



United Nations Development Programme
Regional Bureau for Europe and the CIS
Regional Support Centre in Bratislava
in co-operation with the Open Society Institute, Budapest

Policy Brief

"Fighting Corruption in Post-Communist States
- Lessons from Practice"

PREFACE

Corruption is generally viewed as a scourge of post-communist economies and polities. A vast literature has not surprisingly appeared on the causes and nature of corruption in the countries of Eastern Europe and the Commonwealth of Independent States. Much of this literature has focused on the economics of corruption - with particular emphasis on the problems of rent-seeking, as well as organised and unorganised crime. Non-transparent privatisation, the inadequate liberalisation of prices and commerce, and underdeveloped legal and regulatory systems, have all come in for their share of criticism. By contrast, the anti-corruption dimension of reforms of public administration bodies, as well as of parliaments and ombudsman institutions, has received relatively little attention. This is unfortunate, since a growing number of post-communist governments have adopted anti-corruption campaigns that have explicitly targeted corruption in these areas.

This study, authored by Tony Verheijen and Tomasz Anusiewicz of the United Nations Development Programme's Regional Support Centre in Bratislava (in cooperation with Irakli Rekhviashvili of the Open Society Institute's Local Governance and Public Service Reform Initiative in Budapest) fills this gap. It analyses and compares the anti-corruption measures actually adopted in a number of post-communist states, including Poland, Slovakia, Bulgaria, Lithuania, and Georgia. In contrasting the different anti-corruption measures taken in these countries, the study suggests some important directions for future policy initiatives. It also makes some recommendations about more- and less-preferred anti-corruption approaches, depending on the specific circumstances holding in a given country.

We believe that this study - which is a product of UNDP's on-going anti-corruption work - constitutes an important addition to the literature on corruption in post-communist countries. We hope that it will be of use to policy makers and observers both within and outside the region.



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INTRODUCTION

Corruption in Central and Eastern Europe has traditionally been regarded as a fact of life, a generally petty affair. In recent years, however, perceptions of this phenomenon have shifted radically. As the implications of widespread corruption for economic development have become more apparent, the focus of analysis and policy has shifted away from petty daily corruption toward analysis of state capture mechanisms and growth of high level political corruption.

"Guilt about public misbehaviors is relatively recent phenomenon, at least the guilt that denies and hides such behavior (...) Otherwise, offensive behavior by public officials had long been taken for granted, so much assumed that little systematic study was given to it, not even when its occurrence was particularly scandalous or its consequences especially disastrous. (...) What was the purpose of seeking and retaining public office, if not for personal gain?" (*Caiden, in Caiden, Dwivedi, Jabbra 2001*, pp. 15-16)

After years of intensifying discussions, and by the time of the first governmental declarations, a growing number of UNDP, OECD, and World Bank studies have appeared. Transparency International's Corruption Perception Index has helped standardize assessments of the scale of corruption- even if the index itself is far from generally accepted. As a result, awareness about the nature and consequences of corruption has grown within governments, civil society organizations, and the private sector. The development of the free media in most Central and East European countries has also contributed to this growing awareness. One can even speak of the danger of exaggerated social sensitivity and concerns about corruption generated by extensive media coverage of the issue. Work done by the international community, namely the World Bank, OECD, UNDP, TI, ABA/CEELI, and USAID in last few years, and the publication of pioneering handbooks on the subject, have helped identify and popularize basic tools for fighting corruption. There have been growing pressures on governments from international donors (in particular from the European Union on accession countries) to take stringent measures against domestic corruption. The international community is currently supporting the drafting of the UN Convention against Corruption, which will further the work done by the OECD anti-bribery convention. The OECD convention has proved to be a valuable tool in pressuring governments and law makers into effectively fighting corruption in their countries through the use of new legal instruments.

¹ These include Georgian President Eduard Shevardnadze's statement on "The Guidelines for the National Anti-Corruption Programme," which acknowledged that "recovery of our country from this dreadful illness constraining our national energy has become one of the main tasks of my life and public work". The World Bank report "Corruption in Slovakia" has recently been launched by Mikulas Dzurinda, Prime Minister of Slovakia (www.government.gov.sk/bojprotikorupcji/).



However, with very few exceptions government declarations and strategies, as well as international instruments and pressures seem to have failed so far to deliver dramatic change. The main reasons generally given for this are lack of political will, lack of know-how, weak representative institutions, broad lack of coordination, and the lack of cooperation with civil society.

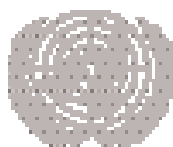
BOX 1: OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

The Convention, which went into effect on 15 February 1999, criminalizes the offer, promise, or giving of a bribe to a foreign public official in international business deals. According to a May 2001 report, ratification of the Convention had nearly been completed two years after its entry into force: 32 of the original 34 signatories had deposited instruments of ratification. In Central and Eastern Europe, the Czech Republic, Hungary, Poland, and Slovakia well as non-OECD members Bulgaria and Slovenia - had ratified the Convention.

The Convention's enforcement mechanisms-monitoring and peer pressure-make it one of the most effective tools in combating international bribery and corruption. In April 1999, the OECD Working Group on Bribery began to systematically monitor and promote the Convention's full implementation. So far the 28 countries that have passed implementing legislation have been assessed as in conformity with the Convention. The monitoring process confirmed that, in the great majority of countries reviewed, the national legislation implementing the Convention met the Convention's standards. Several countries have adopted, or taken steps to introduce to Parliament, amendments to their legislation addressing the issues raised in examinations. The Convention's success has attracted increasing attention from non-member countries interested in associating themselves with OECD efforts.

Following ratification in June 1998, the Bulgarian parliament implemented related legislation, including the definition of 'foreign public official', in January 1999. The text of the Convention was published in the Official State Gazette in July of that year, and is now considered part of the domestic legislation. In 2000, Parliament adopted amendments to the Penal Code relating to the criminalization of "offering" and "promising" a bribe as well as the abolition of the concept of "provocation" as a defense. In February 2001 the government submitted a draft amendment to the Penal Code that included non-material gains in the scope of bribery. In April 2001 Bulgaria ratified the Council of Europe's Criminal Law Convention on Corruption as well.

In Poland, the implementing legislation entered into force in February 2001. The most important elements of the implementing act are the criminalisation of active and passive bribery of foreign public officials, the administrative responsibility of legal persons, and the exclusion from public tenders of companies having been found to have committed bribery. In Slovakia the implementing legislation includes amendments to the Penal Code that came into force in November 1999, July 2001, and more changes are in preparation for 2002. (OECD)



UNDP-RBEC, together with the OECD, OSI, ABA/CEELI, and other organizations, has started a practical review of the implementation of the region's ongoing anti-corruption initiatives. The goal is to recognize their strengths and weaknesses, evaluate the results, and present practical solutions that have worked for decision-makers and practitioners in the region and beyond.

Two important events that have provided inputs for this policy brief were the workshop "Fighting Corruption - Practical Examples", held on 6-7 September 2001 in Vilnius, and the 10th International Anti-Corruption Conference held in Prague from 7-11 October 2001, where a draft of this paper was presented for comments. The Vilnius workshop was hosted by the Lithuanian Government, Special Investigations Service (SIS), with presentations of cases of Croatia, Georgia, Kazakhstan, Lithuania, Slovakia and participation of experts from several other countries and organizations. The listed countries, whatever we can say about the relative progress and different local environment, are in the forefront of anti-corruption activities in their respective sub-regions. The 10th International Anti-Corruption Conference brought together a worldwide audience of practitioners and experts to discuss the state of play in the global fight against corruption. A special workshop on Central and Eastern European and NIS states was held during the conference.

