

The Swedish Support in the Area of Anti-Corruption in South Eastern Europe: PACO Impact, 2004–2006

Final Report

**Liz Carlbom
Jonas Wikström**

Department for Europe

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Sida Evaluation 07/28

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Authors: Liz Carlbom, Jonas Wikström.

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SWEDISH INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
Address: SE-105 25 Stockholm, Sweden. Office: Valhallavägen 199, Stockholm
Telephone: +46 (0)8-698 50 00. Telefax: +46 (0)8-20 88 64
E-mail: sida@sida.se. Homepage: <http://www.sida.se>

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1 Executive Summary

Introduction

The fight against corruption has been identified as one of Sida's strategic priorities. Besides taking measures to mainstream corruption throughout its development co-operation portfolio, Sida is also supporting projects specifically targeting corruption. The subject of this evaluation is "PACO Impact: Implementation of Anti-corruption Plans in South Eastern Europe".

According to the Terms of Reference (ToR) the objective of the assignment is to "evaluate the project in terms of achievement of project objectives, quality in implementation, results, cost effectiveness and lessons learned. In addition it is also expected that the evaluation team will analyse the relevance of the project in the portfolio of Sida in the Balkans."

Since CoE has an evaluation of their own of PACO Impact, with similar scope and time plan as the present one, it was decided to divide the field visits between the evaluators to avoid overlapping.

The evaluators of Sida have visited Serbia, Kosovo, Montenegro and Albania and this report is based on those findings.

Since Serbia was a project area of interest for both teams, the interviews there were conducted jointly when it was possible.

The evaluation followed the structure below:

1. Collecting and reading of documents
2. Meeting with CoE Management team in Strasbourg
3. Finalisation of evaluation design and development of questionnaires
4. Field trips to Serbia, Kosovo, Montenegro and Albania during two weeks
5. Analysis of interviews and relevant documents
6. Draft Report to Sida
7. Presentation and discussion of findings during a CoE conference in Strasbourg
8. Presentation and final report to Sida

As for the selection of the interviewees it was agreed that the evaluators should meet with the respective Country Project Director and the Local Project Officer (LPO) as well as representatives from the Swedish Embassy. For the remaining stakeholders the evaluators were advised and assisted by CoE and respective LPO.

We would like to thank those interviewed, since they have been very generous with their time and sharing of their experiences, both verbally and through a variety of documentation.

General Assessment

In the area of development assistance to fighting corruption, there are few success stories. Previous use of approaches like the one used in PACO Impact have, according to evaluations, in most cases not succeeded in terms of reduced levels of corruption. In line with these findings, the present evaluation also finds that the PACO Impact project has not yet reached the stage where the instruments developed have been put to practice in the fight against corruption. It will thus not be possible for us to refute the previous evaluations.

However, it is our *overall conclusion* that the results from the PACO Impact project all across the project areas can be considered as a first important step towards successfully combating corruption. We build this conclusion on the fact that the outcome of the project has been considerable in three areas.

Firstly, it has assisted the project areas in advancing their efforts toward establishing some of the basic instruments in the field of anti-corruption: strategic documents, legal basis and operational mechanisms. Although in no visited project area the project has completely reached the targets set out, there has been considerable progress everywhere.

Secondly, the project has contributed to the creation of considerable awareness among the key governmental actors in the field of anti-corruption throughout the project areas. Using large, inclusive working groups, the project has been able to support processes where the important governmental actors have collaborated and the awareness and knowledge in the area of anti-corruption has increased. The process has also led to increased networking between state bodies in the project areas.

Thirdly, at the regional level sharing of experiences, peer review and training on for example compliance with international anti-corruption conventions, law application, conflict of interest and strengthening of institutional mechanism has taken place. This has contributed to the creation of a regional platform where experiences can continuously be shared between project areas.

Recommendations

In order for this first step to be worthwhile, it is now a great need for a prompt start to the implementation phase of the fight against corruption in the project areas. We have identified a number of areas in the PACO Impact project that could be improved in order for it to be more effective in facilitating this leap forward. We therefore recommend:

- As part of the Inception Phase the key persons involved in the project should have been given the opportunity to develop their *skills on change management* to prepare them on how to deal with the process of change in the project.
- **Transformation of anti-corruption strategies into several action plans** for different sectors in cooperation with the relevant sector ministries in order to facilitate smooth implementation.
- **Clarification of the roles** of the specific anti-corruption agencies and underlining their central position in the coordination of anti-corruption efforts in project areas. Specific support should continue to be a priority when building and maintaining those institutions.
- **To improve ownership**, a greater effort to *include the counterparts in project management* in terms of planning, implementation and follow-up should have been made. For this to be possible, the counterparts appointed need to have the appropriate authority, resources and time to be able to act as a driving force in the project.
- **The pilot activities could have started earlier and in a smaller scale**, to create concrete results and necessary experiences to be able to be a driving force for the other activities.
- In order to *handle political reluctance*, the project should coordinate more with other actors within the respective project areas in order to assist in *building a political pressure for anti-corruption reforms in society*.

It is *our view* that gender has not been integrated into the PACO Impact project. A gender analysis was made during the Inception Phase. However when the project document was finalised, gender equality was neither reflected in the project objective nor at any other level of objective. Even though there has been a gender balance in many of the different activities in the project areas, gender issues have not been included in the project activities.

Therefore *we recommend* that gender should be mainstreamed into the strategies, action plans and laws developed in the project. In order for this to happen, the international experts provided by CoE should have raised gender issues in the field of anti-corruption in the working sessions.

Research on the effects of corruption on men and women, for example, in relation to possible differences in the access to health services and education, should be identified and used in all needs and problem analysis, gender balance should be raised as an issue in all decision-making and work processes of the project as well as in the access to capacity building.

With regard to the PACO Impact project implementation of the project, we recommend the project management team:

- that the analytical sections of the reports should be enhanced and include systematic follow-up against the project objectives at different levels.
- to increase the accurateness of the reports and enhance the level of local ownership, *we recommend* that reporting is done in a more participative manner and include the counterpart organisations to a larger extent.
- To develop the local ownership it *is our strong recommendation* that the various project areas should have the main responsibility and authority over report writing and the financial management.

With regards to the implementation of the project, we recommend Sida

- that the division of responsibility, in practice, between the Sida officers to be clarified.
- that all officers involved in the project should meet regularly to discuss and review the progress in the project.
- a Monitoring Team should therefore have been put in its place as soon as the problems with the QG surfaced.
- a time frame *should have been* set and conditions *should have been* included in the agreement between Sida and CoE on when to present the final project document.

Looking Ahead

A first step for Sida in the considerations of future interventions could be to enter into dialogue with the governments on how to finance and prioritise the tasks present in the action plans and to identify common ground for future concrete projects.

In this dialogue Sida should consider the following recommendations based on the *lessons learned* from the implementation of the PACO Impact:

We recommend that future Sida support is done through bilateral projects with a clear focus on creating concrete results. The support must be in line with and build upon the foundation created in the PACO Impact project such as the strategies and action plans of the respective areas. Coordination with the main political processes in the region such as the Stabilisation and Association Process (SAP) and adherence to international conventions and other commitments will be of outmost importance since they will dominate the agenda of the governments for the considerable future.

In the selection of where to intervene, *we recommend* that the criteria of adopted laws and anti-corruption action plans should be considered.

Given the knowledge on how political will is built, Sida need to make sure to identify the forces working for change and to coordinate with them. *We recommend* that direct support to these actors in their roles in awareness rising, training and education as well as research, studies and publications should be considered.

We also recommend that future interventions integrate components on how to measure the levels of corruption and the possible effects that the interventions might have on those. This could be done through direct data-collection as part of the intervention but more likely through the use of already existing data from organisations such as Transparency International, the World Bank etc. (so called studies to streams).

To ensure the likelihood of sustainability, *we recommend that* in order to improve ownership, a greater effort to include the counterparts in project management in terms of planning, implementation and follow-up should have been made.

It is *our view that* capacity building and training in preparation for implementation needs to be further stressed. *We recommend* Sida to include large components of capacity building for instance media training and training of trainers in future intervention to assist in implementation of the action plans developed.

2 Introduction

2.1 The Assignment

The fight against corruption has been identified as one of Sida's strategic priorities. Besides taking measures to mainstream corruption throughout its development co-operation portfolio, Sida is also supporting projects specifically targeting corruption. The subject of this evaluation is "PACO Impact: Implementation of Anti-corruption Plans in South Eastern Europe".

According to the Terms of Reference (ToR) the objective of the assignment is to "evaluate the project in terms of achievement of project objectives, quality in implementation, results, cost effectiveness and lessons learned. In addition it is also expected that the evaluation team will analyse the relevance of the project in the portfolio of Sida in the Balkans." The full ToR can be found in Appendix 1.

The ToR also states that the evaluation shall include a discussion concerning the preparation of a possible second phase of the evaluated interventions. This is no longer a central part of the assignment as the focus was shifted towards a discussion on possible options for Sida support in the field of anti-corruption in the Balkans that will take its point of departure in the lessons learned from this evaluation.

Included in the scope of the assignment is to furnish Sida as the commissioner of the evaluation with recommendations based on the findings. The recommendations will however, be directed both to Sida and Council of Europe (CoE).

2.2 Methodology

At the start of the assignment the evaluating team prepared a document to state their views of the criteria, focus and limitations of the assignment. This was introduced, discussed and finally approved during two meetings in May with Sida HQ.

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We would like to thank those interviewed, they have been very generous with both their time and sharing of their experiences verbally and a through a variety of documentation.

3 The Context

Corruption has been identified by Sida and other development actors as a serious hindrance to development and in particular as posing a significant risk of unfavourable effects on development in, for example, poverty reduction, economic development, the rule of law and a democratic social structure. Anti-corruption concerns have therefore been made one of three strategic priorities for the period 2005–2007.

Below follows a section on definitions of the concept of corruption and how protection against it is interlinked with democracy, poverty reduction and gender equality.

3.1 Definition of Corruption

There is no single, comprehensive, universally accepted definition of corruption. Attempts to develop such a definition invariably encounter legal, criminological and, in many countries, political problems. The working definition of the World Bank is that corruption is “abuse of public power for private

benefit”. Council of Europe, in its Civil Law Convention on Corruption, defines corruption as “re-requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof”. Sida uses the following definition of corruption: “Institutions, organisations, companies or individuals obtaining improper gains by their position in an operation and thereby causing damage or loss”.

One of the most important analytical distinctions regarding corruption is between “political corruptions” and “bureaucratic corruption” (largely the same as the terms ‘grand’ and ‘petty’ corruption, also commonly used). Political corruption takes place at the high levels of the political system, and it involves political decision-makers. It manifests itself when political decision-makers use their political power with the principle objective of sustaining their own power, status and wealth. The worst form of political corruption is sometimes called “state capture”. That is when political corruption is so wide spread that the rule of law no longer applies and the country is ruled in breach with the constitution. Political corruption can be distinguished from bureaucratic or petty corruption, which is corruption in the public administration, in the implementation end of politics.

There are many different ways for measurement of the level of corruption. No method is flawless or unquestionable but they can provide good enough data for most cases, separately or in a combination. A description of a number of the most common measurements can be found in Appendix 3.

3.2 Protection against Corruption

All societies have more or less effective systems in place to defend themselves against corruption. The abilities and effectiveness of these systems differ depending on a wide array of factors. The picture below aims to describe the societal functions that constitute the protection against corruption in the form of a Greek temple¹. The roof is the actual protection against corruption, here called “National Integrity System”. It is supported at either end by a series of pillars, each being an individual element of the system. The “temple” itself is built on and sustained by foundations, which comprise public awareness and society’s values.

The “pillars” are interdependent but may be of differing strengths. If one pillar weakens, an increased load is thrown onto one or more of the others. If several pillars weaken, their load will ultimately tilt, so that the “round balls” of “sustainable development”, “Rule of Law” and “quality of life” will roll off, crash to the ground and the whole edifice collapse into chaos.

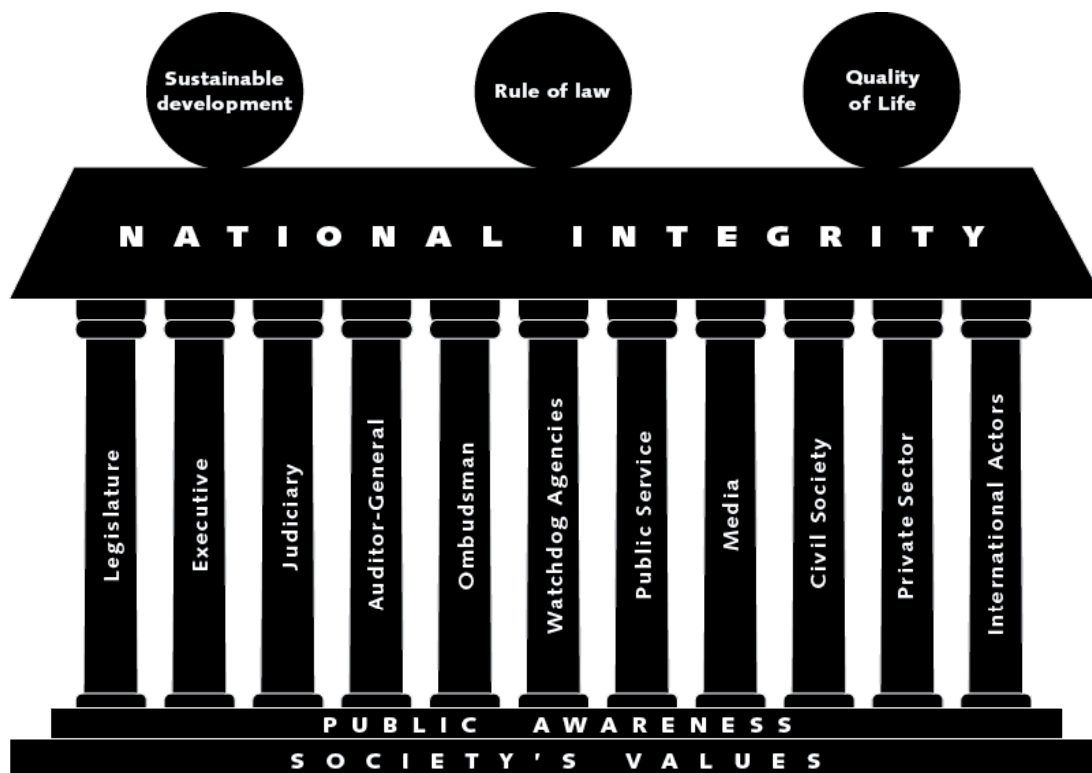
When strengthening a system to fight corruption, all parts of the building need attention. However, no society will be able to reform all sectors at once so an assessment must be made of where to start in order to have the greatest impact.

3.2.1 Democracy and corruption

Can democracy serve as a protection against corruption? There are obvious links between the societal functions that constitute the National Integrity System described above and the functions that are needed to build a fair and democratic society. The PACO Impact project makes an explicit connection between democracy and corruption in its long-term objective: “Strengthen democracy and the rule of law in South-eastern Europe through the prevention and control of corruption”.

The causal connections between corruption and democracy, however, are not clear-cut, i.e. a democratic form of government does not automatically lead to a lower level of corruption and lower levels

¹ Taken from J. Pope: Transparency International Source Book: Confronting corruption: The Elements of a National Integrity System, 2000, p. 35



of corruption do not automatically lead to more democracy.² Democracy can, however, function as a vaccine against corruption if it works according to the principles of Good Governance (described in the “temple” above). If, on the other hand, the state is weak, democracy can create new opportunities for corrupt behaviour. Some of the criteria that need to be fulfilled in order for democracy to be effective in reducing corruption are:

- A genuine political will to fight corruption
- A basic level of trust and loyalty between the democratic entity (demos) and the public service
- Clear codes of conduct within the public sector
- A basic level of public service delivery to all members of society

The first criterion has been the focus for much debate, especially among the donor community: How can the political will be measured and assessed, and more importantly, how can it be built? Research and evaluations seem to have reached consensus over the fact that political will needs to come from the inside. It cannot be created in a country by outside forces.³ In the absence of will for change within the political leadership, the most efficient role of donors and other external actors will according to the same research be to support the forces for change that do exist in the country. This force can reside in many locations, branches of government, the political opposition, watchdog and other NGOs, international organisations, and both public and private sector institutions.

² For instance, in the case of Singapore the success in combating corruption has not been due to a more democratic system nor has it led to a more democratic situation.

³ “The impetus for a reform programme has to be home grown and home owned – the initiative to fight corruption must come from within a country, not from outside. There have been many examples of donors trying to impose anti-corruption programmes on countries as pre-conditions for them to receive aid, and none can be regarded as having had the intended consequences”. J. Pope: Transparency International Source Book: Confronting corruption: The Elements of a National Integrity System, 2000, p. 45

3.2.2 Corruption in relation to poverty reduction and gender equality

How does the level of income relate to corruption? There are clear correlations between GDP per capita and the level of corruption: The higher the GDP per capita, the lower the level of corruption. There are exceptions to this rule such as Italy with high GDP per capita but still high level of corruption and Chile and Botswana with low GDP per capita and low level of corruption but the overall picture is clear. It seems corruption is one important variable (of course one out of many) that affects the level of prosperity of a country.

In terms of corruption as a threat to poverty reduction, attempts to reduce poverty are affected by corruption both directly and indirectly. The direct effect is that the poor are denied access to numerous public services (in public administration, health care and education) because additional payment is often required. The indirect effect is that the existence of large-scale corruption greatly discourages foreign investors, which in turn threatens economic growth and thus the scope for poverty reduction.

