated. Current regulations about the rights and duties, recruitment, promotion, performance appraisal and discipline remain vague and allow for wide arbitrariness, applied on case by case basis. The new draft Law on Civil Service was prepared, and is seen as a move in the right direction, even though some of its provisions require further improvements. The Main Civil Service Department is making efforts to lead the reform of public administration; these efforts need to take the central role in the government, and should focus on policy tasks, rather than case management.

Ukraine has developed some training initiatives aiming to improve ethical standards in civil service through preventive measures. The interesting methodological approach was to train trainers. The training has covered officials from the central and local executive authorities and from bodies of local self-government working in common areas and in some special areas of risk too. According to the objectives, the trainees should be able to identify problematic areas within their bodies, prepare programs to address these problems and to deliver specific training to their colleagues. However, due to the absence of a comprehensive strategy and of a precise action plan, and due to weak follow-up mechanisms, it is not possible to assess the effectiveness of the training program. Besides, there is no clear evidence that the focus of the anti-corruption training is at operational and procedural rather than at theoretical issues.

The Main Civil Service Department has adopted the “General Rules of Public Servants’ Conduct” in October 2000 in order to provide a general guide to improve ethical standards in civil service. However, this document is unknown in many departments of public administration or is understood as a mere internal document and thus not applicable or enforceable in other bodies. Some bodies or professional groups have their own codes of conduct or ethical guidelines. Nevertheless, the effectiveness of such tools is generally recognised as poor. A comprehensive and more pro-active move towards a citizens-oriented culture is needed. A new draft Good Practices Code was developed by the Ministry of Justice to address the weaknesses of the current system. If adopted, it can become a turning point in this issue. To ensure that

this Code is adopted and effectively implemented, it should be part of an action plan against corruption and be backed by an intensive training program and a pro-active communication strategy.

The Main Public Service Department is responsible for investigation of compliance with anti-corruption legislation system and violations with the code of conduct. Several public bodies have established their own internal services for investigating violations of legislation and code of conduct. The risk for unequal treatment of corruption cases is still present: the Main Public Service Department does not co-ordinate the investigations of (potential) corruption cases by the internal investigations services. No legislative or regulatory measures or broad action has been taken in order to recognize whistleblower's role in fighting against corruption and in adopting appropriate measures to protect whistleblowers.

At present Ukraine has an asset declaration system that provides for annual submissions of declarations by the officials to their employers. These declarations are subject to verification only once before the public official takes the office, no mechanism of further verification exists. No clear rules for disclosure of declarations exists either; no external checks by media and NGOs can be performed. The new Law of Ukraine on the Prevention and Fight against Corruption, developed by the Ministry of Justice, foresees some changes in this system, but it has not yet been adopted.

Law on Public Procurement, adopted on 17 March 2006, aimed to create a competitive environment in the sphere of public procurement, to prevent corruption and to ensure transparency procedures of procurement of goods, jobs and services. The law certainly has merits such as the guarantee of absence of conviction. However, the law passed the public function of organising and controlling the use of public funds to a non-governmental organisation called Tender Chamber, which is not a subject to proper accounting mechanisms, thus increasing opportunities for corruption. On 1 December 2006, new amendments were introduced to this law, which introduce, amongst others, a new structure and identify the anti-monopoly committee as the competent state body for public procurement. However, it is important to examine the new law in detail in order to identify if it meets international good practice.

The Anti-Money Laundering legislative framework has been strengthened and the State Committee for Financial Monitoring has become an operational FIU that has joined the Egmont Group. However, the preventive Anti Money-Laundering Law still lacks some shortcomings that should be addressed by a draft Law that is waiting for adoption in Parliament for over one year.

Regulatory and institutional framework for taxation remains a high area for corruption, but no actions have been made by the Ukrainian authorities since the review to address this risk. The draft Tax Code was prepared six years ago, aiming to address some shortcomings, but it was not adopted by the Parliament yet.

Most law-enforcement authorities have general financial expertise at their disposal. In order to ensure effective identification, investigation and prosecution of corruption offences, law-enforcement bodies need to further develop financial expertise specifically oriented to fighting corruption, such as forensic accounting.

The State Control and Revision Office (KRU) plays a specific role in the fight against corruption. It is a central body of executive power, whose activity is directed and coordinated by the Cabinet of Ministers of Ukraine via the Minister of Finance. However, further efforts are needed to further develop this body into a modern internal control institution.

INTRODUCTION[1]

Economic and social situation

Ukraine covers an area of 603.000 square kilometres and has a population of 46.9 million; the population has been on significant decline over the last decade due to low life expectancy and low birth rate. The GDP (2005 estimate) is 82.9 billion USD (USD 1,739 per capita). Economic growth was at a strong export based level of 12% in 2004, but decreased to 2.6% in 2005.

Formerly an important industrial and agricultural region of the Soviet Union, Ukraine now depends on Russia for most energy supplies, especially natural gas, although lately it has been trying to diversify its sources. The lack of significant structural reform has made the Ukrainian economy vulnerable to external shocks. After 1991 the government liberalised most prices and erected a legal framework for privatisation, but widespread resistance to reform within the government soon stalled reform efforts and led to some backtracking.

Ukraine has pledged to reduce the number of government agencies, streamline the regulatory process, create a legal environment to encourage entrepreneurs, and enact a comprehensive tax overhaul. Reforms in the more politically sensitive areas of structural reform and land privatisation are still lagging. Outside institutions—particularly the IMF—have encouraged Ukraine to quicken the pace and scope of reforms and have threatened to withdraw financial support.

[1] Sources: EBRD Transition Report 2005 / Transparency International Corruption Perception Indices / US Department of State Background Notes 08/2006

Political structure

Ukraine is a republic under a semi-presidential system with separate legislative, executive, and judicial branches. The President of Ukraine is elected by popular vote and is the head of state. Last elections took place in 2005 and were marked by wide spread fraud. This led to annulling of the results of the second round and extension of the third round, which resulted in the victory of President Yuschenko with 51% votes. Following the controversial Constitutional reform of 2005, the powers of the President were significantly reduced in favour of the Parliament; the President continues to have powers in such areas as foreign policy and defence.

Verkhovna Rada (Parliament) consists of one chamber with 450 seats. It appoints and dismisses the Prime Minister. The Parliament also appoints the Cabinet of Ministers. The heads of regional and district administrations are appointed by the President, but the Prime Minister's counter-signature is required for the appointment edicts to take force.

Parliamentary elections are based on the listing of political parties. Ukraine has a large number of political parties, many of which have tiny memberships and are unknown to the general public. Small parties often join in multi-party coalitions (electoral blocks) for the purpose of participating in parliamentary elections. Ukraine held parliamentary and local elections on March 26, 2006. International observers noted that conduct of the election was in line with international standards for democratic elections, making this the most free and fair in the region. The Party of Regions and the bloc of former Prime Minster Tymoshenko, whose government the President dismissed in September 2005, finished ahead of the pro-presidential Our Ukraine bloc. Other parties passing the 3% threshold to enter parliament were the Socialist Party of Ukraine and the Communist Party of Ukraine. No party held the majority of seats needed to form a government.

Following four months of difficult negotiations, a government led by Prime Minister Yanukovych and including representatives from the Party of Regions, Our Ukraine, the Socialist Party and the Communist Party took office on August 4, 2006. Since then, some ministers of the Our Ukraine bloc have stepped down and the party is considering joining the opposition.

Local self-government is officially guaranteed. Local councils and city mayors are popularly elected and exercise control over local budgets.

European and Euro-Atlantic integration were declared by the President as official priorities of the Ukrainian foreign policy. Relations with Russia are an important factor in determining foreign and economic strategies for Ukraine. Ukraine is a member of the United Nations, the Organization for Security and Cooperation in Europe (OSCE), NATO's Partnership for Peace, the Euro-Atlantic Partnership, the World Health Organization, the European Bank for Reconstruction and Development, the Council of Europe, the Community of Democracies, the International Monetary Fund, and the World Bank.

Trends in corruption

Corruption in Ukraine has been a significant obstacle to doing business since the country gained independence. The main areas where corruption is noted as frequent are: business licences; tax collection; and customs. Ukraine’s 2006 Transparency International CPI score is basically unchanged at the level of 2,9 on a scale from 1 to 10 where 1 means the most corrupt and 10 the least (2,3 in 2003; 2,2 in 2004; 2,6 in 2005). Ukraine is on 99th rank of 163 countries.

