

Anti-Corruption Network for Eastern Europe and Central Asia

International Conference

**“Creating Conditions for Sustainable Economic and  
Social Development in Eastern Europe and Central Asia:  
Fighting Corruption and Promoting Good Governance”**

CONFERENCE PROCEEDINGS

16-18 September, 2009  
Astana, Kazakhstan



## MEETING OVERVIEW

The International Conference “Creating Conditions for Sustainable Economic and Social Development in Eastern Europe and Central Asia: Fighting Corruption and Promoting Good Governance” took place 16-18 September 2009 in Astana, Kazakhstan.

A special high-level session at the conference reinforced political support for fighting corruption and ensuring good governance in Eastern Europe and Central Asia and re-confirmed the resolution of the Istanbul Anti-Corruption Action Plan countries to pursue this important initiative. The Astana Statement on Good Governance and Fighting Corruption was adopted at this Session (see full text in the report).

The conference was organised by the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime (Financial Police) and the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) based at the Organisation for Economic Co-operation and Development (OECD) with the support of the U.S. Department of State.<sup>1</sup>

The conference brought together about 150 participants representing key policy makers and experts from governments, public authorities, civil society and businesses from about 45 countries in Europe, Asia, Africa and America and international stakeholders, including leading international organisations, financial institutions and transnational non-governmental institutions. OECD member countries, countries participating in the OECD Working Group on Bribery and OECD non-member countries from Eastern Europe and Central Asia and beyond were represented at this important gathering.

The conference took place in the framework of the Work Programme of the ACN, continuing and deepening the discussions launched at the 7<sup>th</sup> General Meeting of the ACN in 2008 in Tbilisi, Georgia.

The conference was opened by the President of Kazakhstan Mr. Nursultan Nazarbayev and the OECD Deputy Secretary General Mr. Aart de Geus.

Following the opening ceremony, the Conference’s plenary and working sessions addressed the following issues:

- Importance of the fight against corruption for economic and social development;
- Prevention of corruption;

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<sup>1</sup> The conference was initiated and hosted by the Financial Police. The agenda was developed by the ACN in cooperation with other parts of the OECD. The meeting was organised in co-operation with the Organisation for Security and Co-operation in Europe (OSCE) and the United Nations Office on Drugs and Crime (UNODC).

- Prosecution of transnational bribery;
- Prevention of corruption in public procurement;
- Prevention of corruption in education;
- Role of corporate governance in economic development and attracting investment.

A special session was dedicated to the presentation of the experience of Kazakhstan in preventing and fighting corruption. This session was prepared by the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime (Financial Police).

A separate meeting was held for international and other organisations and countries providing donor support. This session aimed at facilitating donor coordination and to provide a platform for donors to exchange information on donor-supported anti-corruption projects in Eastern Europe and Central Asia, sectoral projects and programmes where anti-corruption elements are mainstreamed.

At the last plenary session, the ACN Work Programme 2009 – 2011 was discussed. The Second Monitoring Round under the Istanbul Anti-Corruption Action Plan, which started in 2009, was presented, involving on-site visits to Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz republic, Tajikistan, and Ukraine. It was also discussed that more attention should be paid to peer learning activities in such areas as asset declaration systems, investigation and prosecution of corruption, criminalisation of corruption, political corruption, role of business in fighting corruption.

This report presents a summary of speeches, presentations and discussions that took place at the conference, including issues identified for further work. The Astana Statement adopted at the Conference is included in the report. The Annexes contain all available speeches and presentations from plenary and working sessions, the summary agenda of the conference and the list of participants.

Back-to-back with this conference, the OECD Eurasia Competitiveness Programme Central Asia Initiative held the meeting “Promoting Investment in Times of Economic Crisis and beyond” on 17 September 2009 (for more information see [www.oecd.org/daf/psd/Eurasia](http://www.oecd.org/daf/psd/Eurasia)).

**ANTI-CORRUPTION NETWORK FOR EASTERN EUROPE AND CENTRAL ASIA (ACN)** is a regional outreach programme of the OECD Working Group on Bribery. ACN target countries include: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Republic of Macedonia, Moldova, Montenegro, Romania, the Russian Federation, Serbia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. OECD and EU countries, international organisations and civil society also take part in the ACN work. The main objective of the ACN is to support its member countries in their fight against corruption by providing a regional forum for promotion of anti-corruption activities, exchange of information, elaboration of best practices and donor coordination. The ACN operates through general meetings, thematic and analytical activities, and sub-regional initiatives.

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## TABLE OF CONTENTS

INTRODUCTORY SPEECHES .....	8
Mr. Nursultan Nazarbayev, President of the Republic of Kazakhstan .....	8
Mr. Aart de Geus, OECD Deputy Secretary-General .....	11
SPECIAL HIGH-LEVEL SESSION: Astana Statement on Good Governance and Fighting Corruption .....	16
PLENARY SESSION: Experience of Kazakhstan in Preventing and Fighting Corruption .....	23
PLENARY SESSION 1: Why is Fighting Corruption Important for Economic Development? What Can Governments and Business Do? .....	26
PLENARY SESSION 3: Prevention of Corruption – Challenges, Good Practices and Ways Ahead .....	30
WORKING SESSION 1: Prosecution of Foreign Bribery .....	33
WORKING SESSION 2: Integrity and Ethics in Business and Promotion of Investment .....	40
WORKING SESSION 3: Corruption in Public Education .....	45
WORKING SESSION 4: Corruption in Public Procurement.....	49
DONORS' CONSULTATION SESSION: Role of Donors in Fighting Corruption .....	53
CLOSING SESSION: Summary of Discussions and Next Steps .....	57
<u>ANNEXES</u>	
ANNEX 1: PRESENTATIONS FROM PLENARY SESSION 1 .....	60
Mr. Giorgi Jokhadze, National Anticorruption Council, Ministry of Justice of Georgia .....	60
Mr. Aykut Kılıç, Secretary of the National Anticorruption Council, Ministry of Justice, Turkey .....	63
Mr. John Devitt, Chief Executive, Transparency International Ireland .....	68
Mr. Stephanos G. Orestis, Legal Counsel, StatoilHydro ASA, Norway .....	71
ANNEX 2: PRESENTATIONS FROM PLENARY SESSION ON EXPERIENCE OF KAZAKHSTAN IN PREVENTING AND FIGHTING CORRUPTION.....	78
Mr. Andrey Lukin, Deputy Chairman, Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime .....	78
Mr. Sergey Zlotnikov, Executive Director, Transparency Kazakhstan .....	88
ANNEX 3: PRESENTATIONS FROM PLENARY SESSION 3 .....	
Mr. Horge Hage, Minister, Head of the Office of the Comptroller General, Brazil .....	90
Ms. Ingūna Sudraba, Auditor General, State Audit Office of the Republic of Latvia .....	111
Ms. Tünde Kovač–Cerović, State Secretary, Ministry of Education, Republic of Serbia .....	114
Mr. Michael Janssen, Council of Europe, GRECO .....	126
ANNEX 4: PRESENTATIONS FROM WORKING SESSION 1 .....	129
Mr. Patrick Moulette, Anti-Corruption Division, OECD.....	129
Ms. Nicola Mrazek, Trial Attorney, Department of Justice, United States .....	130
Mr. Horatiu Ovidiu Baias, Prosecutor, National Anti-Corruption Directorate, Romania.....	141
Mr. Pedro Pereira, Basel Institute on Governance, Switzerland.....	153

ANNEX 5: PRESENTATIONS FROM WORKING SESSION 2 .....	158
Mr. Arto Honkaniemi, Prime Minister's Office of Finland .....	158
Mr. Joachim Steffens, Ministry of Economics and Technology, Germany .....	167
Mr. Enery Quinones, Chief Compliance Officer, EBRD .....	174
Mr. Elena Mironova, City of Perm Chamber of Commerce and Industry, Russian Federation .....	177
ANNEX 6: PRESENTATIONS FROM WORKING SESSION 3 .....	181
Mr. Jamil Salmi, World Bank .....	181
Mr. Sadir Zhaparov, Director of the National Agency of the Kyrgyz Republic on Corruption Prevention .....	190
Ms. Laura Stefan, Romanian Academic Society .....	193
Ms. Duša Marjetič, Undersecretary, Ministry of Higher Education, Science and Technology, Slovenia.....	199
ANNEX 7: PRESENTATIONS FROM WORKING SESSION 4 .....	201
Mr. János Bertók, Head of the Integrity Unit, Public Governance and Territorial Development Directorate, OECD.....	201
Mr. Peter Reimer, Ministry of the Interior and Kingdom Relations, Netherlands.....	207
Mr. Lambok Hutaruk, Corruption Eradication Commission, Indonesia .....	213
Mr. Hüseyin Kaymak, Head of Department, Public Procurement Authority, Turkey .....	222
ANNEX 8: PRESENTATIONS FROM THE CLOSING SESSION .....	233
Report from Working Session on Prosecution of Foreign Bribery, Mr. Dmytro Kotliar .....	233
Report from Working Session on Corruption in Education, Mr. Pasi Sahlberg .....	235
Report from Working Session on Corruption in Public Procurement, Mr. János Bertók.....	240
Work Programme of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN), Ms. Olga Savran, ACN Manager, OECD .....	243
ANNEX 9: SUMMARY AGENDA.....	248
ANNEX 10: LIST OF PARTICIPANTS .....	253



Participants of the International Conference “Creating Conditions for Sustainable Economic and Social Development in Eastern Europe and Central Asia: Fighting Corruption and Promoting Good Governance”, in front of the Palace of Independence, Astana, Kazakhstan, 18 September 2009

## INTRODUCTORY SPEECHES



### **Mr. Nursultan Nazarbayev, President of the Republic of Kazakhstan**

Distinguished Participants!

Ladies and Gentlemen!

It is a pleasure for me to greet you all representing almost sixty nations and twenty international organizations in the hospitable Kazakhstan. Such a high level of the forum's participation proves how important the issues of effective fight against corruption are for the global community. Putting together the existing experience in fighting corruption, enhancing coordination efforts in anti-corruption policies implemented by different nations – these are the main goals of today's international conference.

The fact that the conference takes place in Kazakhstan proves our commitment to be among the leaders fighting global threat of corruption. Counteraction of this evil represents an important priority of the national policy of Kazakhstan. This is addressed in the long-term development strategy 2030. We never took the wrong turn and will continue to do so in the future. According to the estimates of international experts, the Kazakhstan occupies the highest level of anti-corruption efforts in the post-soviet area.

A decade ago, Kazakhstan was the first out of CIS countries to pass a special Anti-corruption Law. Our laws regulating the issues of civil service, judicial system, and law enforcement have clearly articulated anti-corruption nature. At my initiative we introduced life-long prohibition to serve as a government official at any position and in any public organization for persons earlier dismissed for corruption offences. By improving the national system of



public administration we're seeking to make it accountable and transparent. We remove excessive components, anything that may serve as a source of corruption, in a process of interaction of the government with its citizens and businesses.

We are in the process of gradual implementation of the second National anti-corruption programme intended for completion by 2011. In April 2009, I signed a Decree on further measures in fighting corruption. It envisages a broad range of measures involving legislative and organizational measures for overall strengthening of the system of anti-corruption efforts, including corporate corruption.

The government takes a systematic approach in implementation of its anti-corruption policy. We have established and made operational the Anti-Corruption Committee under the President, as well as the Agency on Combating Economic and Corruption Crimes.

Last year, Astana hosted another anti-corruption forum that brought together anti-corruption fighters from all over Kazakhstan.

It was my initiative to develop and adopt a nation-wide Work Plan on Fight against Corruption. It provides direction for both public sector and civil society institutions in joint counter measures against bribery. This work is actively supported by political parties, non-government organizations, mass media and citizens.

Anti-corruption policy of Kazakhstan is being formed on the basis of international standards and is based on inter-state document used by the global community.

In May last year our country ratified the United Nations Convention against Corruption. Presently, our application is submitted to join the Council of Europe Criminal Law Convention on Corruption and the Council of Europe Civil Law Convention on Corruption.

Overall, we have accumulated a very useful experience in fighting corruption. We are always open for a dialogue with foreign partners on the issues of combating corruption. We are keen to share our approaches, and study and apply good practice in fighting corruption from other countries of the world.

Our experience proves that being successful in fighting corruption is subject to three critical prerequisites. First of all, it is necessary to ensure that there are effective and fair laws. This is where we are going to work to improve our legal framework, using extensive experience of other countries. Policy framework for regulation that was recently approved by a Decree includes a range of objectives intended to eliminate grounds and reasons facilitating corruption. We will do our best to eliminate every single loophole in our legislation. Second, it is necessary to have a strong political will. Leaders of the country do possess this will. This takes shape through uncompromising efforts of the public institutions in fighting corruption. This will is evident in our commitment to develop a better and transparent governance system, ensure rigorous consideration of rights and freedoms of each particular citizen. In our country we do not have such a position or an agency, which can protect a corrupted person from prosecution and justice. Third, it is necessary to ensure an intolerable perception of corruption in society. So that even the idea to take or accept a bribe should be immediately

dismissed by every single citizen. This is the most difficult task as it involves a higher level of respect of rule of law in the society. We have to educate people from early age. In these noble efforts our government should act hand in hand with the civil society – parties, non-government organizations, mass media.

Dear participants of the conference, fighting corruption is not only about severe prosecution of offenders. It is a comprehensive set of measures in a daily work of the government. Success in fighting corruption mostly depends on the level of coordination of efforts undertaken by the global community.

I'm convinced that the discussions that would take place during this forum will bring a valuable input into further improvement of the global anti-corruption policies.

I would like to wish all the participants of the forum fruitful work in exchange of information and valuable ideas. I wish you all success in your important work.



**Mr. Aart De Geus, OECD Deputy Secretary-General**

I am honoured to speak at the opening of this Conference dedicated to Creating Conditions for Sustainable Economic and Social Development in Eastern Europe and Central Asia on behalf of the OECD.

The OECD and this region have a long history of cooperation and the level of participation in this event shows the strength of our ties. Mr. President, we are particularly honoured by your willingness to lead us into this venture. I will organise my remarks around four messages.

First, fighting corruption and promoting good governance goes hand in hand with economic and social development, especially in the context of the financial crisis.

Creating conditions for growth has been the core business of the OECD since its creation. The current financial and economic crisis forces us to take a fresh look at our understanding of growth. In June this year, at the annual OECD Ministerial Council Meeting, Ministers of economy and finance pledged “to do all necessary to overcome the crisis and go beyond to build a stronger, cleaner, and fairer world economy”.

In particular, Ministers agreed that “the current crises can act as a catalyst for much needed policy reform”. This policy reform should address the fundamentals. We must keep markets open to realise their great potential for growth. We must make sure that the recovery plans address social and environmental challenges and promote sustainable development. And, we must strengthen our regulatory frameworks to ensure long-term stability.

Fighting corruption and promoting good governance are undoubtedly a part of the stronger and better regulatory frameworks. Transparency, integrity and ethics are important moral

values, fundamental to democracy, fundamental to political trust and social stability. But they are also economic values, which – if translated into policy tools - can prevent economic decisions based on greed and pursuit for short-term benefits. In other words – clean economies provide better foundations for long-term growth and stability.

The principles of integrity and transparency must be integrated into the emerging governance architecture at global and national levels. Our June Ministerial Meeting also agreed on the need to develop a set of common standards for the conduct of international business and finance. We are working closely together with the G8 and G20 in developing a “Global Standard” for business.

Second, OECD has a specific approach and contribution to the fight against corruption and promotion of good governance.

At the OECD we have been working in developing effective tools to fight corruption and promoting good governance in the past. More than a decade ago, the OECD recognised that multi-faceted and ever evolving nature of corruption required a comprehensive response. As a result we adopted a multi-disciplinary approach, a unique methodology in the world, which combines preventive and law-enforcement measures, awareness raising, standard setting and rigorous monitoring of implementation.

Our best-known contribution to the global fight against corruption is the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*. The Convention makes it a crime to bribe a foreign public official in exchange for obtaining, or retaining international business. Over the past decade, the Convention has resulted in more than 150 sanctions on companies or individuals for foreign bribery; a number of these cases have been echoed in the media. All this would not have been possible ten years ago, before the Convention entered into force. We are still far from victory, but we are observing that companies are starting to pay attention to the cost of non-compliance with the OECD convention.

In addition to the Convention with its focus on criminal law, we have developed a range of soft-law tools to prevent corruption, strengthen transparency and accountability in the public service. The two most notable instruments in this area are the 1998 *OECD Recommendations on Improving Ethical Conduct in the Public Service* and the 2003 *Recommendations on Guidelines for Managing Conflict of Interests*.

The OECD played a pioneer role in recognising the importance of good governance in public procurement. This resulted in the adoption of the *OECD Principles for Integrity in Public Procurement*.

The *Paris Declaration on Aid Effectiveness* is a unique tool developed by the OECD to promote good governance in donor assistance programmes.

The 2009 *Recommendations of the OECD Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions* is the key tool in

the prevention of corruption in tax areas. No doubt you have heard about the most recent high profile work led by the OECD against tax heavens.

We also work with our partners in the private sector to promote good governance and responsible business conduct at the company level. It is worth noting such OECD standards as the *Guidelines for Multinational Enterprises*; our *Principles on Corporate Governance*; our *Guidelines for State Owned Enterprises* and the *Framework for Investment*.

Not only have we developed international standards, but we work hard to support their implementation. We have a long tradition of using peer reviews for monitoring of standards. The enforcement of the OECD Anti-Bribery convention - monitored by the OECD Working Group on Bribery - has acquired a status of a 'gold standard' according to Transparency International. We will strengthen peer review approach and extend its application to other relevant sectors and countries.

Policy makers are continually facing new challenges, and we at the OECD are working to update our standards to make them relevant for new tasks. We are now completing the review of the OECD Anti-Bribery Convention and its instruments. To address weaknesses in corporate governance related to the financial crisis, the OECD works closely with the Financial Stability Forum to implement the OECD Principles on Corporate Governance in the financial sector. We will also be reviewing the OECD Guidelines for Multinational Enterprises in the aftermath of the crisis.

We are also well aware that in the global economy we cannot succeed alone. Therefore we work with other international partners to promote global anti-corruption efforts; notably we support the implementation of the UN Convention against Corruption. We also promote regional anti-corruption initiatives. The Anti-Corruption Network for Eastern Europe and Central Asia, the ACN, which brought us here today - is a prime example.

Thirdly, let me now turn to anti-corruption issues in the context of Eastern Europe and Central Asia.

I am very pleased to see the key actors in the fight against corruption in the region here. I also see many delegates from other countries and regions, with which the OECD has started a programme of engaged enhancement. Just to mention a few – Brazil, South Africa, China and Indonesia. OECD candidates and member states are also present. This confirms that the fight against corruption and promoting good governance are global priorities, and that countries are looking to learn from each other. This also confirms that you consider the Anti-Corruption Network (ACN) and broader exchange across regions as a valuable mechanism for mutual learning.

The amount of anti-corruption activities in the ACN countries is impressive. They were among the first countries to ratify the UN Convention against Corruption. Many ACN countries are undergoing anti-corruption monitoring, by the Council of Europe Group of States against Corruption (GRECO), by the OECD Working Group on Bribery or the ACN Istanbul Action Plan. They develop anti-corruption programmes, establish anti-corruption

bodies and reform legislation. However, the level of corruption in the region generally remains high. Some countries have demonstrated important progress: Georgia, for example, received improved ratings by Transparency International. At the same time, many ACN countries in Eastern Europe and in Central Asia still face major challenges. Major challenges also mean a great potential for progress, and this is why we came to Astana – to learn from each other, to help each other, to decide how we will move ahead together.

Let me conclude by emphasising the role of this conference and of the regional anti-corruption network.

During these three days we will be working together to improve our ability to counter corruption globally, and in all its forms, and to improve the governance of our countries and companies. We have a very interesting and full agenda.

I am very glad that for the first time the ACN will discuss the issue of foreign bribery. As I mentioned earlier, this is the top priority for the OECD. Prosecution of international bribery can only be effective if all countries cooperate. So far, ACN countries paid little attention to foreign bribery, as domestic bribery is your immediate priority. However, when a company from another region bribes an official in one of the ACN countries, it is your national officials who are corrupt and your citizens who suffer. Thus, fighting international bribery makes a lot of sense for all countries. Detecting and prosecuting cross-border bribery is even more difficult than fighting domestic corruption. It requires special skills and also international cooperation. At this conference we will present practical experiences, and identify ways to strengthen capacity for future joint actions against foreign bribery. I believe this will be a very good start.

We will be glad to share the most recent achievements of the OECD and several countries in the area of corruption prevention in public procurement. For the first time, the ACN will discuss the prevention of corruption in education. The role of business to fight corruption will also be pursued. Finally, the role of donors in promoting anti-corruption actions in the region will be addressed.

To put all the good knowledge brought together in this Network into practice, strong political will is vital. This is why I am glad to see many high level officials in this room: Ministers and Deputy Ministers, Heads of Anti-Corruption Agencies, Heads of other public agencies involved in the anti-corruption efforts. It is very important that all Istanbul Anti-Corruption Action Plan countries are represented by high level delegations. As you know, these countries – Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Ukraine and Tajikistan – participate in the initiative which combines OECD-style peer review and mutual learning to help countries implement international anti-corruption standards, primarily those established by the UN Convention against Corruption.

This conference provides an excellent opportunity for all participants to confirm their political will to fight corruption and promote good governance. This will be reflected in the adoption of the Astana Statement on Good Governance and Fighting Corruption. This Statement will be a strong message from the ACN region to the rest of the world about its

commitment to step up the fight against corruption and to promote good governance. In particular, we should send this message from Astana to the third Conference of the States Parties to the United Nations Convention against Corruption, which will meet in Doha in November 2009.