Does gender equality affect corruptions levels? According to some theories, the level of gender equality in a society will affect the level of corruption. Other attempts have tried to establish a relationship between a high level of women in politics and less corruption resulting from their presence and influence. However, the results from studies in the field are debatable and there seem to be no established consensus on the matter among researchers.

In terms of the effects of corruption with regard to the differences between men and women there is a great need for further research. It can be said that corruption, which drains public resources and takes much needed funds away from national economic development or social services, disproportionately affects women and the poor who are most dependent on them. Women may also be in less powerful positions to challenge corruption when it occurs.

Alternatively they may face gendered forms of corruption such the demand for sex in return for particular services or resources⁴. General findings like these might provide valuable information on how to combat corruption in a gender sensitive manner. However, the specific implications of corruption for women and men must be considered in every sector in which reforms are proposed.

4 Findings

4.1 The Background to PACO Impact

The Council of Europe has been cooperating with countries of South-eastern Europe against corruption, organised crime and money laundering since the late 1990s. With regard to the development of the PACO Impact project, the experience gathered under the PACO Albania project (since 2001) was particularly valuable. Under this project, the Albanian Anti-corruption Monitoring Group (ACMG) was established and strengthened, the national anti-corruption plan was improved and the implementation of the plan was promoted through a range of activities in priority areas (legislative advice, training, micro-system studies etc.). The PACO Programme – in 2002 and 2003 – did furthermore support “The former Yugoslav Republic of Macedonia” as well as Kosovo with regard to the design of anti-corruption plans.

CoE saw the PACO projects in Albania as a successful way of creating important results in a country-specific project, like

⁴ C Sever, 2005: The Gender, Poverty, Governance Nexus: Key issues and current debates.

- The approval of the Action Plan for the prevention and fight against corruption (taken by the Council of Ministers in August 2003)
- Rules of Ethics for Public Administration (Parliament September 2003)
- Memorandum of understanding for establishing the Triangle Commission, on the Exchange of information and networking on corruption offences allegations and related criminal proceedings. Representatives from the Officer of the minister of State, Officer of the Prosecutor General and Crime Directorate and the Albanian Coalition against corruption (signed in July 2003)

In 2003 CoE approached Sida, who was the donor of the Albania projects, with the proposal of PACO Impact, a project based on the experience gained in Albania but addressing the whole South Eastern Europe region. The regional approach was perceived by the CoE to have considerable benefits in that it would allow for:

- sharing of experience and access to best practice
- ensuring of consistency with European standards throughout the region
- creating of peer pressure and supporting regional dynamics
- cost effectiveness of management.

In the Assessment Memo on the application for the PACO Impact project, Sida states that there had been some progress in the countries of South Eastern Europe on fighting corruption in terms of the adoption of European standards and relevant legislation including the joining of the international monitoring mechanism (Group of States against Corruption – GRECO),

elaborating national anti-corruption plans, and establishing specialised anti-corruption services. But that the fight against corruption must be viewed as a difficult and long-term process, involving not only political commitment and structures but also the general population. Sida also concluded that experience has also shown that anti-corruption strategies are more likely to be successful if they consist of three elements that are closely inter-related

- enforcement of legislation
- prevention
- public awareness and participation in anti-corruption efforts.

Sida also stressed the need to build local structures in order to keep momentum of the different processes at hand. The process of formulating and implementing anti-corruption plans and setting up of specialised institutions was at different stages and had taken different forms in the countries in South Eastern Europe, but the PACO Impact project was seen as a way to meet those needs in the region.

4.2 The Inception Phase

Due to the complex set-up of the project, an inception phase of five months was agreed upon. During the inception period the nomination of country project directors took place and the recruitment of local project officers was finalised. Work plans were developed with the assistance of CoE in each of the areas during separate start-up conferences between February and June 2004. A regional start-up conference with participants from all project regions was held in July 2004 in Bodva to finalise the specific work plans for each project area. Depending on differences between the project areas in terms of earlier experiences in anti-corruption and different organisational set-up, the content and approach differed to some extent in the respective work plans.

In Sida's Assessment Memo for the project, the inception phase was seen as a "testing period" that would secure the overall implementation of the project. In accordance with what was planned, Sida appointed a Quality Group with the task to give recommendations regarding the handling of all suggestions/changes proposed in the inception report.⁵ In actual fact, the final project document including the work plans for the respective project areas was not finalised and adopted until early 2005, nearly a year into the two year long project.

A gender analysis was made during the Inception Phase. However when the project document was finalised, gender equality was neither reflected in the project objective nor at any other level of objective. Even though there has been a gender balance in many of the different activities in the project areas, gender issues have not been included in the project activities.

4.3 PACO Impact

In the project document, the project objectives are summarised in the following matrix.

Long-term objective:	Strengthen democracy and the rule of law in South-eastern Europe through the prevention and control of corruption
Project objective:	To contribute to the implementation (and further elaboration) of anti-corruption plans in countries of South-eastern Europe
Output 1:	Anti-corruption plans improved or elaborated
Activities:	• In-country working group meetings, workshops and training events and advice to improve or elaborate and operationalise anti-corruption plans (including clear benchmarks, indicators, and assignment of tasks, and reflecting a balance between law enforcement, prevention and public awareness/involvement) • Regional seminars to allow for a mutual review of anti-corruption plans and experience exchange (in support of the aims of the SPAI)
Output 2:	Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened
Activities:	• Advice on legal basis, tasks, organisational set up and management of anti-corruption institutions • Provide training for staff and advice to these institutions • Provide basic equipment to these institutions (if necessary) • Facilitate experience exchange and networking among anti-corruption institutions (in support of the aims of the SPAI)
Output 3:	Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards
Activities:	• Support review of criminal legislation • Commission legal opinions • Hold workshops/training events to discuss and finalise draft laws for submission to government
Output 4:	Pilot activities supported
Activities:	• In each project area support the implementation of limited number of activities which are of high priority and impact, which could serve as examples or which could help create a momentum • Regional seminars to provide access to best practice and disseminate experience gained in different countries.

⁵ For further information on the Quality Group, see section 4.1.1.

4.4 The Logic of the Project Document

The project documents makes certain assumptions on the linkages between the different levels of objectives in the project. In accordance with common log frame structure, the activities will collectively lead to the achievement of the respective outputs, and the collected achievements of the four outputs will lead to the achievement of the project objective or purpose that in turn will contribute to the achievement of the overall or long-term objective.⁶

4.4.1 The project objective contributing to the long-term objective

Generally, the possibility to evaluate development projects becomes more difficult higher up in the objective hierarchy. At the level of long-term objective, it is in general very hard to first of all measure impact and secondly to attribute possible effects to the intervention in question. It is also part of the definition of a long-term goal that the intervention will only contribute to its fulfilment.

The link between the project objective and the long-term objective, *strengthen democracy and the rule of law in South-eastern Europe through the prevention and control of corruption* is based on two assumptions, a) that the implementation of anti-corruption plans will actually lead to prevention and control of corruption and b) that there is in fact a clear link between corruption and democracy.

The first assumption, that implementation of anti-corruption plans will contribute to prevention and control of corruption, seems likely. *Our assessment* is that effective implementation of a well-crafted plan indeed would contribute to the aim of reducing corruption. Unfortunately, there are very few examples, if any, of programmes of this kind that really have shown to be successful in reducing corruption. However, *we assess* the main problem to be low political will rather than a weakness in the assumption regarding the link between implementation of anti-corruption plans and reduction of corruption.

Regarding the second assumption, as discussed in 2.2.1, there has in fact not been identified any clear-cut causal connection between corruption and democracy. However, it is clear from research, that corruption is a serious hindrance to economic development, that it affects poor disproportionately and that it undermines the trust in political systems including democratic ones. It is *our view that it* therefore is likely that reduction of corruption at all levels in the societies of the project would lead to greater trust in the political system and thus strengthen the democracy in the region.

Our assessment is therefore that the link between the project objective and the long-term objective of the PACO Impact is realistic.

4.4.2 The outputs leading to the achievement of the project objective

If the outputs are successfully achieved it is assumed that they will lead to the achievement of the project objective, *to contribute to the implementation (and further elaboration) of anti-corruption plans in countries of South-eastern Europe*. In other words, it is assumed that the development of anti-corruption plan, institutional mechanisms, laws and pilot activities actually will lead to the implementation of the anti-corruption plans.

This assumption relies heavily on the existence of strong political backing from the government. The importance of political will is also underlined by the project and the lack of political will is considered in the project document as the single greatest risk to the project. In order to handle the risk of low political will, the project state that it will be important to:

- “Maintain flexibility in the planning of activities and exploit opportunities as they arise
- Accompany project implementation by continued high level policy dialogue

⁶ The activities in the project were identified in the respective project regions as part of the inception phase. The assessment of the extent to which they lead to the achievement will be dealt with in the sections on the achievements in the respective project area (appendix 4–7).

- Monitor compliance through the Group of States against Corruption (GRECO) and make use of state of play reports of the project during implementation
- Coordinate and act jointly with other organisations and mechanisms such as OECD and SPAI to reach agreement on the approach to be followed
- Provide feedback and recommendations to the SAAP (sic!) as appropriate
- Ensure that project results and impact are owned by the region and each respective project area in order to enhance sustainability.”⁷

As seen above, the risk of low political will is handled largely through the coordination with external political processes putting pressure on the government. The political pressure on the governments in the region to make progress in the area of anti-corruption is indeed high; there is a lot at stake in complying with the criteria set-up by EU and other. However, as we have seen under 2.2.1, research and evaluations points to the fact that it is not likely for political will to emerge through pressure from outside actors. According to one of the larger assessments to date of anti-corruption assistance to South Eastern Europe, programmes like PACO Impact are themselves crucially dependent on political and public support and cannot be seen as capable of generating such support – their mobilisation potential for reforms appears limited⁸. In the absence of will for change within the political leadership, the most efficient role of donors and other external actors will according to the same research be to support the forces for change that do exist in the country. This force can reside in many locations, branches of government, the political opposition, watchdog and other NGOs, international organisations, and both public and private sector institutions. *Our assessment is* that, given the crucial importance of the existence of political will, it is a weakness of the project logic that it does not include or coordinate with other forces of change. The project logic relies too heavily on outside political pressure when it comes to ensuring political will.

4.5 Results (description of the respective project areas in appendix)

Below is presented our overall view of the project both in terms of work processes used and results achieved. The view is based on and summarises the findings from the four project areas included in the assignment. The presentation follows the structure of the project starting from the outputs, moving upwards in the objective hierarchy to the project objective and the long-term objective. The detailed descriptions of the project implementation in each project area can be found in Appendix 4–7.

4.5.1 Output 1: Anti-corruption plans improved or elaborated

The aim of the project under this output is to ensure the existence of adopted anti-corruption strategies and action plans in every project area. The strategies and action plans will then function as the focal point in the process of fighting corruption in the respective project area.

The starting points for the efforts under this output varied considerably between the project areas depending on previous developments. In Kosovo and Albania, anti-corruption strategies already existed before the start of PACO Impact and in Montenegro a draft strategy existed. This draft has now been revised and finalised. Also in Serbia a draft strategy was produced but due to lack of continuity and communication between the actors involved, the working group did not make any reference to the earlier product. *Since July 2005 all of the project areas have adopted anti-corruption strategies.*

The strategies are general and broad in their nature. Their scope varies between the project areas and

⁷ PACO Impact Inception Report, Chapter 8.

⁸ M. Tisné and D. Smilov: From the Ground Up: Assessing the Record of Anticorruption Assistance in South-eastern Europe, 2004, p.53

does in some cases even include the fight against organised crime which of course increases the scope of work and the complexity of the whole undertaking. After the finalisation of the anti-corruption strategies, all project areas started the drafting of action plans in line with the strategies. The processes of drafting action plans have been given a lot of time and resources in the project but the progress have been slow and only Kosovo has so far an adopted action plan.

From a regional point of view seminars have been held to exchange experiences, models and lessons learned when it comes to the drafting of strategies and action plans. Participants from all project areas took part in these activities, which contributed to the networking between the anti-corruption services.

Reasons for the slow progress in developing and implementing action plans are largely dependent of the specific situations in the project areas. These factors include an unstable political situation in the whole region as well as on-going large scale reform of the public sectors. However, some characteristics specifically related to the strategies and action plans shared by all or some of the project areas exist that can be suspected to have bearing on the processes.

- The strategies in place are broad and extensive, a fact that might create problems in the process of transferring them into a concrete action plan, where priorities has to be made, responsibilities allocated and resources made available.
- The responsibility to oversee and monitor the strategy and action plan is not clearly distributed. In Serbia and Kosovo this responsibility rests with an organisational body yet to be established.
- Laws are in many cases unclear or in draft form

Our assessment is that the existence of a strategy is a good first step in the fight against corruption in the project areas. However, the logic of fighting corruption through a strategy, as well as the logic of the PACO Impact, is built on the prompt availability and implementation of an action plan. In the project, the momentum created by the adoption of the strategies in the respective project areas has not been maintained into the implementation phase. The achievements under this output have thus not reached the target since in most cases the action plans have not been finalised and none or very little implementation have started.

In order to facilitate the process of developing action plans and improve the chances of smooth implementation, *we recommend* that separate action plans are developed for different sectors in cooperation with the relevant sector ministries. In the case of the integration of organised crime into the strategy, the implementation will, *in our view* benefit from the development of separate action plans for anti-corruption and organised crime.

The responsibility to oversee and monitor the implementation of the strategy and action plan needs to be clearly stated and concentrated in one body. We agree that the specific organisation in charge of anti-corruption in Albania and Montenegro (DIAC and OACI) should have a leading role in the monitoring and stress the need for implementation of the coming agencies of Serbia and Kosovo.

4.5.2 Output 2: Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened

The aim of the project under this output is to establish and/or strengthen the capacity of the institutions in charge of fighting corruption and in particularly the ones responsible for the monitoring and management of the anti-corruption strategy and action plan.

The organisational set-up differs between the project areas. The start of the activities in the respective project areas included workshops on how to strengthen the relevant institutions in the best way as well as the possible need to create new ones. During this stage, a variety of institutional models were taken into consideration including some examples from the region.

There have been close connections between the outputs 1–3. In some of the project areas, the discussions on institutional set-up took place as part of the development of strategies and action plans under output 1. In some areas the institutional strengthening was mostly discussed under output 3 where the legal base to establish new institutions was developed.

In Serbia and Kosovo the anti-corruption organisations were not yet established and the activities under output 2 were directed towards supporting that establishment. Nevertheless, since the anti-corruption agencies still are not established most of the support to the institutional mechanisms was given under output 3 through drafting of laws to provide their legal base. Following this, the purpose of the activities under output 2 became unclear and has to a large extent been pending.

In Albania and Montenegro anti-corruption organisations already existed and the activities were directed towards supporting those bodies. In Montenegro this has been done through support to a new section of the organisation. This support includes the funding of a new officer for a period of six months. In Albania, changes in the organisational set-up of the organisation during the project due to a new political agenda has led to a change of focus of the activities towards the support of a framework and internal procedures of the new structures.

The activities under this output have led to an increased networking between the different actors in the whole region through the regional seminars on anti-corruption mechanisms.

The aim of the output was to strengthen the relevant institutions in their capacity to monitor and manage the implementation of the anti-corruption strategies and action plans. In Albania and Montenegro the project has supported the relevant anti-corruption organisation in concrete ways through the supply of additional funds and resources.

In Serbia and Kosovo, the institutions have not yet been established although some activities have been implemented to assist in their establishment. In general the lack of progress under the other outputs of the project has had a big impact on the activities under output 2 and this has made it difficult to assess the ability of the institutions to monitor and manage the anti-corruption implementation.

The need to support the establishment and strengthening of the anti-corruption organisations remains a high priority for future interventions in all project areas. Direct support on institutional building should be considered.

4.5.3 Output 3: Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards

The successful fight against corruption is dependent upon a clear foundation of relevant laws and legislations. Legislation is needed both in terms of providing the legal base for the relevant institutional mechanisms and in terms of possibilities to investigate and prosecute crimes related to corruption. The aim of the project under this output was to improve the criminal legislation on corruption.

In Serbia and Kosovo, the focus has been on developing more general anti-corruption laws with the establishment of a new anti-corruption organisation as one of the main purposes. In Albania and Montenegro, the focus has been on drafting and amending legislation in several areas such as conflict of interest and funding of political parties.

Regarding the drafting of more general anti-corruption laws, Kosovo has reached the status of adoption while Serbia is still in draft. In the case of the adopted law, the anti-corruption agency now has a legal base but is still not fully established.

When it comes to the drafting of other laws, Montenegro has mainly assisted in the drafting of a new law on conflict of interests that is finalised since long but not yet adopted. In this project are, the drafting and amending of other relevant laws have also been supported but none of these laws have yet

been formally adopted or changed. In the other project area, however, the drafting of several new laws has been supported and are now adopted.

Capacity building on law drafting and aspects of implementation of legislation has taken place to some extent in all project area under this output. This has been done through workshops and discussions between the experts. Also at the regional level capacity building through peer review and compliance with international anti-corruption conventions as well as training on law application of anti-corruption standards has taken place. In addition practices of legislation and implementation of the respective laws on Conflict of Interests were discussed.

The approach of setting up working groups with members from the relevant ministries and to have a close cooperation with local and international experts has resulted in a participatory process. The experts in the function of facilitators, has also to some extent assured the quality of the laws in line with European standard and their influence over the draft laws have been considerable.

