

OCEEA Roundtable

“On the road to Marrakesh: the role of civil society in fighting corruption”

5 July 2011, Vienna, Hofburg



FINAL REPORT

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Organization for Security and Co-operation in Europe

The Secretariat

**Office of the Co-ordinator of the OSCE
Economic and Environmental Activities**

OCEEA Roundtable

**“On the road to Marrakesh: the role of civil society
in fighting corruption”**

5 July 2011, Vienna

FINAL REPORT

This Roundtable was made possible thanks to the voluntary contributions provided by Austria, France, Lithuania, Morocco, Switzerland and the United States of America.

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Executive Summary

A central message of the OCEEA Roundtable “*On the road to Marrakesh: the role of civil society in fighting corruption*” in Vienna on 5 July 2011 was that civil society organizations are important partners in the fight against corruption as they can contribute to better-informed and more accurate policy responses and actions. However, participants in the Roundtable emphasized that if civil society is to take up this role in an effective and responsible manner, it needs access to information, education and training, as well as the freedom to voice opinions about weaknesses and malpractice without fear of negative repercussions.

Roundtable participants stressed that if civil society representatives are to become more actively involved in the formulation, implementation, monitoring and evaluation of anti-corruption strategies and action plans, governments need to show political will. Therefore, a key message to governments was that they should develop the kind of legal, regulatory, policy and institutional frameworks that enable civil society to gainfully and responsibly participate.

The essential role of a free and independent media in uncovering corruption cases and bringing these to public attention was also discussed. Many participants noted that journalists investigating economic crime are often subject to intimidation, defamation, violence and death threats. Therefore, the need for governments to increase the legal protection for investigative journalists in order to ensure a safer working environment for them was underlined as a pressing matter. At the same time, it was stressed that the primary responsibility for combating corruption lies with government and that media cannot and should not take the place of law enforcement agencies. In order to minimise the risk of corruption within the media it was agreed that it too needs to be subject to checks and balances, without undermining its freedom of expression by the imposition of overly restrictive regulations.

Roundtable participants also emphasized the importance of strengthening parliamentary ethics in order to avoid political corruption. The promotion of judicial independence and securing the autonomy of the courts in order to develop proper anti-corruption legislation and oversight was also emphasized.

The vulnerability to corruption of public procurement processes and strategic natural resources was highlighted and a number of preventive measures and tools exchanged that could increase transparency, accountability and management integrity – e.g. the new UNCITRAL Model Law on Public Procurement, the EU Public Procurement and Remedies Directives, whistleblower protection legislation, the US Dodd-Frank Wall Street Reform and Consumer Protection Act, and the Extractive Industries Transparency Initiative.

Each panel concluded with a number of suggested actions for different stakeholders.

Introduction

Raising awareness of the importance of building a well-informed and engaged civil society in the fight against corruption was the focus of a 5 July 2011 roundtable meeting, "*On the road to Marrakesh: the role of civil society in fighting corruption*", which was organized by the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) of the Organization for Security and Co-operation in Europe (OSCE). The Roundtable brought together some 100 participants from public institutions and civil society organizations across the OSCE region, including the Asian Partners for Co-operation and the Mediterranean Partners for Co-operation. In a series of panel discussions, participants exchanged information and experiences regarding innovative practices, initiatives, policy trends and co-operation frameworks in the fight against corruption, and identified common concerns and key challenges in the OSCE region and in the Partners for Co-operation countries.

The Roundtable offered an open platform for dialogue on anti-corruption regulations, policies and practices that was marked by pro-active participation and lively discussion. It served as an important preparatory event within the OSCE framework for continued dialogue and work on civil society participation in the fight against corruption in view of the OSCE's upcoming Economic and Environmental Forum focus (under the 2012 Irish Chairmanship) on "Promoting Security and Stability through Good Governance". It also allowed the OSCE community to prepare for discussions about the side events related to civil society engagement that will take place in conjunction with the fourth session of the Conference of the States Parties (COSP) to the United Nations Convention against Corruption in Marrakesh from 24 to 28 October 2011.

