



**TWINNING TYPE ACTIVITY
FOR INVESTIGATORS AND PROSECUTORS FROM
MOLDOVA, ROMANIA AND LITHUANIA**

**Training on Detecting, Investigating and Prosecuting High
Level Corruption**

DRAFT REPORT

**TO BE PRESENTED WITHIN THE NATIONAL ANTICORRUPTION
CONFERENCE, CHISINAU, DECEMBER 9TH, 2006**

*Chisinau, Moldova
November 7 – 11, 2006*

**Event organized in cooperation with the Center for Combating Economic Crimes
and Corruption, Moldova**



*This project was made possible through support provided by the
Regional Services Center, U.S. Agency for International Development
under the terms of Award No. 194-A-00-04-00101-00 (SPAI).*





TWINNING TYPE ACTIVITY FOR INVESTIGATORS AND PROSECUTORS

I. BACKGROUND

SPAI: A Framework for Regional Coordination and Dialogue. The Stability Pact Anti-corruption Initiative (SPAI) was adopted in Sarajevo in February 2000 to address one of the most serious threats to the recovery and development of South East European (SEE) countries. Corruption is highly detrimental to the stability of democratic institutions, discourages foreign direct investment, hampers economic growth, and can undermine the European Union accession process. SPAI represents a focused forum where coordination and dialogue on the many facets of corruption can take place among the countries of the region and the donor community. SPAI's multidisciplinary approach incorporates issues such as the adoption of international legal instruments, promotion of good governance, strengthening the rule of law, promotion of transparency and integrity in business operations, and development of an active civil society in the fight against corruption.

RSLO: Creation of a Regional Anti-corruption Center. In September 2003, the SPAI Steering Group agreed to establish a Regional Secretariat Liaison Office (RSLO) in Sarajevo to promote regional ownership of the initiative and enhance regional capabilities to lead the fight against corruption in SEE. (Initially, SPAI's secretariat functions were performed by the Council of Europe [COE] and the Organization for Economic Cooperation and Development [OECD]). Six months later, RSLO became operational and it is currently the only center in SEE devoted solely to fighting corruption at the regional level. Staffed by experts from the region, RSLO tailors its activities to directly support the efforts of SPAI countries to meet the standards and requirements related to the Justice and Home Affairs field in the European Union accession process.

RSLO's major focus areas include:

- supporting and enhancing regional cooperation among anti-corruption agencies and institutions involved in anti-corruption;
- promoting the adoption of relevant international anti-corruption standards;
- developing specific training programs, such as regional seminars for judges, prosecutors, investigators, auditors, governmental officials, and police; a summer school for junior staff; and twinning-type activities;
- promoting thematic agendas focused on fighting high-level corruption in vulnerable areas, such as judiciary, public administration, public procurement, privatization, and political party financing;
- facilitating expert networking in all sectors, including government, NGO, business, civil society and mass media; and
- providing a clearinghouse for sharing best practices and exchanging relevant information.

Sharing best practices in fighting high level corruption. Starting with 2004 SPAI RSLO implements at regional level a training project for anticorruption.agencies providing access to the regional experience in the area of tackling high level corruption. The training portofolio includes regional and national workshops and twinning type activities. This latest type of activity was initiated by SPAI RSLO in 2005 and aims, as main objective, to strenghten the direct and



operative relations among the specialized anticorruption agencies from South Eastern Europe. This new approach in training senior experts proved to be also a very practical and efficient way to foster the exchange of experience and transfer of best practices in the field of preventing and combating corruption. SPAI RSLO coordinated similar joint trainings with the participation of prosecutors and investigators from Bosnia Herzegovina, Croatia, Macedonia and Montenegro.

2. TWINNING ACTIVITY REPUBLIC OF MOLDOVA – ROMANIA

Upon the request received from the Moldavian authorities, SPAI RSLO initiated and developed the training project involving anticorruption investigators and prosecutors from Romania and Moldova. Furthermore, building upon the existing activities conducted within ongoing assistance projects implemented in Moldova by Council of Europe and USA, RSLO also involved in the training specialized investigators from the Lithuania.

