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Session 1

ANTI-CORRUPTION REFORMS

IN EASTERN EUROPE AND CENTRAL ASIA

ACHIEVEMENTS, CHALLENGES, WAY FORWARD

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OSCE, Vienna, 17 February 2020

OECD
BETTER POLICIES FOR BETTER LIVES


OECD anti-corruption work in the OSCE region

- OECD anti-bribery convention
- Other instruments on public sector integrity, MNEs, SOEs, Tax, other matters
- **Anti-Corruption Network for Eastern Europe and Central Asia (ACN)**
  - Completion of the current Work Programme – **Summary Report 2016-2019**
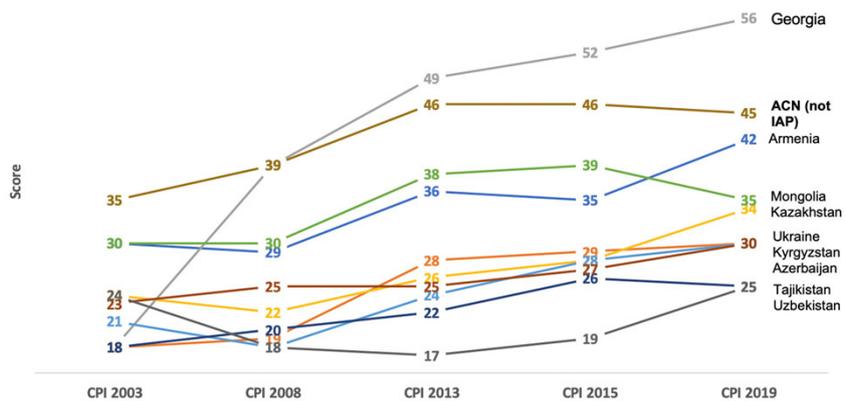 - New Work Programme 2020-2024 – **indicators** and focus on **high level corruption**

Note: Throughout this presentation, FYR Macedonia to be replaced by North Macedonia; reference to Kosovo is in line with UN Security Council Resolution 1244

Corruption as main problem and governments perceived badly in a-c, TI 2016
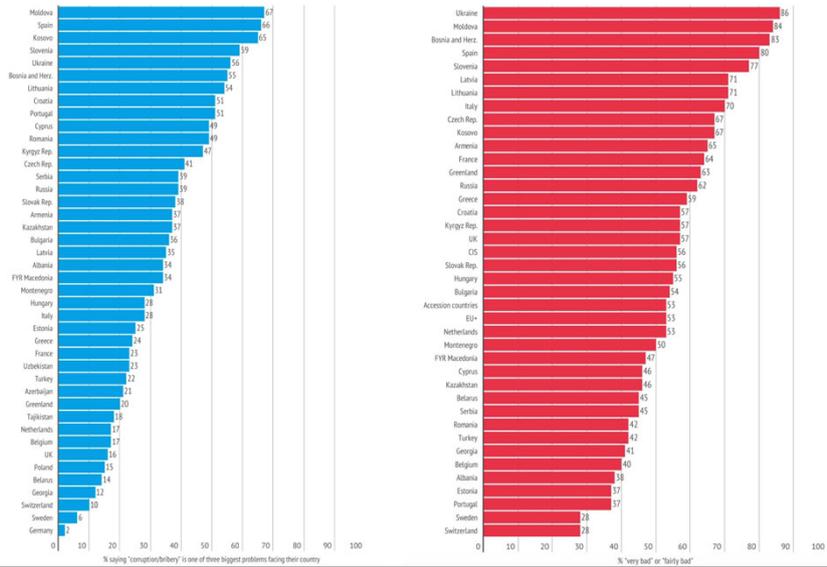
TI CPI 2019

Achievements and challenges: anti-corruption policy

+ Almost all countries have new generation of national a-c strategies/plans
+ Many have secretariats
+ A few have budgets
+ NGO engagement
+ Local, secoral plans

