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**Crime Problems Department
Directorate General I –Legal Affairs**

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IMPLEMENTATION OF ANTI-CORRUPTION PLANS IN SOUTH-EASTERN EUROPE (PACO IMPACT)

**3rd REGIONAL THEMATIC SEMINAR
ON
ANTI-CORRUPTION SERVICES IN SEE AND ISSUES OF CONFLICT-OF-INTEREST LAWS**

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1 INTRODUCTION

The second regional thematic seminar of PACO Impact was organized in collaboration with the OECD and was structured in two parts. The first day was dedicated to a) stocktaking of progress made in the project areas since the first regional meeting in Skopje in April 2005 and b) discussing in the plenary and in breakout groups possible ways of establishing success indicators for anti-corruption agencies. The second day discussed recent developments with regard to project areas' conflict of interest legislation and policies. The Council of Europe, the OECD and the Serbian counterparts co-chaired the meeting on both days, while the main responsibility for the first part was with the Council of Europe and for the second part with the OECD.

2 ANTI-CORRUPTION SERVICES

2.1 Issues of concern

With reference to the first day, the following issues were thoroughly discussed:

a) Stocktaking of progress made in the project areas since the first regional meeting in Skopje in April 2005: issues of concern as well as status of certain reforms and policy issues were brought up and shared among participants from each project area. Peer review and recommendations were suggested from several participants from the region to each other. The details of the development in the respective progress areas will be reflected in a revised version of the booklet on 'Anti-corruption Services and Needs for Reforms in South-Eastern Europe'.

b) Discussing success indicators for Anti-corruption Services: The necessity for establishing success indicators for anti-corruption services and the methodological and practical difficulties to address this need are now widely acknowledged. Specialized agencies are faced – against the background of little or no improvement, or even a worsening in levels of corruption - with increasing pressures to demonstrate that the work and activities they are performing are meaningful and are having an impact on the corruption situation. For these reasons, the meeting aimed at initiating a discussion on the following topics:

- How can the success and impact of anti-corruption agencies be measured?
- How can the success and impact of anti-corruption policies be measured?
- How can the change in community attitudes be captured?
- What are *meaningful* indicators of success of anti-corruption agencies?
- What do stagnating or worsening statistics on corruption say about the efficiency of anti-corruption agencies?

Council of Europe expert Bertrand de Speville gave a panel presentation on possible ways of establishing performance indicators. The presentation drew the following conclusions:

- The performance indicators should comprise both quantitative and qualitative measures;
- The performance indicators should focus on the three elements of the national anticorruption strategy, namely enforcement, prevention and public education and support;

- Since one of the essential requirements of success is the investment of adequate resources, measurement should include the amount of financial resources committed to the fight against corruption as a proportion of national annual recurrent expenditure;
- The qualitative performance indicators should, by means of regular surveys, gauge the public's perception of the incidence of corruption, the public's personal attitude to corruption and the degree of public support for the anticorruption strategy and the anticorruption authorities;
- A start on collating the necessary statistics should be made at the outset;
- The initial survey should be done as soon as possible and should be repeated annually;
- The survey should be commissioned by the anticorruption body from an independent survey firm;
- The anticorruption body should determine the content of the survey questionnaire;
- At the outset the decision should be taken on whether to publicise the survey findings
- The statistical data should form part of the anticorruption body's annual report;
- A uniform approach to measurement by the project areas would assist each of them in the fight against corruption¹.

2.2 Case study exercise and findings from the working groups

Situation:

Imagine you are an international consulting firm. The government of country X, which is concerned by its low ratings in international corruption surveys (saying that corruption has reached endemic proportions i.e. is affecting all sectors of society) and which is subject to pressure from donors to do something about corruption, is contemplating to establish an anti-corruption agency to remedy this situation. The government hires you to help them set up the agency. It provides initial funding, but future funding will be dependent upon the agency proving that every program or activity they come up with is effective in reducing corruption in some way, and that the service has a range of programs targeting all serious forms of corruption.

Task: With the mandate and experience of your own AC Service in mind, what program goals and outcomes would you propose to the AC Service-to-be of country X in order to contribute to the overall objective of reducing corruption, and for each program, develop one or more indicators that would show whether the program was effective. Consider direct outputs, outcomes and objectives and outputs with indirect or proxy outcomes and objectives; what strategies would you employ to capture the indirect outcomes and objectives?

Participants received a short explanation of the terminology and concepts to be applied in the discussion and panel presentation to be made on the results of the discussion. In order to facilitate active reflection on the topic at hand, participants split into four groups to discuss the following case study

¹ A more detailed set of possible indicators had been submitted to participants prior to the meeting in form of a discussion paper.

As a result of this exercise, answers to the case study' objective settings and specific recommendations were prepared and presented by the working group members as a way of compilation of practices and answers in respond to these kind of analysis². It should be mentioned that the issue of analysing and assessing the "right success indicators" as an objective setting when elaborating

WORKING GROUP No. 1: Kosovo/UNMIK, Montenegro, and Serbia

Initially, participants were reluctant to discuss the case studies arguing that they need to know which country X i.e. they need the data on the corruption issues relevant for that country. Some of them also raised the issue why to link funding with effects of the work. At the end of preliminary discussions they went into theoretical analysis of the corruption phenomena. Finally they agreed to try proposing the program that may reduce the corruption having in mind they own work experience.