It is *our assessment* that the results under this output have differed a lot between the project areas. A number of important laws have been taken or developed. The legal basis in the whole project area has been enhanced. However, several cases of slow progress and examples of draft laws being “buried” have been identified. It remains to be seen whether those laws will be adopted at all. Laws on anti-corruption are a sensitive matter and in case of reluctance the project will need to coordinate with other actors in order to build a pressure for change in society.

4.5.4 Output 4: Pilot activities supported

The aim of the project under this output is that in each project area support the implementation of a limited number of activities of high priority and impact. This approach was meant to serve as examples that could help to create momentum.

The project areas have selected activities very different from each other and we therefore present them separately below.

Albania

In December 2002, during the project PACO Albania 2, the Prosecutor General of Albania requested CoE to assess a case management and information tracking within the prosecutorial system to create a control mechanism to ensure the proper legal base for each investigation. The objective was to ensure transparency in the work of the prosecutors and to prevent corruption. The system had to be put on hold because of lack of resources, but in 2004 it was selected to be the pilot within PACO Impact.

In January 2005 the Prosecutor General recruited five prosecutors and one IT specialist to the Working Group. The work targeted a national approach with standard forms for investigation and training, including a study trip to Germany to learn more about the experiences from their systems.

The plan is for the Prosecutor General to recruit special prosecutors to monitor and control the input in the database. It is also foreseen that there will be four pilot offices and a system that, if approved, should give information on and monitor all investigations.

The result so far is a draft Prosecutor General order for the Case management system and its normative act. The final standard forms are ready, there are steps and guidelines in draft, the software for the database is there but has not yet been tested, training should be developed including the development of a Manual to be introduced to all district prosecutors.

All these activities are still waiting for the Prosecutor General’s approval. Unfortunately, this pilot seems to have become a paper tiger, since there is no possibility to implement the system with only 1,5 months remaining of the project.

Serbia

In January 2006, the pilot activity action plan started with the aim to establish and introduce a new Integrity Plan as a preventive anti-corruption measure, consisting also as a part of the National anti-corruption strategy. The activities also included the development of Integrity Plans Manual and training of trainers for officials to be able to support other courts and offices of prosecutors in the drafting and implementation of Integrity Plans. Belgrade District Court and the Prosecutor's Office in Belgrade were selected as targets for the pilot activities.

A change occurred in April 2004 and instead of having both the court and the prosecutor's office at the district level in Belgrade, it was agreed to keep Belgrade District Court but to use the Municipal Prosecutors Office in Pancevo. Two reasons were stated for this decision, to have one small and one large institution and to include a regional perspective by including an institution outside Belgrade.

Since the start there have been a number of activities implemented by the working group with the assistance of experts, but the drafting of the plan and the manual is still at an early stage, currently with the collection of data through questionnaires as part of the preparatory stage. According to LPO the Integrity Plans might be finalised at the end of the project depending if there still are project funds remaining to print it.

Montenegro

The focus was on strengthening the newly established Office of Special Prosecutor through drafting of the Internal Rules of Procedures and purchase of office equipment.

The process started with an expert mission to determine the current situation of the institutional and legislative set-up. The mission also gave advice on more specific assistance that could be provided during the course of the Pilot Activity

This activity was followed up with the development of two advisory papers regarding the Strengthening of the Prosecutorial Services in Montenegro and on Case Management for Prosecutorial Services as good practices from the region to Ministry of Justice. The draft Internal Rules of Procedures are currently being developed by the Ministry of justice and are not yet finalised. The purchase of office equipment for the Office of Special Prosecutor has been implemented.

In addition a joint training for prosecutors, customs, FIU and police on investigating corruption related offences was held in June 2006 after the visit of the evaluators.

Kosovo

The plan was to provide assistance and support to the establishment of the new office of the anti-corruption agency in Kosovo (including the purchase of equipment). Also the activities aimed at supporting the anti-corruption agency planned under output 2 were included under output 4.

The activities started in 2006. The drafting of the internal rules of procedures has started and the plan is to purchase equipment for the Agency before the end of the project. This is in fact depending upon the actual establishment of that Agency.

Summary Output 4: Pilot activities supported

The purpose of pilot activities as such is to give the possibility to experiment with trial and error during a development stage. *Our comments* are that the system to test the different activities should to some extent have started earlier and in a smaller scale to be able to serve as examples that could help to create momentum in the project implementation.

In no project area has the planned activities been implemented although important first steps have been taken. The sharing between the project areas of the pilot activity products and best practices in regional

or English language is planned towards the end of the project. According to CoE such interaction has already started between Albania and Montenegro.

4.5.5 The project objective: To contribute to the implementation (and further elaboration) of anti-corruption plans in countries of South-eastern Europe

With some caution, the results from the PACO Impact project all across the project areas can be considered an important step towards the successful combating of corruption. The outcome of the project has been considerable in three areas.

Firstly, it has assisted the project areas in advancing their efforts toward establishing some of the basic instruments in the field of anti-corruption: strategic documents, legal basis and operational mechanisms. Although in no visited project area the project has completely reached the targets set out, there has been considerable progress everywhere.

Secondly, the project has contributed to the creation of considerable awareness among the key governmental actors in the field of anti-corruption throughout the project areas. Using large, inclusive working groups, the project has been able to support processes where the important governmental actors have collaborated and the awareness and knowledge in the area has increased. The assistance of local and international experts has played an important role in this progress. The process has also lead to increased networking between state bodies in the project areas.

Thirdly, at the regional level peer review and training on for example compliance with international anti-corruption conventions, law application, conflict of interest and strengthening of institutional mechanism have taken place. The regional component of the project has created a platform where experiences can be shared between project areas.

Having said that, still the PACO Impact project has not yet reached the stage of where the instruments developed will be put to practice. It remains to be seen how and to what extent the instruments will work in real life.

Reasons for the slow progress and the lack of movement from “planning to implementation” in the project are largely dependent of the situations in the respective project areas. However, some general problem areas shared by all or some of the project areas the can be suspected to have bearing on the processes are presented below.

- A political situation that in several project areas can be characterised as unstable and unpredictable is common to the whole region covered by the PACO Impact. This can be exemplified by the unclear political status of Kosovo and the change of government in Albania in the end of 2005.
- The public administrations in the project areas are currently being subject to extensive reforms in several areas. The adjustment to European standards and international conventions are being done at a rate where changes in laws, organisational set-up and mandate create a high pressure on the understaffed offices. This affects the reforms in the area of anti-corruption through stiffer competition over resources and staff in the public sector as well as in the possibility to get the attention needed from high officials and decision-makers.
- Attempts to induce change will always be met with resistance since it tends to alter the balance of power. In the area of anti-corruption this is especially true since the stakes are high and the reluctance can be expected to be high as well.
- Complex reforms will never be fully possible to predict. Changes in one area will unavoidably have unforeseen consequences in other areas. The famous saying “the devil is in the details” applies fully to reform in the area of anti-corruption.

- The pilot activities did not function as spearheads for the project and did not create momentum for other activities.
- The anti-corruption strategies in place are broad and extensive, a fact that possibly can create problems in the process of transferring it into a concrete action plan, where priorities has to be made, responsibilities allocated and resources made available.
- The responsibility to oversee and monitor the strategy and action plan is not clearly distributed. In at least two of the project areas this responsibility rests with an organisational body yet to be established.

Several of the reasons stated above are clearly outside the reach of the project to influence.

Others could, according to the our view have been handled differently and we therefore *recommend*:

- As part of the Inception Phase the key persons involved in the project should have been given the opportunity to develop their skills on change management to prepare them on how to deal with the process of change in the project.
- Development of separate action plans for different sectors in cooperation with the relevant sector ministries in order to facilitate smooth implementation.
- Further clarifications of the roles of the specific anti-corruption agencies in the coordination of anti-corruption efforts in project areas and the direction of institutional support to those intuitions.
- To improve ownership, a greater effort to include the counterparts in project management in terms of planning, implementation and follow-up should have been made. For this to be possible, the counterparts appointed need to have the appropriate authority, resources and time to be able to act as a driving force in the project.
- The pilot activities could have started earlier and in a smaller scale to create concrete results and necessary experiences that could have been a driving force for other activities.
- In order to handle political reluctance, the project should make a greater effort to coordinate with other actors within the project areas in order to assist in building a pressure for anti-corruption reforms in society.

It is *our view* that gender has not been integrated into the PACO Impact project. Therefore *we recommend* that gender should be mainstreamed into the strategies, action plans and laws developed in the project. In order for this to happen, the international experts provided by CoE should raise gender issues in the field of anti-corruption in the working sessions. Research on the effects of corruption on men and women, for example, in relation to possible differences in the access to health services and education, should be identified and used in all needs and problem analysis. Gender balance should be raised as an issue in all decision-making and work processes of the project as well as in the access to capacity building.

4.5.6 Long-term objective: Strengthen democracy and the rule of law in South-eastern Europe through the prevention and control of corruption

The PACO Impact project has not reached the stage where the anti-corruption action plans are being implemented. It is therefore not fully possible to evaluate the level of impact on prevention and control of corruption or on the democracy in South Eastern Europe. The important question according to the evaluating team is instead whether it is *likely* that what have been produced in the project will be taken forward and put to practice, and to what extent this would create impact on the level of corruption and the democratic situation in the region.

This question will of course be a hypothetical one since the answer lies in the future. However, according to the lessons learned from other similar efforts, the chances of success are not great. There are few positive examples known to the evaluating team where efforts similar to the PACO Impact actually have been proved to have a positive impact on corruption levels. Instead, it is *our view* that PACO Impact, contradictory to its name, has to be looked upon as creating a foundation for future anti-corruption efforts. The existence of strategies and plans does not decrease corruption levels in society, but the documents form a basis for changes to happen. In addition, the awareness created as well as the networks established in the region, at least at the governmental level, will likely affect future efforts in a positive way.

The conclusion that PACO Impact has created a foundation points to the question of what can be built on that foundation during the coming steps.

A first step for Sida could be to enter into dialogue with the governments on how to prioritise the tasks in the action plans and to identify common ground for future concrete projects. Support to specific institutions such as the anti-corruption agencies and other ministries can be one area. Development of action plans for sectors where the public is most likely to face the problem of corruption, such as the health and education sectors can be another.

The need for concrete results is now strong. The PACO Impact project has contributed to raising the awareness and the expectations among governmental officers as well to some extent in the general public. If these expectations are not met the risk for increased cynicism and scepticism for future efforts is great.

Therefore, *we recommend* that future Sida support is done through bilateral projects with a clear focus on creating concrete results. The support must be in line with and build upon the foundation created in the PACO Impact project such as the strategies and action plans of the respective areas. Coordination with the main political processes in the region such as the Stabilisation and Association Process (SAP) and adherence to international conventions and other commitments will be of outmost importance since they will dominate the agenda of the governments for the considerable future.

Given the knowledge on how political will is built, Sida need to make sure to identify the forces working for change and to coordinate with them. *We recommend that* direct support to these actors in their roles in awareness rising, training and education as well as research, studies and publications should be considered.

We also recommend that future interventions integrate components on how to measure the levels of corruption and the possible effects that the interventions might have on those. This could be done through direct data-collection as part of the intervention but more likely through the use of already existing data from organisations such as Transparency International, the World Bank etc. (so called studies to streams).

The sustainability of the achievements in the project is difficult to assess. The lack of concrete action and results could be interpreted as an indicator of low local ownership that in turn definitely would affect the sustainability in a negative way. To ensure the likelihood of sustainability, *we recommend that* in order to improve ownership, a greater effort to include the counterparts in project management in terms of planning, implementation and follow-up should have been made.

In PACO Impact the focus has largely been on developing strategies and plans, legal framework and establishing corresponding institutions and structures. Capacity has been built to some extent within the organisations involved in the project through regional meetings, seminars, workshops, training and networking. It is *our view that* capacity building and training in preparation for implementation needs to be further stressed. *We recommend* Sida to include large components of capacity building for instance media training and training of trainers in future intervention to assist in implementation of the action plans developed.

5 Organisation and Management of the Programme

5.1 The Roles and Responsibilities

The organisational set-up of the project is complex and includes Sida at HQ and in the field, Council of Europe HQ and in the field, as well as the recipient governments through various organisations.

5.1.1 The role of Sida

Sida is the sole donor to the PACO Impact project as well as to the predeceasing PACO projects in Albania. The monitoring mechanism set-up by Sida for the PACO Impact consisted of report requirements (Inception, 1st and 2nd semi-annual and Final reports), an inception reviews after the Inception Phase and a mid-term review after one year. The purpose of the reviews was to assess progress and to agree on adjustments to the project if necessary. Finally an external evaluation was to be conducted two months before the end of the project and be discussed in a final meeting at the end of the project.

Within Sida, a Programme Officer within the department of Sida Europe in Stockholm has the overall responsibility for the project. However, at the various Swedish representations in the regions, officers also take part in the follow-up of the project activities in their project area. It is *our assessment* that the de facto division of responsibility between HQ and field officers sometimes created to a situation where it was not always clear to all parties where the responsibility rested and no one at Sida had the full overview of the implementation of the project. *We recommend* that the division of responsibility, in practice, between the Sida officers should be clarified. *We also recommend* that all officers involved in the project should meet regularly to discuss and review the progress in the project.

In addition to the mechanisms described above, and due to the “difficult nature of the specific project area”, a special Quality Group (QG) with representatives from the Swedish Economic Crimes Bureau was established to provide Sida with expert knowledge on the subject matter. The role of the QG was to give recommendations to Sida regarding the handling of all suggestions/changes proposed in the inception report, and give general recommendations for the continuation of the project. Although the QG was contracted only for the assignment mentioned above, it was envisaged that they should continue in a similar role throughout the project.

The work of the QG during the Inception Phase came to be very controversial and the report that was produced is not considered in this evaluation. After the Inception Phase, the role of the QG was discussed and Sida decided to transform the QG into a Monitoring Team with new Terms of Reference. However, the Monitoring Team never came into existence, the reason being that it was seen to be too short time left in the project for a new Monitoring Team to be contracted. It is *our view* that, external monitoring was a crucial part of the monitoring mechanism put in place by Sida and thus of outmost importance for Sida in this project. As soon as the problems with the QG surfaced, a new Monitoring Team should therefore have been put in its place.

The Inception Phase was prolonged into 2005 and the final project document wasn't adopted until January 2005. This created a situation where the project and its total budget were agreed upon with CoE, disbursements started and activities implemented without the existence of a final project document for almost half of the project. The project document was during this time seen as “living document” and subject to on-going changes. The delay of the Inception Phase meant also that the mid-term review was delayed. It was held in August 2005 instead of in February 2005 and the main item on the agenda was the proposal of CoE to extend the project.

The approach of the project was supposed to be flexible according to the Assessment Memo. However, the prolonged inception phase and the “open” implementation make the monitoring and evaluation of

the project more difficult. It is *our view* that it is not within the limits of flexibility to work without project document for such a big part of the project. A time frame *should have been* set and conditions *should have been* included in the agreement between Sida and CoE on when to present the final project document.

5.1.2 The role of the Council of Europe

Council of Europe (CoE) is the implementing agency of the project. CoE is a well-established and respected actor in the efforts to fight corruption in the Balkans. It has extensive experience from anti-corruption work and it also stands behind the European Conventions on Anti-Corruption. Within its organisation is also found the mechanism of Group of States against Corruption (GRECO), which performs regular evaluations of the progress of anti-corruption among its members. CoE also has a vast network of experts with experience from the Balkans and other regions.

The CoE manages the project from Strasbourg where the management team is based. In addition, Local Project Officers (LPO) was specifically recruited in each of the project areas for the PACO Impact project. The role of the LPO is to assist in coordinating and facilitating the implementation of project activities. The LPOs have worked 50% for the project and been in charge of planning of activities and request of funds from Strasbourg. This has been done in coordination with the CPD. Although the workload have been substantial for the LPOs they have in many cases been important driving forces in the project. This is a fact that has been verified through the interviews by the evaluation team.

In the beginning of the project a Log frame matrix was produced stating the objectives at different levels, activities foreseen as well as indicators, time frame and resources needed. The Log frame has mainly been used in the production of work plans and not as a tool for follow up on the indicators. No systematic follow up has been done at the level of project objective. The follow-up and systematic analysis of the achievements on project objective level is not foreseen to happen before the preparation of the final report to Sida.

The reports from the PACO Impact to Sida are produced in Strasbourg with inputs from the respective project areas. The reporting has created discussions within the project, between the management team in Strasbourg and the Country Project Directors, in several cases. The issues have included statements in the reports on politically sensitive topics such as the political will to combat corruption and the political status of the project regions.

Our view is that the method of report writing in the project is not user friendly since the original report is regularly updated. This means that the reports contain a mixture of old and new information which makes it difficult to follow.

It is *our view* that the reporting from the project has not used the full potential of the Log frame that was developed during the Inception phase. The reports mainly states the activities implemented and are very limited on analytical discussion and follow-up on the indicators and the progress in terms of achievement on the level of the project objective. *We recommend* the analytical sections of the reports should be enhanced and include systematic follow-up against the project objectives at different levels. And in order to increase the accurateness of the reports and enhance the level of local ownership, *we recommend* that reporting is done in a more participative manner and include the counterpart organisations to a larger extent.

5.1.3 The role of the Counterparts

Within the respective recipient Governments, a Country Project Director (CPD) was appointed at the start of the Inception Phase. The CPDs were senior governmental officers from the relevant institution in each project area. The first task of the CPD was to lead the process of developing the work plans for the project areas. There are no job descriptions for the CPDs and they did not receive any payment other than their ordinary salary. This has at times created an overload of work for the CPDs, which has caused delays in the project implementation.

