

# Anti-corruption Measures and Policies: European Integration, its Standards, and Regional Co-operation

Montenegro Anti-corruption  
Conference, 19/10/2005

# Questions

- 1) How have anti-corruption concerns been addressed prior to EU accession?
- 2) What issues arise from the EC's feasibility study relevant to Montenegro's fight against corruption?

# Steps in the European Integration Process

- 2002 Copenhagen European Council confirming EU's commitment to European future of Western Balkans – 'Stabilization and Association processes (SAP)'
- European Commission Annual SAP reports (progress achieved + problems + challenges)
- European Council endorses reports
- Reports guide countries' reform processes
- 'Thessaloniki Agenda' (2003 European Council):  
'Organized crime and corruption are real obstacles to democratic stability, sound and accountable institutions, the rule of law, and economic development in the Western Balkans and a source of grave concern to the EU. Combating them must constitute a key priority for the governments of the region.'

# Roadmap to EU Membership

- Feasibility Study (April 2005)
- Agreement to negotiate a Stabilization and Association Agreement (3 October 2005)
- Start of negotiations for SAA
- Signature of SAA
- Opinion of the European Commission whether country should become candidate
- Candidate Status
- Regular Reports monitoring preparations for EC accession (include assessments made by Council of Europe, OSCE etc.)
- Signature of Accession Treaty
- Membership

# Stabilization and Association Agreements (SAAs)

By signing SAAs, countries commit to:

- gradual alignment to EU legislation in a number of areas,
- a gradual establishment of a free trade area with the EU,
- conclude bilateral agreements with their neighbors in the region on, for example, trade and free movement of workers, services and capital,
- co-operate with the EU on issues such as justice, visa, border control, illegal immigration, money laundering, transport, energy etc.

# Copenhagen Criteria

## Political criteria:

Candidate countries need to be a stable democracy, respecting human rights, the rule of law, and the protection of minorities.

## Economic criteria:

Candidate countries need to have a functioning market economy.

## Administrative capacity criteria (or 'acquis criteria'):

Candidate countries need to adopt the common rules, standards and policies that make up the body of EU law.

# European Commission's Regular Reports

Regular Reports look at:

- how country fulfills Copenhagen criteria (horizontal criteria) and
- how country implements the different chapters of the acquis communautaire

## How do Regular Reports look at Corruption?

- Regular reports look at anti-corruption measures under heading of 'Democracy and the Rule of Law', which also included analysis of parliament, executive, public administration reform and reform of the judiciary.
- Corruption aspects also included when assessing progress in regulatory and private sector reform, financial control, and justice and home affairs issues.
- Regular reports take into account reports and analysis from international organizations such as the Council of Europe, OSCE and IFI's.



## Example Lithuania

- 1994/95 – Europe Agreements with the EU, facilitating participation in pre-accession strategy for candidate countries
- Applied for accession to the EU in 1995, resulting in
- Accession partnership with the EU (reform priorities, financial package, conditionality for financial aid)
- ‘National Program for the Adoption of the Acquis’/‘European Union Accession Program’
- Opinion on EU membership in 1997
- 1999 Regular Report by the European Commission resulted in invitation to open accession negotiations; started in 2000, concluded in 2002
- Signature of Accession Treaty in 2003, membership in 2004

## Example Lithuania

In its 1997 Opinion on Lithuania's application for EU membership, the Commission concluded that:

"Lithuania demonstrates the characteristics of a democracy, with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities.

*Efforts to improve the operation of the judicial system and to intensify the fight against corruption need to be sustained."*

## Example Lithuania 1998

Regular report commends the adoption of legal provisions to cover Conflict of Interest issues; the Law on Political Party Campaign Financing, and the establishment of the Special Investigation Service.

Agrees on provision of specific assistance to elaborate national anti-corruption assistance.

Concludes that: *"Efforts still need to be made in the fight against corruption. Although stamping out corruption is one of the Government's highest priorities, it remains to be seen whether the measures taken so far will be sufficient."*

## Example Lithuania 1999

Progress in judicial and public administration reform, adoption of a 'Program of Prevention of Organized Crime and Corruption' and the work of the Special Investigation Service.

Concerns over the lack of implementation of Conflict of Interest Law provisions

Concludes that: "Lithuania fulfills the Copenhagen political criteria. Areas which still need attention are the fight against corruption and the continued reform of the judiciary. [...] In January 1999, Lithuania signed, but did not yet ratify, the Criminal Law Convention against Corruption and became a member of the Group of States against corruption (GRECO)."