The following issues were discussed and identified:

- Need to research corruption properly in order to avoid traps of number of unrelated surveys not showing relevant/workable data that may assist in identifying/recognizing the risks/sources of corruption and subsequently adequate remedies to suppress corruption; and
- Public perception of the level of corruption/success in suppressing is determined by the number of prosecuted cases.

Agreement was reached that two above mentioned topics may be merged into one in the following manner:

1. Organize a massive public campaign to promote a hotline as a tool to report / complain about corruption. One possible indicator for that may be the number of reported cases. The data collected through the hotline, should/may also be useful for acquiring a correct/reliable perception of the "type" of corruption in that particular country in order to suppress it in the most efficient way/manner. That way flexibility/adaptability to the real needs/causes may be achieved leading to a greater success of the government in suppressing corruption.
2. Based on the data collected through hotline start working on the capacity building of police and judiciary aiming at their specialization through re-structuring, improvement/change of their status/legal framework, but also through training activities enabling them to use specialized knowledge needed to defy corruption. A possible indicator may be the number of cases processed. This should be publicized in order to have a steady flow of complaints and at the same time the increased public awareness of the phenomena and measures the government of the state X is undertaking against corruption. Through the process, additional changes/amendments regarding the functioning of the judiciary/police authorities (their mandate, funds, capacity etc.) may be undertaken so as to equip them better with the aim of performing their functions more efficiently.

WORKING GROUP No.2: Albania, Romania, Moldova and OECD

The WG, in the quality of the consulting firm, among different sectors they thought to tackle through the anti-corruption program such as: the health sector, the public procurement sector, the conflict of interest issue, the declaration of assets, the financing of political parties, etc. They decided, due to time constraints, to focus on the conflict of interest issue in conjunction with the declaration of assets.

² See, Activity Report, PC-TC (2005)xx

OVERALL OBJECTIVE: Reducing the phenomenon of conflict of interest through prevention

Objective 1: Co-ordinating the implementation of Conflict of Interest Law through an administrative body

Objective 2: Fostering awareness and understanding of Conflict of Interest through education

Output 1³: Review of the legal framework relevant to the Conflict of Interests

Outcome: Harmonization of the legislation with the Conflict of Interest law already in place, developing specific standards for Conflict of Interest in independent bodies (e.g. judiciary). [Short and medium term objective]

Output 2: Creation of an independent body vested with investigation powers

Outcome: Improvement of managing the problem of Conflict of Interests and addressing issues in the way forward [medium and long term objective]

Output 3: Providing guidelines on conflict of interest issue and the way declaration of assets should be filled.

Outcome: Enhancing awareness and understanding of public officials.

Output 4: Setting up of a coherent and comprehensive data base for the declaration of assets.

Outcome: Better management and case tracking of declaration of assets as well as organized statistical data [short, medium and long term].

Output 5: Public awareness and the publicizing the asset declarations of high-level officials.

Outcome: Increase transparency and aiming to minimize conflict of interest cases.

WORKING GROUP No.3: the "the Former Yugoslav Republic of Macedonia", SPAI/RSLO and OECD

Objective 1: Research corruption

Objective 2: Collect assets declarations

Objective 3: Receive reports and process reports

Objective 4: Investigate conflict of interest and public corruption and report

Objective 5: Collaboration with other Anti-corruption Units

³ The suggested outputs aim to reflect the overall objective and the specific objectives and also to make possible the impact (short term, medium term and long term one) in the reduction of Conflict of Interest phenomenon.

PROGRAMME 1

OVERALL OBJECTIVE: *Establishing the Anti-corruption Unit (in accordance with the Anti- corruption Law)*

- Output 1:** Ensure arrangements necessary for the implementation of Anti Corruption Law
- Output 2:** Set up premises/offices (necessary space available)
- Output 3:** People (hired and/or contracted)
- Output 4:** Equipment in place
- Output 5:** Action Plan developed⁴