IMPLEMENTATION OF RECOMMENDATIONS

I) National Anti-Corruption Policy, Institutions and Enforcement

Recommendation 1

On the basis of the analysis of the implementation of "the Anti-corruption Concept for 1998-2005" update the national anti-corruption strategy, which will take into account the extent of corruption in the society and its patterns in specific institutions, such as the police, judiciary, public procurement, tax and custom services, the education and health systems. The strategy should focus at the implementation of priority pilot projects with preventive and repressive aspects in selected public institutions with a high risk of corruption, including the elaboration of anti-corruption action plans. The strategy should envisage effective monitoring and reporting mechanisms.

On September 11, 2006 the President of Ukraine approved by decree "On the Way to Integrity" - The Concept of Overcoming Corruption in Ukraine. This concept paper contains some features of a strategy and addresses at a programmatic level the main issues pertaining to corruption in the country. As it stands now, the concept paper does not spell out what are the expected deadlines for the implementation of the measures envisaged, nor the institutional responsibilities attached to each of them. These are all expected to be included in a detailed action plan – the responsibility for which lies with the Cabinet of Ministers - not yet adopted at the time of the evaluation visit.

The Ministry of Justice has started to draft the Action Plan that will allocate responsibilities for the implementation of the Concept, and will establish deadlines and monitoring and reporting mechanisms. The Ministry makes efforts to involve NGOs in this process through facilitating comments and suggestion from NGOs. Once the draft is finished, it will be submitted to the Cabinet of Ministers for approval.

The concept paper identifies the main areas where actions need to be taken: civil service reform, improvement of administrative procedures, making more transparent the public procurement process, ensuring clear rules for the formation and operation of elected bodies, increasing integrity in the judiciary and enhancing the media, NGOs involvement in the promotion of anti-corruption policies and effective law-enforcement and prosecution of corruption-related crimes. When asked about patterns of corruption in various sectors, the Ukrainian institutions stated that these are to be identified after the adoption of the action plan by the Cabinet of Ministers. Also after that moment pilot projects might be developed in certain institutions with high corruption risks.

Moreover, since there is no reference to a monitoring mechanism in the concept paper, the establishment of such a mechanism is expected to be included in the action plan. The mechanism should encompass main institutions with competences in implementing the anti-corruption measures, in order to build a sense of ownership over the process.

In terms of political will, the adoption of the concept paper seems to show the will of a part of the political class to tackle the issue of corruption. However, a completely different signal was sent by the Parliament which watered-down significantly an anti-corruption legislative package prepared and submitted by the President. The lack of political consensus on the importance to fight corruption and on the

ways to do that is an important drawback which, if not properly addressed, may endanger substantially the good intentions put forth in the concept paper.

In conclusion, Ukraine has developed a concept with features of a strategy, but has not yet adopted an action plan to address corruption risks in vulnerable sectors. Therefore, no specific implementation measures were identified and no monitoring mechanism has been established yet.

Ukraine is partially compliant with this recommendation.

Recommendation 2

On a conceptual level, more attention should be devoted to the prevention of corruption and to identifying and eliminating systemic regulative or organisational gaps that create corruption-prone environments. Preventive actions should not only focus on codes of ethics and similar preventive devices, but also reforming regulatory frameworks to reduce discretionary powers of civil servants, 'open government' measures such as increased transparency of decision-making procedures, access to information and public participation.

The concept paper "On the Way to Integrity" provides analysis of certain systemic and organisations gaps, which present opportunities for corruption behaviour: "Lack of transparency and shortcomings of the procedures of taking managerial decisions (possibility to create and use alternative ("shadow") administrative procedures, lack of proper regulation for application of discretional authorities), contradictions in authorities of the state bodies, including conflicts between the control and permissible functions; control and permissible functions and economic function". This shows that to a certain extent a diagnosis was made and that some vulnerabilities to corruption were identified.

Specific measures are yet to be developed to reform administrative legal framework, since clear and proper regulations are crucial in preventing corruption and in improving integrity in public life. There are different pieces of the administrative legal framework that are missing or that need to be reviewed in order to align them with the Constitution and good governance principles. In this regard special consideration should be given to the adoption of a general law on administrative procedures and the subsequent review of the different special remaining administrative procedures. Predictability and transparency of administrative decisions will be highly improved and the rule of law will be more effective.

In order to improve the overall quality of regulation, drafting capacity needs to be improved, namely through specific training, wide consultation should be developed and be more effective and implementation should be closely monitored.

Concerning the access to information and public participation to the decision-making process, Ukraine has basic legislation which constitutes important elements of an 'open government'. According to the Ombudsman Office there might be questions as to the constitutionality of the current law on access to information and citizen often complain about the lack of response from the public institutions to the requests filed. Under such circumstances, citizens could resort to the law on complaints, the down-side being that this law does not include dissuasive sanctions. As far as participation to decision-making is concerned, this instrument is less used in practice, and therefore the Ombudsman received less complaints. The effectiveness of the right of access to information should be largely improved and assessed, possibly through an independent body able to help citizens and companies when this right is directly or indirectly denied.

These evaluations were confirmed by NGOs who stated that while central authorities tend to apply these instruments more often, at the local level they are very rarely used. NGOs also indicated that certain types of more sensitive information (such as financial information regarding political parties) are not available to the public and, while there is an obligation to reason the refusal to give out information, this obligation is not complied with in practice.

According to reports from the NGOs, there are acts on the level of secondary or tertiary regulation, that might have a very serious impact in the day-to-day life of citizens, and which are not registered with the Ministry of Justice, and therefore not published. The authorities argue that this concerns only internal regulations, that do not need to be registered.

Ukraine is partially compliant with this recommendation.

Recommendation 3

Strengthen the Anti-corruption Coordination Committee by ensuring high moral and ethical standards of its members, who should include representatives of relevant executive bodies (administrative, financial, law enforcement, prosecution), as well as from the Parliament and Civil Society (e.g. NGOs, academia, respected professionals etc.). Strengthen the independent status of the Committee, ensure a more appropriate frequency of the Committee's meetings (currently it meets twice a year), strengthen its staff to carry out analytical tasks, and ensure sufficient resources. Upgrade statistical monitoring and reporting of corruption and corruption-related offences in all spheres of the Civil Service, the Police, the Public Prosecutor's Offices, and the Courts, which would enable comparisons among institutions – by introducing strict reporting mechanisms on the basis of a harmonised methodology to the Committee. Encourage stronger links, cooperation and exchange of information between the Committee and the Parliamentary Committee.

Since the time of the adoption of the present recommendation, Ukraine has dismantled the Anti-corruption Coordination Committee. At present, the coordination role is undertaken by the National Security and Defence Council (NSDC). The NSDC brings together the President, the Prime Minister, the Chairman of the Parliament, the Prosecutor General and the Heads of several ministries and services, mostly from the law-enforcement areas.

The NSDC has established an Interdepartmental Commission for the comprehensive solution of the problems in the area of prevention of and fight against corruption. This Commission is headed by the Secretary of the NSDC, and includes the Minister of Interior, the Head of the Security Service, the Prosecutor General, Head of the Main Civil Service Department, Heads of the relevant commissions of the Parliament, Heads of the Tax, Customs, Border Service, Minister of Justice, Head of the National Juridical Academy in Kharkiv and the Institute of State and Law. This Commission was established by the Decree of the President in December 2005. Between January and March 2006 the Commission had 3 meetings, no other meetings were held in 2006. NGOs are not members of the Commission. The Commission is provided secretarial services by the NSDC, including 4 full time staff, that have multiple responsibilities. The output of the work of the Commission was the debate on the different draft strategies, and the development of recommendations in the area of smuggling.

However, it appears that anti-corruption coordination function does not have a high priority among many other strategic issues addressed by the NSDC at its ad-hoc meetings. There is a Unit for secretarial support of the above mentioned Commission, but this Unit has limited staff.

It remains to be seen what will be the coordination mechanism under the future anti-corruption strategy and action plan. The recommendation with regard to the membership in the coordination mechanism remains valid – it should include representatives of the most relevant institutions with responsibilities in the implementation of the strategy, as well as representatives from the Parliament and NGOs. Without such participation no sense of ownership can be built over the entire process. Being involved in the coordination mechanism will also contribute to increasing the trust among the respective institutions which will allow for a greater degree of transparency between them. The sharing of data stands at the basis of any serious analytical work to be carried out in the future.