- Evidentiary basis is poor, e.g. surveys, risk assessments not used for priority setting and monitoring
- Focus on leg. and institutional inputs, and not on impact
- No inclusive cross-gov approach
- Often formalistic involvement, attacks on NGOs
- Capacity limitations in corr-prevention bodies, mandate, resources, no political weight

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Anti-corruption policy in the region

	Policy document	Budget EURO	NGOs participating in a/c policy	Monitoring	Secretariat	Surveys	Risk assessment in Agencies	Local level plans	Agency plans
Albania	•	1632321	20	•	4	0	4	0	0
Azerbaijan	•	O	40	•	5	--	1	--	2
BiH	•	O	5	•	--	15	--	130	3
Croatia	•	--	8	•	4	4	--	4	--
Estonia	•	7000	1	•	2	--	1	--	1
Kazakhstan	•	355804	29	•	136	17	3	17	All
Kosovo	•	--	7	•	4	--	13	--	1
Kyrgyzstan	•	--	3	•	--	9	14	13	38
Latvia	•	O	22	•	5	109	1	109	13
Lithuania	•	1009432	5	•	19	57	4	49	10
North Macedonia	•	O	26	•	3	--	0	--	--
Montenegro	•	--	7	•	46	151	55	151	55
Romania	•	--	20	•	11	797	N/A	535	--
Serbia	•	--	--	•	1	79	0	79	All
Ukraine	O	O	7	O	288	43	1	43	86
Uzbekistan	•	1771479	20	•	43	14	27	0	0
Yes	•								
No	O								
No data	--								

Prevention of corruption in public administration

+ Merit-based recruitment
+ Improvements of declarations of assets and interests
+ 12 whistleblower protection laws
+ Disclosure of public registers
+ E-procurement

- No risk management in state bodies, good case of MOI RO
- Continued politisation (appointment of high level officials, remuneration)
- CoI – insufficient definitions, not enough verifications of declarations
- No actual protection of WB's

Integrity in civil service

Country	Delineation of political and professional positions	Merit based appointments	Merit based performance evaluation	Transparent and fair remuneration	Transparent and objective allocation of bonuses
Armenia	yes	Exceptions, risk of politisation regarding senior civil service	No data	Low pay	No (30% threshold)
Azerbaijan	no	Only for lower level positions	No data	no	no
Georgia	yes	yes	yes	No data	No data
Kazakhstan	yes, but with important flaws	High risk of politisation of civil service	Highly politicized	no	no
Kyrgyzstan	yes	Exemption for admin positions in Presidential administration	No data	Low and unequal pay	-
Mongolia	yes	High risk of politisation of civil service	No data	No	No, high discretion of managers
Tajikistan	yes, but with important flaws	many exemptions and violations in practice	No data	no	no
Ukraine	yes	yes	yes	yes	no
Uzbekistan	no (foreseen in the draft CSL)	No (foreseen in the draft CSL)	No data	no	no

Declarations of interests and assets

	Asset and Interest Declarations	Electronic system	Declarations published	Central oversight body	Verification	Administrative sanctions for violations	Criminal sanctions for violations
Armenia	◆	•	▲	•	▢②	•✓	•
Azerbaijan	O	O	O	O	O	O	O
Georgia	◆	•◈	▲	•	▢②◈	•✓	•
Kazakhstan	◆	O	O	•	•	•	O
Kyrgyzstan	◆	O	⊚	O		•	O
Mongolia	◆	•	⊚	O	◈②	•✓	O
Moldova*	◆	•	•	•	•②	•	•
Tajikistan	■	O	O	O	•	O	O
Uzbekistan	O	O	O	O	O	O	O
Ukraine	◆	•◈	▲	•	②◈	•✓	•
Total							
•Yes		5	6	5	8	7	4
O No							
◆ Both asset and interest	7						
■ Only assets	1						
▲ Open data format			3				
⊚ Not in open data format			2				
◈ Expanded search		2					
▢ Random selection						2	
◆ Risk-based					3		
② Citizen complaints					4		
✓ Sanctions applied in practice						4	0