Let me end by turning to our host with words of sincere gratitude. It is for the first time that an ACN member-country is not only hosting the meeting, but is also providing core funding for the event. Kazakhstan has developed rapidly over the past decades to become one of the most prosperous countries in this region. The Kazakh leadership's plans to move further in this area are very encouraging. Astana is a potent symbol of growth and future ambition. The invitation by Kazakhstan to host this Conference in Astana clearly shows that the leadership of the country is well aware of the challenge that corruption presents to further prosperity of the country, and that it is serious about fighting corruption not with words, but with real action.

A lot of work has been done to make this event possible. Sincere gratitude is due to the Agency for Combating Economic and Corruption Crime for its work in organising the Conference and close cooperation with ACN Secretariat who developed the substantive programme, the US Department of State and partner organisations – the OSCE and the UNODC – who contributed to the organisation and co-financing of this event. I also have to thank all speakers and delegates from all over the world, who came here to share their knowledge. I think we are all together in a very inspiring atmosphere; it is the atmosphere of looking forward, of vision and prosperity, atmosphere of co-operation and learning from each other.

I wish you a very productive and enjoyable meeting.

## **SPECIAL HIGH-LEVEL SESSION: ASTANA STATEMENT ON GOOD GOVERNANCE AND FIGHTING CORRUPTION**

This Special High-Level Session was organised to reinforce political support for fighting corruption and ensuring good governance in Eastern Europe and Central Asia and to re-confirm the resolution of the Istanbul Anti-Corruption Action Plan countries and supporting countries to continue the implementation of this important initiative. OECD Deputy Secretary General **Mr. Aart de Geus** chaired this session.

In the beginning of the session Mr. Aart de Geus invited the Istanbul Action Plan countries to express their views about the draft statement.

Support to the Astana statement was expressed by senior representatives of the Istanbul Anti-Corruption Action Plan countries – Armenia, Azerbaijan, Georgia, Kyrgyz Republic, Tajikistan, Ukraine and Kazakhstan. Following to that selected partner countries expressed their support – Latvia, Romania, Slovenia and the United States.

**Mr. Emil Babayan**, Deputy Minister of Justice of Armenia recalled various legal and institutional measures adopted by Armenia, including altogether 50 laws for fighting against corruption, and stated that at present Armenia has entered into second stage of anti-corruption efforts – implementation of international standards and recommendations and addressing of selected priority issues, such as lifting of immunities for public officials, adoption of a code of ethics for public officials modelled on international standards, introduction of reporting of corruption and protection of whistleblowers, awareness raising campaigns, training for officials and the private sector. Mr. Babayan stated that the Astana Statement is a very good basis to continue Armenia's work in this direction.

**Mr. Kamran Aliyev**, Director of the Anti-Corruption Department, Office of the Prosecutor General of Azerbaijan stated on behalf of the government of Azerbaijan that viable anti-corruption reforms represent a significant guarantee for sustainable economic development. He confirmed that the Astana Statement is an important instrument in fighting against corruption. The Statement is a comprehensive and well grounded document. It demonstrates the political will of countries to continue their anti-corruption efforts. This statement is sound; it can be and should be endorsed.

The Astana Statement is an up-to-date and comprehensive collection of principles that define new dimensions for fighting corruption in these challenging times, stated **Mr. Dimitri Dzagnidze**, Deputy Minister of Justice of Georgia. The government of Georgia expresses its full support to the principles expressed in the Astana Statement. It has been widely recognised that corruption in Georgia was the main obstacle to economic development since 1991. Since political change in 2003 the government of Georgia is committed to fighting corruption. It has so far demonstrated ability to deliver practical results. Mr. Dzagnidze



stressed that it is recognised that the level of corruption has been significantly reduced in Georgia. Various actions were taken by the Georgian leadership to reduce corruption, including lessening the involvement of the state in the economy, improving the fiscal transparency and strengthening oversight institutions. Georgia aims to continue building transparent, accountable and well functioning institutions. Zero tolerance in prosecuting corruption is key. The focus in Georgia, similar to the Astana Statement, is on good governance, transparency, oversight. Preconditions for economic development and sustainable growth include political will to fight against corruption, prompt and impartial investigation of corruption crimes, reforms of public service, IT solutions, constant liberalisation of business environment, deregulation, equal access to market and transparency.

**Mr. Sadyr Zhaparov**, Commissioner of the National Agency of the Kyrgyz Republic on Corruption Prevention informed that in March 2009 the Kyrgyz Republic adopted a new anti-corruption programme and action plan and responsible bodies to implement it. In this light, this conference is very useful to carry out this work drawing on experience of other countries. Mr. Zhaparov proposed to create a coordinating secretariat of anti-corruption bodies and various bodies with functions in the area of fight against corruption in the countries of the Commonwealth of Independent States and Central Asia. This coordinating secretariat could be created using examples of the coordinating council of bodies of financial police, Euroasian group on financial investigations and others. It should be a flexible, action-oriented organisation.

**Mr. Fattokh Saidov**, Director of Agency on State Financial Control and Anti-Corruption of Tajikistan recalled various anti-corruption measures taken in Tajikistan, strengthening the legal and institutional framework and the anti-corruption strategy for 2008-2012 that is being implemented at present. In 2007 the Agency on State Financial Control and Anti-Corruption subordinated to the President of Tajikistan was created consolidating efforts of tax services, state audit and prosecutor general's office in the area of fight against corruption. Mr. Saidov confirmed the readiness of the government of Tajikistan to continue taking serious measures to fight corruption. Mr. Saidov expressed support to the Astana Statement.

**Mr. Andriy Bogdan**, Deputy Minister of Justice of Ukraine recalled key recent anti-corruption reforms in Ukraine, including the creation in 2008 of a special government agent on anti-corruption policy matters responsible for developing national anti-corruption strategy and action plan and anti-corruption screening of legal acts. In June 2009 a package of anti-corruption laws was adopted by the Parliament of Ukraine including new anti-corruption measures, separating administrative and criminal liability and introducing liability of legal persons for corruption. Corruption remains a problem for Ukraine and more efforts are needed at national and international level, Mr. Bogdan recognised. Ukraine expressed full support to the Astana Statement and declared its readiness to participate to the second round of monitoring under the Istanbul Action Plan, as well as expressed support to the new component of the ACN work programme - regional expert seminars, particularly on such topics as application of novel corruption offences, for example, trading in influence, corruption in private sector, illegal enrichment, as well as responsibility of legal persons, arrest and confiscation of proceeds of corruption, also through civil law means, asset declarations. Ukraine also expressed support to further implementation of the OECD project

funded by the United States “Strengthening the Capacity for Investigation and Prosecution of Corruption in Ukraine”.

**Mr. Kairat Kozhamzharov**, Chairman of the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime (Financial Police) recalled that the Astana Statement is a result of common work; it encompasses all principal elements of the fight against corruption and its prevention at national and international level. The Astana Statement is one of the significant initiatives in the framework of the Istanbul Action Plan and one of documentary basis for further improving cooperation in this framework.

Several partner countries expressed their support to the Astana statement.

**Mr. Normunds Vīlītis**, Director of Corruption Prevention and Combating Bureau of Latvia reminded that corruption is not a crime committed within the borders of one country and uncovering it would often require interaction and co-operation with other countries. The ACN and activities within the Istanbul Action Plan are among useful opportunities of such co-operation. Therefore, Latvia supports the initiative to provide concrete assistance to anti-corruption measures, including assistance to institutions responsible for investigating corruption and other crimes committed in the public service.

**Mr. Daniel Marius Morar**, Chief Prosecutor of the National Anti-corruption Directorate of Romania emphasised the importance attached by Romania to the ACN and the implementation of the Istanbul Anti-Corruption Action Plan. In countries like Romania where corruption is still a serious threat to social and economic development, anti-corruption efforts need support of international community, said Mr. Morar. Romania fully agrees with the Astana Statement, outlining the most vulnerable sectors to corruption, putting an emphasis on fighting corruption of high level officials, but also low level officials and officials in public and private sectors. Mr. Morar made a special mention of specialised anti-corruption agencies of different types – prevention, policy development and law enforcement – emphasising the significant role of law enforcement agencies in societies where corruption still represents a problem and in its most serious form – a criminal offence. Mr. Morar stressed that quicker is the intervention of state authorities in such cases more effective is the fight against corruption. Law enforcement/prosecutorial anti-corruption bodies play a key role in seizing and freezing assets acquired in corrupt way and lodging the mutual legal assistance requests. Mr. Morar expressed support to international monitoring mechanisms, such as GRECO and the Istanbul Action Plan. Mr. Morar expressed support to the Astana Statement.

**Mr. Goran Klemenčič**, State Secretary of the Ministry of Interior of Slovenia recalled Slovenia’s continued support to the Istanbul Action Plan. No country is immune to corruption, even if the quality of rule of law and strength of institutions may differ. Anti-corruption efforts have seen more failures than successes stories throughout the world. Meanwhile, there have been good practices and therefore there is a need to exchange experience on them. International statements and conventions are important to keep anti-corruption high on the agenda and encourage authorities to reiterate their political will, as well as to provide moral and ethical support to the people working on anti-corruption issues.

**H.E. Richard Hoagland**, United States Ambassador to Kazakhstan stated that corruption is an important issue and recalled the support of the United States to bilateral and regional anti-corruption programmes and continued support to capacity building, good governance and rule of law programmes to fight corruption throughout the world, including support to the ACN, welcoming involvement of other organisations. The United States support the Astana Statement and principles it reflects, said Ambassador Hoagland. He also recalled that the United States continues to strive to improve its own legal framework and prosecute public officials for corruption. Transparent government institutions are not enough; there should be free media and strong civil society watching these institutions. Governmental anti-corruption bodies must be funded and well trained and must be provided a sufficient level of independence together with accountability doing their job within the rule of law and without political motivation.

During this session a delegate from academia in Kazakhstan suggested that key areas of anti-corruption work should include prevention of corruption in public procurement (monitoring of public procurement deals, improving public procurement legislation and monitoring its practical implementation based on the OECD recommendation and the UNCAC), screening anti-corruption risks in legal acts and supporting common investigatory and prosecutorial activities, as well as ensuring extradition.

As a result, the High Level Officials and Heads of Anti-Corruption Agencies from countries participating in the Anti-Corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan countries, as well as other participants of the Conference adopted the Astana Statement on Good Governance and Fighting Corruption was adopted at the end of this Session (see below).

**Mr. Patrick Moulette**, Head of OECD Anti-Corruption Division stated that the Astana Statement gives a clear impetus to the fight against corruption in this region and beyond. It means a continuation of the monitoring of the progress made in combating corruption. Countries gathered in Astana give a good and clear example to other regions. This will encourage further exchange of information and experience on how various anti-corruption systems work.



## Astana Statement on Good Governance and Fighting Corruption



Adopted on 16 September 2009 in Astana, Kazakhstan

**We, High Level Officials and Heads of Anti-Corruption Agencies from countries participating in the Anti-Corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan countries, as well as other participants of the Conference**

**Hosted by the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime (Financial Police) and organised by the Organisation for Economic Co-operation and Development (OECD), with support from the US Department of State, the United Nations Office on Drugs and Crime (UNODC) and the Organisation for Security and Co-operation in Europe (OSCE) on 16-18 September 2009 in Astana.**

**Acknowledging** that corruption threatens the stability and security of societies, democratic institutions and sustainable economic and social development of our countries, especially during the current global financial crisis, and taking into account that corruption undermines growth and prosperity and corrodes public trust in state authorities,

**Noting** the significant efforts that have been made by our governmental institutions together with civil society, representatives from businesses and international organisations to reduce the level of corruption and to improve public and corporate governance and,

**Recognising**, however, that corruption in Eastern Europe and Central Asia remains a serious challenge, and that further sustained efforts are needed to achieve progress in combating corruption;

**Stressing** that a comprehensive strategy is essential to combat corruption and that it should include practical measures to prevent corruption, to prosecute corruption-related crimes and to educate and involve society in the prevention of and fight against corruption,

**Convinced** that such a strategy will help to build trust in society, protect human rights and justice, foster sustainable economic and social development and attract investment,

**Recalling** the international standards established by the United Nations Convention against Corruption (UNCAC), the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the Council of Europe Criminal Law Convention on Corruption and other international instruments and best practice,

**Agreeing** that meeting periodically under the auspices of the Anti-Corruption Network for

Eastern Europe and Central Asia reinforces our efforts to prevent and combat corruption through policy dialogue and sharing lessons learned.

**Confirm** that fighting corruption will remain one of our highest priorities and therefore **agree to:**

- promote good governance and strive to build more accountable and efficient public administrations and justice systems, including through efficient internal and external oversight in public institutions, providing access to information, increasing the publication of information about the use of public resources, providing protection for witnesses and encouraging whistleblowers;
- combat corruption at all levels in public procurement, public education and vulnerable sectors, such as the extractive industry, taking into account international best practice including OECD guidelines and recommendations and provisions of the UNCAC;
- work with companies and business organisations to promote integrity in both private and state-owned enterprises and draw on guidelines and recommendations developed in this area by the OECD and other best practices;
- punish corrupt acts and apply effective, proportionate and dissuasive sanctions to all corrupt persons, including high and low level public officials, legal entities and persons committing bribery in the private sector;
- work individually and jointly to deny the entry of corrupt individuals into our countries as well as the transfer and transit of proceeds of corruption through our financial systems;
- foster international cooperation to prosecute bribery of foreign public officials;
- deliver prompt assistance in provision of information for the criminal investigation of corruption cases and consider signing agreements on mutual cooperation among countries participating in the Conference;
- strengthen our anti-corruption institutions by ensuring that they are specialised, independent from undue influence and have the resources necessary to carry out their mandate;
- provide effective criminal procedure tools to support the robust and efficient investigation and prosecution of corruption crimes, while ensuring respect for human rights and freedoms;
- participate in joint training projects on anti-corruption, exchange methodologies, legal and regulatory documents about prevention and fight against corruption;

**Call upon** countries that have not yet ratified the UNCAC to do so and to implement it without further delay,

**Agree** that international cooperation, mutual learning and country reviews reinforce national anti-corruption efforts and therefore welcome existing mechanisms such as the OECD Working Group on Bribery (WGB) and the Council of Europe Group of States against Corruption (GRECO) and support a review mechanism for the UNCAC,

**Support** the continuation of the Istanbul Anti-Corruption Action Plan, a programme for Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan and Ukraine, with participation of other countries of the Anti-Corruption Network for Eastern Europe and Central Asia and OECD member countries and WGB countries; remain committed to the implementation of the second

round of monitoring and a peer learning programme of the Istanbul Anti-Corruption Action Plan, **Invite** interested countries in the region to consider becoming members of the Anti-Corruption Network for Eastern Europe and Central Asia and Istanbul Anti-Corruption Action Plan;

**Call upon** donor agencies and international organisations to support the Anti-Corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan and other good governance and anti-corruption initiatives in Eastern Europe and Central Asia, in particular by promoting implementation of requirements of the UNCAC. In doing so, it will be important to ensure effective co-ordination of assistance to national anti-corruption efforts, in line with Paris Declaration on Aid Effectiveness.

## **PLENARY SESSION ON EXPERIENCE OF KAZAKHSTAN IN PREVENTING AND FIGHTING CORRUPTION**

This plenary session was dedicated to the experience of Kazakhstan in preventing and fighting corruption. This session was chaired by **Mr. Kairat Kozhamzharov**, Chairman of the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime (Financial Police).

**Mr. Andrey Lukin**, Deputy Chairman of the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime (Financial Police) presented legal basis for fighting corruption in Kazakhstan. The main principles and methods of the fight against corruption, as well as violations related to corruption and sanctions are set out in the Law on Fight against Corruption adopted in 1998. Main priorities of anti-corruption policy are defined in 5 years anti-corruption programme adopted with a President's decree. Priority areas are the improvement of the legal framework to fight against corruption, including its compliance with international standards, governmental measures aimed at decreasing the level of corruption, strengthening of law enforcement and judicial systems, improvement of international co-operation in the area of fight against corruption, raising of public awareness on corruption via mass media; co-operation with the civil society.

Kazakhstan is keen to continue implementing measures in these priority areas that are also recognised as important areas in the practice of other countries, stressed Mr. Lukin.

The code of ethics for the public service adopted in 2000 sets out moral and ethical values and professional skills expected from public officials.

Important steps for Kazakhstan were the adoption of two laws: related to improvement of the fight against corruption adopted in 2007 and on the ratification of the UN Convention against Corruption in 2008, said Mr. Lukin. The first law has improved the compliance with international standards, introducing stronger sanctions for corruptive offences and confiscation of property from third persons. Corruption of foreign public officials and officials of international public organisations was criminalised. In Kazakhstan the law forbids to hire in the public service a person who has previously committed a violation or crime related to corruption. It is established in the law that heads of public institutions who would hire such persons can be held liable.

For greater compliance with the UN Convention against Corruption Kazakhstan still needs to introduce criminal liability for promise and offer of bribe and introduce liability of legal persons. The Criminal Code should also be completed to establish that a bribe can be not only material, but also non-material benefit. Mr. Lukin reported that a draft law on responsibility of legal persons is developed taking into account successful experience in such countries as Germany, Italy, US, Netherlands in holding companies liable. It is also planned to introduce

liability for receiving bribes for benefit of third persons. It is planned to further strengthen the responsibility of public officials for corruptive violations and raising the level of sanctions.

Mr. Lukin stressed the importance of prevention of corruption. In Kazakhstan an administrative reform that is also aimed at preventing corruption is a key measure in this area. In view of co-operating with the civil society, expert and public councils have been established in all public and certain law enforcement institutions involving Members of Parliament, representatives of civil society and the media.

Mr. Lukin also reported that public institutions, including the Financial Police, conclude agreements with the political party "Nur Otan"<sup>2</sup>. Various awareness raising activities and seminars with civil society and business organisations are carried out in the framework of such agreements.

Mr. Lukin pointed out that the general public expects concrete results of the anti-corruption policy in form of holding the responsible persons liable irrespective of positions they are holding or their wealth.

On 22 April 2009 a President's Decree on Additional measures to fight crime and corruption was adopted aimed at further strengthening law enforcement activities in Kazakhstan. The Decree was developed using experience of other countries in Europe and Asia. One of the key aims of this new regulation is to change the mentality and attitude towards corruption, one of the key problems of the society. It introduces following new norms: rewarding whistleblowers; asset declarations; liability for failure to report corruption; strengthening of conditions for recruitment in law enforcement bodies; measures to prevent corruption in the private sector and conflicts of interest; assessment of most corruption-prone public positions; introduction of personal responsibility of all heads of public bodies and public companies for anti-corruption measures.

Kazakhstan actively participates in international co-operation in anti-corruption area having co-operation agreements with many countries and co-operating actively with OSCE, OECD, Transparency International and other organisations. Kazakhstan envisages joining the Council of Europe Criminal Law Convention on Corruption, the Council of Europe Civil Law Convention on Corruption and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. This would allow Kazakhstan to reinforce its legal basis for fighting corruption, but also to build up co-operation with GRECO. An official request to join the above conventions was sent to the Council of Europe in April 2009 and a consultation with States Parties to these conventions is on-going.

Mr. Lukin noted that from 2005 to 2008 the number of detected corruption crimes has increased by 21% and the number of cases sent to court has increased by 32%. Major part of these crimes was detected by the Financial Police (about 75 - 80%). Several heads of central and local public bodies have been sentenced for corruption in Kazakhstan.

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<sup>2</sup> The political party headed by the President Nursultan Nazarbayev (note of the Secretariat).



At the end of his presentation Mr. Lukin suggested several areas for further work and co-operation within the Anti-Corruption Network for Eastern Europe and Central Asia: effective detection, investigation and prosecution of corruption; improvement of national legislation and international agreements in the area of fight against corruption; joint scientific-research work in common areas of interest, joint educational events in anti-corruption area.

**Mr. Sergei Zlotnikov**, the Executive Director of Transparency International Kazakhstan informed about the active participation of Transparency Kazakhstan in development of national anti-corruption programmes. On the initiative of Transparency Kazakhstan the programme included such elements as the national system of incorruptibility, journalistic investigations, and interaction of public bodies with non-governmental organizations and media, creation of public councils in governmental bodies, joining and ratification of international anti-corruption documents.

Mr. Zlotnikov informed about various activities of Transparency Kazakhstan. For example, together with the Academy of Financial Police, the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime (Financial Police) and the Forum of Businessman of Kazakhstan, Transparency Kazakhstan prepared guidelines for businessman “For businessman – preventing corruption”. It covers anti-corruption legislation, national programme, elements of corruption offences and recalls the existing administrative and disciplinary responsibility.

Transparency Kazakhstan actively takes part in various anti-corruption activities with government, such as the Commission on Fight against Corruption under the President, scientific-expert council of the Financial Police, the public council of the Financial Police, various working groups at Supreme Court, prosecution service, Ministry of Justice, Civil Service Agency, etc.

Mr. Zlotnikov said that while Kazakhstan has made progress in fighting corruption, it is necessary to further strengthen the co-operation of NGOs and public institutions in implementing the anti-corruption measures, especially at local level, to carry out independent assessments of the legislation, carrying out public consultations. Government should take into account useful and constructive suggestions made by NGOs and provide them with support that is needed, as well as the information they require. It would be useful to involve citizens and NGOs in monitoring quality of public services.

**Mr. Marat Bashimov**, journalist, editor-in-chief of the magazine “Chelovek i Zakon” (“People and Law”), the Director of the Institute “European Law and Human Rights” of Kazakhstan stressed that mass media play a key role in the fight against corruption by providing trustworthy and complete information. Mr. Bashimov informed about regular briefings for journalists organised by public institutions in Kazakhstan. He said that public institutions in Kazakhstan are transparent and public officials are very open and provide information for journalists. Mr. Bashimov said that Kazakhstan has made a lot in implementing the Istanbul Anti-Corruption Action Plan. Step by step governments together with the civil society should go towards eradication of corruption, said Mr. Bashimov.

