

# Fighting corruption in Eastern Partnership countries: The view from civil society

Ukrainian Institute for Public Policy (Kyiv)  
International Centre for Human Development (Yerevan)  
Institute for Public Policy (Chisinau)

in cooperation with **FRIDE** (Madrid)

with financial support from the **Black Sea Trust**,  
a project of the **German Marshall Fund** of the  
United States (Bucharest)



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# Overview

Since 2009, the European Union has been developing its relations with eastern neighbours through the Eastern Partnership (EaP). The new policy is based on “commitments to the principles of international law and to fundamental values, including democracy, the rule of law and the respect for human rights and fundamental freedoms, as well as to, market economy, sustainable development and good governance.”<sup>1</sup> The EaP’s purpose is to promote democratic and economic reforms in partner countries through bilateral relations with the EU and multilateral cooperation. And combating corruption is one of the EaP policy areas to be developed on both a bilateral and multilateral basis.

The EaP has also opened the door for greater civil society participation in ongoing reforms in partner countries to “enhance oversight of public services and strengthen public confidence in them.”<sup>2</sup> For this purpose, the EaP Civil Society Forum was set up to represent civil society actors from EaP and EU member countries and interested third states.

This study is intended to shore up the objective of greater civil society involvement in the EaP and the course of reforms in eastern partner countries. The key objective of the study is to present the views of civil society on anti-corruption policies and reforms in the Eastern Partnership countries, to give an overview of foreign—including EU—assistance in this area, and to analyse the role and potential of civil society in combating corruption. The report offers a number of recommendations for international donors, CSOs and the EU on how to make their efforts in assisting anti-corruption reforms in Eastern Partnership countries more effective.

To enforce reforms in governance through multilateral cooperation, an intergovernmental expert panel on countering corruption was set up in 2010. Civil society representatives from EaP countries were invited to participate in the panel’s meetings. Hopefully, this report will serve as a contribution to the work of the panel and to the EaP multilateral platform on democracy, good governance and stability.

The report includes three case studies on Armenia, Moldova and Ukraine. Each was prepared by a team of researchers from one of these countries using a common methodology. The study largely draws on the opinions of local stakeholders in all three countries. Through a series of semi-structured interviews, a questionnaire and expert discussions, the researchers surveyed 90 stakeholders.

Conversations were held with state officials—including parliament and government—, civil society representatives and independent experts, journalists and business professionals, in order to record their views on the battle with corruption in their own countries.

**Table 1. Survey of local stakeholders, overview**

Public Authorities	Civil Society	Media	Business	Donors
13	41	5	5	26

<sup>1</sup> Joint Declaration of the Prague Eastern Partnership Summit, 07 May 2009.

<sup>2</sup> Eastern Partnership: Communication from the European Commission to the European Parliament and the Council, COM(2008) 823, 3 December 2008.

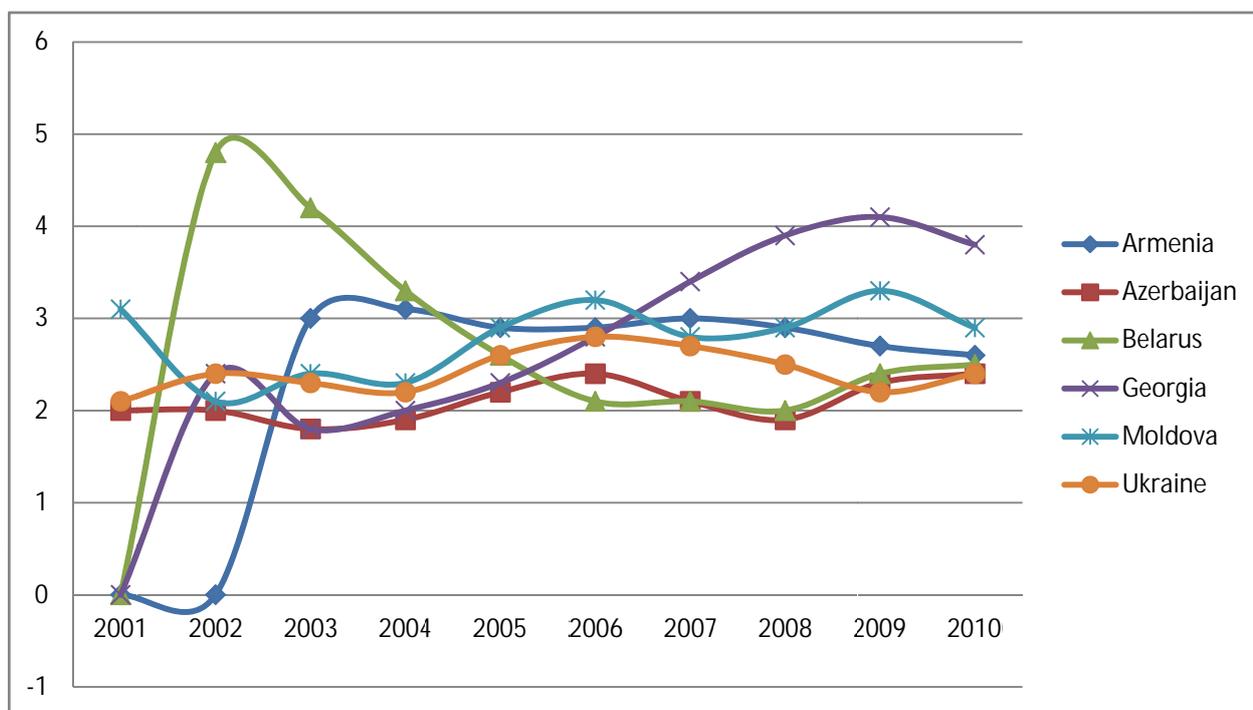
# 1 Executive summary

## 1.1 Corruption in the region

Corruption remains one of the main curses affecting democratic and economic development in the EaP and three countries under consideration: Moldova, Armenia and Ukraine. According to Transparency International's Corruption Perception Index (CPI), which is the most widely used international rating of corruption perception, Eastern Partnership countries present a very disturbing picture in terms of the spread of corruption.

The EaP region as a whole ranks well behind the post-soviet Balkans and new EU member states, with the sole exception of Georgia, which ranks close to the Western Balkans. All the countries in this group failed to improve their position significantly over the last decade—with the exception, again, of Georgia, which improved significantly since 2003—, staying at or below the 3.0 mark in the index, a position that TI describes as a “national shame.”<sup>3</sup>

**Chart 1. Corruption Perception Index, Transparency International (2001 – 2010)<sup>4</sup>**



The stability of these indicators over a 10-year period is very eloquent, suggesting that corruption is a complex phenomenon that is spreading to all sectors of the economy, society and politics. This is supported by data from national surveys in these countries.

For example, Ukraine's 2009 survey reported that about 68% of Ukrainian citizens were involved in corrupt relations during that year;<sup>5</sup> the Moldovan 2009 survey suggests that about 37% of the

<sup>3</sup> TI's Corruption Perception Index ranks perceptions of the degree of corruption as seen by business people and country analysts. It ranges from 10 (highly clean) to 0 (highly corrupt). About 180 states were rated in 2010.

<sup>4</sup> CPI data is available at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi)

<sup>5</sup> The state of corruption in Ukraine. Comparative analysis of nationwide surveys from 2007–2009. [http://www.pace.org.ua/images/stories/2009\\_Corruption\\_in\\_Ukraine\\_Survey\\_Report.pdf](http://www.pace.org.ua/images/stories/2009_Corruption_in_Ukraine_Survey_Report.pdf)

population would accept money, gifts or favours if they were public servants and that almost half the population gave money to public servants during the year, while 36% offered gifts;<sup>6</sup> and in Armenia, 53% of respondents admitted that they were personally prepared to bribe someone, only 41% stating that they would not bribe, and 60% believed there was nothing they could personally do to overcome corruption<sup>7</sup> in 2009.

This produces a context of tolerance towards corruption, which is viewed as a legitimate instrument of social interaction that helps to smooth relations between individuals or businesses and government officials. It is not perceived by the public as a constraint to economic and social development that affects the quality of government institutions, the economic environment or the social capital of the nation negatively. Most of those interviewed for this study acknowledged that this kind of social environment works against effective anti-corruption policies and contributes to low political will among the countries' leaders to tackle corruption.

However, the differences in corruption perception within the group of three countries should not be underestimated. A chart showing data from the World Bank Institute's Control of Corruption Indicator (CCI) gives an idea of the differences among EaP countries. The WBI CCI is one of six governance indicators measured by the Institute on an annual basis for each country.<sup>8</sup> In general, the greener the area, the less corrupted the country is, whereas the redder the area, the higher the rate of corruption. In fact, there is no green on the chart at all, implying that corruption is a genuine problem for all countries in this region. However, there is a big difference between Georgia and the other five countries of the region. There is also a considerable difference between Moldova and Armenia on one side, which are orange, and Ukraine, which is red, together with Belarus and Azerbaijan.<sup>9</sup>

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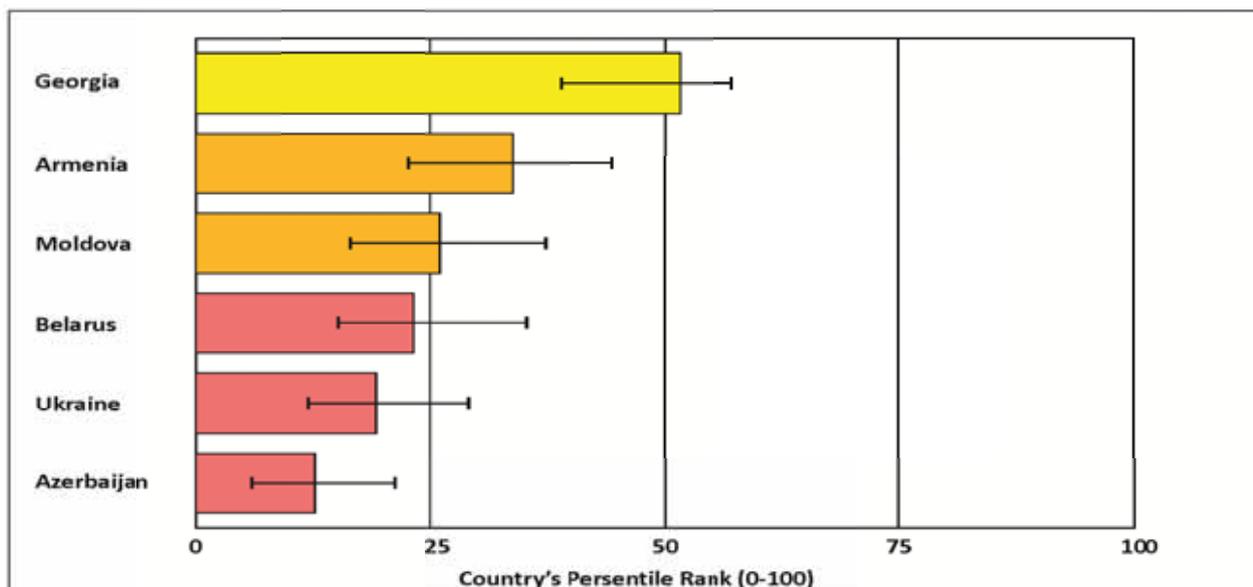
<sup>6</sup> Perception of the Corruption Phenomenon in the Republic of Moldova, MOLICO, 2007 and 2009 Opinion Polls. [http://www.coe.int/t/dghl/cooperation/economiccrime/MoneyLaundering/Projects/MOLICO/Molico\\_en.asp](http://www.coe.int/t/dghl/cooperation/economiccrime/MoneyLaundering/Projects/MOLICO/Molico_en.asp)

<sup>7</sup> Mobilizing Action Against Corruption, 2009, Armenia Corruption Surveys of Households and Enterprises.

<sup>8</sup> The CCI reflects perceptions of the extent to which public authority is exercised for private gain, including both petty and serious forms of corruption, as well as 'capture' of the state by its nomenklatura and private interests. This chart shows the percentile rank of each country on the CCI. The percentile rank indicates the percentage of countries worldwide that rate below the selected country. Higher values indicate better governance ratings.

<sup>9</sup> Yellow means that 50-75 % of countries worldwide are rated below the particular country; orange means 25-50%, while coral red means that 10-25 % of countries are rated below it.

**Chart 2. Control of Corruption Indicator, World Bank (2009)<sup>10</sup>**



## 1.2 Domestic policy

Despite the fact that Armenia, Moldova and Ukraine have displayed different progress in developing anti-corruption policies and fulfilling international commitments, local stakeholders in all three countries agree that their governments do not consider fighting corruption a real priority. Anti-corruption policy remains high on the governments' declared agenda due to public opinion and international pressure. But the pace and course of these reforms remains unsatisfactory in the eyes of both civil society and the broader public.

Interviewees say that their governments lack genuine political will to fight corruption. This is aggravated by widespread public tolerance of the phenomenon. Moreover, there is powerful opposition to any effective anti-corruption steps in the civil service. These are the main general reasons given by local experts to explain the ineffectiveness of anti-corruption policies in their countries.

Civil society representatives in all three countries believe that the governments imitate anti-corruption policy rather than genuinely pursue it. In practical terms, it means officials have concentrated on the development of an institutional and legislative anti-corruption framework without paying much attention to implementation of any adopted policies.

The policy documents that are being produced generally lack specific indicators, targets and concrete plans. The drafting of anti-corruption legislation tends to be a time- and resource-consuming process that produces poor results: bills stuck in legislatures and reformist potential being revised, or else there are no mechanisms for enforcing anything after adoption. Anti-corruption institutions that are being set up either lack teeth or are politically subordinate and thus dysfunctional.

The case of Moldova is very compelling in this regard. This country has set up specific institutions and adopted much important anti-corruption legislation that is only at the stage of debate in Ukraine, for instance—the most corrupt country of the three, according to the CPI. However, the chapter on

<sup>10</sup> Kaufmann D., A. Kraay & M. Mastruzzi, *Worldwide Governance Indicators Methodology and Analytical Issues*, World Bank Institute, 2010.

Moldova shows that almost all of these initiatives have been blocked because insufficient funding has been allocated to implementing institutions or they lack the necessary by-laws. This illustrates the need for public pressure at each stage of the development and implementation of any specific anti-corruption legislation. Otherwise, implementation is likely to be blocked as soon as the issue falls outside public and international donor attention.

“Imitation policy” also presents a trap for donors who hope to cooperate with governments on anti-corruption issues. Governments accept external assistance for the development of anti-corruption institutional, policy and legislative capacity and major funds are being allocated for these objectives. But the final results are less than satisfactory.

The experience of each country suggests a number of specific ways to overcome ineffectual anti-corruption policies. First, very specific indicators and targets need to be developed to measure the success of any policies implemented. Well-known indicators like the CPI or World Bank’s CCI or doing business rating, although not methodologically comprehensive, could suit this purpose better than existing targets. The stated intention of Moldova and Armenia to incorporate these indicators into their policy documents is promising.

Second, donors and NGOs must successfully appeal to national commitments to endorse existing international anti-corruption norms and recommendations, which will make it more difficult for their governments to ignore this. Instruments like the UN and CoE conventions and GRECO<sup>11</sup> recommendations keep delivering, although not as quickly as was initially hoped.

Also, there are country-specific practices that have proven quite successful. For instance, Moldova introduced mandatory software-based corruption-proof reviews of draft legislation, a mechanism that could be applied in Ukraine and Armenia.

Another policy option that has proved more effective is to implement several sector-specific initiatives that eliminate corruption. Although this approach is not as widespread as “legislative and institutional” anti-corruption policies, it produces visible results acknowledged by the general public.

Such initiatives include the introduction of e-governance, reform of the traffic police system, and progress in the customs agency in Armenia, and the introduction of independent testing to replace individual university entrance exams in Ukraine. All these initiatives are fairly technical in nature and aim at cutting the scope of the ‘corruption market’ in specific areas.