General Assessment

The record of anti-corruption strategies in the CEE and CIS region is a very mixed picture of failure and success. On the one hand, this region has witnessed a lot of talk about the fight against corruption, but the results remain few and far between. There has been a long list of declarations, initiatives, action plans, coordination efforts, while numerous conferences, reports, and bodies have been established and dissolved. This has strengthened prevalent social attitudes of helplessness and cynicism regarding the outcome of such activities. On the other hand, there are several examples of well-developed national anti-corruption programs (in Croatia, Georgia, Lithuania, Slovakia-see national Programme references). Active national coalitions to fight corruption have been created in some countries (Bulgaria, Poland), and specialized enforcement bodies have been established (e.g., Lithuania's SIS). However, while these states in some respects represent the best cases in the region, even here the situation is often far from good.

Key Weaknesses

Despite the large number of studies that have appeared in recent years, there is a continued lack of in-depth diagnostic analyses concerning the nature of corruption and its extreme variance in the region. Measures such as the Corruption Perception Index do not distinguish between the cause and nature of corruption and often give a false picture of the situation. In their recent study "A Culture of Corruption?", Miller et al (2001) indicate that the real situation is probably worse than reported in states with a low ranking (at the top of the TI-published list), and better than reported in states with the high ranking (at the bottom of the list), while indices often give an excessively bleak picture.



BOX 2: Not So Bleak a Picture?

Assessments of corruption that rely solely on perceptions can be misleading, since reality can differ dramatically from perceptions. Perceptions of high-level corruption are widespread and irritate citizens everywhere, but although the need to offer presents and bribes is widely discussed, their incidence is often much less frequent than gossip, hearsay, and perceptions would indicate. In some countries corruption is hardly significant in actual bureaucratic practice even though the media coverage of high-level politicians constantly inspire the public's imagination. Public perceptions of politicians have been shown to differ according to income levels and geography (Miller 2001).

Only recently researchers in Latvia discovered that public perceptions of corruption are twice as strong as the actual number of documented cases. Ms. Inese Voika, the President of Transparency International in Latvia said during her briefing at RFE/RL's office in Washington on April 2001, that there is a wide "gap" between how corrupt Latvia actually is, and how corrupt Latvians think it is. There is a variety of reasons for the existence of this gap, but media reports that lead the public to conclude that everything is corrupt and that nothing can be done seem to be responsible for part of it. Similar assumptions can be found in the analyses of Transparency International Slovakia.

"Uncivil society" and weak government commitment are generally viewed as key causes of the limited success in anti-corruption efforts to date. Most civil societies in the region can be characterized by a lack of respect for the law inherited from centuries of foreign occupation or domination (Ottoman, Tzarist Russia), imperial bureaucratic structures (Austro-Hungarian), and decades of communism (Verheijen and Dimitrova, 1996). Previous and current economic complexities combined with traditional clan structures have contributed to the widespread perception that corruption is daily fact of life from which "everybody benefits" and is therefore "not a crime, as there are no victims". Moreover, these societies have weak traditions of self-organization and participation in governance processes. An example of this are NGOs, which in many countries are weak, dependent on foreign funds, and are of questionable representativeness. As such, their legitimacy and ability to represent their societies (SPAI, CoE) is often open to question. These problems also apply to the business community.

Most governments' commitment to fighting corruption does not extend beyond their rhetoric, despite the losses corruption brings to national economies and to state capacity. Government officials understand too well the enormous opportunities presented by using their position for private gain-particularly in the context of transition, with all its constant changes, unclear division of responsibilities, and gaps in the legal system. Therefore, adopted anti-corruption strategies in many states often fail to be implemented. The long time periods needed to introduce significant changes in attitudes also play an important role. It is not realistic to expect widespread social change to occur on the basis of rudimentary consciousness-raising campaigns.



BOX 3: Public Awareness Campaigns in Slovakia and Poland

Transparency International Slovakia is running an anti-corruption campaign on public Slovak Television (technically accessible to 99% of the population). TIS produced ten educational programmes for the general public of 26 minutes in length for a total length of 260 minutes that were aired on STV 1 during prime time and repeated several times after. Citizens from all over Slovakia wrote to TIS describing their experiences with corruption and proposed changes in legislation. These programs seem to have had a significant impact on public perceptions of corruption and anti-corruption tools. TIS also runs an anti-corruption campaign on Twist Radio (a nation-wide private radio network). This campaign consists of 10 programs focusing on corruption in different public sectors, including health care and education. There are many call-ins by listeners who discuss their experiences and options in fighting corruption. Recorded programs are available at the TIS web site www.transparency.sk (Zemanovicova/Sicakova)

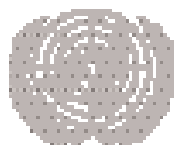
The "Against Corruption" Programme (in Poland) in co-operation with the Social Communication Foundation launched an educational campaign in the media in July 2000. The aim of the campaign was to raise social awareness about the importance of corruption and the need to combat it through individual initiative. The campaign made diverse use of the media, including billboards, so-called "city lights", radio and TV advertisements, post-cards, and press publications. Approximately 200 billboards and 170 citylights were posted in key Polish cities in July and August. For a week, eight hours daily, vehicles with the campaign's posters could be seen in the main cities. Several outdoor firms donated large billboard surfaces free of charge in support of the campaign. Another company printed and distributed free of charge over 45,000 postcards, which were placed in cinemas, theatres, and restaurants in major Polish cities. The postcards contained brief summaries of the "Against Corruption Program" and encouraged readers to participate. The Program also distributed 2500 postcards to local newspapers and non-governmental organizations. Information about the Program and the media campaign, as well as research results and related publications, can be found at its website www.przeciw-korupcji.org.pl. (Against Corruption Programme/Kopinska).

It took decades to change entrenched corrupted practices in states such as the US and the UK in the early twentieth century. Instead of expecting Central and East European countries to address corruption in six months or to fully implement national programs in a few years, a deeper and more sophisticated (although slower and requiring more patience) approach on the part of international organizations and donors is likely to bring about better results.

Rarely-told Success Stories

There is the widespread belief anti-corruption success stories in the region do not exist. A few promising initiatives are seen as having quickly died out, boosting public cynicism. But various anti-corruption fora convened in 2001 (Istanbul, Paris, Vilnius, Cavtat; OECD, SPAI, CoE) have documented a number of successful initiatives.

Major think tanks, academics, media, and, less frequently, trade unions in many states have turned away from non-constructive criticism and are increasingly forming coalitions to pursue or support anti-corruption initiatives. Such civil society coalitions advocate and lobby



for structured and at times institutionalized strategies to combat corruption. They undertake educational activities, assist in assessment and drafting of legislation, and participate in the monitoring of privatization and procurement procedures. Prominent examples of such coalitions (SPAI, CoE), are found in Albania (hundreds of NGOs formed Albanian Coalition against Corruption), Bulgaria (Coalition 2000), Poland ("Against Corruption" Programme), and Romania (Public Integrity Initiative).

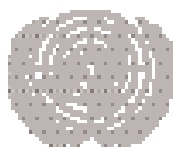
These initiatives - in concert with government decisions and encouragement and support from the international community (e.g., EU accession process, Transparency International global network development, Stability Pact, GRECO, Anti-Corruption Network for Transition Economies in Europe) - are helping to craft sound national strategies, programs, and action plans for combating corruption in the majority of countries in the region. These strategies range from the very broad and declarative to the extremely detailed. Perhaps the best examples of these strategies are found in Croatia, Georgia, Lithuania, and Slovakia. Of course, such strategies are only important in those countries where they are being implemented, even at a slow pace.

Law enforcement bodies and legal tools have played a major role in these initiatives. Law enforcement agencies are strengthened, special police units created, and penal and related procedural codes are toughened (see Box 1). The Bulgarian National Office to Fight Organized Crime and Corruption, and the Section to Fight Corruption in the regional police headquarters in Katowice, Poland, constitute examples of this approach. Unfortunately, police repression by itself is not a long-term solution to fighting corruption, due to difficulties in providing evidence, lengthy court proceedings, and a lack of legal protection for whistleblowers. Most importantly, this approach does not affect the root causes of corruption. The Section in Katowice (mentioned above) has itself recently been investigated for alleged corruption.

