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## CONCEPT PAPER

### ISSUE OF CORRUPTION IN THE KYRGYZ REPUBLIC



## CONTEXT/SITUATION ANALYSIS

Corruption has been a feature of governance since societies first began to organize themselves into systematic administrations. Corruption problems are of an international character. They exist in many countries, regardless of political systems, levels of political development and differ only in size and scale. Fighting corruption is a major challenge facing developing countries and countries in transition, which due to their specific social and economic problems are more vulnerable to corruption. From this standpoint, Kyrgyzstan is not an exception. Nevertheless, the corruption situation in the Krgyz Republic has become increasingly acute.

As it stands today, corruption can be seen to be the main obstacle to democratic, economic, and social development in Kyrgyzstan, ultimately threatening the stability of the country as Kyrgyzstan lacks the natural resources of some of its neighbors, resulting in increased poverty and the acute need for reform. Corrupt practices have long been a serious hindrance to Kyrgyzstan's economic development, which is also hampered by restricted trade arrangements by its neighbors. Improper conduct, including bribery and nepotism – remains relatively common among government bureaucrats. Bribes are often offered to get officials to turn a blind eye on tax evasion, cover up a criminal case, speed up bureaucratic paperwork or even enroll a student in a state university. The impact of graft has been particularly negative on the country's investment climate.. Also, many businesses have long complained about

harassment from corrupt tax and customs officials. More progress in reducing corruption and state capture and improving governance is also essential to encourage private sector investment and economic diversification, and to instill greater public faith in state institutions to move ahead with a realistic and pragmatic policy and reform agenda. Policies aimed at poverty reduction should include efforts to combat corruption.

The relative weakness, or ineffectiveness, of the State Institutions is a major source of corruption and breeds a lack of trust in the government to provide services in Kyrgyzstan. The state's inability to hold public servants accountable and sufficiently exert control over their actions constitutes the most obvious failure. Public servants utilize their positions to pursue personal gain rather than perform their appointed duties or act in the public's interests, while the development of legislation falls behind the demands of a rapidly changing reality.

It is especially difficult for Kyrgyzstan to sufficiently supervise activities of the lowest-paid civil servants when government agencies enter into business relations with private commercial actors (e.g. through State procurement). Such activities can generate corruption in any country, but it is next to impossible to prevent illegal practices in these spheres when a country lacks detailed laws, regulations and established system of state supervision, which restricted the availability of such information.

Regardless of the attention that the issue of corruption receives in the media in Kyrgyzstan there is a distinct misconception of what corruption actually is. The popular use of *kompromat* (compromising evidence) in media presentations of the corrupt acts as well as the Soviet era of 'kitchen' discussion of the problem has created the public perception that corruption is limited to 'grand' corruption. Thus, while the actions of the elites are perceived as being inevitable corrupt, the everyday corrupt acts that citizens perpetrate (i.e. paying state medical staff for treatment) are not. If asked to describe corruption few citizens in Kyrgyzstan can give an accurate description. This impacts in the ability of both the public and government to formulate effective policy in the issue. Anti-corruption efforts are consequently not well understood. The law enforcement view, or approach of arrest and possibly execution, is conceived to be a valid method of combating corruption, yet it continues.

A public opinion survey in Kyrgyzstan carried out by the Center for Public Opinion Studies and Forecasts an independent research organization with support from UNDP has found wide public concern about corruption. Corruption, as a serious menace to the development of any society, becomes more and more relevant for Kyrgyzstan. This is the point of the authors of the report "Corruption in Kyrgyzstan", published in February 2001 and sponsored by UNDP. The report is based on the Public Opinion Poll on Corruption during which people from different strata of the Kyrgyz society spoke on the origins of corruption and the ways to overcome this problem in the country.

The report presents the results of a corruption poll conducted in Kyrgyzstan. About 66% of the questioned officials think the most corrupt state bodies in Kyrgyzstan are the courts and the prosecution authorities followed by the government, customs, the tax agency, the police, traffic police, high schools, the Finance Ministry, military commissariats, military registration offices, and national security. Almost all people in Kyrgyzstan encounter extortion at schools, universities, police offices, hospitals, customs offices, state motor-vehicle and customs inspectorates. Plants and factories encounter...bribery even more often than ordinary citizens", report says.