However, Ukrainian experience shows that there is a threat that anti-corruption reforms are reversed after a change of government. One possible lesson from this is to support sectoral reforms, with changes in legislation and institutional design that will make these reforms more sustainable.

### **1.3 Foreign assistance**

A variety of donors support the fight against corruption in Eastern European countries. The US government has been the largest and most consistent donor, funding anti-corruption reforms through the US Agency for International Development (USAID) and the Threshold Programme of the Government-funded Millennium Challenge Corporation (MCC). The latter is an example of the link being made between US development aid and a recipient country's potential to combat corruption. To endorse anti-corruption reform plans, over 2007-9 Ukraine received US \$45mln and Moldova US

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<sup>11</sup> The Council of Europe’s Group of States against Corruption.

\$24.7mln from MCC. The biggest share of this aid went to support government efforts and the rest went to civil society and the press.

The European Union is another key international donor supporting the fight against corruption in this region. European Neighbourhood Policy Action Plans include anti-corruption measures among their objectives. Tackling corruption is also one of the priorities of the EU Border Assistance Mission to Moldova and Ukraine, as well as of EU High Level advisory missions to Armenia and Moldova. The EU funded Council of Europe (CoE) projects on anti-corruption reforms giving Ukraine €1.7mln and Moldova €3.5 mln over 2006-9. The EU also links the level of integration and funding to neighbouring countries with performance in good governance reforms.

In addition to the US and EU, other international donors such as the OSCE, UNDP and World Bank, and bilateral donors like Canada, Sweden and the UK support to anti-corruption policies. Generally, donors support the development and implementation of anti-corruption strategies, capacity-building among government institutions, the organisation of anti-corruption agencies, and drafting legislation. Many donors provide sector-based support, such as for the judiciary, education or law enforcement agencies. Some donors, like the US and UNDP, also support a stronger watchdog function in civil society and the press. Private and political foundations, such as several German foundations or the Open Society foundation's network, mostly address civil society efforts to combat corruption.

All three of the studied countries are members of international networks such as the CoE groups GRECO and Moneyval, which focus on combating corruption and money-laundering respectively, and the OECD Anti-Corruption Network for Eastern Europe and Central Asia. These bodies provide reform guidance and international expertise to their members.

Despite such a variety of donors and international actors focusing on anti-corruption, results have been at best modest in the eyes of local stakeholders. The interviews reveal that, while the donors largely provide assistance to government institutions, there is not enough political will or ownership within these governments to combat corruption effectively, so anti-corruption efforts remain largely donor-driven.

While the lion's share of anti-corruption aid has been directed to governments, the most successful projects according to both NGOs and donors are those involving civil society actors or aimed at civil society capacity-building. Local stakeholders have been calling on donors to address this imbalance by assisting capacity-building in civil society and supporting cooperation between government and civil society.

Donors are also criticized for poor coordination. Moreover, they are often seen to rely too much on foreign expertise, which is difficult to adapt to local contexts.

Conditionality linked to aid is important, especially for such big donors as the EU, US and international financial institutions. There must be a better link between development aid, especially, direct budget support, and evident progress in the fight against corruption. The MCC design offers a good example, although practice shows that the application of this model has not been consistent: Moldova was granted development aid prematurely, which had a negative impact on the dynamics of anti-corruption reforms, while Armenia, although it belongs to the same group as Ukraine and Moldova in terms of corruption perception indicators, became eligible for MCC development aid without the threshold programme.<sup>12</sup> Recently, the EU also tightened the link between aid and

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<sup>12</sup> Since March 2006, Armenia has been participating in the Millennium Challenge Corporation Compact, a 5-year project providing US \$235,650,000 for poverty reduction.

progress in fighting corruption by suspending its assistance to Ukraine when the government failed to endorse anti-corruption measures.

## **1.4 Civil society performance and potential**

A number of NGOs are working to counter corruption in all three countries. They work on raising awareness, providing assistance and legal advice to individuals and operate as watchdogs and think-tanks. With increased international funding to combat corruption, organisations focused on this issue have mushroomed.

The one role that civil society is taking on successfully is raising awareness among voters as a corruption prevention measure. In Armenia, for example, due to foreign funding, a network of NGOs has been set up in the regions to work directly with voters by taking in their complaints and providing information and legal consultations on rights issues. One positive trend is that the number of journalists' reports investigating corruption is on the rise. Nonetheless, even this role is far from being fully played by NGOs. An opinion poll in Armenia showed that popular awareness of NGOs involved in anti-corruption activities is low: NGOs are not well known and most respondents would not approach an NGO with corruption-related grievances.<sup>13</sup>

Civil society has the potential not only to tackle corruption from the bottom by working with ordinary citizens, but also to deal with the issue from the top by pushing government to pursue anti-corruption reforms, demanding more transparency and accountability, contributing to the development of policies and regulations, monitoring implementation, evaluating the effectiveness of reforms, and providing a barometer of public opinion for the government.

However, civil societies in all three countries face several challenges that get in the way of taking on an active role in combating corruption. First, all of them are largely depended on foreign funding, which offers sustainability and durability of civil society efforts. For example, in Ukraine and Moldova, foreign funding for anti-corruption for civil society has been cut back since 2009. While the local business community could potentially support the anti-corruption efforts of civil society organisations, so far there is no sign of this.

Moreover, donors mainly fund short- and medium-term projects. This means that NGOs working on anti-corruption are in a constant search for funding instead of focusing on the accomplishment of their missions. Long-term grants should be made available to those NGOs who have proved their commitment and their ability to achieve results in tackling corruption.

Second, there is a lack of dialogue and cooperation between civil society and government. On the one hand, officials seem reluctant and even hostile towards CSOs that criticise their actions. On the other hand, many NGOs themselves prefer maintaining a distance from the government. Although the level of interaction between civil society and government agencies differs throughout the three countries, civil society actors in all three have been demanding mechanisms for civil society to participate in the policy-making process at all stages, from design to implementation and evaluation. They also want donors to help build civil society capacity to provide meaningful input into policy-making.

Third, what also impedes the watchdog role of civil society and the media is highly restricted access to information about the government, which makes it difficult to monitor and assess its actions. Support for the implementation of laws on public access to information and freedom of information is a common appeal from local stakeholders to international actors.

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<sup>13</sup> Mobilizing Action Against Corruption, op.cit.

## 1.5 Recommendations

CSOs themselves should take a number of steps to increase their impact in combating corruption:

- play a leading role in awareness-raising regarding the causes and consequences of corruption in terms of social and economic welfare, security and so on, citizen's rights and existing legal mechanisms to tackle corruption;
- set up coalitions of different types of CSOs in order to strengthen the potential for advocacy vis-à-vis government institutions;
- determine priorities for joint anti-corruption actions, using existing tools for cooperation with governments;
- establish partnerships with other civil society groups and stakeholders affected by corruption, such as business communities, student unions and consumer organisations, to mainstream anti-corruption through different areas of action among CSOs, such as providing training;
- establish closer partnership with media organisations to reinforce awareness-raising and to follow up on corruption cases profiled by the media;
- use existing and develop new tools for making CSOs voice heard, such as different consultation mechanisms within EU institutions, CoE and OECD, and international NGO networks, such as TI;
- facilitate the exchange of ideas and experience, including success stories from different regions within a country, different EaP and new EU member countries, using such tools as—but not limited to— roundtables, twinning projects, site visits, and professional exchanges.

When **supporting civil society** efforts to fight against corruption, **international donors and assistance providers** should support:

- capacity-building in CSOs to fight corruption through a better balance between short-term project-based support and long-term grants for well-established organisations already engaged in anti-corruption and through support for the exchange of experience among CSOs within each country and across the region;
- interaction and cooperation between civil society and government both at national and local levels;
- cooperation between civil society and the media and support for investigative journalism;
- civil society efforts to engage with different stakeholders, e.g. cooperation between anti-corruption NGOs and other CSOs such as business associations, trade unions, student associations, consumer organisations, and unregistered civic movements, to increase their awareness and encourage them to include anti-corruption activities in their work;
- mechanisms for CSOs participation in developing, implementing and evaluating national anti-corruption policies.

When **working with public authorities** in EaP countries, **international donors and assistance providers** should:

- provide for balanced cooperation with different types of beneficiaries and the different branches of power—executive, judiciary and legislative. The predominance of support for the executive branch does not promote its accountability and has proved not the most effective choice;
- support the establishment of networks that encourage government officials to work together with civil society experts and thus support cooperation between the government and the 'third' sector;

- rigorously and consistently apply the principle of conditionality in the provision of financial or technical assistance to governments;
- establish independent mechanisms for donor coordination in anti-corruption assistance;
- support measures to increase transparency and accountability in government by, for example, focusing on the implementation of access to information laws, provisions on the use of public assets, declarations of assets, and so on.

when developing and implementing the EaP, **the EU** should keep seven recommendations in mind:

- devise specific benchmarks and measurable indicators to evaluate progress in the implementation of anti-corruption objectives in ENP Action Plans and the EU-Ukraine Association Agenda;
- encourage civil society involvement in monitoring and evaluating the effectiveness of anti-corruption policies in EaP countries;
- develop an effective mechanism to implement the objectives of the EaP Multilateral Process, such as inclusion of “governance peer reviews and exchanges of best practices” and “stronger participation of civil society to enhance oversight of public services and strengthen public confidence in them.” These can be achieved, for example, through exchanges and twinning projects among EaP countries and between EaP and EU countries, and, in the second instance, by starting with enabling CSO representative participation in the EaP Multilateral Platform #1 and its expert panels;
- make sure that all EU assistance, especially direct budget support, is rigorously and consistently linked to progress in anti-corruption reforms and international commitments taken on by EaP governments, to progress in establishing transparency and accountability of public finances, including the ability of CSOs to monitor public spending;
- increasingly consult with and involve CSOs in the design, implementation and monitoring of EU assistance to fight corruption in the Eastern Partnership countries;
- involve CSOs in various activities under good governance projects supported through ENPI, including the Twinning and TAIEX tools.
- ensure that EU aid to fight corruption in EaP countries covers civil society. In particular, such assistance provided by the EU via the CoE under the EaP multilateral track should contain a separate component to support to CSO capacity-building and dialogue with public officials.

## **2 Ukraine**

### **2.1 Summary**

The corruption in Ukraine is recognized as a serious problem, not only by the international community and experts, but also by its own top government officials. The high level of corruption is a threat to democracy and the rule of law, which are poorly entrenched in Ukraine, given the country's brief history of modern statehood.

Current anti-corruption policies in Ukraine are ineffective and are doing little to change the situation significantly due to lack of political will for real changes, low demand for serious anti-corruption efforts from the public, and the virtual absence of cooperation between government and civil society organisations.

Most policies are donor-driven and do not present a real priority for Ukraine's Government. Every incoming Government has declared combating corruption one of its top priorities. However, a closer look at the steps that have been implemented shows that this is largely lip-service. Over three years, 2006-2009, Ukraine partly fulfilled only 8 of GRECO's 28 recommendations. Anti-corruption policy mainly focuses on establishing legislative and institutional frameworks, which does little to really change the situation. The stakeholders interviewed for this study evaluate the implementation of the country's few significant anti-corruption initiatives over the past five years as "not systemic" and "unsustainable."

Some positive achievements in combating corruption can be seen in specific areas: in higher education and secondary schools and in the deregulation of business activities. However, the stakeholders interviewed for this study warned that positive results in these spheres have been elusive and unreliable because of shifting, inconsistent government policy.

For a long time, international donors have provided Ukraine with significant technical assistance to combat corruption, but these efforts have not produced the desired results. This has reduced donor interest in supporting anti-corruption programmes. Supporting the government in establishing legislative and institutional anti-corruption frameworks has proved unproductive.

Although there have been few of them, donor projects involving CSOs (CSOs) have shown much better results. CSOs have the potential to work against corruption in different capacities: advocating change, monitoring and providing feedback on government actions, helping identify necessary policy steps and raising public awareness of corruption. However, CSO capacities need to be shored up in this regard.

### **2.2 Government anti-corruption policies**

Every new President and Cabinet of Ministers have declared fighting corruption one of their key priorities. However, close analysis of the actual steps taken has shown that real policy generally proves to be mere imitation. All of Ukraine's new anti-corruption initiatives have followed a similar pattern:

- challenging the results and accomplishments of their predecessors in combating corruption;
- setting up new advisory bodies to develop new policies;
- discussing and approving concepts and strategies to combat corruption and sometimes even drafting bills to improve regulation, little of which is ever implemented;

- initiating “clean hands” style campaigns to go after corrupted officials—who predominantly turn out to represent opposition parties;
- initiating campaigns to reform law enforcement agencies, which go nowhere, since politicians do not really want to lose their grip on the police for political reasons.

Lack of political will and little pressure from voters to institute genuine change keep this “policy model” in place, regardless of who is in power and regardless of Ukraine’s international corruption-combating commitments. Over 2006-2009, Ukraine partly fulfilled just 8 out of GRECO’s 28 recommendations.<sup>14</sup> The stakeholders interviewed for this study evaluate the implementation of the country’s few significant anti-corruption initiatives over the past five years as “not systemic” and “unsustainable.” They also point to significant risk that previously-initiated reforms could also end up being shelved.

The key reasons behind the lack of progress include limited political will, rent-seeking among politicians and senior civil servants, the use of law enforcement agencies for political purposes, and the inability of the public administration system to implement reforms. An overregulated business environment provides expanded “markets” for corruption, while public tolerance of corruption only aggravates the situation.

### **2.2.1 Developing legislative and institutional anti-corruption frameworks**

Most anti-corruption policies in Ukraine have one fundamental problem: no visible progress in their implementation. Much technical assistance is directed at in drafting anti-corruption strategies and programmes, while the Government promotes the preparation of anti-corruption policy as an important step that proves its political will to solve the problem. However, the documents are drafted for the sake of the process without ever reaching the implementation stage. Every time the parties in power switch, the entire process is re-launched, reviving a vicious circle of paperwork.

The Anti-corruption Concept Paper “On the Way to Integrity” Viktor Yushchenko approved by Presidential Decree on September 11, 2006, was drafted with international technical assistance and welcomed by the Council of Europe. The key goals of the Concept included ensuring integrity among public officials and local governments, and expanding the role of civil society and the media in revealing and preventing corruption. The Concept included 10 items on its agenda:

- drafting and approving a Code of Conduct for Civil Servants that would be based on the Council of Europe Code of Ethics and similar international normative acts;
- instituting an annual declaration of incomes and expenditure for all individuals holding public office, civil servants, employees of law enforcement agencies, tax and customs service personnel, judges, and all their family members;
- establishing a consolidated state register of individuals with a record of administrative or criminal sentences for corruption;
- implementing judicial reform;
- drafting proposals to improve the work of agencies combating corruption, including the nature of the skills required of employees involved in criminal investigation, investigators and prosecutors; supplying anti-corruption units with sufficient resources and authorizing them to make the necessary decisions on their own;

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<sup>14</sup> GRECO Evaluation Report on Ukraine, May 15, 2009 (GRECO RC-I/II (2009) 1E, Joint First and Second Rounds Evaluation, Compliance Report on Ukraine, Strasbourg, 15 May 2009.  
[http://acrc.org.ua/file\\_collection/GrecoRC1\\_2\\_2009\\_1\\_Ukraine\\_UA.pdf](http://acrc.org.ua/file_collection/GrecoRC1_2_2009_1_Ukraine_UA.pdf)

- adapting Ukraine's existing anti-corruption legislation to international standards aimed at preventing and combating corruption;
- strengthening public control to prevent and combat corruption, in particular by guaranteeing the rights and powers of CSOs;
- solving the problem of ineffective judicial response to restrictions of freedom of speech and access to information;
- expanding CSO access to information related to the work of public offices and local governments;
- running campaigns to intensify the exchange of information among CSOs, the media, and public agencies, and local governments.

Several large-scale technical assistance projects involved implementing the priorities of this Concept. But the continuous political struggle between the President and the Premier at that time led to most of its provisions never being implemented.

