



Organisation for Economic Co-operation and Development

Stability Pact Anti-Corruption Initiative

**“MANAGING CONFLICT OF INTEREST –  
FROM POLICY TO PRACTICE”**

**PROGRESS REPORT 2003 -2004**

For further information, please contact:

**Public Governance and Territorial Development Directorate**

Mr. János Bertók, Ethics, Conflict of Interest in the Public Service, [+33 1 45 24 93 57], [janos.bertok@oecd.org](mailto:janos.bertok@oecd.org); Dr Martin Forst, Governance Outreach, [+33 1 45 24 91 70], [martin.forst@oecd.org](mailto:martin.forst@oecd.org); Mr. Howard Whitton, SIGMA [+33 1 45 24 13 08] [howard.whitton@oecd.org](mailto:howard.whitton@oecd.org)

**Directorate for Financial and Enterprise Affairs**

Ms Olga Savran, [+33 1 45 24 13 81], [olga.savran@oecd.org](mailto:olga.savran@oecd.org) and Ms Inese Gaika, [+33 1 45 24 91 06] [inese.gaika@oecd.org](mailto:inese.gaika@oecd.org), outreach of the Anti-Corruption Division to Eastern, South-Eastern Europe and the Newly Independent States.

## INTRODUCTION

This progress report provides an overview of the project on *Managing Conflict of Interest - From Policy to Practice* by describing its objectives, main achievements, and lessons learned. It also outlines directions for follow-up activities for 2004 identified and recommended by the High-level Forum on 24-25 November 2003 in Prague.

Recognising that Conflict of interest remains an important challenge for governments all around the world, the experience of the OECD shows that it is also a particular problem in countries in transition where the notion of private interests is a relatively new phenomenon. Consequently these countries have paid less attention to developing mechanisms to identify and prevent the conflict of public interest and private interests of public officials working in governments and national public administrations in a period of development of legal and regulatory frameworks and ongoing privatisation.

While corruption represents a significant threat to the quality and functioning of economic and democratic institutions, conflict of interest is increasingly recognised as a major integrity issue for governments and the public sector, since conflicts between the private interests and public duties of public officials, if inadequately managed, can result in corruption. Growing public demand urges governments to introduce transparency and accountability mechanisms which ensure that public decision-making is not improperly influenced by the private interests of public officials. Maintaining trust in government and public decision-making is equally important to create a favourable investment climate for businesses, particularly in a period of restructuring and modernising the economy.

The OECD *Guidelines for Managing Conflict of Interest*<sup>1</sup> comprise the first international standard established to help governments design and implement a comprehensive conflict-of-interest policy in the public service. The Guidelines provide a set of principles and benchmarks derived from practices in OECD member countries which can be adapted to the administrative, legal and cultural traditions of various countries.

The project on *Managing Conflict of Interest - From Policy to Practice* provides SPAI countries with practical tools of reference for reviewing existing policy solutions, and for modernising mechanisms to identify and manage conflict-of-interest situations. The OECD *Toolkit for Managing Conflict of Interest* has been developed and tested in several SPAI countries to help public organisations to put the policy into practice.

In the framework of the OECD CCNM Programme for South East Europe, the project is implemented jointly by the Governance and the Role of State Division of the Public Governance and Territorial Development Directorate (GOV) and the Anti-Corruption Division of the Directorate for Financial and Enterprise Affairs (DAF) of the Organisation for Economic Co-operation and Development, in co-operation with SIGMA.

The project is being funded mainly through voluntary contributions from the governments of Norway, as well from the Czech Republic, Denmark, Finland, France, Greece, Japan, Switzerland and the United States.

<sup>1</sup> Recommendation of the OECD Council on Guidelines for Managing Conflict of Interest, June 2003. The full text in English, Albanian, Bosnian-Serbo-Croatian and Romanian can be consulted at <http://www.oecd.org/gov/ethics>

## MAIN OBJECTIVES

This project supports anti-corruption and public governance reform measures in SPAI countries in accordance with the objectives laid out in the SPAI Compact<sup>2</sup>. The overall objectives of the project are:

- To offer policy options and practical tools for increasing integrity, transparency and accountability in public decision-making; and
- To support a regional approach for developing Conflict of Interest policies.

The specific goals of the project are:

- To promote the development and implementation of policies for managing conflicts of interest among public officials in the SPAI countries;
- To support regional network and peer review of senior officials and technical experts; and
- To develop practical tools for Conflict of Interest policy design, implementation and training.

