

STABILITY PACT
ANTI-CORRUPTION INITIATIVE
(SPAI)

Compact and Action Plan

adopted in Sarajevo

15/16 February 2000

Prepared by a working party composed of representatives of the
Office of Special Co-ordinator, Council of Europe, OECD, European Commission, USA, World Bank

COMPACT

PREAMBLE

We, the members of the Stability Pact for South Eastern Europe, building on objectives identified at the Sarajevo Summit and subsequently at meetings of Working Tables I, II and III held in Geneva, Bari and Oslo, respectively, in the Autumn of 1999:

Acknowledge that corruption and other fraudulent and criminal activities,

- are highly detrimental to the stability of all democratic institutions, erode the rule of law, breach fundamental rights and freedoms guaranteed by the European Convention of Human Rights and other internationally recognised standards, and undermine the trust and confidence of citizens in the fairness and impartiality of public administration;
- undermine the business climate, discourage domestic and foreign investment, constitute a waste of economic resources and hamper economic growth, and, therefore,
- threaten the very objective of the Stability Pact.

Agree on the necessity to fight fraud and all types of corruption on all levels, including the international dimension of corruption, organised crime and money laundering.

Agree that priority measures to fight corruption include:

- *Taking effective measures on the basis of existing relevant international instruments*, in particular those of the Council of Europe, the European Union, the Organisation for Economic Co-operation and Development, the United Nations and the Financial Action Task Force on Money Laundering;
- *Promoting good governance*, through legal, structural and management reforms for better transparency and accountability of public administrations, through development of institutional capacities and through establishment of high standards of public service ethics for public officials;
- *Strengthening legislation and promoting the rule of law*, by ensuring effective separation of executive, legislative and judiciary powers and the independence of investigative and judiciary bodies and by enhancing investigative capacities;
- *Promoting transparency and integrity in business operations*, through inter alia, enactment and effective enforcement of laws on accepting and soliciting bribes, ensuring open and transparent conditions for domestic and foreign investment, establishing corporate responsibility and internationally accepted accounting standards.
- *Promoting an active civil society* by empowering civil society and independent media to galvanise community action, generate political commitment, creating a pattern of honesty in business transactions and a culture of lawfulness throughout society.

Consider that participatory and proactive strategies can enhance anti-corruption efforts of all parties of the society;

Agree in particular that building private/public and government/civil society partnerships is critical to developing and sustaining reform measures and to monitor anti-corruption activities;

Recognise that international organisations, governments from outside as well as from inside the region and the business community can provide highly valuable support and assistance in the drawing up and implementation of such anti-corruption strategies;

Take note that donor organisations will provide technical assistance and will develop synergies in programme design and implementation on the basis of long-term partnership.

Are firmly resolved to ensure the reliability and integrity of the public institutions and to fight against corruption with high political determination and therefore agree to pursue the above-mentioned objectives and will look to the Special Co-ordinator to ensure and monitor, within his responsibilities, their fulfilment, as a major step indispensable to a joint effort against corruption in the South Eastern European region.

COMMITMENTS

Without prejudice to existing international commitments, as well as to those accepted by the candidate countries to the EU, Governments in the region will undertake the following steps:

Adoption and implementation of European and other international instruments

- Sign, ratify and implement the Council of Europe Criminal Law Convention on Corruption, the Civil Law Convention on Corruption, and the Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime;
- Apply the Twenty Guiding Principles for the fight against corruption adopted by the Committee of Ministers of the Council of Europe and participate actively in the Council of Europe's Group of States against Corruption – GRECO;
- Implement the 40 recommendations of the Financial Action Task Force on Money Laundering (FATF) and participate actively in the Council of Europe's Select Committee for the evaluation of anti-money laundering measures (PC-R-EV);
- Take into consideration relevant instruments, legislation, standards and practices of the European Union;
- Take measures to apply the principles proposed in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the recommendations of the OECD;
- Take into consideration the Guiding Principles for Fighting Corruption and Safeguarding Integrity among Justice and Security Officials signed at the 1999 Global Forum on Fighting Corruption held in the United States of America;
- Endorse completion of negotiation of the United Nations Convention on Transnational Organised Crime and pay continued attention to global anti-corruption initiatives of the United Nations.