When President Viktor Yanukovich came to power in 2010, he launched a new round of anti-corruption policy. On October 20, the President announced that the National Strategy to Prevent and Combat Corruption for 2011-2014 was ready. At the time of press, March 2011, however, it was still being finalized. Meanwhile, the draft Strategy has never been published and ordinary Ukrainians have no access to it. Apparently, the Strategy calls for changes in 15 areas to help eliminate corruption: oversight of party funding and public involvement in overseeing the use of Budget funds. It is unclear, though, when the Strategy will actually be approved.

The process of setting up entities responsible for implementing anti-corruption policy has been equally chaotic. At the moment, the Cabinet's Authorized Officer and the Justice Ministry are competing to develop this policy. Meanwhile, the President has set up something called the National Anti-Corruption Committee, a strictly advisory body and yet another platform for key decision-making in anti-corruption policy. No central executive body (CEB) has ever been set up to be responsible for the implementation of the national anti-corruption strategy.

As to the legislative framework, three anti-corruption laws were approved on June 11, 2009: the Law "On the Principles for Preventing and Combating Corruption," "On the Liability of Legal Entities for Corruption," and "On Amending Some Laws of Ukraine Regarding Liability for Corruption." This was one of the main accomplishments of President Yushchenko's anti-corruption policy.

The new legislation expanded significantly the list of those potentially held liable for corruption, including legal entities and individuals, top officials and judges, and the list of corrupt activities that carry criminal and administrative responsibility. It also gave a clear explanation of the term "corruption" and introduced additional restrictions on entities acting on behalf of the State or local governments, including:

- carrying on another paid activity;
- being on the management or supervisory board of any commercial entity;
- receiving gifts;
- hiring close family members for offices that report directly to the official in question.

These restrictions would moreover be in effect for two years after an individual resigned from office. The law also prohibited public officials from receiving any funding or other financial assistance from individuals and legal entities. These laws introduced a new form of liability for corruption: individual liability that applies to legal entities. Other innovations in the legislation included:

- a mandatory background checks for criminal records, state of health, education, income and corporate rights of individuals who want to take public office and their close relatives;

- mandatory regular declarations of property, income and expenditures by officials;
- explanation of the term “conflict of interests;”
- anti-corruption reviews of new bills submitted by authorized bodies;
- a procedure for public anti-corruption reviews of bills;
- guaranteed protection for individuals who assist in preventing corruption (whistle-blowers);
- introducing a Consolidated State Register of entities with a record of corrupt activity.

Also, the laws provided for the necessary amendments to Ukraine’s Penal, Administrative and Criminal Codes.

However, when the laws were approved, a decision was made to postpone their enactment until January 1, 2010. Later, the date was moved back to April 1, 2010, and finally to January 1, 2011. This gave the Constitutional Court enough time to rule that the requirement to do background on the financial standing of close relatives of those running for public office was unconstitutional. On December 21, 2010, the Verkhovna Rada repealed these laws, arguing that most of their provisions were included in the “new, improved” anti-corruption bill President Yanukovich had submitted to the legislature on December 17.

The bill submitted by the President is likely to be approved soon and is actually 80% the same as the improved version of the Yushchenko’s bill that the Rada rejected. Unfortunately, some of its provisions will set Ukraine back in terms of keeping its international commitments.

First, the bill no longer contains provisions about liability for corruption of legal entities. This is in conflict with the UN Convention against Corruption. Secondly, the bill effectively does not prohibit funding public officials and local governments from sources other than the State Budget, that is, by legal entities and individuals. This problem is most dangerous in certain law enforcement agencies, where as much as half of the real budget can be in the form of “financial support” from various legal entities.

Of course, the Constitutional Court decision means that close relatives of individuals running for public office at all levels will not have to undergo any financial background check. Nor will they have to disclose information about their employment and any active civil contracts that they are party to.

Over the past several years, the Justice Ministry, with support from international donors, has drafted another set of bills to prevent corruption in the civil service. These bills, which are languishing in the Rada, include legislation on conflict of interests among civil servants, standards of professional ethics, and rules to prevent conflicts of interest. They were submitted to the VR Committee for Combating Organized Crime and Corruption on November 2, 2010, to be reworked for a repeat second reading and remain in committee to date.

Yet another bill with significant anti-corruption potential is known as Law #2763, “On Access to Public Information.” After lengthy drafting, approval and debate of the final version of the bill, it was passed by the Rada in January 2011.

### **2.2.2 Sector-based anti-corruption reforms**

**Judicial reform** to eliminate corruption in Ukraine’s court system was begun by President Yushchenko. However, the key elements for eliminating corruption in the judiciary had not been implemented by the time the Verkhovna Rada passed a Law “On the Court System and the Status of Judges” on June 3, 2010, when Viktor Yanukovich was President.

This new law is largely based on the previous work of independent experts and officials. In terms of fighting corruption, this judicial reform provides shorter terms for hearing civil, administrative and

commercial cases in courts, and altered procedures for appointing judges to make the process more transparent and competitive. Judges are required to declare both their own income and the incomes of their families, and expenditures if any one-time expense exceeds their monthly salary. The Supreme Court will be reduced from 100 to just 20 justices and a new Special Supreme Court will be established to hear civil and criminal cases. This reform also increases the role of the Higher Council of Justice.

However, other provisions added to this bill under the new President could increase political pressure on the judiciary, thus cancelling out its positive aspects.

On October 19, 2010, the Venice Commission, which monitors the judiciary on an ongoing basis, presented its review of the Law “On the Court System and the Status of Judges.” The Commission noted that the law cut the powers of the Supreme Court of Ukraine too much, and unjustifiably extended the powers of the Supreme Council of Justice. It further stated that the current composition of the Supreme Council of Justice did not meet European standards and should not be empowered to appoint the Chief Justice and deputy justices. The Commission report also recommended that the composition of the Supreme Council of Justice to be changed, so that “almost all or most of its members were judges elected by other judges,” rather than appointed by representatives of the executive branch.

The Yushchenko Administration’s reform in **education** introduced significant anti-corruption potential with external independent testing (EIT) for high-school graduates applying to enter universities. It replaced the soviet-era system of entrance exams, which was highly “flexible” and very corrupt. This initiative was one of the single most successful anti-corruption initiatives in recent years, thanks to three factors:

- proactive preparatory efforts by donors and Ukraine’s NGO sector long before the EIT was ever implemented. This work developed the expert and technical capacity that made the reform possible. The Centre for Testing Technologies, funded by the Renaissance Foundation and the Ministry of Justice, launched pilot independent testing back in 2002. Since then, they have been developing the technologies for administering the tests and testing new exam tasks.
- the political will of the President and the Minister of Education to implement changes. In his Decree dated July 4, 2005, President Yushchenko instructed the Ministry of Education to replace university entrance exams with EIT in 2005-2006.
- proactive cooperation among educational institutions, donors and NGOs during the implementation stage. Donor programmes to monitor testing and test-based university entrance campaigns involved local and national NGOs and were an important tool to provide the Ministry with oversight and feedback from universities and applicants, and to communicate the goals and objectives of these reforms to the public.

In 2005, the Ukrainian Centre for Educational Quality Assessment was established as a unit of the Ministry of Education and Science of Ukraine to administer the EIT. Since 2008, EIT has been the mandatory entrance exam for high school graduates.

EIT offers several benefits. It ensures equal access to a higher education for all individuals, regardless of their social position and guarantees an objective assessment. This helps eliminate corruption in both higher education and public schools.

However, a critical shift in attitudes towards external testing after President Yanukovich’s coalition came to power resulted in a rapid decline in the role of external testing and posed a threat to the entire reform process. Changes instituted just before the 2010 entrance process diluted the role of external testing by taking into account the average grade from secondary school and bringing back

entrance exams for certain applicants. Moreover, the high school admission rules for 2011 set by Ministry of Education Ordinance #961 on October 19, 2010, almost completely overrode the EIT as a fair and transparent instrument for selecting applicants. Under the new rules, the average grade in secondary school, other accomplishments in middle school and pre-entrance courses are all taken into account. This will most likely lead to more corruption in both secondary and post-secondary education.

Another recent step in the fight against corruption **is business deregulation**. Premier Mykola Azarov declared this one of the main anti-corruption priorities of his Cabinet in late 2010.

The idea is to dramatically cut the variety of licenses, permits and other administrative documents required to set up and run a business, in order to significantly reduce the “market for corruption” in relations between those in power and those in business. However, the initial plans for quick deregulation—the Premier’s instruction said three months—are being revised.

According to Mykhailo Brodskiy, the Cabinet of Ministers’ Deregulation Representative and a former chair of the State Committee for Entrepreneurship, most CEBs have been stonewalling the Premier’s deregulation instruction. The main accomplishments of this policy so far include:

- cancelling licensing for 2,046 out of 2,268 types of activities and 23 out of 78 categories of activities; most licenses are now issued for an indefinite term;
- introducing the application principle for starting up a business;
- shortening the list of permits, from 227 down to 91;
- setting limits on fees for mandatory evaluations run by licensing bodies.

Also, the State Committee of Entrepreneurship, since replaced by the Office of the Deregulation Representative, drafted or participated in drafting a series of bills that make it easier to do business and increase the liability of officials for violating licensing procedures. Some bills are currently in the Cabinet, while others are in the legislature.

**Administrative reform** is the last area of reform that is currently being implemented and has anti-corruption potential. On December 9, 2010, the President issued a Decree “On Streamlining the System of Central Executive Bodies,” which launched administrative reform in Ukraine.

One of the objectives of this reform is the distribution of government functions within the CEB system to eliminate conflicts of interest. For instance, from now on no single body will both establish oversight procedures for commercial entities and actually oversee them as well, nor will a single body draft procedures and standards for administrative services and at the same time provide such services. This should eliminate much of the confusion and complication in legislation regulating commercial entities and reduce the scope for corruption.

As this reform has just started—so far, the Presidential Decree simply restructured the CEB system, but functions have not all been redistributed yet—, it is too early to talk about its impact. Still, it is already clear that this reform is very limited. Firstly, it largely leaves out law enforcement agencies where overlapping functions and unreasonable combinations of incompatible powers create an excellent environment for widespread corruption.

Secondly, this reform does not deal with the potentially corrupt policy of combining pre-trial investigation authority in certain cases against top officials in various branches, and the oversight of legal compliance during the process of such investigations. The Prosecutor General’s Office continues to be in a position to set up or spoil a criminal case for political purposes. In some cases, pre-trial investigation functions continue to overlap between the SBU, Ukraine’s security service, and the Interior Ministry, which runs the police.

## 2.3 Assessment of international assistance

### 2.3.1 Overview of donor activities

The main international donors who have been providing significant technical assistance to Ukraine in the fight against corruption in recent years include the US Government through USAID and the Threshold Programme of the Millennium Challenge Corporation (MCC), the European Union (EU), the Council of Europe (CoE), the Canadian International Development Agency (CIDA), and the Organisation for Security and Cooperation in Europe (OSCE). Also, in this group are several private foundations, such as the International Renaissance Foundation, Friedrich Naumann Foundation, and Bill & Melinda Gates Foundation.<sup>15</sup>

The **United States** remains the largest donor involved in anti-corruption efforts in Ukraine. The Government-funded Millennium Challenge Corporation implemented its Threshold Programme in Ukraine over 2007-2009 through USAID, aimed at reducing the level of corruption in the public sector. This programme was one of main system-based tools in this sector, with a total budget of US \$45mln.<sup>16</sup>

The Threshold Programme has five components:

1. Supporting NGOs and the media in controlling corruption through monitoring, advocacy campaigns, investigative journalism at the local and national levels;
2. Supporting judicial reform, which includes assistance in drafting the legislative framework for reform, improving administration and recordkeeping, improving the procedure for selecting judges, increasing the disciplinary and ethical liability of judges, improving their qualifications, and so on;
3. Supporting the drafting and enforcement of legislation intended to prevent corruption in the public sector, including regulating conflict of interests (COI), declarations of assets, and ethical and administrative standards of conduct;
4. Improving the regulation of the permit system, land ownership and applications for deeds to property;
5. Combating corruption in higher education through support in implementing mandatory external testing.

The scope of work under the programme made it possible to implement three key principles:

- Supporting other branches of power alongside the executive branch, which establishes the necessary balance to improve reporting and democratic oversight of the executive branch;
- Supporting the design of a institutional and legislative framework for anti-corruption policy, in parallel with individual reforms in the most corrupt sectors of public administration;
- Supporting simultaneously the Government's potential in implementing reforms, the ability of civil society to demand these reforms, and monitoring their results.

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<sup>15</sup> Most other donors working in demographic management in Ukraine indirectly contribute to fighting corruption. Many systemic problems that hamper democratic transformation in Ukraine are the same factors that cause widespread corruption in the country. However, this report focuses on the analysis of a narrower circle of specific anti-corruption programs funded by international donors and does not analyze in detail the assistance provided to Ukraine.

<sup>16</sup> Compare: Moldova, p. 39.

The funding under the Threshold Programme was provided for various activities, including expert reviews of draft legislation and policy, technical assistance in improving the necessary infrastructure, enhancing the capacities of NGOs, raising awareness, and monitoring these campaigns.

Since the programme ended in 2009, USAID has been implementing its own projects that continue some key aims of the threshold program: judiciary reform, reform of higher education, and strengthening civil society. USAID is mainstreaming anti-corruption approaches into its current operation and integrating these in various ways into current programme activity that is not specifically related to fighting corruption. However, USAID's current efforts against corruption are less intense than the Threshold Programme was.

Compared to the approach under the Threshold Program, anti-corruption initiatives by other international donors have been more fragmented over the past five years, depending on their specific mandates. Intergovernment and bilateral government assistance programmes were largely aimed at CEBs and bypassing the press and civil society.

The second largest anti-corruption project implemented over 2006-2009 was funded by the **European Union** and **the Council of Europe**. "Support for Good Governance: Project against corruption in Ukraine" (UPAC) had an overall budget of EUR 1,750,000. The project initially focused on supporting CEBs while ignoring civil society, and developing the institutional and legal framework for anti-corruption policy. It did not address sectoral anti-corruption initiatives. Prior to the launch of a separate project focused on judiciary reform in Ukraine, UPAC also covered this area.

UPAC had three main components:

1. Supporting the establishment of a strategic and institutional framework to fight corruption in Ukraine;
2. Strengthening the capacities and tools of central and local executive bodies to prevent corruption;
3. Strengthening the legal framework and enforcement of anti-corruption legislation.

The project's biggest achievement was the anti-corruption legislation passed at the end of 2009 and the establishment of the institution of the Government Anti-Corruption Policy Officer.

UPAC provided expert assistance, evaluations, research and surveys and it organized roundtables, discussions, study tours, and workshops. UPAC's efforts were largely focused on the Ministry of Justice, the Main Department of the Civil Service, the Presidential Administration and the Cabinet of Ministers, the National Academy of Public Administration of Ukraine, and so on. According to its terms of reference, UPAC was to develop a grant programme that would involve NGOs in project implementation. However, this component was never carried through.

The EU Border Assistance Mission to Ukraine and Moldova works on cutting corruption in border management institutions<sup>17</sup>.

In cooperation with Ukraine's Supreme Court and Ministry of Justice, the **OSCE Project Coordinator in Ukraine** is implementing a project aimed at supporting the set of anti-corruption bills passed in 2009, developing effective tools for revealing corruption in public office, and drafting a concept and legal frameworks to fight corruption in the courts and law enforcement bodies.

A 2008-2014 Combating Corruption in Ukraine project funded by the **Canadian International Development Agency (CIDA)**, with a total budget of US \$5.6 mln, also supports CEBs as a first

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<sup>17</sup> see also Moldova, p. 39.

priority, starting with the Ministry of Justice, in their efforts to develop an institutional and legal framework for anti-corruption policy in Ukraine.

