

ANTI-CORRUPTION POLICIES AND INSTITUTIONS

Anti-corruption strategies and action plans

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

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

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

Box . Anti-Corruption Programme of Lithuania

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

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

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

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

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

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

8.1. Strategic provisions

8.2. Public involvement in anti-corruption education

9. Implementation of the programme

10. Implementation plan for 2006-2007

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

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

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

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

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

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

Table . Anti-Corruption Policies and Action Plans

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

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

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

Research on corruption and statistical data

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

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

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

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

Table . TI ratings

| | CPI 2007 | | CPI 2003 | |
|------------|--------------|-------|--------------|-------|
| | Country Rank | Score | Country Rank | Score |
| Armenia | 99 | 3.0 | 78 | 3.0 |
| Azerbaijan | 150 | 2.1 | 124 | 1.8 |
| Georgia | 79 | 3.4 | 124 | 1.8 |
| Kazakhstan | 150 | 2.1 | 100 | 2.4 |
| Kyrgyzstan | 150 | 2.1 | 118 | 2.1 |
| Russia | 143 | 2.3 | 86 | 2.7 |
| Tajikistan | 150 | 2.1 | 124 | 1.8 |
| Ukraine | 118 | 2.7 | 106 | 2.3 |

1. Country rank out of 179 countries covered by the survey.
2. Higher score indicates “cleaner” country, and lower score indicates “more corrupt” country
3. Country rank out of 133 countries covered by the survey.
4. Same as note 2 above.

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

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

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

Some governments took steps to improve statistical analysis. For instance, the Armenian Anti-Corruption Monitoring Commission adopted a framework for statistical reporting of 59 corruption-related offences². Government of Tadjikistan approved regulations on statistical reporting of corruption crimes, which included 42 offences. In Kazakhstan, a special department in the Prosecutor General's office is responsible for collecting and processing data about various offences, including those related to corruption. However, further work is needed to produce reliable and meaningful statistical data on corruption-related offences, to show trends of corruption-related criminality and effectiveness of the law-enforcement over periods of time.

Public participation in anti-corruption policy

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

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

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

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

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

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

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

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

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

Raising public awareness and public education about corruption

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

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

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

Anti-corruption institutions: Corruption prevention bodies and law-enforcement bodies³

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

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

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

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

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

Institutions with responsibility for preventing corruption

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

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

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

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

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

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

Institutions responsible for combating corruption through law enforcement

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

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

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

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

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

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

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

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

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

Table . Specialised Anti-Corruption Institutions

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

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

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

Ratification of international anti-corruption conventions

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

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

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

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

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

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

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

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

Conclusions

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

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

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

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

NOTES

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

TABLE OF CONTENTS

| | |
|---|----|
| EXECUTIVE SUMMARY | 9 |
| Corruption in Eastern Europe and Central Asia | 9 |
| Anti-corruption policies and institutions | 9 |
| Criminalisation of corruption..... | 11 |
| Prevention of corruption | 13 |
| CORRUPTION IN EASTERN EUROPE AND CENTRAL ASIA | 15 |
| Level of corruption in the region | 15 |
| Political will to fight corruption..... | 16 |
| Evidence that change is possible | 17 |
| ANTI-CORRUPTION POLICIES AND INSTITUTIONS | 19 |
| Anti-corruption strategies and action plans | 19 |
| Research on corruption and statistical data..... | 23 |
| Public participation in anti-corruption policy | 25 |
| Raising public awareness and public education about corruption | 27 |
| Anti-corruption institutions: Corruption prevention bodies and law- enforcement bodies | 28 |
| Institutions with responsibility for preventing corruption..... | 29 |
| Institutions responsible for combating corruption through law enforcement..... | 30 |
| Ratification of international anti-corruption conventions..... | 35 |
| Conclusions..... | 37 |
| CRIMINALISATION OF CORRUPTION | 41 |
| Clarification and harmonisation of national anti-corruption legislation... | 42 |
| Elements of the offence | 43 |
| Bribery and other corruption-related offences | 43 |
| Offer, promise and solicitation of a bribe | 43 |
| Non-material benefits..... | 45 |
| Definition of official | 46 |
| Active bribery of foreign public officials..... | 47 |
| Bribery through intermediaries and for the benefit of a third person.... | 48 |
| Trading in influence | 48 |

