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Description of the Operation

Russian Federation – Development of
legislative and other measures for the
prevention of corruption

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1 PROJECT BACKGROUND

1.1 Country situation and domestic legislation

According to various surveys, the people of Russia consider corruption to be one of the major problems. It appears that the corruption situation remains grave. At the same time the country's leadership recognises this problem and regards corruption as a major obstacle to further social and economic development of the country, a threat to democracy and national security, and demonstrates a firm intention to fight this problem in a pro-active manner.

Several attempts to improve the domestic legislation in the sphere of fight against corruption and preventive measures were made between 1999 and 2005, among them the three framework acts that were consecutively tabled in the State Duma: the draft federal law on Fight against Corruption, the draft federal law on Combating Corruption, the draft federal law on Fundamentals of Anti-Corruption Policy. However, none of these draft laws has gone further than the first reading.

Another recent piece of legislation that was successful is the Federal Law on State Civil Service of 27 July 2004 (No. 79-FZ) that contains a number of provisions for the prevention of corruption among public officials. However, the State Duma has subsequently voted down a Code of Conduct for Public Officials in March 2005. The perspective of adopting such document is still being discussed.

All in all the Russian legislation in its current state is regarded as non-systematic and fragmentary, demonstrating many gaps and loopholes and thus creating high risks of corruption in many areas.

1.2 International instruments

In 1999, the Russian Federation signed the Council of Europe Criminal Law Convention on Corruption, and in 2003 the United Nations Convention against Corruption. The process of ratification of these treaties is currently under way.

In March 2006 the Russian Federation ratified the UN Convention against Corruption. It is expected that a draft Federal Law ratifying the Council of Europe Criminal Law Convention on Corruption will be tabled in the Duma in the first half of 2006. Once this Convention is ratified, the Russian Federation will also become a member of the Group of States against Corruption (GRECO) and thus become a full member of a common European anti-corruption mechanism.

1.3 Institutions for the prevention of corruption

In April 2004, supported by the absolute majority of its members the State Duma established the Anti-corruption Commission. Its main tasks are as follows:

- to analyse the current and draft legislative acts for corruption opportunities they offer,
- to develop legislative and institutional measures that would facilitate the prevention and elimination of corruption,

- to participate in the control exercise of the State Duma provided by law through receiving complaints and other information from the public and through addressing on this basis inquiries to the respective government bodies.

The Commission consists of a Chairman and 14 deputies. It is assisted by a Council of experts that includes, along with renowned law academia, representatives from the Supreme Court, the Office of Prosecutor General, the Ministry of the Interior, other ministries and non-governmental organisations.

The Council of the President of the Russian Federation to Fight Corruption was established by decree No.1384 of 24 November 2003. This Council is a consultative body called upon to provide assistance to the President in identifying primary directions of state policy in the fight against corruption and its implementation.

The Decree also provided for the establishment of two Commissions under the auspices of the Council: an Anti-Corruption Commission and a Commission on the Conflict of Interest. The aim of the first Commission is to elaborate proposals for preventing and fighting corruption in the public bodies at the federal level, the level of the subjects of the Russian Federation and bodies of local self-government. The second Commission is called upon to consider situations when individual interests of persons holding public offices of the Russian Federation (except for the servicemen) and public servants, appointed to and dismissed from their posts by the President or the Government of the Russian Federation, can influence them in performing their official duties.

1.4 Project for Harmonisation of Russian Anti-Corruption Legislation with International Standards (2005)

In 2004, the Anti-Corruption Commission of the State Duma of the Federal Assembly of Russia approached the Policy Advice programme of the European Commission proposing to organise a joint project to support the implementation of the above mentioned legal instruments into Russian law. A policy advice Project “Harmonisation of Russian anti-Corruption Legislation with International Standards” was subsequently funded by European Commission (with co-funding from the Council of Europe) and implemented by the Council of Europe in 2005.

The implemented Project provided support to the Anti-Corruption Commission of the State Duma in the following three areas:

- examining in detail the current legislative framework, including the identification of needs for amendments or additional legislation,
- obtaining a detailed knowledge as to how the provisions of these Conventions have been implemented in other European countries,
- elaborating proposals to ensure the integration of such provisions into Russian legislation and thus to facilitate the ratification of both Conventions by the Russian Federation.