Promotion of good governance and reliable public administrations

- Strengthen national procurement legislation and procedures so as to promote an efficient, open and transparent procurement process that is in line with European and other international standards;

- Improve effectiveness, transparency and accountability in budget preparation, execution, and control so as to conform with good international practice including standards laid down by international organisations and, if relevant, by the European community;
- Establish professional and stable public services with staff selected on merit and safeguard legality, integrity, transparency and accountability through effective legal frameworks as well as judicial review of administrative decisions in line with good international practice; and promote the implementation of recommendations on Public Service Ethics and Codes of Conduct;
- Establish efficient external Audit institutions and practices in line with good international practise and with standards developed jointly by the European Court of Auditors and EU Member States; strengthen parliamentary oversight, e.g. through Ombudsman institutions, allow investigative bodies to be backed by sufficient human and financial resources, and secure transparency in the funding of political parties and electoral campaigns.

Strengthening of legislation and promotion of the rule of law

- Ensure that corruption and money laundering are criminalised in accordance with European standards. Legislation should clearly typify and punish corrupt behaviour in elected bodies, public administration, business and society at large; ensure that appropriate remedies are available for victims of corruption and that anti-corruption legislation is enforced effectively;
- Set up specialised anti-corruption units, providing them with sufficiently trained staff and legal and budgetary means to effectively investigate, prosecute and adjudicate cases of corruption. Members of these units should enjoy appropriate independence, autonomy and protection in the exercise of their functions, be free from improper influence and have effective means for gathering evidence and protecting those persons helping the authorities in combating corruption;
- Further strengthen investigative capacities of criminal justice institutions by fostering interagency co-operation and joint investigations, focusing on financial investigations, taking into account links to fraud, tax evasion and economic crime, creating the conditions for the use of special investigative methods while respecting fundamental human rights and freedoms, and by providing appropriate training and resources.

Promotion of transparency and integrity in business operations

- Take effective measures to combat active and passive bribery, including corruption of public officials, through inter alia enactment and effective enforcement of laws on accepting and soliciting bribes, taking into account OECD, EU and Council of Europe instruments;
- Provide for open and transparent conditions for domestic and foreign investment in line with the principles set out in the Investment Compact of the Stability Pact;
- Promote corporate responsibility and liability on the basis of international standards and principles, including inter alia the development and implementation of modern accounting standards, adoption of adequate internal company controls, such as codes of conduct, and the establishment of channels for communication, and protection of employees reporting on corruption.
- Encourage private/public sector partnerships to develop and sustain reform measures.

Promotion of an active civil society

- Develop appropriate regional/country and local anti-corruption actions with public officials, private sector and civil society representatives to share information and experience; Conduct surveys of businesses, consumers and public opinion to provide feedback for delivery of public services and fostering competition;
- Agree to organise, in co-operation with non-governmental and media organisations and the private sector, campaigns to raise public awareness about the economic and social harms of corruption;
- Develop measures aimed at encouraging public officials, victims of corruption, business and members of the public to co-operate with the authorities in preventing corrupt practices and extortion;
- Implement education programmes aimed at fostering an anti-corruption culture in society;
- Strengthen media oversight through freedom of information laws, improve ethical and professional standards of journalists and promote training in investigative journalism and provide access to public information;

IMPLEMENTATION

In order to implement this comprehensive program, countries of the region agree with the attached Action Plan and will fully comply with its terms.

In particular, countries of the region commit themselves:

- to implement immediately the Actions listed in section 7 therein;
- to be monitored and to facilitate the task of the Special Co-ordinator and the Anti-Corruption Steering Group, participating actively in its activities.
- to report individually on progress in relation to their commitments under this Compact to the Anti-Corruption Steering Group and, if required, to the regular meetings of the members of the Stability Pact.

The Initiative should start by concentrating on a limited number of issues, including the Immediate Actions of the Action Plan, and such as sensitisation of authorities, business and civil society at country/regional and at local level; setting-up and training of anti-corruption units in law enforcement and justice; recruitment of officials and organisation of public services; definition of framework of rules and behaviour with business actors participating in the reconstruction.

ACTION PLAN

INTRODUCTION

The objectives and principles of Stability Pact Anti-Corruption Initiative for South Eastern Europe are presented in the Compact, which also serves as a support for political commitment. This Action Plan describes the implementation of the Initiative.

By building upon existing actions and through better co-ordination of all efforts, and relying on high-level political commitment, the Anti Corruption Initiative intends to give an impetus to the fight against corruption in the region. The initiative is focused on a few key sectors and is action oriented. Rather than defining principles and standards, most of which are already well known, the Initiative emphasises the implementation “on the ground”.

Although this Action Plan describes how the Initiative will be carried out in the next months, it stays very open to all-constructive ideas and partners. The Managing Committee will update this Action Plan regularly.

The Initiative is based on four pillars:

- Institutional mechanisms
- Initial assessments
- Monitoring and policy dialogue
- Technical assistance

Countries and international organisations that wish to work jointly to implement the Anti Corruption Initiative will be organised to optimise efficiency, share responsibilities and promote regional progress.