Private and political foundations have programmes mostly addressing NGOs and political parties. However, they have far fewer specific anti-corruption projects in their portfolios, as they tend to see corruption as the manifestation of underdeveloped civil society and political parties.

**International Renaissance Foundation** mostly supports civil society initiatives at the local and national levels. Anti-corruption projects are integrated among the core activity of the IRF and are implemented through several programmes simultaneously. For instance, the Rule of Law programme supports NGOs in their efforts to make access to information easier at local and national levels.

Through its education program, the IRF supported the implementation of the national system of external independent testing (EIT). It designed a pilot external testing system and transferred it to the Ministry of Education. Today, the Foundation is supporting NGOs that monitor the way the system is operated. The Mass Media Programme supports anti-corruption investigative journalism.

Other donors who fund private organisations in countering corruption in Ukraine include the **Bill & Melinda Gates Foundation**, which is supporting an independent evaluation of Ukraine’s preparedness for systemic anti-corruption reform, and the **Friedrich Naumann Foundation**.

Table 2 presents a general overview of anti-corruption projects funded by international organisations in Ukraine and their activities.

**Table 2. Priority approaches and activities in donor anti-corruption programs**

Beneficiaries \ Activities	Anti-corruption institutions and legislation	External testing in high schools	Judicial reform (anti-corruption context)	Other sector reforms
Government agencies	USAID EC and CoE CIDA OECD	USAID IRF	USAID EC and CoE	USAID
Civil society	USAID Gates Foundation	USAID IRF	USAID	USAID IRF

Ukraine’s participation in various international anti-corruption groups and forums is another source of international anti-corruption expertise. **GRECO**, the Group of States Against Corruption, is key among these. In 2006, Ukraine joined GRECO and has had access to its expertise ever since. GRECO monitoring reports include analyses of the situation in Ukraine and specific recommendations regarding Ukraine’s approximation to Council of Europe standards in combating corruption. Also, since 2001 **Moneyval Group** has been monitoring Ukraine. It oversees measures to prevent money-laundering and the financing of terrorism in EU member states.

A similar mechanism for getting expert assessments and independent external monitoring is the OECD Anti-Corruption Network for Eastern Europe and Central Asia. This is a regional forum for sharing anti-corruption expertise among countries in the region. In 2003, members signed the

Istanbul Action Plan for Ukraine, Armenia, Azerbaijan, Georgia, Kazakhstan, Kirghizia, Russia, and Tajikistan. Fulfilling the Plan subjects Ukraine to yet another international expert monitoring system.

### **2.3.2 Effectiveness of anti-corruption assistance: lessons learnt**

Interviews with donors and CSOs offer several conclusions about the effectiveness of donor aid.

Political will in Ukraine's Government must be the starting point any anti-corruption policy to be effective. However, for anti-corruption policy to be implemented successfully, strong institutions and organisations must be there as well, to balance the executive branch, improve reporting and transparency, and strengthen the will to reform. These include the Verkhovna Rada, the judiciary, civil society, the press, and private organisations.

It is obvious that anti-corruption policy must be based on a proper institutional and legal framework, including strategic documents, sustainable bodies to implement policy, and legislative underpinnings. However, such a framework takes some time to establish, time that should be used to implement other projects and policies addressing corruption in specific areas. According to the donor and NGO representatives surveyed, most donors have not maintained the necessary balance between various activities and anti-corruption policy stakeholders.

International donors largely overestimated the political will of those in power in Ukraine to combat corruption. As a result, programmes focused too much on working with CEBs and establishing a sustainable framework for anti-corruption policy: passing anti-corruption programmes, the setting up anti-corruption bodies, and drafting anti-corruption legislation. The lack of political will among officials undermined the impact of these projects significantly.

Today in Ukraine, there is no need for significant expert knowledge among CEBs in this area: they have plenty of recommendations that are already waiting to be implemented. This means advocacy is more important. It can be implemented through more intense diplomatic dialogue and the conditionality principle in the work of international donors, or by involving NGOs and independent think-tanks in the development of anti-corruption policy, especially those that are able to run effective lobbying campaigns and monitor the implementation of anti-corruption policy.

On the other hand, sectoral anti-corruption programmes sometimes went to the other extreme. They did not rely on political will at the central level and were overly focused on operating locally. Such projects did lead to changes in the culture and conduct of local volunteers and officials. In short, they addressed the overall problem of weak demand for anti-corruption policy from voters. But this approach has one flaw: it needs to be long-term and cover a large number of local communities in order to be successful. With limited donor resources, these criteria proved impossible to meet.

Individual donors implementing various approaches to combating corruption do not have the resources or capacity to launch such systemic programmes. This forces international donors to have a stronger capacity to identify potentially successful sectors for intervention and coordinate their operations to achieve the best impact possible.

Constructive cooperation between civil society and the Government at all levels is a necessary component of success. Local and national reform initiatives by NGOs will not be effective without the cooperation of donors or donor-supported organisations with CEBs.

#### **Recommendations for donors**

This raises the question about the need to rethink the existing approaches to implementing donor projects to counter corruption. International donors should consider:

- *providing balanced support to different types of beneficiaries, such as government, NGOs of different types and levels, media, the judiciary, and so on, to support the development of anti-corruption policy together with evolving demand for implementation from the public;*
- *developing analytical and expert capacity for reforms in the Government and independent think-tanks in order to apply international practice properly. Uncritical acceptance of international practice when developing policy and legislation leads to difficulties when implementing them;*
- *Increasingly using such tools as political dialogue and aid conditionality to ensure that assistance to a government is matched by political will to actually carry reforms through;*
- *establishing a mechanism for coordinating anti-corruption donor assistance, beyond any coordination mechanisms designed by CEBs.*

## 2.4 Civil society efforts and potential to combat corruption

All kinds of NGOs have the potential to carry out various functions in combating corruption. As a rule, donors take advantage of several features offered by the third sector in their anti-corruption programs:

- *independent policy analysis, development and expertise.* Experts from independent think-tanks have been participating in some donor programmes by providing expertise in drafting bills or policy documents. Sometimes an entire organisation is involved in doing research under a given program.
- *experience drafting and auditing legislation.* Many organisations, such as the Democratic Initiatives Foundation (DIF), the Laboratory for Legislative Initiatives (LLI), the Centre for Political and Legal Reforms (CPLR), the Ukrainian Independent Centre for Political Research (UICPR), and other think-tanks are regularly involved in drafting and evaluating anti-corruption bills and policy documents, and corruption risk analysis in various areas of public administration. EU projects and the MCC Threshold Programme used a similar approach. Some organisations, such as the Razumkov Centre or TORO, the Transparency International National Contact in Ukraine, take it upon themselves to initiate such research.
- *monitoring Government actions to uphold commitments made and compliance with declared plans (watchdog function).* The coalition of NGOs focused on monitoring external independent testing (EIT) and high school entrance campaigns proved effective. The MCC Threshold Programme used this instrument the most intensely.
- *awareness-raising.* This work includes increasing legal literacy through handbooks and workshops, drafting and placing anti-corruption materials in the press, and so on.
- *advocacy campaigns to support policy changes.* For this purpose, coalitions are also established, including, among others, organisations with extensive experience in PR campaigns and communicating through the media.
- *services and assistance to individual entities.* Various kinds of human rights organisations generally deal with this component, which was also supported by the first component of the Threshold Programme in the form of legal aid clinics.

Despite this, the potential of NGOs in the war on corruption is not being properly exploited. Most experts polled by the Ukrainian Institute for Public Policy mention four key problems with the third sector that are weakening its impact:

- *The “brain drain” from the third sector to business, the civil service and politics.* Over 2005-2009, political parties were drawing professionals from the third sector the most intensely. Overall, this is not a negative trend for a society, but it does reduce the potential of the third sector.
- *Insufficient clout among CSOs* for the Government to listen to them or to drive certain changes in the society, in addition to reluctance among officials to participate in such a dialogue.
- *Restricted access to information.* The Government makes it very hard to monitor, examine and assess its actions.
- *The approach of international donors.* They primarily focused on implementing projects through NGOs in cooperation with government agencies or upon their request. In terms of fighting corruption, this approach is often counterproductive as it tends to conceal real problems with corruption.

### **Recommendations on improving the potential of civil society**

To tackle these four critical problem areas, both donors, and CSOs need to change their approach. The expert poll provided five key recommendations:

- *continue to support capacity-building in the third sector to improve the quality of NGO work: provide funding for exchanges of experience and institutional funding for NGOs for whom combating corruption is part of their mission;*
- *be more proactive in involving various social and professional organizations, such as business associations, trade unions and student associations, in combating corruption—both donors and NGOs. Close links between all kinds of organisations will help them all grow in stature in cooperation with the Government;*
- *support projects to share knowledge and skills between grant-funded NGOs and others that have not worked with international donors before;*
- *support ongoing cooperation between registered NGOs and unregistered associations, such as direct action groups and activists working towards solutions to certain issues;*
- *support broad advocacy coalitions of NGOs, such as think-tanks, watchdog and human rights organisations, direct action groups, and so on;*
- *intensively use existing instruments to influence anti-corruption policies, such as participation in public councils established under government agencies, and so on.*

## 3 Armenia

### 3.1 Summary

Corruption remains a major deterrent to the growth of democracy in Armenia. Armenia compares favourably to the CIS countries in terms of the general level of corruption, but scores significantly below Eastern European and Baltic states.<sup>18</sup>

A significant number of interviewees, including those from CSOs, believe that the Armenian Government's anti-corruption they interviewees mentioned specifically were the enforcement of an income declaration system, changes to the customs and tax systems, and certain legislative amendments. They also mentioned that the output of these efforts remains mostly on paper: while the planning and outlining of activities seem to move well, implementation is dilatory or blocked altogether.

The Anti-Corruption Strategy and its Implementation Action Plan for 2003-2007 (ACSP I) lacked clear, measurable and attainable goals and objectives and were not oriented towards concrete anti-corruption results. In September 2009, the government adopted its new Anti-Corruption Strategy and its 2009-12 Implementation Action Plan (ACSP II). The first draft was produced in January 2009 and submitted for consultations and review to a number of agencies, including OSCE, USAID, the EC Consulting Group, the Council of Europe, and Transparency International/Armenia. Results are still to be seen.

The majority of interviewed experts agree that international development assistance for government and civil society anti-corruption efforts alike failed to produce a tangible, sustainable impact on the level and perception of corruption in Armenia. Experts mentioned several specific problems related to international development assistance in this area: it is overly "piecemeal" and lacks consistency and sustainability in terms of the intended results and objectives. While donors refer to the "lack of political will and consistency in the government to implement anti-corruption policies and programmes effectively," the development partners themselves do not always practice what they preach.

The survey showed that civil society has generally failed to take an active part in anti-corruption work in Armenia. The country is still developing the necessary environment for effective public participation, so institutional capacities in CSOs have the priority. The public is mostly informed about the activities by anti-corruption bodies through public-awareness campaigns by NGOs. The effectiveness of such measures is considered quite low.

While Armenia has about 5,000 officially registered NGOs, but only a few hundred actually operate. Over 50 organisations are involved in various anti-corruption projects, mostly in championing violations of rights and interests as a consequence of corruption. The dialogue among civil society, the Government and private businesses is not adequate in this area. Very few civil society activities are sustainable and none has had a lasting impact on reducing the level of corruption in Armenia.

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<sup>18</sup> Governance Matters 2009. The World Bank. [http://info.worldbank.org/governance/wgi/sc\\_country.asp](http://info.worldbank.org/governance/wgi/sc_country.asp)

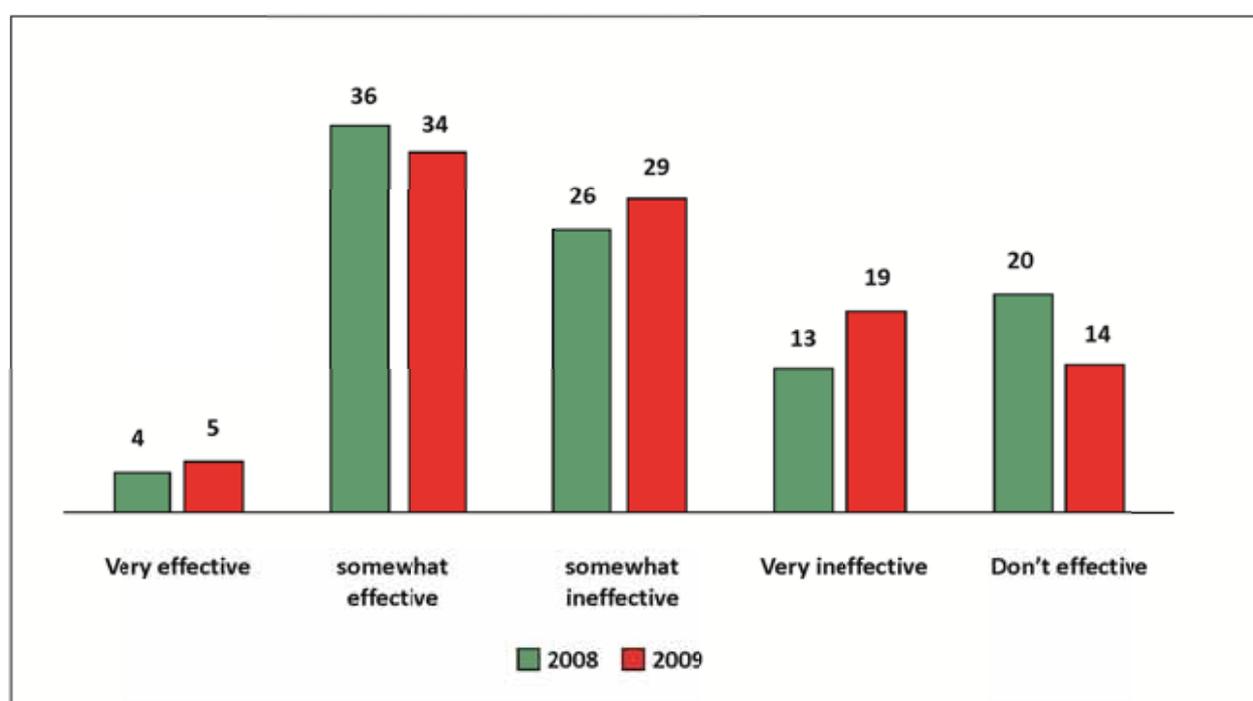
### 3.2 Government anti-corruption policies

The Armenian Government has recognized corruption as one of the key issues it needs to address. In May 2000, the main areas of anti-corruption policy were outlined for the first time. These included implementing an effective and sound personnel policy, ensuring state guarantees for the social and legal protection of public servants, making declarations of income by high-ranking officials mandatory, enforcing public procurement rules, business licensing processes and state registration of businesses, and fighting the shadow economy and the general criminalization of the country's economy.

However, a significant number of the interviewees, including those from CSOs, say that the **Government's anti-corruption efforts are generally a failure**. Among failed initiatives, they specifically mentioned the enforcement of the income declaration system, changes to the customs and tax systems, and certain legislative amendments. They also mentioned that the output of these efforts remains mostly on paper: while the planning and outlining of activities seem to move well, implementation is dilatory or blocked altogether. The interviewees expressed a lack of confidence in the success of planned activities, as well as in the political will to implement them consistently. The systemic nature of corruption also plays a critical role in the many stories of failure.

According to Armenia's 2009 corruption survey of households and enterprises, those who were aware of the Government's anti-corruption strategy and action plan, only 13% assessed its effectiveness thus: 57% said it was "very" or "somewhat" effective, while 35% said it was either "very" or "somewhat" ineffective. On the question of whether Armenia's government had a genuine desire and will to combat corruption, nearly half of the respondents, 48%, gave a positive answer, while 44% did not share this confidence.

**Chart 3. How effective is the Government's fight against corruption?<sup>19</sup>**



<sup>19</sup> Mobilizing Action Against Corruption, 2009, the Armenia corruption surveys of households and enterprises.

