



**ACN**

**Anti-Corruption Network for Eastern Europe and Central Asia**

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**16<sup>th</sup> ACN STEERING GROUP MEETING**

18 April 2014

OECD, 2 rue André-Pascal, 75016 Paris

**SUMMARY RECORD**

The summary record was prepared by the ACN Secretariat. It summarises the discussion and decisions taken at the 16<sup>th</sup> ACN Steering Group meeting. It was approved through written procedure by 20 June 2014.

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## **1. INTRODUCTION**

The 16<sup>th</sup> ACN Steering Group Meeting took place on 18 April 2014, at the OECD in Paris, back-to-back with the 13<sup>th</sup> Monitoring Meeting of the Istanbul Anti-Corruption Action Plan and the 4<sup>th</sup> Meeting of the ACN Law Enforcement Network.

The 16<sup>th</sup> ACN Steering Group meeting was co-chaired by *Mrs Rusudan Mikhelidze*, Director, Analytical Department, Ministry of Justice, Georgia and *Mr Goran Klemenčič*, Former Chief Commissioner, Commission for the Prevention of Corruption, Slovenia.

The Steering Group took note of the 15<sup>th</sup> Steering Group's meeting Summary Record and adopted the proposed agenda for the 16<sup>th</sup> Steering Group meeting.

## **2. 13<sup>TH</sup> MONITORING MEETING OF THE ISTANBUL ANTI-CORRUPTION ACTION PLAN**

The Steering Group took note that the 13<sup>th</sup> Istanbul Action Plan Monitoring Meeting was opened by *Mr William Danvers*, OECD Deputy Secretary General. The keynote speech was delivered by *Mr Temir Sariev*, Minister of Economy of the Kyrgyz Republic. The meeting was chaired by *Mr Daniel Thelesklaf*, Head of the Financial Intelligence Unit, Principality of Liechtenstein. The Steering Group welcomed the adoption of the third round monitoring report on Tajikistan and the review report on Mongolia during the 13<sup>th</sup> Monitoring Meeting. The Group also welcomed the adoption of progress reports by the other Istanbul Action Plan countries, using the new methodology, which is part of the ACN Work Programme 2013-2015.

## **3. 4<sup>TH</sup> MEETING OF THE ACN LAW ENFORCEMENT NETWORK**

The Steering Group took note that the 4<sup>th</sup> meeting of the ACN Law-Enforcement Network On Effective Investigation and Prosecution of Legal Persons for Corruption took place on 17 April 2014. The Law-Enforcement Network meeting discussed the preliminary findings of the ACN Thematic Study on Responsibility of Legal Persons and case studies on effective investigation and prosecution of corruption committed by legal persons in Romania, Lithuania and Croatia.

*The Summary Record of the 4<sup>th</sup> meeting of the ACN Law-Enforcement Network is presented in the Annex of this report, see below.*

## **4. ACN WORK PROGRAMME 2013 – 2015: UPDATE ON IMPLEMENTATION**

*Mrs Olga Savran*, ACN Manager, provided an update on the implementation of the ACN Work Programme in 2013 and the next steps. The Steering Group discussed this update; the main outcomes of the discussion are presented below.

### **ACN Activity Report 2013**

Mrs Savran informed the Steering Group that the Secretariat prepared the ACN Activity Report for 2013 and that it was made available to ACN members and published on the ACN website. In 2013, as outlined in the Activity Report, the third round of monitoring under the Istanbul Anti-Corruption Action Plan has started with the monitoring of Azerbaijan and Georgia. Besides, in 2013 the ACN thematic reviews on Prevention of Corruption in Public Sector, on Integrity in the Business Sector and on Criminalisation of

Corruption started. As part of the thematic study on Prevention of Corruption, ACN expert seminar “Prevention of Corruption: Effective Measures and their Practical Implementation. Institutional and Sectoral Approaches” was held in Jūrmala, Latvia on 26-27 June 2013. The meeting of the Business Integrity Advisory Board took place on 25 October 2013 in Istanbul, Turkey. The Questionnaire on liability of legal persons (part of the Criminalisation of Corruption review) was sent out. In 2013, the new edition of ACN 2008 report “Specialised Anti-Corruption Institutions – Review of Models” was published. The study “Ethics Training for Public Officials” was published in both English and Russian. The report “Anti-Corruption Reforms in Eastern Europe and Central Asia: Progress and Challenges, 2009 – 2013” was published.<sup>1</sup>

#### ACN Activities in 2014

Regarding ACN Activities in 2014, the questionnaire on Prevention of Corruption in Public Sector was sent out. The review of Mongolia and the third round of monitoring of Tajikistan took place during the April meeting in Paris.

The following ACN activities are planned for the remainder of the year:

- Expert Seminar on Prevention of Corruption in Tirana, Albania, in June 2014;
- mailing of the Questionnaires on Business Integrity in May 2014;
- monitoring of Armenia and Kazakhstan, including on-site visits in May and June 2014;
- ACN plenary meeting and Steering Group meeting in October 2014;
- Business integrity seminar in autumn 2014;
- Law-Enforcement Network meeting in December 2014.