Integrity of judges and prosecutors

- Independence
- Integrity
- Accountability

➤ Study on independence of prosecutors

Access to information

- Laws
- Ombudsman or other responsible institutions
- Defamation laws

| Country	Open Budget Index (2017), Score out of 100	Global Open Data Index (2016-2017), Rank	The Open Data Barometer (2016), Score out of 100	E-Participation Index (2018), Rank	World Press Freedom Index (2019), Rank
Albania	50	47	32	59	82
Armenia	-	-	-	103	61
Azerbaijan	34	-	-	79	166
BiH	35	58	8	125	63
Bulgaria	66	36	37	35	111
Croatia	57	44	27	57	64
Czech Republic	61	27	44	92	40
Estonia	-	-	36	27	11
North Macedonia	37	52	33	71	95
Georgia	82	-	37	87	60
Hungary	46	-	23	69	87
Kazakhstan	53	-	26	42	158
Kosovo	-	58	24	-	75
Kyrgyzstan	55	-	13	75	83
Latvia	-	14	28	75	24
Lithuania	-	-	-	51	30
Moldova	58	-	44	37	91
Mongolia	46	-	-	65	70
Montenegro	-	49	15	64	104
Poland	59	28	34	31	59
Romania	75	24	-	69	47
Russia	72	38	49	23	149
Serbia	43	41	23	48	90
Slovakia	59	32	45	50	35
Slovenia	69	28	-	48	34
Tajikistan	30	-	10	134	161
Turkey	58	45	37	37	157
Ukraine	54	31	36	75	102
Uzbekistan	-	-	-	59	160

Business integrity

➢ Framework conditions:
  ➢ Economic freedom and liberalization
  ➢ Protection of property rights
  ➢ Open and Fair competition
  ➢ Corporate governance

+ Increased policy attention, documents
+ Business ombudsmen
+ E-governance to simplify regulations
+ Disclosure, incl. of beneficiary ownership
+ Few collective actions

➢ BI risks and signals:
  ➢ Grant/political corruption
  ➢ Private sector corruption
  ➢ Market signals

- No/weak responsible institution – governments do not see their role, sanctions and incentives (DPAs, green corridors, procurement)
- No role of audit in corruption prevention
- SOEs – high integrity risk
- SMEs – lack of support

Property rights and CIP correlation
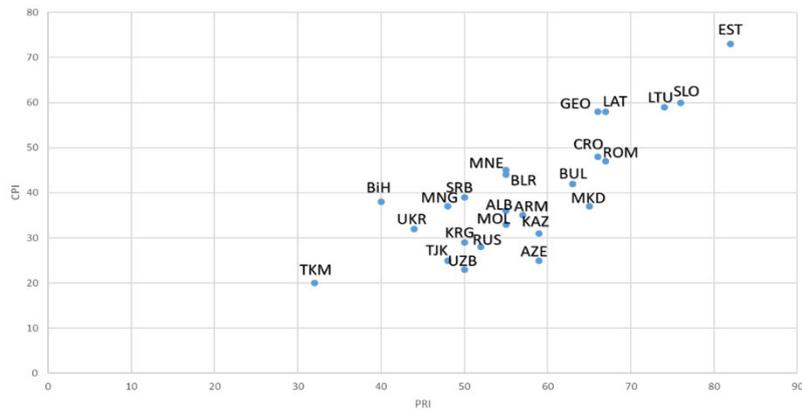
BI risks in ACN countries, 2016 survey

		Average score	
		Companies	Associations
1	Legal uncertainty and selective application of the law by the law-enforcement and judiciary	3,79	4,40
2	Insufficient development of competitive environment	3,58	3,20
3	Poor protection of property rights	3,53	3,80
4	State capture by business, including illegal lobbying and other forms of influencing the state decisions in favour of business interests	3,26	3,87
5	Business capture by state, including illegal corporate raiding and other forms of takeover of companies by the state officials	3,21	3,07
6	Offering, promising and giving bribes and other illegal advantages to the public officials by companies	3,16	3,17
7	Bribe solicitation by public officials and other ad-hoc demand of bribes in individual cases	3,06	3,93
8	Private-to-private corruption between companies	3,05	3,14
9	Rent seeking by public officials and other regular claim of official for economic benefits produced by companies	2,89	3,40
10	Bribe solicitations by foreign public officials while doing business abroad	2,89	2,80
11	Financing of political parties by companies, political donations and contributions	2,53	3,33