### 3.2.1 Developing legislative and institutional anti-corruption frameworks

Having recognized the threats corruption represents, the Government took a number of steps to fight corruption in the last decade. Over 2001-2003, the Government developed a state anti-corruption policy and outlined its main legislative and institutional frameworks. The Government also developed and adopted the **Anti-Corruption Strategy and its Implementation Action Plan for 2003-2007 (ACSP I)**, which defined its anti-corruption policy. The purpose of ACSP I was to overcome corruption, remove the reasons and conditions contributing to the emergence and spread of corruption, and establish a healthy moral and psychological climate in the country. The first government campaign against corruption served mainly to improve the legislative framework for anti-corruption activity, but it failed to have an impact on practices or perceptions. ACSP I lacked clear, measurable and attainable goals and objectives and it was not oriented towards concrete results. Its activities were mainly focused on the prevention of corruption, while measures to identify and prosecute corruption-related crimes, increase public awareness of corruption and obtain public support were relatively weak. Moreover, the ACSP I implementation mechanisms did not properly ensure the development of concrete anti-corruption programmes by public administration bodies, cooperation with civil society institutions, and their effective involvement. Overall, after ACSP I, the level of corruption in Armenia remained high and continued to be systemic by early 2008.

Effective governance, especially in the fight against corruption, was established as one of the priorities in the RA National Security Strategy that was adopted in January 2007. This national security strategy states that institutional reforms are specifically aimed at strengthening the democratic state, the effectiveness of public administration, the independence and impartiality of the judiciary, a greater role for civil society in the decision-making process and oversight over implementation, and an intensified fight against corruption, particularly bribery.

In September 2009, the government adopted its new **Anti-Corruption Strategy and 2009-12 Implementation Action Plan (ACSP II)**. The first draft was produced in January 2009 and submitted for consultations and review to a number of agencies, including OSCE, USAID, the EC Consulting Group, the Council of Europe, and Transparency International/Armenia.

In ACSP II, the Government committed itself to:

- (i) apply international instruments against corruption, including the UN and CoE conventions, peer assessment organisations and best anti-corruption practice, by analyzing, adapting and applying them;
- (ii) increase public support in the fight against corruption through the active involvement of civil society and public awareness campaigns;
- (iii) ensure the effectiveness and coordination of activities of bodies responsible for the implementation of anti-corruption policy by clearly defining their functions, increasing their professional capacities, establishing oversight over their activities, and ensuring effective cooperation among these bodies;
- (iv) use the main elements of anti-corruption policy in proper proportions: prevention, investigation and prosecution, public education and awareness-raising through legislative improvement, institutional reforms and the consistent application of legal norms.

The main goal and the expected impact of ACSP II is a significant reduction the overall level of corruption in Armenia. In particular, the Government expects that, by 2012, corruption will lose its systemic nature, the spread of corruption will be significantly curtailed, the quality of public services will improve, the perception of social justice among both ordinary Armenians and business circles

will improve significantly, the stability of the country's political system will be stronger, and conditions will be in place to increase economic productivity, thus increasing the country's competitiveness and its investment appeal.

The ACSP II has benchmarked its success using two indicators and targets: 4.1 for the Corruption Perception Index (TI) and (-0.05) for the Control of Corruption Indicator (WBI).

At the institutional level, the Government established an **Anti-Corruption Council (ACC)** by Presidential Decree on June 1, 2004, in an effort to coordinate the activities of authorized public agencies entrusted with the implementing comprehensive and effective anti-corruption policies in Armenia, eliminating corruption-conducive factors and upgrading of preventive action.<sup>20</sup> A commission chaired by a Presidential aide has been set up under council by-laws to monitor the progress of implementation. The ACC mandate includes: coordinating and monitoring the development of AC priorities and the implementation of AC policies; ensuring national and international cooperation; and ensuring that the country meets its international commitments.

### 3.2.2 Sector-based anti-corruption reforms

Among positive anti-corruption policy initiatives, the experts polled for this study highlighted reforms in the traffic police system and civil services, some legislative reforms, the installation of recording systems in courts of law, the facilitation of passport applications, the introduction of an electronic governance system, and improvements in the judicial system.

The Government introduced a new system of **e-government** that covers 25 government agencies in Armenia. The new system increases the efficiency and productivity of government work and provides a better mechanism for transparency in the Government. With this system, ordinary Armenians can keep track of decision-making processes and gain an opportunity to follow up and check on the status of their letters, petitions, applications, and licensing requests at every stage of processing. The transition toward the system of e-governance requires online public services, minimizing the need for direct public servant-citizen contacts and reducing the risk of corruption considerably.

The Progress Report on the Implementation of the European Neighbourhood Policy in 2009 for Armenia<sup>21</sup> recognized good progress in the **customs area**. Following the introduction of a Code of Ethics in 2008, the Customs Administration launched an internal corruption risk assessment, with a view to preparing an action plan to combating such risks. A network of Customs brokers was established, and 125 brokers received training. The Customs Administration prepared several staff manuals on various procedures and distributed them to all Customs offices. Improvements are still needed in areas such as risk management, integrity, cooperation with other enforcement agencies, accession to the main international customs instruments, abolition of administrative fees, verification of certificates of preferential origin, customs valuation practice, and the role of customs in protecting intellectual property rights (IPR).

With regard to the fight against **money-laundering**, MONEYVAL approved the third-round mutual evaluation report on Armenia, highlighting improvements to the legal framework to combat money-laundering and the financing of terrorism in 2008. The report was published in January 2010.

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<sup>20</sup> The Council is chaired by the Prime Minister of Armenia and is composed of: the Vice President of the National Assembly, the President of the National Assembly Control Chamber, the Government Chief-of-Staff, the Minister of Justice, an Adviser to the President, the Chief of the President's Oversight Service, the Prosecutor - General, the President of the CBA, and the Chair of the State Commission to Promote Economic Competitiveness

<sup>21</sup> See: [http://ec.europa.eu/world/enp/pdf/progress2010/sec10\\_516\\_en.pdf](http://ec.europa.eu/world/enp/pdf/progress2010/sec10_516_en.pdf)

### 3.3 Assessment of international assistance

#### 3.3.1 Overview of donor activities

A number of bilateral and multilateral development partners, such as the WB, OSCE, UNDP, EC Delegation and USAID, provide assistance to the Armenian government and civil society in combating corruption. They give technical input and advice in developing national policies and programmes in this area, they contribute to building the capacity of the government and civil society institutions, and they expose stakeholders to international best practice. USAID, UNDP, OSCE and others also fund anti-corruption initiatives from CSOs. The WB, ADB and USG/MCC introduce and, in most cases, follow best practice and procedures for promoting integrity, transparency and accountability in procurement, recruitment, financial control and audit, and so on. The key international development partners active in Armenia in this area include the US Government through USAID and the MAAC Project, the OSCE, the EC Delegation to Armenia, the World Bank, UNDP, ADB, and other organisations.

**Mobilizing Action Against Corruption (MAAC)** is a stand-alone component of the US development assistance programme to Armenia aimed at reducing corruption in the country by: providing Armenians with opportunities to combat corrupt encountered in practice; changing social attitudes and behaviour among young people and adults to become more attuned to the consequences of corruption and more likely to oppose or confront corruption; and enabling systemic changes to prevent or reduce corruption. Launched in July 2007, MAAC was a three-year program, extended for two additional years in 2010 for a total cost of US \$9 million.<sup>22</sup>

Financed by USAID's MAAC project, Advocacy and Assistance Centres (AACs) were established in 11 regions of Armenia and in the capital Yerevan, run by local NGOs. The AACs provide ordinary Armenians with advice and assistance in the legal process of filing corruption-related complaints and in addressing grievances and other problems related to corruption. This serves as an accessible channel for reporting corruption and directing complaints to government agencies. AACs are considered one of the more successful of civil society initiatives.<sup>23</sup>

The **OSCE Office in Yerevan** financed the formulation of ACSP II. In 2009, the Office supported several projects implemented by CSOs.<sup>24</sup> The OSCE also works closely with other international donors to coordinate anti-corruption initiatives through an International Working Group on Anti-Corruption that it chairs. By avoiding duplication of activities, it helps increase the effectiveness of international anti-corruption assistance. It is also involved in raising awareness and educating the public on corruption issues through publications, studies, presentations and monitoring activities.

Under the **EU's European Neighbourhood Policy (ENP)**, the European Union and Armenia ratified an Action Plan in 2006, in which fighting corruption was one of the priorities. In the Armenia Action Plan, 8 anti-corruption measures were included as special priorities, including adequate investigation and prosecution of corruption, bringing the Criminal Code in line with international standards,

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<sup>22</sup> MAAC provides support through technical assistance and training to government agencies and CSOs.

<sup>23</sup> AACs support different population groups as well: individuals who are determined to stand up to corrupt practices; elderly people faced with corruption in determining their social benefits; individuals faced with corruption in obtaining official documents; workers who stand up to employers infringing upon their labour rights. They also serve throughout Armenia, provide legal assistance to anyone victimized by corruption while asking for social services, and help support individuals facing corruption in the provision of healthcare services.

<sup>24</sup> For example: an anti-corruption educational summer camp in Syunik run by the Future is Yours NGO; the work of notaries' offices monitored by the Armenian Young Lawyers Association NGO; and corruption in traffic regulation fought by the Achilles Centre for the Protection of Drivers' Rights NGO.

developing ethics rules for judges and prosecutors, holding officials responsible for misleading declarations of property and income, increasing the judges' salaries, and so on.<sup>25</sup>

The **EU Advisory Group to the Republic of Armenia** started its activities in April 2009 with the aim of supporting Armenian government offices in the implementation of key areas of the ENP Action Plan, such as strengthening democratic structures and human rights, fighting corruption, working in trade and customs, and developing fiscal policy, including debt management. In line with the ENP, the EU Advisory Group provided tailor-made, high-level political and technical advice to design, steer and implement reforms aiming at strengthening the capacity of the presidency, the legislature, executive and judiciary branches of Armenia's government.

The Armenia Progress Report on the Implementation of the ENP in 2009 concluded that the country had made considerable progress in improving the anti-corruption legislative framework. It also noted that the process of drafting the Government's anti-corruption strategy had involved civil society and international organisations.<sup>26</sup> On the other hand, the report concluded that, despite good legislative progress, no reduction of perceived corruption was reported by international surveys in 2009, demonstrating the need for more effective enforcement.

The **Armenian-European Policy and Legal Advice Centre (AEPLAC)** is one of the core EC-funded projects operating as part of Armenia-EU relations since 1999. The focus of AEPLAC Phase V is to support capacity-building among Armenian institutions directly involved in the implementation of the EU-Armenia ENP Action Plan, in close cooperation with the EU Advisory Group to Armenia. AEPLAC V jointly with SIGMA and ICHD and in cooperation with the Civil Service Council of the RA and EU Advisory Group to the RA organized a series of workshop called on "Introductory Training for Trainers Course on Anti-Corruption" for the staff of the Civil Service Council, trainers and staff of the RA Academy of Public Administration, custom officials and others.<sup>27</sup>

The **World Bank financed** the preparation of ACSP I. The WB's second Judicial Reform Project, with a budget of US \$32.69 million over 2007-2012, had two main objectives:

- (i) providing Armenia's judiciary with the administration, facilities and expanded capacity for improved efficiency, reliability and transparency of judicial operations and services;
- (ii) improving public awareness of judicial services and access to legal and judicial information.<sup>28</sup>

Another ongoing **WB project is the Public Sector Modernization Project II** for 2010-2015, costing US \$11.54 million and aimed at improving the performance of public sector management in better service delivery by strengthening institutional capacity in policy formulation; maximizing human

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<sup>25</sup> Almost all of the measures described in the Action Plan are also included in the UN conventions, Council of Europe conventions on Criminal Law and Civil Law, and in GRECO and OECD recommendations.

<sup>26</sup> The progress report also noted that the Prime Minister's Office had elaborated a concept for the transparency of political activities, regulating conflicts of interest and setting up a public register for income, property and interest declarations by high-ranking officials and their close relatives. According to the report, efforts had been made to train civil servants on anti-corruption.

<sup>27</sup> The aim of the training programme was to improve the knowledge of future Armenian trainers on anti-corruption issues and provide a solid basis for delivering anti-corruption training programs in Armenia. The programme provided an overview of best international and EU practice in the field. Based on international experience, the Armenian situation and needs were discussed and a tailor-made anti-corruption training programme developed as a joint effort between the European Union and Armenian trainers.

<sup>28</sup> The project envisaged: (i) strengthening judicial governance and administration; (ii) rehabilitating courthouses and expanding into the regions and a new cassation court complex; (iii) establishing a judiciary training school that will become the permanent judiciary training facility school; (iv) improving enforcement of court decisions; (v) strengthening arbitration services; and (vi) expanding access to legal information and public awareness.

resources efficiency, and developing information systems for internal work flow and external communication.

With the support of the **UNDP Armenia Office** the Centre for Regional Development/Transparency International Armenia (CRD/TI Armenia) conducted a nationwide corruption perception survey in August 2006.<sup>29</sup> UNDP/Armenia has piloted an innovative mechanism to engage civil society in anti-corruption participatory monitoring (APM) in education and public health over 2003-2005.

The report identified gaps between the United Nations Convention Against Corruption (UNCAC) and Armenia's Institutional Framework on Anti-Corruption, with the aim of assisting the Government of Armenia in complying with UNCAC and improving the implementation of corruption prevention measures.<sup>30</sup> The Government of Armenia joined key international organisations and signed and ratified agreements and conventions in this area. In January 2004, Armenia became a member of the **Council of Europe's Group of States against Corruption (GRECO)**. In June and December 2004, it signed and ratified the Council of Europe's Criminal Law Convention and the Civil Law Convention on corruption. In 2005, Armenia signed UNCAC, which was ratified in 2006. Armenia is required to submit a self-evaluation to the **UN Office on Drugs and Crime (UNODC)**, based on questionnaires prepared by UNODC, in the preliminary stage of monitoring UNCAC. In September 2009, Armenia became a signatory to the OECD Astana Declaration on Good Governance and Fighting Corruption.

GRECO's first and second phase evaluation report on Armenia was adopted in March 2006. In its Joint Evaluation Report, GRECO presented Armenia with 24 recommendations. The 2008 "Compliance Report on Armenia" on the implementation of the GRECO recommendations indicated that 12 of the 24 recommendations had been implemented fully, 9 partly, and 3 not at all.<sup>31</sup> In its 2010 Addendum to the Compliance Report, GRECO concluded that, of the 24 recommendations issued to Armenia, 18 recommendations have now been implemented or dealt with satisfactorily.

Armenia is member of the OECD's **Anti-Corruption Network for Eastern Europe and Central Asia** since its launch and has agreed to undergo a peer review of its anti-corruption laws and institutions.<sup>32</sup> Armenia is also involved in the OECD's Istanbul Anti-Corruption Action Plan, designed for 8 former Soviet states to improve their anti-corruption policies by carrying out the recommendations provided by international experts. Recommendations for Armenia were developed and adopted in 2004.<sup>33</sup> Seven of OECD's recommendations fully or partly coincided with GRECO recommendations. The 2006 monitoring report on the implementation status of OECD

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<sup>29</sup> The survey was conducted to give people a voice on corruption, to determine problem areas, to reveal evidence of corruption, and to identify possible solutions to corruption.

<sup>30</sup> The emphasis of this report is on the "Preventive Measures" Section of the UNCAC. It is intended to analyze and assess Armenia's legal and institutional compliance with the UNCAC in terms of preventive measures. This is an advisory document prepared by a UNDP Armenia local anti-corruption expert, the UNDP Armenia "Strengthening Awareness and Response in Exposure of Corruption in Armenia" project officers, with technical support from the UN Office on Drugs and Crime.