## TARGET AUDIENCE

The project has involved all eight SPAI countries: **Albania, Bosnia and Herzegovina, Croatia, FYR of Macedonia, Moldova, Romania, Serbia and Montenegro**. In addition, OECD countries from Central Europe (Czech Republic, Hungary, Poland and Slovakia) and other countries from the Balkan region (Turkey and Bulgaria) participated in the process to share their experiences. The following groups of public officials attended the events in 2003:

- High-level public office holders, including politicians (ministers, vice-ministers, state secretaries, secretaries general and selected members of parliament);
- Senior civil servants (directors-general, advisors) and specialists from central government agencies;
- Representatives of civil society organisations, the media, training and academic institutions;
- Selected members of the judiciary.

Several international organisations such as the Council of Europe, the Organisation for Security and Cooperation in Europe, the European Commission/OLAF, the Office of the Stability Pact for South East Europe and TI, as well as representatives from the donor countries have taken part in events as observers.

## PHASES AND METHODOLOGY OF THE PROJECT

The project is being implemented in four **phases**:

1. Needs assessment, planning and development of tools;
2. Testing of specific tools and strategies;
3. Experience-sharing, and planning for implementation;
4. Strategy development, long-term implementation and monitoring.

The project has two mutually supporting **components**:

1. Region-wide specialist workshops and high-level meetings;

<sup>2</sup> Adopted in 2000, the SPAI Compact fixes the overall objectives of the Initiative. The Conflict of Interest project contributes to the following objectives: promotion of reliable public administration and strengthening of national legislation, as well as indirectly to the objective of involvement of civil society.

## 2. Policy development and tools testing and application.

The implementation of the project is based upon a **collaborative, tools-based and proactive approach**. Such an approach is adopted in order to better take into account the legal, administrative and cultural traditions of participating countries. This has encouraged open exchange of views on the use of OECD Guidelines and Tools in the policy-design, testing, implementation and refining phases in the SPAI countries.

The project helped participants to **take stock of recent developments** on developing conflict-of-interest policies in South East Europe, and provided policy-makers with a wide range of information on possible solutions for identifying and managing conflict-of-interest situations, both in participating countries and other countries in transition.

Moreover, the SPAI countries have also **disseminated and tested the OECD tools** in public sector organisations. Experience shows that it is particularly successful when civil society groups are involved in the testing process (e.g. training for civil servants was put in place jointly by the government and a civil society organisation in Serbia and Croatia on the basis of the OECD Guidelines and Tools).

### ACHIEVEMENTS IN 2003: KEY OUTCOMES AND IMPACTS

1. **Toolkit for Managing Conflict of Interest** – the OECD has developed a set of generic tools to provide a reference for practical management strategies and processes that can help public organisations to manage conflict-of-interest situations and to organise training. The tools were tested in several SPAI countries and endorsed in principle by the High-Level Forum in Prague, subject to further revisions to include more recent concrete cases from SPAI countries. The OECD Guidelines and Toolkit were recognised by the SPAI countries as principal references for developing and assessing conflict-of-interest policies in the region. The Toolkit has been translated into the main languages of the SPAI countries (Albanian, Bosnian/Serb/Croat, Macedonian and Romanian) to facilitate its wider dissemination in the region. They can be downloaded from the Internet at <http://www.anticorruptionnet.org/>.
2. **Introduction to the conflict-of-interest policy framework – specialist workshop**, hosted by the Government of Croatia and the University of Zagreb on 12-13 May 2003 in Zagreb, served to launch the project, introduce the concept of “managing conflict of interest” and the definitional approach developed by the OECD Guidelines. Participants in the workshop exchanged information on main trends and recent solutions in OECD countries. SPAI countries also highlighted the main challenges they face in developing and implementing conflict-of-interest policies. The OECD Toolkit was presented, and SPAI countries considered the appropriateness of the tools for their political, administrative and legal context. A number of SPAI countries expressed interest in the tools, and Serbia and Croatia undertook testing of selected tools after the workshop. More information on the event is available on the Internet at: [http://www.oecd.org/document/4/0,2340,en\\_2649\\_34135\\_2508292\\_1\\_1\\_1\\_37447,00.html](http://www.oecd.org/document/4/0,2340,en_2649_34135_2508292_1_1_1_37447,00.html).
3. **Review and testing of the OECD Toolkit – specialist workshop in Istanbul on 12-13 September 2003** looked at elements of the Toolkit and how they can be used for policy-design and implementation to prevent and manage conflict of interest in the public service. Participants examined the possible application of particular tools in SPAI countries on a pilot basis and discussed challenges SPAI countries were facing, and specific options for solutions in several case studies. More information on the event is available at <http://www.anticorruptionnet.org/>.