## **SUMMARY OF DISCUSSIONS**

### **PLENARY SESSION 1: WHY IS FIGHTING CORRUPTION IMPORTANT FOR ECONOMIC DEVELOPMENT? WHAT CAN GOVERNMENTS AND BUSINESS DO?**

The first plenary session addressed the role of economic and business development in the fight against corruption involving representatives from government, non-governmental organisation and business community giving their different perspectives on this topic. The session was chaired by **Mr. Gnanasihamani Kannan**, Deputy Public Prosecutor and Director of the Corruption Cases State Prosecution Division at the Attorney-General's Chambers of Singapore.

**Mr. Giorgi Jokhadze**, Secretary of the National Anticorruption Council, Ministry of Justice of Georgia reminded that discussion on creating sustainable growth through effectively addressing corruption in public and private sectors started at the previous meeting of the ACN in June 2008 in Tbilisi, Georgia.

While prosecution of corruption works and has more visible and concrete results, prevention of corruption is equally effective. Prevention motivates businesses to behave responsibly, to follow the rules, and to address the cause of corrupt conduct before it occurs. Policies for preventing corruption can be built upon the best practices of crime prevention. An important element in preventing private sector corruption in Georgia is liberalization of economic policy.

Mr. Jokhadze presented the experience of Georgia in preventing corruption focusing on liberalization of economic policy. A series of measures taken by Georgia allow preventing corruption: decriminalization of several types of criminal fraud and other economic offences, reducing corporate and personal income taxes, reducing taxes on dividends on income, modernising tax collection procedures, creation of conditions for strengthening competition and giving all players equal access to the market. Also about 84% of licensing requirements for the business were removed resulting in an important increase in the number of registered enterprises. In order to counterbalance the liberalizing of the business environment, Georgia seeks to ensure maximum transparency. There is a need to ensure bigger transparency among mayor market players. Transparency in public procurement is of vital importance.

Attractive, effective and efficient public service is an important element driving force in preventing corruption. It is important to prevent corruption in the private sector by preventing public officials from entering into corrupt agreements with the business.

It is of key importance to ensure that there is a strong political will to tackle corruption in business not only by criminalization, zero tolerance and prosecution, but also combining this

approach with preventive actions that address causes of corruption in a delicate and balanced manner.

**Mr. Aykut Kılıç**, Deputy Undersecretary of the Minister of Justice from Turkey, stressed that Turkey is strongly committed to the fight against corruption and keeping its business environment immune from corruption. In Eastern Europe, Caucasus and Central Asian region corruption remains one of the important common problems. It is important to prevent corruption to build a more predictable investment environment, including by improving bureaucratic structure and improve the legislation, stressed Mr. Kılıç.

Corruption must be addressed in a comprehensive and holistic manner combining various incentives, criminalisation of corruption and preventive measures. Mr. Kılıç stressed the role of three pillars – government efforts to develop reforms and legislation, responsibility of media and civil society and role of the business side. Mr. Kılıç also underlined that during reform process, when models of other countries are adopted it should be done according to the genuine circumstances of the country.

Mr. Kılıç stressed that it is particularly important to introduce liability of legal persons in corruption cases. There is a risk that companies would be more inclined to engage in bribery, if it is likely that no individual will be held responsible. Making legal persons liable for corruption, especially for bribery, will have deterrent effect as well as it will force companies to take effective preventive measures, such as implementing corporate governance.

To prevent corruption in public administration efficient recruitment and promotion procedures should be developed and staff training and development, including anti-corruption and ethics training, should become an integral part of personnel policy. It is important to promote reporting of corruption-related crimes by public officials and ordinary citizens and remove overly strict provisions against defamation. Particular attention should be paid to public procurement – a sector with a high risk of corruption. It is important to take into account the needs and demands of the business world and to promote reform process in economic field, in accordance with such needs and demands, as much as possible.

Mr. Kılıç stressed that Turkish enterprises are very active and present in Eastern Europe and Central Asia and Turkey enjoys increasing trade volume with the region. Together with this increase of economic relations there are also more concerns with the potential of illegitimate factors getting involved. Therefore over the past years serious efforts have been taken by Turkish government to raise the awareness of Turkish firms about corruption and inform about the criminal penalties they would face. Turkish government seeks to keep the image of Turkish investment in the region untainted.

**Mr. John Devitt**, Chief Executive of the Transparency International Ireland and member of Board of Directors of Transparency International addressed the role of an active civil society, link between economic growth and good governance and shared some lessons learned from fighting corruption in Ireland.

Mr. Devitt stressed that a strong and active civil society is a mark of a country's strength and security. He praised TI chapters in the region stressing their active work in many areas that serve as example for other countries, for example, in monitoring public contracting and privatisation of state assets or TI Advocacy and Legal Advice Centres that have served as examples for other parts of the world.

Economic growth can go hand in hand with better governance. It is important for governments to demonstrate it. The government, business and civil society have their part to play in ensuring that the fruits of prosperity are available to everyone. It is key for countries enjoying high economic growth and having access to natural resources to prevent misuse of state assets, to distribute their wealth more equally and support a more sustainable growth.

Mr. Devitt described lessons learned from the experience of Ireland. Within the space of fifteen years from late 1990s Ireland had become one of the wealthiest countries in the world. In 2007 its per capita income was the highest in the world. While enjoying economic growth and rapid increase of investments and trade, Ireland paid less attention to more fundamental reforms and did not take serious anti-corruption measures or introduce safeguards or more transparency. The economic crisis revealed how fragile our economies are. Irish example showed that a sustainable economic growth demands more than low tax rates and access to markets. Above all, it showed that the economic and social cost of ignoring the unbreakable bond between good governance and prosperity could be catastrophic, stressed Mr. Devitt.

**Mr. Stephanos G. Orestis**, Legal Counsel at *StatoilHydro* ASA, Norway presented the *StatoilHydro*'s Anti-Corruption Compliance Program and its implementation.

The presentation stressed the commitment of *StatoilHydro* to conduct business with zero tolerance for corruption. *StatoilHydro* strives to maintain the highest possible ethical standard because of the negative impact corruption has on society, competition but also – their own business interests, stressed Mr. Orestis.

Following a settlement reached with US and Norwegian authorities related to *StatoilHydro*'s involvement in corrupt payments to Iranian officials in recent years *StatoilHydro* has significantly strengthened its anti-corruption compliance program. This programme is drawn on the United States federal sentencing guidelines. These guidelines specify main elements of an effective anti-corruption compliance program. In recent years they have been used by many enterprises worldwide. Similar guidelines for businesses were recently also adopted by the United Kingdom's Serious Fraud Office.

The anti-corruption compliance program of *StatoilHydro* contains several important features. One of the key elements is setting a high standard for senior management of the company. The management has to consistently demonstrate – through words and actions – their involvement and commitment to effective compliance. The programme provides for policies and procedures that prohibit bribery in all its forms. Further, it includes ongoing training, including an internet based anti-corruption e-training program obligatory for all *StatoilHydro* employees (completed by about 2/3 of employees) and also provided to selected business partners. Based on this programme ethics committees and compliance officers within all

business units and country offices in exposed locations were established. The programme also includes strict policy on providing gifts, hospitality, entertainment, as well as on travel. The programme encourages employee with an ethical doubt or breaches of *StatoilHydro*'s ethical requirements to report those concerns.

One of the most complex and far-reaching elements of *StatoilHydro*'s programme is the Integrity Due Diligence process. *StatoilHydro* reviews all business and project partners, including charitable donations and sponsorships. A mandatory annual corruption risk assessment is completed by each country office of *StatoilHydro*. An efficient internal and financial control system helps to detect inaccurate record-keeping and fraudulent activity and ensure that books, records, and accounts are accurately kept.

The anti-corruption compliance program of *StatoilHydro* works well for this company. However, this is not a solution that should be replicated directly. Other companies need to assess their own risks and devise a program that suits them, stressed Mr. Orestis.

Mr. Orestis stressed that there is a link between a transparent and efficient business environment and increased foreign direct investment. Private sector moves towards implementation of strong ethical standards and it will choose to invest in economies where those standards can be maintained.

During **questions and answers**, the following issues were raised:

- Uncovering corruption problems in some major business companies and sanctions imposed in recent years had led to a change in attitudes in the business community. Many enterprises have undertaken efforts to strengthen ethics and introduce compliance mechanisms. Also companies are more inclined to discuss problems of corruption faced in other countries among themselves. Risk factors and ways to face different challenges are more openly discussed among businesses. Such tools as the Transparency International *Corruption Prevention Index*, risk assessments of the U.S. Department of Justice, World Bank *Doing Business* surveys are used by businesses to assess the business environment. Among factors to determine how attractive a country is for doing business are: efficiency of public administration; bribery risks, including ongoing criminal investigations for alleged bribe giving by foreign businesses; scrutiny by international law enforcement.
- In order to prevent corruption risks, governments also screen companies that receive public funding. For example, the municipality of Amsterdam checks the criminal records about companies before engaging in a relationship within a government funded project.
- There is a demand for case studies on political corruption.

- Stronger measures are needed to create conditions within public administrations that bribes are not demanded from businesses. This has not become a bottom line in many countries so far.

### **PLENARY SESSION 3: PREVENTION OF CORRUPTION – CHALLENGES, GOOD PRACTICES AND WAYS AHEAD**

The third plenary session was chaired by **Mr. Michel Barrau**, Director of the Central Service for Prevention of Corruption in France. This session discussed effectiveness and variety of measures to prevent corruption – prevention of corruption from an external audit perspective, prevention of corruption in education and common trends in preventing corruption in the Council of Europe GRECO Member States. Mr. Barrau noted that the present economic and financial crisis shows the limits of measures taken to prevent corruption, including various regulatory instruments, ratings and other existing safeguards and measurements. Today it is necessary to reconsider what are the ways to prevent corruption, including through addressing the issue of tax havens and strengthening regulation of financial markets.

The Head of the Office of the Comptroller General of Brazil Minister of State **Horge Hage** made a presentation on what is necessary to prevent corruption and introduced the Brazilian experience. The anti-corruption measures can be split in two - legal reforms and cultural and educational change and measures that are long-term changes and more practical measures and approaches, such as transparency, participation of citizens, application of penalties and enforcement, co-operation among public institutions and co-operation among public and private sectors. Prevention and enforcement go hand in hand, said Mr. Hage.

The Office of the Comptroller General of Brazil is at the same time the state audit office and the anti-corruption office of the federal government of Brazil. The office has competence in internal control, referral of results of audit to other public institutions, disciplinary actions and corruption prevention. The Office of the Comptroller General of Brazil takes a variety of actions, for example, tracking growth in asset and property holdings of public officials, ethics education, working with private companies, informing them about foreign bribery, on-line monitoring of public expenditure and procurement, suspension of enterprises, etc.

Mr. Hage noted that one of the main problems in Brazil was the culture of impunity. To fight corruption effectively it is important to have a single agency specifically devoted to fighting and preventing corruption, with the primarily responsibility for confronting corruption and take lead to motivate other public institutions and other partners, including society and private sector and ensure effective and integrated action, stressed Mr. Hage.

**Ms. Ingūna Sudraba**, Auditor General of the State Audit Office of the Republic of Latvia made a presentation on prevention of corruption from an external audit/control perspective. In order to successfully combat corruption, first complexity of corruption phenomenon should be recognised. Corruption emerges in the weak parts of the system that are poorly

developed, lacking clear objective and achievable results, adequate capacity and supervision. Corruption is nourished by dishonest, non ethical and undemocratic public administration overall. Ensuring integrity, efficiency and transparency shall be the objective of every step in the public administration, noted Ms. Sudraba.

In order to prevent corruption and ensure that tax payers resources are spent effectively, public sector should work as a joint mechanism. It should consist of clear objectives, achievable results and necessary resources, administrative structure and strictly determined responsibility and competences. Every person working in the public sector should be like a detail of such a joint mechanism.

Corruption should not be measured only in terms of money, but understood more broadly as any utilisation of state resources for private benefit, for example, distribution of gift certificates to employees of a public authority can also be corruption.

Often government is aware of “corruption black holes”, but for some reason does not work on solving them. This leaves a negative impact on the citizens. Government remains reluctant to improve the system and there is lack of political responsibility with political parties sharing areas of influence. The example of healthcare sector shows that as a result strategic goals of development of the healthcare system have not been defined. Audits conducted by the State Audit Office have proven that this created an environment of corruption and squandering of resources.

Essential role is played by preventing corruption rather than by combating its consequences. Sense of political responsibility is key. Situation can be improved by withdrawing from the joint mechanism of unnecessary and decorative elements and by holding public officials accountable. Trust in the public sector will improve if officials will act more responsibly, stressed Ms. Sudraba. Reputation and professionalism of persons handling public resources is of key importance too.

**Dr. Tünde Kovač–Cerović**, the State Secretary of Education of the Republic of Serbia stressed the importance of including the issue of corruption in education in the agenda of this conference. There is adverse relationship between education and corruption – education is about building human capital and corruption is about its degradation, education creates promotion based on merit, corruption diminishes merit based possibilities.

Corruption undermines school ethos, accountability, transparency, equity, efficiency, quality of what education could contribute, stated Dr. Tünde Kovač–Cerović. There are many opportunities and niches for corruption in the education system. Bribes, bypass of criteria, leakage, and diversion of funds, embezzlement, misappropriation, favoritism, fraud, ghost workers, nepotism, and influence peddling are among corruption problems faced in the education system. Among reasons why corruption develops in the education system is the asymmetric relationships between student – teacher, child – parent, parent – teacher.

Measures that have proven effective to prevent corruption in education include participatory approaches, strengthening parents’ and students’ involvement and internal evaluation.

Strengthening professionalism among teachers is a mayor vehicle. Funds-tracking exercises are useful. There should also be a clear focus on preventing corruption and clear results of enforcement. Finally, the fight against corruption should be part of broader efforts of the country to fight corruption and improve governance.

Also, ethics education is to be strengthened. It is important to develop curricula in ethics and sustainable development, so that education also contributes to the fight against corruption.

**Mr. Michael Janssen** of the Secretariat of the Council of Europe's Group of States against Corruption (GRECO) presented experience gained in the area of prevention of corruption within the GRECO. Mr. Janssen started by stressing that respect for and the practical implementation of fundamental values and principles of human rights, democracy and the rule of law are indispensable preconditions for fighting corruption effectively.

Currently 17 out of the 26 ACN target countries are GRECO member States. While the compliance reports adopted so far show that GRECO member States have made considerable efforts to implement various recommendations addressed to them in the area of prevention, it is clear that compliance is still deficient in several countries, and it would appear that in some States the actual commitment to combating corruption has even been decreasing in recent years.

Following GRECO evaluation reports and recommendations many ACN countries have adopted anti-corruption strategies and action plans. Some countries have developed systems for monitoring the impact of anti-corruption measures and have established or entrusted specific bodies with responsibility for overseeing the implementation of anti-corruption strategies and action plans. A growing number of countries introduce legislation on reporting misconduct and corruption. New measures to prevent corruption in public administration have been introduced in virtually all countries – relating to recruitment and promotion in public administration, ethical and professional standards, rules for employees in the public sector on receiving gifts and conflicts of interest and training. Some countries have set up ombudspersons. Freedom of information legislation is becoming more widespread. Experience gained by GRECO in recent years also shows increasing need for appropriate protection against unjustified sanction for “whistleblowers”.



## WORKING SESSION 1: PROSECUTION OF FOREIGN BRIBERY

The Working Session 1 focused on detection and prosecution of foreign bribery. The session helped to raise awareness in the ACN region about the phenomenon of transnational bribery by discussing examples of successful prosecution of foreign bribery and novel effective tools for uncovering it, namely asset recovery and international investigation teams.

The moderator of this session **Mr. Patrick Moulette**, Head of the OECD Anti-Corruption Division, reminded that 38 countries have signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. OECD experience shows that prosecution, enforcement efforts and results are core issues in relation to foreign bribery. Prosecuting cross-border bribery is more difficult than prosecuting domestic corruption. It requires strong legislation, special expertise and international co-operation, said Mr. Moulette.

**Dr. Günther Puhm**, the judge of the Court of Appeal of Munich in Germany and also former senior prosecutor at the Attorney General's Office in Munich supervising public prosecution offices in corruption and political crimes cases presented the hugest corruption case prosecuted in Munich till present – “the *Siemens* case”.

Mr. Puhm stressed that bribing public official in a foreign country in international business transactions is a criminal offence in Germany and sanctions range from 3 months to 5 years of imprisonment, including also high fines for companies, punishment of perpetrators and confiscation. A rather big number of investigations in cases of foreign bribery is carried out in Germany, said Mr. Puhm.

The “*Siemens* case” started in 2006 by an anonymous denunciation complemented by money laundering report and spontaneous information from authorities in Switzerland. The investigation involved detention and house searches of senior *Siemens* executives in Germany and abroad. Useful information was provided by suspects co-operating with the investigation. The investigation showed that from 2001 – 2007 *Siemens* made a high number of separate payments to third parties under questionable circumstances amounting to more than 1 billion U.S. dollars, partly used to bribe government officials in return for business to *Siemens* around the world. Additional more than 1 000 separate payments amounting to nearly 400 million U.S. dollars were not properly controlled and used in part for illicit purposes, including commercial bribery and embezzlement.

The case allowed detecting some key tools of foreign bribery: payments to business consultants, fictitious business consultant contracts with no actual services performed; intermediaries, slush funds; cash; and inter-company accounts. Frequently large cash payments carried in suitcases around the world were involved.

The “*Siemens* case” also involved bribe payments to government officials and government owned entities in the ACN countries, including Azerbaijan, Russia, Turkmenistan, and Uzbekistan. The investigation showed that the practice of paying bribes in certain countries was long-standing and systematic.

The “*Siemens* case” involved significant international co-operation with authorities in Panama, United States, Greece, Italy, Switzerland, and also Kazakhstan. Mr. Puhm stressed in his presentation that close and successful co-operation of German and US authorities and exchange of information between them helped very much to advance the investigation. In addition, a positive element was co-operation from the side of *Siemens*. As a result of this case, many internal reforms took place in the *Siemens*, such as the change of the management board, introduction of compliance officers, an external ombudsman, etc.

First conviction in the “*Siemens* case” was reached in July 2008. Mostly prison sentences on probation and fines were imposed on individuals. In addition, *Siemens* as legal person was convicted by courts in Germany and sanctioned in the United States. *Siemens* had to pay a combined 1,6 billion U.S. dollars in fines, penalties and disgorgement of proceeds.

**Ms. Nicola Mrazek**, Trial Attorney, the Department of Justice of the United States discussed prosecution of foreign bribery in the United States and highlighted the importance of international co-operation.

In the recent years there has been a large increase in the number of foreign bribery cases prosecuted in the United States against US nationals, foreign nationals, US and foreign companies. As a result, serious fines were imposed on companies and companies were forced to adopt rigorous compliance programmes, such as presented at this conference by *StatoilHydro ASA* (see presentation by *StatoilHydro ASA*, p. 71). In order to continue to progress and uncover more cases involving transnational bribery, it is needed that countries work more closely together, stressed Ms. Mrazek.

The United States have opened investigations in industry-wide practices, for example in medical devices industry throughout the world. This allows levelling the playing field among companies from various countries, making the market more competitive and fair, said Ms. Mrazek.

Corruption cases are particularly difficult to investigate, as they involve gathering of evidence from various countries, different legal regimes and procedures. Among important tools for prosecutors and law enforcement officers to detect foreign bribery/corruption are mass media, whistleblowers, informants, competitors, civil society, look at different industries where corruption occurs, other criminal and civil cases, etc.

Mutual legal assistance and referral of information among law enforcement officials are good tools to identify cases, pursue ongoing investigation and prosecution efforts. More often the United States is trying to refer cases to foreign law enforcement. Ms. Mrazek encouraged prosecutors to form relationships to be able to share and refer important information to each

other. It is very important to follow money trail. Networking among prosecutors is also very important, including for getting advice.

Several examples of successfully prosecuted bribery cases were presented, also involving ACN countries. Successful co-operation examples were mentioned, especially the very productive co-operation among United States and German authorities in the “*Siemens case*”.

Ms. Mrazek discussed the concept of voluntary disclosure by companies. Approximately one third of transnational bribery cases prosecuted in the United States involve companies coming forward and confessing to their bribes and conducting an internal investigation, then consenting to reforms in the company. Ms. Mrazek proposed that the United States share information gathered through these internal corporate investigations about bribery that may have occurred in ACN countries.

**Mr. Baiais Horatiu Ovidiu**, prosecutor of the National Anti-Corruption Directorate, prosecutor’s office attached to the High Court of Cassation and Justice of Romania, presented “the *Radet case*”, a foreign bribery case involving Romania and Germany.

“The *Radet case*” involves offences committed from 1998 to 2002 in Romania. Investigation, international co-operation and the trial took place in 2002 – 2009 resulting in several convictions. The investigation was finalised successfully also due to international co-operation, involving Letters Rogatory and transfer of penal proceedings. The international co-operation with Germany in this case was based on the Council of Europe Convention of Legal Assistance in Criminal Matters.

This case involves suspects from both Germany and Romania. Romanian public officials were under investigation, as well as owners of Romanian companies who acted as intermediaries and were also suspected of trafficking of influence and complicity for giving bribes. Foreign citizens were investigated for bribe giving.

The events in the “the *Radet case*” started in 1998 in an exhibition in Germany. Two German businessmen met and agreed to explore possibilities to sell a new technology in Romania. A group of Romanian intermediates and German businessman approached the Romanian state-owned company *Radet* managing a power plant in Bucharest. They convinced this company to sign a contract to buy the new technology without necessary technical and financial analysis of this product and for a higher price than discussed earlier. Gifts and travel services provided to managers of this company were used as bribes to secure this contract. After the contract was signed, money received by German company was channelled back to Romania to intermediaries and through them was also used to buy gifts for managers of the company *Radet*. This case showed a trend that demands of bribes increases with time. Total amount of bribes reached about 300 000 U.S. dollars.

International co-operation allowed significantly facilitating the investigation. Searches were made in the houses of the German businessmen and financial documents were found proving the transfer of funds. As a result of an interview German businessmen confessed to the charges. Also Romanian defendants were interviewed on request of German authorities.