<sup>31</sup> In addition to the conclusions contained in the Joint First and Second Round Compliance Report on Armenia, GRECO concludes that recommendations such as establishing a training module on money-laundering, reducing the number of officials enjoying immunity from prosecution, checking and monitoring physical and legal entities, detecting and reporting corrupt activities, have been implemented satisfactorily and recommendations such as reducing the involvement of decision-makers, information collection and evaluation have been handled satisfactorily. Recommendations such as the use of rotation, a property verification system, bribery, a code of ethics for public servants, protection for whistle-blowers, and liability of legal entities for bribery and money-laundering have been partly implemented

<sup>32</sup> The main objective of the ACN is to support participating countries in fighting corruption by providing a regional forum to promote anti-corruption activities, exchange information, elaborate best practice, and provide donor coordination.

<sup>33</sup> The 24 recommendations of the OECD are classified in three groups: (i) national anti-corruption policies and institutions (7 recommendations), (ii) legislation and criminalization of corruption (8 recommendations), (iii) transparency of civil service and financial supervision (9 recommendations).

recommendations indicated that only 4 of the 24 recommendations had not been implemented, 11 were implemented partly, and 8 were largely implemented. Only one recommendation was considered fully implemented. Still, the report noted that many of the implemented measures constituted just the first step towards the reduction of corruption, and that there was still much work to be done to ease the “burden” of corruption in various areas of public and commercial activity.

Under the 2006 **agreement between the Armenian Government and the US’s Millennium Challenge Corporation** (MCC), the Government of Armenia has upheld its commitments to MCC criteria. Their implementation is monitored by evaluating the Government’s performance in civil rights and liberties, control of corruption, government efficiency, rule of law, and voice and accountability.

### **3.3.2 The efficiency of anti-corruption assistance: lessons learnt**

The majority of interviewed experts agree that international development assistance aimed at anti-corruption efforts in the government and civil society have failed to produce a tangible and sustainable impact on the level and perception of corruption in Armenia. The experts mentioned several specific problems here. They consider the assistance overly “piecemeal” and mentioned that it lacks consistency and sustainability in regard to the declared objectives and results. While donors refer to the “lack of political will and consistency of the government to implement anti-corruption policies and programmes effectively,” development partners do not always practice what they preach.

The policy advice providers should focus more on consolidating and conciliating various positions and options through a wider policy dialogue prior to the act of formally endorsing plans. The development assistance providers should foster dialogue within society, engaging key opinion leaders and those who have strong impact on decisions related to anti-corruption policies, including major centres of resistance. This will allow the primary directions where public interests prevail and private and group interests do not jeopardize the implementation of the plans to be identified in the first place. In turn, this will lead to the securing of short wins and ensure a broader consensus on priorities and actions.

However, short wins will soon turn to naught if they are not consolidated into long-term achievements and victories in specific areas. One such example is the reform of the traffic police: initially quite successful, it was supported by the public, as no substantial resistance appeared to oppose the reformers. However, this success was short-lived, as it has not been consolidated further into more sound and broad reform and is currently stagnating and seems to be regressing in the face of lack of consistent and dynamic policy.

Development assistance providers should focus on designing more effective and well-targeted policies focusing on intermediary outcomes, sequencing of actions and consolidating short-term gains into a broader impact. They should plan actions through broader dialogue and the consideration and conciliation of various interests. The government should make its anti-corruption activities more visible to earn political credit and support for the process, generating popular support along with pressure to keep the reform engine going. This will later promote consistency or “political will” for the actions.

The donors who provide assistance in building the capacities of local stakeholders in this area should make sure that the assistance offered matches the real needs of the local institutions and will be properly used. Technically, this implies choosing such methods of capacity-building that will directly

translate into transparent and accountable actions by beneficiaries, such as twinning, secondment, post training mentoring, and so on.

Donors and partners supporting civil society activity in this area should check that the projects and programmes are fully in line with agreed national priorities, policies and programmes, and that they contribute towards the agreed objectives. While innovative projects should be encouraged and supported, assistance should mainly focus on agreed actions.

International development partners should consistently follow and promote best practice in transparent and accountable governance and integrity within their own organisations and in programmes implemented with local partners in Armenia.

Yet another challenge in this area remains the lack of coordination among various players. Though the OSCE chairs a group of international donors, the real coordination of international development assistance in this area can be achieved only if the government takes the lead involving civil society actors in the coordination effort.

As for the benchmarks established by international donors to serve as conditionalities for larger development assistance programmes and thus to leverage government action and commitment, those conditionalities are being “sacrificed” to political and technical expediency in practice.

### **3.4 Civil society efforts and potential to combat corruption**

Survey results show that civil society generally fails to take an active part in anti-corruption activities in Armenia. The necessary environment for serious civil society participation is still nascent in Armenia. In terms of effective CSO involvement in public governance, the institutional capacities of the CSO sector are a priority. The public is mostly informed about the activities of anti-corruption bodies through public awareness campaigns by NGOs. The effectiveness of such measures is considered quite low.

Some steps have been taken to introduce access to information mechanisms providing legislative guarantees of freedom of information, e.g. the activities of the Freedom of Information Centre. While the legislative guarantees protecting freedom of information are in place in Armenia, the overall level of response by national agencies to individual queries for information remains unsatisfactory.

While Armenia counts about 5,000 registered NGOs, actually, only a few hundred of them actually operate. Over 50 organisations are involved in various anti-corruption projects, mostly in championing rights and interests violated as the result of corruption. Such organisations monitor the Government's current commitments and mostly contribute towards protecting drivers' and consumers' rights and freedom of speech. Moreover, the same mission is carried out by several think-tanks analyzing persistent problems and putting forward political proposals. The increase in financial support by donors in recent years has contributed towards “mushrooming,” that is, a growing number of NGOs engaged in such issues.

The dialogue between civil society, the Government and private business is not adequate in this area. Very few civil society activities are sustainable and none has had a lasting impact on reducing level of corruption in Armenia. Some of the best practice and success stories refer to cases when the anti-corruption activities of CSOs are not project- or even programme-based but are anchored at the core of the missions of the successful organisations. Such cases include the protection of specific rights of citizens' groups. Thus, many experts/respondents consider the activities of the Achilles Centre for the Protection of Drivers' Rights as best practice among CSO initiatives, perhaps due to this very reason. Through training and campaigns, the Centre contributes towards raising awareness in the

community of drivers and cooperating with authorities and CSOs. It also seeks solutions both to individual cases and the grievances of drivers and to systemic change at every opportunity.

Another successful initiative mentioned by the expert community is the Advocacy and Assistance Centres operating in all regions and in Yerevan with the support of the USAID MAAC project. These NGO-run centres serve to respond to individuals' complaints, meet with victims of corruption, and provide legal assistance and information on rights and protection options. However, the sustainability of this initiative remains a challenge unless a mechanism involving various partners can pick up this initiative beyond USAID assistance.

Another success mentioned by the respondents was the multidimensional monitoring of notaries' offices, also with the aim of revealing potential gaps in the delivery of notarial services in Armenia, putting forward meaningful proposals, stirring up public interest in the system of notarial services and procedures and contributing towards CSO and NGO anti-corruption capacities to reduce potential corruption risks and other negative effects.

The effectiveness and efficiency of cooperation between Armenian CSOs and European and international NGOs and networks is heavily dependent on the level of state involvement on the ground. In other words, the more engaged and involved government institutions are in the activities of civil society, the more they feel ownership for the results and the more effective the cooperation proves to be. Thus, the activities of USAID-supported AACs often continue through Armenia's Prosecutor's Offices or other state bodies. In these cases, the cooperation yields certain tangible results. However, in several cases the activities and/or the outputs of civil society initiatives became unduly politicized and political manoeuvring led to a situation when the policy or case-related results remained on the paper and developed into reports without any practical political reforms.<sup>34</sup> Moreover, such cases often end up compromising the inner essence of cooperation. This makes it highly desirable to find a format of partnership with state bodies tailored for each particular case, even if the anti-corruption activities target systemic corruption in any field.

### **Recommendations on improving the potential of civil society**

- To tackle these problem areas, donors, the government, the EU and civil society itself need to engage CSOs in the battle against corruption. The expert poll offered for key recommendations that are in line with government strategy and at least recognized at the policy level:
  - *increase public awareness of corruption, its causes, the nature of the danger and threats by:*
  - *regularly informing civil society on the progress of implementation of government anti-corruption policies;*
  - *implementing campaigns on the causes, consequences and prevalence of corruption and on government anti-corruption initiatives, and collecting feedback from voters;*
  - *preparing and disseminating information on public services and regularly updating the websites of state and local government bodies with anti-corruption information;*
- establish mandatory mechanisms for civil society participation in decision-making by:
  - *improving the mechanisms and regulations related to the involvement of civil society representatives in councils and commissions under decision-making bodies and establishing participatory procedures in government bodies;*

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<sup>34</sup> This conclusion is based on the comparative analysis of the success stories published on AACs official web-portal at: [http://aac.am/index.php?mod=pages&act=show&menu\\_id=118](http://aac.am/index.php?mod=pages&act=show&menu_id=118), as well as based on the opinions provided by experts interviewed for this study.

- *taking into consideration and discussing the results of studies conducted by NGOs, their conclusions, arguments and public opinion surveys when considering draft legislation consistently;*
- *involving CSOs in drafting legislation and decisions, and ensuring the participation of various social or professional interest groups (the disabled, the elderly, teachers);*
- publicize the activities of anti-corruption bodies and improve voters' access to these bodies by:
  - *running information campaigns, producing and broadcasting TV/radio programmes, publishing articles in the press, organizing official websites, public discussions, hearings, and conferences, and printing booklets;*
  - *establishing public anti-corruption receptions in regional administrations or governors' offices and anonymous "hotlines" in all anti-corruption bodies for people to report cases of corruption, providing free consultation by other electronic means, encouraging reporting on corruption cases in the media;*
- promote dialogue and cooperation among government, local government bodies and civil society institutions by:
  - *adopting regulations required by the Armenian Law on Freedom of Information, establishing common operational procedures for disclosing information to individuals; collecting, classifying and preserving information; and using different mechanisms for disclosing and publishing information;*
  - *introducing effective electronic government systems in state and local government bodies to serve the public;*
  - *developing administrative procedures for public relations;*
  - *introducing the practice of "customer cards" stating the standards for public services provided by state and local government bodies to individuals;*
  - *improving the procedure for responding to individual requests and applications in a timely and complete manner, processing requests more quickly, reducing the number of duplicate applications and complaints, and responding online to letters sent through official websites.*
- Donors and civil society should encourage the **Armenian government** to:
  - *strengthen and build the capacities of units that disclose and provide access to information by:*
  - *establishing public relations units in state and local government bodies, information centres and public reception points, providing them with adequate material and human resources, publishing an information registry, and appointing officials in charge of freedom of information issues;*
  - *developing internal and external communication strategies, organizing professional development for staff of these units, introducing electronic information systems, upgrading official websites to a common level and integrating them with electronic government systems;*
- improve the mechanisms for exercising the right to freedom of information by:
  - *forming the institution of a freedom of information ombudsman;*
  - *introducing penalties against officials who violate freedom of information principles;*
  - *developing operational procedures and guidelines for possession of information and proper and timely response to information requests;*
  - *introducing an oversight mechanism to ensure response to media publications on corruption risks/cases;*
- implement participatory anti-corruption monitoring of public services by:
  - *clearly defining the mandate and scope of monitoring by civil society institutions;*
  - *raising public awareness on this scope and ensuring the transparency of such monitoring;*
  - *continuously developing civil society institutions and their personnel on monitoring methodology and tools, sharing information and experience among such institutions, and supporting anti-corruption networks;*

- *analyzing the results of participatory monitoring and developing proposals for systemic changes on the basis of this analysis, and devising mechanisms to implement these proposals;*
- enhance capacities of civil society institutions to fight corruption by:
  - *providing grants and state funding for anti-corruption monitoring and studies on the prevalence of corruption, public perceptions and experiences;*
  - *engaging NGOs more actively in advocacy and public oversight;*
  - *organizing professional development programmes and courses for civil society monitoring groups, and workshops for investigative reporters.*

In order to strengthen anti-corruption policies within the EaP, CSOs are expected to:

- promote best practice, models and successful initiatives implemented in EU countries, in particular in the new EU Member States, by:
  - *cultivating and supporting networks and platforms that enable and foster cooperation among CSOs active in anti-corruption in Eastern Partnership countries and the new EU Member States, including think-tanks, watchdog organisations, and universities;*
  - *designing multilateral frameworks for monitoring and implementing joint anti-corruption monitoring of transparency, accountability and integrity of activities of public service providers at the national and community levels, in order to evaluate effectiveness of government anti-corruption policies and initiatives;*
  - *designing and implementing cross-regional public-awareness campaigns engaging Eastern Partnership countries and new EU Member States, which are a step ahead in combating corruption;*
  - *securing space for the involvement of civil society and the private sector in various activities aimed at improving governance and public administration, supported through all ENPI instruments, including direct budget support, twinning and TAIEX.*

## 4 Moldova

### 4.1 Summary

Corruption is one of the biggest problems faced by Moldova and has been a major constraint on the country's development, with a huge negative impact on growth and poverty reduction. Corruption pervades all Moldovan institutions, worsening many other problems as well.

Three main factors were identified as being at the core of the growing phenomenon of corruption in Moldova: lack of political will, the local mentality and the lack of energy and cooperation within civil society on this issue.

To begin with, fighting corruption was not a real priority for the Government. The emphasis on "paper reform" rather than on substantive effort has resulted in the establishment of an anti-corruption legal and institutional system that is lacking the working mechanisms that would effectively combat corruption.

In its Activity Program, the new Moldovan Government, which came into office on January 14, 2010, commits to addressing the issue of corruption. The Government has set major medium-term and long-term objectives to effectively combat corruption in Moldova: reforming law enforcement and the judiciary, approving and starting implementation of the new Anti-Corruption Strategy for 2011-2015, implementing e-government programmes, and strengthening cooperation with civil society. However, the results of these commitments are still to be seen.

Given the deep penetration of corruption in state institutions, it is difficult to see how internal factors alone can significantly reduce corruption in Moldova. External promotion of reform is crucial to build institutional capacity and to ensure the commitment of political elites to the issue of corruption. Over the years, the efforts of the Moldovan government and civil society to fight corruption have been supported by several bilateral donors, such as the European Union, Sweden, the United Kingdom, and the United States, international organisations like the Council of Europe, the UN and the World Bank, and foundations such as the Soros Foundation and the Eurasia/East Europe Foundation.

Results from the implementation of these initiatives have so far been unimpressive. Donors have overestimated the political will to implement anti-corruption reforms or underestimated the resistance of the government bureaucracy and political class to these reforms.

There has also been a lack of demand for reform from civil society, due to its limited involvement, capacity and cooperation in anti-corruption activities. Only a small share of international donor funding has been directed towards civil society, and during the last two years this funding tended to diminish. However, CSOs engaged in anti-corruption work in Moldova, such as Transparency International Moldova, the Centre for Analysis and Prevention of Corruption and the Anti-Corruption Alliance are gradually evolving, even though the scarcity of funds for anti-corruption activities leads to competition and hampers cooperation among them.

The media plays an active role in uncovering and reporting on corruption cases for the public. A positive trend is the increased quality and number of investigative articles on corruption. However, most of the media do not follow corruption cases from start to finish, that is, from investigation to prosecution and the court proceedings, thus largely limiting the impact on public opinion.

## 4.2 Government anti-corruption policies

Most of the interviewees consider that fighting corruption does not constitute a real priority for the Government. Little real progress has been recorded in the government's implementation of anti-corruption initiatives. Although government officials have talked up the importance of combating corruption since 2002, there has been no evident political will for a proper sustained effort. The Moldovan Government that came into office on September 25, 2009, had other short-term priorities aimed at promoting a positive image of Moldova abroad, rather than starting to implement any long-term strategies, including anti-corruption efforts. In its Activity Program, the latest Moldovan Government has committed itself to addressing the issue of corruption. To what extent the Government will ultimately dedicate itself to succeed in combating corruption remains to be seen.