The legislative proposals that resulted from the Project activity refer to following:

- criminalisation of certain corruption offences,
- reintroduction of confiscation of criminally derived assets and revenues from such assets as a criminal sanction,
- updating certain legal definitions (particularly those of the domestic and foreign “public officials”),
- refining the use of special investigation means and thus improving the admissibility of evidence obtained through it,
- revising the procedure for lifting the judicial immunities,
- introducing the monitoring of operations of public officials with assets,

- enlarging legal provisions for international co-operation in the sphere of recovery of assets.

These proposals were handed over to the Chairman of the State Duma Anti-Corruption Commission and may later on be tabled in the Duma in order to support the ratification process.

Other proposals produced within the framework of the Project encompassed various recommendations of a more general nature concerning *inter alia* the following areas:

- formulation of a comprehensive corruption prevention policy and programmes of action,
- recommendations on specialised anti-corruption services,
- identifying the corruption risks created by legislation,
- adoption of a code of ethics for public officials,
- participation of the society.

2 NEEDS TO BE ADDRESSED

It should be indicated that, even with the ratification of the relevant UN and Council of Europe Conventions and the adoption of the draft laws prepared in 2005 implementing the provisions of the Conventions into the Russian criminal law, further steps will need to be taken to ensure effective implementation of these standards as well as to improve further the existing anti-corruption legislation.

The United Nations Convention against Corruption foresees a wide range of prevention measures. In this context and in accordance with Chapter II of UN Convention against Corruption the Russian Federation will be required to further improve the following mechanisms:

- minimising corruption among public servants (e.g. through training, promotion, social protection, adequate remuneration, codes of conduct etc.), with special attention to those positions which are considered particularly vulnerable,
- ensuring effective, transparent and competitive systems of public procurement and of awarding public contracts,
- ensuring efficient, transparent and accountable management of public finances,
- ensuring public information and reporting,
- strengthening the judicial integrity,
- preventing corruption in the private sector,
- involving the society in the prevention and fight against corruption.

With regard to prevention, the United Nations Convention against Corruption provides for the existence of a body or bodies that are capable of implementing preventive policies (Art. 5) or overseeing and coordinating implementation of those policies, as well as disseminating knowledge about the prevention of corruption. There is a need to assess whether existing bodies meet these requirements or whether new bodies will need to be created.

Experience and good practice from other countries need to be made available to Russia in this connection.

3 DESCRIPTION OF THE OPERATION

3.1 Project Partner

The Project partner will be the State Duma Anti-Corruption Commission.

3.2 Objectives, outputs and activities

Overall (programme) objective	The overall objective of the Project is to contribute to the effective implementation of the Council of Europe’s Criminal Law Convention on Corruption and the United Nations Convention against Corruption by the Russian Federation
Project objective	To support the State Duma Anti-Corruption Commission in the development of legislative and other measures aimed at the prevention of corruption
Output 1	Methodologies for assessing and preventing corruption risks in legislation are developed and tested in pilot areas of legislation (health, education and public procurement). Legislative proposals to reduce such risks in the indicated areas of legislation have been prepared.
Activity 1.1	Organise up to 2 workshops of Russian and international experts to analyse the methods and approaches for assessing and preventing corruption risks in legislation in Russia and other European countries
Activity 1.2	Organise up to 3 meetings of Russian and international experts in order to study the legislative provisions enforced in the Western Europe regulating health, education and public procurement with regard to preventing corruption and make comparative analysis with the provisions of the Russian law in the field, applying the relevant methodology
Activity 1.3	Elaborate and evaluate legislative proposals to strengthen the anti-corruption effort in the indicated areas of legislation
Output 2	Proposals for a national corruption prevention strategy (including legislative and institutional proposals) developed
Activity 2.1	Organise up to 2 meetings of Russian and international experts in order to study the experience of European countries in the sphere of development and functioning of the national anti-corruption strategies
Activity 2.2	Organise up to 2 meetings of Russian and international experts in order to study the experience of European countries in the sphere of creation and functioning of a specialised body responsible for the co-ordination of national efforts in the sphere of combating and prevention of corruption.
Activity 2.3	Organise 1 conference in Moscow or a regional capital with participation of a broad circle of specialists and representatives of the civil society to elaborate recommendations on the strategy and measures for corruption prevention
Activity 2.4	Elaborate and evaluate legislative proposals on the basis of the above recommendations for creating a national anti-corruption strategy
Output 3	The materials produced within the framework of the Project for Harmonisation of Russian Anti-Corruption Legislation with International Standards (2005) published and disseminated
Activity 3.1	Compile, edit, publish and distribute a brochure containing a selection of the best materials produced within the framework of Project for Harmonisation of Russian Anti-Corruption Legislation with International Standards (2005)