The Roundtable was organized in response to interest expressed by a number of OSCE participating States and the host country of the fourth session of the COSP, Morocco, in addressing the role of civil society in combating corruption. The promotion of increased participation by civil society organizations, media and citizens in efforts to prevent and curb corruption is in accordance with OSCE commitments to strengthen good governance.

The event was co-funded with voluntary contributions from the United States of America, France, Morocco, Switzerland, Austria and Lithuania.

The following key topics were addressed by the Roundtable participants:

- (1) Necessary legal and regulatory frameworks for building an engaged and knowledgeable civil society in the fight against corruption;
- (2) The need for a free and open media in uncovering public and private sector corruption;
- (3) Regulatory reforms and initiatives that introduce transparency and accountability into both public procurement and the public management of strategic natural resources.

Summary of Proceedings

OPENING SESSION

The opening speakers emphasized the central importance of the inclusion of civil society in efforts to combat corruption.

Mr. Andrius Krivas, Minister Counsellor, Deputy Head of Mission, Lithuanian 2011 OSCE Chairmanship, underlined the fact that civil society organizations are strong partners in the fight against corruption, ensuring a well-informed and responsive dialogue. He stressed that for civil society to be an effective partner, it requires access to information and the freedom to voice opinions about weaknesses and malpractice without fear. He also said that the role of civil society in fighting corruption has already been acknowledged by the OSCE participating States in the 1999 Istanbul Charter for European Security and further reinforced in subsequent commitments. The OSCE participating States have explicitly tasked the OSCE Secretariat to assist them, upon request, in the ratification and implementation of the United Nations Convention against Corruption (UNCAC).

Mr. Goran Svilanović, Co-ordinator of OSCE Economic and Environmental Activities, stressed that strong political determination, courage and the formation of close partnerships between governments, civil society and the business community are required to effectively prevent and fight corruption in all its forms, particularly “grand corruption” (i.e. large-scale corruption involving senior officials, politicians and/or their family members/associates). He also stressed the urgent need to turn legislation and commitments into noticeable action and progress.

Ambassador Omar Zniber, Permanent Mission of the Kingdom of Morocco to Vienna, stated that the Roundtable offered a great opportunity to discuss the challenges faced and progress made by OSCE participating States and Partners for Co-operation in implementing Article 13 of the United Nations Convention against Corruption, including the identification of measures for the empowerment of non-governmental organizations (NGOs) working as catalysts in this field.

Ms. Jo Dedeyne-Amann, Chief, Implementation Support Section, Corruption and Economic Crime Section, UNODC, said that the UNCAC clearly states that the curbing of corruption requires the involvement of all stakeholders, including civil society, and that progress has been made since its adoption in 2003. For civil society to be effective in promoting the implementation of the Convention, she stressed the need to have the necessary regulatory, institutional and educational measures in place. In this regard, states can learn from each others’ experience and good practice. She also highlighted the importance of building capacity within the civil society community and mentioned the UNCAC Coalition, a global network of civil society organizations committed to the prevention of corruption.

Interventions from the floor

After the opening statements, some country delegations asked for the floor to express their view on the theme of the Roundtable.

A group of delegations said that good governance and free and independent media are core elements of the democratic principles that the EU is striving to further promote. The group emphasized the fact that the OSCE Strategy Document for the Economic and Environmental Dimension serves as an important reference document with regard to good governance. It also noted that partnerships should be reinforced between all stakeholders and said that it considered events like the Roundtable to be useful in identifying weaknesses in existing policy mechanisms and practices and learning about new methods and models.

Another delegation agreed with this statement and added that civil society must be taken into account while examining corruption.

A further delegation reported on some of the achievements made by Russia in the fight against corruption (for example, a new law on corruption and a national anti-corruption strategy). The delegation said that its government considers corruption to be a serious threat to good governance and development. It also noted that for the successful implementation of the national strategy and the law on corruption, active civil society engagement is important.