Even though Moldova has received a great deal of foreign assistance to shore up its legal and institutional capacity to address corruption, results from the implementation of these initiatives have so far been unimpressive. The emphasis on "paper reform" rather than on substantive effort has resulted in the establishment of an anti-corruption legal and institutional system that lacks the working mechanisms that would effectively combat corruption. Slow progress on the issue of corruption on the part of the Government has been largely the result of a lack of political will, which shows up in gaps in legislation and the poor performance of the national anti-corruption agency, law enforcement and court systems.

### 4.2.1 Development of legislative and institutional anti-corruption frameworks

On December 16, 2004, the **National Strategy for Preventing and Combating Corruption** was approved by the Decision of the Parliament №421-XV. The strategy aims to combat corruption through the effective application of criminal legal norms and eliminating conditions for corruption in the public administration and law enforcement systems. The Strategy is implemented on the basis of annual Action Plans and the Government adjusts its annual anti-corruption Action Plans based on recommendations from international institutions and experts.

The implementation of the National Strategy for Prevention and Combating Corruption is overseen by a **Monitoring Group**, which brings together representatives of public institutions and civil society. The Monitoring Group has approved a methodology for monitoring and evaluating the national anti-corruption strategy and indicators for the measures from the Action Plan. However, it remains a priority to review the mechanism for implementation of national anti-corruption strategy by establishing a primary and effective coordination of all anti-corruption activities carried out in the country.

The draft of a **new National Anti-corruption Strategy for 2011-2015** is already available for comments from all stakeholders, including CSOs. The 2011-2015 Strategy aims to reduce corruption by introducing several new objectives compared to the previous Strategy, including:

- appropriate punishment of persons involved in corruption, including those who claim immunity;
- sentencing to prison for convicted public servants with a loss of the right to return to the public service;
- confiscation of property and money obtained through corruption;
- expanded public-awareness campaigns on corruption;
- increased credibility among the institutions involved in fighting corruption.

In terms of a legislative framework, a number of old laws were amended in recent years and new laws drawn up and adopted in order to strengthen existing tools for fighting corruption and introduce new ones.

- Law on Preventing and Combating Corruption, №90-XVI of April 25, 2008;
- Law on the Centre for Combating Economic Crimes and Corruption, №1104-XV of June 6, 2002;
- Law on Public Office and the Status of Public Servants, №158-XVI of July 4, 2008;
- Law on the Code of Conduct for Public Servants №25-XVI of February 22, 2008;
- Law on the Declaration and Monitoring of Incomes and Assets of State Dignitaries, Judges, Prosecutors, Public Servants, and Certain Persons Holding Managerial Positions, №1264-XV of July 19, 2002;
- Law on Conflict of Interests, №16-XVI of February 15, 2008;
- Law on the Protection of Witnesses and Other Participants in Criminal Proceedings, №105-XVI of June 16, 2008;
- Law on Transparency in Decision-Making, №239-XVI of November 13, 2008.

However, these anti-corruption laws do not reflect a number of international standards and do not provide implementation mechanisms. Currently, several important pieces of legislation on corruption are hostage to their own flaws, with the inevitable difficulties at implementation. The failure of Moldovan officials to amend existing legislation and allocate funding also hinders the implementation of anti-corruption legislation.

For example, the *Law on Preventing and Combating Corruption* does not adequately address the accountability of public officials for corruption, incorrectly presents “facts of corruptive behaviour,” presents an erroneous classification of corrupt activities, erroneously sets the rules on preventing the legalization of illicit income, and so on.

The *Law on Conflict of Interests* narrowly presents the categories of relatives and does not include the obligations and responsibilities of public institutions for combating conflict of interests (COI). The Government has also failed to establish the Ethics Commission, a body designed to monitor the implementation of this Law.

The *Law on the Code of Conduct for Public Servants* does not contain provisions for mandatory reporting of Code violations and penalties for non-reporting, nor does it address the accountability of superiors for failure to comply with the Code. Moreover, the clause related to gifts and favours provides the conditions for legalizing petty corruption.

The amended *Law on the Declaration and Monitoring of Incomes and Assets* has deficiencies in its asset control mechanism that make it impossible to dismiss or punish any public servant in the process of verifying declarations.

A lack of resources to implement the *Law on the Protection of Witnesses* leaves persons who testify in anti-corruption cases vulnerable. The list goes on.

Regarding the legal framework in general, successes have been recorded in the introduction of a methodology, supported by software, with the goal of ensuring that corruption risks are eliminated from legal acts. Ambiguous linguistic formulations in legislative and normative acts, coupled with conflicts among legal provisions, are factors that actually facilitate corruption in state institutions. Moldova has established a unique model of institutionalized corruption-proof reviews of draft legislation and regulations. The corruption proofing is mandatory for all legal acts and is carried out by Centre for Combating Economic Crimes and Corruption at various stages of the drafting process.

Depending on funding, the Centre for Analysis and Prevention of Corruption, an independent CSO, also participates in such reviews.

As to institutional framework, **the Centre for Combating Economic Crimes and Corruption (CCECC)** was set up in 2002 by the Moldovan Government partly in response to international pressure to develop institutions to combat corruption. The CCECC was an amalgamation of certain departments under the Ministry of Internal Affairs, the Ministry of Finance and the Financial Guard—previously subordinate to the State Tax Service. The latter is a specialized law enforcement body whose mandate is detecting, investigating and preventing corruption, money-laundering and financial and tax crimes. In recent years, much has been invested in the institutional capacity of the Centre for Combating Economic Crime and Corruption.

Considering the centralized power of CCECC, it was necessary to provide adequate checks and balances for this institution, including adequate transparency and oversight. However, ensuring public-private oversight of the CCECC proved problematic. Despite serious resistance from the Government, a Civilian Monitoring Board was eventually installed as a result of donor pressure. From the outset, the independence of the Civilian Monitoring Board was compromised to the executive branch, as it was set up by executive order and could therefore be dissolved by executive order. The Ministry of Justice, itself part of the executive branch, was authorized to appoint the board, immediately giving rise to questions about the Board's independence.<sup>35</sup> Finally, the government failed to provide the Board with resources and oversight authority, as was intended. In short, the Civilian Monitoring Board has not reached its full potential. De jure operating within the CCECC's structure, it is de facto non-operational; its last meeting took place in January 2010.

Even if nominally independent, the CCECC was not effectively protected from political interference. The appointments to the body tended to be based on political considerations and the individuals appointed sometimes had obvious party loyalties.<sup>36</sup> Moreover, the integrity of the CCECC itself was questionable. Its insular nature and lack of transparency led to its gradual degeneration into an agency better known for its corruption than for its impact in curbing corruption.<sup>37</sup> For example, a significant number of companies surveyed in 2009 reported having been able to circumvent business sanctions through "informal payments" made to the CCECC.<sup>38</sup>

The anti-corruption unit within the Prosecutor General's Office was established in 2003. Its task is to combat corruption in the highest state institutions, the judiciary, the police and supervisory bodies such as the Court of Accounts. Lately, donors have invested in strengthening the capacity of anti-corruption prosecutors to prosecute, supervise and manage corruption-related offences. According to the 2010 Annual Report of the Prosecutor's Office Anti-Corruption Unit, lack of professionalism, poor knowledge of legislation and the delay in judicial reviews by prosecutors are amongst the main problems faced by the Unit.

In 2010, the Unit referred 103 criminal cases to the court, compared to 140 in 2009.<sup>39</sup> According to the Government's Programme of Activity, the reform of the Prosecutor's Office will clearly define the

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<sup>35</sup> Lessons learned in fighting corruption in MCC Threshold Countries: the USAID experience, 2009. <http://www.msi-inc.com/documents/TCPReport12-14-09final.pdf>

<sup>36</sup> Global Integrity Report, 2008. <http://report.globalintegrity.org/reportPDFS/2008/Moldova.pdf>

<sup>37</sup> Op. cit., <http://www.msi-inc.com/documents/TCPReport12-14-09final.pdf>

<sup>38</sup> Perceptions and experiences of household representatives and businessmen regarding corruption in the Republic of Moldova, TI Moldova, January 2009.

[http://www.transparency.md/index.php?option=com\\_docman&task=doc\\_download&gid=13](http://www.transparency.md/index.php?option=com_docman&task=doc_download&gid=13)

<sup>39</sup> The Report of the Prosecutor's Office Anti-corruption Unit, January 11, 2011.

<http://unimedia.md/?mod=news&id=28352>

powers and the role of the Prosecutor's Office, demilitarize the Office and grant prosecutors the status of magistrates. Given these new reforms, the future of the anti-corruption unit is not clear.

## **4.2.2 Other anti-corruption reforms**

The **reform of law enforcement and judiciary institutions** is mandatory if progress is to be seen in anti-corruption reform. According to the government strategy, the activity of CCECC will be reviewed, along with reforms to the Ministry of Internal Affairs, Prosecutor's Office and Judiciary System. Moldovan political leaders have publicly announced that the CCECC will undergo reform that will separate the corruption-combating aspects of the institution from the investigation of commercial crime.

The **implementation of e-governance** across all public sector agencies is another anti-corruption priority of the government. It is expected to increase efficiency, transparency and public access to information, while at the same time reducing opportunities for corruption. Another important aim of e-governance is to reduce the administrative barriers for individuals and companies interacting with the government and thus implementing "one-stop shops" for business licensing and registration, customs declarations, construction permits, tax services, and so on.

The January 19, 2010 establishment of the **National Council for Participation**, a consultative body comprised of representatives of 30 CSOs active in different fields, is another step on the government side that could increase transparency and help counter corruption. The Council's purpose is to develop and promote a strategic partnership among public offices, civil society and the private sector to strengthen participatory democracy in Moldova by facilitating communication and stakeholder participation in identifying and developing the country's strategic priorities. It provides a framework and institutional capacity to ensure the involvement of stakeholders in the decision-making process. The Council focuses on two basic dimensions: the participation of civil society in all stages of government strategic planning and the provision of an institutional framework for consultations with civil society at the central government level. However, the Government still has to develop a general and clear mechanism for policy input from civil society.

## **4.3 Assessment of international assistance**

Given the deep penetration of corruption in state institutions, it is difficult to see how internal systemic factors alone can significantly reduce corruption in Moldova. The external factor of donor assistance is therefore crucial to build institutional capacity and to ensure the commitment of political elites to addressing corruption. At the same time, donor initiatives create opportunities for civil society to engage effectively in the fight against corruption.

### **4.3.1 Overview of donor activities**

Over the years, the efforts of the Moldovan government and civil society to combat corruption have been supported by several bilateral donors, such as the European Union, Sweden, the United Kingdom, and the United States, international organisations like the Council of Europe, the UN and the World Bank, and foundations such as the Soros Foundation and the Eurasia/East Europe Foundation.

In January 2005, Council of Europe's Programme against Corruption and Organized Crime (PACO-Impact) launched a one-year regional project called "Support for the National Anti-Corruption Strategy of the Republic of Moldova." This project was the first international assistance to the

Moldovan government to support the implementation of the National Anti-Corruption Strategy. An agreement for a follow-up project **Against Corruption, Money-Laundering, and Terrorist Financing in the Republic of Moldova (MOLICO)** was signed in July 2006. The project was funded by the Council of Europe (CoE), the European Commission and the Swedish International Development Cooperation Agency (SIDA) and was implemented by the CoE. The Centre for Combating Economic Crimes and Corruption was the main counterpart institution in Moldova, but the project also cooperated with a range of other institutions, including CSOs. With a timeframe of three years, August 1, 2006—July 31, 2009, and a budget of EUR 3.5 mln, the project was divided into two components under two project objectives:

- to ensure the implementation of Moldova’s Anti-Corruption Strategy;
- to strengthen the anti-money laundering/counter-terrorist financing system in Moldova.

With regard to corruption, the MOLICO project was intended to support the Moldova Anti-Corruption Strategy, improve anti-corruption legislation, strengthen law enforcement capacities, including interagency cooperation, strengthen preventive capacity and internal controls in institutions at risk, prevent corruption in the political process, promote an active role of civil society in combating corruption, and involve local government in implementing the AC Strategy.

The MOLICO project evaluation report noted that “the anti-corruption component’s greatest impact has been through the creation of a comprehensive and elaborate methodology for the mandatory proofing of legislation against potential loopholes for corruption...CCECC has strengthened its prevention department by creating a service dealing with analytical work; the CCECC’s capacities have been considerably strengthened through the development of the corruption-proofing and corruption-risk assessment methodology. Important progress has also been made to reform the system of financing of political parties.” However, Moldovan analysts tend to disagree on the point that significant progress was recorded in the system of financing of political parties after the adoption of a new Law on political parties and amendments to the Electoral Code. An analysis of party financing in the last three election campaigns shows that the regulatory framework in this area remains ambiguous and permissive for political parties.<sup>40</sup>

The project also delivered workshops, studies and expert advice, although the impact of these activities is difficult to ascertain in immediate terms. The evaluators also pointed out that “in order to safeguard the achievements of the project and to increase the prospect of sustainability of the project’s outputs,” an extension or a follow-up project should have been considered.

The largest donor, so far, on anti-corruption measures has been the Government of the United States of America. In 2006, Moldova was accepted by the US’s Millennium Challenge Corporation (MCC) to implement the **Moldova Threshold Country Programme (TCP)**, with the aim of combating and preventing corruption. A grant of US \$24.7 mln was approved for Moldova to support the implementation of the TCP. On January 15, 2007, the Government of Moldova signed a Strategic Objectives Grant Agreement with USAID, according to which the TCP was to be implemented over March 31, 2007–March 31, 2009. The programme provided the framework for an ambitious, multi-pronged initiative to combat corruption and increase transparency in Moldova’s public sector. Over

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<sup>40</sup> Financing Political Parties: Between Transparency and Obscurity,  
[http://www.viitorul.org/public/3118/en/POLITICI\\_PUBLICE\\_8\\_finante%20partide%20eng.pdf](http://www.viitorul.org/public/3118/en/POLITICI_PUBLICE_8_finante%20partide%20eng.pdf)  
The Assessment of Financing of Political Parties and Electoral Campaigns //  
[http://www.viitorul.org/public/2175/ro/Finantarea\\_partidelor\\_politice.pdf](http://www.viitorul.org/public/2175/ro/Finantarea_partidelor_politice.pdf)

the two years of the project, the overarching goal of the programme was to reduce corruption in the judiciary, healthcare and tax administration systems, the customs service and the police.<sup>41</sup>

The Moldova TCP was divided into five components with comprehensive measures:

1. Strengthen the capacity of the judiciary to combat and prevent corruption.
2. Strengthen the monitoring capacity of civil society and the media.
3. Prevent and curb corruption in the healthcare system.
4. Curb corruption in the tax and customs administration and police agencies.
5. Reform and improve the capacity of the CCECC.

The issue of corruption is being tackled in a systematic manner through the **EU-Moldova policy dialogue**. The EU-Moldova Action Plan includes combating corruption as one of the priority areas of reform. The European Neighbourhood and Partnership Instrument (ENPI) clearly indicates that progress towards implementing agreed objectives, including governance and reform, will be taken into account in determining the level of funding allocated to each country. In the 2007-2010 programming exercise, the Transparency International Corruption Perception Index was among the criteria used in setting ENPI country allocations.

Border management corruption is targeted within the **EU Border Assistance Mission to Moldova and Ukraine (EUBAM)**, which was launched on November 30, 2005, at the joint request of the Presidents of the Republic Moldova and Ukraine. EUBAM is a mission fully funded by the European Union. The Mission is working to make a sustainable contribution to the delivery of good quality border and customs services to the citizens and companies of Moldova and Ukraine in order to facilitate contacts and trade. The Mission's mandate has been extended twice and the latest agreements extend the Mission until 30 November 2011.<sup>42</sup>

One of the priorities of EUBAM is to reduce corruption in border management institutions. In 2009, EUBAM conducted anti-corruption training sessions for border guards, delivered undercover agent training for CCECC staff and monitored the progress in the investigation and prosecution of reported cases of corruption at the border.<sup>43</sup> In the first half of 2010, EUBAM developed an anti-corruption assistance action plan for the customs and border guard services of Moldova and performed integrity and individual corruption risk testing for personnel in customs and the border guard services. EUBAM also conducts anti-corruption seminars for young people and supports CCECC in its awareness-raising efforts.