| | |
|---|-----------|
| Sanctions and confiscation..... | 49 |
| Mandatory confiscation of tools and proceeds, provisional measures .. | 49 |
| Proportionate and dissuasive sanctions for active bribery | 51 |
| Immunity and statute of limitations | 52 |
| Who is granted immunity, types of immunity and criteria to lift immunity | 52 |
| Statute of limitations | 53 |
| International co-operation and mutual legal assistance | 54 |
| Responsibility of legal persons for corruption..... | 55 |
| Anti-money laundering legislation and institutions..... | 55 |
| Corruption in the private sector | 57 |
| Nexus between organised crime and corruption..... | 57 |
| Conclusions..... | 59 |
| MEASURES TO PREVENT CORRUPTION..... | 63 |
| Integrity in public service | 63 |
| Merit-based and competitive recruitment | 64 |
| Conflict of interest regulations..... | 64 |
| Codes of ethics, practical guides and training on corruption | 65 |
| Declaration of assets and gift regulations | 66 |
| Internal investigations and disciplinary measures..... | 70 |
| Requirements to report corruption and protection of whistleblowers... | 71 |
| Improving regulatory frameworks to limit incentives and opportunities for corruption | 72 |
| Liberalisation and administrative simplification of business environments | 72 |
| Anti-corruption measures in sectors with high corruption risk | 73 |
| Preventing and prosecuting corruption in public procurement | 75 |
| Financial control | 76 |
| Access to information | 77 |
| Political corruption | 78 |
| Conclusions..... | 79 |
| ROLE OF OECD ANTI-CORRUPTION NETWORK IN FIGHTING CORRUPTION IN EASTERN EUROPE AND CENTRAL ASIA | 83 |
| Anti-Corruption Network for Eastern Europe and Central Asia (ACN) .. | 83 |
| Istanbul Anti-Corruption Action Plan..... | 84 |
| Peer review and monitoring..... | 86 |
| Future regional anti-corruption activities..... | 92 |
| Conclusions..... | 94 |

Tables

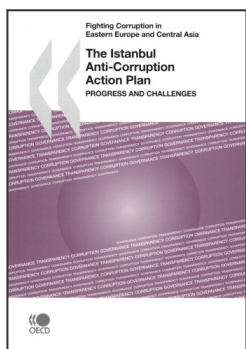
| | | |
|-----------|---|----|
| Table 1. | Anti-Corruption Policies and Action Plans | 22 |
| Table 2. | TI ratings | 24 |
| Table 3. | Specialised Anti-Corruption Institutions..... | 32 |
| Table 4. | Signature/Ratification status of international anti-corruption conventions..... | 36 |
| Table 5. | Non-material benefits..... | 45 |
| Table 6. | Criminalisation of foreign bribery..... | 47 |
| Table 7. | Sanctions for active and passive bribery | 51 |
| Table 8. | Pillar II Criminalisation of Corruption Summary Table | 58 |
| Table 9. | Asset declaration systems..... | 67 |
| Table 10. | Voluntary contributions and other support of the Istanbul Action Plan, 2003-2007 | 85 |

Figures

| | | |
|-----------|--|----|
| Figure 1. | Demands for corruption by region | 16 |
| Figure 2. | Istanbul Action Plan..... | 88 |

Boxes

| | | |
|-------|---|----|
| Box . | Anti-Corruption Programme of Lithuania..... | 20 |
| Box . | Overlapping anti-corruption, criminal and administrative laws in Ukraine | 43 |
| Box . | Definitions of public officials in Kazakhstan..... | 46 |
| Box . | Siemens: EUR 1+200 million | 50 |
| Box . | Regulations on gifts in Armenia..... | 70 |
| Box . | Who is a whistleblower? | 72 |



From:
The Istanbul Anti-Corruption Action Plan
Progress and Challenges

Access the complete publication at:
<https://doi.org/10.1787/9789264055094-en>

Please cite this chapter as:

OECD (2008), "Anti-Corruption Policies and Institutions", in *The Istanbul Anti-Corruption Action Plan: Progress and Challenges*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264055094-4-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.