Objectives

The activity aimed at providing the Moldavian policy makers and experts with access to the best practices and experiences of Romanian and Lithuanian anticorruption agencies. Subsequently the following objectives were aimed:

- To strengthen the direct and operative relations among the specialized anticorruption agencies from the participating countries;
- To provide detailed presentation of the anti-corruption institutional and legislative framework developed by the participating countries;
- To provide access to the practical steps in establishing an efficient Anticorruption Agency – organization, mandate, resources etc. ;
- To develop a framework for sharing practical experiences in tackling high level corruption;
- To provide inputs to the Moldavian counterparts for strengthening the capacity of the anti-corruption institutions to efficiently detect, investigate and prosecute high level corruption cases.

Participants (attached list of participants)

- 30 representatives of the Moldavian relevant anticorruption authorities ;
- 6 representatives of the Romanian relevant anticorruption authorities;
- 2 representatives of the Lithuanian relevant anticorruption authorities;
- 2 representatives of SPAI RSLO;
- International organizations and Embassies from Chisinau.



3. CONDUCTED ACTIVITIES

During the working days the training combined traditional training format with formal presentations and task force approach involving all participants in solving concrete case studies.

3.1. Day one – 08.11.2006

3.1.1. Bilateral meetings Republic of Moldova – Romania

A Romanian delegation represented by Mr. Mircea ZARIE, Deputy Chief Prosecutor of National Anticorruption Directorate and Mr. Marian SINTION, General Director of the Anticorruption General Directorate had a series of bilateral meetings with high level officials representing the anticorruption bodies from Republic of Moldova. The Moldavian counterparts were Mr. Valeriu BALABAN, General Prosecutor of Moldova, Mr. Vitalie PIRLOG, Minister of Justice, Moldova, Mr. Valentin MEJINSCHI, Director Center for Combating Economic Crimes and Corruption, Moldova and Mr. Boris POIATA, Chief of Anticorruption Prosecutor Office

The meetings were also attended by Mr. Cornel Virgiliu CALINESCU, Anticorruption expert SPAI RSLO and Mr. Anatolie DONCIU, National Coordinator for SPAI on behalf of the Republic of Moldova.

During the meetings participants agreed to further develop the partnership and cooperation among the specialized anticorruption bodies and to establish a more direct contact at operational level. Moldavian authorities welcomed and accepted proposal made by the Romanian delegation to organize a follow up twinning event in Romania.

3.1.2. Current status reports

Experts from participant countries delivered updated reports on the current status at national level, focusing their presentations on key aspects as institutional organization of their respective anticorruption agencies: mandate, structure, resources; cooperation with other relevant authorities – mainly the relation between prosecutors and investigators; operational and functional independence/autonomy; cooperation with the civil society and public relation policies.

Furthermore, in order to avoid duplication and overlapping of projects and activities, SPAI partner countries (Lithuania, Romania, USA) and organizations (Council of Europe, ABA CEELI, OSCE, Transparency International) accepted the invitation of SPAI RSLO to share their experience with ongoing activities.

All reports were compiled and distributed by SPAI RSLO on a CD. The updated CD will be also available for download from the SPAI RSLO web site.

3.2. Day two – 09.11.2006

3.2.1. Prosecuted cases of high level corruption

Prosecutors and investigators from participating countries shared their experience in detecting, investigating and prosecuting high level corruption cases. The presentations were such developed as to offer to all participants the opportunity to interact and exchange their concrete



experience highlighting in a pragmatic and practical manner the steps taken. The following key aspects were discussed: criteria used for identifying high level corruption (concept and indicators), available legislative framework and technical support in conducting efficient pretrial investigation and prosecution, access to specialized data bases, flow of information among law enforcement agencies and intelligence services, types of evidences necessary for prosecuting successfully a high level corruption case, successes and failures.

3.2.2. Joint exercises

Building upon the lessons learned during the first part of the day, participants were split in three task forces each group consisting in investigators, prosecutors and experts from participating countries. Each group separately worked on providing solution to 3 complex case studies developed by the experts from Romania and Lithuania. The case studies were developed having as starting point ongoing cases.