4. **Sharing experience with other countries in transition – a specific session on Ensuring Transparency and Accountability in the Public Sector** shared the results of the project and introduced the OECD Guidelines and Toolkit for representatives of the Anti-Corruption Network for Transition Economies. The session took place in the framework of the 5th Annual Meeting of the Network on 11<sup>th</sup> September 2003 in Istanbul.
5. **Review of progress in implementing the policies – High-Level Forum** hosted by the Government of the Czech Republic in **Prague on 24-25 November 2003**. Senior representatives of SPAI countries together with OECD members from Central Europe:
  - a) Reviewed progress in establishing and implementing conflict-of-interest policies in 2003; and
  - b) Endorsed the OECD Toolkit for Managing Conflict of Interest for countries participating in the Stability Pact Anti-corruption Initiative.

SPAI countries presented laws and strategies in progress, and institutions in place for identifying and preventing conflict-of-interest situations among public officials and civil servants. The Forum explored issues related to evaluation and implementation of existing mechanisms and also supported visibility and political commitment for reforms. Countries recognised the vital role of the OECD in the process, and particularly appreciated the practical support during the policy-design process as well as the unique opportunity to share their experience in the framework of the project. Forum documents, including the final agenda and country presentations, are available at <http://www.anticorruptionnet.org/>.

6. **Workshop on Conflict of Interest for Investigative Journalists** from the SPAI countries on **10-11 November 2003** was organised in Istanbul by the OECD as a complementary event. The main goal of this workshop was to increase the understanding of a group of experienced journalists and editors from the SPAI countries of the concept of conflict of interest and corruption and thereby also contribute to increasing the capacity of the media to monitor the implementation of conflict-of-interest policies in their countries. The workshop was rated as very successful by participants. A region-specific journalist handbook on conflict of interest is in preparation and is planned to be published in Spring 2004.

The OECD/SPAI project has contributed to significant changes in government's conflict-of-interest policy and legislation in SPAI countries. While it was not an issue of concern some years ago, conflict of interest is now a key issue in SPAI countries, and is widely debated at the political level, by the media and by society at large. The definitional approach of the OECD helped policy-makers turn over-politicised and heated discussions into professional debates in which the OECD Guidelines and Toolkit offered concrete references to possible solutions.

Conflict-of-interest regulations are now adopted in Bosnia and Herzegovina (November 2002), Croatia (October 2003) and – as part of the anticorruption law – in Romania (April 2003).

The adoption of the Bill on Conflict of Interest in Croatia was influenced by the OECD/SPAI workshop in Zagreb in May 2003. The preamble of the newly submitted bill made reference to the OECD instruments as well as to the role of the Zagreb workshop, attended by several politicians, including the Minister of Justice, Administration and Local Self-Government and parliamentarians. The Parliament almost unanimously approved the new bill in October 2003.

In Serbia, the Conflict-of-Interest Bill was put before Parliament for the second time and a public campaign took place during 2003. The OECD was closely involved in the drafting process of the Serbian Bill and also commented on the Albanian draft law on Rules of Ethics in the Public Service.

Montenegro, the Former Yugoslav Republic of Macedonia and Moldova expect the adoption of conflict-of-interest regulations in 2004. Moldova intends to incorporate the experience of other SPAI countries and the OECD Recommendation in its draft Conflict-of-Interest Law and the national anti-corruption strategy that are currently being developed.

