



CONCEPT NOTE

Public Administration Reform and Anti-Corruption Regional Community of Practice meeting (for Eastern Europe and the CIS) Bratislava, 15-16 October 2007

1. Purpose of the meeting

The meeting has a two-fold purpose:

- i) It aims at **increasing the understanding**, among Community of Practice (CoP) members, **of the programmatic implications of the UN Convention Against Corruption (UNCAC)**, and exploring programmatic responses at country and regional levels – in particular in the area of Public Administration Reform and Anti-Corruption (PAR-AC).

While some Country Offices (COs) are already involved in UNCAC-related programming¹, others are still at an exploratory stage, or are awaiting UNCAC ratification by the host country to start deploying capacity development in support of UNCAC implementation. However, in most cases UNDP has not yet internalized the full programmatic implications of the UNCAC and the range of opportunities and entry points that it creates for the broader area of public sector reforms. The meeting is expected to advance this awareness, and to discuss ways in which the Bratislava Regional Centre (BRC) and COs can effectively leverage partnerships and work in synergy on UNCAC-related initiatives.

- ii) The meeting will also seek to further **strengthen the CoP** as a professional community and **advance its role in regional PAR-AC programming**, along the lines pursued at previous regional meetings in 2005 and 2006.

Participants will take stock of the progress made with CoP involvement in regional programming, and linking regional and country projects since the last meeting in March 2006, will re-assess the validity of the strategy pursued in this regard, and will map the next steps. Since March 2006, a follow-up mechanism has been in place, with regular updates to CoP members. However, the unequal involvement of different CoP members in specific joint initiatives, and the staff turnover in COs, make that not everybody is certain to share the same understanding of the direction the CoP is going. The meeting will provide an opportunity to bring everybody on the same page, and should also facilitate collegial, informal networking and mutual learning as necessary ingredients for strengthening the community bonds.

¹ See the inventory of UNCAC-relevant UNDP CO projects in Eastern Europe and the CIS, provided as background material for the meeting

(http://europeandcis.undp.org/?menu=p_cms/show&content_id=3BBC8AEA-F203-1EE9-BCFEE67D932641A3)

2. Background

During the last decade, significant efforts by states in Eastern Europe and the Commonwealth of Independent States (CIS), with support from the international community, have been dedicated to improving governance systems, in particular through reforming public administrations and combating corruption. However, the reform of state structures and the fight against corruption have remained particularly difficult challenges, and progress has been slower than on other aspects of transition, such as economic and social reforms. Many countries in the region are still heavily affected by different forms of administrative corruption and state capture, while progress toward good governance and fully accomplished democracy has slowed down and is hampered by rigid state structures resistant to reforms and innovations. The development community is currently reviewing the experience with PAR-AC programming in transition countries, and is studying new strategies and approaches, in particular with regard to fighting corruption in the broader context of public sector reform.

The UNCAC is a relatively new element (it entered into force in December 2005), which adds to the already existing international legal instruments on AC, such as the Council of Europe conventions and the OECD anti-bribery convention, which are in force in many countries of the region and constitute a solid background for the development of anti-corruption activities at the national and international levels. However, what singles out the UNCAC among other international conventions is the range of opportunities that it brings for PAR-AC programming. The Convention is not only a technical guide for targeted anti-corruption measures, it is a good governance tool for improving transparency and accountability in the state institutions and for enhancing the service delivery standards. It promotes a systemic approach to the fight against corruption aiming at eliminating the roots of the phenomenon through reforms and regulations in different governance areas and the improvement of administrative systems.

This holistic, governance-oriented approach to fighting corruption is increasingly promoted by international organizations; lately the World Bank has been developing a new anti-corruption strategy, in which it defines corruption as an outcome of the failures in accountability relationships that should characterize a national administrative system and stresses the importance of implementing activities that impact on the multiple dimensions of the governance system. The OECD Development Assistance Committee (DAC) proposes to fight corruption through the reinforcement of the key features of a governance system²: political accountability; institutional check and balances; effective public sector management; oversight by civil society and media; transparent private sector interface and local participation and community empowerment.

The growing consensus among the development agencies on how to go about fighting corruption in developing countries contains at least two other important elements: the first is the necessity of fostering country ownership and responsibility for the anti-corruption activities; the experience of the last ten years highlighted that there cannot be real progress in the fight against corruption without national leadership, and long term political commitment. The second element is the coordination efforts and cooperation among the different actors fighting against corruption; this includes not only donors' coordination but

² Policy Paper: *setting an agenda for collective action against corruption*.
DCD/DAC/GOVNET(2006)3/REV2

also the cooperation among different agencies and the creation of coalitions of stakeholders at the national level. This should allow avoiding errors like the implementation of overlapping activities and of projects destined to failure because lacking the necessary long term vision and support.