At present, the lack of communication between public institutions is identified as a major risk in the concept paper: "insufficient cooperation between the law enforcement bodies and the public, including public awareness campaign, establishing informational relations with the public". This was also confirmed during the meetings with various institutions.

Another problem that arose during the discussion was the impossibility to point towards one institution capable to drive the anti-corruption agenda forward and be recognized as the leader by the others. This is crucial as there will be a constant need to prioritize and decide on the allocation of resources to meet the standards set in the strategy. If this task is to be given in the future with the National Security and Defence Council, appropriate staffing requirements should be met and sufficient budgetary allocations should be ensured for this particular set of additional activities. Also, more should be done for civil society involvement in the anti-corruption work.

Ukraine is non compliant with this recommendation

Recommendation 4

Concentrate law enforcement capacities in the specific area in the fight against corruption, which are currently fragmented, and develop operational specialised anti-corruption prosecution units, consider establishing a national specialised Anti-corruption Unit, specialised and empowered to detect, investigate and prosecute corruption offences. Such a Unit could be an integrated, but structurally independent, or separate unit of an existing law-enforcement agency and/or the Prosecution Service. Apart from working on actual important corruption cases, one of the main tasks of such a Unit would be to enhance inter-agency cooperation between a number of law enforcement, security and financial control bodies in corruption investigations (e.g. by adopting clear guidelines for reporting and exchange of information, introducing a team-work approach in complex investigations etc.). Ensure that sub-national (oblast and local) levels of law enforcement agencies are properly integrated.

For a long time in Ukraine there have been talks about setting-up of a specialized agency in the area of anti-corruption. Various players have different views on what exactly should be the scope of such and agency: whether it should cover prevention, repression, or both. While a thorough analysis of the policy options is normal before taking such an important decision, the duration of the debate exceeded what could be considered a normal term. Lack of a clear decision to this regard contributes to the decrease of public trust in the political will to tackle corruption. In the pursue for a "perfect" solution, Ukraine might miss the momentum for setting-up an agency that could indeed play a decisive role in the fight against corruption.

What can be noticed now in the area of law enforcement is the low cooperation between various agencies and the rather modest role played by traditional law enforcement institutions such as Police and Prosecution.

Internal anti-corruption units have been set up in many institutions (i.e. customs, police), but they tend to solve integrity issues through the application of disciplinary sanctions and not by resorting to criminal or administrative law sanctions. In at least one case, even after sentencing several employees of a public institution for corruption related offences, they remained on duty. This practice undermines letter and the spirit of the law.

Joint investigation teams composed of different law-enforcement agencies can be formed on a case by case basis. Within prosecution, a unit has been established to supervise compliance with the anti-corruption legislation. This unit has no investigative powers.

When asked about the possibility of setting-up a specialized unit that would bring together prosecutors and employees of other law enforcement institutions, the General Prosecutor Office argued that to establish this organ in the General Prosecutor Office would go against the constitutional provisions that reign their activity. It is hard to imagine how, without such an integrated approach, could such an institution prove itself effective. What is missing now is the coordination function which, in a rule of law state, is frequently placed with the prosecutors. Another thing that should be taken into consideration is the vulnerability of the General Prosecutor's position to political pressure due to the given nomination and revocation procedure.

In conclusion, while the debate on unifying the competences and on a better coordination between the institutions active in this field is welcome, the risk remains that too much talk might do more harm than good. In the search of a perfect solution valuable time is being lost and the niche of opportunity for the necessary reform could disappear.

Ukraine is non compliant with this recommendation.

II) Legislation and Criminalisation of Corruption and the Related Money-Laundering Offence

Recommendation 5

Harmonise and clarify the relationship between violations of the Criminal Code and the Law on the Fight against Corruption.

The Criminal Code of Ukraine criminalizes bribe-taking (article 368), bribe-giving (article 369), and bribe solicitation (article 370). The Code does not have a definition of corruption.

The definition of corruption is given in the Law of Ukraine on the Fights against Corruption. Namely, under Article 1 of the said 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.

The violation of the said law entails administrative liability. Thus, it is an independent statute, which has no role in the criminal proceedings. However, Article 1 of the said law is broad enough to encompass the 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 those two statutes. Therefore, there is a possibility this overlapping to be used in order to avoid criminal liability for bribe-taking and other criminal offences.

The draft Law of Ukraine on the Prevention and Fight against Corruption prepared by the Ministry of Justice and the relevant amendments to criminal and administrative codes attempts to tackle the problem of overlapping. Now other measure taken for that end has become known to the delegation.

Ukraine is non compliant with this recommendation.

Recommendation 6

Amend the incriminations of active and passive bribery in the Criminal Code to correspond to international standards. In particular, clarify elements of bribery through a third person; delineation of offences between an offer/solicitation and extortion, criminalise trading in influence. Consider increasing the punishments for active and passive bribery as well as the statute of limitations for corrupt offences.

Current Criminal Code of Ukraine criminalizes active and passive bribery. Offer and promise of bribes are not criminalised as separate offences, and can only partially be addressed as preparation or attempt of a crime. The Draft Law On Introduction of Amendments to Some Legal Acts Concerning the Responsibility for Corruptive Offences introduces criminal liability for offering bribe.

Bribery through the third person is qualified as a complicity in crime rather then an independent crime. The Criminal Code of Ukraine defines the notion of complicity and types of accomplices, as well as the procedures for imposing criminal liability on them. The Resolution of the Supreme Court of Ukraine "On Legal Practice in Cases of Bribery" interprets the Criminal Code and states that the actions of the accomplice shall be qualified with taking his/her intent into account, depending on whose side, in whose interests, and on whose initiative – the bribe-taker or the bribe-giver – the accomplice was acting.

No action had been taken to increase the punishment for passive and active bribery. Neither had the statute of limitation been increased.

As regards the criminalization of trading in influence, the current legislation of Ukraine does not criminalize trading in influence. However, the Draft Law on Introduction of Amendments to Some Legal Acts Concerning the Responsibility for Corruptive Offences aims to introduce such an offence.

Ukraine is non compliant with this recommendation.

Recommendation 7

Harmonise the concept of an "official" from the Criminal Code and the Law on the Fight against Corruption, ensuring that the definition encompasses all public officials or persons performing official duties in all bodies of the executive, legislative and judicial branch of the State, including local self-government and officials representing the state interests in commercial joint ventures or on board of companies.

Two main pieces of legislation, the Law of Ukraine on Fight Against Corruption and the Criminal Code of Ukraine deal with fight against corruption.

For the purposes of the law on the Fight Against Corruption, public officials, the Prime Minister of Ukraine, First Vice-Prime Minister, Vice-Prime Ministers, ministers, people's deputies of Ukraine, deputies of the Supreme Council of the Autonomous Republic of Crimea, deputies of rural, village, municipal, city precinct, and regional councils; local self-government officials; military officials of the Ukrainian Armed Forces and other military formations (except active military servicemen) can be held responsible for corruption (corrupt deals) through the administrative procedures. Accordingly, those officials are "officials" for the purposes of that law.

The Criminal Code of Ukraine has its own definition of "official", without making reference to the Law of Ukraine on the Fight Against Corruption. In accordance with articles 364 and 368 of the Criminal Code of Ukraine, officials are persons permanently or temporarily performing the functions of authority, as well as permanently or temporarily occupying positions at enterprises, institutions or organisations, irrespective of their forms of ownership, connected with performance of organisational or administrative functions, or specially authorised to perform such functions, whose positions are referred by article 25 of the Law of Ukraine on Public Service to the third, fourth, fifth, and sixth categories, as well as judges, prosecutors and investigators, heads and deputy heads of bodies of public authority and administration, local self-government, their structural divisions and units.

Officials occupying particularly responsible positions are persons stipulated by article 9 § 1 of the Law of Ukraine on Public Service, and persons whose positions are referred by article 25 of this Law to the first and second categories.

The Draft Law of Ukraine on the Amendments to Some Legal Acts Concerning the Responsibility for Corruptive Offences try to harmonize the definitions of "official" provided by the Law on Fight Against Corruption and the Criminal Code. Namely, according to the Draft, an official is a person permanently or temporarily performing the functions of authority, as well as permanently or temporarily occupying positions at enterprises, institutions or organisations, irrespective of the forms of ownership, connected with performance of organisational or administrative functions, or specially authorised to perform such functions. Persons performing the functions stipulated by part three of this article in any other country or international organisation shall also be recognised as officials.