The most reasonable approach therefore emphasizes review and improvement of legislation in order to eliminate gaps and unnecessary regulations that spawn corruption, increasing transparency in such key areas as procurement, conflict of interest regulations, financing political parties, and free access to information. Since the region long suffered from limited access to information under the previous system, passage of freedom of information laws are seen as key to anti-corruption activities. A civil society initiative on behalf of the so-called "infozakon" in Slovakia resulted in the adoption of the Freedom of Information Act, which went into effect on 1 January 2001. The Slovak Freedom of Information Act shows how concerted civil society pressure can lead to the adoption of laws that significantly increase transparency and reduce the scope for corruption. But the law's implementation process also shows the strength of administrative resistance, and how much still remains to be done.

Pressure from civil society, supported by the EU-accession drive in Poland, resulted in the adoption of a similar act in 2001. In practice, however, this act has not had much significance for Poland's existing legal framework, which already has a personal data protection act and non-public information protection act. One month earlier a similar law was adopted in Bosnia and Herzegovina. In Bulgaria and the Czech Republic, the implementation of adopted legislation has just started. For Croatia, Montenegro, and Romania, drafting such a law is a current priority. Freedom of the internet is also becoming a concern, due to the expansion of electronic censorship in the Central Asian states (Press Freedom Survey 2000).

Although training of public officials, public information campaigns, and the introduction of citizen information services in most government offices have accompanied the above



efforts, the road to transparency seems to be painful. This is partly due to resistance from administrative agencies, but also reflects a lack of administrative capacity to handle information requests. Reform, training, introducing ethics codes, long-term job stability, and political independence for civil service in any country (e.g. Poland, advanced, and Slovakia, in process) can contribute curbing corruption.

BOX 4: Kazakhstan's Civil Service Agency

Two levels of corruption have been identified within Kazakhstan's civil service. The first one includes the bribes that low- and mid-level officials take as a result of extremely low salaries, vague administrative procedures, and acquiescence or support of their supervisors. The second level occurs at the top and medium echelons of power, where illegal commissions are paid for concluding contracts, issuing permits for banking operations with budgetary funds, or for providing credits, preferential export quotas, licenses, certification, and appointment to high-paid positions. The level of corruption in the police viewed as being highest among all civil servants. The public procurement system is also widely viewed as being thoroughly afflicted by corruption. Many tenders are carried out in violation of proper procedures, or are biased and garbled.

During the past three years the government of Kazakhstan has been undertaking systematic anti-corruption actions. Attempts to toughen control over officials and introduce appropriate legislative amendments do not directly affect the causes of corruption and, consequently, have not achieved the desired results. The Civil Service Agency has therefore initiated a pioneering program featuring the introduction of a computerized human resources information system, recruitment and testing procedures with numeric codes, a telephone hot line for citizens and the media, and expanded international experience exchanges. Free foreign-language courses, merit-based evaluation of performance, and regional disciplinary councils have been introduced. Out of 1501 cases, 160 resulted in sanctions.

Some countries have tried to tackle the issue of corruption by targeting certain sectors of administration (for example, customs in Bulgaria). Public administration reforms can be instrumental in changing outdated structures, opaque regulations, and inadequate working conditions and ethics. The Kazakhstani Agency for Civil Service has introduced a long-term program to improve the country's administration, which includes the establishment of a special anti-corruption department to focus on mainstreaming anti-corruption policies and preventing corruption by careful recruitment and intensive training. The Kazakhstani approach to fighting administrative corruption through the development of a well-regulated and merit-based civil service is a unique and significant example of how institutional reform can reduce the scope for corruption.

Serious deficiencies in the performance of governmental agencies and public administration must be challenged principally by parliaments. All countries in the region have supreme audit chambers and most have ombudsman institutions, both of which are responsible to parliaments and have control and anti-corruption functions (Hussein). Moreover, ombudsman offices generally regard corruption as one of major causes of human and civil rights abuses. Although both types of institutions enjoy relatively high prestige in some countries (Czech



Republic, Lithuania, Poland), and are effective and produce comprehensive reports, parliamentary reaction and follow up are generally weak. Deputies may have little interest in implementing conflict-of-interest laws, or investigating corruption allegations directed at MPs and ministers who are party colleagues. Improving parliamentary capacity and work, in order to strengthen oversight institutions, is another part of the anti-corruption agenda.

The Lithuanian Special Investigation Service, the only example of an independent "hard" implementation structure for anti-corruption policies, has gained solid status and respect in the country. Its work is likely to have a long-term positive effect if its reputation for professionalism and independence proves to be permanent.

BOX 5: Lithuania's Special Investigations Service

The Special Investigations Service was established under the Ministry of the Interior on 18 February 1997. The Service's tasks are to collect and use intelligence about criminal associations and corrupt public officials, in order to protect individuals, society, and the state from corruption, as well as prevent and detect corruption.

In order to increase the SIS's independence and strengthen its effectiveness, the Service's reporting requirements were changed from the government to the President and the Parliament. The law, as amended in May 2000, provides for the following:

- The SIS is the guarantor and co-ordinator of the National Anti-Corruption Programme;*
- The SIS is authorized to combat corruption at the highest levels of government;*
- Corruption was redefined, in order to be more effectively combated;*
- Co-ordination with other government agencies when disclosing corruption and corruption related crimes has been made easier;*
- It creates better conditions for training employees in the anti-corruption area.*

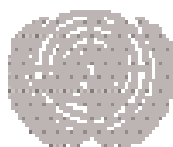
The SIS has been functioning since June 1, 2000 as an agency accountable to the President and the Seimas. To ensure the independence of its investigations, the SIS has an Investigation Division operating in all of its four field offices. Other divisions include the Department of Intelligence Activities, Analytical-Organisational Division, Division of Legal Affairs, Personnel and Internal Investigations.

The Special Investigations Service:

- carries out intelligence activities in detecting corruption-related crimes;*
- conducts interviews and preliminary investigations;*
- collects, stores, analyses and sums up information about corruption and related socio-economic phenomena;*
- jointly with other public bodies and civil society organisations implements crime control and prevention programmes;*
- co-operates with other law enforcement institutions.*

The SIS is also authorised to:

- monitor the mail and electronic communications;*
- covertly monitor a person's correspondence, telegraph and other communications,*



- wiretap and record telephone conversations;*
- *model conduct simulating a criminal act;*
- *use special equipment;*
- *covertly monitor residential premises;*
- *enter the premises of enterprises, institutions and organisations and inspect them;*
- *make use of information belonging to enterprises, institutions and organisations;*

At border points, customs, and other places and territories with their own special internal rules, SIS officials, upon showing proper identification, have the right to:

- *inspect transport and cargo documents;*
- *detain violators of border and customs rules and other persons, in order to search personal effects and-pursuant to laws on detention procedures and the rights of detained persons-to take them to the offices of the border police, customs or other law enforcement institutions;*
- *stop and inspect means of transport, and to seize personal effects or documents in the prescribed manner.*

Top SIS priorities are investigating corruption in the areas of public procurement, privatisation, local authorities, law enforcement, and foreign investment. The SIS also developed national anti-corruption policy and national anti-corruption strategy, both of which have been approved by the government. Since 1997, the SIS has uncovered 523 crimes, and detected 563 civil servants, public officials and other persons suspected of committing crimes.

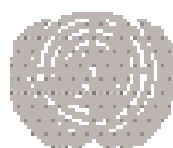
For details see: <http://www.stt.lt> (SIS)

The SIS experience shows that it is possible to employ strong anti-corruption measures in states where democratic consolidation is relatively advanced, as long as a lasting commitment to tackling corruption and secure funding are in place. Although radical, the decision to separate the SIS from the Ministry of Interior, and therefore separate it from the fight against organized crime, seems to have been correct. Placing the SIS under the President's office with reporting relations to the parliament provides the best possible guarantees for the independence of the Service.

Success Stories: Key Characteristics

The basic foundations and features of successful anti-corruption initiatives are so obvious as to seem trivial: commitments and alliances. None of the above-mentioned cases would have been successful were it not for a certain level of commitment from the government (Lithuania), as well as from other actors: civil society leaders and academics (Bulgaria), investigative journalists, audit agencies (Poland), ombudspersons, and international donors (e.g., UNDP, USAID, GTZ). Isolated actions and initiatives have little chances for success if broader coalitions are not created. Commitment and alliances are needed to ensure that the design and implementation of the anti-corruption strategy is well organized and well coordinated.