The case resulted in 4-6 years imprisonment sanctions. In Germany the German company was sanctioned with fines.

**Mr. Pedro Pereira** of the Basel Institute on Governance, International Centre for Asset Recovery in Switzerland, formerly working for Brazilian government, presented the concept of “asset recovery” and practical use of asset recovery to prosecute bribery.

A case from 1992 involving a judge in Brazil, ex-President of the Labour Court for the State of São Paulo, was presented. This case involved a favourably awarded 125 million US dollars public bid to contractors for building a new court building. The judge received monthly pay-offs. Complex schemes with middleman were involved. A trust in Bahamas and a shell company in Cayman Islands were created. A Spanish bank actively helped the judge to launder the money. The involved shell company was worth 1 U.S. dollar, but it was however able to acquire a penthouse in Miami worth 1,6 million U.S. dollars, luxury vehicles and jewellery for the judge and his wife.

This investigation was triggered by information provided by a whistleblower – a contractor who did not receive all the money. Assets were seized and frozen in Switzerland and in the United States. Only from the United States the property was repatriated through civil proceedings. In 2006 the Federal Court of Appeals imposed to Mr. Nicolau dos Santos Neto 26 years and 6 months of imprisonment, fine and confiscation.

**Mr. Goran Klemenčič**, State Secretary of the Ministry of Interior in Slovenia presented the emerging practice of joint investigation teams. It is an important practical tool for international judicial and police co-operation in view of combating trans-boarder crime, including foreign bribery. Mr. Klemenčič also discussed investigation teams created at national level.

The European Union Council 2002 Framework Decision on Joint Investigation Teams and the EU Convention on Mutual Legal Assistance in Criminal Matters provide for a possibility to set up joint investigation teams among EU Member States. Most of EU Member States have introduced national regulation and there is some good practice. Legal basis is also provided by the Council of Europe Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

Joint investigation teams bring together law enforcement officials, prosecutors, tax officials and other responsible officials from the involved countries and they investigate the case together. The idea behind the joint teams is that the operation is led from one, central point. It allows investigators to participate in investigative activities in the other country, for example, in house searches, interrogations, etc. Exchange of information is key for a joint investigation to be effective. Often formal mutual legal assistance is challenging and timely. Police co-operation often face difficulties to accept the presence of law enforcement officers from another country. The joint teams help to address these issues and proceed with an investigation more smoothly. Team building of involved officers before setting up a joint investigation team can be helpful.

Mostly joint investigation teams are created in the areas of trafficking in human beings and drugs, but increasingly also in cases related to bribery.

In investigating bribery co-operation at national level can also pose problems. Like other crimes, bribery investigations involve comprehensive and holistic knowledge from various responsible institutions in police, customs, tax, financial and other areas. In countries with weak institutions and presence of clashes among institutions, co-operation is a challenge. To address these problems, Slovenia launched a project to create joint investigation teams at national level in areas of corruption and economic crimes. Following information about a possible bribery/economic crime that is received by one of the tax, police, customs, money laundering or other authority a joint investigation team is set up at national level. It is headed by a prosecutor and various institutions second officials to this team. The National Bureau of Investigation is the focal point for joint investigation teams.

Mr. Klemenčič stressed that mutual trust and willingness are very important to ensure that joint investigation teams work successfully both at international and national level, as well as looking at each bribery case individually and involving the authorities on case-by-case basis.

In the **questions and discussion**, the following questions were addressed:

- How the presented experience of foreign bribery prosecutions can be used in your country?
- What obstacles – legal and practical – are present in your country for successful investigation and prosecution of foreign bribery, for example, deficiencies in legislation, investigative means, tracing and confiscation of assets, mutual legal assistance?
- What assistance would you require from the ACN, other international and donor agencies to address these deficiencies?

**Mr. Barna Miskolczi** from the Office of the Prosecutor General in Hungary stressed the importance of whistleblowers and witnesses in corruption cases and need to provide their protection. Whistleblowers and witnesses play a key role in corruption cases. However, they remain often reluctant to cooperate. Whistleblowers and witnesses fear to disclose their personal information and face the perpetrator given possible consequences, for instance, when police officers or public comptrollers are involved.

Corruption is a special crime. Therefore, specialisation of investigators and prosecutors and centralisation of efforts can enhance the effectiveness of investigating crimes related to it. In Hungary the central authority for investigating bribery is not the police. The corruption investigations are dealt with directly by the prosecution services. The most important bribery cases fall under the jurisdiction of the Central Investigation Office of the Office of the Prosecutor General. Following an OECD recommendation foreign bribery cases were also included in the jurisdiction of this body.

**Mr. Armen Ashrafyan**, the Head of Department of Corruption and Organised Crime at the General Prosecutor's Office of Armenia stressed the unique and complex nature of corruption crimes and difficulties to investigate it. Armenia is eager to participate in international efforts to combat transnational crime

**Mr. Milorad Barašin**, the Prosecutor General of the Republic of Bosnia and Herzegovina informed about an important step made by Bosnia and Herzegovina recently. A new draft law was prepared and sent to the Parliament aiming at establishment of a new agency for prevention and coordination of anti-corruption efforts. Important political will was necessary to agree on this step. While Bosnia and Herzegovina signed the United Nations Convention against Corruption in 2005, there was a lack of political will to implement it. Mr. Barašin highlighted that important challenge in securing political support to the fight against corruption is the fear of high level officials to become subjects of investigations.

Key challenges to detect corruption are weak investigative capacity, lengthy mutual legal assistance procedures, lack of information exchange with other countries. Significant problems are related to seizure of property. Only after proving a criminal offence, assets can be seized, while the burden of proof should rather be placed on persons committing the crime.

Regarding assistance that is required from international partners, Mr. Barašin pointed out two priority needs – to improve investigative capacity and improve co-operation with other European police and law enforcement agencies.

**Mr. Aslan Yusufov**, Deputy Head of the Department for Supervision of Execution of Legislation on Combating Corruption at the Prosecutor General's Office of the Russian Federation informed that the Russian Federation studies the compliance of its legislation in view of becoming party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Recent legal reforms carried out in the Russian Federation have brought Russian legislation closer to the standards set in the OECD Convention, said Mr. Yusufov. Reforms tackled criminalisation of bribery of foreign public officials, establishment of liability of legal persons, criminalisation of bribery in private sector.

Mr. Yusufov informed that specialised anti-corruption units have been created in police detecting about 98% of corrupt crimes detected in the Russian Federation. Specialised units are also put in place in prosecutorial services, with territorial units in the Russian Federation.

The prosecutorial services also play a role in prevention of corruption. Since 2008 the prosecutorial services carry out anti-corruption screening of legislation. Many corruption risks have been prevented in this way. Typically corruption risks are related to a too-broad competence of public officials, unnecessary administrative burdens, public procurement, and overly heavy public controls of businesses. Recently a law on protection of rights of legal persons in relation to control activities of public and municipal bodies was adopted.

Finally, Russian Federation pays a special attention to asset recovery issues. It actively participates in discussions on these matters in the UNCAC intergovernmental working group and in the framework of G8.

The **discussion** addressed the issue of adequate **sanctions for corruption**. Sanctions are an important deterrent. Meanwhile, effectiveness of sanctions varies from one legal culture to another. In the United States an overwhelming majority of individuals prosecuted for transnational bribery receive jail sentences. In certain countries monetary penalties, corporate criminal liability, prohibitions to hold public offices, to be elected on a supervisory board, be involved in public procurement and alike are also very efficient sanctions in corruption cases. Sentence of imprisonment on probation can also be deterrent. In sentencing should be taken into account also if the person provided important information to advance the investigation.

**Extradition** may pose a serious problem to prosecute in another country a national who committed a crime. This is important for prosecution of transnational crime to extradite. There is good practice in the EU countries.

## **WORKING SESSION 2: INTEGRITY AND ETHICS IN BUSINESS AND PROMOTION OF INVESTMENT**

The working session addressed the role of corruption, how it affects business and how it can be tackled – through legislation and its enforcement, streamlining procedures, diminishing administrative burdens, compliance of enterprises and other internal measures. Various OECD guidelines were presented that can serve as tool to promote business transparency and be used as reference points and basis for the governments to reduce corruption and promote ethics in the business. The working session was moderated by **Mr. Anthony O'Sullivan**, Head of the OECD Private Sector Development Division.

**Mr. Arto Honkaniemi** from the Ownership Steering Department of the Prime Minister's Office of Finland and representative of Finland to the OECD Steering Group on Corporate Governance presented two important OECD instruments based on good practice in Member Countries – the OECD Corporate Governance Principles and the OECD Guidelines for Corporate Governance of State-owned Enterprises.

The recent financial crisis has emphasised the importance of corporate governance, since lack of it has been widely seen as reason of various excesses that have led into and aggravated of the financial crisis.

Corporate governance means first of all good corporate citizenship and transparency. It gives a company various advantages. Transparency decreases irregularities and brings them faster to daylight. Better governed companies can expect higher share price, getting cheaper financing for them, be better positioned to compete for best and brightest employees.

The OECD Principles on Corporate Governance were originally drafted in 1999 and reviewed in 2004. These principles represent a general benchmark not directly applicable to companies, but rather a basis for national codes.

State-owned enterprises are more vulnerable than private enterprises to governance risks. Undue political influence is often experienced as a primary concern of state-owned enterprises. Corporate governance facilitates privatisation, improves the position to communicate with stakeholders, etc.

The OECD Guidelines for Corporate Governance of State-owned Enterprises were made public in 2005. They contain guidelines and best practice examples. The guidelines were drafted by practitioners, also from non-member countries. The guidelines require that there is a separation between regulation and governance. In Finland this was done by establishing the Ownership Steering Department at the Prime Minister's Office. Before that various ministries ensured representation of the State in the state-owned enterprises. The guidelines also require a cohesive, single legal form for state-owned enterprises. The state should be the owner, but



not the manager. The State should participate in shareholders meetings; participate in Board's nomination, drafting proper remuneration schemes. There should be equal access to corporate information. The guideline about transparency and disclosure requires companies to develop consistent regular reports about their activities. In Sweden in addition to annual reports the companies make quarterly reports on voluntary basis.

The guidelines require that state-owned enterprises are audited by external auditors. Supreme audit institutions are equipped to audit state and public institutions; they are not best equipped to audit business organisations.

Boards of state-owned enterprises is the most attractive topic relating to corporate governance of state-owned enterprises, especially how to decrease political interference. Boards of the state-owned enterprises are responsible for the strategic guidance of the company and the monitoring of its management. Boards should have the necessary competencies, act with integrity and be held accountable for their actions. The Board should bear the ultimate responsibility for the company's performance. The composition of the Board should allow objective and independent judgement. The guidelines recommend that the Boards carry out regular evaluations of their work and this has proven to be very effective. This also is a proof of the practicality of the OECD guidelines.

**Mr. Joachim Steffens**, Ministry of Economics and Technology in Germany and representative of Germany to the OECD Investment Committee presented key OECD instruments on investment – Guidelines for Multinational Enterprises and the Policy Framework on Investment.

These guidelines do not represent a set of strict rules and are not binding, but they have a strong impact. Governments are committed to promote these guidelines, since they represent widely recognised principles for responsible conduct by enterprises wherever they operate, said Mr. Steffens. The OECD Guidelines for Multinational Enterprises adopted in 1976 is also a live instrument – they were most recently updated in June 2000 and a new revision is planned in 2010.

The OECD Guidelines for Multinational Enterprises cover key areas of investment related business conduct, including disclosure and bribery. The national contact point promotes, publicizes and monitors adherence to the standards set out in the Guidelines, including anti-bribery rules. Also NGOs can bring up cases related to breach of guidelines to the national contact point, which ensures that this situation is discussed.

There are several examples of specific bribery incidents reported in relation to the OECD Guidelines for Multinational Enterprises. For instance, in 2006 NGOs from Netherlands and Philippine accused the company *Royal Dutch Shell* of violating the Guidelines' anti-bribery, environmental and information-disclosure standards at an oil depot in Manila. Mediation meetings with *Royal Dutch Shell* and the NGOs and a fact-finding mission to Manila were organised. An NGO in Great Britain complained about alleged bribery in operations of British companies in the Democratic Republic of Congo and the companies had to confront these allegations.

Policy Framework on Investment developed in 2003 is an instrument for governments to strengthen their ability to attract foreign investment. This framework addresses various policy areas, including corporate governance, responsible business conduct and public governance.

The issues of foreign investment and bribery are interlinked, since bribery is a true challenge that companies face and for development of investment. It is very useful that the OECD strives to combine various instruments that complement each other, stressed Mr. Steffens.

**Ms. Enery Quinones**, the Chief Compliance Officer of the European Bank for Reconstruction and Development (EBRD) discussed the topic of Integrity Due Diligence – what is it and why it is so important that businesses know with whom they are seeking to do business. The role of the Chief Compliance Officer of the EBRD is to protect the bank from possible reputational harm that may arise from its investment activities.

For businesses Integrity Due Diligence is the most effective measure to prevent corruption and at the same time it helps to assist companies in ensuring that they adequately assess risks that they face when they conduct business, said Ms. Quinones.

The aim is to ensure that companies, their owners and sponsors are reputable and share the same ethical values than the EBRD. Therefore, it is necessary to conduct an Integrity Due Diligence. The EBRD follows the “know your customer” principle – it does not conduct an investment without knowing, who is the ultimate beneficial owner of the entity that it seeks to engage with. Determining the real owner of the company is one of EBRD’s priorities. This is a difficult task, since often enterprises have complex structures, involving offshore companies and trusts. Sometimes there are legitimate and historical reasons for that, but often the complex structure is used to evade taxes or hide the identity of real owner.

Few years ago the EBRD made an attempt to invest in a private company in Russia. One of the owners claimed to hold majority of shares, but could not provide legal insurances for that. Meanwhile, there was information that behind this person is a minister. The EBRD decided not to make this investment. After several months, the arbitration court found that the real owner was the minister.

The EBRD has developed a process to determine various integrity risks. The first step involves gathering information from different sources. If this information raises concerns, the EBRD would use specialised local firms to produce integrity reports. The EBRD considers that there are persons, countries and sectors with higher risks than others. For instance, there is less risk in more advanced transition countries, such as the new EU Member States with a stronger legal framework, than such countries as Mongolia and Turkmenistan. At-risks sectors include real estate, oil, gas, mining requiring permits and licences.

A useful tool developed from the EBRD’s experience is the Integrity Due Diligence red flag checklist; it is completed by enterprises proposing cooperation with the EBRD in view of assessing the overall risks of this possible cooperation for the bank. The checklist intends to identify concerns with respect to the customers and other matters (privatisation, treatment of

minority shareholders, ways how individuals acquired their wealth, use of semi-legal transfers, allegations on association with criminals and criminal activities, etc.). Risk factor is also related to working with politically exposed persons that may be owners of businesses.

The risks factors are discussed and if risks cannot be mitigated, the EBRD will walk away from the deal; no matter how lucrative it is, pointed out Ms. Quinones.

**Ms. Elena Mironova**, Deputy Director General of the City of Perm Chamber of Commerce and Industry from the Perm region in the Russian Federation discussed the role of business associations in protecting interests of small businesses facing corruption. Small businesses are the most exposed to corruption risks and often lack resources to establish similar compliance mechanisms and safeguards as can afford big enterprises, Ms. Mironova stressed.

Corruption risks are often related to weakness in the legislation and failures in implementation. In the process of legal drafting certain groups can lobby their interests. For instance, in 2008 a law was adopted in the Russian Federation providing for rights of businesses to buy out municipal land used by them. Many small enterprises obtained these rights and were hoping to buy the land, where they have invested and their business has been developed. However, the law included vague terms, such as an “honest enterprise”; different regions could interpret the law and develop procedures for its implementation. As a result, the law was not implemented.

Businesses, which are subject to multiple inspections and controls by government inspection agencies, are particularly exposed to corruption risks. Up to 20% of revenues of small enterprises are used to pay bribes, according to unofficial information. The same company could be inspected by two or three inspecting or controlling entities at a time. Acknowledging this problem, business associations initiated a draft law to reduce the number of inspections and controls. The law was adopted in 2008. According to this law, unplanned controls can be conducted only with a decision of prosecutors’ office. However, this law took long to enter into force and it is not satisfactory. For instance, it turned out that police and tax authorities are not subject to it and controls continue.

Attitude of businesses to corruption varies. Some businesses tolerate corruption, make use of it and, in addition, often chose to enter politics. An increasing number of businesses are not ready to tolerate corruption and are willing to pay taxes. A major challenge is the widely present perception among businesses that it is easier and faster, if a bribe is paid. It is important to change this mentality. The state has to convince the business through sound administrative processes and regulations that a legal way of doing is better, faster and more reliable, concluded Ms. Mironova.

The **discussion** addressed the issue of right balance between involving and supporting the businesses, including their property, and controlling them. It was acknowledged that a common and growing problem in the region is “*reidering*” and generally need for more **protection of property and other rights of businesses**.

While small and medium business is a key sector of economy providing more than half of innovations, concentrating important intellectual capacity and being an important source of employment, it remains most vulnerable to too much pressure from public control bodies and lacks genuine support from government to protect its rights. It was urged to further involve small and medium business through dialogue, consultations and using business experience in developments of laws, working jointly to reduce administrative barriers, etc. International assistance and experience in this area would be very useful.

It was discussed what **measures** could be taken **against non-compliant companies** and how to motivate companies to achieve better standards. The World Bank maintains a debarment list, which is available on its website, containing sanctions imposed on companies the World Bank has been involved with. The integrity due diligence by the EBRD is different – it is conducted before engaging with a company. The decision not to involve with a company is not a sanction, but rather a business decision. If there is a potential to help company to have better standards, the EBRD could decide to provide technical assistance. For example, the EBRD and together with the company could develop an anti-corruption plan. Similar to the World Bank, the EBRD also has a process to sanction a company after the loan was provided and has a list of ineligible companies, but the accent is on prevention.

Representative of the Ministry of Economy of Afghanistan stressed that corruption continue to be a significant disincentive for investment in Afghanistan, increasing costs and also creating unpredictability, including in relation to property rights and fulfilment of the contracts.

The Chamber of Commerce of the Kyrgyz Republic actively supports small and medium business, including protecting their rights. Like in the Russian Federation, a law was recently adopted in the Kyrgyz Republic limiting controls and inspections by public control bodies that are now subject to permission of prosecutor's office. Businesses in the Kyrgyz Republic consider that administrative barriers create serious obstacles to do business. On the initiative of Kyrgyz business associations it was decided to create the Anti-Corruption Business Council – a strong common force against corruption and develop common strategies with public institutions and other parties. It has developed a strategy how to reduce corruption proposing several priorities: increase incentives for business, but also possibilities to be caught; improve governance in public service to free itself from corruption; increase penalties for corruption; promote competition in public and private sectors, since many institutions have become monopolies; conduct customer satisfaction surveys; clarify rules and regulations.

Corruption causes serious harm to honest, law-abiding taxpayers, pointed out representative of the National Economic Chamber of Kazakhstan. It can be resolved through dialogue and consultations among businesses and the government.

### WORKING SESSION 3: CORRUPTION IN PUBLIC EDUCATION

OECD Deputy Director for Education **Mr. Bernard Hugonnier** moderated this session. The session focused on how corruption in education is affecting public interest, and on possible remedies and ways ahead in dealing with the problem. The session discussed research findings and challenges related to corruption in public education followed by inputs from selected countries. This was one of first occasions when corruption in education was discussed in an international forum and the first time in the framework of the ACN.

**Dr. Jamil Salmi** from the World Bank presented examples of unethical and corrupted practices in tertiary education, why and how do they impact the system and how fraud and corruption in this sector of education can be combated. The inventory of unethical behaviours in tertiary education listed by Mr. Salmi was based on evidence from surveys, press resources, informal informants, web sites and interviews in the following areas: admission process, teaching and learning, false credentials, quality assurance (accreditation of educational institutions), research misconducts (for example, failure to follow proper scientific standards, for example, in medical research), faculty and staff career management and financial management (student loan fraud, discounts for children of trustees).

Why does corruption happen in tertiary education? Why impact of misconduct is important for tertiary education? As Dr. Salmi pointed out, corruption is contrary to one of the purpose of education, which is to promote ethical values. Corruption also creates risk of loss of talent.

Dr. Salmi presented four sets of measures that have proved to be helpful in reducing unethical behaviours in education: preventive measures, measures of detecting and monitoring, punitive measures and multiple purpose measures. Among the key measures for preventing corruption in education are diversified independent boards, strong leadership, transparent decision making, and code of honour for incoming students, as well as e-procedures in the admission and assessment processes. In terms of detecting and monitoring there are useful software, anonymous reporting, surveys, and financial audits. Punitive measures include academic and other sanctions, strikes and other active actions by students. Multiple purpose measures include education and awareness raising, transparent reporting and blacklisting.

Dr. Salmi also called for more and better information about the prevalence of unethical behaviours and systematic assessments and reviews of education systems and their institutions in the light of the question of what works and what did not work in this process.

The Kyrgyz Republic is an example of a Former Soviet Union country that has given fight against corruption a special status in governmental reforms. **Mr. Sadir Zhaparov**, Director of the National Agency of the Kyrgyz Republic on Corruption Prevention explained the brief history of the main anti-corruption regulations and emphasized the systematic nature of this work.

According to a survey carried out by National Agency of the Kyrgyz Republic on Corruption Prevention, education is perceived as one of the most corrupt areas in the Kyrgyz Republic. As a result, a series of check-ups were carried out by Agency in selected high education institutions. These check-ups looked at regulatory basis for entry exams, as well as at several thousand individual files of students. Numerous violations were detected, including false credentials, false results, etc. Numerous materials were sent to the prosecution office for starting criminal investigations. Two rectors of high public education institutions were fired and internal regulation developed. Commissions for prevention of corruption including professors, students and parents were created in all public higher education institutions.