3. The implications of UNCAC for UNDP programming

Developing countries parties to the UNCAC are required to undertake a considerable effort in order to adjust their systems for compliance with the Convention's provisions. The legislative reforms needed to implement the mandatory provisions are only a first step; the serious implementation of the Convention would require in many cases a comprehensive revision of the institutional set-up, as well as profound cultural and technological changes. The first session of the Conference of State Parties to the UNCAC³, held in Jordan in December 2006, recognized the necessity to mobilize support from the international community for the effective implementation of the Convention and highlighted the need for a coordinated effort to deliver technical assistance to the developing countries parties to the Convention⁴.

In this effort to develop mechanisms for delivering effective technical assistance and produce sustainable results on UNCAC implementation, UNDP has the potential to play a key role: the structure of the organization, its activities in many areas affected by corruption, the territorial presence and proven capacity to mobilize partnerships make UNDP particularly well positioned for supporting the activities needed for the implementation of the Convention. UNDP action can be effective through regional and national programming, but mostly through a combination of the two.

Programming at the national level

The UNCAC promotes the application of the principles of good governance through many of its provisions, in particular under Chapter II (preventive measures). Art.5 stipulates that anti-corruption policies shall promote the principles of rule of law, proper management of public affairs and public property, participation of the civil society in public affairs, integrity, transparency and accountability. Art.7 and 8 request the State Parties to introduce several measures in order to implement the above principles in the public sector, such as the introduction of fair procedures for the selection and promotion of civil servants, adequate salaries and training. State Parties shall also promote integrity, honesty and responsibility among public officials through the introduction of codes of conduct and systems for preventing conflict of interest. Art.9 of the Convention promotes the introduction of a transparent effective system of public procurement and public finance management. Civil society empowerment is equally emphasized in the Convention. A number of specific provisions are intended to support access to public information. The citizens must have the possibility to get information on the organization, functioning and

³ As provided by article 63 of the UNCAC, the Conference of States Parties to the Convention is the body tasked with reviewing the implementation of the Convention.

⁴ Resolution 1/5 of the Conference of the States Parties entitled "Technical assistance" establishes an interim open-ended intergovernmental working group to advise and assist the Conference in the implementation of its mandate on technical assistance. To facilitate the task of this group, it was also decided to organize a workshop with development and law enforcement experts to discuss good practices and potential avenues for coordination (resolution 1/6). The workshop was held in Montevideo from 29 May to June 1, 2007.

decision making processes of the public administration (Art.10). The institutions have to establish systems for allowing public access to information and undertake public information activities and education programmes (Art.13). The Convention also promotes transparency and integrity in the private sector (Art.12).

The above are just a few examples of how the Convention can be leveraged for programmatic activities in the field of Governance, and particularly on PAR. Other examples can be found in more technical provisions, such as those regarding audit and financial controls, cooperation between national authorities and several other provisions promoting institutional capacity development.

Considering these characteristics of the UNCAC, the implications of the Convention for the UNDP programming activities appear evident. In the Eastern European and the CIS region, UNDP has an extensive portfolio of projects in the Governance area; many of these projects already support the fight against corruption and the implementation of the UNCAC. But, as highlighted at the workshop on Technical Assistance for the Implementation of the UNCAC held in Montevideo, 29 May – 1 June 2007, while a number of development assistance projects may be contributing de facto to advancing the implementation of the UNCAC, the Convention is often unknown among development practitioners and not explicitly mentioned in the projects.

By now the great majority of the countries in the region have ratified the UNCAC⁵, but only a handful of UNDP projects are directly related to the implementation of the Convention. There is significant scope both to mainstream support to UNCAC implementation into UNDP Governance and particularly PAR activities, as well as to identify new programmatic opportunities generated by the Convention.

To start with, many of the UNCAC provisions are mandatory: the State Parties are expected to take legislative and other measures to implement the requirements. This can be used to make the case for specific projects and advocate for reforms. But the UNCAC can also be of relevant help for designing coherent and effective programming strategies in the area of PAR. The Convention offers a framework for the formulation of new initiatives and the identification of new dimensions of existing projects. It can also serve as an integrated, strategic framework for enhancing linkages among different projects and coordinating various initiatives. If properly taken advantage of, the UNCAC has the potential to enhance the focus and effectiveness of UNDP's work on administrative reforms and improvement of the governance standards.

A first step in developing UNDP's capacity to effectively integrate the promotion of UNCAC in its Governance programming, is to disseminate the knowledge and understanding of the Convention – and of its broader implications in various Governance areas – among the practitioners, in particular among Country Office staff who are at the forefront of UNDP's programme design and delivery. The ways in which UNDP could better exploit its comparative advantages for supporting the implementation of the UNCAC, as well as adequate partnership strategies, should also be explored.