The time frame and money-both of which are linked to government commitment-are other key variables that influence the chances for success. Short-term, ad hoc actions are much less



effective than programs built on long-term visions and strategies (Slovakia). Providing funding the Georgian Anti-Corruption Policy Coordination Council for only six months is unlikely to produce sustainable reductions in corruption. A certain minimal level of funding must also be allocated to fight corruption, in order to finance education, legal drafting, the acquisition of external expertise, and implementation. The quality of human resources available for anti-corruption activities, and the capacity of institutions and organizations involved in these activities, constitute a third critical factor.

How one can build on the limited but nevertheless important successful cases in the region?

As certain "recipes for success" are readily available-in the form of publications, web sites, and expert advice-the discovery of new tools and methodologies is no longer necessary. On the other hand, existing models can not be transferred directly from one country to another, as legal and social conditions differ across the region. The Lithuanian "SIS model" could do more harm than good were it to be transplanted to today's Georgia, as creating a hard enforcement structure in such a fragile democracy with serious internal security problems could have very negative consequences. It is therefore important to put 'best practices' in their proper context.



First Steps

The first national anti-corruption activities usually result from the initiative of a group of individuals, politicians, civil society representatives, academics, and business people, who meet, agree on the actions to be taken, and lobby for implementation. Croatia, where a group of independent experts wrote a national anti-corruption program for Ministry of Justice, Administration, and Local Self-Government in 2001, offers a recent example of this trend. Such quasi-formal bodies, which include as Bulgaria's Coalition 2000, Georgia's Anti-Corruption Policy Coordination Council, and Poland's "Against Corruption" Programme, usually start by doing the research "ground work", which is often performed by an affiliated think tank. This work is generally done at the request of (or in agreement with) Transparency International (as in Slovakia) and/or international donors (Bulgaria-USAID, Slovakia-World Bank, Baltic States-OECD). Another example is Georgia, where data has been collected under the aegis of a UNDP project (see Box 5). Once data are in hand, a national program or strategy is then drafted and, following discussions with the government, officially approved.

BOX 6: Georgia-Data Gathering, UNDP Role

Corruption is widely seen to be the most widespread impediment to socio-economic development in Georgia. In support to the state's anti-corruption efforts, UNDP mobilized the Corruption Research Center (CRC) NGO to study the legal, social, scientific and cultural aspects of corruption, and to propose legislative and administrative measures to limit its effects. For the past three years, the Center has conducted extensive surveys among citizens and produced in-depth research reports, fourteen press releases, three information bulletins, and two sectoral studies (business and energy) on corruption related problems. CRC has provided policy advocacy for the parliament and the government. In 2000, the Anti-Corruption Working Group was created by presidential decree to elaborate the National Anti-Corruption Programme Guidelines. The Group consisted of seven members, two of which came from NGOs. The group worked closely with official and civil society institutions, including the CRC. Recommendations and materials developed by the CRC played an important role in the preparation of the Programme Guidelines. In 2001 CRC Director Niko Oniani was appointed to the Anti-Corruption Coordination Council, which is headed by President Eduard Shevardnadze.

Only genuine participatory processes involving all civil society and government actors in a coordinated manner are likely to bring comprehensive results. However, certain conditions must be present for participatory processes to function effectively. These include a certain level of government transparency and willingness to work with civil society. Better still is government interest in establishing participatory practices and institutionalized cooperation mechanisms, based on long-term political will to address the roots of the causes of corruption (as in Lithuania). It also important that civil society groups be constructive rather than overly



confrontational, and that these groups be willing to engage in such activities as educational programs, draft proposed curricula for schools, and generate ideas for public awareness campaigns (Slovakia).

BOX 7: Government-Civil Society Interactions: The Experience of Transparency International Slovakia (TIS)

Issues of transparency and corruption in Slovakia have been widely discussed, thanks in large measure to TIS. TIS was established as an organizational unit of Center for Economic Development (CED), an NGO that focuses on economic research and has developed the reputation of a non-partisan think tank. CED helped TIS to develop its basic theoretical framework, which were used to analyze problems and propose solutions. One of the first steps was the creation of an Alliance for Transparency and the Fight against Corruption, whose membership includes many of Slovakia's best-known social, scientific, and academic figures. Important decisions are consulted with the Alliance.

TIS has established a strong position in Slovak politics. The prime minister, deputy prime ministers, and other public officials - as well as representatives of the political opposition - frequently invite TIS representatives to official meetings. TIS press conferences are often attended by more journalists than those organized by ministries.

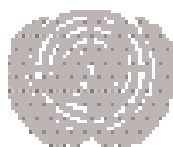
The Slovak government accepted TIS's proposed National Program of the Fight Against Corruption in 2000, the first draft of which was completed in November 1999. This draft was subjected to inter-ministerial discussion and then 40 days of public discussion, before its adoption in June 2000. TIS actively participates in the activities of the Programme's Steering Committee, which is headed by the deputy Prime Minister for economic affairs.

TIS was asked to conduct training for more than 20 members of the Steering Committee, as well as for some 40 employees of the Ministry of Economy. 24 experts supplied by the National Council of the Slovak Republic, the Supreme Audit Office, the Ministry of Economy, the Ministry of Finance, the Ministry of Justice, and the Office of Public Procurement, have been involved in preparing TIS training materials.

TIS analyzed in detail sensitive areas (public procurement, licenses, and public administration) and created working group that works on the issue of public procurement. TIS have been invited to monitor the transparency of privatization and tenders. TIS has also been invited by the Chairman of Constitutional and Law Commission of the National Council of Slovak Republic to help draft new conflict-of-interest legislation. In co-operation with the State Pedagogical Institute, TIS designed a project for introducing corruption and transparency into secondary school curricula, which was accepted by the Ministry of Education.

Together with the Office of the Government, the vice-chairman of Slovak Parliament, and PHARE, TIS organized an international conference on Ethics in Public Administration and a seminar on financing political parties. Along with some 120 NGOs TIS helped pressure the government and parliament into passing a good freedom of information act that finally passed in 2001.

TIS expected that the final version of the National Program of the Fight Against Corruption would contain concrete steps and dates that would operationalize the



Programme. Instead, this organizational phase lasted for more than a year, as the public had to wait until October 2001 for actions plans to be prepared by ministries and submitted for government approval. Numerous factors - including a lack of skilled officers, the slow pace of other public administration reforms, non-transparent financing of political parties, tensions within the governing coalition parties, and the approach of the 2002 parliamentary election campaign - were responsible for this slow pace. TIS has openly criticized the government for the slow pace of implementation. (Zemanovicova/Sicakova)

Managing the Process

These participatory processes can be managed in various ways. Slovakia established a special coordination unit attached to the prime minister's office. Lithuania created the independent, Special Investigation Services, which is now under the presidential administration and is supervised by parliament. Kazakhstan decided to dissolve its Anti-Corruption Committee some years ago, and has delegated anti-corruption responsibilities to line ministries. Corruption in Kazakhstan is then to be tackled sector by sector, starting with civil service reform. Croatia has likewise decided to focus on the most acute areas, starting with public procurement. Bulgaria has focused on strengthening its law enforcement agencies (especially the National Office to Fight Organized Crime and its special anti-corruption unit), and on monitoring key public tenders.

Implementation

Since anti-corruption programs in most of these countries have just started, it is far too early to compare and evaluate the results of their activities. In terms of implementation, investigation, and prosecution, the success story of Lithuania's SIS (which has no equivalent in the region) suggests that the creation of a totally independent and highly specialized institution may be the best solution. However, in the Georgian case, such an approach could be unacceptable if not damaging. While Georgia possesses the most modern legal regulations to prevent corruption, the weakness of state institutions-in large measure the result of state capture by various interest groups or clans-often makes their enforcement impossible.