Between 2000 and 2006, **UNDP Moldova** implemented the project "Strengthening Capacities to Fight Corruption and Improve Governance" with a total budget of US \$252,000. This project was to strengthen anti-corruption legislation, to improve the quality of governance and to increase cooperation between public offices and civil society. It also raised public awareness on the social and economic consequences of corruption at the national and regional scale and its terrible impact on the democratic development of the country. The project tried to achieve these objectives by implementing activities related to monitoring the implementation of the National Strategy for Preventing and Combating Corruption, including support for specific actions and the provision of anti-corruption training for key groups—state institutions, TI staff, local administrations, and business people—, commentary on some bills from the anti-corruption perspective, anti-corruption

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<sup>41</sup> Compare: Ukraine, p. 15.

<sup>42</sup> See: <http://www.eubam.org/index.php?action=show&sid=%3C&id=213>

<sup>43</sup> EUBAM Annual Report 2009. <http://www.eubam.org/files/300-399/323/EUBAM%20AR%202009%20EN.pdf>

studies, opinion polls and surveys, involvement in TV and radio programmes against corruption, and so on.

The **World Bank**'s anti-corruption work in Moldova falls under the quality of governance objective of its Country Partnership Strategy. The Bank is pushing ahead with reforms of the central government system, trying to reduce opportunities and incentives for corruption. It has done a tremendous job in implementing e-governance solutions for financial management, procurement, service delivery, and so on.

The **Eurasia/East Europe Foundation** helped to establish the Anti-Corruption Alliance, which it subsequently funded. The Foundation also supports innovative anti-corruption projects and awareness-raising campaigns.

Most of the other donors that operate in the Republic of Moldova are addressing the issue of corruption indirectly through various projects that tangentially target corruption in specific socio-economic and political areas.

### **4.3.2 The efficiency of anti-corruption assistance: lessons learnt**

So far, donor programmes have not had a serious impact on curbing corruption in the country. The fact that donors have overestimated the political will to implement anti-corruption reforms or underestimated the resistance of the government bureaucracy and political class to anti-corruption reforms has undermined the impact of the international assistance in the field to a great extent.

Donors have massively focused on refining legislation and institutions while largely neglecting advocacy activities oriented towards political elites, to persuade them to give the necessary impetus to anti-corruption reforms. They have avoided addressing the issue of political commitment more directly in order to maintain a smooth relationship with the Government, hoping that the Government would conscientiously implement the previously-agreed activities and the recommendations of experts. Over 2009-2010, the issue of corruption was publicly avoided by donors in their dialogue with the Government, simply because it was an uncomfortable issue for all parties.

However, this soft-peddalling attitude among donors has backfired, resulting in the failure to implement and the ignoring of established anti-corruption mechanisms. Currently, there is room for donors to be more incisive on the issue of corruption reform. External pressure could be successfully applied on Moldova's political elites because of the aspiration of the people to join EU and to obtain a visa-free regime with the EU. The lack of progress on anti-corruption reforms, including commitments made during the recent election campaign, and the ensuing lack of progress towards visa liberalization and EU integration could be signalled to the electorate by donors in order to counter the foot-dragging of the Government in pursuit of anti-corruption reform.

The other leverage donors have at the moment in Moldova is the prospect of future funds and equipment. These could be used as a carrot to maintain interest in anti-corruption reform and leverage more responsiveness from the Government on difficult issues. During MOLICO implementation, the fact that the project provided equipment was substantial incentive for Moldovan institutions to cooperate.

However, premature awarding of incentives can undermine commitment to ongoing reform. USAID officials confirmed that their dialogue with the Moldovan government on anti-corruption reform was undermined once Moldova became eligible for the Compact within months of starting to implement

the TCP.<sup>44</sup> The government began diverting resources away from the threshold plan to begin preparing a Compact proposal. Further, the sense of urgency for anti-corruption reforms was diluted. This means that donors should identify the right incentives and the right timing to award them in order to ensure the cooperation of Moldovan institutions and their political commitment.

There is an acknowledged need to tackle corruption from a variety of angles. From the description of existing projects, it is clear that donors have used both the “top-down” approach, that is, funding directed at government agencies, and the “bottom-up” approach, that is, funding directed at helping and building capacity in civil society, to address the issue of corruption in the Republic of Moldova. However, the lion’s share of funding for anti-corruption measures went to capacity-building at government institutions, with only a small portion directed towards similar efforts in civil society.

Furthermore, in the last two years, international funding for anti-corruption for civil society has begun to dry up. Donors have mostly been funding short- and medium-term projects. Given the permanent struggle of Moldovan CSOs for scarce anti-corruption project funding, long-term grants would give the comfort to such CSOs to focus just on the implementation of their projects without being distracted by the search for new financial resources.

An example of best practice in donor support and cooperation with civil society is the “Preventing Corruption for Better Governance” Programme of the Eurasia Foundation, now called the East-Europe Foundation). Under this Programme, the Foundation has provided funds to mobilize civil society actors to effectively address corruption by setting up and supporting the Anti-Corruption Alliance, to engage CSOs and media in monitoring the implementation of the National Anti-corruption Strategy, and to support local initiatives to make national projects more effective.

The integration of civil society into the network supporting and driving anti-corruption reform is critical to ensure the success of this reform. Ultimately, demand for tackling corruption has to come from within Moldova, and civil society has a crucial role in creating that demand. Clearly, donors should invest in civil society to increase its prevention, monitoring and policy formulation capacities.

Perceiving civil society as a partner in facilitating change is at times difficult for the Government of Moldova. Nevertheless, donors should point out that civil society must play a major role in the design, implementation and monitoring of national anti-corruption reform and advocate mechanisms that would ensure sustainable policy input from civil society.

At the same time, due to a limited information absorption capacity and poor institutional memory among national institutions, the retention of international expertise within civil society could prove invaluable for further institutional capacity-building and policy formulation.

As to donor coordination, there is no particular donor who has taken the lead on combating corruption in Moldova. The World Bank holds regular donor coordination meetings that are not confined to anti-corruption activities but cover all areas of donor activity. It seems that there have been certain overlaps of activities among donors due to a failure to coordinate at the programming stage of projects, that is, some of the activities of MCC TCP duplicated the activities of the MOLICO project. The need to coordinate activities at the project design stage calls for joint anti-corruption programming.

The consequences of donors not speaking with a single voice can be seen in the poor progress of anti-corruption reform and ineffective implementation of foreign assistance on anti-corruption in Moldova by the Government.

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<sup>44</sup> Lessons learned in fighting corruption in MCC Threshold Countries: the USAID experience, 2009, <http://www.msi-inc.com/documents/TCPReport12-14-09final.pdf>

### **Recommendations for donors**

- focus more heavily on identifying and fostering political will within the Government to combat corruption;
- maintain government commitment to reform by wisely applying incentives;
- support civil society more actively and advocate for it to be accepted as a partner by the Government in implementing anti-corruption reform by:
  - *assisting civil society in providing meaningful input to the policy-making process on matters concerning corruption;*
  - *providing direct long-term grants to Moldovan NGOs already engaged in efforts to tackle corruption and promote transparency and accountability in the Government;*
  - *initiating programmes that will develop and promote the capacities of Moldovan NGOs to deal with corruption;*
  - *supporting positive developments in investigative journalism;*
  - *delegating prevention phase activities to civil society, such as awareness-raising on the consequences of corruption, especially among young people;*
- improve coordination in order to promote a common anti-corruption framework and deliver a consistent common message on anti-corruption reform.

## **4.4 Civil society efforts and potential to combat corruption**

While anti-corruption reform stagnated for lack of implementation, there was also a lack of demand for reform from civil society due to its limited capacity on anti-corruption issues.

Civil society can advance the anti-corruption cause by committing to expose the lack of government transparency, competence and willingness, by helping to develop policies and regulations, by providing a barometer of public opinion for the Government, and by public advocacy. The 2008 Global Integrity Report describes CSOs in Moldova as “strong.”<sup>45</sup> However, most of them are very dependent on foreign funding and design their activities according to the priorities highlighted by donors, which means they lack a strategic vision of the issues that they address. So, civil society engagement in anti-corruption work in Moldova is only slowly developing, mainly on the basis of external funding.

So far, civil society in Moldova has demonstrated limited results in the fight against corruption. The Government of Moldova does not respond to pressure to reform from CSOs in the same way that it responds to donors. The attitude of the Government towards civil society is at times adversarial, even hostile. The “us versus them” attitude is felt on the part of civil society as well: many CSOs see themselves as operating outside the Government decision-making process.

However, civil society anti-corruption efforts must not only trigger bottom up anti-corruption pressure from voters on the Government, but must also elicit top-down commitments to genuine reform from the Government by working with the Government from the inside. Despite past starts and stops and the fractured dialogue between the Government and civil society, it is reasonable to think that conditions are ripe for proper cooperation now.

A fair number of people working previously within CSOs have become members of the legislature and of the new Government since the July 2009 and November 2010 elections. Those individuals polled are of the general impression that, while the new Government has considerable respect for civil

<sup>45</sup> Global Integrity Report, 2008, <http://report.globalintegrity.org/reportPDFS/2008/Moldova.pdf>

society, establishing proper mechanisms to engage civil society in the policy design, implementation and monitoring processes is not yet its priority. The National Council for Participation is a first step in this direction, although the Government has to also adopt a general procedure for civil society to participate in policy-making.

One of the biggest issues for civil society organisations, including those CSOs working to combat corruption, is how to ensure the durability of their efforts when they are faced with financial uncertainty and near-exclusive dependence on foreign aid. So far, there have been no examples of CSOs collaborating on corruption in Moldovan society with domestic businesses that promote transparency and a fair business climate. This could be one solution to ensuring the financial sustainability of anti-corruption CSOs, as anti-corruption reform is clearly in the best interests of business.

There are several well-known Moldovan CSOs that work to fight corruption.

**Transparency International Moldova (TI Moldova)**, established in 2000 as a national chapter of Transparency International, is a leading CSO in anti-corruption efforts in Moldova. TI Moldova implements anti-corruption advocacy projects, organizes anti-corruption events, and presents proposals on adjustments to the anti-corruption legal framework in Moldova. It is constantly in dialogue with the Government and has made a great number of proposals on the implementation of the existing anti-corruption strategy and annual plans, the drafting of a new anti-corruption strategy, and contributing to national anti-corruption programming.

There were times when TI Moldova's relations with the Government were strained due to its anti-corruption activity. TI Moldova was involved in an 18 month-long litigation with the Customs Department because of a TI Moldova report on the Customs Department that was published on the TI Moldova website. The Customs Department sued TI Moldova for approximately US \$1.2 million for defamation for alleging that there was corruption in the department. The case was ultimately decided in TI's favour.

**The Centre for Analysis and Prevention of Corruption (CAPC)** a CSO established in 2000 whose goals are to contribute to reducing corruption to such a level that would not affect the rights and freedoms of ordinary Moldovans, to raise awareness of the danger of corruption for the state, to study the level of penetration of corruption in the society and in the state, to identify areas that were affected to the greatest extent by corruption, to increase the transparency of the work of state and political institutions, and to institute public oversight over the activities of state bodies.

CAPC is actively involved in expanding the corruption-proofing of Moldovan legislation. CAPC developed a Corruption-Proofing Guide, organized workshops for CCECC and central and local government offices to promote corruption-proofing methodology and is itself corruption-proofing newly adopted laws in the legislature. CAPC is also involved in projects that raise public awareness on corruption and strengthen civil society's capacity to monitor the Government, including through the media.

**The Anti-Corruption Alliance (AAC)** is a Moldovan network of CSOs with the overall objective of monitoring and combating corruption. It was established as an instrument for dialogue between the Government and civil society on anti-corruption issues. AAC aims at influencing public policies, informing citizens and businesses about corruption, and promoting government transparency and accountability. AAC has signed a collaboration agreement with the government, enabling AAC to monitor the activities of public sector bodies and interact with government anti-corruption agencies.

AAC was created at the initiative CCECC. Normally, the demand to establish such an alliance should have come from civil society itself. The presence of such an alliance is welcome, but the fact that it

was not based on specific values and ideas, but on funding that was available at that time, has led to a number of difficulties that it is currently having to deal with. AAC now activates only when there is funding to implement certain projects and the Alliance has largely lost its original function of representing a civil society common front against corruption in Moldova.

The media, such as **Ziarul de Garda**, also plays an active role in revealing and presenting cases of corruption to the public. One positive trend is the growing quality and quantity of journalistic investigations on corruption. The Moldovan media focuses mainly on allegations of corruption among various high-ranking officials and politicians.<sup>46</sup> While reporting these cases, journalists do so at some personal risk. However, some of our interviewees pointed out that most of the press does not follow corruption cases through their entire cycle, from investigation to prosecution and the actual courtroom hearing, thus largely limiting the impact on public opinion. In addition, the media does not present many details about government anti-corruption strategies and policies. There should be increased donor attention to build the capacity of journalists to tackle such cases and report on anti-corruption policies.

There is, nevertheless, a great deal of attention from the donors to involve media in investigative reporting on the issue of corruption. The **Centre for Investigative Journalism** is an NGO that conducts investigations into corruption involving state officials and publishes its reports in national press. Still, like the majority of Moldovan CSOs, it is donor-dependent and has trouble ensuring the durability of its monitoring and awareness-raising efforts.

Despite positive developments, there is still much to be done in order to deliver clear anti-corruption messages to the public through the media in Moldova. When asked to what extent ordinary Moldovans think their media covers corruption problems, respondents say media exposure is low. Every fifth person says that the media covers topics related to corruption, while two thirds state that such issues are covered to a very small extent or not at all<sup>47</sup>.

#### **Recommendations for civil society**

- revise the composition and the approach to work of the AAC in order to establish a large working coalition of CSOs that can be a strong advocacy tool for civil society on anti-corruption issues;
- organize comprehensive, tailored workshops on anti-corruption for CSOs that are not necessarily working on anti-corruption to promote the inclusion of anti-corruption components as cross-cutting issues in their projects;
- identify and partner with domestic businesses willing to address the issue of corruption in Moldovan society to ensure a steady flow of funds for anti-corruption activities;
- partner with media institutions to cover high-profile corruption cases through their entire cycle.

<sup>46</sup> Assessing Media Coverage of Corruption in Moldova, Centre for Independent Journalism, 2009, [http://ijc.md/Publicatii/coruptie/raport\\_final\\_en.pdf](http://ijc.md/Publicatii/coruptie/raport_final_en.pdf)

<sup>47</sup> Perception of the Corruption Phenomenon in the Republic of Moldova, MOLICO, 2009, [http://www.coe.int/t/dghl/cooperation/economiccrime/MoneyLaundering/Projects/MOLICO/Molico\\_en.asp](http://www.coe.int/t/dghl/cooperation/economiccrime/MoneyLaundering/Projects/MOLICO/Molico_en.asp)

This study is intended to shore up the objective of greater civil society involvement in the EaP and the course of reforms in eastern partner countries. The key objective of the study is to present the views of civil society on anti-corruption policies and reforms in the Eastern Partnership countries, to give an overview of foreign—including EU—assistance in this area, and to analyse the role and potential of civil society in combating corruption. The report offers a number of recommendations for international donors, CSOs and the EU on how to make their efforts in assisting anti-corruption reforms in Eastern Partnership countries more effective.

The report includes three case studies on Armenia, Moldova and Ukraine. Each was prepared by a team of researchers from one of these countries using a common methodology. The study largely draws on the opinions of local stakeholders in all three countries. Through a series of semi-structured interviews, a questionnaire and expert discussions, the researchers surveyed 90 stakeholders.