Mr. Zhaparov stressed that there are positive results of the measures taken to prevent corruption in higher education in the Kyrgyz Republic. In 2008 – 2009 the National Agency and the Ministry of Education carried out work as a result of which numerous students dropped out because of misconduct. Mr. Zhaparov stressed that general reforms in education sector are urgent to generally improve governance and regulation in this sector.

The presentation of **Ms. Laura Stefan** of the Romanian Academic Society showed the role of the non-governmental sector in enhancing governance and improving transparency in public universities. Presentation looked at how to improve integrity in public higher education institutions from a civil society perspective and addressed two criminal cases regarding corruption and fraud in education.

A review of integrity of forty-two Romanian universities was carried out in Romania with the purpose to assess the level of integrity of these universities using evaluation criteria that focused on four aspects: administrative probity (for example, willingness to answer freedom of information requests), management of academic staff, democratic governance (involvement of students in academic process, nepotism in promotion of professors) and financial practices (giving contracts to relatives).

The findings revealed serious flaws in running public universities in Romania. It appeared that only 38% of state universities can be considered transparent as regards to their administration; in case of 16 out of 42 universities the statements of wealth and interests are published. The review also pointed out to a lack of enforcement of basic rules at 70% of the universities surveyed. The majority do not have a proper level of democratic governance. Students often do not have possibility to express their opinion.

As a consequence of this review, some universities are beginning to enhance the information that they post on their websites and take a more professional approach to reforming their organizations.

Two indicted criminal cases regarding public universities were presented. In the first case Oradea Public University had reported that 17 000 and 33 000 state-budgeted students enrolled, while only 14 000 students were actually studying in order to receive more funding from the state budget. As a result a damage to the state budget in the amount of approximately 24,3 million EUROS was done. This case was sent to the court in March 2008. There is an ongoing part of the investigation in relation to this university that is related to

issuing of false diplomas to Italian citizens. Another case related to serious fraud in a private high school where students were asking to be allowed to copy during the exam and get satisfactory marks. This case was sent to the court in October 2008. Both cases were investigated by the National Anticorruption Directorate.

**Ms. Duša Marjetič**, the Under Secretary of Higher Education of Slovenia made a presentation on measures taken by Slovenia to promote good governance in education.

Several governance and preventive measures have been adopted recently, many of them related to enhancing quality, accountability and transparency in higher education. An important preventive and control mechanism is the national accreditation system for the high education institutions where the Council of High Education consisting of university professors provide an external assessment of study programmes prepared by universities. Through the Register of Higher Education Institutions the Ministry of Education examines the administrative and financial capacity of universities. In 2005 external evaluations were launched. The evaluation committees include also experts from other European countries. There are no entry exams in universities in Slovenia, but an exam passed at the end of the secondary school called “matura” allows enrolment in all universities. The National enrolment office ensures a centralised enrolment process in publicly funded universities, including checking if the future student has the proper qualification, including in cases of foreign degrees. There is a public tender for enrolment showing all available places 6 months before the enrolment. An annual work programme and annual report introduced in 2004 provide benchmarks to assess the work of universities approved by administrative boards of universities comprising representatives of the founder, employees, students and employers bearing responsibility for the given approval.

Regarding control mechanisms all public education institutions with an annual income exceeding two million EUROS have to carry out an internal audit. As part of broader control measures in the public sector public universities are also subject to controls by the Ministry of Finance and have to prepare risk assessments. These risk assessments were particularly useful exercises and the results are being published on the web, pointed out Ms. Marjetič. Finally, universities are also subject to assessment by the Court of Auditors.

During **questions and discussion**, it was discussed that it would be useful to **survey common action** against corruption taken by groups of students and other more organised forms of action, such as students unions carrying out surveys. In a process of transition from command to market economies many private universities have emerged in the region often lacking a **merit based selection** rather accepting those who can pay the fees and the quality of education delivered is often questionable. However, it is difficult to distinguish if the education is good or bad. The discussion showed that – similar to other areas – also in education along with corruption there are broader problems related to weak governance, lack of transparency and proper processes. There are many **similarities in trends and challenges** faced in governance of public education institutions in different countries.

It was stressed at this working group that the next steps should encompass:

- Further involvement of students in the fight against corruption, including formal students associations, such as the Anti-corruption Student Network in South East Europe;
- Conducting and coordinating specific surveys on education corruption;
- Financing research and reviews on education corruption;
- Arranging regular conferences on education ethics and corruption, including keeping education in the agenda of the OECD Anti-Corruption Network for Eastern Europe and Central Asia;
- Production of policy papers on education corruption. International organizations could decide who would take the responsibility to coordinate and edit an Internet-based series of policy papers.



## WORKING SESSION 4: CORRUPTION IN PUBLIC PROCUREMENT

This working session addressed tools to prevent corruption in public procurement, an area particularly exposed to corruption risks and requiring co-operation among public institutions dealing with public procurement, anti-corruption, conflict of interest prevention, control and audit bodies, prosecution, police and judges, as it was reminded by **Mrs. Katarina Radović**, General Secretary of the Commission for Control of Public Procurement of Montenegro who chaired this session.

**Mr. Peter Reimer** of the Ministry of the Interior and Kingdom Relations in Netherlands presented the risk mapping in EU and its Member State to tackle corruption.

Public procurement is a key economic activity of governments and it is generally acknowledged that public procurement is the government activity most vulnerable to corruption. A wide variety of measures are needed in order to prevent corruption in public procurement. It is necessary to study the corruption risks and afterwards take adequate measures.

In the procurement process it is important to set adequate selection criteria to ensure integrity of the selected economic operator. A very simple, but objective criterion to prevent corruption in public procurement is the lowest price. However, not only the price determines the interest to participate in a public procurement. Therefore, it is important to introduce transparency in publishing information about how the bidder was selected.

Corruption risks are present also at the contract management phase, since there is less transparency than at the selection phase. Not only legal instruments, but also training and guidance are important to safeguard the integrity in procurement process. Model code of conduct in public procurement was presented. An authority exists in the Netherlands that has rights to carry out investigation, including power to search in restricted judicial and police registers, the right to get information about the payment of taxes and social security, as well as give recommendations to the contracting authority.

**Mr. János Bertók** highlighted the comprehensive approach taken by the OECD in preventing corruption and fostering transparency and integrity in public procurement and introduced main achievements of the OECD in this area.

OECD started to address public procurement in 2004 in a broader perspective of public governance. This work was based on various inputs and stages – mapping concerns and good practices in OECD member and non-member countries, such as Russia and Romania from the ACN region, consultations with governments, private sector, civil society, academia and international organisation. Drawing on the experience and lessons learned, the OECD

Recommendation on Enhancing Integrity in Public Procurement – consisting of Checklist and Principles - was developed and approved in October 2008.

The OECD Principles for Enhancing Integrity in Public Procurement address four dimensions of good governance: transparency, good management, corruption prevention and accountability and control. The Checklist focuses on various practical aspects and measures that could allow applying these dimensions of good governance in public procurement in practice.

The preparation of the OECD Principles showed that expectations and standards are quite even throughout the world. A key aspect of the OECD approach is not only to set standards, but also work on their practical applicability. For instance, transparency is a key principle in the public procurement. The checklist provides a basis how to assess that appropriate level of transparency is ensured in each stage of the procurement. While the OECD Principles is a non-binding instrument, it is applied throughout OECD member and non-member countries and their application is peer-reviewed by the OECD. OECD member countries will report back on the implementation of the Principles in 2011. In the meantime, OECD is developing practical tools for the public procurement Toolbox.

Mr. Bertok also reminded that in addition, policy and practice in the area of public procurement is reviewed by the OECD-EU SIGMA Programme in the framework of European integration.

**Mr. Lambok Hutaruk**, Director of Gratuities in the Indonesian Corruption Eradication Commission (KPK) presented the anti-corruption measures taken in Indonesia in the area of public Procurement and the role of independent administrative authority.

Public procurement is a key area for Indonesia representing about 33 billion US dollars in year 2008. Despite various efforts there are still remaining problems in state institutions and state owned enterprises. Problems faced include close and fragmented nature of procurement market. Only selected enterprises participate in it and are often linked with high level public officials related to the project. Lack of standard bidding documents is another challenge.

An efficient tool to promote efficiency and transparency in the area of public procurement is e-procurement. An e-procurement system for procurement of national and government goods will be soon made operational in Indonesia, reported Mr. Hutaruk.

Mr. Hutaruk presented some of the achievements of the KPK in detecting corruption in public procurement. Mr. Hutaruk stressed that most of the corruption cases handled by the KPK are related to public procurement. The KPK jurisdiction is limited to high level officials. Since 2004 till today the KPK has conducted 61 criminal investigation and prosecution of corruption related to public procurement. In 2008 in asset recovery efforts in relation to public procurement in corruption 30 million US dollars were recovered by the KPK.

**Mr. Hüseyin Kaymak**, Head of Department of Review of the Public Procurement Authority of Turkey, discussed the role of independent administrative authorities and how they can contribute to prevention of corruption in public procurement.

Many countries delegate authorities to independent administrative authorities. The independence is characterised as an administrative unit organised outside conventional administrative structure possessing financial and administrative authority with the aim to regulate or audit a certain sector of the economy.

Due to their independence, independent administrative authorities can develop effective public procurement regulations and monitor the implementation. Independent administrative authorities can also develop secondary legislation, standard tender documents and standard contracts to be issued by tenderers and procurement agencies. In this way opportunity to increase competition in the area of public procurement may arise. Disputes that may arise due to different interpretation of documents can be prevented. It may be possible to diminish grounds for corruption.

Independent administrative authorities may issue guidelines relating to corrupt acts, design training programmes for procurement officials. Electronic procurement system can be established by an independent public procurement authority or promoted by it. An efficient tool is pre-judicial review mechanism. Blacklists can be maintained by independent administrative authorities and an obligation introduced to contact this authority before concluding a contract, concluded Mr. Kaymak.

Followed the **discussion** focusing on two questions:

- What are the main challenges to prevent corruption in public procurement?
- What strategies have and have not worked to address these challenges?

Discussion was launched by **Ms. Dinita Fočo**, Director of the Public Procurement Agency, Bosnia and Herzegovina. Ms. Fočo said that major risk areas are the pre-tendering and the post-tender phases. A critical point during pre-tendering phase includes development of technical specification. Other risk in pre-tendering phase is decision-making without a procedure. During selection phase – comparing criteria and the bidders – there are relatively less risks, but a significant “red flag” is an inappropriately low price. The post-tender phase is particularly high risk area. It would be useful to use the OECD Principles to assess the corruption risks in this phase.

Ms. Fočo stressed the role of education and training of procurement, internal and external audit public officials, as well as external audit institutions, in particular looking at post-tender phases. In transition economies there is lack of understanding about the market economy; therefore training is of key importance. Public officials involved in public procurement should possess necessary values and have a proper salary.

Further, during the discussion it was stressed that corruption is widespread in public procurement in the ACN region. Corruption is not only limited to receiving a personal gains, but it also implicates risks of **political corruption**. An example was mentioned of winning bidders returning gained public funds through the donations to a political party. Recently a new law on financing of political parties was enacted in the Republic of Macedonia strengthening the rules for receiving donations by political parties. A preventive measure foreseen in the Republic of Macedonia is the **e-procurement**. In 2011 60% of procurement should be made via e-procurement. **Ex-ante and ex-post financial control** conducted by responsible authorities in procuring entities is another efficient tool to prevent corruption in public procurement, as well as **ex-post control by supreme audit institution**. **Role of non-governmental actors** – chambers of commerce and NGOs – is also important to prevent corruption in public procurement, but lack of appropriate level of their knowledge can sometimes lead to counter effective results.

A question about **estimating the value of procurement** and what actions could be taken if the proposed price is not appropriate. A market survey and price estimate is a good practice in OECD countries. In Netherlands there is no obligation to conclude the contract and a tender procedure can be stopped by the authorities if there are suspicions that the price is too high. Also in ACN countries practice is similar. In Montenegro a price survey is carried out and price is estimated before the procurement.

## **DONORS' CONSULTATION SESSION: ROLE OF DONORS IN FIGHTING CORRUPTION IN THE REGION**

This session was chaired by **Mr. Robert Leventhal**, Director of Anticorruption and Governance Initiatives at the U.S. State Department. The donors' consultations provided a forum to share information on donor-funded anti-corruption activities in the region and ideas on emerging priorities and areas of collaboration.

Mr. Robert Leventhal informed that the United States government has assistance programmes in the area of fight against corruption in all Anti-Corruption Network for Eastern Europe and Central Asia (ACN) countries except the new member states of the European Union. Some activities are implemented by USAID, the U.S. bilateral donor agency; some are dedicated or stand-alone anti-corruption programmes. In many cases anti-corruption assistance is mainstreamed in the rule of law, health, education, local governance assistance programmes, for instance, in case of programmes in Central Asia. The Department of Justice provides assistance in the area of criminal justice and through dedicated criminal justice advisors in Albania, Serbia and Ukraine. The United States collaborates with others, including with the OECD, the Council of Europe, the UNODC and possibly with others.

**Mr. Anthony T. Beaver**, Office of International Narcotics and Law Enforcement of the U.S. Embassy in Kazakhstan informed that in co-operation with the Financial Police and the Academy of the Financial Police support is also provided in the area of fighting against corruption. The aim is to develop co-operation between Federal Bureau of Investigations, various U.S. training institutions and the Financial Police.

**Ms. Olena L. Kustova** from the Law Enforcement Section of the U.S. Embassy in Ukraine informed about an example of the country specific anti-corruption project, funded by the Department of State and implemented by the OECD "Strengthening the Capacity for Investigation and Prosecution of Corruption in Ukraine". **Ms. Tanya Khavanska**, project manager, informed that this project supports Ukraine in complying with international recommendations in law enforcement and anti-corruption area, namely development of legislation and institutional framework, as well as capacity of the new law enforcement anti-corruption agency. Currently in the framework of the Project a specialised anti-corruption training is provided to prosecutors, as well as, a training manual for investigation and prosecution of corruption is being developed in cooperation with the Basel Institute on Governance and the Council of Europe.

Anti-corruption and good governance is a high priority for the German government. It is a very significant element in all programmes provided by the **GTZ** in Central Asia. There is a stand-alone project in anti-corruption and law enforcement supporting legislation, further training of judges and lawyers, as well as commentaries of legislation. Anti-corruption issues

are streamlined in government implemented programmes in economic development, environment, education, including in teachers' training programmes.

**Ms. Elena Suhir** informed that the Centre for International Private Enterprise (CIPE) co-operates with local private organizations providing policy recommendations to governments and raising awareness within the private sector and the civil society. While CIPE would like to address anti-corruption issues, private sector remains reluctant about what is perceived a sensitive issue. CIPE works on corporate governance issues in Kazakhstan. A textbook on corporate governance was published and became part of higher university programme.

The World Bank is one of the leading donors in strengthening public sector governance. **Ms. Salamat Kussainova** from the World Bank office in Kazakhstan informed that in 2008 the World Bank provided support totaling around 5 billion dollars in areas of public governance and rule of law. World Bank-supported instruments include investment projects, technical assistance, advisory services, grants and learning activities. World Bank helps governments to build their capacity at central and local levels. In Kazakhstan the World Bank has ongoing institutional projects in health and customs sectors; it will potentially have a project with the tax administration and in justice area, all perceived to be corruption-prone areas.

Also, the World Bank increasingly includes anti-corruption components in its sectoral projects. **Mr. Jamil Salmi** informed that in Indonesia and India projects in the area of high education include preparation of a specific anti-corruption plan. Donor harmonization has become a key aspect. It is important to work closely with USAID, GTZ and other partners.

**Mr. Michael Janssen** informed that the Council of Europe is engaged in a number of anti-corruption technical assistance projects in the ACN region in such countries as Albania, Azerbaijan, Georgia, Ukraine and Turkey. In particular, in Georgia and Azerbaijan there are two projects that will finish by end of the year.

**Ms. Ulla Andrén** stressed that anti-corruption is a cross-cutting issue that is taken very seriously by the Swedish International Development and Cooperation Agency (SIDA), including when developing country strategies. SIDA has a large programme in Europe and Central Asia providing around 150 million EUROS annually in funding for this region. SIDA has carried out specific anti-corruption studies together with the Christian Michelsen Institute and the U4. SIDA supports projects in police, tax administration, specific anti-corruption projects in the Balkans, etc. A priority for SIDA is to foster transparency and change of attitudes towards corruption. In view of that, SIDA provides support to Transparency International, as well as various local transparency initiatives, media and civil society organization.

**Ms. Margareta Nikolovska** informed that the work of the European Training Foundation supports policies and initiatives ongoing in the countries. Corruption remains quite a sensitive issue. Education and training activities would address such issues as quality and good governance rather than directly mentioning corruption. In order to prevent corruption it is important to support countries in the area of quality of education, supporting the use of various indicators to assess the quality. In Kazakhstan the European Training Foundation has

an activity with the Ministry of Education and Science in the area of education that will also address quantitative and qualitative indicators.

**Ms. Aspasiya Hadzisce** from the Agency for Education Reform Initiatives of South Eastern Europe informed that this initiative is a regional platform supporting dialogue and mutual learning on education and training reform issues. Referring to the discussions at this conference, Ms. Hadzisce pointed out that there is an obvious need to discuss problems of corruption in the education sector. Countries entering the EU are required to develop anti-corruption strategies, but it is up to the governments to what extent to address corruption in education, taking a holistic approach involving civil society and student's organizations.

A civil society-run project is implemented in Azerbaijan and tackles involvement of victims and witnesses in the fight against corruption without their protection. It was briefly presented by **Mr. Samir Alibayov** from Transparency International Azerbaijan. It is planned to extend this project to other countries in Eastern Europe and Central Asia. Main components of this project are legal advice, information, advocacy, outreach, mobile workshops for public officials and victims and witnesses.

**Ms. Zhuldyz Akisheva**, the United Nations Office on Drugs and Crime (UNODC), informed that the UNODC provides assistance in such areas as law enforcement, advocacy, awareness raising and prevention at global and country/regional levels. At global level the assistance focuses on monitoring compliance with the UNCAC. At local level legal advice is provided through a legal advisor for Central Asia and jointly with the World Bank an anti-money laundering expert. UNODC works mainly with the FIUs and financial policing authorities. Once all Central Asian countries became parties to the UNCAC, the UNODC started launching country specific projects. First such project was launched in the Kyrgyz Republic. Main partners are the General Prosecutor's Office (GPO) and the National Agency of the Kyrgyz Republic on Corruption Prevention. Following request by the government of Uzbekistan a new project was launched in Uzbekistan recently.

**Ms. Olga Savran** from the OECD informed that the OECD mainly provides policy and analytical support and promotes police dialogue. The support is provided through outreach initiatives of the OECD Working Group on Bribery. ACN is one of such outreach initiatives. Another outreach programme is the ADB/OECD Anti-Corruption Initiative for Asia-Pacific implemented by the OECD and the Asian Development Bank. Both initiatives are well established OECD programmes existing for about 10 years. There are also more recent initiatives related to foreign bribery and corporate governance in Latin America and African region. The Istanbul Anti-Corruption Action Plan is a sub-regional initiative of the ACN. It focuses on peer review, where countries are often subject to critical assessment, and outstanding issues. A special session for donors and international partners takes place during on-site visits under the Istanbul Anti-Corruption Action Plan. These meetings are useful vehicles for exchange of information about donors' support to the monitored country. Further donor coordination in the region can be built on these meetings. Another tool of information sharing is the OECD Working Group on Bribery Outreach Newsletter.

The following conclusions were drawn at this meeting:

- Fighting corruption continues to be a priority area for donors' assistance in the ACN region. Donors are engaging to support the fight against corruption in an increasing number of sectors through stand-alone projects and mainstreaming anti-corruption efforts in sectoral programmes. There are bilateral and regional programmes, such as the ACN and donors were invited to support this initiative.
- Corruption remains an issue of great sensitivity difficult to bring up in certain countries and sectors of activities in this region. Sharing experience among countries, fostering regional dialogue and international meetings emerged as effective tools to address this issue. It is important to strengthen dialogue among countries and support a regional dimension.
- Donor harmonization at country and regional levels is an important issue and donor coordination should be continued, for example, building on meetings with donor and international organizations during the Istanbul Action Plan on-site visits.
- In the light of Paris Declaration on Aid Effectiveness, there is a trend for donors to phase out from some countries and focus on fewer countries.
- It is important to remain engaged in Central Asia and keep pressure on partners in these countries. In particular, it is necessary to further engage in anti-corruption efforts Uzbekistan and Turkmenistan.
- Criminal justice reform efforts should be further supported, including integrity in criminal justice. There is also a need for more in-depth discussions about corruption in specific sectors among sectoral experts.



## CLOSING SESSION: SUMMARY OF DISCUSSIONS AND NEXT STEPS

This plenary session discussed the main conclusions reached by the four working groups gathered at this conference and the next steps that were identified by them.

The adoption of the Astana Statement on Good Governance and Fighting Corruption represents one of the key outcomes of this conference. Next steps should be to further promote it, pointed out the moderator of this session **Mr. Patrick Moulette**, Head of Anti-Corruption Division, OECD.

The main conclusions of the Working Session 1 on Prosecution of Foreign Bribery were presented by **Mr. Dmytro Kotliar**, Anti-Corruption Division, OECD (see full report in the Annex 8). **Mr. Arto Honkaniemi**, Prime Minister's Office of Finland presented the outcomes of the Working Session 2 on Integrity and Ethics in Business and Promotion of Investment. **Mr. János Bertók**, Public Governance and Territorial Development Directorate, OECD presented the outcomes of the Working Session 4 on Corruption in Public Procurement (see full report in the Annex 8). **Mr. Pasi Sahlberg**, the European Training Foundation presented conclusions and next steps discussed at the Working Session 3 on Corruption in Public Education (see full report in the Annex 8).