3.2.3. Preliminary joint assessment

Before the end of the second working day each task force was required to provide a preliminary assessment focused on two major topics:

- effectiveness of the current anticorruption framework and identified legislative loopholes;
- the efficiency of available special investigation means and techniques.

3.2. Day three – 10.11.2006

Day three – the way ahead for the Republic of Moldova

In the first part of the day the participants follow-up with the case studies discussed during the previous working day. The second part of the day was allocated for a brainstorming session having as a main topic “*the way ahead for Republic of Moldova - practical measures to strengthen the capacity to fight high level corruption*”.

The recommendations were developed separately within national groups (three groups with participants from Moldova), one group of Romanian experts and one group of Lithuanian experts. Many of the recommendations are similar highlighting the need for adopting short term measures to enhance the role of the prosecutors in corruption cases, enhancing the interagency coordination and reducing the resistance to corruption in vulnerable areas. It is up to the Moldavian authorities to identify those recommendations that are feasible to be implemented and the respective time tables for implementation.

3.2.1. Recommendations from the Moldavian participants

The Moldavian participants were split in three work groups and asked to identify, based on their own assessments, the short and medium term priorities for consolidating the capacity of their anticorruption agencies to detect, investigate and prosecute high level corruption cases.

- 1 Consolidating the role of the prosecutor in the pretrial investigation phase of corruption cases;



- 2 Setting up an unique registration number for criminal cases valid for all relevant authorities with attributions in investigation and prosecution;
- 3 Allocating proper financial and human resources to the Anticorruption Prosecutor Office and endowment with special investigation technique;
- 4 Consolidating the discretionary powers of the prosecutor (art 271 Criminal Procedure Code) and regulating the obligation of motivating the decision to transfer the file from one law enforcement agency to another;
- 5 Using “the number of convictions” as a performance criteria for assessing the performance of the law enforcement agencies;
- 6 Identifying clear criteria for defining high level corruption and developing specific methodologies to assess the level of corruption within public institutions;
- 7 Further developing the legislation on operative investigative measures by regulating the role of the prosecutor.
- 8 Regulating the obligation of initiating a coordinated financial investigation together with the criminal investigation;
- 9 Revising the content of art 123 paragraph 2 within Criminal Code of Moldova and redefining the “ public official”;
- 10 Consolidating the capacity of the Center for Combating Economical Crimes and Corruption to initiate prevention activities and conduct raising awareness campaigns by allocating proper human and financial resources;
- 11 Reconsidering the immunity regime for members of the parliament and magistrates;
- 12 Addressing the issues highlighted within the recent decisions of the European Court of Human Rights and further enhance the capacity of the law enforcement agencies to observe the protection of human rights in the process of conducting criminal investigation and prosecution;
- 13 Develop targeted strategies to reduce corruption within identified sectors vulnerable to corruption: public procurement and concession of public owned land and buildings;
- 14 Regulating the obligation of the judges to motivate their decisions as a prerequisite for more efficient use of appeal.
- 15 Developing an efficient mechanism for implementing the legislation on witness protection and allocation of adequate financial and human resources;

3.2.2. Recommendations from the Romanian participants

Based on their on site visit and assessment of the legislation in place, the Romanian delegation developed the following recommendations:

- 1 Eliminating the immunity regime for members of the Parliament and magistrates. Reducing the application of immunity for the members of Parliament only to their political opinions;
- 2 Simplifying the criminal procedural rules regarding the investigation and prosecution of corruption cases, without prejudice for the right to defense, by enhancing the role of the prosecutor:
 - Enhancing the number of offences that are exclusively investigated by prosecutors, especially with regard to corruption offences;
 - Enhancing the role of the prosecutors in the cases he is overseeing the investigation conducted by police;
 - Regulating the obligation of the police to communicate, at once, the registration of criminal files (within 24 or 48 hours) and, if applicable, to introduce the unique registration number for criminal files;