Criminalisation and enforcement

+ Progress towards international standards

- Shortcomings re offences, liability of legal persons, other

• Procedural aspects

• Specialised bodies

• Statistics

Corporate liability

Criminal liability		Administrative punitive liability	Quasi-criminal liability
Albania **Bosnia and Herzegovina** **Croatia** **Estonia** **Georgia** **Lithuania**	North Macedonia Moldova Mongolia Montenegro Romania Serbia Slovenia	Bulgaria Russia	Azerbaijan Kyrgyzstan Latvia Ukraine
13		2	4

Countries	2017			2018		
	Opened	Sent to Court	Sanctioned	Opened	Sent to Court	Sanctioned
Albania				n/a	n/a	n/a
Azerbaijan	0	0	0	0	0	0
Bosnia				382	226	172
Croatia	548	1328	n/a	0	1	1
Estonia	n/a	n/a	0	n/a	n/a	0
Kazakhstan	0	0	0	0	0	0
Kyrgyzstan	32	15	0	186	186	n/a
Latvia	1	2	n/a	0	1	n/a
Lithuania	1	0	6	1	7	11
North Macedonia	n/a	n/a	n/a	n/a	n/a	n/a
Montenegro	n/a	46	n/a	n/a	n/a	n/a
Romania	n/a	91	47	n/a	65	10
Serbia	15	0	0	4	0	0
Ukraine	3	2	0	n/a	4	n/a
Uzbekistan	n/a	n/a	n/a	n/a	n/a	n/a
Total	600	1484	53	573	490	194

Main sources of information for detection of corruption

	Armenia (2014-2017)	Azerbaijan (2013-first half of 2016)	Georgia (2014-2015)	Kazakhstan (2015-2016)	Kyrgyzstan (2015-2017)	Mongolia (2015-2018)	Tajikistan (2014-2016)	Ukraine (2015-1st half of 2017)	Uzbekistan (2016-2018)
Operative measures (criminal intelligence), pre-investigation inquiry		•	•	•	•	•	•	•	•
Reports from natural and legal persons, public officials	•	•	•	•	•	•	•	•	•
Voluntary surrender									•
Analysis of risk profiles				•				•	
Information revealed in other investigations	•								•
Referrals from other law enforcement bodies								•	
Immediate detection of elements of crime by the prosecution officers during inspections							•		
Court decisions								•	
Referrals from tax authorities	•	•							
Referrals from auditors	•	•	•		•				
FIU reports			•		•	•			•
Media reports	•				•	•		•	•
Anonymous reports						•			
International co-operation									
Asset declarations								•	