**Ms. Olga Savran**, Manager of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN), OECD, presented the ACN Work Programme. The work of the ACN is structured in sub-regional initiatives, including the Istanbul Anti-Corruption Action Plan (IAP), thematic programmes and a country-specific programme for Ukraine. The approach of the ACN is to focus on country priorities and seek to build its programme on actual needs of its members, taking into account importance of these issues for the OECD and possible value-added of such activity. Important element of the ACN Work Programme is the peer review monitoring process under the IAP. Following interest expressed by the IAP countries in 2008 the methodology of the 2<sup>nd</sup> Round of Monitoring was adopted and this new monitoring round was launched in 2009. Other ACN countries provide experts for this monitoring, and it is a very valuable contribution to implementing this part of the ACN Work Programme. There is an increasing understanding that countries need more analytical support. A peer learning programme for ACN countries is being developed. It is envisaged to address such key themes as asset declarations for public officials, investigation of corruption, political corruption, role of business in the fight against corruption, corruption in public procurement and education. Increasingly important is also the support of the ACN countries to implementation of this Work Programme. By supporting the holding and organisation of this international conference, Kazakhstan has contributed to the implementation of the work programme. The presented ACN Work Programme was approved by the meeting.

**Mr. Bernard Hugonnier**, OECD Deputy Director for Education, delivered concluding remarks. The conference recognised that fighting corruption is a major goal. Corruption is counterproductive not only to economic development, but also to social progress,

competition, foreign investment, aid effectiveness and even rights. Some progress have been made, however, it is too small and too slow. Change is possible if there is enough political will and political commitment. In order to counter corruption, a holistic and comprehensive approach should be taken involving all actors – governments, public administration, civil society and others. More capacity building, investment in human capital and strong institutions are needed, a good legal framework is not enough. Prevention is key, not only law enforcement and criminalisation. Comprehensive OECD approach to corruption appears to be very useful. Education can play an important role. Best practice in the area of good governance is becoming well-known, including by spreading OECD standards in this area. However, further progress is needed, especially to ensure compliance with these standards, key to fighting corruption.

Mr. Hugonnier stressed that this conference achieved greater awareness of common problems, the risk involved and of the urgency to tackle both. Conference allowed having dialogue and sharing experience among a great variety of countries and various players involved in the fight against corruption. More than 20 countries presented their experience. The conference gave an opportunity to countries to confirm their willingness to fight corruption and improve governance. It inspired some countries to use good practices of others in their work. A better understanding of OECD instruments and their effectiveness was reached. For the first time corruption in education was addressed in an international conference. Participants were invited to further promote the Astana Statement, the Istanbul Action Plan and further encourage countries to continue reform efforts to fight corruption.

**Mr. Kairat Kozhamzharov**, Chairman of the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime reminded in his concluding remarks words mentioned by President Nazarbayev in his opening speech that the fight against corruption is a key priority in Kazakhstan. The conference provided a unique opportunity to meet counterparts from other parts of the world and to further build the network of contacts with other practitioners in anti-corruption area. Adoption of the Astana Statement represents a key outcome of this conference and Kazakhstan is very proud of it. Finally, Mr. Kozhamzharov expressed hope that this international conference was only a beginning of closer co-operation among practitioners in the area of fight against corruption.

# **ANNEXES**

## **ANNEX 1: PRESENTATIONS FROM PLENARY SESSION 1**

### ***“Shift towards Prevention: Facilitating Corruption-Free Private Sector in Georgia”***

**Mr. Giorgi Jokhadze, Secretary of the National Anticorruption Council, Ministry of Justice of Georgia**

Ladies and gentlemen,

The Ministry of Justice of Georgia is honoured to extend its greetings to the participants of this conference and of course our gratitude to the hosts and organizers – the Government of the Republic of Kazakhstan and the Organization for Economic Cooperation and Development.

Ladies and gentlemen, let me remind you of even greater importance of this event for the Georgian delegation. A year ago, the previous meeting of the Anti-Corruption Network took place in Tbilisi; special attention was paid to discussing Georgian experience in tackling corruption and, to use the words repeated many times throughout Tbilisi event, considering “simple recipes” for creating sustainable growth through effectively addressing corruption in both public and private sectors. While still resolving severe consequences of the tragic events in August last year, exacerbated by effects of world economic downturn, the Government remained committed to fight against corruption at all levels. Today, my privilege is to shed some light on what we have done for making these simple solutions work.

Formally, criminalization of commercial bribery is an important step in the right direction. Georgia has done so by ratifying Council of Europe Criminal Law Convention on Corruption and introducing legislative amendments with focus on corruption in the private sector. My goal, however, is not to provide an extensive overview of provisions that aim at prosecution of these acts. While prosecution works and is able to put forward some impressive results and numbers, we believe that preventing corruption is equally effective.

So, what does the notion of preventing corruption imply for the Georgian Government? Prevention, first of all, is motivating businesses to behave responsibly, to follow the rules, and addressing the cause of corrupt conduct before it occurs. This can be readily dismissed as law enforcement- influenced understanding of prevention; corruption, after all, is a complex

social and economic phenomenon. However, in essence corruption remains what it really is – it is a crime; thus, building upon the best practices of crime prevention would certainly not do any harm. Now, let me briefly talk about how do we specifically understand and implement these preventive actions.

The very first and probably the most important element in preventing private sector corruption in Georgia is liberalization of economic policy. It is a very large topic in the Georgian context, so let me just note some recent events: for example, our institution – the Ministry of Justice – is working on a comprehensive bill of amendments to the Criminal Code, effectively decriminalizing several types of criminal fraud and other economic offences, and generally reducing range of sentences for economic crimes overall – not for commercial bribery though. This doesn't mean that we're relaxing deterring effect of these provisions; we're simply counterbalancing criminalization of commercial bribery with more forgiving state control over less damaging behaviour. Reduction of taxes is another manifestation of more liberal economic policies. This year, profit tax (corporate tax) rate was reduced from 20% to 15%. Personal income tax was reduced from 25% to 20%. Tax rates for income on dividends and interest were reduced to 5% and 7.5% accordingly. Georgia now has one of the most favourable taxation climates in Eastern Europe. Also, by introducing electronic tax management system in 2009 and setting a maximum limit of 65 days for resolving any tax dispute – despite its complexity – Georgia has further reformed and streamlined its taxation procedures. Stimulating the market pays an important dividend – with a diminishing role of the state, the private sector is far less inclined to seek illicit favours from state officials and offer anything in return.

Creation of conditions for strengthening competition is the second important component. The state should facilitate redistribution of concentrated economic powers, since eradication of state bribery is far more difficult in such environment. Economic influence over state policy decisions is, on one hand, prejudicial to economic policy reform and, on the other, hampers development of the country. This is a particularly sensitive area for Georgian economy that heavily relies on direct foreign investment: in balancing state interests with interests of large investors, fair competition is the key to keep economy going forward and discouraging state officials from receiving illegal benefits.

Deregulation of business is another step in preventing corruption in the private sector. Reform of licensing and permit systems, technical regulations, commercial law and taxation ensures optimization of administrative barriers to entrepreneurial activity and, what's most important, legalization of major part of the business. As a part of an ongoing process, more than 84% of all licensing requirements for the business were repealed, resulting in surging numbers of registered enterprises in the last two years, particularly SMEs.

Combined with deregulation, streamlining barriers for entry into the market is another crucial component for preventing corruption in the public sector. Not all market players are equal, of course; but they should be given equal access to the market at the very least. Doing so, again, makes it meaningless for the business to revert to corrupt practices to earn their place under the sun. In this regard, Georgia continued its efforts to dismantle most legislative and procedural barriers, with a specific focus on SMEs that still comprise the largest chunk of

overall economy. The efforts of the Government in this particular area are evident: Georgia has been recently ranked 11<sup>th</sup> in Doing Business Rankings of 2010, gaining five points overall in comparison with rankings for 2009; in particular, Georgia is rated 5<sup>th</sup> in the world for ease of starting business, right behind the top ranking economies such as New Zealand, Canada, Australia and Singapore. The overall time needed to start a business in Georgia is now only 3 days, taking only 3 procedures in total.

Many would suggest that too much deregulation is a risky endeavour and some caution is needed. This is very true. In Georgian experience, a basic and simple counterbalance to liberalizing the business environment is ensuring maximum transparency. While keeping a distance from trespassing fundamental concepts of commercial privacy and secrets, there is a need to ensure greater transparency in the operation of the biggest market players, such as banks, for example. IT solutions recently developed in cooperation between banking and state sector, facilitating exchange of important information and ensuring efficiency of financial oversight and control, are most recent examples of how public-private partnership can be beneficial for both sides. Another step forward are recent amendments to the Law on State Procurement aimed at introducing so-called “e-procurement” from the second half of 2010; that is, all state procurement procedures are handled through single and uniform web-based solution, with most information about bids and bidding participants available immediately to the general public. Transparency is often a key to success in anticorruption initiatives; in this particular sector, it is of vital importance.

Finally, in preventing corruption, the other side of the coin is good governance in the public sector. Attractive, effective and efficient public service that takes no more action than required to keep the business thriving, allows the state to prevent corruption in the private sector by refusing to enter into corrupt agreements with the business.

In conclusion, one has to bear in mind that there are no universal “simple recipes” for tackling corruption in the private sector. In the end, these solutions may be simple for Georgia, as a combination of many other internal and external factors working in our favour; therefore, we are not on a mission to recommend others doing the same. The only simple recipe to bring forward, however, is ensuring that there is a strong political will to tackle corruption in business – not only by criminalization, zero tolerance and prosecution, but also combining this approach with preventive actions that address causes of corruption in a delicate and balanced manner.

Thank you for your attention.

***“Fighting corruption for sustainable economic and social development”***

**Mr. Aykut Kiliç, Deputy Undersecretary for the Minister of Justice, Turkey**

It is a great honor and pleasure for me to speak at the opening Plenary Session of this conference. I would like to start by thanking the Government of Kazakhstan and the Anti-Corruption Network for Eastern Europe and Central Asia of OECD for organizing and hosting this event, and more importantly, highlighting the importance of eradicating corruption in attaining economic development and improving public and private governance.

Corruption is a threat for good governance and it erodes confidence and respect for democratic institutions and emerges as an obstacle to the economic development.

Corruption must be addressed in a comprehensive and holistic manner. The problem cannot be considered as a pure domestic issue as it cuts across geographical boundaries and affects all nations. However, the developing countries suffer most from the adverse effects of corruption.

Corruption is one of the important common problems of countries in Eastern Europe, Caucasus and Central Asian region. Inefficient public administration caused by excessive bureaucracy, lack of legislation, slow judicial process and not giving sufficient importance to qualification in public jobs has negative reflections on the general investment environment within the region.

One of the main elements for the investors in planning and engaging in any economical activity is the predictability of investment environment. Temptation of country with regard to foreign investment is connected directly to the predictability of investment environment. A complicated bureaucratic structure and insufficient legislation can restrict the possibility of predictability and create a narrowing effect on investment capacity.

We believe that the success in the fight against corruption will play a decisive role in further consolidating democracy, stability and peace. Tackling this problem is an effort that the whole international community and developing countries in particular, have to face on their way to economic and social prosperity.

Being aware of this fact, Turkey has always given priority to the fight against corruption. Turkey is strongly committed to the fight against corruption and has taken all legislative and operational measures in order to stamp out domestic corruption and to contribute to the international efforts to tackle the problem, as corruption has increasingly assumed a transnational character.

Turkey is active in various international organisations involved in the fight against corruption.

Combating corruption has three pillars. The first is the governmental side, related with completing necessary reforms and passing relevant legislations.

In the reform process aiming to increase efficiency of public administration, to simplify the legislation by decreasing bureaucratic processes it is considered that taking peculiar economical and political circumstances of each country into account as well as international standards will be appropriate. During such reform process, it is necessary to adapt the international models according to the genuine circumstances of the country.

There is no single effective solution in the fight against corruption. As it is widely accepted, anti-corruption measures should always combine various incentives such as anti-corruption policies, criminalisation of corruption and preventive measures.

Regarding the criminalisation of corruption, criminal legislations need to be brought into full compliance with international anti-corruption standards established by the OECD, Council of Europe and UN anti-corruption conventions. As active implementation of laws is more important, clarification and harmonisation of anti-corruption legislation is necessary to ensure effective prosecution of corruption offences.

Imposition of criminal, administrative or civil liability against legal persons is particularly important in corruption cases. Corporations are increasingly decentralised and becoming larger. This results in diffuse operations and decision making. Hence, it is often difficult to hold one or more individual in the company responsible for certain decisions. Companies may thus be more inclined to engage in bribery, because it is most likely that no individual will be held responsible. For these reasons, making legal persons liable for corruption, especially for bribery, will have deterrent effect as well as it will force companies to take effective preventive measures, such as implementing corporate governance. In addition, sanctions for corruption offences, procedures for confiscation of tools and proceeds of corruption, statutes of limitations, scope of immunities for public officials and procedures for lifting them should be established so as not to restrain the effective investigation and prosecution of corruption offences.

As I mentioned before, the importance of the fact that anti-corruption measures should also combine preventive measures, I will briefly touch upon these measures at this point.

Development and unification of recruitment and promotion systems across all public administrations are important. In addition to recruitment and promotion rules, systematic staff training and development, including anti-corruption and ethics training, should become an integral part of personnel policy. In order to facilitate corrupt officials to be caught, there is a need to promote reporting of corruption-related crimes by public officials and ordinary citizens. Stronger legal reporting obligations should be supported by other whistleblower protection and removal of overly strict provisions against defamation.

As you know public procurement is one of the sectors with a high risk of corruption. Therefore, it requires particular attention, including further legal improvements, strengthening control mechanisms over procurement operations by separate entities, anti-



corruption training for procurement bodies, and focusing on procurement by anti-corruption law-enforcement bodies.

The second, and maybe more important pillar, is the public side, covering the public support and vigilance in promoting anti-corruption efforts.

There are important responsibilities of the civil society and media with regard to constituting an effective public administration and preventing corruption. Increasing social awareness and sensitivity, and taking part in vocalising social demands are within the scope of such responsibilities. Effectiveness of civil society and media in this field will also contribute to forming a social control mechanism on the implementation of anti-corruption policies. For a meaningful participation of civil society and media there is a need for well-designed, practical and regular awareness raising campaigns.

On the other hand, there is no doubt that the contributions of business world will also provide benefit for the development of public and private governance and prevention of corruption. Internal control mechanisms constructed via business associations to comply with certain behavioural codes in the activities of business world will support the reform efforts of the public in this field. In order to accelerate and efficiently advance this process, a strong cooperation between the public administration and private sector should be provided. It is considered that taking the needs and demands of business world into consideration and developing reform process in economic field in accordance with such needs and demands as much as possible will pave the way for appropriation of the process by a wider section and reaching the aimed goals at the end.

The third pillar which I wish to elaborate is the business side. I am sure the participants here are all well aware of the international effort poured in intergovernmental platforms to combat bribery of any kind in international transactions. One such is that of the OECD Anti-Bribery Convention.

This Convention targets businessmen who offer any kind of personal benefit to anyone working for a government or an intergovernmental organization; and asks the State Parties to criminalize such a flawed behavior.

As a State Party, Turkey did its best to abide by the word and the spirit of the Convention. OECD Working Group on Bribery reiterated in its Phase II bis report adopted in June 2009 that the overall assessment of progress made by the Turkish Government in applying the Convention since Phase 2 is quite positive. In particular WGB concluded in the report that significant steps have been taken to increase awareness of the offence of bribing a foreign public official within the public sector and vis-à-vis the private sector and civil society. These efforts have translated into a high level of awareness by many of Turkey's large companies involved in international business.

We have introduced relevant codes to our legislation, conducted a series of seminars the next of which will take place in coming weeks, and even have investigated Turkish firms alleged

to offer bribery. However, such positive steps should not be misinterpreted as “bribery is commonplace in Turkey.”

First and foremost, I would like to state that businessmen in general are always ready to offer whatever it takes to get a bidding, to win over customers and increase marketing and sales of the company.

The gist of the matter here is the thin line which separates legitimate customer-salesman connection from an illegitimate and, as far as the firms of the State Parties of the Convention are concerned, illegal relationship.

Turkey has been pouring a dedicated effort to combat bribery in international business, because in our opinion, bribery diverts scarce public resources from public-wide beneficial projects to waste or overvalued ones; and in doing so it prevents development of the country.

Ladies and Gentlemen,

Though it has been only in past couple of years we have made serious governmental efforts to raise the awareness levels of our firms, we are pleased to observe that our firms have long been enjoying a legal and legitimate existence in Eastern Europe, Caucasus and Central Eastern region as a whole. Though it is a source of proud, it also needs to be analyzed more deeply with an aim to provide model, if possible, to the firms of other nations.

So, the question here is how Turkish firms succeed in the region.

The answer is manifold, three of which I shall list here.

The first one is historical, geographical and cultural proximities which are all invaluable partners of every businessman willing to get internationalized. These “partners” assisted Turkish entrepreneurs in entering the newly emerging markets of the 1990s. Benefiting from common tastes, common needs and common understanding, Turkish entrepreneurs have been successful in getting the cream of a very risky market in which majority of the businessmen are exempted from entering.

In addition to these invaluable partners that had assisted in entering the market, the very being of the “first comer” helped to build solid consumer-salesmen relationships in years of flawless trade transactions, trustable partnerships, and generous share of know-how.

Secondly, knowing that entering first into and getting the crème-de-la-crème of the market is not enough to sustain the pattern of success, we have also signed several agreements targeting to improve cooperation at bilateral and multilateral levels.

Last but not least, there are also common projects covering to boost trade volume between Turkey and many countries in the region. In addition, we are also implementing a "Neighbouring and Surrounding Countries Strategy" designed to increase trade volume between Turkey and Turkey's proximate geography.

To cut a long story short, the secrets of the success of Turkish businessmen in the region are common history, geography and culture which eased the difficulties of entering into a new market and building solid consumer-salesmen relationships which created a natural tendency to prefer Turkish firms, and tailor-made strategies which resulted in increasing the trade volume by seven fold since 2000. We are pouring serious efforts to keep the trend as such, and also to keep it untainted as it has been.

That is to say, the more we enjoy increasing trade volume, the more we are concerned with the potential of illegitimate factors getting involved. In this line, we keep conducting seminars to raise the awareness level in private sector, ensuring they avoid triggering any conflict of interest and making sure that they are well informed about the criminal penalties they would face.

In conclusion, I would like to state that we are collecting the fruits of a carefully built business environment and are dedicated to pay due attention to keep it immune from corruption.

***“Corruption and Economic Development - Lessons Learned from East and West”***

**Mr. John Devitt, Chief Executive of Transparency International Ireland, Board  
Member of Transparency International**

I am delighted to be here in this spectacular city and especially grateful for your great hospitality – I could get used to it very quickly.

I must admit that I know too little about Kazakhstan other than what I learned from my kind hosts and in preparation for this meeting. I - am - not - alone. Western Europeans have, I believe in general, very little knowledge or understanding of anywhere east of Berlin. Few would know about the economic boom that has made countries like Kazakhstan among the wealthiest in Asia and Europe, and with chairmanship of the OSCE next year, one with a great deal of geo-political influence too.

It is this gap in understanding that I will aim, albeit cautiously, to address this afternoon. I want to talk to you about what might be learned from anti-corruption champions in this part of the world, why this is important, what can be learned from the experiences of my own country, and why this should be of interest to you too.

*What can be learned from this part of the world?*

In spite of the many political challenges that present themselves in Eastern Europe and Central Asia, it is the Central Asian republics of Azerbaijan, Kazakhstan and Kyrgyzstan that are demonstrating political leadership in promoting greater transparency in the management of state resources. Compliance with the Extractive Industries Transparency Initiative (EITI) for instance sends out a strong signal to international observers and investors that a country is serious about sustainable growth. Needless to say that if EITI is to have a long term future, then donor countries that demand good governance elsewhere, need to live up to the same high standards of transparency themselves. However, to date and shamefully, the only developed economy to commit to the EITI is Norway.

Notably, every ACN member has ratified the UN Convention against Corruption. Again this is something that some European Union countries like Germany, Italy and Ireland have yet to undertake.

While governments and business in this region have made some welcome progress in the fight against corruption, their counterparts in civil society are really setting a pace that civil society activists in the west are finding hard to follow. Some of Transparency International's (TI) strongest chapters are based in Central Asia and Eastern Europe, including here in Kazakhstan. They are professional, diligent, and above all, effective. A strong, active civil society is a mark of a country's strength and security, and I believe TI chapters here are a credit to your region.

TI chapters across Eurasia have led the way in monitoring public contracting and privatisation of state assets. But it's their groundbreaking initiative to support the victims of

corruption that speaks more about the real impact of corruption than any other. TI Advocacy and Legal Advice Centres are giving hope to thousands of people whose lives have been blighted by corruption throughout the ACN region. And like their work on fighting corruption in public contracting, these ideas have been copied around the world.

This leads me on to my second question:

*Why this is important?*

Too few realise how economic good fortune can be turned into an opportunity to be seized by every citizen and one that can show leadership to the world. Kazakhstan for example, is in such a unique position. One that can demonstrate to other countries that economic growth can go hand in hand with better governance. That wealth can be created without taking from the poor. And that government, business and civil society have their part to play in ensuring that the fruits of prosperity are available to everyone.

Too often, we find that countries enjoying high economic growth or those that happen upon newly accessed natural resources suffer greatly from the plundering of state assets on an endemic scale. Headline economic data is used to disguise the harsh reality of life on the ground. A country may boast ten percent annual growth rates but leave its citizens worse off than they began. Moreover a single-minded obsession with economic growth very often comes at the expense of those conditions that lead to sustainable economies.

*What can be learned from my part of the world?*

The experience of my country serves as a cautionary tale for those who look for comfort in numbers. Ireland is a small island on the western seaboard of Europe. It has a population of just four million people; its nearest neighbour is Great Britain with whom it shares a good international reputation for preventing corruption. Like many countries in the former Soviet Union, Ireland was a post-colonial transition economy - up until quite recently. Most Irish people have lived through periods of high unemployment, low wages and mass emigration. Most people are just a generation away from vivid memories of poverty. Indeed just five generations earlier, one million people died of starvation and a further two million emigrated during the Irish Famine of the 1840s.