The most widespread form of corruption in Kyrgyzstan is bribery, think 76% of the respondents. The reason for corruption is the economic situation in the country (60% of those questioned), the meager

salaries of state officials (56%), corruption among top-ranking state officials (42%), the weakness of state power (41%), and flaws in the legal system (33%).

One third of those surveyed thought that corruption and weakness of government institutions are the main obstacles to economic reform. One in four believed Kyrgyzstan is the most corrupt country. While many respondents thought that the government is not prepared to fight corruption, over three quarters believed that corruption can be significantly reduced.

The survey found various opinions about the causes of corruption, such as economic crisis, legislation gaps, low salaries of government officials and low moral values. All respondents, however, saw the government as the main cause, believing that the society's well-being depends first and foremost on the health of the government.

The perceived level of corruption in Kyrgyzstan is still high. Transparency International has ranked Kyrgyzstan in 118th place in Transparency International's 2003 survey of 133 countries, formally known as the Corruption Perceptions Index.

The study on corruption in Kyrgyzstan prepared by Transparency International exposes the shadowy sides of Kyrgyz government officials, judicial workers, and public servants abusing their positions for personal benefit. Transparency International reports that, according to Kyrgyzstan's judicial bodies, since 2000, not one high-ranking Kyrgyz government official has faced criminal persecution for corruption charges.

The Kyrgyz Republic is addressing the corruption problem mainly through the criminal law although there is a law on corruption, which is vague. As a crime without a victim, however, corruption everywhere has proven peculiarly resistant to control through the criminal law. Without appropriate and effectively implemented legislation, the exercise of state power tends to become incoherent, diffuse and, too often, corrupt. Competent law, and therefore competent legislation, constitute the essential infrastructure, both for good governance and democratic social, political and economic change. Without well drafted and implemented laws, problematic institutions will remain in place -- and so will poverty, vulnerability, poor governance, corruption. Most of the new laws have so far failed to change the economic, political and social institutions that perpetuate those problems.

Corruption in Kyrgyzstan takes upon it a systemic character, which in turn necessitates a systemic reform response in order to succeed in curbing this problem. Reforms, corruption and development are three aspects of the present situation that are interrelated and need to be solved hand in hand. The problem of corruption will not be solved unless real action is taken in reforming the judiciary system and various laws. The current opaque regulatory framework leaves ample opportunity for corruption, undermines the rule of law and weakens the legitimacy of the government. It is a circle out of which Kyrgyzstan should come through reform and the implementation of best practice policies with the promotion and support of good governance both in the public and private sector. Reforms towards improved governance should be seen as measures aiming to improve the democratic and economic development of the country and thereby securing social improvements for the population. The end result will be a more stable and secure Kyrgyzstan.

At present Kyrgyzstan is in a position where the government has made several public commitments to curb corruption, both verbally and through their efforts including: the signing and submission to Parliament of the UN Convention against Corruption; adoption of the laws on civil service, on chamber

of accounts, on administrative procedures, on declaration of income by senior officials, the submission of the draft status report to the OECD Anti-corruption Network for Transition Economies' "Istanbul Action Plan", moreover, the abolishing of the National Council on Good Governance by a decree of the President of the Kyrgyz Republic on 25 October 2004, and converting the working body of the National Council for Good Governance - Secretariat to the National Council on Good Governance into the Secretariat to the Consultative Council for Good Governance. But, the measures being undertaken in the country haven't ensured radical reduction of corruption yet. Much work still needs to be done to effectively implement these laws and initiatives with a focus on concrete delivery and results. Mechanisms for monitoring and evaluation of the implementation of the anti-corruption efforts need to be developed and publicized to provide oversight and feedback.

The current emphasis on national anti-corruption programmes are an important step in the right direction. However if this is simply an instrument of the ruling elites to appease the international donor community, public cynicism and distrust of the State will only increase and further undermine attempts to curb "corruption".