3.3 Expected results and methodology

The expected results are to include a set of recommendations, concepts, methodologies, legislative proposals that will be made available to the Project partner – the State Duma Anti-Corruption Commission – in order to permit the fulfilment by the Russian Federation of its obligations under the United Nations and Council of Europe anti-corruption Conventions.

Moreover, by introducing the issues in question through expert meetings and by holding workshops, the Project will assist members of the State Duma Anti-corruption Commission in sharing the international experience. This will provide them with additional tools that would help them design and implement anti-corruption policies and measures beyond legislative questions.

In particular, the method to be used will allow the experts to study and compare the best examples of international practice in the sphere of creation and functioning of a specialised body responsible for the co-ordination of national effort in combating and prevention of corruption and formulate on this basis specific recommendations for a possible line of action.

While the previous project concentrated on the punitive, re-active measures and prosecution of corruption, the proposed Project will concentrate primarily on the elaboration of preventive, pro-active measures against corruption.

3.4 Experts profiles

Project coordinator

12 work months, based in Strasbourg. Responsible for the day-to-day organisation of activities, compilation of Project documentation and reports and communication with Project counterparts in the Russian Federation. Proficiency in Russian language, legal background and experience in project management is required.

Other experts

Up to 12 (twelve) short-term experts in various fields related to corruption prevention, namely:

- legislation and risk assessment, law-drafting techniques,
- public administration and its reform, prevention of corruption on local and national levels, good governance, conflict of interest, management of public funds,
- role of civil society in corruption prevention,
- development of corruption prevention policies and strategies, monitoring of their implementation, distribution of tasks and competences.

Up to 200 work days in total over a period of 12 months.

It is proposed that at least half of this team of experts is comprised of Russian nationals, who work in tandem with international experts.

4 LOCATION AND DURATION

4.1 Starting date

The Project is scheduled to start in June 2006.

4.2 Completion date

The Project duration shall not exceed 12 months, from the date of receipt of the first instalment under this Project by the Council of Europe.

4.3 Location

Moscow, Russian Federation.

5 REPORTING

An Inception report within one month after the beginning of the Project. The inception report will contain a detailed workplan and the names of proposed experts. In its elaboration the Logical Framework Approach shall be followed linking the project objectives to expected results and the activities needed in order to achieve the results. The inception report will outline the management structure of the Project, clearly describing the responsibilities of the main players as well as the decision-making process and information flow between the Project participants.

- monthly activity reports will be submitted the first day of each month. These brief reports (one page) will summarise the activities implemented in the preceding month and the activity planned for the next two months.
- quarterly Progress reports will be submitted every three months. These reports will list in more detail the activities undertaken, and assess the progress towards achievement of Project objectives. This update will stress particularly the achievement of results.
- a Final report will be prepared at the end of the Project. The final report will follow the Inception report format and include an in-depth assessment of the project implementation, results and level of achievement of the objectives.

Meetings between representatives of the Project Partner and the Project Co-ordinator, or Commission Delegation shall be organised as frequently as necessary.

Reports produced in this project will be submitted by the Council of Europe to the European Commission with copies to the Project Partner, the EC Delegation in Moscow, the National Co-ordinating Unit, and the Tacis Monitoring team. The Inception, Progress and Final reports will be prepared in Russian and in English.

The reports shall be submitted in hard copy and electronic format (as a single Word file). In addition to the above formal reports, the Council of Europe shall provide such information on project progress as is reasonably required by the European Commission, and shall regularly inform the Commission of political, economic or institutional developments of relevance to the project. The Council of Europe shall in particular provide the European Commission electronic and hard copies of:

- proposals and other materials prepared under this project,
- reports of short-term specialists.