PROGRAMME 2

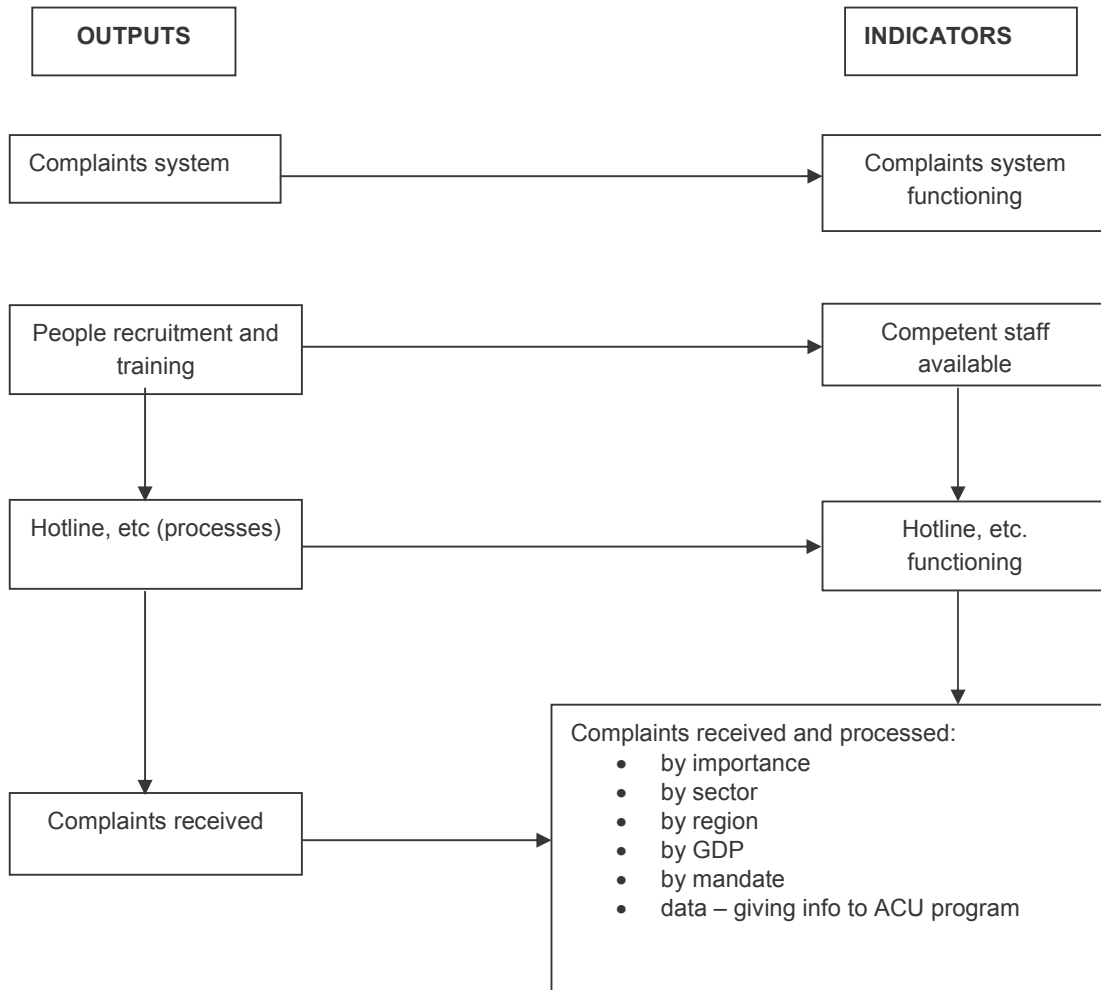
OVERALL OBJECTIVE: *Research corruption*



⁴ The indicator is the same as the output in each case. For simplicity only output is shown.

PROGRAMME 3

OVERALL OBJECTIVE: *Receive and process complaints*



2.3 Conclusions and lessons learned form the case study

The following general level conclusions and lessons learned can be drawn from the exercise:

- Participants clearly appreciated the possibility to do work in small groups and expressed their wish for more such technical level discussions during future events;
- Participants in general remarked that the time set aside for the exercise (1 hour 15 minutes) had been much too short for the task at hand;
- All four groups found it very difficult to engage in a discussion on a hypothetical case study, i.e. based not on their specific own country experience. [N.B. This had been a deliberate choice by the facilitators in order to avoid participants focusing too closely on what they are doing already and to avoid a defensive attitude];
- Not all participants seemed to be ready to embrace the rationale of the exercise;
- Facilitators understood that the task had probably been too ambitious;
- More time should have been spent on clarifying the key concepts and on setting the context in order to ease the discussion; and
- Discussion on the topic and progress and concrete results should be part of future PACO Impact activities.

3 IMPLEMENTATION OF CONFLICT OF INTEREST LAW

With reference to the second day which was dedicated to the OECD run aspects of implementation of conflict-of-interest laws, the aim of the discussions at this day were to provide a summary and review the effectiveness of policies, legal frameworks and implementation practices in SPAI⁵ countries. In particular it aimed at gathering evidence on progress made, mapping out areas and positions with a high potential for conflict of interest, and identifying suitable directions for supporting the implementation of conflict-of-interest laws and policies.

Furthermore, the seminar provided the participants with the unique opportunity to assess the effectiveness of conflict-of-interest measures in their own countries. Discussions also explored possible future steps for strengthening the implementation of conflict-of-interest laws and policies and monitoring progress in relation with the institutional and legal reforms undertaken within the framework of anti-corruption services in the region.

⁵ The Stability Pact Anti-Corruption Initiative (SPAI) was established in February 2000. The SPAI brings together Albania, Bosnia and Herzegovina, Croatia, the 'Former Yugoslav Republic of Macedonia', Moldova, Montenegro, Serbia, Romania and donor and international organisations, including the Organisation for Economic Co-operation and Development (OECD) and the Council of Europe.