Article 2 of the Draft Law of Ukraine on the Fight Against Corruption envisages the imposition of responsibility for commission of corruptive deeds on the following persons:

- persons authorised to perform state or local self-government functions, specifically: the President of Ukraine, Head of the Supreme Council of Ukraine and his/her deputies, the Prime Minister of Ukraine, other members of the Ukrainian Cabinet of Ministers, Prosecutor General of Ukraine, Head of the Ukrainian National Bank, Head of the Chamber of Audit, the Authorised Human Rights Representative of the Ukrainian Supreme Council, Head of the Supreme Council of the Autonomous Republic of Crimea; Head of the Council of Ministers of the Autonomous Republic of Crimea, people's deputies of Ukraine, deputies of the Supreme Council of the Autonomous Republic of Crimea, deputies of rural, village, local, district, city precinct, regional councils; public servants; officials of local self-government; military officials of the Ukrainian Armed Forces and other military formations; judges of the Constitutional Court of Ukraine, professional judges, judges occupying administrative positions in courts, assessors and jurors; law-enforcement officers; officials of other public institutions;

- persons equalised for purposes of this Law to persons authorised to perform state or local self-government functions, specifically: officials of government corporations not indicated in item 1 of this

article but receiving salary from the state or local budget; members of district and divisional election commissions; persons permanently or temporarily occupying positions connected with the performance of organisational or administrative functions, or specially authorised to perform such functions, in legal entities with 50 or more percent of state participation in the statutory fund; leaders of public organisations partially financed from the state or local budget; leaders of political parties, their regional, local, district organisations, and other structural divisions; consulting assistants to people's deputies of Ukraine and other elected persons who are not public servants, local self-government officials, but receive salaries from the state or municipal budget; persons who are not public officials, but perform legally prescribed functions of authority (e.g. private auditors, notaries, experts, evaluators, lawyers, arbitration managers, independent mediators or members of the conciliation council for the consideration of collective labour disputes, as well as other persons in cases prescribed by law); officials and employees of international organisations, foreign officials;

- persons permanently or temporarily occupying positions connected with the performance of organisational or administrative functions, or specially authorised to perform such functions, in legal entities (except legal entities indicated in paragraph 4 of item 2 of this Article), physical persons – entrepreneurs;

- officials of legal persons, legal and physical persons, including physical persons – entrepreneurs, in cases of illegal provision by them to persons indicated in items 1 and 2 of this article and/or with the participation of these persons to third parties of pecuniary and/or non-pecuniary benefits (privileges, advantages, services).

The Draft Law on the Amendments to Some Legal Acts Concerning the Responsibility for Corruptive Offences attempts to harmonize the definition of "official" with that of the Law of Ukraine on the Fight against Corruption.

At this stage, while the amendments remain as Draft, the need of clear definition of "official" that would be compliant with international standards is needed.

Ukraine is not compliant with this recommendation

Recommendation 8

Ensure the criminalisation of bribery of foreign or international public officials, either through expanding the definition of an "official" or by introducing separate criminal offences in the Criminal Code.

The current Ukrainian legislation neither provides criminalization of corruption related crimes to the foreign and/or international public officials nor extend the definition of "official" to the said persons.

The wording of Article 364 §2 of the Ukrainian Criminal Code stipulates that officials are also foreigners or persons without citizenship permanently or temporarily performing the functions of authority, as well as permanently or temporarily occupying positions connected with the performance of organisational or administrative functions, or perform such functions on special authorisation, at enterprises, institutions and organisations, irrespective of their forms of ownership.

It should be noted, that the notion of criminal liability of foreign public officials encompasses the criminalization of officials of foreign public service or international organization regardless their citizenship. Article 364 §2 of the Ukrainian Criminal Code extend the criminal jurisdiction of Ukraine to the foreign nationals and/or stateless persons who are performing the public duties in Ukraine. Those categories of persons are not considered as foreign public officials for the purposes of the present recommendation.

The Draft Law of Ukraine on Introduction of Amendments to Some Legal Acts Concerning the Responsibility for Corruptive Offences extend the definition of official to the foreign and international public officials. Namely, the draft stipulate that an official, except in the cases envisaged by the Code, is a person permanently or temporarily performing the functions of authority, as well as permanently or temporarily occupying positions connected with the performance of organisational or administrative functions, or specially authorised to perform such functions, at enterprises, institutions and organisations, irrespective of their forms of ownership. Persons performing the aforementioned functions in any other country or international organisation are also recognised as officials

Ukraine is non compliant with this recommendation.

Recommendation 9

Introduce a proposal to amend the Criminal Code ensuring that the 'confiscation of proceeds' measure applies mandatory to all corruption and corruption-related offences. Ensure that confiscation regime allows for confiscation of proceeds of corruption, or property the value of which corresponds to that of such proceeds or monetary sanctions of comparable effect. Review the provisional measures to make the procedure for identification and seizure of proceeds from corruption in the criminal investigation and prosecution phases efficient and operational.

Article 59 of the Criminal Code of Ukraine states that confiscation of property as a punishment shall be imposed for grave and outmost grave crimes and shall only be applied in cases specifically provided for in the Special Part of this Code.

Bribery committed in aggravating circumstances, criminalized under Article 368 §2 and 3 of the Criminal code of Ukraine is the only corruption related crime that specifically entails confiscation of property as a form of punishment. However, it is unclear that how broad the term "property" is interpreted. Unfortunately, no statistic of confiscation of property under the said Article exists.

At the same time, the current Ukrainian legislation provides the possibility to confiscate the objects used as crime instruments, retain the vestiges of a crime, or where an object of criminal actions, money, valuables and other items gained by criminal methods, as well as any other objects which may facilitate the soling of a crime and identifying the guilty persons or lifting an accusation of mitigating responsibility, constitute material evidence. As usual those objects are considered as evidence and are distributed in accordance with Article 81 of the Criminal Procedure Code of Ukraine. Namely, the question of material evidence shall be decided during the issuance of a sentence, determination or decision of the court or an inquiry body, investigator, prosecutor on the closure of a case, while money, valuables and other illegal proceeds shall be recovered in favour of the state; money, valuables and other items which were an object of criminal actions shall be returned to their legal owners, and if the latter are unidentified, this money, valuables and items shall be claimed by the state.

This regulation does not provide the possibility to confiscate proceeds of crimes as required by various international instruments.

Criminal Procedure Code does not provide value based confiscation and no review of the interim measures, i.e. identification and seizure of property has been conducted.

Ukraine is not compliant with this recommendation.

Recommendation 10

Introduce a proposal to criminalise non-reporting of instances of possible corruption of public officials, if as a result of the investigation it can be shown that corruption in fact existed, and that those who failed to report it can be shown to have been fully aware of it.

Current Ukrainian legislation does not specifically criminalise non-reporting of corruption related crimes. However, 396 of the Ukrainian Criminal Code of 2001 criminalises actions involving concealment of a grave or especially grave crime. Thus, only concealment of those corruption related crimes that belong to the category of grave and especially grave crimes can be punished.

No statistics concerning the application of Article 396 of the Criminal Code became available for the delegation during the on-site mission.

Ukraine is partially compliant with this recommendation.

Recommendation 11

Ensure that the immunity granted by the Constitution to certain categories of public officials does not prevent the investigation and prosecution of acts of bribery. Specify procedures for the lifting of immunity for criminal proceedings and consider abolishing the requirement of authorisation on lifting the immunity in cases when a person is caught in flagrante delicto.

The President, Members of the Parliament (People's Deputy of Ukraine) and judges enjoy immunity from criminal prosecution in Ukraine.

Immunity of the Ukrainian President is an organic component of his/her constitutional status, the purpose of which is to ensure effective and unimpeded execution of his/her official powers. The Presidential immunity is absolute and it cannot be cancelled, suspended or restricted. No criminal proceedings can be started against the President. Article 111 of the Constitution of Ukraine stipulates that the President of Ukraine may be removed from the office by the decision of the Supreme Council of Ukraine through impeachment procedures in the event of commission of state treason or another offence.

According Article 80 §3 of the Constitution of Ukraine, people’s deputies of Ukraine cannot be brought to criminal responsibility, detained or arrested without the consent of the Supreme Council of Ukraine.

According to Article 126 of the Constitution, a judge can not be arrested or detained before the issuance of an accusatory court sentence without the consent of the Supreme Rada of Ukraine. At the same time, immunity of judges is not limited to provisions of article 126 of the Constitution of Ukraine, but additional guarantees can also be granted to judges by laws. A judge detained on suspicion of commission of a crime or an administrative offence, penalised through court procedures, shall be immediately released after his/her identity is established.