Yet within the space of fifteen years from the late 1990s Ireland had become one of the wealthiest countries in the world. In 2007 its per capita income was the highest in the world. Unemployment fell to near zero. U.S., European and Asian businesses invested heavily in an economy with direct access to EU support and markets. In 2002 Ireland secured more technology investment from the US than China did.

However Ireland enjoyed high annual growth rates in spite of efforts to fight corruption. There was no grand plan to fight corruption which led to an influx of foreign investors. Whatever anti-corruption and good governance measures were introduced, this followed a number of very high profile scandals erupting around the same time that our economy expanded.

Some welcome reforms followed each serious scandal. For instance, spending and donation limits for political parties were introduced on foot of accusations that a former prime minister had accepted millions of Euros in gifts from business interests. Politicians were also forced to declare their assets and the financial interests of their families in any decisions they might make. A quasi anti-corruption commission and Financial Regulator were established. Freedom of Information legislation was also introduced to provide for greater public access to official documents.

The problem was that these reforms were isolated incidents when fundamental change of our integrity system was needed. The reforms never really changed the way our political leaders think. The economic incentives for corruption remained. Secret donations and political connections could still buy access and influence over decision makers. Our anti-corruption commission had no real powers. The Financial Regulator didn't use his powers. In 2003 our government introduced fees for access to information that are among the highest in the world. Our government hid behind a veil of transparency. It told us that the systems were in place to fight corruption yet the systems were largely absent or ineffective.

#### *Why this matters?*

Earlier this year it was revealed that our economy was, and still is, on the verge of bankruptcy. Our major banks, which had persuaded our law makers to take a light touch to regulation, ran up huge bad debts. In some cases fraud was committed by senior executives while our Financial Regulator looked on. The New York Times branded Ireland "the Wild West of European Finance", the Financial Times called us a "Banana Republic". While the reputational damage to our country will be lasting – the economic and social cost of ignoring the unbreakable bond between good governance and prosperity could be catastrophic. To avoid a banking collapse our government has pledged support to the sector that could cost taxpayers some 40 billion Euros. This in turn will cripple public services; likely lead to high income tax rates for a generation; and no doubt deter further domestic and foreign investment. Ireland is now again a transition economy – only this time, in reverse.

None of this had to happen. Politicians could have looked beyond the glowing headlines of Ireland's economic miracle. They could have shown enough courage to introduce meaningful laws controlling their own power and controlling secret influence over laws and regulation. Our law enforcement agencies should have been empowered to fight corruption and economic crime. Ireland could have safeguarded the fruits of its own economic boom for decades to come.

In conclusion, Ireland's story shows that sustainable economic growth demands more than low tax rates and access to markets. It shows how fragile our economies are. It shows that perceptions of good governance need to be grounded in reality. Ultimately it shows that political courage and fundamental systemic reform is key in effecting lasting economic success.

***“StatoilHydro’s Anti-Corruption Compliance Program: Our Values in Action”***

**Mr. Stephanos G. Orestis, Legal Counsel, StatoilHydro ASA, Norway**

Dear delegates,

Thank you for this opportunity to speak to you about *StatoilHydro*’s anti-corruption compliance program. My name is Stephanos Orestis and I have worked as a legal counsel within *StatoilHydro*’s corporate compliance department for the past year. Prior to joining *StatoilHydro*, I was fortunate enough to spend more than two years living in the beautiful city of Almaty with my wife and children. In all, I spent six years in Central Asia and one year in Georgia working on USAID funded programs aimed at improving the business climate for small and medium enterprises.

The program in Georgia provides a clear example that increased transparency and reduced bureaucracy not only creates tangible financial benefits but also reduces the public perception of corruption. Over the course of four years, the Georgia Business Climate Reform Project and the Georgian government collaborated on customs, business licensing, construction regulation and Tax Department administration streamlining that created transparency and accountability and generated more than \$740 million USD in monetized benefits for the private and public sectors.

Georgia’s reform initiatives have a tremendous impact on its citizen’s perception of corruption in that country. In 2003, Georgia was ranked number 124 in the Transparency International Corruption Perception Index. Only five countries ranked lower. In 2008, out of 180 countries surveyed, Georgia was ranked 67th: proving that regulatory streamlining and reform are essential weapons in the fight against corruption. I will return to this theme at the end of my remarks.

But first: a little about *StatoilHydro*. *StatoilHydro* is an integrated energy company primarily focused on upstream oil and gas operations. We have more than 30 years of experience from the Norwegian continental shelf, pioneering complex offshore projects under the toughest conditions.

*StatoilHydro* employs approximately 29,500 employees in 40 countries. The company produces approximately 2 million barrels of oil equivalent per day and has proven reserves of more than six billion barrels. We are one of the world’s largest oil and gas suppliers and the biggest seller of oil products in Scandinavia. In addition, we are a world leader in carbon capture and storage and have an active R&D portfolio for developing clean, renewable energy sources.

But today, I want to focus my comments on *StatoilHydro*’s commitment to being a responsible corporate citizen. *StatoilHydro*’s corporate culture is founded on strong values and maintaining the highest ethical standard in all aspects of our business. As stated by our Chief Executive Officer, Helge Lund, “We are willing to pay the short term premium that

may ensue from doing business the right way...If there is conflict; ethics has priority over cost, schedule and a potential deal”.

Maintaining the highest possible ethical standard is important to us because of the negative impact corruption has on society, competition and our own business interests. Corruption undermines the key values in a society and obstructs the fight against poverty. It deprives a society of revenue that could be used for public services such as schools, health care and infrastructure and degrades society’s trust in its government. Corruption also exposes a company and its employees to legal liability; creates financial losses and diminishes share prices. Corruption obstructs fair competition and, since business is not earned on its merits, decreases the quality of products and services produced by the private sector. Finally, corruption results in a company’s loss of reputation, which impacts its ability to grow and recruit the best and brightest employees.

For all of the reasons stated above, *StatoilHydro* is committed to conducting its business with zero tolerance for corruption. To ensure we meet that commitment we have implemented a strong and efficient anti-corruption compliance program. The fight against corruption has always been important to our company and our belief that the rewards of a successful business should be based on merit alone. Our commitment has intensified over the last several years as a result of a settlement reached with US and Norwegian authorities related to *StatoilHydro*’s involvement in corrupt payments to Iranian officials several years ago.

As a result of those settlements we have significantly strengthened our anti-corruption compliance program and have benefitted from the assistance of an external legal specialist that currently serves as our compliance monitor. Our monitor has spent the last several years reviewing our program worldwide, recommending improvements and monitoring our implementation of its recommendations. All of which is reported regularly to the United States Department of Justice and the Securities and Exchange Commission. The result is the program that I would like to describe for you now.

Our program is based on United States federal sentencing guidelines, which specify the elements of an effective anti-corruption compliance program. In recent years, those guidelines have evolved into best practice for any major multi-national implementing an anti-corruption program. Recently, the United Kingdom’s Serious Fraud Office has adopted almost identical guidelines for businesses falling under its jurisdiction.

Our program is integrated into every aspect of our corporate culture and begins with the Tone at the Top. Our senior management, from the Board of Directors, to the CEO and down through all levels of line management, consistently demonstrate, through words and actions, their involvement and commitment to effective compliance. They are knowledgeable about the content and operation of our compliance program and exercise reasonable oversight with respect to its implementation and effectiveness. Our CEO, executive vice presidents, and senior management all take compliance seriously and all share the commitment to walk away from any potential business opportunity, no matter how large, if it means compromising our ethical standards. Our CEO promotes these principles whenever he represents *StatoilHydro* in a public forum or delivers a speech to our employees. Our management is actively



involved in promoting the effectiveness of our compliance program and ensuring that a review of compliance risk exposure is a factor in our business decisions.

Our compliance program is based upon a clearly articulated corporate policy against violations of the United States Foreign Corrupt Practices Act, the Norwegian penal Code, the OECD anti-bribery convention, other anti-bribery laws and the establishment of compliance standards and procedures that must be followed by all *StatoilHydro* directors, officers, and employees, as well as our suppliers, agents and other third party intermediaries. In addition, we work to ensure the same standard is met by our business partners.

We make certain that our directors, officers, employees, suppliers, and agents are well aware of our program through ongoing training and communication. All *StatoilHydro* employees are obliged to participate in our internet based anti-corruption e-training program. All new employees receive anti-corruption training during their new employee orientation. Select employees, such as those involved in management, procurement or accounting controls, must participate in an annual day long anti-corruption workshop. We also provide anti-corruption training to selected business partners, suppliers and intermediaries and offer specialized employee training on issues such as our Integrity Due Diligence program, joint venture liability and merger and acquisition liability. Within the last year almost 19,000 employees completed our anti-corruption e-learning. In 2008 we conducted 40 day long anti-corruption workshops attended by approximately 800 employees, including almost 500 senior managers.

We buttress the training program with regular corporate communications on compliance issues, the establishment of ethics committees and compliance officers within all business units and country offices in exposed locations, and through our worldwide compliance network where participants meet regularly to discuss our compliance program and are provided with regular information updates on things such as new or amended anti-corruption laws in the countries where we work, best practices, and enforcement actions or investigations.

The Compliance program itself is designed to address specific internal and external risks and aims to, quite simply, ensure that every penny spent by *StatoilHydro* is for a legitimate business purpose and is properly accounted and recorded in our books and records. Internal risk is presented by employees who would circumvent our rules to provide something of value to a third party in order to benefit *StatoilHydro*'s ongoing or potential business. This could be the proverbial cash in an envelope or something as seemingly innocuous as presenting a gift to a potential concessionaire or providing entertainment to a government official. External risk is presented by any person or company that is not a *StatoilHydro* employee.

To address those risks our program has policies and procedures that prohibit bribery in all its forms; regulate the giving and receiving of gifts, hospitality and entertainment; mandate risk based integrity due diligence reviews of third parties with whom we wish to do business; regulate the provision of travel provided to governmental officials; and require the establishment of stringent financial controls, layered review of expenditures and severe restrictions on cash transactions everywhere in the world.

Our program establishes strict review and monitoring of our social investment projects and implementing partners, as well as company charitable donations and sponsorships. It provides an anonymous procedure for employees to report potential violations; regulates the company's procurement and contracting functions; and requires the inclusion of strong anti-corruption requirements in all our contracts with third parties including the right to conduct financial audits of our suppliers and business partners. I will address these elements in turn.

One of the most complex and far-reaching elements of our program is the Integrity Due Diligence process. Under US, Norwegian and other applicable anti-bribery laws, *StatoilHydro* can be held liable if a third party makes a corrupt payment that results in a business advantage to us.

To mitigate this risk, we require that Integrity Due Diligence be carried out on all third parties with whom we wish to do business, although we do have a risk based approach which provides certain exemptions from our IDD requirements. The exemptions are based, for example, on the country where the business will take place, the total value of the business transaction, or the type of transaction.

Integrity Due Diligence, at its core, means KNOW YOUR PARTNER. This is essential since an element of criminal liability for the actions of others is whether we knew or, more importantly, should have known, that the third party has or could violate anti-bribery law.

The scope of our due diligence review will be based on the risk presented by the proposed relationship. Integrity Due Diligence can be as simple as conducting internet based searches to see if the company has been investigated or prosecuted for corruption and as complex as interviews with the target and references, financial and legal document reviews, and discrete inquiries within a country's business and diplomatic communities.

The end result of the Due Diligence process is a determination of whether anything the target has done or could be inclined to do exposes *StatoilHydro* to criminal liability or reputational exposure. If we do make such a finding, the business relationship will not proceed if it is not possible to put in place sufficient mitigating actions which minimize our risk.

Once approved, the compliance program requires that all of our contracts with third parties contain anti-corruption representations and undertakings; require compliance with foreign anti-corruption laws and other relevant laws; (iii) allow *StatoilHydro* to conduct internal and independent audits of the books and records of Agents or Business Partners; and (iv) provide for termination of the contract if we discover any breach of our compliance terms.

Integrity Due Diligence is not only required of our business partners, but also project partners and beneficiaries of our social investment projects. There has been one United States enforcement action based solely on illegitimate donations to a charity controlled by a key governmental decision maker.

To avoid similar exposure, *StatoilHydro* reviews all social investment proposals for corruption risk, requires background checks on implementing partners and beneficiaries, especially to ensure there are no close connections to any governmental decision makers, and imposes contract terms, reporting requirements and audit rights similar to those included in our commercial contracts.

Our Compliance program also includes a mandatory annual corruption risk assessment process. This process must be completed by each country office and various business clusters. The assessment looks at the adequacy and proper operation of existing corruption related controls, such as financial controls; the sufficiency of our compliance training; the level of support from the corporate compliance unit; and the perceived level of corruption in the country where a particular business cluster operates. When an assessment identifies particular risk exposures, we require that a mitigation plan be put into effect and reviewed in the next assessment.

Providing gifts, hospitality or entertainment to a third party without a clear business purpose and with the expectation of gaining a business advantage is a bribe under most national anti-bribery legislation. Accordingly, *StatoilHydro* has a very strict policy on this matter. Our policy applies to the giving or receiving of gifts, hospitality or entertainment and simply states that we will never give or receive gifts of any kind unless it is of nominal value and preferably containing a company logo. For our purposes this usually means pens, calendars, and similar promotional items. It does not mean a Rolex with the *StatoilHydro* logo on it. Also, the days of golf outings, trips to the world cup or other international sporting events are behind us. Giving or receiving tickets for at any type of event requires the review and approval of a manager, which is rarely given.

Travel is also any area that has provided the basis for several bribery cases in recent years. As a starting point, *StatoilHydro* employees will only travel when there is a clear business purpose and it has been approved by a manager. In addition, we will never allow another party to pay our travel expenses. Conversely, we only fund travel of third parties in order to provide contractually required training, or to demonstrate to a potential customer our products, services or technical capacities. Travel provided to third parties must be approved by an executive vice president or delegate and only after a detailed application form and supporting documentation has been reviewed and approved by corporate compliance.

One of the most important elements our compliance program is our system of financial control and internal audit. The system, though complex, has a simple goal: to maintain internal accounting controls that ensure all company expenditures are for a legitimate business purpose and to prevent improper payments.

Our internal controls help detect inaccurate record-keeping and fraudulent activity and ensure that our books, records, and accounts are accurately kept. The system is also designed to be in compliance with the requirement of the Sarbanes Oxley Act. We apply the same policy to the use of petty cash. Our policy states that cash transactions should be kept to a minimum and that all petty cash expenditures must be booked and reconciled like other payments.

Our audit team also reviews the books and records of selected business partners worldwide to ensure that they implement similar controls on expenditures that could expose *StatoilHydro* to risk. In addition, our audit function will perform regular reviews our compliance program to ensure that it is being effectively implemented.

Finally, if an employee comes across cases of ethical doubt or breaches of *StatoilHydro*'s ethical requirements, those concerns must be reported immediately. Individuals can report the concern through the regular channels; to their superior, or to their superior's superior, or to the internal entity whose duty it is to follow up such matters. A manager who receives such a query must consult their own superior in cases of doubt.

Our policy also makes clear that reporting compliance issues will never result in retaliation of any kind. This is a commitment taking very seriously by all of our senior management, who understand that reporting system only works if employees believe they can report without fear of negative consequences.

Still, if an employee does not feel comfortable making a direct report, they can utilize our anonymous telephone and internet based Ethics Helpline, which is considered an equally acceptable method for reporting concerns. The Ethics helpline is available to *StatoilHydro* employees and non-employees alike and is accessible in almost every language in which *StatoilHydro* employees work worldwide: including Russian and Kazakh. The Ethics Helpline is constantly monitored by corporate compliance and all issues or questions, no matter how big or small, are analyzed and responded to. Because the system is operated by a third party provider and is outside of our internal computer and telephone network, the identity of those filing reports can always be protected and the reports themselves can never be manipulated. I am proud to say that in *StatoilHydro*, the Ethics Helpline is seen positively and is used quite extensively by our employees.

The question you may be asking yourself and which I will now answer is: Does our compliance program work? The answer, in a word, is YES.

*StatoilHydro* has woven a culture of Ethics so tightly within our corporate fabric that our employees automatically understand when a business dinner may not be just a business dinner or that they must conduct an integrity analysis before contracting with a supplier. Our employees also truly believe in the business philosophy mentioned earlier in my remarks: we will always walk away from a deal, no matter how large or small, if our ethical standards could be compromised.

Our Compliance program works for us, but would it work for everyone?

There is no "one size fits all" compliance program. The program I have described for you has evolved within *StatoilHydro* over a number of years with the input of both internal and external assistance and based on the specific nature and geographic distribution of our business. Each company must assess its own risks and devise a program that suits its size and needs.

In the course of my work, I have been fortunate enough to review the compliance programs of many of our suppliers and business partners and no two are identical. But the most effective of them share common features found in the US guidelines, such as an identifiable Tone at the Top; a training program; a helpline; rules on gifts, hospitality and entertainment, requirements related to Integrity Due Diligence; monitoring of suppliers and effective financial controls.

The growth of the private sector's implementation of anti-corruption compliance programs is a positive contribution to the fight against corruption because corruption is a business based on supply and demand.

In the recent past, companies have been far too willing to provide the supply. We all know that as recently as 15 or 20 years ago bribe payments to foreign officials were tax deductible business expenses in some OECD countries. Fortunately, with the increasing adoption of domestic legislation compliant with OECD anti-bribery convention, increased enforcement of anti-bribery laws and every increasing penalties for companies found in violation of those laws, the supply side of the equation is diminishing.

The public sector's responsibility is to decrease the demand for corrupt payments. This is accomplished through establishing adequate wages for public sector employees, increasing transparency in public procurement, streamlining administrative procedures and reducing, to the maximum extent possible, the number of public/private interactions during those processes. Every time an administrative step is eliminated so to is the opportunity for a bribe to be offered or demanded.

There is a clear link between a transparent, streamlined and efficient business environment and increased foreign direct investment, as can be seen in a quick comparison of the annual IFC "Doing Business" survey and the level of foreign direct investment in surveyed countries. As the private sector moves towards the implementation of strong ethical standards it will choose to invest in economies where those standards can be maintained. Conversely, and due in part to increased enforcement and fines, they may choose to withdraw from countries where the risk of violating anti-bribery laws is greater.

The fight against corruption can only be won if the private sector, public sector and NGOs work together. Their successful collaboration can eliminate the negative impacts of corruption on society, improve the lives of its citizens, foster political stability, develop a healthier, better educated workforce, and lower the costs and increase the quality of the products or services offered by the private and public sectors. *StatoilHydro* is proud to be a part of this collaboration and commends all the participants here today for their contributions towards its worthy goals.

## **ANNEX 2: PRESENTATIONS FROM PLENARY SESSION ON EXPERIENCE OF KAZAKHSTAN IN PREVENTING AND FIGHTING CORRUPTION**

### ***“Fighting Corruption – Experience of the Republic of Kazakhstan”***

**Mr. Andrey Lukin, Deputy Chairman of the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime, Major General of the Financial Police**

First of all I would like to thank all heads of the anticorruption agencies from other countries for coming to Astana, the capital of the Republic of Kazakhstan, participating in this high-level forum, and stressing the importance of the adopted Statement on Good Governance and Fighting Corruption.

Today's large-scale meeting is a vivid example of deepening of cooperation between the states and international organizations supporting the initiative of the President of the Republic of Kazakhstan Nursultan Abishevich Nazarbaev and united by one idea which is of importance for many states – fighting corruption.

It can be noted with a certain level of confidence that today all global community is looking for a right algorithm of changes, emphases and optimal combination of priorities in fighting this evil.

Certain countries have reached significant breakthrough and their models of anticorruption strategies serve as benchmarks for the states facing the immense system corruption. We have devoted the second plenary session of our conference to presentation of the Kazakh anticorruption experience.

On the whole, we have achieved sufficient progress in that direction. We judge from the fact that the Republic of Kazakhstan is located in the very centre of Eurasian continent at the junction of major economic regions as well as various civilizations and cultures, has to actively fit into the modern system of political and economic interrelations and that this conference would establish between us a new form of global relations in the common fight against corruption.

During the last ten years our country has built from scratch its own powerful system of fight against corruption. First of all, the passport to success is the existence of strong and firm political will of the President of the Republic of Kazakhstan Nursultan Nazarbaev.

Anticorruption legislation of our country is represented by a set of Laws and Decrees of the President of the Republic of Kazakhstan on fight against corruption, its further strengthening and improvement.

The advantage of Kazakhstan at the post-Soviet territory is that its leader Nursultan Nazarbaev was one of the first in the Commonwealth of Independent States in 1998 who adopted and signed the Law "On Fighting Corruption", which specified its principal foundations, principles and methods of fight against corruption.

The law is aimed at protection of rights and liberties of citizens from corruption, ensuring of effective work of the state authorities and their officials by prevention and detection of corruption crimes. It also specifies types of corruption crimes, terms of liability for committing such crimes, mitigation of their consequences and bringing guilty persons to liability.

Kazakh law defines corruption as acceptance of material benefits and privileges by the public officials and their equivalents personally or through intermediaries, which is not envisaged in law, with use of the official powers and capabilities related thereto or other use of their powers for obtaining of material benefits, as well as bribery of such persons through illegal provision of the said benefits and privileges to them by individuals and legal entities.

Every five years the President approves the State Program of Fighting Corruption. This document covers the main priorities of Kazakhstan in fight against this phenomenon. Firstly, it includes improvement of legal instruments: anticorruption laws and bylaws of the Republic of Kazakhstan and their maximal fitting to the international standards. Secondly, adoption of the state measures on decreasing the level of corruption; thirdly, improvement of law enforcement and court systems; fourthly, strengthening of international cooperation in the field of fighting corruption; fifthly, broad anticorruption campaign among the population by using the potential of mass media; and sixthly, interaction with the civil society. Kazakhstan firmly intends to move forward in the listed priorities, which are recognized successful also in the world practice.