The role of the CPD has varied somewhat between the project areas. In some case he/she has coordinated all activities and been the head of working groups while in other cases, he/she has had a smaller role. The role of the CPD in the project reporting has been to in coordination with the LPO supply Strasbourg with updates on the implementation of the planned activities. On several occasions have the reports from Strasbourg caused reactions from the CPDs.

To improve ownership, *we recommend* the PACO Impact to use a greater effort to include the counterparts in project management in terms of planning, implementation and follow-up. For this to be possible, the counterparts appointed need to have the appropriate authority, resources and time to be able to act as a driving force in the project.

5.2 Resources

Considering the scope of PACO Impact the budget has been rather small, 1.500.000 euros divided between the 7 project areas during March 2004–July 2006. The final financial report was not available during our mission and the financial report used is dated 15 April 2006.

The financial management of the project has been handled in Strasbourg. Funds have been transferred to the project regions upon requests related to expenses for implementation of activities. International study trips, fees for local and international experts as well as the salaries for the Local Project Officers have been handled in Strasbourg. The transfer of fund has generally worked well but delays have at times created problems in the project areas.

Regarding to the previous agreement between Sida and CoE financial reports were to be structured in the following budget lines:

Budget lines 15 April 2006 (not final)	Budget %	Expenditure %	Notes
Human resources (salaries staff and experts)	30	27	
Travel and per diems (including international travels)	20	15	
Equipment and supplies (for anti-corruption institutions)	3	1	
Local office/action costs (field office running costs)	4	3	
Other costs/services (publications, conferences, seminars and translations)	22	19	
Other (pilots and miscellaneous costs)	21	12	
Total	100	77	

Because of the structure of the budget, it has not been possible for us to examine the costs at the different project area levels. From the information we have, including some working papers provided by CoE, the utilisation of the budget seems to be efficient and focus has been on the experts and the regional meetings. The only low spending is with the pilots since most of them are still in the preparation stage.

Never the less the centralised financial management in the project is problematic in terms of developing local ownership of the project and its processes. To develop the local ownership it *is our strong recommendation* that the various project areas should have the tools of information as well as responsibility and authority regarding the financial management.

6 Conclusions and Recommendations

According to the Terms of Reference the objective of the assignment is to “evaluate the two projects in terms of achievement of project objectives, quality in implementation, results, cost effectiveness and lessons learned”.

In the area of development assistance to fighting corruption, there are few success stories. Previous use of approaches like the one used in PACO Impact have, according to evaluations, in most cases not succeeded in terms of reduced levels of corruption. In line with these findings, the present evaluation also finds that the PACO Impact project has not yet reached the stage where the instruments developed have been put to practice in the fight against corruption. It will thus not be possible for us to refute the previous evaluations.

However, it is *our overall conclusion* that the results from the PACO Impact project all across the project areas can be considered as a first important step towards successfully combating corruption. We build this conclusion on the fact that the outcome of the project has been considerable in three areas.

Firstly, it has assisted the project areas in advancing their efforts toward establishing some of the basic instruments in the field of anti-corruption: strategic documents, legal basis and operational mechanisms. Although in no visited project area the project has completely reached the targets set out, there has been considerable progress everywhere.

Secondly, the project has contributed to the creation of considerable awareness among the key governmental actors in the field of anti-corruption throughout the project areas. Using large, inclusive working groups, the project has been able to support processes where the important governmental actors have collaborated and the awareness and knowledge in the area of anti-corruption has increased. The process has also lead to increased networking between state bodies in the project areas.

Thirdly, at the regional level sharing of experiences, peer review and training on for example compliance with international anti-corruption conventions, law application, conflict of interest and strengthening of institutional mechanism has taken place. This has contributed to the creation of a regional platform where experiences can continuously be shared between project areas.

6.1 Recommendations

In order for this first step to be worthwhile, it is now a great need for a prompt start to the implementation phase of the fight against corruption in the project areas. We have identified a number of areas in the PACO Impact project that could be improved in order for it to be more effective in facilitating this leap forward. We therefore recommend:

- As part of the Inception Phase the key persons involved in the project should have been given the opportunity to develop their *skills on change management* to prepare them on how to deal with the process of change in the project.
- *Transformation of anti-corruption strategies into several action plans* for different sectors in cooperation with the relevant sector ministries in order to facilitate smooth implementation.
- *Clarification of the roles* of the specific anti-corruption agencies and underlining their central position in the coordination of anti-corruption efforts in project areas. Specific support should continue to be a priority when building and maintaining those institutions.

- *To improve ownership*, a greater effort to *include the counterparts in project management* in terms of planning, implementation and follow-up should have been made. For this to be possible, the counterparts appointed need to have the appropriate authority, resources and time to be able to act as a driving force in the project.
- *The pilot activities could have started earlier and in a smaller scale* to create concrete results and necessary experiences to be able to be a driving force for other activities.
- In order *to handle political reluctance*, the project should coordinate more with other actors within the respective project areas in order to assist in *building a political pressure for anti-corruption reforms in society*.

It is *our view* that gender has not been integrated into the PACO Impact project. A gender analysis was made during the Inception Phase. However when the project document was finalised, gender equality was neither reflected in the project objective nor at any other level of objective. Even though there has been a gender balance in many of the different activities in the project areas, gender issues have not been included in the project activities.

Therefore *we recommend* that gender should be mainstreamed into the strategies, action plans and laws developed in the project. In order for this to happen, the international experts provided by CoE should raise gender issues in the field of anti-corruption in the working sessions. Research on the effects of corruption on men and women, for example, in relation to possible differences in the access to health services and education, should be identified and used in all needs and problem analysis. Gender balance should be raised as an issue in all decision-making and work processes of the project as well as in the access to capacity building.

With regard to the project implementation of the project, we recommend the project management team:

- that the analytical sections of the reports should be enhanced and include systematic follow-up against the project objectives at different levels.
- to increase the accurateness of the reports and enhance the level of local ownership, *we recommend* that reporting is done in a more participative manner and include the counterpart organisations to a larger extent.
- to develop the local ownership it *is our strong recommendation* that the various project areas should have the main responsibility and authority over report writing and the financial management.

With regards to the implementation of the project, we recommend Sida

- that the division of responsibility, in practice, between the Sida officers to be clarified.
- that all officers involved in the project should meet regularly to discuss and review the progress in the project.
- a Monitoring Team should therefore have been put in its place As soon as the problems with the QG surfaced.
- a time frame *should have been* set and conditions *should have been* included in the agreement between Sida and CoE on when to present the final project document.

6.2 Looking Ahead

A first step for Sida in the considerations of future interventions could be to enter into dialogue with the governments on how to prioritise the tasks present in the action plans and to identify common ground for future concrete projects.

In this dialogue Sida should consider the following recommendations based on the *lessons learned* from the implementation of the PACO Impact:

We recommend that future Sida support is done through bilateral projects with a clear focus on creating concrete results. The support must be in line with and build upon the foundation created in the PACO Impact project such as the strategies and action plans of the respective areas. Coordination with the main political processes in the region such as the Stabilisation and Association Process (SAP) and adherence to international conventions and other commitments will be of outmost importance since they will dominate the agenda of the governments for the considerable future.

In the selection of where to intervene, *we recommend that* the criteria of adopted laws and anti-corruption action plans should be considered.

Given the knowledge on how political will is built, Sida need to make sure to identify the forces working for change and to coordinate with them. *We recommend* that direct support to these actors in their roles in awareness rising, training and education as well as research, studies and publications should be considered.

We also recommend that future interventions integrate components on how to measure the levels of corruption the possible effects that the interventions might have on those. This could be done through direct data-collection as part of the intervention but more likely through the use of already existing data from organisations such as Transparency International, the World Bank etc. (so called studies to streams).

To ensure the likelihood of sustainability, *we recommend that* in order to improve ownership, a greater effort to include the counterparts in project management in terms of planning, implementation and follow-up should have been made.

It is *our view that* capacity building and training in preparation for implementation needs to be further stressed. *We recommend* Sida to include large components of capacity building for instance media training and training of trainers in future intervention to assist in implementation of the action plans developed.

Appendix 1 Terms of Reference

Evaluation of Swedish Support in the Area of Anti Corruption in South Eastern Europe
“Consolidated Anti-corruption Training and Publication Programme” and
PACO Impact: Implementation of Anti-corruption Plans in South Eastern Europe

1 Background

The overall objective for Swedish development co-operation is to help create conditions that will enable the poor to improve their living conditions. Furthermore, focus for development co-operation with the countries of South Eastern Europe is to support equitable and sustainable reforms that help the countries develop closer ties with the EU and integration into European co-operative structures.

The need to address corruption as an obstacle to democratic stability, rule of law and social and economic development in South Eastern Europe maintains its high priority status in Swedish development co-operation with this region. Fight against corruption has been identified as one of Sida’s strategic priorities and acted upon accordingly. Besides taking measures to mainstream corruption throughout its development co-operation portfolio, as a cross-sectoral issue, Sida is also supporting two projects specifically targeting corruption. These two projects shall be the subject of this evaluation: “Consolidated Anti-corruption Training and Publication Programme” and “PACO Impact: Implementation of Anti-corruption Plans in South Eastern Europe”.

Consolidated Anti-Corruption Training and Publication Programme

Project Objectives

Sida has been supporting Consolidated Anti-Corruption Training and Publication Programme (*Project Nikolaj*) in Serbia and Montenegro since May 2003, with a total amount of 3,060,000 SEK. This project is being implemented by the Management Centre NGO during three years, until May 2006.

The project was designed with the overall objective to consolidate the initiatives on fighting corruption and assist their incorporation in the society as a longer-term control and capacity-building structure to halt corruption as a precondition for organised crime and equip government officials to conduct anti-corruption and anti-organised crime policy efficiently. It was to be accomplished by raising the awareness in relevant professions and government departments of the newest methodologies to fight corruption and advancing the skills and knowledge of the professionals who are naturally in the position to engage constructively in the fight against corruption.

Activities

The methodology used in *Project Nikolaj* was organised in two types of activities: courses in anti-corruption methodology and policy and publication of consolidated information and analytical essays on anti-corruption in *The Pulse* bimonthly.

PACO Impact: Implementation of Anti-corruption Plans in South Eastern Europe

Objectives

Sida has been supporting PACO Impact project since March 2004, with a total amount of 14,000,000 SEK. This project is being implemented by the Council of Europe and is operating on a regional basis. Sida’s support was a result of positive experiences from earlier co-operation with the Council of Europe on an anti-corruption project in Albania. PACO Impact was designed to go on during two years, but the duration has been extended until 31 July 2006 upon request from the Council of Europe. The extended project implementation period is expected to provide enough space for all the activities to be carried out.

The overall objective of PACO Impact is to strengthen democracy and rule of law in South Eastern Europe through the prevention and control of corruption. It was designed to contribute to the implementation (and further elaboration) of anti-corruption plans in the countries of South Eastern Europe.

Due to the rather complex set-up of the project, it was agreed that a testing period was required in order to secure the overall implementation of the project. Accordingly, the contract allowed an inception phase of five months, during which a detailed work and time plan for project activities was to be developed. After the inception period, the Council of Europe came up with the Inception Report, which was adopted as the final Project Document. Sida also decided to procure the services of a Quality Group (QG), as a special resource with regards the continuous monitoring and follow-up of the performance of the project. The first task of the QG was to evaluate the Inception Report, give recommendations to Sida regarding the handling of all suggestions/changes proposed and come up with general suggestions for the continuation of the project. The QG reports will be made available to the Evaluation Mission by Sida Stockholm.

Activities

Activities implemented under PACO Impact varied from one project area to another, but can be classified into four main clusters, in accordance with their objectives: improvement and elaboration of anti-corruption plans, strengthening of institutional mechanisms for the monitoring and management of anti-corruption plans, provision of legal expertise in criminal legislation on corruption and support to pilot activities.

2 Purpose and Scope of the Evaluation

The objective is to evaluate the two projects in terms of achievement of project objectives, quality in implementation, results, cost effectiveness and lessons learned.

In addition it is also expected that the evaluation team will analyse the relevance of the projects in the portfolio of Sida in the Balkans. The Evaluation Mission is expected to inform themselves in detail about Sida's strategic priorities and use them as a point of departure in preparing the report to Sida, which should consist of a detailed evaluation of the two projects, a brief sector overview and input for the upcoming discussions concerning the preparation of possible second phase of the evaluated interventions.

Important stakeholders

Even though anti-corruption interventions relate to all layers of public and private life, government institutions are the most important stakeholders in both projects.

It will be important to carry out many interviews to find out both the level of political will and how the projects have been perceived.

To name a few: in Serbia, PACO Impact Country Project Director, who is also the Assistant Minister of Justice, the Anti-Corruption Council, the Financial Intelligence Unit at the Ministry of Finance, the Office of the Special Prosecutor for Organised Crime, the Department for Combating Organised Crime at the Ministry of Interior and a number of line ministry officials dealing with the issue of corruption on a daily basis. The Law Faculty can be added to this list and so can the Association of Judges. In Montenegro, the main contact points are the Anti-Corruption Initiative Agency, the Ministry of Justice, the Office of the Special Prosecutor for Organised Crime and the Department for the Prevention of Economic Crime at the Ministry of Interior. The Mission should also meet civil society representatives, such as Transparency International chapters in respective countries, the Group for Changes NGO in Montenegro, etc.

In the case of the evaluation of the Management Centre it will be important to also interview participants from the trainings to find out if and how they make use of the knowledge gained. Have they changed their behaviour in any way?

The list of contacts is attached to this document, but the Mission is expected to organise their visit independently from Sida (including interpretation services).

Timing of evaluation in relation to project phases

The evaluation is to be done during the final phase of both projects and take into account the future prospects for both interventions. It can be classified as an ex-post evaluation, since most of the activities in both projects will have been finalised by the time the evaluation takes place. Consequently, the evaluation is supposed to identify the factors of success or failure, assess the sustainability of results and impacts and draw conclusions that may inform other interventions.

Therefore, preferably the evaluation should be carried out as soon as possible.

3 The Assignment (issues to be covered)

- **Achievement of objectives (effectiveness):** Evaluate to what extent each one of these two projects respectively has achieved its objectives, taking their relative importance into account. Answer the following questions: To what extent do development changes in the target area accord with the planned outputs, purpose and goal of the evaluated interventions? To what extent is the identified development the result of the interventions rather than extraneous factor? What are the reasons for the achievement or non-achievement of the objectives? What can be or could have been done to make the interventions more effective?
- **Impact:** Evaluate the totality of the effects of each one of the two projects respectively, positive and negative, intended and unintended. Answer the following questions: What are the intended and unintended, positive and negative effects of the interventions on people, institutions and physical environment? How have the interventions affected different groups of stakeholders? What do beneficiaries and other stakeholders affected by the interventions perceive to be the effects of the interventions on themselves? To what extent do the interventions contribute to capacity development and strengthening of institutions? To what extent can changes that have occurred during the life span of the interventions/the period covered by the evaluation be identified and measured? To what extent can identified changes be attributed to the interventions? What would have occurred without the interventions? Have plausible alternative explanations for identified changes been considered and convincingly ruled out?
- **Relevance:** Evaluate to what extent each one of these two projects respectively conforms to the needs and priorities of target groups and the policies of recipient countries. Answer the following questions: Are the interventions well in tune with the development policies of the partner country government at national and regional levels? Are they consistent with the policy of supporting partner country ownership? Are the interventions technically adequate solutions to the development problem at hand? Do they eliminate the main causes of the problem? Do proposed innovations have a potential for replication? Are the interventions consistent and complementary with activities supported by other donor organisations?
- **Sustainability of results:** Evaluate the continuation or longevity of benefits from each of the two projects respectively after the cessation of development assistance. Answer the following questions: Are the interventions consistent with partners' priorities and effective demand? Are they supported by local institutions and well integrated with local social and cultural conditions? Are requirements of local ownership satisfied? Did partner country stakeholders participate in the planning and imple-

mentation of the interventions? Are relevant host-country institutions characterised by good governance, including effective management and organisation? Do partners have the financial capacity to maintain the benefits from the interventions when donor support has been withdrawn?

- **Efficiency:** Evaluate to what extent the cost of each one of the two projects respectively can be justified by its results, taking alternatives into account (analysis of resource allocations and budget utilisation). Answer the following questions: Have the evaluated interventions been managed with reasonable regard for efficiency? What measures have been taken during planning and implementation to ensure that resources are efficiently used? Could the interventions have been implemented with fewer resources without reducing the quality and quantity of the results? Could more of the same result have been produced with the same resources? Could an altogether different type of intervention have solved the same development problem but at a lower cost? Were the interventions economically worthwhile, given possible alternative uses of the available resources? Should the resources allocated to the interventions have been used for another, more worthwhile purpose?
- **Effects on target group (gender specific):** Evaluate to what extent gender has been mainstreamed in both projects (project impact on gender issues). Pay particular attention to Gender and Corruption in South East Europe: Making and Impact report done by the Council of Europe and submitted to Sida in September 2004.
- **Long term impact:** Evaluate the performance of each one of the projects from a long-term impact perspective. Specify the performance of the Management Centre, the Council of Europe and experts/consultants.
- **Cross-cutting issues:** Evaluate to what extent each one of the two projects respectively has mainstreamed the major cross-cutting issues (in addition to gender perspective): human rights, environment, sustainable project impact on local empowerment including outreaching activities towards the civil society and the public.
- Evaluate the co-operation and co-ordination with present structures and networks (GRECO, Stability Pact etc) for fighting corruption in the region and the use of a regional approach in the specific area of support (valid for PACO Impact).
- Evaluate the organisational set up of Management Center and the PACO Impact national Offices respectively
- In case of PACO Impact and specific Council of Europe methodology, evaluate the relevance of using a common standard for fighting corruption in the region and the use and performance of expert-centred method for legislation drafting.
- Evaluate the possibilities of adopting a harmonised approach with another donor(s), with a particular emphasis on EU CARDS 2006.
- Conduct any other relevant Sida request that can be reasonably done within the time frame of the mission.
- Provide Sida with recommendations regarding the possible continuation of support. Recommendations shall be stated briefly, clearly and in an analytical manner, with the expected results listed. Bear in mind that any possible new interventions must have a clear exit strategy. The recommendations can be directed to both Sida and the implementing partner. However, the recommendations are to be issued to Sida and the findings of the Mission are only to be discussed with other stakeholders following Sida's approval.