- 3 Consolidating the Center for Combating Economical Crimes and Corruption as an independent agency for fighting corruption and macro-criminality of economic and financial nature. Establishing Center for Combating Economical Crimes and Corruption as an Anticorruption Prosecutor's Office (autonomous structure within the General Prosecutor's Office) bringing together prosecutors, investigators, and experts.
- 4 Clarifying the role and position of investigative judge by avoiding the overlapping in competences with the prosecutors and the prosecutor hierarchically superior; If applicable, to eliminate the institution of the investigative judge and reallocating the competences to a regular judge (for the preventive measures) and the prosecutor hierarchically superior (for complaints against prosecutor's acts and solutions)
- 5 Regulating within the Criminal Procedure Code the use of the undercover investigators in corruption cases;
- 6 Consolidating the capacity of the Center for Combating Economical Crimes and Corruption to initiate and conduct preventive activities and raising awareness campaigns by allocating proper human and financial resources;
- 7 To assess the possibility of using the integrity tests as a practical manner to monitor the observance of the deontological rules.

3.2.2. Recommendations from the Lithuanian participants

Building upon the already conducted assessment of the Center for Combating Economical Crimes and Corruption, the Lithuanian experts identified the following areas of reform:

- 1 Allocating adequate humane and financial resources for the agencies involved in the fight against corruption;
- 2 To ensure the implementation of a multidisciplinary strategy to curb corruption observing three major areas: law enforcement, prevention and education;
- 3 Reduce the application of immunities regime for magistrates and members of the Parliament;
- 4 Ensure the interagency coordination and cooperation in corruption cases;
- 5 Involving the civil society in the process of fighting corruption by providing regular reports, access to relevant information and enhancing the transparency of the decision making process.

Conclusions and follow up activities

Participants expressed their satisfaction for the content and format of the training and the opportunities created to interact with their counterparts. SPAI RSLO was encouraged to further develop and implement such trainings for prosecutors, investigators and experts. Furthermore, participants tasked SPAI RSLO to provide the participants with a report of the training and the list of the recommendations issued during the event. In addition, participants expressed their interest to contribute to the follow up events that are planned by SPAI RSLO in 2007:

- Twinning type activities with similar AC agencies from SEE;
- Two regional trainings;
- Publishing a Regional manual on fighting high level corruption.



Final Agenda:

Training moderator: Cornel - Virgiliu CALINESCU, anticorruption expert, SPAI RSLO

**DAY ONE
NOVEMBER 8th, 2006**

09:00 – 11:40 Bilateral Meetings

- Valeriu BALABAN, General Prosecutor of Moldova,
- Vitalie PIRLOG, Minister of Justice, Moldova
- Valentin MEJINSCHI, Director Center for Combating Economic Crimes and Corruption, Moldova
- Boris POIATA, Chief of Anticorruption Prosecutor Office

11:45 – 12:00 Registration of participants

PLENARY SESSION I

12:00 - 12:20 Opening remarks

- Ion MOREI, Secretary of the Supreme Security Council
- Valentin MEJINSCHI, Director, Center for Combating Economic Crimes and Corruption, Moldova
- Boris POIATA, Chief Anticorruption Prosecutor's Office, Moldova
- Valeriu OSTALEP, Deputy Minister of Foreign Affairs and European Integration

12:20 - 12:30 Project description and agenda

- Cornel-Virgiliu CALINESCU, anticorruption expert, SPAI RSLO

PLENARY SESSION 2

12:30 - 13:00 Current status in addressing the issue of corruption in Moldova

Activity: Review of the Law Enforcement Agencies approach in combating corruption

- Anatolie DONCIU, Chief of General Directorate for Analysis, Prognosis and Prevention, Center for Fighting Economic Crimes and Corruption, Moldova
- Eduard BULAT, Chief of Combating Corruption Section, Public Prosecutor's Office, Moldova

13:00 – 14:00 Current status in addressing the issue of corruption in Moldova



Activity: Review of the international support for anticorruption initiatives in Moldova

- Embassies represented in Moldova:
 - Mihai DUMITRESCU, JHA Deputy Attaché, Embassy of Romania
 - Mindaugas KACERAUSKIS, Counsellor/Consul, Embassy of Lithuania
 - Robert H. GERARDI, Resident Legal Advisor, US Embassy, Chisinau, Moldova