## **INTERVENTIONS BY KEY ACTORS AND COORDINATION WITH THEM**

### **World Bank:**

The Governance Structural Adjustment Credit (GSAC) addresses improvement the transparency and responsiveness of the public sector and enhance the ability of external stakeholders to hold it accountable; and needs in increasing efficiency, effectiveness, and accountability within the public sector. The GSAC supports reforms aimed at improving personal accountability of political officials and civil servants; strengthening voice and participation by improving public access to official information; improving the interaction between regulatory agencies and business enterprises; strengthening external audit, strengthening public expenditure management, by establishing a more strategic and transparent budget formulation process, strengthening accountability and transparency in budget execution; improving the internal control environment; improving transparency, value for money and accountability in public procurement; improving service delivery in the health and educations sectors; enhancing the effectiveness of the civil service; and streamlining the structure of Government ministries and agencies

### **UNDP:**

National Governance Programme aims at supporting the country to establish an effective and transparent system of national government that includes efficient, focused executive institutions monitored through independent oversight mechanisms, and a legislative branch that adopts legislation benefiting all citizens. The programme focuses on capacity building as well as institutional reform of national state management bodies both at the central and local levels.

### **IMF:**

National Poverty Reduction Programme has a component of public administration reforms. It aims to ensure effectiveness, transparency and accountability of all state agencies. Attainment of this goals will be supported through: a development of democratic institutions, raising effectiveness of legislature, judicial reform, reforming central and local public administration, decentralization and local self-government, effective civil service, reforming state financial services

## **National Council for Good Governance**

The National Council for Good Governance (NCGG) was a newly formed institution aimed at establishing an effective system of governance in the Kyrgyz Republic. The NCGG was a policy management body which is responsible for decision making, expertise with involvement of people from different sectors, adoption of policies and action plans and submission of recommendations to the President. The NCGG was charged with i) drafting and ii) implementing a national Program of Good Governance/Anti-corruption. But, the National Council on Good Governance was abolished by a decree of the President of the Kyrgyz Republic on 25 October 2004, and converting the working body of the National Council for Good Governance - Secretariat to the National Council on Good Governance into the Secretariat to the Consultative Council for Good Governance.

## **The Secretariat of the Consultative Council on Good Governance**

The NCGG Secretariat was first established by the decision of the NCGG on 25th of October 2003 on the basis of Presidential decree #331 of October 15 2003 as an NGO administered under a Presidential appointee. It has been converted into the Secretariat of the Consultative Council on Good Governance. It is responsible for the formation and realization of concrete steps and policies in establishing good governance and combating corruption.

## **Investment Round Table (Investment Matrix)**

The primary purpose of the Investment Matrix is to stimulate private sector investment in the Kyrgyz Republic, and to realize first priority assignments to develop investment and other entrepreneurial activity set forth in the National Strategy to Reduce Poverty and in the Complex Development Framework until 2010 of the Kyrgyz Republic.

The Prime Minister of the Kyrgyz Republic and the Secretariat of the Special Representative of the President of the Kyrgyz Republic on Foreign Investment are in charge of overall supervision of implementation of Investment Matrix. The assignments are implemented via the established mechanism of Working Groups with participation of representatives of government structures, parliamentarians, private businesses, and international donor organizations.

The CiB had a donor coordination meeting on 15 March 2004 at its premises with participation of the UNDP Resident Representative, World Bank Senior Country Manager, USAID Country Representative, Head of the OSCE CiB and Economic and Environmental Officer of the CiB. Moreover, the CiB had a meeting with representative of Transparency International on 7 March 2004. The goals of the meetings were to get familiar with activities of the respective organizations, and to create a synergy and common approach by identifying the next steps on corruption including the proposal for a possible mission. The CiB is in close contact with government officials, in particular with the Secretariat of Good Governance and with local NGOs. The CiB will continue its efforts in a coordinated and cooperated manner with other international and local actors active on good governance and corruption in Kyrgyzstan.

## **INTERVENTION CONCEPT OF THE OSCE**

The OSCE focus on increasing democratization and a secure environment for development in its members countries provides a strong mandate on governance reforms, in particular, promoting the implementation of principles and commitments addressed in the OSCE strategy document for the economic and environmental dimension adopted in Maastricht 2003, together with commitments in other

OSCE documents and decisions concerning co-operation and action in economic and environmental fields.