4 Methodology, Evaluation Team and Time Schedule

The Evaluation Mission shall comprise of one or two individuals. Possibly one expert on corruption issues and one expert on capacity development.

The total duration of the assignment could be approximately 6 weeks (1 week planning, 3 weeks in the field, 2 weeks writing the report) preferably conducted in May and June 2006.

Following discussions with Sida Stockholm, the Evaluation Mission shall visit local project offices of the Management Centre and Council of Europe in Serbia and Montenegro and a few countries in the region covered by Sida interventions to meet with various stakeholders. The choice of countries to be visited can be liaised with the local project offices of Sida's implementing partners. The Mission can also liaise with them regarding the recommended contacts. A trip to Strasbourg, the seat of the Council of Europe, might be beneficial in providing a detailed overview of the PACO Impact project from the point of view of project management.

Sida Stockholm shall provide the Mission with the background information they will need to carry out the assignment. The Mission is expected to meet the Embassy of Sweden/Sida Belgrade in the beginning of the mission in the Region, for introduction and initial briefing. The Embassy of Sweden/Sida Belgrade cannot provide the Evaluation Mission with a full logistical support during their visit.

Assistance can be provided to the Mission in arranging the transportation from/to the airport and in booking a hotel reservation in Belgrade, Serbia and Montenegro, during the visit. However, the Embassy of Sweden/Sida Belgrade might accompany the Mission during parts of their visit.

5 Reporting

The evaluation report shall be written in English and should not exceed 40 pages, excluding annexes. Format and outline of the report shall follow the guidelines in *Sida Evaluation Report – a Standardised Format* (see Annex 1). The draft report shall be submitted to Sida electronically and in 2 hardcopies (air-/surface mailed or delivered) no later than July 30 2006. The Team-leader shall in addition present the evaluation recommendations to Sida-HQ during a meeting in Stockholm. Within 2 weeks after receiving Sida's comments on the draft report, a final version shall be submitted to Sida, again electronically and in 4 hardcopies. The evaluation report must be presented in a way that enables publication without further editing. Subject to decision by Sida, the report will be published in the series *Sida Evaluations*.

The evaluation assignment includes the completion of *Sida Evaluations Data Work Sheet* (Annex 2), including an *Evaluation Abstract* (final section, G) as defined and required by DAC. The completed Data Worksheet shall be submitted to Sida along with the final version of the report. Failing a completed Data Worksheet, the report cannot be processed.

Appendix 2 List of Interviewees

PACO Impact

Sweden

Sida, Stockholm

Veronica Perzanowska, PACO Impact Project Manager, September 2004–2006

France

Council of Europe, Strasbourg

Mr Alexander Seger, Head of Technical Co-operation DGI – Legal Affairs – Department of Crime Problems

Ms Ardita Abdiu, PACO Impact Project Manager, DGI – Legal Affairs – Department of Crime Problems

Mr Jean Charles De Cordes, CARPO Regional Project Manager (a sister project to PACO)

Experts

Ms Marijana Trivunovic, CoE Evaluator

Ms Vera Devine, CoE Consultant

Serbia

Swedish Embassy

Ms Svetlana Bascarevic, Development Programme Section

European Commission

Mr David Hudson, Counselor, EU, Delegation of European Commission to Serbia and Montenegro

Ms Mirjana Cvetkovic, Legal officer, EU, Delegation of European Commission to Serbia and Montenegro

Council of Europe, Belgrade office

Ms Silvija Panovic-Djuric, PACO Impact, Local Project Officer

Experts

Ms Olivera Puric, Teamleader of Judicial Reform/Rule of Law Cluster, UNDP

Mr Darko Pavloric, Program specialist, Institutional Development, UNDP

Stakeholders

Ms Aleksandra Popovic, PACO-Impact Project Director, Assistant Minister of Justice, Sector for Legislation and International Cooperation, Ministry of Justice

Mr Goran Vujovic, Senior Legal Associate, Ministry of Justice

Ms Mirjana Radakovic, Assistant to the Secretary General, National Assembly of Serbia

Ms Verica Barac, President, Anti-Corruption Council

Mr Milovan Milovanovic, Legal Associate, Administration for the Prevention of Money Laundering, Ministry of Finance/Financial Intelligence Unit

Ms Olgica Backovic, Deputy Republic Prosecutor, Republic of Serbia Public Prosecutor's Office

Mr Dimitrije Popic, Deputy Special Prosecutor for Organised Crime, District Prosecutor's Office
Belgrade
Mioljub Vitorovic, Deputy Special Prosecutor for Organised Crime, District Prosecutor's Office
Belgrade
Mr Dragomir Trninic, Head of the Section for combating corruption, Ministry of Interior
Mr Sinisa Vazic, judge, President of the Belgrade District Court, District Court Belgrade
Mr Predrag Jovanovic, Director Public Procurement Office
Mr Nemanja Nenadic, Programme Director, Transparency Serbia
Mr Miodrag Milosavljevic, Project Co-coordinator Centre for Free Elections and Democracy (CeSID),
NGO

Montenegro

Council of Europe, Podgorica Office

Mr Lado Lalicic, PACO Impact Local Project Officer

Stakeholders

Ms Ana Nikolic – PACO Impact project director for Montenegro, Acting Director, Anti-corruption
Initiative Agency
Mr Krsto Pavicevic, Chairman of the Parliamentary Working Group on Conflict of Interests
Mr Vuksan Vuksanovic, International Co-operation Officer, Ministry of Justice
Mr Milan Krsmanovic, International Co-operation Officer, Ministry of Justice
Mr. Petko Spasojevic, Department for Combating Economic Crime, Ministry of Interior
Ms Vanja Calovic, Director, The Network for the Affirmation of NGO Sector (MANS)

Kosovo/UNMIK

Swedish Embassy

Ms Gunnel Unge, Development Programme Section

Council of Europe, Kosovo Office

Mr Fitim Vertopi, PACO Impact, Local Project Officer, Council of Europe,

Stakeholders

Mr Habit Hajredini, PACO Impact Project Director
Mr Francesco Caracciolo, PACO Impact Project Director
Ms Valbona Salihu, Director of 'Norma'
Mr Besim Kajtazi, Member of the Inter Ministerial Working Group on Anti Corruption,
Kosovo Government
Ms Selvete Gerxhaliu, Legal Adviser, OSCE

Albania

Swedish Embassy

Ms Linda Gjermani, Programme Officer Section for cooperation with Albania
Sofia Hjertonsson, Second secretary, Programme officer

Council of Europe, Tirana office

Ms Eridana Cano, PACO Impact, Local Project Officer

Stakeholders

Mr Edmund Dunga, PACO Impact Country Project Director, Inspector of International Administrative Control and Anti-corruption (interview through e-mail)

Mr Ardian Dvorani, Head of former Anti-corruption Monitoring Board and Director of the Codification Department at the Ministry of Justice, Judge Supreme Court

Mr Kujtim Luli, Director of Study & Research Department, General Prosecution Office

Mr Arben Kraja, Prosecutor at the Organized Crime Department, General Prosecution Office

Mr Fatbardh Kadilli, Anti-corruption Issues, Advisor to Prime Minister, Prime Ministers Cabinet

Ms Fatmira Laskaj, Chief Inspector, High Inspectorate of Declaration and Control of Assets

Mr Naim Hushi, Inspector of the Former Anti-corruption Unit, Director of the Anti-trafficking Department, Ministry of Interior

Appendix 3 Measuring of Corruption

1 Direct measuring of corruption

1.1 Perception

This approach is based on an assumption that the perceptions of population or specific groups about corruption are associated with the actual level or pattern of corruption with sufficient accuracy. The assumption runs that general population or certain groups such as business people have sufficiently accurate knowledge about corruption in their societies or specific areas of expertise.

Strengths: The key benefit of this approach is the ease of measurement. It is possible to formulate straightforward questions without fearing – at least in most cases – that respondents would not be willing to give sincere answers.

Weaknesses: The basic assumption on the association between the perception and actual corruption must be qualified by a number of factors. Moreover the extent to which these qualifications apply cannot be easily established with accuracy. A major qualification is that factors such as media coverage of specific corruption scandals may excessively amplify popular perceptions about the overall level of corruption, i.e. create the so-called noise. This factor may inflate the perception relative to the actual occurrence of corruption. Another qualification may lead to opposite distortions and has to do with the highly secretive nature of corrupt transactions, which may contribute to the underestimation of corruption in people's perception. This may be particularly relevant for types of corruption remote from the common population (e.g. political corruption rather than everyday administrative corruption) in countries with restricted media freedom.

1.2 Experience

Asking people about their actual experiences of corruption is a major alternative to measuring perceptions. The approach is more straightforward, i.e. if one is interested in corruption, this is what he or she asks for.

Strengths: On the face of it, this approach appears to be a more valid measurement of corruption. The responses that one receives cover indeed corruption itself. By and large one would not expect such results to inflate the actual level of corruption because a respondent is unlikely to admit, for example, giving a bribe within a certain period of time if, in reality, he or she has not done so.

Ref: Valts Kalnins: "Assessing trends in corruption and impact of anti-corruption measures" Discussion Paper from The Anti-Corruption Network for Transition Economies, 2005

Weaknesses: The major limitations of this approach are the likelihood of deflated findings and receiving a skewed picture of corruption patterns. The possible deflation is due to the usually illegal and morally objectionable character of corruption; hence respondents may report more limited experience than actual. A common remedy for this limitation is posing questions, which do not require outright admission of own wrongdoings. Thus the researcher would receive some kind of mixed measurement of quazi-experience/quazi-perception. Overall this approach allows one to achieve findings, which allow for the conclusion that the actual level of corruption is equal or higher than the results of measurement.

The skewed patterns of corruption are due to the fact that for some forms of corruption it is easier and for some more difficult to select experienced and sincere respondents (those who experience regular extortion by fire safety inspectors or police officers are more likely to reveal their experience than those

who have secured for themselves a few major corrupt deals with high government officials). Also those who experience corruption as mutually profitable, finely calculated transactions are unlikely to reveal their experience (directly or even indirectly) to researchers. Such type of corruption is, for example, corrupt collusion between lawyers and judges in some countries or bribery of tax officials for reasons of tax evasion.

1.3 Beliefs and values

Another approach found in corruption studies is the measurement of certain beliefs or values, which are thought to be associated with corruption or lack thereof. In a sense this is the loosest of the three approaches discussed so far because what one measures is not corruption or any of its attributes (such as perception) at all. Examples of such beliefs or values are trust in public institutions and social relationships at large, sense of solidarity, respect for the rule of law, etc.

Strengths: Under a certain set of circumstances, such measurements may allow one to make some specific judgements about corruption situation. One of the most commonly measured attitudes is trust in public institutions. The assumption runs that people would not trust a corrupt public institution. So if an agency enjoys a high degree of trust, it is reasonable to assume that it is at least relatively free of corruption.

Weaknesses: This approach is probably less accurate than the previous ones due to at least two reasons. It is probably true that more often trust in public institutions is associated with certain cleanness thereof but no evidence suggests that this association holds universally. The world has seen examples where corrupt rulers have managed to maintain a considerable degree of public trust and legitimacy for extended periods of time (although usually not indefinite). Moreover people may trust in certain agencies purely out of ignorance, particularly in circumstances of limited media freedom. In other words trust may prove to be nothing more than a perpetual positive stereotype.

Even when there are grounds to claim that high trust is associated with cleanness, it is virtually impossible to conclude (without additional evidence anyway) that low trust is associated with high corruption. Public agencies may lack trust not only because of corruption but also because of lack of expertise or technical capacity within these agencies, i.e. distrust is likely to stem from the inability of an agency to ensure satisfactory performance and the poor performance may in turn be explained by a lot more factors than just corruption.

1.4 Service and sector assessments

This approach is partly analogous to customer satisfaction surveys and service quality assessments by clients commonly applied in private business.

Strengths: It is a suitable approach in situations when one wants to measure corruption in a specific agency or specific area of government activity, which involves extensive contacts with citizens (or clients in business language). The approach is based on an assumption that the more satisfied the clients, the less corrupt is the service provider. As in the case of trust measurement, it is easier to conclude that an agency is relatively clean of corruption. In the opposite case (corrupt agency) one is likely to obtain rather opaque evidence of something being wrong with the agency (unless the study is supplemented with inquiry into experiences of corruption directly). Overall this method is more suitable for measuring corruption within specific agencies or specific areas of government activity rather than within the country overall.

Weaknesses: Importantly, the accuracy of this approach strongly depends on the predominant form of corruption. Assessments of the service quality or client satisfaction may serve as indicators of corruption when the respondents are likely to perceive themselves as victims of corruption, e.g. when corruption represents primarily an extra cost. Where corruption is viewed as a benefit more than a cost, these assessments will not measure corruption because (1) more corruption will not lead to less satisfaction

and (2) less corruption will not necessarily lead to more satisfaction with the service. This would be the case where, for example, bribery provides an escape from a legally deserved penalty.

1.5 Governance indicators

This approach focuses on the outputs of government activities and assumes that government performance in some significant ways is associated with the level of corruption. Particularly, the World Bank has focused on governance indicators⁹. As a tool to measure corruption, this method does not appear universally developed and widespread so far. However, it could serve as a significant validator of other measurements of corruption.

One way to use this approach is to focus at services provided by the government and associated cost. The price that the government pays for certain goods and services may be compared to a corresponding price in the private market or in other countries. An inflated price may serve as an indicator of corrupt or inefficient procurement while efficient delivery (value-for money purchases) will in most cases imply relatively clean procurement.

Another way is to focus at such governance indicators, which cross-nationally tend to correlate with the levels of corruption. Such indicators may be, for example, public expenditure as percentage of GDP for areas of governance, which are very important for populations (health or education) but which may provide relatively smaller corrupt returns if compared to, for example, large infrastructure and construction projects.

Strengths: This approach provides empirically observable indicators, which can be measured with a high degree of accuracy. It may serve as a method to validate already existing other data on corruption.

Weaknesses: The use of governance indicators have not developed as a well-established method for measuring corruption, yet. Moreover it is often difficult to conclude from such indicators alone that a country has a certain level of corruption. If, for example, a country X has a considerably lower public expenditure as percentage of GDP for education than in comparable other countries, it may mean that a corrupt government is to blame but it could as well be a deliberate political choice based on grounds other than corruption.

1.6 Associated social phenomena

The search for the validations of existing corruption measurement approaches has lead to explorations into what other social phenomena are associated with corruption. The rationale here is that corruption is strongly correlated with other kinds of behaviour that are less hidden and therefore measurable with greater accuracy. One example of this approach is measuring of the rate of underreporting of crime, which appears strongly correlated with the levels of corruption. Other possible phenomena might be tax evasion or smuggling but no well-established statistical correlations between these and corruption are known.

Strengths: The key strength of this approach is similar to that of using governance indicators. Namely, it provides empirically observable indicators, which can be measured with a high degree of accuracy (higher than that of measuring corruption anyway). It may serve as a method to validate already existing other data on corruption.

Weaknesses: This approach is hardly suitable as a self-standing indicator of the level of corruption particularly if one aims at measuring corruption within a single country rather than constructing cross-national indices. This is because a certain phenomenon may produce a significant association with corruption cross-nationally but within one country the establishment of, for example, a certain level of

⁹ Kaufmann, D. Kraay, A. Mastruzzi, M. Governance Matters IV: Governance Indicators for 1996–2004. The World Bank (2005) <http://www.worldbank.org/wbi/governance/pubs/govmatters4.html>

crime underreporting or smuggling alone is not sufficient for judgments about the level of corruption of some accuracy.

2 Indirect measuring of corruption and monitoring tools

2.1 Risk assessment

When governments want to know the state of affairs in terms of corruption, in order to develop new policies, often among the first steps is the identifications of corruption risks and assessment thereof. The latter would produce data, which particularly if combined with evidence of actual corruption, would provide a fairly accurate understanding of corruption situation. Since comprehensive identification and assessment of corruption risks require a certain deal of internal information about the operation of an agency in question, this is an approach most usually used by governments rather than by NGOs or other external parties.

The identification and assessment of corruption risks does not answer questions: how much corruption there is, what kind of corruption there is, how corruption affects the functioning of the agency in question and what broader consequences corruption has. Instead risk assessment does allow one to obtain answers regarding:

- the likelihood of specific types of corruption;
- the probable consequences of corruption.¹⁰

While the rule “if corruption can happen, it will happen” does not always hold, answers to the above questions, if combined with, for example, survey data, can also provide a fairly accurate picture of the actual extent and pattern of corruption.