Law enforcement statistics on corruption, 2018

	AR	AL	AZ	BiH	CR	ES	KZ	KR	LV	LT	MAC	ML	MG	MN	RO	SE	SL	UA	UZ
Number of criminal corruption cases in 2018																			
Opened	N/A	172	518	440	74	70	1724	988	196	49	N/A	615	N/A	N/A	5928	6928	N/A	3531	1469
Sent to court	N/A	231	278	251	140	31	1510	295	143	27	N/A	250	N/A	N/A	483	3593	N/A	2264	1299
Sanctioned	N/A	583	277	186	110	54	1079	538	N/A	69	N/A	279	N/A	N/A	228	2855	N/A	766	1907
Cases involving legal persons																			
Opened	N/A	N/A	0	382	0	N/A	0	186	0	1	N/A	N/A	N/A	N/A	N/A	4	N/A	N/A	N/A
Sent to court	N/A	N/A	0	226	1	N/A	0	186	1	7	N/A	N/A	N/A	N/A	65	0	N/A	1	N/A
Sanctioned	N/A	N/A	0	172	1	0	0	N/A	N/A	11	N/A	N/A	N/A	N/A	10	0	N/A	N/A	N/A
Cases involving foreign bribery																			
Opened	N/A	0	0	0	0	0	0	N/A	1	0	N/A	N/A	N/A	N/A	0	2	N/A	N/A	0
Sent to court	N/A	0	0	0	0	0	0	N/A	1	0	N/A	N/A	N/A	N/A	0	0	N/A	N/A	0
Sanctioned	N/A	0	0	0	0	0	0	N/A	0	0	N/A	N/A	N/A	N/A	0	0	N/A	N/A	0
Asset recovery and confiscation																			
Number of corruption cases that involved confiscation	N/A	0	221	23	N/A	N/A	122	N/A	N/A	12	N/A	N/A	N/A	N/A	126	2	N/A	2852	8
Total confiscated value, EUR	N/A	0	45315185	438358	11080856	N/A	1955648	N/A	N/A	71745	N/A	9350090	N/A	N/A	76000000	N/A	N/A	384840	25704
Total recovered assets from abroad, EUR	N/A	0		N/A	0	N/A	88082697	N/A	N/A	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Mutual legal assistance in corruption cases																			
Requests received	N/A	0	0	16	N/A	N/A	10	6	61	7	N/A	N/A	N/A	N/A	21	156	N/A	28	13
Assistance provided	N/A	N/A	0	16	N/A	N/A	10	6	49	7	N/A	N/A	N/A	N/A	19	66	N/A	20	13
Requests sent	N/A	N/A	20	3	N/A	N/A	65	66	13	7	N/A	N/A	N/A	N/A	93	133	N/A	164	3
Assistance obtained	N/A	N/A	13	3	N/A	N/A	65	40	N/A	4	N/A	N/A	N/A	N/A	56	47	N/A	74	3

Specialised law-enforcement bodies

	Specialized anti-corruption investigative bodies	Specialized anti-corruption prosecution bodies	Specialised units/personnel within investigative agencies	Specialised units/personnel within prosecution bodies	Specialized anti-corruption multi-purpose agencies
Istanbul Anti-Corruption Action Plan countries					
Armenia			•	•	
Azerbaijan	•				
Georgia			•	•	
Kazakhstan	N/A	N/A	N/A	•	N/A
Kyrgyzstan			•		
Mongolia					•
Tajikistan			•	•	•
Ukraine	•	•	•		
Uzbekistan			•	•	
Other ACN countries					
Albania			•	•	
Belarus			•	•	
Bosnia and Herzegovina			•	•	
Bulgaria			•	•	
Croatia		•	•	•	
Estonia			•	•	
Kosovo	•	•	•	•	
North Macedonia			•		
Latvia			•	•	•
Lithuania			•	•	•
Moldova		•	•	•	•
Montenegro		•	•	•	
Romania			•		
Russia	•		•	•	
Serbia			•	•	
Slovenia			•	•	

Main directions of the new Work Programme for 2020-2024

- Evidentiary basis for anti-corruption policy and monitoring:
  - Performance indicators for Istanbul Action Plan monitoring
  - Key performance indicators for the regional outlook
- Enforcement focus on high level/grand corruption
  - Matrix of high level cases
  - Themaic study for LEN
- Sectoral approach
  - Business integrity review and technical training
  - Corruption in education

Indicators

Performance Area 1. Anti-Corruption Policy

Performance Indicators

1. Policy is up-to-date, evidence-based and includes key corruption risk
2. Policy development is inclusive and transparent
3. Policy is effectively implemented
4. Coordination and support to implementation is ensured
5. Regular monitoring and evaluation is ensured

Performance Area 2. Conflict of Interest

Performance Indicators

1. Legal and institutional framework for conflict of interest are in place
2. Unbiased and vigorous enforcement of regulations is ensured
3. Information on COI is published