Programming at the Regional level

⁵ See a summary of the status of UNCAC signing / ratification in the countries of the region at http://europeandcis.undp.org/uploads/public/File/Status_of_UNCAC_ratification_in_ECIS_countries.pdf

The importance of regional programming in support to UNCAC implementation derives from the various forms of cooperation among the State Parties that the Convention requires to establish.

First and foremost, in relation to the trans-boundary dimension proper to many typologies of corruption crimes, the Convention promotes the establishment of operational forms of cooperation among preventive and law enforcement institutions at the international level. This aims at equipping the institutions with appropriate tools for fighting corruption cases involving other countries and recovering the assets illegally acquired through corrupted practices and transferred abroad⁶. But the Convention also promotes other types of cooperation among the State Parties, which are related to supporting the implementation of the Convention itself, especially in developing countries. Art.60 stipulates that State Parties shall consider affording one another the widest measure of technical assistance, especially for the benefit of developing countries. Art.61 (2) calls upon the State Parties to develop and share with one another and through international and regional organizations statistics, analytical expertise and information with a view to developing common definitions, standards and methodologies as well as information on best practices to prevent and combat corruption.

The Convention explicitly recognizes the role of international and regional organizations in supporting the activities of technical assistance and facilitating the sharing of information and best practices among the State Parties. These UNCAC provisions are at the basis of regional anti-corruption programming developed since early 2006 by UNDP Bratislava Regional Centre (BRC) in cooperation with the UN Office on Drugs and Crime (UNODC) - the Anti-corruption Practitioners' Network (ACPN). The ACPN is composed of practitioners working in national anti-corruption institutions in Eastern Europe and the CIS, and is meant to support them in their daily operational work; the Network's features have been developed through a consultative, demand-driven process. The regional dimension of the ACPN is very important for its effectiveness: countries in transition share many similarities concerning causes and patterns of corruption in the public and private sector. Some of the countries of the region have been relatively more successful in their governance reforms, with considerable impact on the corruption levels, and their experience provides a good example and source of ideas and inspiration for other countries.

UNDP staff working on PAR-AC in the countries of the region have also been involved in the activities of the ACPN. CO colleagues gave to the ACPN the capacity to reach the institutions and to share knowledge derived from first-hand working experiences with national administrations. This backstopping by CO practitioners has been essential for the development of the ACPN activities during 2006 and early 2007, however the way in which COs cooperate in this framework can be improved. The further development of the ACPN as a resource to support CO staff working on PAR-AC will be discussed at the CoP meeting.

The possibilities of cooperation among the UNDP regional and country offices for the implementation of the UNCAC are not limited to knowledge sharing; the Convention can in fact support the design of capacity development activities in which UNDP's regional and national levels can work together in a coordinated way. The Convention's requirement to establish different forms of cooperation at the international level among anti-corruption

⁶ Chapter IV (International Cooperation) and Chapter V (Asset Recovery) contain the bulk of these provisions.

institutions demands the development of institutional capacity and structures that can be supported through country programmes; on the other hand, the actual facilitation of cooperation among the institutions could be dealt with at the regional level. This and other ideas for enhancing the cooperation among UNDP offices in relation to the implementation of the UNCAC will also be discussed during the CoP meeting.

4. CoP role in regional programming

Over the past three years there has been a consistent effort to give to the Regional PAR-AC CoP a meaningful role in identifying, designing and implementing (sub-)regional programmatic initiatives, in cooperation with BRC⁷. The philosophy behind this approach is straightforward, and is based mainly on the following considerations:

- to respond actual needs of countries in the region, regional PAR-AC initiatives have to be demand-driven; this cannot be ensured without a meaningful participation of COs in the identification and design of regional programme strategies and projects; the regional CoP is a suitable medium to facilitate interaction among PAR-AC practitioners in COs, with a view to develop participatory programming that reflect the actual situation on the ground;
- the impact of regional projects and the sustainability of their results to a significant extent depend upon their linkage with COs' work; regional initiatives by definition cannot engage in large-scale, in-depth activities in any given country; to ensure that they still have a meaningful impact (rather than just a superficial effect), they need to smartly complement and add value to UNDP's country-level work rather than go as stand-alone projects; to ensure sustainability, it is important that regional initiatives fit with longer-term country programme strategies and are therefore followed-up in the longer run with country-level programming;
- regional programming disconnected from COs' priorities (as unfortunately has sometimes been the case in the past) fails to take advantage of UNDP's flexible structure, with country and regional offices, induces confusion among national counterparts who see uncoordinated agendas being pursued by different parts of the organization, dissipates scarce resources, and ultimately diminishes UNDP's overall development effectiveness.