2.2 Checklists

Several frameworks for the assessment of the state of affairs of governments’ anticorruption policies have been developed, some accepted by national governments as guidelines and some constantly monitored. Some of the most well-known are the Twenty Guiding Principles for the Fight against Corruption of the Council of Europe and the National Integrity Systems developed by Transparency International. EUMAP, a program of the Open Society Institute, developed own comprehensive methodology in the form of a checklist for the review of corruption and anticorruption policies in ten accession countries to the European Union (assessments published in 2002).¹¹

Principles or questions included in such assessment frameworks are not usually focused exclusively on the formal existence of certain rules or agencies but overall one can say that they tend to be better suited for the mapping of the formal institutional framework rather than its actual working.

It is important to note that checklists usually focus on what governments openly do as part of their anticorruption policies rather than on corruption itself. So this method is hardly suitable for measuring the ultimate success or failure of anticorruption efforts in terms of changes in the occurrence of corruption. Also while international best practices do give reasonable grounds for associating certain institutional mechanism with reduction in corruption, it also true that across countries people within similar formal institutional frameworks still behave differently. Some of the cleanest countries in the world have limited formal safeguards against corruption while some highly corrupt governments keep on their corrupt business in the presence of extensive anticorruption laws.

¹⁰ Vadlīnijas iestādes pretkorupcijas pasākumu plāna izstrādei. (Guidelines for the preparation of an agency’s plan of anticorruption activities). The Corruption Prevention and Combating Bureau. Unpublished document.

¹¹ EUMAP reports are available here: <http://www.eumap.org/reports/2002/corruption/> Last accessed on May 13, 2005.

The strength of such guidelines or checklists is that each of them combines in a single framework the key principles and measures, which are widely believed to be effective in countering corruption. While these checklists have clearly proved their relevance for getting a general sense of the quality of governments' anticorruption policies, they also have their limitations.

The limitations lie in that they attempt to provide a one-size-fits-all approach to different countries and, since they attempt to capture multiple key sectors and aspects of anticorruption measures, they are necessarily built on a relatively high level of abstraction. The former is a limitation because not all aspects of anticorruption policy are covered by universally agreed international standards and because various factors – economic, political, and cultural – differ from country to country leading to situations where people act differently within similar institutional frameworks. The latter is a limitation because the famous saying *the devil is in the detail* fully applies to anticorruption policies. Thus it is often not enough to know that a country X has an apparently elaborate conflict of interest law. Instead it is important to know whether the implementation mechanism of the law is logically elaborated to sufficient detail, whether the implementing officials are capable and motivated to apply the law, whether in reality the law captures the types of official behaviour that one wishes to exterminate with the help of such law, etc.

The above signals a possible need to elaborate more focused checklists, which are relevant for specific segments of anticorruption policies (rather than for a grand anticorruption policy as a whole) and which are relevant for particular groups of countries, which share some important commonalities. Thus countries whose governments possess relatively large resources may make use of rather resource intensive measures while more poor countries will need primarily measures that consume lower amount of resources, e.g. sophisticated electronic governance systems may be a good option for more affluent countries while more poor countries might need easier physical access of citizens to public authorities.

2.3 Statistics and formal reporting

Governments usually compile some statistical data on the incidence of corruption. Sometimes these data are portrayed as indications of the level and patterns of corruption. Since statistics is often based exclusively on well-established legal facts, this measure may achieve unparalleled validity if one is interested in officially detected corruption.

What is sometimes neglected is the invalidity of official statistics of corruption incidence if the full corruption picture is the object of interest. The revealed cases of corruption are usually just the tip of an iceberg. Moreover it is usually difficult to establish a correlation between the number of revealed corruption cases and the actual corruption situation. Thus we never know whether an increased number of revealed corruption cases means an increase in the actual level of corruption or it means that a higher share of all corruption cases is revealed (unless supplemented by additional evidence). Similarly, if the official number of detected corruption cases is very small, it is impossible to establish from the statistics alone whether this figure reflects the overall low level of corruption or the low rate of detection.

2.4 Analysis of implementation of anticorruption measures

Checklists and official reports usually provide a standardized framework for feedback and accountability. Nevertheless such sources are at times incapable of reflecting the full fabric of the state of affairs in a given sector, which is vulnerable to corruption. Therefore it may be necessary to carry out in-depth analysis of policy implementation in specific areas.¹² Among criteria, which may be applied, are effectiveness and relevance. Effectiveness here looks at whether a specific measure produces a change/

¹² For a smaller piece of analysis on the implementation of conflict of interest regulations in Latvia, see chapter II of the following paper: Kalniņš, V. Čigāne, L. *On the Road toward a More Honest Society: The Latest Trends in Anti-Corruption Policy in Latvia*. The Latvian Institute of International Affairs (2003). http://www.lai.lv/9on_the_road_to.doc Last accessed on May 13, 2003.

impact while relevance applies to whether the achieved change/impact serves the broader policy aims and stakeholders' expectancies.

Policy implementation analysis is a broad subject, which cannot be entirely dealt with here. However, it is clear that implementation analysis is greatly facilitated if policy makers have built in observable success indicators already when formulating and adopting the policy. For example, when reforming judiciary, it is worthwhile to foresee a procedure whereby judicial practice shall be compiled and analyzed for quality, e.g. by the Supreme Court.

However, even if such built-in indicators are missing, implementation can still be analyzed and evaluated. For example, the effectiveness of a policy may be detected by looking whether the introduction of a new regulation or practice corresponds to any change in measurable outputs of an agency. For example, if you introduce the rotation of officials and if the commencement of such rotation correlates to any changes in outputs of an agency, e.g. if rotation of customs officials is followed by an increase in customs revenues, chances are that previous officials were not up to their duties because of either corruption or other reasons and that your new measure has been effective.

Relevance, in turn, might be assessed through interviewing stakeholders who have an interest in the execution of a respective public policy. For example, business people who are required to obtain licenses and their clients are likely to be a good source of information on whether changes in the licensing system have brought about any good

2.5 Internal indicators of corruption

Internal indicators of corruption are those, which are typically used for reasons of internal control within agencies. The direct purpose of internal control is to ensure confidence in that an agency's objectives are being attained. Internal control is not only about controlling corruption but the accountability of employees/officials, the effectiveness of their activities and the trustworthiness of financial accounts all are elements, which are both essential for internal control and usually undermined when corruption occurs.

For purposes of government's self assessment (again specific objectives – assessment of corruption patterns and level, assessment of corruption vulnerabilities, assessment of the effectiveness of anticorruption mechanisms) a whole range of internal control indicators may be used.

Some of these approaches are often presented as methods for the detection and investigation of crimes such as corruption and fraud. Within the context of this paper, these detection methods are viewed as overlapping with the measurement of corruption or likelihood thereof. In many countries with relatively underdeveloped investigatory practice, such indicators are of limited use for investigation but they at least may give a better idea of how much and what kind of corruption is likely to take place in reality.

2.6 Audit¹³

Audits differ in their focus. One can distinguish at least three types of audits:

- a financial audit,
- a general performance audit, and
- a performance audit focused specifically on ethics (or anti-corruption for that matter) related requirements.¹⁴

¹³ The drafting of part 3.6. was facilitated by kind assistance of Mr. Sébastien Lanthier.

¹⁴ The latter two borrowed from: *Public Sector Integrity: A Framework for Assessment*. GOV/PGC(2005)3. OECD, March 11, 2005. P.70.

None of the types of audits is intended as a tool to measure corruption per se. Rather they are often thought of as tools of deterrence of misconduct and data sources for investigators (primarily financial audits) or tools for assessing the performance of agencies (primarily general and focused performance audits).

Financial audit (be it done by state or private auditors) is not usually perceived as a tool to monitor the state of corruption or government performance against corruption. Instead, in the context of anticorruption, it is first and foremost conceived as a weapon against corruption and a potent deterrent to waste and abuse of public funds.¹⁵

Nevertheless, for example, adequate ex ante controls of commitments and payments as well as ex post audits of government income and expenditures not only promote good governance and guarantee financial integrity but also provide data, which allows one to get the sense of patterns of probable irregularities such as fraud and corruption. For an audit to be effective, it is important that there are developed standards for transparency in day-to-day public operations and output measures, which provide a baseline against which outside reviewers or agencies themselves can assess their activities.¹⁶ Review may also extend outside pure financial auditing of income and expenditure and stretch as far as assessing the very public policies, for which money is spent.

General and focused performance audits may have the integrity of public agencies as either one of their areas of interest (general performance audits) or as their primary focus (focused performance audits). This kind of audits pertains to evaluating not so much financial documents, but more to evaluating the presence and performance of, for example, ethics programs and codes, transparency in procurement and other relevant processes, co-ordination amongst “ethics” agencies, relevant reporting requirements, etc. Performance audits, which are focused on ethics measures, are basically straightforward performance reviews for ethics measures. As such they resemble implementation analysis but the latter is usually more focused on the implementation of particular policies and often takes the form of a study rather than a review process.

¹⁵ See, for example: Guidelines for the Status Reports. Endorsed by the Advisory Group for the Anti-Corruption Network for Transition Economies. September 10, 2003.

¹⁶ See: *Public Sector Integrity: A Framework for Assessment*. GOV/PGC(2005)3. OECD, March 11, 2005. P.72.

Appendix 4 Results in the Project Regions, Serbia

1 Background

Before the PACO Impact started, the responsibility of coordination of anti-corruption activities of the Government rested with the Ministry of Finance. In that Ministry, a so-called Anti-corruption Office was created in 2002 to handle to day-to-day activities. In April 2004 the Anti-corruption Office at this Ministry ceased to exist and the responsibilities were transferred to the Ministry of Justice. When the PACO Impact started, the Ministry of Justice was therefore selected to be the counterpart for the project and for the position of Local Project Director was appointed the Assistant Minister of Justice in the Sector for Legislation and International Co-operation. The Project Director first came in contact with the project at a meeting in Strasbourg before the start of the project.

In Serbia there is also a body called the Anti-Corruption Council (ACC). The ACC was created in October 2001 by a government decision that defines its main role as advisory: to offer proposals for preventive and repressive anti-corruption measures to the Government and follow up their implementation. The idea behind setting up the Council right after the change of the regime was to provide a channel for NGOs and civil society to have their voices heard in the government, and provide policy advice with respect to government actions when preventing and combating corruption.

Serbia has declared European integration as their long-term goal and the Stabilisation and Accession process (SAp) is very much the dominating political process in the country. The fight against corruption is an integrated part of that goal which could be seen as strengthening the efforts of the project in that it makes sure that combating corruption will remain high on the development agenda. However, the project document states that “bearing in mind political uncertainties connected with the coming elections and complexity of reforms required for closer European integration, continuous political commitment to the anti-corruption and other reforms might diminish”.

During the inception phase, the assessment by the project was that “despite the notable activities of the Anti-Corruption Council and NGOs operating in this area, the anti-corruption efforts seem to be disjointed, while collaboration and coordination with and inclusiveness of other stakeholders, civil society and business community in fighting corruption seem to be lacking.” A broader and more inclusive process was proposed and in the work plan, under output 2, were included activities related to reviewing of the framework and mandate of the ACC as well as at assess the need for additional Anti-corruption institutions.

Given the background above, the objectives and foreseen activities stated for the project area of Serbia at the start of the project were the following:

Main Goal: Drafting of an anti-corruption strategy and an action plan. Educating and raising awareness amongst legal drafters and stakeholders in anti-corruption reforms about international and European standards and practices in repressing and preventing corruption.

Expected actions: Drafted anti-corruption strategy and an action plan; strengthened capacities of the anti-corruption services, improved understanding of substance of international and European standards and practices in repressing and preventing corruption.

Below is presented the result from project implementation under the four expected outputs.

2 The Outputs

2.1 Output 1: Finalised and Endorsed Anti-corruption Strategy and Action Plan for Serbia

A working group for the development of the National Strategy for Combating Corruption was established in August 2004 under the coordination of the Ministry of Justice and with participation from Anti-corruption council, Ministry of Interior, Ministry of Finance, Public Procurement Office, Association of Judges, and civil society.

Due to lack of continuity and communication between the actors involved, the working group did not make reference to the earlier process of drafting an Anti-corruption Strategy that took place under the late Prime Minister Djindjic.

The working group on the drafting of the strategy held a number of workshops and also the issues of mandate of the ACC and the potential need for additional specialised bodies were included in this process. The Strategy was handed over to the government early 2005. It was adopted by the Government and handed over to the Parliament in May 2005. The Parliament finally adopted the Strategy in December 2005. The lengthy process caused frustration among the actors and created delay in the project. The project spent considerable efforts to provide additional impetus for the Government to endorse the Strategy.

The Strategy is a comprehensive and general document that includes a number of goals and sub-goals. The sub-goals can be characterised as a mix of objectives and activities to meet those objectives.

The Strategy states the need for an Action Plan as well as specific sector action plans for its implementation. In the process of developing the Action Plan there will also be a need to separate the objectives from the activities, divide the activities into concrete tasks and attribute responsibility and time limits to the tasks. The Strategy also contains a large number of recommendations in each chapter. It is not clear who is the receiver of those recommendations. The Strategy states the need for legislation on an independent and autonomous anti-corruption body. That new body shall among other responsibilities monitor the implementation of the Strategy and Action Plan.

The PACO Impact work plan did not include any activities on drafting of the Action Plan linked to the Strategy. However, the development of an Action Plan has been supported and there exists a draft of the Action Plan. In the absence of a permanent coordinating body, a decision was taken to establish an Anti-Corruption Commission as an ad-hoc body. The mandate of the commission will be to secure participation from all ministries in the finalisation and later implementation of the Action Plan and to follow-up on the recommendations from GRECO evaluations. The establishment of the commission is now pending nominations of the members.

Separately from the PACO Impact project, the Ministry of Justice, through a twinning project with Slovenia and Germany, has initiated the drafting of the Action Plans in accordance with the Strategy. However, that Action Plan only covers the Ministry of Justice and not the other actors of the Strategy. It is not clear how this will be coordinated with the efforts in the PACO Impact project.

After the finalisation of the Action Plan, the Ministry of Justice plans to hold a meeting with donors. The purpose of that meeting will be to raise and coordinate the support to the implementation of the Action-plan.

2.2 Output 2: Strengthened and well coordinated Anti-corruption Council/Services in Serbia

As previously mentioned, the two activities under this output in the work plan were to review the framework and mandate of the ACC as well as assess the need for additional anti-corruption institutions.

The status of the ACC and the need for new anti-corruption institutions has been an on-going discussion as part of the process of drafting the strategy and action plan. There has been some controversy over the issue and it has for instance resulted in that the ACC does not take part in the working group on drafting of the Prevention of Corruption Act.

The efforts to strengthen the Anti-corruption services have otherwise mainly been through the drafting of the Prevention of Corruption Act which gives the legal ground for the establishment of the new Anti-corruption body.

2.3 Output 3: Improved key legislation and its implementation in line with international and European commitments that Serbia has adhered to

A working group under the lead of Ministry of Justice with the mandate to draft a Law on Anti-corruption was established in September 2005. With the assistance of experts provided by the Council of Europe, a first draft law was produced and circulated among the working group members in December 2005. A number of technical workshops were foreseen and some have taken place but the process seems to have been stalled.

The most controversial issues of the draft law include the parts dealing with financing of political parties and conflict of interests. The draft law of April 2006 states that both these areas will be the responsibility of the new body.

The future status of the Anti-corruption council also remains unsolved. The Anti-corruption council has not taken part in the working group although it was invited to do so. The reasons for not participating seem to be a disappointment with the Government on the slow process seen as showing low commitment in combating corruption combined with a lack of trust in the Government's intentions with the new law. The Council views the establishment of a new Anti-corruption body as at least in part an excuse to scrap the Council.

The next step of the process of drafting the law is not entirely clear. If and how the working group will be called in to continue the work remains to be seen. One possibility that has been mentioned is to let a smaller working group lead the way and later return to the working group again. Another idea from members of the working group was to exclude the most controversial issues and to deal with them in separate processes.

2.4 Output 4: Developing new Integrity Plans Manual for judiciary

In January 2006 the pilot activity action plan started with the aim to establish and introduce a new Integrity Plan as a preventive anti-corruption measure, consisting also as a part of the National anti-corruption strategy. The pilots included to develop Integrity Plans Manual and training of officials to help other courts and offices of prosecutors to draft and implement Integrity plans. Belgrade District Court and the Prosecutors Office in Belgrade were selected as pilots.

In April 2006 there was an expert evaluation and recommendation and at the same time the plans were drafted according to guidelines by a local consultancy. There was also decided that instead of having both the court and the prosecutor's office at the district level in Belgrade to keep Belgrade District Court but to use the Municipal Prosecutors Office in Pancevo.

There were two reasons for this decision, to have one small and one large institution and also by including institutions outside Belgrade it might give a slight different perspective.

Since the start there has been a number of activities with the working group and experts but the drafting of the plan and the manual is still at an early stage with questionnaires to be filled as part of the preparatory stage. According to LPO the plan might be finalised at the end of the project.

3 Summary Serbia

The achievements in relation to the expected outputs in Serbia can be characterised as slow to some extent still uncertain. The political instability and the pressure on the public administration by the complex reform process are constant threats to the project. However, there has been some progress and the networking between the actors has been considerable.

The activities under output 1 have been achieved with the finalisation of the Strategy. However, as the name of the output in Serbia shows, the Strategy needs to be linked to an Action Plan to be meaningful. The work on the Action Plan seems to have lost pace and the work is now pending the establishment of the ad-hoc commission that will finalise the Action Plan and oversee its implementation. The decision to establish the commission has been taken but the nomination of the members has not been done.

Regarding output 2, there have been discussions on the mandate of Anti-corruption Council as part of the drafting of the Strategy and Action Plan in output 1. The status of the ACC and the need for additional bodies has also been central to the work with the Anti-corruption law under output 3. This has made output 2 very vague and its function can be questioned.