The OSCE strategy document for the economic and environmental dimension addresses good governance and corruption specifically in the following articles:

In Article 1.8, OSCE Member States recognize that “problems of governance, such as ineffective institutions and a weak civil society, lack of transparency and accountability in the public and private sectors, deficient economic and environmental legislation and inadequate implementation of economic and environmental laws, rules, and regulations, **corruption** ....., deprive participating States of the capacity to ensure sustainable economic, social and environmental development and need to be addressed in all their aspects. Good governance on the international as well as the national level is crucial for well-being, security and stability in the OSCE region”.

Under Article 2.2, sub-title promoting transparency and combating corruption: Article 2.2.6: The OSCE Member States underline that “transparency is also important for the exposure and prosecution of all forms of corruption, which undermines our economies and our societies. In addition to transparency, the fight against corruption requires the adoption by the participating States of a comprehensive and long term anti-corruption strategy”.

Furthermore, OSCE Member States make commitments in fighting with corruption in Article 2.2.7; “We agree to make the elimination of all forms of corruption a priority. We will consider accession to, encourage ratification of, and support full implementation of, international conventions and other instruments in the field of combating corruption”.

### *Strategy of the OSCE Centre in Bishkek*

The CiB views the fight against corruption and promoting good governance as two sides of the same coin. In this context, three common themes which underline the broad strategies for fighting corruption are: Transparency, Accountability, and Participation. These three fundamental features of good governance all contribute to reducing corruption.

The strategy of OSCE Centre in Bishkek should aim at bringing transparency to government processes and decision making to make corruption more difficult to disguise. Moreover, the CiB strategy should be to concentrate on initiatives promoting participation of all stakeholders in decision making to have some voice or direct input into the decisions that affect them helps ensure a more responsive government. It is vital to make the process transparent and to involve the general public.

Furthermore, corruption is a complex phenomenon, therefore partnership between the government, civil society, donor organizations and the public is needed in developing steps to fight it.

Common policies and approaches by the international donors and organisations to combating corruption and effective good governance in the Kyrgyz Republic are crucial if effective assistance is to be given to Government of the Kyrgyz Republic.

The activities of the CiB on corruption should be aimed at representing the starting point of a coordinated and structured effort to combat corruption, involving government, civil society and international organizations active in Kyrgyzstan. In this context, the OSCE Centre in Bishkek should lead on establishing a United Front Against Corruption Forum/or Working Group where the

international stakeholders in Kyrgyzstan can meet in order to develop a matrix on anti-corruption, which aims at identifying and resolving practical problems, and monitor of progress made on its implementation. Global best practices has shown such Forum/Working Group to have a large impact on the development of national policies and in strengthening political will to undertake the difficult reforms necessary.

The CiB takes a holistic approach to curbing corruption, acknowledging that it requires institutional and legal reforms rather than focusing on sanctions against individuals in isolation.