While the Compact recalls the need to fight corruption and sets priorities in order to streamline future activities, the situation in each country of the region is specific. In order to better address precise needs and remedies in each country, country specific assessments will be carried out.

Real progress will come from permanent and intensive efforts of the public authorities of the countries of the region. In order to promote emulation and responsibilities, an effective monitoring mechanism need to be installed, building upon existing systems.

Even though the main responsibility for fighting corruption lies with the public authorities and the civil society of each country, the international community has a key role to play in supporting these efforts through the organisation of programmes of technical assistance. Such programs should aim at facilitating the adoption of new or amended legislation, training programs, the setting up of appropriate institutions and other forms of assistance and joint work

Finally, countries signing up to this initiative will take immediate actions to best convince the donor community as well as their own citizens of their high political determination.

COMPACT

See the document called Compact.

INSTITUTIONAL MECHANISMS

In order to monitor the implementation of the Compact, the Special Co-ordinator of the Stability Pact will establish the Anti-Corruption Steering Group.

In addition, the Steering Group will also be a forum for making recommendations for enhancing the Anti-corruption Initiative, and addressing any other issue that may arise in connection with the implementation of the Anti-corruption Initiative.

The Anti-Corruption Steering Group will be chaired by a representative designated by the Special Co-ordinator, and will be composed of the following members:

- the Chairman;
- two members of the secretariat;
- one representative of each member of the Managing Committee;
- a representative of the EU Presidency with expertise in the field of Justice and Home Affairs;
- two representatives from each country of the region;
- one representative from each other member of the Stability Pact actively involved in the implementation of the Anti-Corruption Initiative.

The Chairman of the OECD's Working Group on Bribery in international business transactions, the President of GRECO, and the President of the Council of Europe's Select Committee on the evaluation of anti-money laundering measures (PC-R-EV) will participate in the work of the Steering Group as observers. The Managing Committee may also propose to the Chairman to assign other observers to participate in the meetings of the Steering Group.

Meetings of the Steering Group will be convened regularly by its Chairman, and at least every six months. A first meeting will immediately follow the April 2000 meeting of the South Eastern Europe Regional Table.

The Special Co-ordinator of the Stability Pact will be assisted by a Managing Committee composed of representatives of the Council of Europe, the OECD, the European Commission, the USA, the World Bank and the Office of the Stability Pact. The Managing Committee will review priorities and recommend strategies.

The Council of Europe, the OECD and the Office of the Special Co-ordinator will act as the Secretariat of the Anti Corruption Initiative in close contact with the other members of the Managing Committee.

To facilitate the implementation and monitoring of the Anti-corruption Initiative, countries of the region shall designate a Senior Representative appointed by the Government. The Senior Representatives should have sufficient authority to oversee the fulfilment of the objectives and goals of the Compact and Action Plan on behalf of their respective governments.

The Senior Representatives must have adequate staff support and resources to accomplish the objectives laid out in the Initiative.

The South Eastern Europe Regional Table will periodically review the functioning of the institutional mechanism described in this section.

ASSESSMENTS

The objective of the assessment phase is to enable both countries of the region and the Anti-Corruption Steering Group to take stock of anti-corruption performance, prospects and trends as well as policy implications for national governments and for the region.

The assessment phase will start immediately upon endorsement of the Compact by a country. Within their respective fields of expertise, members of the Managing Group will carry out an assessment of the situation in each of the beneficiary countries, within a few months from the adoption of the compact.

Taking due account of the evaluations conducted previously, in particular for the EU candidate-countries, the assessment will allow analysing the needs and gaps of the countries in the region. Its objective will be to determine country by country and for the issues mentioned in the five domains of the compact, to which extent policies, legislation and practices are similar or deviate from international standards and practices.

The assessment will be done against benchmarks derived from existing international instruments, European norms and good practices and will result in reports with findings, conclusions and country-specific recommendations, submitted to the Anti-corruption Steering Group and, if requested, to the South Eastern Europe Regional Table. .

The assessment report will permit the setting of specific targets for reform, and commonly agreed progress indicators, that will serve for the monitoring. These indicators will put the countries in the situation to know when they have achieved international standards and practices.

The assessment will be done in co-ordination with international and national donor agencies actively involved in the region.

After an assessment, a policy-dialogue between the assessor and relevant country-representatives will follow. The dialogue will aim at defining necessary actions by the country to meet the recommendations of the assessor. The dialogue will also aim at establishing realistic time-tables for the implementation of those actions.