The law drafting under output 3 has been halted due to unresolved issues. One way forward that has been mentioned is to remove the most controversial parts of the law and to deal with them separately. This way the law could be adopted and the process moved forward. However, this runs the risk of later backlashes and might create a situation where the law will be seen as incomplete and temporary due to too many outstanding issues.

The purpose of Output 4 to develop Integrity Plans Manual and training of trainers for officials to be able to support courts and offices of prosecutors in the drafting and implementation of Integrity Plans is a good example of capacity building.

There were good intentions, but since the start there have mainly been a number of activities with the working group and experts while the drafting of the plans and the manual is still at an early stage. The suggested pilots are still filling in questionnaires as a part of the preparatory stage. According to the LPO the plan might be finalised at the end of the project but it will probably be too late for using project money to print the manual.

The focus of the PACO Impact project in Serbia has largely been on producing the instruments: the strategy, action plan and law. The need is still there too finalise the drafts and to ensure the implementation through systematic training and capacity building.

Appendix 5 Results in the Project Regions, Montenegro

1 Background

In Montenegro the Ministry of Interior is the counterpart coordinating the implementation of the project. However, the Country Project Director is placed in the Anti-Corruption Initiative agency (ACIA).¹⁷ The first regional conference with participants from all project areas of the PACO Impact was held in Budva, Montenegro. This served to increase the visibility of the project in Montenegro.

When the project started, the process of developing a Programme of Fight against Corruption and Organised Crime had already started. In the assessment of the process to date, made by the project, concluded that the on-going process of drafting the programme had not been fully providing the inclusion of all relevant stakeholders, such as civil society and business community. This was seen as important because the implementation of anti-corruption reforms will require a wide spread support and legitimacy. Therefore, the project saw the need to support the revision and finalisation of the Programme.

The political situation, in which the PACO Impact project has operated in Montenegro, can be characterised as uncertain. The uncertainty is of course connected to the referendum on the status of the republic that according to earlier decision was planned for and executed on May 2006. The process linked to the referendum has created difficulties and delays in the implementation of the project, in particular in the parts where dependence on decisions by the Assembly has been considerable.

Regardless of the decision on the relation with Serbia, the overall political goals of Montenegro has during the project been and still are connected to the process of European Stabilisation and Association Process (SAP) and to meet European standards. The Government of Montenegro has declared that all laws that are adopted by the Assembly must be in accordance with EU.

Given the background above, the objectives and foreseen activities stated for the project area of Montenegro at the start of the project were the following:

Main Goal: Capacity building in drafting, monitoring, and coordinating anti-corruption programme and an action plan.

Also, ensure capacity building in applying preventive corruption measures such as public education and debates, and other targeted workshops to increase substantive understanding of both repressive and preventive anti-corruption reforms carried out by ACIA while reported and monitored by the National Anti-corruption Commission (NAC).

Expected actions: Improved (and separate) Anti-Corruption Programme and draft action plan with comprehensive and measurable anti-corruption actions; support ACIA and establishment of NAC by strengthening their monitoring and managing capacities while providing training and inclusion of measurable indicators of success in the action plan; increasing policy and reform advising capacities, support institutional memory and information, as well as support production and publication of anti-corruption programme and its action plan.

Below is presented the result from project implementation under the four expected outputs.

¹⁷ The Agency is in the PACO Impact project reports sometimes also called "Directorate of the Anti-Corruption Initiative (DACI) and Office of the Anti-Corruption Initiative (OACI).

2 The Outputs

2.1 Output 1: Finalised and endorsed a comprehensive Anti-corruption Programme and its Action Plan

The process of developing the Programme of Fight against Corruption and Organised Crime for Montenegro was initiated in 2003. When the PACO Impact project started, there was a draft Programme and the project directed its support to the revision and finalisation of the Programme. During the second half of 2004, meetings were held to review and finalise the Programme. The Anti-corruption programme was finally adopted by the Assembly in July 2005 after considerable delay.

After the adoption of the Programme a new working group was put together, headed by the Ministry of Interior, to draft the anti-corruption action plan. Representation in the working group was broad from the government sector and the civil society was also represented. The working group was given two months for the drafting of the action plan but this was later extended. After the completion of the first draft the Council of Europe was asked to take a more active part in the drafting through expert participation and they did so. The action plan now exists in a final draft version and the Ministry of Interior is planning for a conference on the finalisation of the document at the end of June 2006.

The Programme of Fight against Corruption and Organised Crime for Montenegro states that the leading role in the realisation and monitoring of the Programme will be with a separately established inter-group team, also called Commission of the Government, who's mandate and composition will be decided by the Act of the Government. The government has made a reference to this Commission but its establishment is pending the finalisation of the Anti-Corruption Action Plan.

This Commission of the Government for monitoring of the Programme is not to be confused with the previously planned National Anti-Corruption Commission, which never was established.¹⁸

2.2 Output 2: Strengthen capacities of the relevant agencies (ACIA, NAC, Special Prosecutor, and Ministry of Interior) to implement the Anti-corruption programme and its Action Plan

The Anti-corruption Initiative Agency (ACIA) was established in 2001 after recommendations from SPAI. It is in charge of monitoring certain Anti-corruption measures, as well as to provide anti-corruption policy advises to the government especially with respect to the legislative initiatives. The ACIA comprise of five staff members and it has no investigative power. Rather, its main role so far has been in drafting an anti-corruption law and a strategy, and advising government on anti-corruption initiatives. The ACIA took an active part in the drafting of the action plan.

The law that established the ACIA also foresaw the creation of a National Anti-Corruption Commission (NAC) as a multi-institutional body to monitor, coordinate, and report on the Anti-corruption programme and measures taken by all institutions. This body would complete the operational mechanisms for fighting corruption. Once in place, the ACIA was expected to serve as its Secretariat.¹⁹

Given this background, the PACO Impact project planned its efforts under output 2 upon strengthening the central mechanisms in charge to implement the Programme and Action Plan. Primarily the responsibilities were foreseen to be put under the ACIA and the NAC and the activities in the work plan were “on practice training: strengthening the capacity of ACIA to monitor and coordinate anti-corruption efforts and implementation of anti-corruption programme”, and “High level Meeting: Initiate the policy dialogue on the establishment of the National Commission for the Prevention of Corruption”.

¹⁸ For further explanation on the National Anti-Corruption Agency, see section 2.2.

¹⁹ PACO Impact Inception Report, section 4.6.4.

However, the actions related to establishment of the National Commission for Prevention of Corruption was later, on a proposal by the government authorities, shifted into other actions since the need for establishing such a commission no longer appear to be in line with the current policy approach.²⁰

Thus, the work plan was changed and the support to the NAC was replaced with a) a conference on 19 October 2005 to review and discuss the progress reached so far in the institutional and operational efforts in the fight against corruption in accordance to the new Programme of Anti-corruption (and Organized Crime), and b) a the new way of supporting the ACIA called the “The PR component”.

In this new component the project temporarily funded an officer in the ACIA with the role, primarily to strengthen and enhance the public relations through liaising with all relevant non-governmental organisations. This included to serve as the interfacing liaison between ACIA and the public on lodging complaints and addressing them to relevant institutions. The new component was fully functional from December 15 2005 and will continue until the end of July 2006. The interaction between the Agency and the public seem to have increased due to this support and some activities on publications and public campaigns has been done.

2.3 Output 3: Strengthen the Capacities to introduce and implement new legislation in line with the international and European Standards

The efforts under this output have been focused on the development of new laws. Support has been given to the drafting of a law on conflict of interest. The first law on Conflict of Interest in Montenegro was taken 2002 but the President never adopted it although it was subject to several amendments and revisions and passed two times by the Parliament. In the end a decision was taken to create a new working group to draft a new law. A Member of Parliament was selected to lead the working group.

Several working meetings were held and members of the working group also attended an international conference with experts from Strasbourg. The process of developing the draft law lasted one year. During this time experts provided by the CoE made two reviews of the text. In the end the draft was approved by the expert and submitted to Parliament. The draft law on Conflict of Interest remains with the Parliament since mid-2005.

Support has also been give to the processes on drafting the law on Criminal liability on Legal Entities and the implementation of the Criminal Code and the Criminal Procedures Code.

2.4 Output 4: Operational and Effective Office of the Special Prosecutor for Organised in line with the Anti-corruption Plan

The focus was on strengthening the newly established Office of Special Prosecutor through drafting of the Internal Rules of Procedures and purchase of office equipment.

The process started with an expert mission to determine the current situation of the institutional and legislative set-up. The mission also gave advice on more specific assistance that could be provided during the course of the Pilot Activity

This activity was followed up with the development of two advisory papers regarding the Strengthening of the Prosecutorial Services in Montenegro and on Case Management for Prosecutorial Services as good practices from the region to Ministry of Justice. The draft Internal Rules of Procedures are currently being developed by the Ministry of justice and are not yet finalised. The purchase of office equipment for the Office of Special Prosecutor has been implemented.

In addition a joint training for prosecutors, customs, FIU and police on investigating corruption related offences was held in June 2006 after the visit of the evaluators.

²⁰ PACO Impact 2nd Semi-Annual report

3 Summary Montenegro

The developments in Montenegro have been slow compared to the planned time frame.

Although considerable results have been achieved, some of the central outputs expected from the project: the Action plan on Fight against Corruption and Organised Crime, the Law on Conflict of Interest and the Internal Rules of Procedures of the Special Prosecutor are still not finalised and adopted.

A specific explanation for the delay can be found in the political status of Montenegro. The situation pending the referendum created a halt to many processes in the public sector reform of Montenegro. Also the anti-corruption efforts were affected with considerable delays in the PACO Impact work plan as a result. The outcome of the referendum in favour of leaving the union with Serbia and the proclamation of the status of independence marked the start of a period of feverous activity in order to prepare for the new status.

The organisational set-up of the PACO Impact with the Country Project Director in the ACIA and with Ministry of Interior as formal counterpart has not contributed to strengthening the focus of the project and the role of the ACIA in coordinating the anti-corruption efforts in Montenegro. Broad participation is vital to the project but so is clear roles and project leadership. The fact that ACIA is not the self-evident coordinator of the project underlines that the agency is perceived as weak and understaffed. Future support should be clear to treat the ACIA as the central agency for coordination of anti-corruption efforts.

The implementation of the project could be characterised as “open” in relation to the original work plan. Formal changes have taken place in the work plan but there are also several cases where activities that not are in the work plan have been supported. This has to some extent to do with the fact that the work plan has not been properly revised as was planned, which has lead to a situation where external changes in the project context haven’t been met by corresponding changes in the work plan. There exist strong opinions among stakeholders in favour of making the PACO Impact project more practical and geared toward the operational aspects in the project area. One suggestion mentioned to us was to include more case studies. Stakeholders have also underlined the importance of meeting local need and criticised the project of not making a proper needs analysis which included the stakeholders. This fact points to the fact that the project management has been very centralised in the PACO Impact project and that this has lead to problems in adjusting the project to local needs.

The Programme for Fight against Corruption and Organised Crime is very comprehensive and broad in scope since it includes both anti-corruption measures and measures against organised crime. This might prove a weakness, as the scope of the work might be overwhelming. If this will be the case is at large up to the action plan and the extent to which it serves to make clear the different areas and responsibilities. The need for separate action plans for the two areas should be considered.

The establishment of the Commission that will lead the realisation and monitoring of the Programme will be crucial. The intent of the government seems to be to include high-level members from all across the government sector as well as NGO. In view of strengthening the overall coordination of monitoring of anti-corruption efforts in Montenegro, the ACIA should be given a leading role in the Commission and be strengthened in order to be able to shoulder that responsibility.

After the change of policy regarding the NAC, the project changed the focus of output 2 into the newly added so called PR component. The PACO Impact funded a new officer at the ACIA during a period of 6 six month who should act as an interfacing liaison between ACIA and the public on lodging complaints and addressing them to relevant institutions as well as raising public awareness on anti-corruption through publications and campaigns. The new component has temporarily given the ACIA more resources but it is not likely that it will have big impact on the perceived strength of the ACIA in the long-term.

Appendix 6 Results in the Project Regions, Kosovo

1 Background

The project set-up in Kosovo differs from the other project regions in that it has two Country Project Directors. One represents the Provisional Institutions of Self Government (PISG) and the other represents the United Nations Interim Administration Mission in Kosovo (UNMIK). The PACO Impact project set-up in this sense, of course only reflects the wider situation in Kosovo, which is characterised by an on-going process of transfer of power from UNMIK to the PISG.

The tasks of advising the PISG and providing institutional support with reference to the fight against corruption fall under the Advisory Office for Good Governances, Human Rights, and Equal Opportunities and Gender Issues (OGG). The Project Director Mr. Habit Hajredini representing the PISG is the Director of OGG. Mr Hajredini started his involvement in the project at the first regional workshop in which the work plans for the implementation of the project in the respective project regions were developed. The other Project Director, Mr Francesco Caracciolo, representing the UNMIK is placed as Deputy Head of Financial Investigation Unit which fall under the Police and Justice Affairs UNMIK Pillar.

All work in Kosovo is greatly influenced by the so called the Standards for Kosovo that were launched on 10 December 2003. They were agreed between the Kosovo provisional institutions of self-government and UNMIK, and were approved by the United Nations Security Council. The Standards for Kosovo are a set of targets that Kosovo must meet in order for the talks about the future political status of Kosovo to begin. In fact, all Standards also reinforce Kosovo's parallel progress towards European Standards in the framework of the EU's Stabilisation and Association Process. The stakes are in other words high for Kosovo to meet the standards.

In the beginning of 2004 a Kosovo Standards Implementation Plan (KSIP) was established. A process for monitoring and reporting on the implementation of Standards was established: every quarter, the Kosovo government and UNMIK conduct "line-by-line assessments" of actions taken as part of the KSIP and, using specially-developed indicators, assess whether those actions have resulted in Standards being met.

Of specific interest for the PACO Impact project are the following sections of the KSIP:

13. *Allegations of misconduct are thoroughly investigated, elected officials and public servants responsible for unethical, fraudulent or corrupt behaviour are effectively disciplined.*
- 13.1 *Adopt and implement Anti-Corruption Strategy for Kosovo, including an Anti-Corruption campaign.*
- 13.2 *Promulgation and enforcement of an Anti-corruption law.*
- 13.3 *Discipline and Appeal Boards established and functioning in all PISG organisations.*
- 13.4 *Establishment of central anti-corruption body and designation of vigilance officers in Ministries and government offices.*
- 13.5 *Code of conduct for elected officials and civil servants drawn up and adhered to. Codes of conduct provide that all public officials and civil servants contribute to the establishment of an atmosphere of tolerance between all communities.*
- 13.6 *Enforcement mechanism for Code of conduct for elected officials and civil servants is in place.*

From these paragraphs it is evident that the PACO Impact project in Kosovo exists in a wider setting where priorities are very clear and where the process of combating corruption is part of the overall efforts of Kosovo to meet the Standards set up.

The OGG in 2002 initiated the work of an inter-ministerial group on anti-corruption, which has led the drafting of the following documents:

- Advisory Anti-corruption Paper of the Government of Kosovo (endorsed in early 2003);
- Anti-corruption Strategy for Kosovo (enforced in April 2004)

These documents form the basis for initiating institutional reform and the preparation of the anti-corruption Plan and Anti-corruption Agency for Kosovo. A discussion on introducing a Law on anti-corruption for Kosovo was started at the end of 2003.

Given the background above, the objectives and foreseen activities stated for the project area of Kosovo at the start of the project were the following:

Main Goal: Support the drafting and then implementation of a new Anti-corruption plan for Kosovo, by supporting the institutional building of an opted anti-corruption agency, and its legal framework.

Expected actions: Initiate, develop, strengthen and implement the Anti-corruption Plan for Kosovo based on the newly introduced Anti-corruption Strategy. Assist and support the creation of anti-corruption mechanisms in Kosovo and their legal framework, which will ensure monitoring and reporting as well as provide the policy advice with respect to anti-corruption efforts in Kosovo. Support the current working group by training and office equipment in order to increase their capacities and enable them to independently embrace anti-corruption reforms in Kosovo.

Below is presented the result from project implementation under the four expected outputs.

2 The Outputs

2.1 Output 1: Finalised and Endorsed Anti-corruption Plan for Kosovo

At the start of the PACO Impact project, the Anti-corruption Strategy for Kosovo was already prepared by a working group lead by the Office for Good Governance. The process of strategy development received support from the GTZ as well as Council of Europe. The strategy was enforced in April 2004. The focus of the activities the PACO Impact in this output was the Anti-Corruption Action Plan for Kosovo in line with the taken strategy.

The process of developing the action plan contained several workshops with the working group and advisory comments to the draft documents by the experts provided by the Council of Europe. Two consultants from local NGOs were also brought in at one stage to facilitate the somewhat stalled process. A round-table meeting was then held in December 2005 where the advisory comments were incorporated into a final draft that was later promulgated in February 2006.

The level of participation in the Working Group was good after a slow start. Council of Europe played an important role in providing a template for the action plan, taking part through their Local Project Officer and also through the provision of advisory comments from Strasbourg.

The responsibility for the implementation of the action plan is stated for each of the activities in the action plan. The monitoring of the implementation of the Strategy and action plan lies with the Office for Good Governance until it will be taken over by the not yet established Anti-corruption Agency established by the recently adopted Law on Suppression of Corruption. The Director of the OGG who is also the Country Project Director, Mr Hajredini is presently in charge to receive reports from the

implementing agencies and report to the Prime Minister. In addition to this, the monitoring mechanisms of the Kosovo Standards Implementation Plan will also report separately on the progress.