Slovakia's extremely complex anti-corruption program-which includes reviews of government agencies, policies, and regulations, passage of new legislation, and coordinated management of the program by a specialized unit attached to the Prime Minister's office and the special-purpose Steering Committee-seems to be far too ambitious. The country's limited human and financial resources, state capacity, and experience, the lukewarm attitude displayed by most government agencies, and tensions within the governing coalition seem to make the task of the co-ordination gargantuan. Even successes like the passage of the Freedom of Information Act seem to have been tarnished after several months by the bureaucratic resistance that information disclosure requests have encountered.

By contrast, the modest steps taken in Kazakhstan, where the focus of anti-corruption efforts has been limited to civil service reform, seem to have made a significant impact in this area, but have not has a broader influence on the problem. As corruption is a complex phenomenon that requires the simultaneous introduction of changes in a number of areas, partial actions may produce only limited results.



Why Discuss Actors?

Several governments believe that line ministries such as the ministry of interior, the ministry of justice, and supreme audit institutions are the proper institutions to lead the fight against corruption. They see little rationale for the establishment of ombudsmen institutions, or any specialized bodies. Parliaments have in this region generally been preoccupied with legislative initiatives, and rightly assume that the existing governmental agencies, with their respective executive and enforcement powers, should address the issue as within their competences. But although supreme audit institutions recognize fighting corruption as one of their major task, they often concentrate on pure audit functions and rarely provide recommendations. When they do, parliaments and line ministries hardly ever consider these recommendations. When state bodies do not act, or act ineffectively, NGOs (e.g., journalists associations, trade unions in Romania) often step in to fill this vacuum. But such substitution is only possible to a limited extent. This results in a situation where everybody, including individual citizens, expect the problem of corruption to be handled by somebody else.

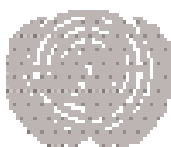
Different actors have varying capacities to fight corruption. In certain parts of the region, (except for Central Europe), civil society organizations are usually weak and dependent on foreign funding. They lack not only financial resources, but also skills, training, leadership and analytical support. Social dialogue, if any, remains at an initial stage: full of prejudices and lack of trust from both civil society and governments. This matter was discussed most recently in the Stability Pact Anti-Corruption Initiative conference in Cavtat, Croatia in September 2001, and the states of Southeastern Europe have been the examples of this situation (SPAI, CoE).

The will and possibility to communicate, coordinate, and cooperate among actors-within government, within civil society, and between them-is of critical importance. One of the features of the region is tough competition between interest groups within governments and civil society and between various international organizations. These actors all struggle for funds, prestige, and influence while engaging in personal disputes and big business games. Fortunately, the first attempts to coordinate national policies against corruption on the central government level (particularly in Slovakia, partly in Romania) have been moderately successful. Civil society coalitions in Albania, Bulgaria, Poland, and Romania show that collaboration is not only necessary, but also possible, and yields results.

Key State Actors: Governments, Parliaments, Supreme Audit Institutions

Government as an Actor

In essence, the role of the government in fighting corruption as an executive power is to enforce existing legislation throughout the central government, individual ministries, and local administration. Insufficient capacities can produce poor results, however. These insufficiencies stem from the absence of adequate financial, technical, and human resources, a lack of overall commitment that is itself often related to corrupted state structures, from legislative and



communication gaps, and from attitudes resulting from long traditions of corrupt behavior. If, as a result of domestic or international pressures, governmental commitment (Lithuania) is declared and practical implications are considered, the process of fighting corruption may start with first steps of data collection, research and analysis, diagnosis, and drafting strategies with associated action plans. But the lack of enforcement capacity may prevent actions from moving beyond the paperwork stage (Georgia).

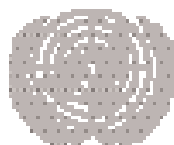
Local Governments

While corruption is often perceived to be "on the top" of state structures, corruption is also a problem at the local level; the administrative decentralization that followed the collapse of the old system has made local government corruption an issue across the region. This is one of the reasons why fighting corruption should start at the local level, as is being done in Bulgaria, Poland ("Against Corruption Programme"), and Serbia, where one can witness emerging "clean" municipalities and the emergence of local branches of anti-corruption NGOs.

Local administrations are often more responsive to the will of the people than are higher tiers of government, which further strengthen arguments in favor of focusing anti-corruption activities at the local level. Residents can judge local government performance by the quality of services they receive during a given term of the government. This is why it is important for local government to create a functional integrity system, where high levels of integrity, honesty, and pride are maintained at all levels of public (government), private (business), and civil society (NGOs) institutions. These three types of institutions must work together in coalitions to fight corruption and create greater integrity and transparency in local service provision. Working together is easier at the local level where the number and the diversity of players is smaller than at the national level. These sorts of cooperative arrangements respond to the needs of the citizens, are attractive to outside businesses, and can be used to attract investments.

The problems are diverse, but some can be identified as the most harmful to the proper, transparent delivery of local services. These include:

- the lack of elected local officials (and the dominant presence of centrally appointed officials);
- limited control over local revenues and expenditures, and a lack of fiscal autonomy in general;
- the absence of strong local government mandates regarding employment and salaries of civil servants and public enterprise workers (low-paid civil servants);
- the absence of local government authorization to issue municipal notes, or conversely inadequate central government control over local borrowing;
- weak capacity to collect local taxes and duties, and to deliver services;
- low local budget transparency, adequate bookkeeping and accounting practices;
- inadequate citizens access to information on service provision;
- a lack of civil activism regarding access to local services;
- malfunctioning law enforcement agencies; and



- willingness of private business representatives to bribe officials, and willingness of officials to accept bribes.

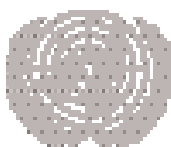
In order to solve these problems local governments, businesses, and the public need to identify and employ tools for fighting corruption. The political will for change must be combined with a number of instruments, including:

- introducing innovative/transparent practices in service delivery;
- supporting reform-minded top managers/mayors;
- ensuring genuine civil society participation in local government, including those groups serving as watchdogs in different sectors (e.g., electricity, water supply);
- holding politicians to their word in service delivery;
- government willingness to work with business associations and independent or semi-independent service providers;
- distributing model codes of ethics and conduct,
- supporting active, independent media serving as a watchdog;
- introducing and supporting local "investigative" journalism;
- duly implementing civil service reform in local government, including the enforcement of codes of conduct for civil servants and service provider employees;
- introducing conflict-of-interest and disclosure-of-assets provisions;
- putting in place effective enforcement bodies, mechanisms and funding to monitor, investigate and prosecute violations of local good government laws; and
- ensuring that public procurement, tendering, fiscal, and privatization processes are transparent.

In conclusion, whereas it has been shown that local governments can set a good example, the degree to which this can be changed from incidental cases to broad practice depends on a complex set of conditions being met.

Parliament's Role

In principle, parliaments and related commissions should play a key role by implementing legislative initiatives and by reviewing, improving, amending and approving laws that could reduce corruption. Parliaments are generally responsible for the creation of oversight institutions and the selection of their leaders. Parliaments can also request exhaustive reports and then implement their recommendations. But many parliaments do not utilize these straightforward mechanisms that could significantly curb corruption. The sad truth is that implementation of such anti-corruption measures often conflict with the private and group interests of MPs. More in general, however, the emphasis parliaments in the region have placed on law-making, at the expense of their control and oversight function, has been detrimental to fostering a role for parliaments in the fight against corruption.

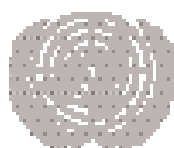


Oversight Institutions

Strong oversight institutions, in the form of supreme audit institutions (SAIs) and ombudsmen—which have only rarely been given the powers to assist citizens dealing with corrupt officials—are needed to limit corruption. Unfortunately, most SAIs limit their activities to their pure audit functions. They use old-fashioned methods, and produce reports landing mainly in drawers. The main exceptions in the region are the Czech Republic's NKU (Najvyšší Kontrolní Úrad) and Poland's NIK (Najwyższa Izba Kontroli), as these agencies regard fighting corruption as one of their top priorities (Hussein; see Box 8). NIK undertakes audits on order of the Sejm (Parliament's lower chamber) or its bodies. It submits information on audit results, recommendations, and pronouncements to the Sejm. While the president and prime minister may request that NIK conduct an audit, NIK may choose not to grant this request. NIK's president may submit motions to the Constitutional Tribunal regarding the conformity of legislative acts and international agreements with Poland's constitution. In the case of a well-founded suspicion of corruption, a crime or an offence, NIK may request an investigation by law enforcement agencies (see www.nik.gov.pl).