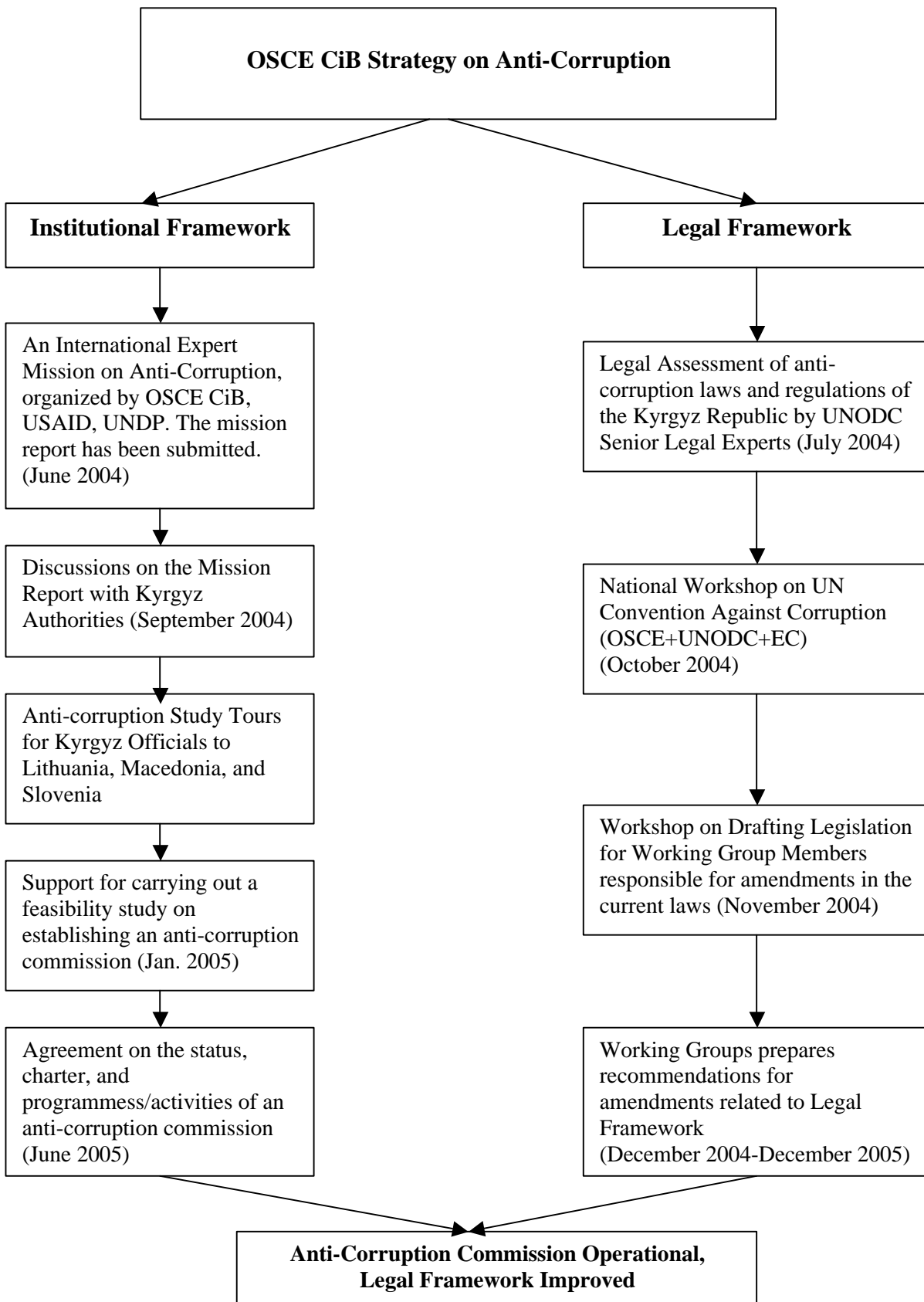
Therefore, The strategy of OSCE in Bishkek will be to support the Kyrgyz authorities implement measures aimed at promoting “Good governance” and to fight against corruption.

More specifically, the Centre will focus on :

- 1.) Support to Institutional Framework, including establishing of an Anti-corruption Commission;
- 2.) Support to Legal Reforms

In this context, the strategy of the Centre is given in Scheme 1.

**Scheme 1. The Strategy of the OSCE CiB on Anti-Corruption**





## ACTIVITIES

- Support initiatives in guiding the National Council on Good Governance and its related bodies in identifying key priorities and develop action plan on Good governance/corruption , for example, by organizing together with UNDP and USAID a joint international expert mission to formulate 2-3 basic decisions regarding anti-corruption.
- Support initiatives in replacing the current complex policy structure with a new independent Anti-Corruption Agency/Commission to develop anti-corruption policy and monitor its implementation.
- Support to proper Implementation of International Conventions and other instruments in the field of combating corruption, in particular the UN Convention Against Corruption,
- Conduct Workshops to address the gaps and contradictions in the laws and legislations, which still breeds corruption.,
- Conduct Roundtables/Workshops on Good Governance/Anti-corruption International Best Practices and supporting documentation, both at national and local levels
- Organize an anticorruption study tour to other countries for the Kyrgyz authorities to study good practices on combat corruption, in particular, to get acquainted with activities of the special Anti-corruption Commissions/Agencies.
- Support to the development of freedom of information regimes to open activities of government, parliament and decisions to public scrutiny, public access to information on laws, policies, etc ,
- Supporting initiatives to introduce meaningful declarations of income and assets of government officials and parliamentarians
- Support initiatives to establish a system of regularized monitoring by conducting surveys, ratings and review, for example, regular SME Business Environment Survey
- Train the selected representatives (train the trainers) of governmental officials, NGOs, mass media and business from the regions of Kyrgyzstan on anti-corruption so that they get necessary skills to further train all stakeholders on anti-corruption in their respective regions.
- Support civil society initiatives at local levels to monitor municipal government performance including public procurement monitoring.