Progress with regional programming since the last CoP meeting and way forward

The approach pursued over the past year and a half, since the last CoP meeting in March 2006, consisted in actively engaging with COs – through the CoP – in developing and implementing regional initiatives, including BRC support to CO-generated and CO-led multi-country initiatives. CoP members were consulted and kept informed with regional activities through regular e-mail updates. Not a single regional initiative was developed by BRC on its own, without a connection to CO programmes.

⁷ This effort can be tracked through the successive regional CoP meetings in 2005-2007 (http://europeandcis.undp.org/?wspc=subpractice-30_h_1). In 2005, the CoP participated in defining the key PAR-AC priorities for UNDP's 2006-2010 regional programme. In 2006, the CoP discussed specific initiatives and looked into possible joint / decentralized implementation modalities. In 2007, the CoP will review the experience so far with participatory regional programming with a view to fine-tuning the working arrangements, testing new ideas and promoting new initiatives.

Examples of CO-led, BRC-supported initiatives are the sub-regional workshop on Performance-based Budgeting (July 2006 in Crimea, Ukraine, at the initiative of Russia CO) and the Western Balkans Conference on Civil Service Reform (Sept. 2006 in Sarajevo and Oct. 2007 in Budva, Montenegro, led by Bosnia and Herzegovina CO). The regional project on Ex-ante Policy Impact Assessment is being implemented in close linkage with country projects and activities in Bosnia and Herzegovina, Croatia, Moldova and Serbia, with a customized joint Annual Work Plan with each CO. The ACPN project⁸ (see above) benefits from the support of CoP members, and is seeking to enhance its cooperation with COs as it enters a new phase. Another regional AC project has Macedonia CO as lead implementer. Not least, through a partnership with the Greek Government, the Regional Centre for PAR⁹ has developed a flexible framework for supporting demand-driven regional PAR activities in 2008-2012, which offers significant programmatic opportunities to COs using the CoP as a medium for participatory programming. A detailed update on the above regional projects, most of which were developed as a direct follow-up to the CoP meeting in March 2006, will be presented and discussed at the meeting, together with lessons learned – both positive and negative – from this experience, and proposed improvements of the CoP working modalities as an engine for regional programming.

5. Format of the meeting

The workshop will be structured in three main segments, of roughly half-day each:

- a. The UNCAC: overview of the Convention and discussion on the issues related to technical assistance for its implementation; (panel followed by discussions)
- b. Programmatic entry points and opportunities created by UNCAC for the development of UNDP programmes at the regional and national level; (presentations and discussions)
- c. The programming role of the CoP, update with developments since last meeting, discussion on specific regional projects, agreement on next steps/follow-up. (flexible format, CoP-type interaction)

a) The first part of the meeting will be dedicated to discussing the various aspect of the UNCAC, with particular attention to the challenges faced by countries in the region in implementation of the UNCAC and of other international anti-corruption commitments. The UNCAC will be looked at through the prism of its (potential) development impact, its usefulness for promoting good governance principles of participation, inclusiveness, transparency, effectiveness, efficiency, accountability, integrity, rule of law. Problems like political instrumentalization of the anti-corruption agenda, systemic resistance to reforms in the public sector, weak public awareness and lack of oversight capacity from civil society will be discussed. The format of a session will be a panel of external experts and UNDP specialists, who will make presentations, followed by moderated discussions about the challenges of advancing UNCAC implementation in the region.

⁸ <http://anticorruption.undp.sk/>

⁹ <http://www.uncpar.org/>

b) The second segment of the meeting will focus on UNDP's role and programming options in relation to the UNCAC – in particular on how UNDP can support the implementation of the Convention through PAR and broader Governance interventions. Selected UNDP regional and country projects on PAR-AC will be showcased, with a view to identifying ways to mainstream the support to UNCAC implementation. Ideas for new initiatives that may emerge will be looked at in terms of programmatic value, partnership strategies, funding possibilities, management arrangements. Further development and refinement of such ideas will be undertaken as part of the meeting's follow-up. The format will consist of presentations mainly by BRC and CO staff, followed by moderated discussions.

c) The last part of the meeting will be dedicated to CoP business, in particular community strengthening, CoP programming role, and concrete joint initiatives. Participants will be updated with regional PAR-AC activities, results achieved, challenges faced, and the experience so far with linking regional and country projects. Possible improvements in the CoP processes to enhance its programming and knowledge dimensions will be discussed, as well as proposals for new regional PAR-AC initiatives coming from CoP members. The format will be that of short topical interventions and open, peer-to-peer informal discussions.