Ombudsman institutions, in those countries where they exist (which is not the case in Bulgaria, Slovakia, Turkey, four of the five Central Asian States, and two of the three Caucasus states), and where their actions are acted upon (Central Europe), are flooded with thousands of administrative complaints annually resulting from abuses of rights (property and housing, health service, judicial backlog). The volume of these complaints is often viewed as precluding intervention in corruption matters. Despite this, initiatives to establish ombudsman institutions in Bulgaria and Slovakia have been based on assumptions that such institutions will play an important role in combating corruption. For this goal to be realized, parliaments must establish such institutions, make them effective, monitor their activities (as well as those of other government agencies) and carefully study the reports resulting from their work. Parliaments must acquire both the competencies and capacities to monitor government and oversight institutions effectively, follow up on their recommendations, and be accountable for their implementation vis-a-vis the voters.

Poland's Supreme Audit Institution NIK enjoys wide respect both domestically and internationally within EUROSAI. Similar institutions exist in all countries of the region. The Polish case study suggests that if they are politically and financially independent, professional and effective, such institutions may make a significant contribution to preventing and investigating corruption cases, highlighting areas of concern and making recommendations. Many of these institutions unfortunately limit their activities to accounting for public funds and writing reports that are rarely read. Strengthening their role, by upgrading their capacities through specialized training and international cooperation, is definitely needed.



BOX 8: Poland's NIK (Supreme Audit Institution)

In March 2000 the Poland's Supreme Audit Chamber (NIK) presented to the parliament and the public a report entitled "Threat of corruption in the light of audit studies carried out by the NIK". The two-volume document, which collected the results of numerous audits during 1995-2000, pointed to key public sector institutions threatened by corruption, as well as to the mechanisms that promote corruption. It also recommended implementation of new policies that could eliminate these mechanisms and reduce the number of areas vulnerable to corruption. The analysis was based on the assumption that counteracting corruption consisted not only of prosecuting corrupt officials, but also removing from the public sector the irregularities that foster corruption. The paper identified the following areas as most seriously threatened by corruption:

Privatization, due to the failure to define the objectives of particular privatization processes, review valuations of privatized property, and exercise proper supervision over the selection of companies.

Management of public property, due to weak state supervision of the activities of consulting firms and joint ventures.

Activities of off-budget funds and agencies, due to the absence of sufficient audit mechanisms and a tendency to deploy public resources on the basis of non-transparent criteria.

Public procurement, due to infringements of legislation, or ignoring provisions of the Public Procurement Act, particularly by local government units.

Quotas and licensing, due to the absence of transparent procedures and failure to guarantee equal terms of access to all interested parties.

Functioning of the tax administration, due mainly to the broad scope of various tax exemptions granted on a highly discretionary basis.

Functioning of inspection units, due in part to the frequency with which employees in these units engage in the same activities they supervise.

Functioning of the police, particularly in connection with police activities being subsidized by other institutions, as well as with serious irregularities reported in road and vehicle inspections.

Funding of scientific research, due to the absence of the necessary control over research financed with public resources.

The core "corruption fostering" mechanisms identified by the report were:

Failure to apply the "many pairs of eyes" principle, according to which clerical responsibilities should be separated in order to diminish the risk of bribery.

Excessive discretion in decision making, due mainly to the frequent absence of clear and transparent criteria for deciding administrative matters;

Ignoring documentation and reporting requirements.

Weak internal controls, resulting from poor organization, a scarcity of personnel in internal control units, and acting in an ad hoc manner rather than on planned basis. Only a tiny proportion of decisions made by civil servants are subject to scrutiny, which prevents many faulty decisions from becoming public knowledge.



Unequal access to information. Full information about the possible uses of discretionary benefits or access to rationed goods is not made available to all interested parties, but rather to those who have developed their own methods to acquire such information.

Lack of accountability for individual decisions. Regulations and statutes governing public institutions do not always specify responsibility for performing particular tasks. The use and abuse of collegial decision making can further blur accountability for individual decisions.

A subsequent paper, published in May 2001, summarized the extent to which the recommendations presented in the previous year's report had in fact been implemented. According to 30 audits carried out in 2000, the risks of corruption remain in the same areas as before, and the same corruption fostering mechanisms continued to exist. Some new mechanisms were also highlighted, including:

Excessive use of external service providers, particularly in terms of government agencies' willingness to sub-contract out the drafting of legal acts. The corruption risk when such drafting is entrusted to economic entities that are directly affected by these acts is evident.

Avoiding state audits. NIK has recommended amending the Public Procurement Act in order to permanently exclude from public procurement those entities that avoid auditing (Hussein 2001).

Bulgaria's National Audit Office (NAO) is the public finance supervisory body. Like NIK it reports to the National Assembly. The NAO audits national government budgets, privatization and post-privatization revenues, pre-EU accession funds, and oversees the financial activities of political parties. It sets forth auditing standards and a code of conduct for its personnel, which appear to be largely (if not wholly) enforced.

It is difficult to speak about an objective audit of state expenditures in Kazakhstan. The Accounting Committee for the control over the national budget's implementation is accountable to the president rather than to parliament. Since budget formulation and management are the government's exclusive prerogative, ex ante and ex post parliamentary control over the budgetary system is largely absent.

The Role of Civil Society

While there is little agreement about the appropriate role for civil society, in most countries NGOs initiate and conduct awareness campaigns, educational, and preventive activities, and lobby for enforcement of anti-corruption legislation. Lack of robust participation by civil society isolates government anti-corruption bodies, thereby contributing to their ineffectiveness. NGOs' most important functions appear to be monitoring, drafting laws, and regular cooperation with the media. Caiden contemplates the question:

"In a global sense, what are the real agendas behind anticorruption work? Whose interests does the work really serve most, or can it serve the interests of very different, and perhaps even opposed, protagonists simultaneously?(...) Hence, TI's present reality of functioning as a bridge between unlikely parties like (...) the OECD countries and



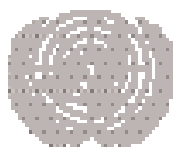
investigative journalists in Russia. But of course, these alliances are also symptomatic of the general effects of globalization which, as well as exporting and accelerating corruption, also export and accelerate potentials for dialogue and cooperation." (Caiden in Caiden, Dwivedi, Jabbra, 2001, p. 190)

Civil society groups should focus on consciousness raising-but in a balanced way, to ensure that in the end the result is an informed public rather than widespread cynicism and helpless indifference. While parallel monitoring may also be desirable, such activities are not generally accepted. Many observers feel that parliaments and the institutions that report to parliaments should be the key monitoring institutions, and that donors should be assisting these bodies, rather than certain NGOs. Slovakia provides interesting examples of civil society support for innovations in educational curriculum and awareness raising, examples that seem worthy of emulation across the region. There have been also good examples of monitoring privatization processes in Bulgaria (telecommunications), and of civil society contributions to drafting national strategies (Croatia). The range of possible roles is thus quite broad; the choice of civil society activity therefore depends on local needs and possibilities for cooperation with other players.

The main functions of constructive civil society groups should be limited to working as pressure groups, raising awareness, and supporting public education about anti-corruption programs. The often self-appointed role of some NGOs in taking over some of the functions of the government and parliament (e.g., law drafting in Poland), or monitoring government and parliamentary activities (e.g., Bulgaria) is to be challenged, as such activities can be better done by oversight institutions and other public bodies.