The challenge here is to make sure the planned activities achieve its stated aim rather than contributing to the general popular disillusionment in Kyrgyzstan.

### **Activities of the OSCE Centre in Bishkek in 2004-2005**

1) A joint international expert mission to carry out an assessment to identify key priorities and formulate 2-3 basic decisions regarding anti-corruption that the government needs to take as a follow of the mission and for implementation of the mission's recommendations. The joint international expert mission took place on 7-11 June 2004. Implementing partners the OSCE CiB, UNDP, USAID, the Secretariat of Good Governance of the Kyrgyz Republic. Abolishing of the National Council on Good Governance by a decree of the President of the Kyrgyz Republic on 25 October 2004, and converging the working body of the National Council for Good Governance - Secretariat to the National Council on Good Governance into the Secretariat to the Consultative Council for Good Governance is in line with the recommendations of the joint international anti-corruption mission.

2) A thorough Assessments of Kyrgyztan's Institutions and Legislations that deal with corruption to identify the gaps between the Conventions and legislations, and what needs to be reformed. An expert of

UNODC in July 2004 carried out the assessment. Implementing partners are OSCE CiB, UNODC, and the Secretariat of Good Governance of the Kyrgyz Republic.

3.) The OSCE Centre in Bishkek jointly with Secretariat of Consultative Council on Good Governance and together with other international organizations conducted a workshop aimed at proper Implementation of International Conventions and other instruments in the field of combating corruption, in particular the UN Convention Against Corruption. The workshop took place in Issyk Kul in October 2004 . The goal was to train governmental officials, parliamentarians and NGOs on the provisions of the international Conventions for the purpose of proper implementation. Implementing partners were the OSCE CiB, Office of the OSCE Economic Coordinator, UNODC, European Council, and the Secretariat of Good Governance of the Kyrgyz Republic.

4.) A Legislative Drafting Workshop to address the gaps in legislation. The workshop took place in Decmebr 2005. the workshop aimed at further enhancing the professional qualifications of those national authorities, and their staff who are involved in a process of drafting legislation in area of combating corruption by learning-through-doing method. Implementing partners are OSCE CiB and the Secretariat of Good Governance of the Kyrgyz Republic.

5.) The CiB provided technical equipments to the Secretariat of the Consultative Council on Good Governance within the framework of the project aimed at creating a website which will facilitate public access to information on measures taking for fighting corruption, good governance and governmental reforms in both the public and private sectors.

6.) The OSCE CiB organized an anticorruption study tour to Lithuania, Macedonia and Slovenia for the Kyrgyz authorities to study Lithuanian, Macedonian and Slovenian practices on combat corruption, in particular, to get acquainted with activities of the Anti-corruption Commissions/Agencies of these countries.

7.) During the 2004, the CiB mobilized experts from the UN, the Council of Europe, the OECD, Italy, Lithuania, Macedonia, Singapore, Spain, and the United States to exchange their experiences in legislative and technical aspects of combatting corruption, to assist with the development of corresponding legislation and administrative structures.

8.) The CiB supports a Feasibility Study for replacing the current complex policy structure with a new independent Anti-Corruption Commission to develop anti-corruption policy and monitor its implementation.

9.) Training of the Trainers” workshops to be conducted in second quarter of the year 2005 in Kyrgyzstan. The aims is to conduct a five days training to train the selected representatives of governmental officials, NGOs, mass media and business from the regions of Kyrgyzstan on anti-corruption so that they get necessary skills to further train all stakeholders on anti-corruption in their respective regions. There will be three target groups for the training: for law enforcement: corruption prevention measures and their implementations, and development of anti-corruption instruments and criminal law enforcement methods; for local authorities : targeted seminars on the ways to tackle corruption effectively, and anti-corruption education of the general public and mass media

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