- International SPAI partner organizations:
 - Jim CALLE, Criminal Law Liaison, ABACEELI, Chisinau
 - Tatiana COJOCARU, Local coordinator PACO Moldova project, Council of Europe
 - Kilian STRAUSS, Senior Programme Officer Office of the Coordinator of OSCE Economic and Environmental Activities
 - Lilia CARASCIUC, Director Transparency International Moldova

14:00 – 15:00 Lunch

PLENARY SESSION 3

15:00 – 15:45 Anticorruption Agencies from Romania (Part I)

Activity: General presentation National Anticorruption Directorate

- Mircea ZARIE, Deputy Chief Prosecutor, National Anticorruption Directorate, Public Prosecutor's Office attached to the High Court of Cassation and Justice, Romania

Main focus areas:

- institutional organization: mandate, structure, resources;
- cooperation with other relevant authorities – mainly the relation between prosecutors and investigators;
- operational and functional independence/autonomy;
- cooperation with the civil society;
- public relation policies.

15:45 – 16:00 Discussion

Documents Each organization will be asked to provide background papers regarding their activities (laws, reports, statistics etc.)

16:00 – 16:15 Coffee break



16:15 – 17:00 Anticorruption Agencies from Romania (Part 2)

Activity: General presentation Anticorruption General Directorate

- Marian SINTION, prosecutor, General Director of the Anticorruption General Directorate, Ministry of Administration and Interior, Romania

Main focus areas:

- institutional organization: mandate, structure, resources;
- cooperation with other relevant authorities – mainly the relation between prosecutors and investigators;
- operational and functional independence/autonomy;
- cooperation with the civil society;
- public relation policies.

17:00 – 17:15 Discussion

PLENARY SESSION 4

17:15 – 17:45 Anticorruption Agencies from Lithuania

Activity: General presentation Special Investigation Service

- Violeta GRIGALIENE, Chief of Strategic and Search Department, Special Investigation Service, Lithuania

Main focus areas:

- institutional organization: mandate, structure, resources;
- cooperation with other relevant authorities – mainly the relation between prosecutors and investigators;
- operational and functional independence/autonomy;
- cooperation with the civil society;
- public relation policies.

17:45 – 18:00 Discussion

18:00 End of first day



DAY TWO
NOVEMBER 9th, 2006
(only for invited prosecutors and investigators)

PLENARY SESSION I

9:30 – 11:00 **Sharing practical experiences in detecting and prosecuting high level corruption – Romanian experience**

- National Anticorruption Directorate, Public Prosecutor's Office attached to the High Court of Cassation and Justice
- Anticorruption General Directorate, Ministry of Administration and Interior

11:00 – 11:30 **Coffee break**

11:30 – 13:00 **Sharing practical experiences in detecting and prosecuting high level corruption – Lithuanian experience**

- Special Investigation Service, Lithuania

13:00 – 14:00 **Lunch**

TASK FORCES EXERCISES

14:00 – 17:30 **Addressing high level corruption with the existing tools and resources**

Activity **Joint exercises**

- 3 – 4 case studies to be solved by 3 - 4 task forces including experts from participating countries

PLENARY SESSION 2

17:30 – 18:00 **Main findings of the joint exercises**

- Reports from each task force on practical steps in solving the cases

18:00 **End of second day**



DAY THREE
NOVEMBER 10th, 2006
(only for invited prosecutors and investigators)

PLENARY SESSION I

9:30 – 11:00	Identifying the areas of reform to be addressed by Moldova in strengthening the capacity of the anticorruption agencies to detect, investigate and prosecute high level corruption
Activity	Brainstorming session with the objective of jointly formulating a set of recommendations for immediate actions
Document	SPAI RSLO will draft the report and circulate it for approval after the training

11:00 – 11:30 **Coffee break**

PLENARY SESSION 2

11:30 – 12:30 **Conclusions**

Participants will be asked to assess the utility of the 3 day joint training and identify follow up activities to be organized in cooperation with SPAI RSLO and its partners.

14:00 **End of the training**

13:00 – 14:00 **Lunch**