Mrs Savran highlighted two important changes in the Work Programme: the addition of review and monitoring of Mongolia and its impact on the ACN budget; and the postponement of the monitoring of Ukraine. The Steering Group was invited to discuss possible solutions, whether to organise one more meeting in the second half of 2015 or to review three countries instead of two at the plenary meetings in October 2014 and March 2015.

*Steering group supported the idea that an extra meeting is necessary to complete the third round of monitoring under the Istanbul Action Plan. If the funding is ensured, the new schedule of the Istanbul Action Plan monitoring will be as follows:*

- 14<sup>th</sup> meeting, October 2014 – Armenia, Kazakhstan;
- 15<sup>th</sup> meeting, March 2015 – Kyrgyzstan, Ukraine;
- 16<sup>th</sup> meeting, September 2015 – Uzbekistan, Mongolia.

Regarding the financing of the ACN activities, Mrs Savran informed that funding for the ACN Work Programme 2013 – 2015 is only available until this meeting. Meanwhile, there are indications that funding could be provided by Liechtenstein, the United States and the United Kingdom. She also invited the ACN countries to explore co-funding possibilities to support various ACN activities.

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<sup>1</sup> Overall activities foreseen for 2013 in the ACN Work Programme 2013-2015 were implemented. The monitoring of Ukraine needed to be postponed due to political situation and the review of Mongolia was delayed and took place in 2014.

#### Civil Society Participation in the Istanbul Action Plan monitoring

Mrs Savran recalled that in the framework of its current Work Programme ACN strives to further involve civil society in its work. She reminded that in March 2013 a note was sent to the civil society organisations in the region to participate in the third round of monitoring. Moreover, in 2013, with DFID support, training was organised for civil society organisations in Tajikistan and Kyrgyz Republic. A practical guide on How to Conduct “Shadow Monitoring” under the Istanbul Action Plan has been drafted and will be published in 2014. ACN intends to provide mentors for civil society organisations on monitoring of anti-corruption policies.

#### New methodology for progress updates

Mrs Savran reminded that at its last meeting in September 2013 the Steering Group invited the Secretariat to prepare a proposal of the new methodology for country progress reports and circulate it for comments. She noted that few comments received were taken into account and the new methodology was tested at this monitoring meeting, and invited the Steering Group to discuss how to improve the new methodology.

Regarding country progress updates, the Steering Group members overall agreed that the new methodology was an improvement. It was said that the new methodology provides a better structure for countries and experts. It has a clearer link to the monitoring process and provides additional pressure for implementing the recommendations. In some countries new progress updates helped to improve internal communication about recommendations and encouraged putting pressure on responsible institutions to implement them. The Secretariat reminded that late submission of progress updates can undermine the process. In order to make the assessment, supporting documents in English can be useful.

*The Steering Group agreed on following changes in the methodology of progress updates: 1) progress updates will be done using the same document, where each country will complement its previous progress update with new information for each next monitoring meeting; 2) for the purposes of progress updates the ratings can be upgraded when a draft law has been prepared and approved by the Government through its internal procedures.*

#### Practical guide for monitoring experts

At the previous meeting in September 2013 delegates supported the provision of the Work Programme regarding the training of monitoring experts, but noted that the same objective can be achieved by preparing a practical guide. Organisation of the training for experts would involve additional costs and there would be no guarantee that monitoring experts who would attend it would actually participate in country monitoring. The Secretariat has therefore opted for the preparation of the Practical Guide for Monitoring Experts. The draft will be sent for written comments soon after the meeting.

#### ACN evaluation

Mrs Savran recalled that a new element of the ACN Work Programme 2013 – 2015 is an internal and external evaluation. The internal evaluation is to be carried out by the Steering Group. The questionnaire “Evaluation of the Implementation of the ACN Work Programme for 2013 – 2015” has been sent to

National Co-ordinators, experts and partners. 10 out of 25 answers have been received so far. The Steering Group members are overall satisfied with the work of the ACN and consider the ACN Work Programme 2013 – 2015 is comprehensive and overall based on country needs. This evaluation also included areas for improvement, for example, more guidance to the National Co-ordinators, more communication from the Secretariat, providing advice on recommendations and others. A note summarizing the preliminary results of the internal evaluation was made available at the plenary meeting.

The Steering Group heard that the external evaluation will be conducted in July 2014 till March 2015. The results will be presented to the ACN and to the donors and used by ACN Secretariat to improve the work programme and by donors. The Secretariat will be looking for consultant with necessary qualifications to conduct this work (ACN evaluation anti-corruption experience; English and Russian languages; no conflict of interest). The delegates were invited to send responses to the questionnaire on internal evaluation and to send comments on ToR for external evaluation.