*"Further efforts still need to be made in the fight against corruption. In particular, the definition of active and passive corruption should be reviewed, in order to clarify that both material and immaterial advantages are covered by the legislation. The indirect payment in favor of a third party, for example, a political party, must be incorporated, as must promises accepted by public officials. In addition, coordination among bodies responsible for the fight against corruption must be strengthened in order to be more effective."*

## Example Lithuania 2000

Progress on adoption of Law on Lobbying Activities, Law on the Special Investigation Service (which is now accountable only to the parliament and the president).

Concerns over lack of implementation and enforcement of anti-corruption measures, and slow pace of progress in adopting the National Anti-corruption Strategy. Further concerns are: low capacity of the Special Investigation Service and lack of coordination mechanisms between line ministries.

Although the Criminal Law Convention on Corruption of the Council of Europe has been ratified in early 2000, the regular report is concerned about Lithuania not having signed nor ratified the Civil Law Convention on Corruption.

Regular report states that corruption is still issue of concern, and: “Further progress is required in this regard.”

## Example Lithuania 2001

*"Progress has been made in the fight against corruption. Although there are still problems, there is evidence that Lithuania has improved its capacity in this domain. Administrative corruption, however, remains an area of concern. Quick adoption by the Seimas of the National Anti-corruption Program and its Implementation Plan is a pre-requisite for effective sectoral actions in the various institutions concerned."*

Report commends consolidation of co-ordinating role of the Special Investigation Service, and the agency's 'considerable' success in the fight against corruption. Commends the signature of inter-agency memoranda of cooperation between law enforcement agencies.

Concerned over the outstanding signature and ratification of the Civil Law Convention on Corruption.

Need for strengthening of transparency of administrative procedures, strengthening of administrative capacity of anti-corruption agency; Code of Ethics for Public Servants, strengthening of inter-agency co-ordination in order to avoid overlap; more involvement of civil society.

## Example Lithuania 2002

Corruption remains serious concern, in particular in the customs, procurement, police, judiciary and health sector;

(In-)sufficiency of ethics provisions;

Need for increased prevention based on risk-assessments;

Stresses the need for more public awareness and necessity of the allocation of resources to anti-corruption efforts;

Need for more training, including judges and prosecutors;

Reference to the 2001 first evaluation report of GRECO, and the recommendations issued therein.

## Example Lithuania 2003

Corruption remains problem in customs, public procurement, traffic police and health sectors and the judiciary.

Need to:

tackle corruption in a systematic and effective way and to ensure adequate prevention;

create effective mechanisms for co-operation and exchange of information in detecting and investigating corruption-related offences;

more systematic joint training sessions with prosecutors and judges;

increase efforts devoted to the development of anti-corruption control, based on risk-assessment;

increase awareness raising activities involving civil society and adequate financial resources to prevention and education.



# Issues from EC Feasibility Study

EC April 2005 Feasibility Study on the Preparedness of Serbia and Montenegro to negotiate a Stabilization and Association Agreement with the European Union

Some issues relevant for Montenegro's Fight against Corruption

- Administrative capacity
- Legal certainty
- Privatization
- Stakeholder consultation mechanisms
- Commission ≠ Commitment

# EC Feasibility Study

## Administrative capacity

- Need to make choices and set priorities
- Use existing expertise in reform efforts
- Learn lessons from transition regions
- Avoid proliferation of structures

# EC Feasibility Study

## Legal certainty

Awareness of impact of mending and amending legislation

Fragmentation of legislation

Risk of diversion from real priorities (implementation and enforcement)



# EC Feasibility Study

## Privatization

Avoid mistakes made in the region (Bosnia, Bulgaria)



# EC Feasibility Study

Stakeholder consultation mechanisms

Focus on private sector

# EC Feasibility Study

Commission ≠ Commitment

Adoption of legal acts ≠ political will to implement and enforce



# Anti-corruption Strategy

General issues

What is lacking?

What are available indicators?

Where to go from here?



# General Issues

Context

Structure

Cost



# What is lacking?

Public sector service delivery corruption, particularly health and education

Lack of private sector focus

Analysis already carried out

Clear time frame

Implementation mechanism

# Available Indicators

Ranking on Transparency International Corruption Perception Index is NOT an indicator

The index itself IS – over time

BEEPS – EBRD/World Bank, Governance Matters

Need for own surveys

# Next Steps

## Action Plan

Need for (sector) analysis and risk assessments – requires skills + capacity

## Priority setting

Setting of timeframe on implementation of priority measures

Allocation of responsibility for implementation of measures

Strategy on how to secure means for implementation

Legal and institutional reforms: success indicators to be factored into project design

## Avoid:

Plethora of Working Groups/Commissions

Avoid making the Strategy and Action Plan more and more perfect – implementation matters