According to the Ukrainian legislation, investigation can be started and certain investigative actions, not restricting the immunity of the said persons, can be conducted regardless the immunity.

Although the legislation does not exclude to lift the immunity of a People's Deputy of Ukraine and/or a judge, the procedure is rather obscure and largely discretionary. There is no clear and precise procedure for lifting the immunity.

No measures have been taken to abolish the requirement of authorisation on lifting the immunity in cases when a person is caught in *flagrante delicto*.

Since the review in 2004, the immunity of local deputies was introduced in the Ukrainian legislation, thus further broadening the scope of application of immunities. However, this immunity has been removed from the legislation prior to the on-site visit.

There were no cases of lifting immunity of members of parliament for prosecution of corruption cases during the evaluation period.

Ukraine is non compliant with this recommendation.

Recommendation 12

Recognising that the responsibility of legal persons for corruption offences is an international standard included in all international legal instruments on corruption Ukraine should with the assistance of organisations that have experience in implementing the concept of liability of legal persons (such as the OECD and the Council of Europe) consider how to introduce into its legal system efficient and effective liability of legal persons for corruption.

Ukrainian Criminal legislation does not provide liability for legal persons. The Draft Law prepared by the Ministry of Justice of Ukraine introduces the liability of legal persons. Legal person can be held responsible under administrative law, after a person having managerial position in the legal entity is convicted for corruption related offences under criminal law.

However, the draft was not reviewed during the monitoring. Therefore, it is impossible to assess if the draft meets international standards.

Ukraine is largely compliant with this recommendation.

Recommendation 13

Contribute to ensuring effective international mutual legal assistance in investigation and prosecution of corruption cases.

Ukraine today participates in over 150 agreements and international treaties on the fight against organised crime and corruption. Ukraine is a state party to the European Convention on Mutual Assistance in Criminal Matters, Council of Europe Convention on Search, Seizure and Confiscation of the Proceeds from Crime, UN Convention on Translational Organised Crime and the Convention on Mutual Legal Assistance and Cooperation in Civil, Family and Criminal Matters between the CIS states. At the same time, Ukraine has concluded a number of bilateral agreements in this field.

The Ukrainian legislation does not envisage confiscation as a form of punishment for every corruption related crime. It has very limited theoretical application under Article 368 §§ 2, 3 of the Criminal Code. Therefore, and as explained during the onsite visit, Ukraine cannot execute foreign request for legal assistance involving confiscation. As regards the seizure, Ukrainian legislation requires relevant foreign court order to be attached to the request for legal assistance, which shall be approved by authorised court in Ukraine.

The information concerning the bank transactions can be disclosed only after the foreign court order is approved at the domestic courts.

So far, no direct requests have been made within the frameworks of rendering mutual international legal assistance in cases of corruption (cooperation in this area is conducted through the Prosecutor General's Office of Ukraine).

According to the statistics provided by the General Prosecutor's Office of Ukraine, in the year 2006, 915 foreign requests have been received by the General Prosecutor's Office. 84 of them were corruption related. Out of them, 66 were rogatory letters, 14 were requests for transferring the criminal cases related to corruption offences to the requesting countries for further investigation and prosecution, and 4 were requests for extradition. According to the information received from the authorities, all the requests were executed within reasonable time.

As regards the trainings, Ukraine has been organizing various meetings, conferences and round tables on this issue. Furthermore, the Council of Europe is conducting special project, which, among others, provides various trainings for the officials working in the field of mutual legal assistance.

Ukraine is largely compliant with this recommendation.

III) Transparency of the Civil Service

Recommendation 14

> ***Support further actions by the Main Civil Service Department to conduct general training on anti-corruption for public officials; in particular, develop and implement specific anti-corruption and ethics trainings, in particular for those public officials who work in corruption-risk areas. The in-service training should focus on operational and procedural issues, rather than on academic degrees, i.e. everyday job-related duties, including ethical standards.***

Following a systematic regular approach that has begun in 2003, during 2006 the Main Civil Service Department (MCSD), in cooperation with the Kiev National University of the Ministry of the Interior (MoI), has organised some advanced training on anti-corruption issues for central and local executive authorities and for bodies of local self-government. The training program has been developed in order to cover all areas, in general, but looking to main risk areas, in special. Thus, 187 officials from all positions (1 to 7) have been trained in preventive approaches to corruption

The training programme was aimed to fulfil three objectives: (1) to teach the attendants on how to prevent corruption in their activity; (2) to prepare them to identify risk areas and situations within their bodies; (3) to allow them to set a training programme for their bodies and to deliver it (cascade effect).

The duration of the training courses was 1 to 2 weeks. Using the available information it is not possible to assess neither the nature of the providing training (more operational and procedural rather than an academic/legalistic approach) nor the profiles of the trainers.

In addiction other specific training has been organised for customs officials. The National State Administration Academy (NSAA) includes anti-corruption issues in its regular training courses as well. In general, the training at the NSAA is being considered as having a more academic approach rather than professional needs oriented.

Some training on ethics and anti-corruption issues was held by the Ministry of Interior as well as by KRU to their staff members.

The general training programme will continue during 2006 and 2007 and the MCSD has a line budget to support it. The general training programme in 2006 aims to reach the targeted number of 400 officials.

For the time being, there is no feedback about the effectiveness of the training programme as relevant information regarding the results is not available. On the other hand, not having a national strategy and an action plan (which were supposed to be adopted earlier and its implementation started in a coordinate way) is an additional difficulty in assessing the programme and in which degree the aimed targets are being achieved both quantitative and qualitative aspects.

The MCSD must continue the implementation of the training programme and assess its effectiveness; specially, it must ensure the operational orientation of the training and evaluate how the cascade effect is being produced; a more pro-active follow-up is needed, in order to have at disposal enough and integrated information about the whole programme allowing to compare final results regarding the defined objectives and targets.

Ukraine is partially compliant with this recommendation.

Recommendation 15

Improve the mandatory asset disclosure system for higher ranking public officials in all branches of government (executive, legislative and judicial), as well as the legislation on conflicts of interest which would include members of the Parliament and would be open for public. Ensure that enforcement of these rules is entrusted to an independent agency, possibly subordinated to the Anti-corruption Committee. In parallel, review and specify the provisions of the "Law on the Fight against Corruption" regarding the acceptance of gifts.

At the present Ukraine has an assets declaration system that provides for annual submission of such statements. These statements are submitted by a civil servant to his/her employer, and stay in the personal file. As a rule these statements remain confidential for most public officials. However, for certain high level position, the occupants are requested to sign an agreement for the possible publication of their declarations. This approval does not mean that the statements become public immediately, nor that they will surely become public at a certain moment in the future. No clear rules for disclosure exist, therefore it seems that the system in very susceptible to subjective interpretations and, as a consequence, runs the risk of not being applied in an consistent and fair manner.

Declarations are checked before the public official takes the office as a part of the initial verification procedure. Afterwards no mechanism for constant verification exists. This means that a very sensitive area remains uncovered, as it is the essential function of declarations of assets to show fluctuations in the wealth of public officials while holding the office. Indeed the most relevant comparison that can be made is between the wealth when taking the office plus the legal incomes while performing the office and the wealth at the end of the mandate.

Because of the confidential nature of the statements, no external checks by the media and NGOs can be performed as these two groups cannot access this information. No statistics on sanctions applied for non–compliance with the relevant legal provisions were made available to the review team.

After the Presidential election of 2004 a number of declarations for high level political persons were published in internet and widely discussed.

The draft Law of Ukraine on the Prevention and Fight against Corruption, developed by the Ministry of Justice, foresees some changes in the system of verification of the declared information. The draft has been submitted to the Parliament, but has not been adopted so far.

Ukraine is non compliant with this recommendation.

Recommendation 16

Update and disseminate a Code of Conduct or other similar rules for public officials. Prepare and widely disseminate comprehensive practical guides for public officials on corruption, conflicts of interest, ethical standards, sanctions and reporting of corruption.

Certain development is visible regarding updating and disseminating a Code of Conduct or in adopting practical guides for public officials' guidance.

The MCSD has approved the "General Rules of Public Servants' Conduct". However, this is understood as an internal document and the dissemination through the public administration is poor. In many institutions it is unknown or ignored. Ukrainian administrative culture is strongly based on laws. So, a code of conduct or any guide adopted by entities without legislative power or using less formal instrument to adopt it (a charter, guidelines, recommendation, etc) will face additional acceptance and implementation difficulties.