For the purposes of clear distribution of rights and obligations of the public officials there has been adopted the Law "On the State Service" on 23 July 1999, which sets the basics of organization of the state services of the Republic of Kazakhstan, legal status of the public officials, their social protection and regulates relations in the field of the state service, as well as sets certain restrictions for the public officials.

For the purposes of increasing the requirements for the moral and business qualities of the public officials in January 2000 there has been approved the Code of Honour of the Public Official by the Presidential Decree. The law specifies the list of corruption crimes and offences.

A significant step in fighting corruption was the adoption of two other laws: on issues of improvement of fight against corruption adopted in 2007 and on ratification of the UN Convention against Corruption signed in 2008.

The first law has moved our legislation closer to the international standards. In order to create disadvantageous atmosphere of corruption behaviour there have been substantially increased fines and terms of deprivation of liberty for corruption crimes. Moreover there has been introduced confiscation of criminally received assets and assets transferred by the convict to other persons.

Following the constitutional principle of equality of all citizens before law, criminal liability for bribery as the most dangerous form of corruption now also covers foreign public officials and officials of the international organizations.

It is prohibited to employ at the state services the persons who have committed corruption crimes and offences; there is a provision envisaging dismissal of the executives who have hired such persons.

The second law has improved image of country in the global community. Kazakhstan has become a full member of the UN Convention against Corruption. Being its full member we have undertaken to implement its requirements and are obliged to consider a possibility of introduction of criminal liability for promising and suggesting a bribe and criminal liability of legal entities, adding a provision to the Criminal Code, which would include into the subject-matter of a bribe not only material benefits but also non-material benefits.

In this legal context anticorruption function of the state cannot be viewed only through a prism of activities of the law enforcement bodies and by putting its preventive nature to the foreground. A special importance is assigned to implementation of the administrative reform initiated by the President of the Republic of Kazakhstan, since, as it has been stressed by the President, the logic of administrative reform is aimed at strengthening of fight against corruption and further reinforcement of the system of protection of rights and liberties of citizens.

The society sees and supports the particular results of the anticorruption policy when guilty persons are subject to fair punishment irrespective of their posts and property status.

A new evidence of irreversibility of such processes in our country is the Presidential Decree of 22 April 2009 "On Additional Measures for Strengthening Fight against Corruption and Further Improvement of Law Enforcement Activities in the Republic of Kazakhstan". The Decree has certain novelties, which today are successfully implemented by the European and Asian countries having best experience in fight against corruption and which would put these activities at a qualitatively new level. First of all, they are aimed at solution of the main task – change of people's world-view, their views at one of the most urgent problems torturing our society.

In view of improving the legal anti-corruption framework, the Decree has settled certain problematic issues: financial incentives for persons facilitating suppression and detection of corruption offences, imposition of additional obligations and restrictions on public officials (provision of information on assets, which value exceeds their official income), establishment of liability of officials for failure to report facts of corruption, tightening of recruitment in the law enforcement bodies, measure on counteraction of "corporate corruption" and "conflict of interests", determination of the lists of positions with high risk of committing of corruption offences. Also, executives of all public authorities and national companies will be subject to personal liability for fight against corruption, etc.

However, the work on improvement of legislation, including in the field of fighting corruption, has not been stopped at the achieved results.



In conditions of the market economy for the purpose of diverging from the principles of personalized liability, since new social relations are based on the principles of freedom of entrepreneurship and private ownership.

Therefore, we have worked out a draft law on introduction of criminal liability of legal entities. This novelty introduces not only punitive measures up to liquidation but also preventive function, as it would result not only in dilution of its financial status but also the reputation on the whole.

The experience of such countries as the US, France, Italy, Germany, and the Netherlands attests considerably high efficiency of bringing to responsibility of not only natural persons - executives of the firms, but also the legal persons with all assets owned by them.

Also a law on further strengthening of fight against corruption, which introduces criminal liability for taking bribes in favour of third persons will be adopted soon; the fact of fraud will be treated as corruption crime, if it is related to an official's use of his/her official position; the law toughens liability of public officials and increases penalties for corruption crimes.

During the years of existence of the financial police bodies there has been established close cooperation with the competent authorities of the Commonwealth of Independent States, the Baltic States and certain other European and Asian countries. And, of course, international treaties form the legal fundamentals of such cooperation.

For example, currently there are 11 treaties on the fight against corruption with such countries as Turkey, China, Egypt, Poland, Romania, Slovakia and others.

As of today the Agency has established close cooperation with the UN, OSCE, Organization of Economic Development and Trade (OECD), Transparency International and International Tax and Investment Centre.

Within the framework of the OECD in September 2003 in Turkey has been adopted the Istanbul Anticorruption Action Plan for Armenia, Azerbaijan, Georgia, Russia, Tajikistan and Ukraine. By that moment Kazakhstan has been included into the similar plan for Asia and Oceania. Taking into account commonality of the economic situation and territorial nearness, the OECD Secretariat has proposed to Kazakhstan to join the OECD Istanbul Anti-Corruption Action Plan. On 14 December 2004 the Republic of Kazakhstan has been accepted into the OECD Istanbul Anti-Corruption Action Plan.

Together with the OSCE various international seminars and roundtables on such topics as "Strengthening Measures on Fight Against Corruption in the Private Sector of the Republic of Kazakhstan", "Criminalization of Corruption: liability of legal entities for corruption crimes. Confiscation of Assets and Judicial Proceedings. Legal Mutual Aid", "Principles and Methodology of Investigation of Corruption Crimes", "Detection, Arrest, Confiscation and Return of the Criminally Received Proceeds Located at Territories of Foreign States" have been organised.

The Statement on Good Governance and Fighting Corruption, which has been adopted yesterday, would allow further improving and increasing efficiency of cooperation between countries of the Anti-Corruption Network for Eastern Europe and Central Asia and the Istanbul Action Plan.

As for the industry cooperation, the Agency represents Kazakhstan in the Coordination Council of Heads of Tax (Financial) Investigation Bodies of the CIS member states (KCOHP) and Association of Anticorruption Authorities (IACCA) (October 2006). Kazakhstan also actively participates in the forum of the Organization of the Islamic Confederation on Fighting Corruption and Strengthening of Ethics and the World Forum on Issues of Ethics Observance and Fighting Corruption.

Besides that the Agency considers an issue of the Republic of Kazakhstan's accession to the Criminal Law Convention on Corruption (Strasbourg, 27 January 1999), Civil Law Convention on Corruption (Strasbourg, 4 November 1999) and Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, 8 November 1990). These measures would allow Kazakhstan to establish the legal basis for cooperation with the states participating in the conventions and also to get broader possibilities for deeper relationships with the states which are the members of the Group of States against Corruption (GRECO).

As it follows from the letter of the Ministry of Internal Affairs of the Republic of Kazakhstan, on 14 April 2009 the Embassy of the Republic of Kazakhstan in Belgium has sent an inquiry to the Secretary-General of the Council of Europe in order that Kazakhstan could obtain an official invitation to accession to the above-mentioned conventions. On 22 April 2009 at the instruction of the Secretary-General of the Council of Europe the Directorate-General of Legal Advice and Public International Law has sent to the Permanent Missions of foreign countries inquiry at the request of Kazakhstan asking to hold preliminary consultations and inform about the position of the Ministry of Foreign Affairs of these states. It is planned to hold a regular meeting of the Permanent Missions to the Council of Europe in September-October 2009 in Strasbourg. It is expected that the response of the Permanent Missions on the Kazakhstan's inquiry will be given at that meeting. Since the representatives of the Apostolic See, Belarus, Canada, Mexico, the USA, Japan, Israel and South Africa being the signatories of the said Conventions do not attend the meetings of Permanent Missions, they would receive the inquiries with two month scheduled deadline for response. It is expected that in November-December 2009 upon receipt of responses from all signatories the Secretary-General of the Council of Europe would send an official letter inviting Kazakhstan to join the Council of Europe Criminal Law Convention on Corruption (Strasbourg, 27 January 1999) and the Civil Law Convention on Corruption (Strasbourg, 4 November 1999).

All civil society, public sector, political parties and social organizations are engaged in the fight against corruption. Constructive cooperation with the civil society is ensured by the Expert Councils established in all state authorities, and in certain law enforcement bodies – Social Councils, comprising of members of the Parliament, representatives of social organizations and mass media.

For these purposes certain state authorities have concluded memoranda on cooperation with the People's Democratic Party "Nur Otan" headed by the President of our country, within which there have been developed new forms of effective and progressive mechanisms of partnership in fight against corruption in the format "state – civil society – private business".

The activities of the social expert council of the Agency and each territorial department with the broad participation of entrepreneurs, scientists and representatives of non-governmental organizations and mass media have the same goals.

In order to join efforts of the state, NGOs and the society in implementation of the anticorruption policy, the Agency has signed Memoranda on cooperation with the National Economic Chamber of Kazakhstan "Atameken Union", Union of Legal Entities "Civil Alliance of Kazakhstan" and the Forum of Entrepreneurs of Kazakhstan.

Within the framework of the memorandum on cooperation with the party "Nur Otan" the Agency organises meetings, lectures, seminars, roundtables and other activities. Over 400 actions of this kind have been conducted, as well as 18 meetings with representatives of business associations and communities.

In May this year the Agency, together with the People's Democratic Party "Nur Otan" and with the support of the social organizations and the state authorities, has initiated a large-scale action "Let's Say "No" to Corruption!" It targeted almost all parts of the society.

The management of the Agency and its territorial bodies of the financial police has arranged for personal reception of citizens in the Social Councils of the People's Democratic Party "Nur Otan".

A full feedback path from the state to the population has been arranged through the Internet. Each state body has its own functioning web-site, heads of ministries and agencies have created their personal blogs at the governmental portal. The Agency Chairman has received through his blog approximately 350 inquiries from individuals and legal entities.

The Agency regularly broadcasts anticorruption video and audio materials at TV and radio-stations. 44 informational billboards and 337 banners with hotline phone number of the financial police "144" have been installed in the public places.

There have been published 48,000 complimentary brochures for small and medium enterprises specifying powers of the state authorities and legal aspects of the anticorruption legislation of the Republic of Kazakhstan.

On the whole, during three years of implementation of the Program by the ministries and agencies there have been held over 90,000 actions aimed at propaganda of fight against corruption. The taken measures have ensured increase of efficiency of activities of the law enforcement bodies of our country in the field of fight against corruption.

During the last three years (in 2008 compared to 2005) there has been a 21% increase of the detected corruption crimes in the Republic (from 1,505 to 1,819), from which the number of detected facts of bribery has been increased 1.7 times. There have been detected corruption facts related to embezzlement 2.8 times as much, there has been a twofold increase of facts of illegal entrepreneurial activities, and the facts of excess of power or official powers have been increased by 25%.

The fact that there has been a 32% increase of the number of criminal cases transferred to the courts (from 1,083 to 1,433) shows the increase of quality of this work. 75% – 80% of these crimes are related to the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime as the state body authorized for fighting against corruption.

Many officials have been accused for committing corruption crimes causing a major social resonance. Certain heads of central and local executive bodies are being on trial.

The Agency has established active and fruitful cooperation with Kazakh representative office of the Social Fund "Transparency Kazakhstan", which actively participates in meetings of the Commission of the President of the Republic of Kazakhstan on Issues of Fighting Against Corruption (hereinafter the "Commission"), as well as in all anticorruption events conducted by the Agency.

In July this year the Chairman of the Board of Directors of the world social organization for fighting corruption Transparency International Ms. Huguette Labelle has visited Kazakhstan and has positively valued contribution of the President of the Republic of Kazakhstan Nursultan Nazarbaev to the fight against corruption and has noted that the progress achieved by Kazakhstan and political will of its leader in this direction and are good example for other countries of the Commonwealth of Independent States.

During the meeting with the President of the Republic of Kazakhstan Ms. Labelle has noted that Transparency International intends to further strengthen relations with Kazakhstan and to provide overall support of effective implementation of anticorruption measures.

In June this year Almaty hosted international conference "Anticorruption Initiatives in Kazakhstan and International Experience" organized by the Agency, OSCE and Transparency Kazakhstan. Presently the Agency is discussing with this organization an issue of joint publication and distribution among population of the journal "To Society without Corruption".

The Agency of the Republic of Kazakhstan on the State Service makes annual arrangements for conducting polls by non-governmental organizations on determining corruption perception index.

Presently there has been finished a project "Conducting Applied Scientific Researches in the Field of the State Administration and State Service", within the framework of which the Social Fund "Centre of Social and Political Researches "Strategy" has determined the corruption perception index.

The Social Council on Fighting Corruption of the People's Democratic Party "Nur Otan" also deals with public opinion research related to prevalence of corruption. Based on the order of the Social Council the Association of Political and Sociological Analysts performs quarterly monitoring of the corruption status in the republic. The results of polls in all regions of the country form the basis of this monitoring.

The Financial Police Academy made an important contribution to the field of fight against corruption. One of the main tasks of the Academy is training of specialists with higher education for the financial police and customs bodies. Alongside with that the Academy trains scientific and pedagogic personnel, conducts scientific and research works on actual problems of fight against economic and corruption crimes.

In May 2007 the Coordination Council of Chiefs of Tax (Financial) Investigation Bodies has adopted a decision on assigning to the Financial Police Academy the status of the main higher educational institution for training and advance training for tax (financial) investigation bodies of the CIS member states.

In October 2007 the Board of the Committee for Control in the Field of Education and Science of the Ministry of Education and Science has decided to include the Academy into the list of the leading organizations of legal sciences.

Taking into account the increased requirements for scientific and practical work of the financial police bodies, there is being discussed an issue of establishing a scientific and research institute on the base of the Academy.

There are constantly held scientific and practical conferences, training seminars with participation of the experienced practitioners from the financial police, customs control committee, prosecutor's office and other agencies of Kazakhstan and foreign states.

From the standpoint of practical requirements there are being developed methodical recommendations on detection and investigation of complex, concealed and hardly discovered economic and corruption crimes inflicting the greatest damage to the economy of the state.

Under the aegis of the Financial Police Academy training of specialists with advanced knowledge in jurisprudence and economics is organised, necessary for detection and investigation of economic and corruption crimes, as well as for advanced training of the financial police officers.

Since establishment of the Financial Police Academy in 1999 there have been 8 classes of graduates and 828 graduates. The Financial Police Academy arranges for 100% employment of its graduates. The financial police bodies have employed approximately 600 officers – graduates of the Academy. Around 2,000 persons have passed higher academic courses on initial training, advanced training and development.

During its existence the Agency has managed to form a professional core team of officers of the financial police. On the whole there are 3945 persons serving in the financial police bodies, all of them have higher education. One of the factors of improvement of performance of the operative and service activities of the financial police bodies was strengthening of personnel. For the purposes of ensuring implementation of the principles of the personnel policy on increasing the level of professional knowledge of chiefs, creating conditions of healthy competition, increasing efficiency of use of personnel potential of the financial police bodies, there is carried out systematic work with the approved personnel reserve.

Comprehensive measures are taken on dismissing persons who due to their managerial and moral capacities do not deserve to serve in the financial police bodies.

There is an increase of newly employed persons and officers appointed at high-level positions, and also measures are taken on returning highly qualified experienced people to the financial police bodies.

So this is a brief overview of the anticorruption measures taken in Kazakhstan, which I wanted to outline.

Alongside with that one should note significant efforts, which have been taken by the countries of the Anti-Corruption Network for Eastern Europe and Central Asia and the Istanbul Anti-Corruption Action Plan together with civil society, representatives businesses and international organizations aimed at decreasing the level of corruption, as well as at improving public and corporate governance.

Acknowledging that in today's world corruption ceased to be a problem of one separate state or a region, I would like to note that it is possible to ensure effective fight against corruption in our countries only through harmonious and effective international cooperation. Our today's meeting just once again proves the need for it.

Acknowledging the threats of corruption for the economic and social development of our countries, especially during the global financial crisis, and taking into account that corruption undermines growth and well-being of the states, destroys public confidence in public governance, it is necessary to further improve international legal mechanisms of cooperation.

In particular, the following issues should be addressed:

- ensuring interaction, exchange of experience and information between the member states of this forum for the purposes of effective solution of tasks connected with detection, prevention and suppression of violations of the anticorruption legislation;
- improving national legislative base of the states of the Anti-corruption Network for Eastern Europe and Central Asia and the Istanbul Anti-Corruption Action Plan on fighting corruption, developing legal basis of the international cooperation in the field of fighting corruption;
- performing joint scientific and research works on issues being of mutual interest, rendering assistance to each other in terms of provision of information within the framework of pre-

investigation examination and criminal cases, participating in joint training events on anticorruption issues, etc.

I hope that regular meetings in the framework of the Anti-Corruption Network for Eastern Europe and Central Asia would strengthen our efforts on preventing and fighting corruption via a dialogue on issues of anticorruption policy and exchange of practical experience and would also allow looking at this problem through a prism of various standpoints and views.

I am sure that our today's common work would also have concrete results.

***“Role of civil society in the fight against corruption in Kazakhstan”***

**Mr. Sergey Zlotnikov, Executive Director, Transparency International Kazakhstan**

“Transparency International” is celebrating its 10<sup>th</sup> anniversary of presence in Kazakhstan. We are part of the global movement of “Transparency International”, nongovernmental organization of fight against corruption consolidating more than 90 NGOs all over the world. The advocacy of anti-corruption opinions and methods is used as instrument, which is calling upon governments to undertake reforms in the sphere of struggle against the corruption.

As stated by Mr. Lukin, the Chair of the Board of Directors of “Transparency International” Huguette Labelle visited Kazakhstan and met with President Nursultan Nazarbayev, as well as with the Chairman of the Agency of the Republic of Kazakhstan on Fighting Economic and Corruption Crime (Financial Police). Huguette Labelle expressed appreciation of progress made by Kazakhstan in the last few years. She stressed that “Transparency International” will recommend the work of the Financial Police of Kazakhstan as a model for countries of this region and the CIS.

Representatives of “Transparency International” took part in the development of the national programmes of fight against corruption in 2001 – 2005 and 2006 – 2010.

On our initiative, the following aspects were included in the national programme:

- national system of incorruptibility;
- journalistic investigation;
- interaction of public institutions with NGOs and media;
- creation of social councils in governmental bodies;
- joining and ratification of international anti-corruption documents.

“Transparency Kazakhstan” has taken part in monitoring of corruption level in public sector, which is pursued annually in Kazakhstan since 2008 at national level. Upon request of Financial Police, “Transparency Kazakhstan” developed methodology for monitoring, which was implemented by the foundation “Strategy”.

In 2008 “Transparency Kazakhstan” developed the anti-corruption concept of the “Strategy of Service Centres for Citizens in Kazakhstan” commissioned by the Ministry of Justice of the Republic of Kazakhstan.

As a result of work of anti-corruption hot lines of “Transparency Kazakhstan”, practical recommendations about decreasing the level of corruption in areas of education, healthcare, judicial system, police, prosecution, development of anti-corruption legislation, protection of witnesses and victims of corruption, legislation on political parties, public procurement and illegal migration were developed.



Following a research carried out by “Transparency Kazakhstan” on corruption and illegal migration, amnesty for illegal migrants was provided, first case among countries of the Commonwealth of Independent States. As a result, 200 000 illegal migrants benefited from amnesty in 3 months and 33 million US dollars were received into the state budget.

Jointly with the Academy of Financial Police, the Financial Police and the Forum of Businessman of Kazakhstan, “Transparency Kazakhstan” prepared guidelines for businessman “For businessman – preventing corruption”. It covers anti-corruption legislation of Kazakhstan, main aspects of the national programme of fight against corruption and elements of corruption related crimes, as well as recalls the existing administrative and disciplinary responsibility.

The course “Basic elements for fighting against corruption” was developed by “Transparency Kazakhstan” in 2005. Course materials were published in Kazakh, Russian and English languages. This course was recommended by the Ministry of Education and Science of Republic of Kazakhstan for students of economics and law, as a result this course was attended in more than 30 institutes of Kazakhstan. The course materials (textbooks) were acknowledged by the Ministry of Justice as the best guidelines in the area of law in 2004.

Representatives of “Transparency Kazakhstan” take part in:

- Meetings of Anti-Corruption Commission under the President of Kazakhstan;
- Since 2004 “Transparency Kazakhstan” takes part in scientific – expert council of the Agency of the Republic of Kazakhstan on fighting with economic and corruption crimes;
- Since July 2008 “Transparency Kazakhstan” takes part in the public council of the Agency of the Republic of Kazakhstan on fighting with economic and corruption crimes
- “Transparency Kazakhstan” takes part in the public council of police;
- Working groups and expert councils Supreme Court, General Prosecutor’s Office, Ministry of Justice, Agency for Civil Servants;
- In the course of round table «Efforts in the area of fight against corruption in private sector» organised by Ministry of Foreign Affairs, Financial Police and “Transparency Kazakhstan”, with participation of OECD, issues of compliance with international conventions was discussed.

Kazakhstan ratified the UN Convention against Corruption in 2008 and also the UN Convention against transnational organized crime and its three protocols.

Kazakhstan envisages ratifying Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

In June 2009 “Transparency Kazakhstan” presented the book “Practical recommendations on implementation in Kazakh legislation of the provisions of the UN Convention against Corruption”.

Recognising the progress made by Kazakhstan in fighting corruption, it is necessary to continue efforts of collaboration between non-governmental organizations and public institutions in implementing the national anti-corruption programme. It is necessary to further develop involvement of non-governmental organisations in commission at local government level, conduct independent expertise of draft laws, joint development and execution of anti-corruption programmes and conduction of public hearings.

Governmental structures must react to useful constructive proposals from society and provide them necessary support, and also give all necessary information. It is necessary to publicise results of such co-operation. Citizens and NGOs should be involved in monitoring the quality of public services.

Proper protection of rights and freedoms of citizens is a topical issue. It is necessary that responsible authorities react in cases of corruption when information is provided by political party, journalists, rights defendants and other organisations.