On the other hand, the Polish example seems to represent a spontaneous response by civil society to the lack of government action in the fight against corruption. Many Polish citizens do not see any results of government initiatives, other than declarations and the use of corruption allegations as a political tool. Most of Poland's new anti-corruption laws require further amendments, especially pertaining to freedom of information and conflicts of interest. The role of the government therefore had to be, to a certain extent, usurped by the civil society organizations that established the "Against Corruption Programme". This initiative was undertaken by a few of Poland's most experienced and respected NGOs, was lead by well-known public figures, and was supported financially by foreign donors.

The growing role of professional associations (judges, journalists) and trade unions in bringing up anti- corruption activities has been noted in Slovakia and Romania. But the business community may play an equally important role. Business groupings may contribute by maintaining high business standards, by promoting conformity with national and local regulations, by training businesses to deal properly with government representatives, helping to draft legislation and other policies, distributing model codes of conduct, and creating ethical business associations. The regional program of INTEGRA in several countries is one of the models.



BOX 9: Promoting Islands of Integrity-Integra's "Coping with Corruption" Program for Small Businesses

The "Coping with Corruption" program measures and promotes the ability of Central and Eastern European SME's (small and medium-sized enterprises) to resist corruption and adopt ethical business practices. Although the SME sector in Central and Eastern Europe has experienced rapid growth in the last 10 years, it remains very vulnerable to a range of corruption-related problems. "Corruption taxes"-requests for bribes and contract kickbacks by officials, extortion by organized crime, uneven treatment by tax officials, the costs of engaging in complex barter transactions to avoid tax, economic exploitation by large enterprises-tend to be disproportionately large for small firms. The majority of Central European SME owners do not want to participate in corrupt practices, but they lack the information and support needed to avoiding them. They become resigned to corrupt practices as a cost of doing business.

In June 1999, the Integra Foundation Slovakia initiated its "Coping with Corruption" program for small businesses. This program is now being extended to other Central and Eastern Europe countries, through the partner agencies of the Integra Venture. The project's goals are:

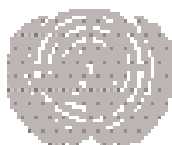
- Assessing the costs to Central European SME's of operating in a corrupt environment.*
- Locating practical ways for SMEs to break out of the cycle of corruption in their immediate stakeholder circles.*
- Developing concrete policy proposals for NGOs and public agencies engaged in anti-corruption measures among small businesses,*
- Raising public awareness regarding the negative impact of corruption on SMEs.*
- To use assessments of the costs of corruption for SMEs as a tool to oppose corruption in transition economies.*

During its first phase, the program focuses on providing a baseline assessment of corruption on SMEs, by:

- Surveying a sample group of SMEs in a country, in order to yield indicators that measure the cost of corruption on their business activities.*
- Engaging a group of SME owners in a discussion network in which corruption problems can be assessed, and concrete cases and possible solutions exchanged.*
- Publishing a collection of cases, data, and strategies that give an accurate picture of the corruption issues facing SMEs in a given country.*

The second phase, which focuses on breaking the corruption spiral, includes a range of pro-active measures, notably:

- Promoting industry-based collective measures to help individual firms have a stronger voice in the face of public-sector or large-scale enterprise (LSE) corruption.*
- Creating a "safe and neutral" mechanism for firms to notify incidences of corruption within their industry associations.*
- Designing a simple "do-it-yourself" code of ethics for small firms.*
- Building capacity within Integra local partner agencies to design appropriate social audit tools for micro-enterprises and SMEs.*



Phase I was implemented in Slovakia with the support of USAID during October 1999-May 2000. Results of the assessment are available at <http://www.integra.sk/corrupt.htm>. Phase II began in January 2001, with the support of the European Union PHARE Democracy Program. In Croatia, Phase I was initiated in September 2000, with the support of the Austrian Ministry of Foreign Affairs and the Swiss Agency for Development and Cooperation, within the Balkan Stability Pact. The final report on Phase I will be available in November 2001. In Bulgaria, Phase I is starting in October 2001, and in Romania plans are underway to initiate the project in January 2002. (INTEGRA)

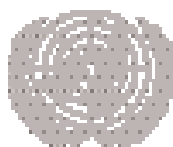
Role of the International Community

The role of international actors in the fight against corruption has not been without controversy. International donors have been accused of applying inappropriate, exotic solutions; attempting to make local players dependent on foreign funds and foreign powers; a chronic inability to coordinate actions within the international community, and even increasing corruption by promoting irresponsible behavior. A clear division of labor has been slow to emerge, while duplication and investment in dubious NGOs are often presented in support of donor reluctance to support capacity building in government agencies. While many donors seem to believe that funding NGOs is the main way forward, this approach overlooks the large investments needed to build capacity in state institutions. On the other hand, many donors no longer trust (often corrupted) governmental structures, which are often unaccountable for funds received and therefore seem likely to do little with international assistance other than waste it. No easy answers have appeared to resolve this apparently insoluble conundrum.

Coordination among donors has been improving to some degree, especially under the aegis of the OECD-managed Anti-Corruption Network for Economies in Transition in Europe. Coordination has also been facilitated, to some degree, by the Stability Pact, which has begun to generate joint donor activities that reflect the needs and demands of recipients (OECD, SPAI). Still, this remains a very difficult area: fast and tangible results are unlikely.

As the often-illustrated case of the US at the turn of the last century has shown, it can take decades for anti-corruption activities to generate real results. Relatively rapid progress (as in the case of Hong Kong) have only come about due to massive investment from a colonial power that possesses an extensive rule of law tradition. Such investments in the Central and East European countries are clearly not in the cards. A longer time horizon and more patience would seem to be required, but these commodities are in short supply in countries exhausted by decades of everyday corruption, driven by EU-accession deadlines, and facing results-oriented donors.

The role of the international community is greater than one may think. International organizations like World Trade Organization, OECD, and UN (once the Convention against Corruption will be ready) introduce international regulations that (after ratification) are binding and require follow up on the national level. GRECO questionnaires, World Bank reports, and TI publications all help improve knowledge of the phenomenon. Workshops and seminars can help spread best practices. EU Phare and ABA/CEELI support for the establishment of Lithuania's SIS is an example of consistent and well-implemented donor-funded activities.



BOX 10: UNDP-Selected Activities in the Region

UN General Assembly Resolution A/RES/51/59 adopted on 28 January 1997 provides the basis for UNDP's mandate in assisting developing countries in fighting corruption. In July 1998, the UNDP Executive Committee approved a corporate position paper entitled "Fighting Corruption to Improve Governance" to guide work in this field. At the heart of this mandate is UNDP's holistic treatment of corruption as a problem of poor governance. UNDP recognizes that reducing corruption is critical to reduce poverty and promote social and people-centred sustainable development. UNDP's emphasis on long-term systemic changes and the human dimensions of development, coupled with its impartiality, underscore its unique contribution to promoting good governance, public accountability, and transparency.

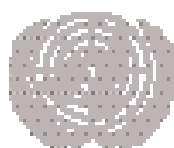
In the fight against corruption, UNDP has attempted to strengthen its role in facilitating civil society and private-sector involvement in policy development and in public sector management. The intent is to improve the transparency and accountability of economic and financial management processes. In this endeavor, UNDP works with key partners and coalitions, facilitates policy dialogue that brings together stakeholders and beneficiaries, and introduces reforms in a phased, systemic manner to build capacity and strengthen institutions. Furthermore, in its lead role in aid co-ordination processes, UNDP shapes policy and helps mobilize resources for national programs that improve governance. UNDP's approach is flexible. It carefully considers country needs and priorities, and ensures that responsibilities are clearly defined.