Meanwhile, a draft "Good Practice Code" has been developed by the Ministry of Justice together with the MCSD. This draft code, which has been reported as having a positive opinion of the Council of Europe, was submitted to the President and is now being prepared in order to be submitted to a government committee.

Several bodies or professional groups have their own Code of Conduct as an internal guide. There is no enough information about the number of adopted special codes/charters and to which bodies are related. As example it is possible to mention: the Judges' Code of Ethics; the Prosecutors' Code of professional Conduct; a set of special commitments for customs officials; the KRU auditors Code of Ethics.

Police has an ethics code that comes from the soviet times. Nowadays, the values and role of the Police have changed significantly; the use of the outdated code of conduct could damage the efforts in changing behaviours, improving ethics and fight against corruption. Instead of a useful tool it could have a negative impact.

Kiev's City Administration is also developing a program aiming to increase ethical standards within its staff as a way to improve the relationship with the citizens.

The MCSD is playing an advisory function regarding ethics seeking to help other institutions and officials at central and local level in clarifying ethical behaviours and preventing situations of conflict of interests or corruption.

However, there is no national strategy aiming to adopt, implement, disseminate and monitor ethical standards in public life. Even without a more comprehensive assessment of the current situation - which is due to insufficient information - it is possible to recognize poor effectiveness in developing an ethical culture of public service and in improving professional ethics in Ukraine.

The draft Good Practice Code should be adopted and implemented as a part of the National Strategy and of the Action Plan. Having such an instrument and trying to implement it out of that context will reduce its capacity to contribute for the change of the administrative culture and to improve ethical behaviours in public service.

Ukraine is partially compliant with this recommendation.

Recommendation 17

Adopt measures for the protection of employees in state institutions and other legal entities against disciplinary action and harassment when they report legitimate suspicious practices within the institutions to law enforcement authorities or prosecutors, by adopting legislation or regulations on the protection of "whistleblowers" and launch a public (or internal) campaign to raise the awareness of these measures among civil servants.

In regard to this recommendation no action has been reported. Even if some practices are being used in some bodies (in the Security Service, for instance) and in some circumstances, is not possible to say that this is the result of a systematic and comprehensive policy. The draft Law of Ukraine on the Prevention and Fight against Corruption is developed by the Ministry of Justice.

Ukraine is non compliant with this recommendation.

Recommendation 18

Improve the system of internal investigations in cases of suspected or reported corruption offences. A separate, independent investigatory and reporting entity should be established, possibly within the general civil service, to receive and investigate complaints on corruption. Disciplinary proceedings should be conducted in line with international standards and afford the accused the possibility to defend him/herself; sanctions coming from a process that is perceived as fair and not politically motivated will be more effective in deterring corruption.

Ukraine has not established a separate, independent entity for investigating complaints of corruption. The Main Public Service Department of Ukraine is responsible for official investigations of compliance with anti-corruption legislation system and violations with the code of conduct. Several public bodies have established their own internal services for investigating violations of legislation and code of conduct, such as within the Ukrainian State Department for Penalty Enforcement, the Central Office of the Ukrainian Security Service, the State Tax Administration of Ukraine, the State Border Guard Service of Ukraine, the Main Control and Revision Service of Ukraine. The prevention of corruption among officials of the Ministry of the Interior is the responsibility of the Internal Security Department.

However, not all relevant bodies have established an own internal investigation service/system yet. Although a system of an official and internal quality control on correct behaviour of public officials seems to be in place, the system still needs to be improved. The Main Public Service Department of Ukraine does not co-ordinate and harmonise the investigations of (potential) corruption cases by the internal investigations services and the disciplinary proceedings are not yet in line with International Standards. The risk of unequal treatment of corruption within the public administration is still present.

Ukraine is largely compliant with this recommendation.

Recommendation 19

Analyse and introduce improvements in the existing public procurement regulations to reasonably limit the discretion of procurement officials in the selection process. Ensure that the eligibility criteria for bidding in the public procurement and privatisation processes include the absence of a conviction for corruption. Under the condition of legal protection of fair competition, consider establishing and maintaining a database of companies that have been convicted for corrupt practices in Ukraine or abroad to support such limiting eligibility criteria.

A new law on Procurement has been adopted on 17 March 2006 without allowing for a transition period. The objective of the law is to create a competitive environment in the sphere of public procurement and in order to prevent corruption to ensure transparency procedures of procurement of goods, jobs and services. This law contains new articles related to procurement process and institutional set up.

Although the new law certainly has merits such as the guarantee of absence of conviction (art. 7), the changes in the public procurement system will hardly contribute to a strengthening of public procurement in Ukraine. On the contrary, the newly introduced structure of the procurement system is not in line with good international practice and rather increases opportunities for corruption than decrease them.

The main flaw in the structure is that the government as the executive has been discharged of all key responsibilities and functions in the area of public procurement, and those responsibilities and functions have been transferred to bodies that are outside any direct influence of the government and are instead under the control of parliament – such as the Antimonopoly Committee, the Special Control Commission under the Accounting Chamber, and a non-public body (the Tender Chamber).

With the new law there is a clear risk that public procurement will become politicised. Members of Parliament are members of the Special Control Commission under the Accounting Chamber and of the Supervisory Commission of the Tender Chamber, and are therefore directly involved in the execution and implementation of procurement policy. Furthermore, various questionable measures are introduced to protect domestic industry, in particular the agricultural sector. One of the main objectives of public procurement legislation is to prevent contracting authorities from political influences in the execution of public procurement.

The policy-making and regulatory functions together with the capacity development function are missing in the new structure, which is a good example of the confusion in the institutional set-up. It appears that these functions are in some sense assigned to a non-public organisation (the Tender Chamber). These functions should normally be exercised within the government administration. This means that the government lacks the power and instruments needed to initiate new legislation and to introduce secondary legislation in the area of public procurement.

With the introduction of new law the access to information about the announced bids became more difficult for potential bidders: there is no longer one centralised source of such information, information published by the Tender Chamber in its bulletin is not complete and not free.

The establishment of the Tender Chamber was a reaction to serious complaints about the lack of transparency in public procurement in the past. However, the role, mandate and functions of the Tender Chamber in the area of public procurement give rise to strong concerns. The non-public status of the organisation implies that it is not subject to public audit and financial control and is therefore not accountable to the public for its actions, performance, and use of funds.

A so-called ‘black list’ of companies, which have been convicted for corrupt practise in Ukraine, does not exist yet.

After the on-site mission a “Law on Amendments to some Legal Acts of Ukraine on issues of Public Procurement of Goods, Works and Services” was adopted by the Parliament on 1 December 2006. The new Law introduces a number of changes:

- cancellation of procurement in cases when violations of legislation have been detected;
- introduction of personal responsibility of the members of tender committee;
- the anti-monopoly committee has been appointed as the state competent body for public procurement;
- the role of the external audit of public procurement has been moved from the Accounting Chamber to the inter-departmental committee; the anti-monopoly committee will provide secretarial support to this committee;

- the anti-monopoly committee will be responsible for the management of the 'black list' of companies.

However, it was not possible to study the new law in detail at the time of the monitoring. It is therefore impossible to provide a judgement weather this law provides for improvements. Besides, this law is not yet promulgated by the President, and it is not know yet when it may come into effect.

Ukraine is non compliant with this recommendation.

Recommendation 20

Review the regulatory framework for taxation to reduce incentives for tax evasion and to limit the discretionary powers of tax officials. Ensure that the powers which are required for effective tax and customs administration are well balanced with respect for citizens' rights and are not abused.

Tax collection is seen as a major area of concern for corruptive practices. The current Tax Code contains extensive discretionary powers for tax officials.

Due to its access to business-related information, Tax Administration is an important factor in any comprehensive strategy against corruption. Tax inspectors' enquiries on expenses may produce leads for future corruption investigations. On the other hand Tax Administration like the Custom Administration is a sector traditionally vulnerable to internal corruption. Some taxes, like the VAT, are particularly vulnerable for abuses. Measures to reduce incentives for tax evasion could include the reduction of the types of taxes, the reduction of tax rates or the introduction of simplified tax administration to diminish motivation and probability for hiding taxes and corrupt deals.

The Tax code in Ukraine has not been changed since the review in 2004. A draft is pending in Parliament for over six years now. The State Tax Administration (STA) reports on some internal corruption related investigations, but none of them involved high-ranking officials.