Performance Area 3. Disclosure of Interests and Assets

Performance Indicators

1. Asset and interest disclosure applies to high corruption risk positions
2. Asset and interest disclosure is comprehensive and regular
3. Electronic system is in place and online publication is ensured
4. Unbiased and effective risk-based verification of asset and interest declarations is ensured with a follow up
5. Dissuasive and proportionate sanctions are enforced

Performance Area 4. Whistleblower protection

Performance Indicators

1. Whistleblower protection is guaranteed in law
2. Effective mechanisms are in place to ensure that whistleblower protection is applied in practice
3. Public is aware of and has trust in existing protection mechanisms
4. Whistleblower protection is ensured in practice

Indicators

Performance Area 5. Independence of judiciary

Performance Indicators

1. Judicial tenure is guaranteed in law and practice
2. Judicial appointment and promotion are based on merit, involvement of political bodies is limited
3. Court presidents do not interfere with the judicial independence
4. Judicial budget and remuneration guarantee financial autonomy of the judiciary and judges
5. Status, composition and mandate of the Judicial Council guarantee judicial independence
6. The Judicial Council is transparent and impartial in its work
7. Distribution of cases among judges is transparent and objective
8. Judicial decisions are open to the public
9. Judges are held accountable through impartial decision-making procedures that protect against arbitrariness

Performance area 6. Independence of Prosecution

Performance Indicators

1. Legal framework guarantees independence of the public prosecution service
2. Appointment and promotion of prosecutors are based on merit and clear procedure
3. Budget of the public prosecution service guarantees its financial autonomy
4. Status and composition of the Prosecutorial Council guarantee independence of the public prosecution service
5. The Prosecutorial Council has a broad responsibility for the functioning of the public prosecution service, is transparent
6. Assignment of cases among prosecutors is transparent and objective
7. Prosecutors can challenge orders they receive
8. Prosecutors are held accountable through impartial decision-making procedure that protects against arbitrary decisions

Performance Area 7. Public Procurement

Under development

Performance Area 8. Business Integrity

Performance Indicators

1. Boards of directors are responsible for the management of corruption risks
2. Public disclosure of beneficial ownership of companies is ensured
3. There are incentives for companies to improve integrity of their operations
4. There are mechanisms to address business concerns related to corruption and bribe solicitation
5. States fulfil their role as active and informed owners of SOEs and ensure integrity of their governance structure and operations

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Indicators

Performance Area 9. Enforcement of the corruption offences

Performance Indicators

1. Liability for corruption offences is effectively enforced
2. Effective and dissuasive sanctions for corruption are applied in practice
3. The statute of limitations period and immunities do not impede effective investigation and prosecution of corruption
4. Enforcement statistics on corruption offences is used for analysis and available for the public

Performance Area 10. Enforcement of liability of legal persons

Performance Indicators

1. The law provides for an effective standard of liability of legal persons
2. Sanctions for legal persons are proportionate and dissuasive
3. Due diligence (compliance) defence is in place
4. Statute of limitations period and investigation time limits do not impede effective corporate liability
5. Liability of legal persons is enforced in practice
6. Enforcement statistics on corporate liability is used for analysis and available for the public

Indicators

Performance Area 11. Recovery and management of corruption proceeds

Performance Indicators

1. The functions of identification, tracing and management of illicit assets are performed by specialised officials
2. Identification and tracing of corruption proceeds are effective
3. Confiscation measures are enforced in corruption cases
4. Management of seized or frozen assets is cost-efficient and transparent
5. Data on asset recovery and asset management in corruption cases is collected, analysed and published

Performance Area 12. Investigation and Prosecution of High Level Corruption

Performance Indicators

1. Fight against high-level corruption is given a high priority
2. Criminal statistics on high-level corruption is published analysed and used in updating policy
3. High-level corruption is actively detected and investigated
4. Liability for high-level corruption offences is effectively, independently and impartially

Performance Area 13. Specialised Anti-Corruption Investigation and Prosecution Bodies