MONITORING OF TARGETS AND POLICY DIALOGUE

Countries of the region shall commit themselves to undergoing periodic, country-by-country monitoring of the progress made towards achieving the objectives of the Compact

The monitoring procedure will comprise external, mutual and self-evaluations and will be conducted in the form of peer-reviews. It will take due account of progress already achieved by each individual country, of procedures already in place for the EU candidate countries, of already existing monitoring procedures (such as OECD's working Group on bribery and Council of Europe's GRECO). The objective of the monitoring evaluation is to determine whether the targets set by the assessment have been met and eventually what complementary measures and assistance are necessary.

Peer reviews will be conducted under the auspices of the Anti-Corruption Steering Group, which will determine the frequency and scope of each evaluation.

Countries of the region will report progress on institutional and policy reforms, which reduce opportunities for corruption, particularly through the use of common indicators and self-reporting mechanisms.

The Anti-Corruption Steering Group shall receive the monitoring reports, the regional/country reports and all other available information, including, but not limited to, those of the European Commission, the OECD, World Bank and Council of Europe. Countries of the region will make available all information, personnel and relevant records necessary to conduct the reviews, in accordance with national law.

Based on the reviews, the Anti-Corruption Steering Group will report progress and make recommendations on the attainment of the objectives and goals of the Compact. Information on evaluation procedures, review reports, as well as self-evaluations will be made public, in accordance with international practice, so as to empower civil society. To that end, and where possible, the Anti-Corruption Steering Group will disseminate the results from the assessments,

and from the subsequent monitoring and self-reporting exercises by countries, through all available means.

TECHNICAL ASSISTANCE

The International Organisations, Governments from outside and from inside the region involved in the Stability Pact's Anti-corruption Initiative will endeavour to provide the assistance required in order to enhance the capacity of countries of South East Europe to meet the policy objectives established under the Compact.

For that purpose, providers of technical assistance, will organise at the request of countries of South Eastern Europe, assistance programmes relating to the different policy objectives specified in the Compact.

Providers of technical assistance will co-ordinate their technical assistance programmes and initiatives under this Action Plan, building upon programmes and initiatives already in place, avoiding duplications and facilitating, whenever possible, joint ventures. The Anti-corruption Steering Group established below will be kept regularly informed about current or future technical assistance programmes and initiatives under this Action Plan.

Countries of the region will make known their specific assistance requirements to meet the policy objectives under the Compact and will co-operate with the assistance providers in the elaboration, organisation and implementation of assistance programmes and initiatives. The dialogue with assistance providers will be carried out with the Senior Representative appointed in each country.

Countries of the region have welcomed the offers already made by the international community, including programmes from the European Commission, OECD, World Bank and the Council of Europe (such as the Programme against corruption and organised crime in South East Europe - PACO).

Providers of technical assistance will ensure in their assistance programs that, as far as possible, external financing is integrated within government budget.

Information on assistance programmes and initiatives will be adequately disseminated to all sectors concerned through the Anti-Corruption Ring set up under the auspices of the OECD (www.oecd.org/daf/nocorruptionweb) and through which the Anti-Corruption Network for Transition Economies can be accessed. Governments of the region will adequately disseminate this information. Where possible, assistance programs and initiatives will provide positive incentives for more rapidly reforming countries by publicising successes and other means.

IMMEDIATE ACTIONS

Countries of the region will undertake the following immediate actions:

Designation of a Contact Point. Designate a senior representative appointed by the Government who will oversee the fulfilment of the Anti-corruption Initiative.

Public dissemination of the Anti-corruption Initiative. Publish and disseminate widely through all appropriate media the text of the Anti-corruption Initiative and a statement of the government's commitment to comply with its provisions. The announcements should emphasise the government's recognition that civil society's participation is crucial for long-term accountability and transparency in the region

Transparency in Government Procurement. Countries should announce a schedule of implementation for review of legislation related to transparency in government procurement, including establishing a national panel of experts to work with members of the Managing Group

in order to review existing legislation for its conformity with relevant European and other international standards.

Initial steps against corruption in Development Assistance. Provide to the Stability Pact Special Co-ordinator, the names of experts that will review the effectiveness of measures against corruption in government institutions implementing foreign development assistance or co-operation activities. The report, submitted within 90 days, shall be examined by the Steering Group. The report shall be made public.

Public participation in the Anti-corruption Initiative. Publish an invitation to the general public and to organisations in the business and non-profit communities, such as professional associations, trade unions and academic institutions, to participate in activities under the Anti-Corruption Initiative.

Access to Government information. Announce plans to implement measures to provide meaningful public access to government information, to the media, in order to expose effectively corrupt activity.

Provision of baseline data. Provide a standard set of budget and other institutional data to the Anti-Corruption steering group as a baseline against which subsequent changes might be measured.