Ukraine is non compliant with this recommendation.

Recommendation 21

Enhance cooperation with civil society in addressing the corruption phenomena, including working more closely with university programs and a wide range of NGOs and the business community on anti-corruption and ethics, both to enhance monitoring in civil society, and to encourage training and research resources in the field.

Building on the existence of the public participation mechanism, NGOs have pushed their way into the decision-making process. Based on their evaluation, the central government has proved to be more transparent than the local administrations. Some central institutions were commended for their constant attempt to meet their requirement (i.e. the Ministry of Justice), while the interlocutors also pointed to problems that usually occur in the consultation process (i.e. very short deadlines – 24 hours - for analysis and submission of comments, lack of clear explanation on why a certain legislative solution was chosen).

A problem identified by the NGOs representatives was the absence of a strong anti-corruption NGO that would coagulate around it the energies and would serve as a powerful counterpart to the government. This is mirrored by the concept paper that notes the "lack of real influence of non-government organizations on the developments in the area of fighting corruption in the state". So far the NGOs have been involved to a certain degree in training activities, but when asked whether they were consulted on the concept paper on combating corruption they answered negative. In conclusion, much remains to be done in order to ensure that NGOs become fully involved in the anti-corruption activities.

Ukraine is partially compliant with this recommendation.

Recommendation 22

In the area of access to information and open government, consider creating an independent office of an Information Commissioner to receive appeals under the "Law on Information", conduct investigations, and make reports and recommendations. Consider adopting a Public Participation Law that provides citizens with an opportunity to use information to affect government decisions. Consider revising libel and defamation laws to grant greater scope for journalistic reporting.

A first positive step towards the implementation of this recommendation was the adoption of legal mechanisms for access to information and for participation to the decision-making process. Some down-sides of these mechanisms were stated by the representatives of the Ombudsman: issues pertaining to the constitutionality of the law and the lack of efficient remedies for the citizens.

No independent commission was yet set-up to receive appeals from citizens. In cases of non-compliance with the law the claimant has to first complain to the public institution concerned and then, if the complaint has not been answered in a satisfactory manner, s/he may challenge the decision to court under the procedure prescribed by the law on complaints. The Ukrainian authorities have been unable to provide the evaluation team with statistics on complaints and on sanctions for non-delivery of information. Another issue that has been pointed towards is the denial of access to information on political parties financing, especially in relation to the financing of elections campaign to the Parliament; in contrast, information about financing of presidential elections is open to public.

Serious questions with regard to the consistency of the application of the law public participation are raised by the fact that central authorities tend to comply with the law more than the local institutions. At central level problems persist with regard to the application of the public consultation mechanisms to secondary and tertiary legislation. This is further worsening by the fact that some tertiary regulations remain confidential although they might affect substantive rights of the citizens.

As far as libel and defamation are concerned the existing laws in Ukraine seem to comply with the international standards. However, the evaluation team has been informed during the meeting with the representatives of the Parliamentary Commission on Combating Organized Crime and Corruption that certain initiatives exist that would reintroduce criminal liability for journalists for such offences. That would indeed harm significantly the freedom of expression and would hamper journalist reporting.

Ukraine is partially compliant with this recommendation.

Recommendation 23

In the sphere of money laundering, pursue the implementation of the FATF recommendations and MONEYVAL.

Ukraine was released from the FATF list of non-cooperative countries and jurisdictions in February 2004. Two years later, the FATF formally terminated its monitoring. The legislation created an overall AML framework, including a comprehensive STR system, and improved measures for information sharing. Since the review in 2004, the State Committee for Financial Monitoring (SCFM) was strengthened. This body acts as Ukraine's Financial Intelligence Unit. The SCFM officially became a member of the Egmont Group at its June 2004 Plenary. The SCFM is staffed with 338 employees, about half in the Headquarter in Kyiv and half in the regional subdivisions. Seven regional offices were operational at the time of the mission. Since its creation, the SCFM has received over 2 million reports on financial transactions from financial intermediaries. Currently, about 2000 reports are submitted to the FIU every day.

The SCFM submitted 330 total case referrals (including 148 in 2005) to the law enforcement agencies, which resulted in 104 criminal cases. Prosecution reports that 5 of these cases were corruption related. In the first half of 2005 there were 73 convictions for the money laundering offence. The SCFM had received and responded to 91 requests from foreign FIUs. On 1 December 2005, Ukraine adopted further amendments to its AML law, which expand AML requirements and expand the ability for Ukrainian supervisory authorities to exchange information with foreign counterparts.

Amendments to the Criminal Code of Ukraine clarified the money laundering offence. However, the criminal provision for money laundering, Art 209 of the Criminal Code, has not been changed since the review. It only covers predicate offences with an imprisonment of 3 years or more. This falls short of the international standard and it does not cover some corruption related offences, such as bribe giving without aggravated circumstances.

In 2005, the SCFM has tabled in Parliament a draft Law on amendments to the Anti-Money Laundering Act. This draft has been changed several times but it has still not been approved by Parliament. It seeks to strengthen the powers of the SCFM and to enlarge the range of predicate offences. It should also include enhanced Due Diligence obligations for financial institutions that have business relationships with Politically Exposed Persons.

Ukraine is partially compliant with this recommendation.

Recommendation 24

Ensure that competent authorities conducting investigation and prosecution of corruption offences have relevant financial expertise at their disposal (either by employing financial and auditing experts or by ensuring full cooperation of relevant experts in other state institutions).

The professional background character of the investigation services' staff is mostly multi-disciplinary and most authorities conducting investigation and prosecution of corruption offences have financial expertise at their disposal. The financial expertise is recruited wide spread over the investigation services. Not all relevant authorities like the General Prosecutor's office have employed financial experts, although the Criminal Procedure Code gives the investigators the possibility to hire financial experts in cases this expertise is required.

The existing financial expertise is general and not specific oriented on fighting corruption. Audit expertise in fighting corruption (e.g. forensic auditors) is absent.

Ukraine is partially compliant with this recommendation.

ADDITIONAL INFORMATION

According to several observers and reports, **the judiciary system** remains a problematic area in Ukraine. Seventy-two percent of the Ukrainians surveyed in an October 2004 stated that corruption is a serious problem in the courts, and only one-third have confidence in the local courts. Some of the key areas of urgently needed reforms include the following measures:

- reinforcing judiciary's independence through the reform of its legal basis, and by introducing a transparent, fair and merit-based system for the selection and appointment judgers, enhancing judicial self regulation and promoting and independence and the role of Judiciary Council

- reforming the court structure and full implementation of the administrative courts system; providing the courts with necessary resources for their independent and effective operation;

- strengthening the professional capacity of judges, improving academic and in-service training within the judiciary;

- promoting integrity measures in the judiciary, including internal disciplinary procedures, Codes of Conduct, and education campaigns with a focus on practical training;

- reinforcing the implementation of court decisions to ensure the effective rule of law and to reinforce public trust in the judiciary system;

- facilitating access of citizens to the judicial system including such measures as advice on making claims or redressing actions, short of going to court; preliminary counsel for cases that are likely to end in court, and legal defence counsel for trials.

Another important element of the criminal justice reform is the reviewing the role of the General Prosecution Office according to the guidance of the Council of Europe and the Venice Commission and the modernisation of the Criminal Procedure Code of Ukraine.

A number of reform efforts are underway, including those led by the Rule of Law Committee under the Ministry of Justice and the Verkhovna Rada Committee on Legal Policy, as well as donor supported projects. However the reform process is extremely difficult and slow and needs to be accelerated.

Control of **political corruption** is another crucial element of the anti-corruption efforts in Ukraine. The last parliamentary elections were recognised as the most democratic in the history of Ukraine, largely due to the ensured freedom of press, restraint from abuse of administrative resources by the authorities, and prevention of the fraud in the voting process. However, there is a wide spread and persistent popular belief that serious corruption exists in the political party financing and election campaigns and in the policy-making processes.

While there is a lot of debate about political corruption in media and among the public, there appears virtually no special efforts by the authorities to effectively address this issues. Apart from the statements by

the Head of the Central Elections Committee about the need to fight corruption in the elections process, no targeted actions are reported. As an indication, the Head of the Committee on Legal Policy referred to statistics showing that in 2003-2005 the Verkhovna Rada voted down all anti-corruption bills.