Performance Indicators

1. Anti-corruption specialisation of investigators is ensured
2. Anti-corruption specialisation of prosecutors is ensured
3. Appointment of heads of the specialised anti-corruption investigative and prosecutorial bodies is transparent and merit-based with their tenure in office protected by law
4. Staff of the specialised anti-corruption investigative body is impartial and autonomous from external and internal pressure
5. Specialised anti-corruption investigative and prosecutorial bodies have adequate human resources
6. Specialised anti-corruption investigative body is adequately financed
7. Specialised anti-corruption investigative body has necessary powers, investigative tools and expertise
8. Work of the specialised anti-corruption prosecutors and anti-corruption investigative body or unit is transparent and audited
9. Specialised anti-corruption investigators and prosecutors are held accountable

PA-4 Protection of Whistleblowers			
INDICATORS		**BENCHMARKS**	**Score (if "Yes")**
1. Whistleblower protection is guaranteed in law	1.	The law guarantees protection to individuals who reported about a corruption-related wrongdoing that they believed true at the time of reporting	4
	1.	Whistleblowing legislation extend to both the public and the private sector employees and workers in all sectors	3
	3.	Legislation provides that the burden of proof that any measures that were taken against a whistleblower were not connected to his or her report is on the employer	3
	3.	Means of protection from retaliation provided by law includes the following: • protection of whistleblower's identity; • protection of personal safety; • release from liability; • protection from all forms of retaliation at workplace; • consultation on protection; • provisional protection; • appropriate compensation; • reinstatement; • state legal aid.	4
	3.	There are clear procedures for reporting and for requesting and providing protection in cases of reprisal, that are well known in the public sector	3
	3.	There are clear procedures for reporting and for requesting and providing protection in cases of reprisal, that are well known in the private sectors	3
2. Effective mechanisms are in place to ensure that whistleblower protection is applied in practice	1.	There are various channel available for reporting, including: • internal at work place (at least in the public sector), • external (to specialized, regulatory, law-enforcement or other relevant state body), • possibility of public disclosure (to media, public associations).	12
	1.	Protection is granted to anonymous whistleblowers, when they have been identified	6
	1.	There is a dedicated authority responsible for oversight, monitoring, collection of data that has sufficient number of staff and powers to perform its mandate	12
2. Public is aware of and has trust in existing protection mechanisms	1.	There is a wide public perception that reporting channels are working, trustworthy and efficient, that reporting is not deterred by disciplinary, civil or criminal sanctions and other retaliation, and that protection of whistle-blowers is ensured in practice	10
	1.	Detailed statistics and other information on whistleblowing reports and whistle-blower protection is regularly collected, analysed, published and used as basis for reform	10
2. Whistleblower protection is ensured in practice	1.	Track record of whistleblowing reports received by public authorities through internal channels 1) Low: At least 1 case per 1 million of population (=1 point) 2) Average: At least 5 cases per 1 million of population (= 2 points) 3) High: At least 10 cases per 1 million of population (= 5 points)	5
	1.	Track record of whistleblowing reports that were received by central authority 1) Low: At least 1 case per 1 million of population (=1 point) 2) Average: At least 5 cases per 1 million of population (= 2 points) 3) High: At least 10 cases per 1 million of population (= 5 points)	5
	1.	Track record of criminal cases for corruption offences that were started as a result of whistle-blower reports 1) Low: At least 0.5 case per 1 million of population (=1 point) 2) Average: At least 2.5 cases per 1 million of population (= 2 points) 3) High: At least 5 cases per 1 million of population (= 5 points)	5
	1.	Appropriate protection is provided to all whistleblowers using various means of protection foreseen by legislation as required	

Next steps

➢ 26 March – ACN High Level Meeting
➢ 27 March – ACN Steering Group
➢ Pilot monitoring May-November 2020

- Annual monitoring 2021-2024
- Regional outlook using Key PIs
- Annual LEN meetings + matrix of high level cases
- BI Seminars on demand from countries
- Methodology and regional study on corruption in education

Cooperation with OSCE

- Long standing partnership

- Invitation to the High Level and Steering Group meetings
- Support to monitoring, matrix, sectoral work

THANK YOU

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