## LESSONS LEARNED

1. SPAI countries have benefited from the project mainly through self-assessment and comparison of their institutional and legal frameworks in place for identifying and managing conflict of interest. The possibility to benchmark their system to neighbouring countries and learn from common practices in OECD member countries raised their understanding of how to undertake policy reforms in this area. A better understanding of the concept of conflict of interest and an increased knowledge of possible options at a practical level fostered and accelerated administrative and political reforms.
2. Increased public awareness and scandals publicised by the media pushed conflict-of-interest issues on to the political agenda in SPAI countries. The objective definitional approach of the OECD helped policy-makers turn over-politicised disputes into professional debates in which the OECD Guidelines and Toolkit were used as concrete references to possible options for managing conflict of interest rather than simply prohibiting it. Policy makers particularly appreciated the practical tools designed for developing and implementing the policy.
3. Bringing together all stakeholders creates better understanding and develops partnership in practice at the national level. The project brought together various public sector and civil society actors, such as public officials from the political level, specialists in the civil service, members of parliament and judiciary in order to improve their co-ordination and also sustain their commitment.
4. Involving experts from other countries in transition can increase the credibility of the project. The involvement of experts and counterparts from OECD member countries in the region (the Czech Republic, Poland, Hungary and Slovakia) provided SPAI countries with a perspective of experience, particularly with examples of successful or unsuccessful methods and solutions used in the implementation of policies.
5. The selection of reputable experts and their involvement as a “core group of participants” throughout the project encouraged constant networking and developed their ownership of the project’s results.
6. Adapting the OECD Guidelines and Tools to the particular political, administrative and legal context of the participating SPAI countries was a key element of the project. The results showed that the success of the project and the application of practical tools and policy guidelines depend to a great extent on how the offered options took into consideration the circumstances of particular countries.
7. Involvement of the media and dialogue with journalists at the Workshop for Investigative Journalists provided an opportunity to explain conflict-of-interest issues to a wider audience in SPAI countries. This helped to increase their understanding of conflict-of-interest issues, improved capacity for continuous public scrutiny, and also improved the visibility of the project.

## NEXT STEPS: LONG-TERM IMPLEMENTATION AND MONITORING

### PROPOSED PRIORITIES AND OUTPUTS FOR 2004

Based on the experiences of the successfully completed first three phases of the project, **Phase 4** of the project focuses primarily on the long-term implementation of conflict-of-interest policies in SPAI countries. In particular, Phase 4 provides:

- A forum for monitoring progress in SPAI countries; and
- Technical support in key emerging areas.

In 2004 the majority of participating countries are in a position to implement selected tools and strategies on a long-term basis. Phase 4 will support countries' efforts in long-term implementation aimed at effective institutionalisation of the measures selected by the participating country. In particular, the project will provide technical support for planning, tool-redevelopment, documentation, and training in order to help public organisations put the conflict-of-interest policy into practice on a daily basis.

#### A) Forum for Monitoring Progress in SPAI Countries

A significant new element of Phase 4 is to provide a **forum** for SPAI countries, where participants of the project could **review progress** achieved. Participating countries will report on main achievements in the field of legislation, policies, processes and key institutions, and will be invited to review and discuss the quality and effectiveness of these developments among themselves and with invited counterparts from OECD countries. The feedback provided by this exercise will help policy-makers in participating countries:

- To compare their practices to the neighbouring countries and OECD member countries in Central Europe.
- Identify options for refining policies and practices in progress.

#### B) Technical Support in Key Emerging Areas

In order to support SPAI countries' efforts in long-term implementation aimed at effective institutionalisation, the High-Level Forum in Prague identified emerging areas where specific technical assistance is urgently needed. Moreover, senior representatives of SPAI countries also requested the involvement of key groups to sustain political backing and community support in the long-term implementation of conflict-of-interest policy in SPAI countries.

1. The following **emerging areas** for further technical assistance work were identified:
  - a) **Post-employment** measures – identifying and enforcing restrictions to employment after public office;
  - b) **Disclosure** and recusal/withdrawal procedures – procedures for collecting and processing disclosed information that balance the right to privacy, the demand for transparency and the need for effective management of conflict situations;
  - c) **Lobbying** – what procedures and regulations work efficiently to ensure accountability and transparency, and control of unacceptable conflict of interest in the lobbying process;

- d) **Policy planning and evaluation** – support policy-makers with feedback mechanisms to assess the impact of legal, procedural and institutional frameworks in place for identifying, resolving or managing conflict of interest; and
  - e) **Training** programmes for civil servants and NGOs to support the development of curricula and training materials for raising awareness of conflict-of-interest policies as well as the capacity to resolve or manage specific cases; complementary public information programmes could support awareness in the wider society.
2. Senior SPAI representatives at the High-Level Forum in Prague requested that Phase 4 should focus particularly on the following **target groups**:
- a) **The private sector** – in order to raise awareness of the role and responsibility of businesses and also develop partnerships (the OECD Guidelines provide a separate section on ways of co-operation with the private and non-profit sectors);
  - b) **Members of Parliament** – involve elected representatives to encourage their exemplary role and also maintain their political support and scrutiny in the policy implementation; and
  - c) **Sub-national level: regional and local authorities** – while central governments are responsible for creating the national framework for the conflict-of-interest policy, local and regional governments employ the majority of civil and public servants and they need methodological support in implementing the conflict-of-interest policy.
3. Publication of the refined OECD **Toolkit** on Managing Conflict of Interest – the refined version of the Toolkit will include more country-specific case studies from the region, as requested by the High-Level Forum in Prague. Participating countries have already been asked to submit written case study proposals to the OECD. The publication of the final Toolkit and its translation into the languages of participating countries will enable its wide dissemination and use in the region and beyond.