It is important for the Ukrainian authorities to launch the elaboration of practical measures to fight political corruption as early as possible, in order to ensure that a robust corruption prevention mechanism is in place by the time of the next elections season. Such measure may include *intra alia* the following:

- further developing the legislation regulating political parties in order to cover existing gaps which allow corrupt behaviour by the politicians, including special provisions for the control of political party financing, sanctions for the violations of such provisions, and operational mechanisms to ensure public access to information about financing of political parties;

- amending the legislation regulating the elections process, both at the central and local level, in order prevent fraud and corruption; special attention should be given to the control of financing of elections campaigns and use of administrative resources and public access to relevant information;

- promoting integrity in political elected bodies, both the Verkhovna Rada and locally elected councils, and among the political nominations in the civil service; ensure that the conflict of interest legislation covers all the categories of officials, including elected officials and their staff; strengthen the control over the implementation of such legislation, including the verification of the asset declarations, and provide for public access to this information;

- reviewing the internal regulations guiding the operations of the Verkhovna Rada and the local councils in order to ensure sufficient transparency, legality and public accessibility; for instance ensuring that suggestions made by the public during the process of public debate of bills are adequately reflected during the adoption process; elaborating rules for lobbying activity; introducing restriction for the post-office employment of senior officials and political nominations;

- supporting further efforts to strengthen the freedom of press.

Weak professionalism is the main problem of **civil service** in Ukraine. The need for civil service reform is widely acknowledged, a number of conceptual proposal were developed. However, they were not supported by practical decisions and remain unimplemented, probably reflecting the general lack of reform consensus. The Current Law on Civil Service, which was passed in 1993 and amended several times since, provides an outdated and confusing legal basis. Current regulations about the rights and duties, recruitment, promotion, performance appraisal and discipline remain vague and allow for wide arbitrariness, applied on case by case basis. The salary system in civil service it is complex and confusing; remuneration consists of small basic salary and large variable bonuses which is determined arbitrarily. Professional and integrity training for civil servants in not based on needs assessment and priorities, and is not well developed.

To adopt a new law on civil service is another initiative that would considerably contribute to those objectives provided it establishes basic conditions for improving professionalism in civil service (e.g.: independence, separation between political and administrative positions, independent and quality recruitment, clear definition of rights and duties, merit and objectivity as a rule in management, fair

salaries, good disciplinary system, training possibilities, incompatibilities system and comprehensive ethical principles of public service).

The new draft Law on Civil Service was prepared, and is seen as a move in the right direction. However, it does not provide a clear scope for civil service, and further clarification will be needed between political and administrative positions, as well as for the classification system.

The Main Civil Service Department is making efforts to lead the reform of public administration; these efforts need to take the central role in the government, and should focus on policy tasks, rather than case management.

The State Control and Revision Office (KRU), established in 1993, is one of the key **financial control** institutions. It is a central body of executive power, whose activity is directed and coordinated by the Cabinet of Ministers of Ukraine via the Minister of Finance. It has a main office in Kiev with 310 staff and 8,370 staff at regional and local levels.

The main task of the KRU is exercising public financial control over use and preservation of non-negotiable public financial resources and other assets, accuracy of defined needs for budget funds and for undertaking obligations, efficient use of funds and property, state and credibility of accounting and financial reporting in ministries and other state authorities, in public funds, in budget establishments and in public sector economic agents as well as in enterprises and institutions, which receive (received in the checking-up period) funds from budgets of all levels and from public funds or use (used in the checking-up period) public or municipal property (controlled institutions hereafter), execution of local budgets, development of propositions on elimination of any revealed flaws and breaches and on their prevention in future

Although the KRU is not mentioned in the law "On the Fight against Corruption" it has an important function in fighting (fraud and) corruption:

- During its audits or inspections the KRU might reveal violations which may contain elements of offences of corruption. In such cases the audit evidence is referred to law-enforcement bodies for consideration and adoption of measures stipulated by effective law. For example in the period January – August 2006, 41 violations containing elements of offences of corruption were referred to law-enforcement bodies;
- In the course of discharging their statutory functions, including the fight against corruption, the law-enforcement bodies are entitled to attract KRU specialists to carry out specific audits or inspections;
- The KRU may conduct regular and extraordinary audits on assignment of the prosecution bodies, the state tax service, the Ukrainian Ministry of Internal Affairs, the Ukrainian Security Service, or on a court decision issued on the basis of a prosecutor's or investigator's presentation to ensure the examination of a criminal case (in 2005 12.8 per cent inspections and 19 per cent unscheduled inspections were at request of law enforcement bodies. In total, 92,000 entities including 51,000 budget institutions are controlled every three years).

In early 2005 the KRU developed a systemic approach to quality control and anti-corruption. An internal control sector with seven staff members has been given the task of assessing the performance of regional offices and of sectoral branches in the main office. The regional offices are visited once every three years and the sector also reacts to complaints received.

The co-operation between the KRU and the law-enforcement bodies was formalised on 25 October 2006. The Ministry of the Interior approved Decree, 19.10.2006 N 346/1025/695/53, on co-operation between the KRU and the National Security and Defense Council, Security Service, the General Prosecution Office, and the Ministry of the Interior. The Decree is a step in the right direction; however significant additional measures are needed to ensure close cooperation and exchange of information between the financial control bodies, including KRU, and law-enforcement bodies for detection and prosecution of corruption behaviour.

CONCLUSIONS

Recommendation	**Compliant** (fulfilled)	**Largely compliant** (minor shortcomings, large majority fulfilled)	**Partially compliant** (some substantive action)	**Non-compliant** (major shortcomings
National Anti-Corruption Policy and Institutions				
1. Anti-Corruption Strategy and Action Plan			+	
2. Preventive measures, including regulatory reform to reduce discretionary powers and ensure open government			+	
3. Anti-corruption coordination function and body				+
4. Specialised anti-corruption law-enforcement unit				+
Legislation and criminalisation of corruption				
5. Harmonisation of Criminal Code and Law on the Fight against Corruption (criminal and administrative offences and sanctions)				+
6. Introduce international standards, including elements of offence, level of sanction and statute of limitation				+
7. Harmonise concept of official				+
8. Criminalise international and foreign bribery				+
9. Mandatory confiscation of proceeds, value based confiscation and provisional measures				+
10. Criminalise non-reporting of corruption			+	
11. Immunity				+
12. Responsibility of legal persons for corruption		+		
13. Mutual legal assistance		+		
Transparency of Civil Service				
14. Anti-corruption training for officials			+	
15. Asset disclosure system				+
16. Code of conduct			+	
17. Protection of whistleblowers				+
18. Internal investigations		+		
19. Public procurement				+
20. Tax regulations				+
21. Cooperation with civil society and NGOs			+	
22. Access to information			+	
23. Money laundering			+	
24. Financial expertise for investigation of corruption and cooperation among financial control and law-enforcement bodies			+	

ANNEX I: LIST OF PARTICIPANTS TO THE ON-SITE VISIT ON 2-6 OCTOBER 2006

Leader of the team of examiners:

- Daniel Thelesklaf (Switzerland)

Team of examiners:

- Laura Stefan (Romania)
- Tina Burjaliani (Georgia)
- Julio Nabais (OECD)
- Joop Vroljik (OECD)

Secretariat:

- Olga Savran, OECD

Government bodies, other public bodies:

- National Council for Security and Defence
- Secretariat of the President
- Ministry of Interior
- Ministry of Justice
- National Security Service (SBU)
- Prosecutor General's Office
- Ministry of Economy
- Tender Chamber
- Main Civil Service Department
- Accounting Chamber
- State Tax Administration
- Customs Administration
- State Committee for Financial Monitoring (FIU)
- Main Control and Revision Department (KRU)
- Verhovna Rada (Parliament), Committee against Organised Crime and Corruption
- Ombudsman

Non-governmental organisations:

- Freedom House Ukraine
- Ukrainian Center for Economic and Political Studies named after Olexander Razumkov
- Center for Political and Legal Reforms
- Center for Independent Political Research
- Center for Social Expertise/Fund Social Perspective
- Instituted for Economic Research and Political Consultations
- International Center for Policy Studies
- Instituted for Competitive Society
- Ukrainian Investment Business Association
- Freedom Choice Coalition
- Media Production Center "Zakryta Zona"

International and foreign organisations:

- USA
- USAID
- Norway
- Canada
- Poland
- Romania
- OSCE
- Council of Europe
- UNDP

ANNEX II: EXCERPTS FROM RELEVANT LEGISLATION

List of Annexes

available on request