## **5. THEMATIC STUDY ON PREVENTION OF CORRUPTION**

*Ms Inese Gaika* presented an update on the Thematic Study on Prevention of Corruption. The Steering Group was recalled that it supported the terms of reference of this study at its last meeting on 25 September 2013. The Secretariat launched the Thematic Study on 20 January 2014. 13 completed questionnaires from the governments and 6 non-governmental organisations have been received so far. 12 countries, which have not answered the questionnaire, were invited to do so. The outline of the study was presented by the Secretariat.

*During the discussion, delegates welcomed the progress made under this review. The FYR of Macedonia and Latvia expressed interest to join the Advisory Group of this Thematic Review. It was recommended, like at the last Steering Group meeting, to include in the study not only promising practice, but also failures. The importance of a academic, scientific approach was highlighted.*

## **6. THEMATIC STUDY ON BUSINESS INTEGRITY**

*Mrs Olga Savran* presented an update on the Thematic Study on Business Integrity. The objectives and the phases of this study were recalled. An online questionnaire is being developed under this study with assistance of Ernst & Young Baltic and it will be available online in the beginning of May. In summer the information gathered through the questionnaires will be summarized. Next meeting of the Advisory Group and a training seminar will take place in autumn 2014. At this meeting the preliminary findings of the study will be presented. Under this review it is intended to organise fact finding missions to selected ACN countries.

*During the discussion, the Steering Group expressed support for this thematic review.*

## **7. CLOSING OF THE MEETING**

It was agreed that the Secretariat will prepare the draft summary record and circulate it to participants for written comments and adoption. The next ACN Steering Group will take place on 9 or 10 October 2014.

**ANNEX**

**4<sup>TH</sup> MEETING OF THE ACN LAW-ENFORCEMENT NETWORK**

**EFFECTIVE INVESTIGATION AND PROSECUTION OF LEGAL PERSONS FOR CORRUPTION**

**17 April 2014**

**SUMMARY RECORD**

Fourth meeting of the ACN Law-Enforcement Network was dedicated to the Thematic Study on liability of legal persons that was launched in 2014 as a part of the OECD/ACN peer learning programme. The meeting was chaired by Mr Goran Klemencic, former Chief Commissioner of the Slovenian Commission for Corruption Prevention. ACN consultant for development of the study on legal persons' liability Mr Margus Kurm presented preliminary findings based on the replies to the questionnaire submitted by ACN countries.

According to the preliminary results in majority of ACN countries corporate liability for corruption offences was introduced in the form of criminal liability, only Bulgaria and Russia opted for administrative liability and three countries – quasi-criminal (Azerbaijan, Latvia, Ukraine). Very few countries in the region have actually investigated cases against legal persons and there are even fewer convictions. Relatively active in this regard are Croatia, Estonia, Lithuania, Romania and Slovenia. Due to limited statistics presented by countries in the initial responses it was suggested that a new request for information would be sent to ACN countries. The request would cover adjusted and updated statistics on bribery committed by legal persons, total number of crimes committed by legal persons, bribery committed by natural persons and other data. Countries would also be requested to provide description of actual bribery cases with prosecution of legal persons, as well as any other interesting cases against legal persons that allow clarifying the concept of corporate liability as applied in the country.

Three case studies on effective investigation and prosecution of corruption committed by legal persons in ACN countries were presented by Mrs Anca Jurma (National Anti-Corruption Directorate, Romania), Mr Egidijus Kulikauskas (Special Investigation Service, Lithuania) and Ms Petra Parlov (County State Attorney's office, Croatia).

During Tour-de-table other participants shared their experience on corporate liability for corruption offences. Participants, in particular, were asked to answer the following questions: 1. What are the legal challenges that obstruct introduction of legal persons' liability for corruption offences in your country? 2. What are the problems in practical enforcement of the legal persons' liability for corruption offences in your country? 3. Is autonomous nature of the corporate liability ensured in your country and, if yes, how?

UNODC representative noted that in November 2013 status of implementation report on two chapters of the UN Convention against Corruption was issued and it included a part on the liability of legal persons that may be useful for the on-going study. Other participants mentioned effective additional sanctions that could be applied to legal persons and their managers for involvement in corruption, e.g. debarment of company from public procurement, banning company managers from taking part in certain activities, for example in financial services sector, persons convicted of certain offences to be prohibited from instituting new companies, etc.

It was agreed that additional questionnaire would be sent to ACN countries to complement statistics and information on cases of corporate liability in the region. The consultant would then prepare draft study that will be sent for feedback to the Advisory Group. Final draft report will be presented at the ACN next meeting in October 2014.

ACN Secretariat provided an update on the next activities within the framework of the Law Enforcement Network. The participants were informed that work on the next thematic review on bribery of foreign public officials will be launched in the autumn of 2014. The next meeting of the Law Enforcement Network will be combined with the meeting of its Advisory Group and will be held back-to-back with the

Informal meeting of law enforcement officials of the Working Group on Bribery on 9-10 December 2014. The meeting will be focusing on foreign bribery offences committed by legal persons. Draft of the questionnaire for the second thematic review will be prepared in advance of this December meeting and will be circulated for discussion by the Advisory Group.