2.2 Output 2: Increased efficiency of the specialised enforcement authorities in the fight against corruption

Under this output it was planned to strengthen the Financial Investigation Unit (FIU) that is part of UNMIK pillar 1. According to the work plan, the project should “increase the number of the anti-corruption local and international investigators in the FIU structures in order to increase capacities for investigating corruption and sustainability of knowledge as such in Kosovo (Policy discussion meeting with the SRSG).

The mentioned policy discussion meeting was never held and the decision to cancel the activity and replace it with other activities under output 4 was taken at the Mid-Term Review in Strasbourg. Those activities under output 4 aimed to assist in drafting of Internal Rules of Procedures for the coming anti-corruption agency.

However, according to the UNMIK Country Project Director in the FIU, there are good results under output 2. The FIU was increased of 5 members. The new 5 members carried out a training programme for KPS (Kosovo Police Service) officers in the field of economic and financial crimes.

This development within the FIU is not reflected in the PACO Impact reporting and thus not seen as a result from the project implementation. The fact that the reports from the project and the view of one of the CPDs are contradictory, points to the fact that the PACO Impact project leadership is indeed very complex in Kosovo. This in turn shows the need for clarification of roles and responsibilities in the project management.

2.3 Output 3: Preparation of the legal framework for an independent Anti-corruption Agency in Kosovo in line with the relevant international and European standards

Discussions on the “Suppression of Corruption Law” were initiated in the end of 2003. When the PACO Impact project started, it was decided to support the working group in charge of drafting the law although this was not part of the work plan. The working group on drafting the law was chaired by the Country Project Director, Mr Hajredini. A draft of the law was prepared during 2004 and handed over to the Assembly. Also the other CPD, Mr Caracciolo was however involved in this activity.

The assembly adopted the law in September 2004 and handed it over to UNMIK. The law remained with UNMIK for nearly seven months before it was promulgated in May 2005. The reasons for this delay are not known. A round-table meeting on the implementation of the law was held with support from the PACO Impact in August 2005. In the project reports only the round table meeting is reported because it was part of the work plan.

The law provides the legal basis for an Anti-corruption Agency (ACA) and an Anti-corruption Agency Council. The role of the Agency is preventive and advisory. It will also be able to carry out “administrative investigations” and shall cooperate with law enforcement authorities. It shall coordinate the anti-corruption efforts in Kosovo and oversee the implementation of the Anti-corruption Strategy. The role of the Agency Council is to exercise direct supervision of the Agency.

The Council Agency was established in April 2006 and it consists of nine members. However, it is not yet fully in function since the establishment of the Agency is still pending the nomination of members by the Assembly.

The situation in Kosovo regarding division of responsibilities is as stated earlier very complex due to the temporary status of the administration. One consequence of this, is that the role of the ACA to coordinate all actors in the implementation of the Anti-corruption Strategy becomes difficult due to the fact that it is unclear which are the responsible actors. The recent establishment of a Ministry of Justice and

the gradual transfer of power and responsibility to it can serve as an example of the difficulties faced in the whole public administration.

2.4 Output 4: Establishment of anti-corruption service (Office) in Kosovo

The plan for this output was to provide assistance and support to the establishment of the new office of ACA in Kosovo (including the purchase of equipment). Due to changes under output 2, the task of drafting of internal rules of procedure for the coming anti-corruption agency was also included in the pilot activities in Kosovo.

The activities under this output have been pending the establishment of the ACA. However, during 2006, the drafting of the internal rules of procedures have started and the plan is to purchase equipment for the Agency before the end of the project.

3 Summary Kosovo

The Anti-corruption Strategy developed before the PACO Impact project, could be characterised as a wish list. The action plan which the project has supported provides a mix of very specific activities on the one hand and very general and big tasks on the other. The agencies stated as responsible to undertake an activity are often several and there is no division of roles and responsibilities among them. The time schedule is generally very optimistic. The strategy and action plan are important steps for the efforts to combat corruption. However there will be a need for future clarifications of roles and responsibilities and also a great need for support in order to see the action plan through to implementation.

The law on Suppression of Corruption was developed with support from the project and in line with the Standards for Kosovo. Through the law the legal basis for the Anti-corruption Agency has been formed. The law is a vital step for the legal basis and the operational set-up of the anti-corruption efforts in Kosovo. However, the power of the Agency to coordinate the other actors in government needs to be clarified and clear operational guidelines are needed. Also, the nominations of the members of the Agency will be crucial.

The regional cooperation as part of PACO Impact has had less impact in Kosovo than in some other project regions. Participation in regional activities have been lower than from other project areas. This has been seen as a political statement towards Council of Europe for the official addressing of the territory of Kosovo.

The political situation in Kosovo affects the implementation of the PACO Impact project in many ways. Through the connection to the political process of the Kosovo Standards, it can be said that the task of achieving the main objectives of the PACO Impact has actually become a matter of necessity in order to reach the next stage on the discussion on the political status for Kosovo. However, given the large scope of the Standards and the limitations of the public sector in Kosovo in terms of human and financial resources, it is fair not to expect too much of this connection, especially not in the short-term perspective.

On the other hand the whole public administration is in the middle of a very complex transition and the amount of on-going reforms and processes of change are overwhelming and they all compete over a very limited human resources base. This has affected the project in a negative way and has also caused some issues for clarification in the leadership of the PACO Impact project. This situation underlines the importance of clear operational procedures both in the PACO Impact and for the coming Anti-Corruption Agency. Of specific importance for the Agency is clear procedures and mandate in its interaction with other actors.

Appendix 7 Results in the Project Regions, Albania

1 Background

Albania has a tradition to work with anti-corruption. In April 2000 the government of Albania presented a revised Anti-Corruption plan to the public and at the same time an Anti-corruption Monitoring Group (ACMG) was established to ensure the implementation of the plan. ACMG was suggested by the Council of Europe (CoE) and the Stability Pact Anti-corruption initiative (SPAI) after a visit in March 2000. Later the same year steps were taken to establish an Anti-corruption Unit of the ACMG at the office of the Prime Minister.

Ever since 2001 the Albanian government has been a member in the Council of Europe group of states against corruption (GRECO) who's aim is to improve its members' capacity to fight corruption by monitoring the compliance of States with their undertakings in this field. In this way, it will contribute to identify deficiencies and insufficiencies of national mechanisms against corruption, and to prompt the necessary legislations, institutions and practical reforms in order to be more efficient in the prevention and combating of corruption.

Albania also participated in the Committee of experts of evaluation of anti-money laundering measures (MONEYVAL), and had their first evaluation in 2001 and the second in 2004. During the second evaluation it was emphasised that Albania had progressed significantly since the first evaluation.

In general the law enforcement sector looked more focused and there were more efforts to create results than was the case during the first evaluation.

Still there were no comprehensive public surveys of corruption in Albania, apart from some early surveys carried out with the support from the international community, showing that the Judiciary, the Customs, the Privatisation Agency and the Health service was among the most corrupt systems. High unemployment, low income, a considerable "informal" economy, and a generally low confidence in public administration, were all factors contributing to corruption.

During 2001–2002 the project PACO Albania 1, funded by Sida and implemented by CoE, supported the Albanian government to further strengthen the ACMG as a part of the Programme against Corruption and Organised Crime in South-eastern Europe. After the phase out of PACO Albania 1, from August 2002 until February 2004, as a follow up project, PACO Albania 2, was designed with the objective to strengthen the cooperation of State institutions with the ACMG in the implementation of the national anti-corruption plan.

During PACO Albania 2 three kinds of reporting were expected to be submitted by the Office of the Anti-corruption Unit.

1. Macro-system reports to update and monitor results of the action plan and priorities of the national strategy,
2. Micro-system reports on existing systems and mechanism in central and non-central institutions with the task to prevent corruption
3. Ad Hoq reports prepared in response to a request of the ACMG Board or other higher authorities on systems, policies or actions related to the prevention and fight against corruption.

Some important laws and legislations was drafted and adopted during PACO Albania 2

- The approval of the Action Plan for the prevention and fight against corruption (taken by the Council of Ministers in August 2003)
- Rules of Ethics for Public Administration (Parliament September 2003)
- Memorandum of understanding for establishing the Triangle Commission, on the Exchange of information and networking on corruption offences allegations and related criminal proceedings. Representatives from the Officer of the minister of State, Officer of the Prosecutor General and Crime Directorate and the Albanian Coalition against corruption was part of the Commission (signed in July 2003)

The experience gained from the two PACO Albania projects enables valuable lessons and the momentum built up in Albania's anti-corruption effort needs to be maintained. It was suggested in PACO Impact that the additional assistance to Albania should be secured to enhance the achievements of anti-corruption measures and the Country Project Director appointed was the Inspector of International Administrative Control and Anti-Corruption.

Main Goal: Improvement of the Anti-corruption plan and its comprehensive implementation aimed at improvement of monitoring based on Indicators of Success and an increased accountability and responsibility for all involved institutions.

Expected actions: Improved Anti-corruption plan, consolidated and comprehensive measurable Anti-corruption actions; Implement certain (specific and important) measures under the action plan, strengthen monitoring and managing mechanisms by the inclusion of tangible indicators of success in the action plan. Strengthen capacities of the prosecutorial services to fully carry on criminal proceedings against corruption related offences, by professionally equipped officers and prosecutors.

Below is presented the result from project implementation under the four expected outputs.

2 The Outputs

2.1 Output 1: Anti-corruption plans improved or elaborated

The Anti-corruption strategy and the Action plan was improved and elaborated and adopted by the government until September 2005 when a new government was elected.

Since September 2005, the policy (strategy) of the new government is focused less on impact of legislations and more on implementation. The Short-term policy on anti-corruption reforms together with the List of short term Actions is based on objectives and was endorsed by the government in December 2005. The Prime Minister decides on the actions and reports to Parliament every 6 month. There will be a new communication with frequent consulting where Parliament will be monitoring the government according to the set objectives. This will focus on and upgrade the accountability of the government.

Parliament will need capacity building to be able to, based on the laws, establish investigations and monitor the implementation. Prime Minister will launch this in July 2006. The reason for 6 months reports is, according to the new government that one year is too long for the memory of civil society. The Government also has a programme for 4 years.

2.2 Output 2: Institutional mechanisms for the monitoring and management of Anti-corruption Plans strengthened

Corruption was one of the main pillars in the election strategy during 2005 and the need to raise morality was stressed. There were a lack of trust between parties and everyone was afraid to face the civil society.

After the election the previous ACMG and the Anti-corruption Unit was amended by the new government. The opinion of the new government was that ACMG was not a good model since there was no clear mandate to actually monitor the performance of the government.

The new government of Albania restructured a new Department of Administrative Internal Audit and Anti-corruption (DIAC). DIAC is headed by the Prime Minister and established from the previously Internal Audit and also including some part from the former Anti-corruption Unit. It has a larger structure and additional power than the previous ACMG. The objective is to mobilise administrative investigation, focusing on practical issues and fewer papers and its main tasks are to do frequent checks, controlling state companies for example.

The creation of the Anti-corruption Task Force with members from some of the line ministries and directorates is headed by the Prime Minister. The role and responsibilities of each Task Force member are

1. To exchange information on corruption matters and activities undertaken in their institution
2. To manage in case to case basis the sectorial working groups and to report in their behalf
3. To coordinate all activities in the areas they cover and to administer the drafting of the action plan based on each activity area
4. To report on the implementation of the assigned tasks

The Task Force does not include the Prosecutor General, mainly because of a general suspicion depending on too few numbers of prosecuted corruption cases.

To create public awareness, mailboxes and a green phone line has been developed as part of the fight against corruption in each institution. The purpose is to give the public the opportunity not only to get in touch with but to deliver their complaints directly to the line ministries.

2.3 Output 3: Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards

A number of legal acts have been adopted during PACO Impact

- Immediate measures for the implementation of the law on the Prevention of the conflict of interests while exercising public functions. To ensure that all public servants private interests are audited and verified.
- The law on Freedom of Information, promoting awareness to the public in order to participate in the fight against corruption. All institutions should use all the necessary ways and means of communication to facilitate public awareness, legal education and participation that the public can participate in the fight against corruption.
- Strengthening transparency through increasing the use of internet and improving existing WebPages.
- Council of ministers to avoid nepotism in the public administration
- Approval of the implementing provisions of the customs code of the republic of Albania
- Avoiding nepotism and political influence in the recruitment of the personnel and career in the tax administration
- Addition to the amended guidance of the council of ministers on public procurement
- Law on the Cooperation of the public in the fight against corruption

- Measures to implement recommendations of the high state control, internal audit, and the department of the internal administrative control and anti-corruption in the council of ministers and the institutions under authority of the Prime minister or the ministers.

2.4 Output 4: Initiating and implementing the case management reform aiming to prevent corruption within the prosecutorial services

In December 2002, during the project PACO Albania 2, the Prosecutor General (PG) of Albania requested CoE to assess case management and information tracking within the prosecutorial system. The objective was to ensure transparency in the work of the prosecutors and to prevent corruption.

The recommendations were a system with basic information for the Prosecutor General to be able to monitor and scrutinise the work of the prosecutors. In the proposed system, four reporting sheets were to be filled during the different stages of criminal proceedings and to be reported immediately to the office of the Prosecutor General. The assumption was that the knowledge that all basic data already was recorded at the central level, should make the local prosecutors less interested in manipulating case information or to take bribes. The report was submitted in March 2003. The Prosecutor General was very supportive to the recommendations, but unfortunately the system had to be put on hold since there were no funds for implementation in PACO Albania 2.

The Case Management system had to wait until 2004 when it was decided that it would be the pilot within PACO Impact. In January 2005 the Prosecutor General recruited 5 prosecutors and 1 IT specialist for the working group. The work targeted a national approach with standard forms for investigation and training and there was also a study trip to Germany to experience their systems.

All prosecutors should fill the standard forms for every case to ensure the correctness and proper legal base of the investigation. The Prosecutor General will recruit special prosecutors to monitor and control the input in the database. All information will be provided through computer network, USB flash sticks, discs or hard copies (all prosecutors are not computerised).

4 offices will be implementing pilots, one of them is Tirana PG since 30% of the overload comes from there. The system if approved will give information, follow progress and monitor investigations, failure will be evidential and the effect will be prevented. The system could probably also be developed to be a tool for streamlining the work load, some offices are really overloaded.

The result so far is a draft Prosecutor General order for the Case management system and its normative act. The final standard forms are ready, there are steps and guidelines in draft, the software for the database is there but has not yet been tested, training should be developed and a Manual should be written and introduced to all district prosecutors.

All these activities are still waiting for the Prosecutor General's approval. Unfortunately, this pilot seems to be only a paper tiger, there is no possibility to implement the system with only 1,5 months remaining of the project.

3 Summary Albania

There is general a good experience of PACO Impact in Albania. The substances of the previous projects were already there to build on and it has been useful with donor involvements and especially the experiences from the professional experts. According to the interviewees PACO Impact has been a good base for dialogues.

The new short-term policy on anti-corruption reforms together with the list of short term actions based on objectives could be a valuable tool to monitor the efforts of the government regarding anti-corruption. If succeeded it will probably upgrade the accountability of the government as well as improve communication with Parliament.

The newly established DIAC has a larger structure and more power than the previous ACMG. The objectives are action oriented focusing more on practical issues and less on papers and its main tasks are to do frequent checks, controlling state companies for example. It still too early to say but together with the Anti-corruption Task Force this could be an institution with some real power to fight corruption.

The law on Prevention of conflict of interests ensuring that all public servants private interests are audited and verified together with the law on Freedom of Information, will if properly implemented serve as important tools in the fight of corruption. Lack of respect for government and a lack of trust movement in civil society is a sign that it is important for the new government to make sure that previous mistakes are not repeated.

Regarding the Case management system it is really important that this time make sure to put some flesh and bone to this paper tiger. Everything seems to be there but the final decision, the standard forms are ready, there are steps and guidelines in draft, the software for the database is there but has not yet been tested, training should be developed and a Manual should be written and introduced to all district prosecutors. This system has been on its way more or less since 2002 and it is now time to move from the pipeline and to the actual implementation.

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Appendix 9 Abbreviations

ACA	Anti-Corruption Agency
ACC	Anti-Corruption Council
ACIA	Anti-Corruption Initiative Agency
ACMG	Anti-Corruption Monitoring Group
CoE	Council of Europe
CPD	Country Project Director
DACI	Directorate of the Anti-Corruption Initiative
DIAC	Department of Administrative Internal Audit and Anti-Corruption
FIU	Financial Investigation Unit
GRECO	Council of Europe Group of States against Corruption
KPS	Kosovo Police Service
KSIP	Kosovo Standards Implementation Plan
LPO	Local Project Officer
MONEYVAL	Anti-Money Laundering Measurers
NAC	National Anti-Corruption Commission
OACI	Office of the Anti-Corruption Initiative
OGG	Advisory Office of Good Governances, Human Rights and Equal Opportunities and Gender Issues
PACO Impact	Implementation of Anti-corruption plans in South Eastern Europe
PG	Prosecutor General
PISG	Provisional Institutions of Self Government
SAP	Stabilisation and Accession process
SAP	Stabilisation and Association Process
SPAI	Stability Pact Anti-Corruption Initiative
UNMIK	United Nations Interim Administration Mission in Kosovo

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SWEDISH INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
SE-105 25 Stockholm, Sweden
Tel: +46 (0)8-698 50 00. Fax: +46 (0)8-20 88 64
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