**C) Sharing the Experience of Conflict-of-Interest Policies with other regions**

The existing experience of designing and implementing conflict-of-interest policies in SPAI countries could help other **countries in transition** facing similar challenges in their policy-design:

1. The practical resource materials in the **Toolkit** that have been developed in the SPAI framework could significantly support the policy-design in other transition economies, particularly in Russia. President Putin signed a decree on 24 November 2003 on creating a Commission for Resolving Conflicts of Interests. The practical instruments, generic definitions, tests, checklists, model provisions, training materials and case studies provided by the Toolkit could be made available and adapted to the needs of selected Newly Independent States in the framework of the technical assistance programme for the regional anti-corruption Action Plan (for more information, see Activity Area 2 of the *Work Programme 2004 of the Anti-Corruption Network for Transition Economies*).
2. **Transfer of know-how and expertise** – country experts of the SPAI region who participated in this project will be encouraged to share their experience with other countries. Their expertise might be offered in regional fora to support transfer of know-how, and in technical assistance programmes in other regions, in the framework of the new regional Anti-Corruption Action Plan for Transition Economies.

### **Background on impact of OECD Guidelines and Tools in other regions**

The Toolkit project has already had a wider impact as increased attention focuses on the implementation of conflict-of-interest policies worldwide. The resource package developed in the SPAI framework to help public organisations put the policy into practice generated a wide-reaching interest in other regions:

- In the Asia and Pacific region, the Workshop on Conflict of Interests introduced the OECD's definitional approach and explored possible use of the OECD Toolkit. The workshop, attended by 70 participants, was held on 3-5 December 2003 in the framework of the 4<sup>th</sup> regional anti-corruption conference of the ADB/OECD Anti-Corruption Initiative. The Toolkit received very positive feedback and the OECD was called upon to "facilitate continuous policy dialogue to support the sharing of experience and knowledge throughout the region". In the conference conclusions and recommendations "participants agree that priority should be given to: The establishment of clear rules and supporting tools identifying and managing conflicts of interest in order to strengthen public confidence". The website of the ADB/OECD Initiative provides access to conference conclusions and recommendations as well as other documents at [www1.oecd.org/daf/asiacom/KL.htm](http://www1.oecd.org/daf/asiacom/KL.htm).
- In spring 2004, the Inter-American Development Bank sponsors a forum on guidelines and the toolkit for managing conflict of interest to support Latin American countries' efforts in putting into practice the prevention measures of the Inter-American Convention Against Corruption.

### **B. 2004 OUTPUTS & OUTCOMES**

1. **Progress report** based on the peer review of SEE countries will measure achievements and weaknesses in implementation, as well as will identify options for refining policies and practices in progress.
2. **Institutionalisation** of policy and developing capacity to cope with emerging problems.
3. **Refined procedures** agreed in workshops and training materials.
4. **Support** of parliamentarians and partnership with the private sector.
5. **Knowledge and know-how sharing** with other countries in transition.

### **C. PROJECT MANAGEMENT**

The SPAI countries will take the lead in implementing the proposed Phase 4 activities in close co-operation with the SPAI Regional Secretariat Liaison Office. The SPAI Regional Secretariat Liaison Office will be a focal point in the exchange of experience and is also best placed to host meetings planned in the region; particularly the forum for reviewing progress and technical workshops. In the framework of the OECD CCNM Programme for South East Europe, the OECD will facilitate the information sharing and peer-review process in the SEE region by organising workshops and forum as well as providing technical assistance in selected areas. The project management will continue to ensure regular consultation with donor countries, and involve interested parties, such as NGOs and civil society groups as stakeholders in the implementation and monitoring of the policy. A Consultative Group drawn from among the OECD member countries active in the region, donor countries, interested NGOs, civil society representatives, and technical experts will be regularly informed of progress, and invited to contribute ideas.