UNDP's policy focuses on interventions in six main areas:

- partnership building and policy dialogue;*
- capacity building;*
- tailoring country interventions;*
- dividing responsibilities among the relevant stakeholders within UNDP;*
- creating a focal point within the UNDP through BDP/MDGD; and*
- describing the internal mechanisms that prevent corruption in UNDP's operations.*

Within UNDP, responsibility for the fight against corruption is at three levels:

- Leadership by country offices is crucial because most of UNDP's resources and capacity are at the country level. Vital tasks for the country offices include identifying entry points and program partners, and designing and monitoring projects.*
- The sub-regional resource facility (located in UNDP's Regional Support Centre in Bratislava) builds capacity to support country operations. Regional programs run by the UNDP Regional Bureau for Europe and the CIS programs emphasize accountability and transparency. They help share experiences, establish regional networks and centres of excellence, and undertake regional studies of trends.*
- The BDP Institutional Development Group spearheads the efforts in collaboration with Regional Bureaux and country offices to translate into action the UNDP policy against corruption, under the Programme for Accountability and Transparency (PACT).*



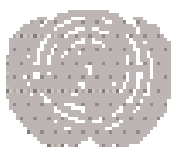
The UNDP Regional Good Governance Programme has sought to help the countries of the region to make the transition towards democratic institutions and well-functioning market economies. It focuses on six key areas: democratic governance and public sector reform; decentralization; support to parliaments; Ombudsman-type institutions; participation, and strengthening of civil society. The Programme has also started to assist countries in their fight against corruption as an integral part of its good governance activities.

An independent center for public opinion studies in Bishkek announced on 21 February 2001 the results of its survey on corruption in Kyrgyzstan. 16 percent of the 2,100 respondents said that economic reforms have had little success due to widespread corruption. 90 percent said that the police are the most corrupt organization in Kyrgyzstan, and 40 percent said that the country's leadership is not able to fight against corruption. The center's work is supported by the UNDP. The full report is posted on the UNDP/Kyrgyzstan website.

In Romania, UNDP and the UN Centre for International Crime Prevention, with support from the US Department of Justice and the governments of France and Greece, are designing a program to strengthen the capacity of the criminal justice system to fight corruption by training key personnel and through tough new legislation. The effort will help strengthen cooperation among law enforcement agencies in Romania and in foreign countries, and will establish a national anti-corruption commission.

Representatives of 15 Serbian municipalities discussed anti-corruption measures at a workshop organized by UNDP and the European Movement in Serbia (EMS) on 23-24 February 2001 in Belgrade. Participants from civil society, the media, and the donor community in Yugoslavia joined in the event, which was part of an ongoing EMS project to tackle municipal corruption. The workshop focused on providing government officials, journalists, and civic groups with essential information about municipal procurement and budgeting practices. Public awareness and control in these areas are essential for preventing corruption. The workshop agenda included an introduction to public procurement and best practices by experts from the Inter-Agency Procurement Services Office (IAPSO), a unit of UNDP. IAPSO provides advisory services, direct procurement training, and capacity building. International experts made presentations on municipal procurement and budgeting throughout the region. Bulgarian municipalities' experience with international aid programs, and the generation of municipal revenues through the privatization of local infrastructure in Budapest were discussed.

On 11 June 2001, Ukraine's National Anti-Corruption Programme in cooperation with UNDP organized the round table "National Strategy for Corruption Elimination in Ukraine". Representatives of regional NGOs and UNDP experts participated in the discussion. During the roundtable questions about the peculiarities of corruption in Ukraine and effective ways of combating it, as well as reasons for failures of government anti-corruption initiatives, were discussed. The meeting emphasized the importance of civil society involvement in anti-corruption processes, and the need to develop comprehensive strategies to fight corruption. (UNDP IDP/BDP).



These strategies and policies have *the potential* to work, but they hardly provide guarantees of success. Georgia provides a clear example of a state whose process of defining its anti-corruption policy, establishing the relevant bodies, and approving the special laws have been a textbook case, but where implementation has thus far failed dismally. It remains to be seen whether, in the absence of political will and given advanced state capture and political corruption, Georgia has any recourse, especially since the political situation there is fundamentally unstable. Forcing the implementation of an anti-corruption strategy could in itself destabilize state structures and damage the individuals that the strategy would aim to defend.



CONCLUSIONS

Corruption "not only does it point society in the wrong direction, but also exhausts governmental legitimacy, supports the wrong kind of public leadership, and sets the wrong kind of example for future generations. It contaminates.(...) Corruption undermines political decisions, leads to inefficient use of resources and benefits the unscrupulous.(...) Corruption involves the loss of moral authority, weakens the efficiency of government operations, increases opportunities for organized crime, adds to taxpayers' burdens. (...) Is something everybody pays for at huge cost. (...) Allows immunity for criminal acts." (*Caiden in Caiden, Dwivedi, Jabbra, 2001*, pp. 30-31)

All the above endangers the very foundations of emerging democracies, governance practices and economies in transition. Therefore it is necessary to apply adequate measures to minimize corruption in the countries of the region.

Hard Enforcement versus Partial Measures

If strong political will is present, and if democratic consolidation and the economic transition are relatively advanced, then the creation of "hard" enforcement structures, such as the Lithuanian SIS, would appear to make sense. But the SIS experience shows that it is very hard to strike the right balance between enforcement power, investigative effectiveness, and corruption prevention (using the most modern technical means) on the one hand, and the protection of human rights (including the right to privacy) on the other. More generally, without such a structure and accompanying clear regulations, the implementation of any comprehensive anti-corruption policy becomes fully dependent on political will. Unfortunately, in the region this appears to continue to be in very short supply, as do the will and capacities of law enforcement agencies.

This does not mean that there cannot be partial or sectoral successes in the fight against corruption. The Slovak case, using the Freedom of Information Act as a key instrument to enforce transparency, and the case of Kazakhstan, emphasizing the professionalization of the civil service, show that success in selected areas is quite possible. A step-by-step approach, going from institution to institution, using various instruments over a longer period of time, may be the most feasible way forward for many the states in the region. This could be especially useful for those countries where democratic institutions are still forming, where human and financial resources are inadequate, and where other, perhaps more acute problems like security and territorial integrity dominate the political agenda.

Where the development of (specialized) enforcement structures is possible and politically acceptable, and when the risk of creating another "to be corrupted institution" or damaging the process of democratization is limited, the "Lithuanian model" would seem the preferred way forward. An independent enforcement unit, placed under the president and reporting to parliament, has gained a high level of credibility in a short time. If this credibility is maintained, and the measures to safeguard the SIS's independence prove effective, this approach would seem to offer the best prospects for success. Where for other reasons-state stability, fears of human rights abuses, institutional fragility-the creation of an enforcement

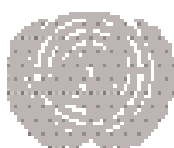


institution is not possible, a partial, step-by-step approach would appear to be the only feasible way forward.

Several "soft" alternative structures are available as options. The Slovak model of a small co-ordinating unit under the deputy prime minister's office that administers the implementation process is one key, and quite obvious, example. However, such a small unit depends heavily on the ability and willingness of other institutions to "do their part". If other institutions tasked the implementing certain aspects of the strategy do not do their work (or not fully, or not on time), a coordination unit lacks the power and resources to ensure follow up. If the necessary political will is not present, then neither contracting external experts, steering committee meetings, nor pressures from foreign "clubs" are likely to be able to force line ministries and agencies to do the job. Instead, the relevant actors are likely to believe (or seem to believe) that their ministry has done its best to fight corruption, and that the reminders from the anti-corruption unit are perceived as little more than a nuisance. The case of Georgia's National Anti-Corruption Policy Coordination Council in this respect is quite similar.

The other model of institution-by-institution implementation is employed in Kazakhstan. Initial results seem to have appeared in the civil service, and will hopefully spread later on to other key institutions. But there is no guarantee that where one institution starts off, others will follow.

The fight against corruption in post-communist states has thus far brought limited and very mixed results. However, there are positive cases and examples that should receive more attention. Some of them, particularly those that at first glance seem most attractive, are difficult to transfer to other contexts, due to sensitive questions of stability, institutional maturity, and rights protection. Using them as models in other contexts requires caution and the development of sufficient locally designed safeguards to "get things right". Other cases, including those with strong civil society involvement, may be more universally applicable, although their impact thus far has been at best partial. Getting the international donor community to support the "right" cases, the "doubtful" ones, is another hard issue to tackle and one that will require significant self-examination from the part of the main international actors in the fight against corruption.



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