No report or document shall be distributed to third parties prior to the approval by the European Commission. The Council of Europe shall pay particular attention to the confidentiality of data. Reports, as well as press statements made by the Council of Europe will make clear that any opinions expressed therein do not represent the opinion of the European Commission.

Reports should be submitted to the Policy Advice programme at the Delegation of the European Commission in Moscow.

6 RELATIONS WITH OTHER EUROPEAN UNION INITIATIVES AND COORDINATION WITH OTHER DONORS

The proposed Project will coordinate with related Tacis and other donor projects in the Russian Federation including works to counter corrupt practices, and in adjacent policy fields. Cooperation will in particular be sought with the United Nations Office on Drugs and Crime.

Coordination will also be sought with EC funded projects touching upon questions of transparency of transactions/competition policies, administrative reforms as well as money laundering.

7 CONTACT PERSONS

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LOGICAL FRAMEWORK

	Intervention Logic	Performance Indicators	Sources of Verification	Assumptions
Programme Objective	The overall objective of the project is to contribute to the effective implementation of the Council of Europe’s Criminal Law Convention on Corruption and the United Nations Convention against Corruption by the Russian Federation			
Project Objective	To support the State Duma Anti-Corruption Commission in the development of legislative and other measures aimed at the prevention of corruption			The proposed measures and legislation are accepted and supported by the relevant national stakeholders.
Output 1	Methodologies for assessing and preventing corruption risks in legislation are developed and tested in pilot areas of legislation (health, education and public procurement). Legislative proposals to reduce such risks in the indicated areas of legislation have been prepared.	<p>By month 9:</p> <ul style="list-style-type: none"> methodologies examined, proposals for their application made <p>By month 11:</p> <ul style="list-style-type: none"> detailed analysis of 3 relevant legislation areas available. <p>By month 12:</p> <ul style="list-style-type: none"> draft laws improving the relevant legislation areas available. 	<p>Activity reports. Expert reports. Analytical reports. Concept papers. Draft laws.</p>	The proposed amendments are accepted and supported by the State Duma Anti-Corruption Commission and subsequently applied in practice.
Activity 1.1	Organise up to 2 workshops for experts to analyse the methods and approaches for assessing and preventing corruption risks in legislation in Russia and other European countries.			
Activity 1.2	Organise up to 3 meetings of Russian and international experts in Moscow in order to study the legislative provisions enforced in Western Europe regulating health, education and public procurement with			

	regards to preventing corruption and make comparative analysis with the provisions of the Russian law in the field, applying the relevant methodology.			
Activity 1.3	Elaborate and evaluate legislative proposals to strengthen the anti-corruption effort in the indicated areas of legislation.			
Output 2	Proposals for a national corruption prevention strategy (including legislative and institutional proposals) developed.	By month 8: • conference held, recommendations elaborated. By month 12: • legislative and institutional concepts and proposals available.	Activity reports. Expert reports. Comparative studies. Concept papers.	The concepts and proposals developed under this project are adopted by the State Duma Anti-Corruption Commission and submitted to the Duma for adoption.
Activity 2.1	Organise up to 2 meetings of Russian and international experts in order to study the experience of European countries in the sphere of development and functioning of the national anti-corruption strategies.			
Activity 2.2	Organise up to 2 meetings of Russian and international experts in order to study the experience of European countries in the sphere of creation and functioning of a specialised body responsible for the co-ordination of national efforts in the sphere of combating and prevention of corruption.			
Activity 2.3	Organise 1 conference in Moscow or a regional capital with participation of a broad circle of specialists and representatives of the civil society to elaborate recommendations on the strategy and measures for			

	corruption prevention.			
Activity 2.4	Elaborate and evaluate legislative proposals on the basis of the above recommendations for creating a national anti-corruption strategy.			
Output 3	The materials produced within the framework of the Project for Harmonisation of Russian Anti-Corruption Legislation with International Standards (2005) published and disseminated.	By month 7: <ul style="list-style-type: none"> • publication planned, compiled, edited, produced, printed and distributed. 	Brochure. Publisher's invoices. Confirmation of receipt by addressees.	The publication and dissemination of these materials will further support the process of legislative and institutional anti-corruption reforms in the Russian Federation
Activity 3.1	Compile, edit, publish and distribute a brochure containing a selection of the materials produced within the framework of Project for Harmonisation of Russian Anti-Corruption Legislation with International Standards (2005).			