Yet another delegation expressed its support for the Roundtable, which it said contributed to the strengthening of the role of civil society. It also said that the Roundtable constituted a timely initiative in the ongoing discussions on strengthening the cooperation between the OSCE participating States and the Mediterranean Partners for Co-operation.

PANEL 1: Building a well informed and engaged civil society in the fight against corruption

Overview: An active civil society can play a crucial role in combating corruption. It can monitor a government's performance, raise public awareness and bring about more transparency. Appropriate legal and regulatory frameworks are required for civil society to realize its full potential.

The panel was chaired by **Mr. Goran Svilanović**, Co-ordinator of OSCE Economic and Environmental Activities. It explored the following themes:

- Necessary legal and regulatory frameworks affording civil society the basic rights of freedom of expression, freedom of association, freedom to establish non-governmental entities, and access to financial support.
- Accessing, seeking, receiving, publishing and disseminating information about corruption at national, regional and local levels.
- Understanding the links between economic corruption and political corruption, and the role of civil society.
- The availability of anti-corruption training and educational opportunities.

Mr. Azeddine Akesbi, Member of the National Council of Transparency Morocco, discussed ways of forming effective partnerships to fight corruption, especially in Morocco and the Arab world. He pointed out that the costs of corruption can be very high and can have severe

consequences for the well-being of citizens and societal stability. He considered corruption to be one of the leading causes of the recent political protests in several Arab countries. He stated that limited participation of civil society in the public management of state resources is linked with inadequate laws and co-operation mechanisms or a lack of will on the part of governments to involve civil society in the fight against corruption. In the case of Morocco, the corruption discourse is strong but the level of corruption still remains high. The legal anti-corruption framework in Morocco still needs some improvement, but the major challenge lies in its practical implementation. Mr. Akesbi acknowledged that Morocco has made progress in addressing the different requirements of the UNCAC, but as regards civil society participation in the prevention and suppression of corruption, advances still need to be made regarding access to information and civil society's inclusion in the formulation of public anti-corruption policies and their evaluation. Civil society organizations also need to be supported through sufficient funding.

Mr. Asso Prii, Executive Director, Transparency International (TI), Estonia, outlined the case of Estonia. TI has assisted Estonia in educating the public on anti-corruption issues and in building a network of NGOs to address corruption. Even so, the issue of corruption still fails to excite the public's attention. It is necessary to increase efforts to develop a strong civil society coalition against corruption in order for civil society to have a larger-scale involvement and impact. Training, administrative support and assistance to civil society organizations regarding how to go public with the challenges of corruption remain important issues. He also stressed that corruption is a cross-cutting phenomenon (i.e. it affects human rights, sustainable political, economic, social and environmental development, and stability and security). Thus, it requires the different stakeholders to adopt common response strategies.

Mr. Thomas Vennen, Head, Democratization Department, OSCE Office for Democratic Institutions and Human Rights (ODIHR), put corruption into the context of an electoral process, outlining ODIHR's assistance to governments and NGOs fighting political corruption. He presented a business model of political corruption in the electoral process through vote-buying by state-owned companies and politically controlled/private companies interested in, for example, winning public procurement tenders. By way of preventive measures, transparent and accountable democratic processes and institutions need to be in place to ensure necessary checks and balances. Civil society can act as a watchdog, but it needs access to information. It can then disclose evidence of illegal and corrupt acts, even through anonymous whistle-blowing, if anonymity is considered to be necessary in order to protect sources and informants. ODIHR's contributions to the task of helping states to curb corruption take the form of strengthening NGOs in the lawmaking process, helping parliaments to develop legislation, promoting judicial independence, and reducing corruption within political party regulations.

Ms. Cristina Ana, Executive Director, Romanian Academic Society, outlined the experience of the civil society movement in addressing good governance and anti-corruption issues in East Central Europe. The research done by her organization demonstrates that corruption persists in many East Central European states and that civil society is underdeveloped as regards anti-corruption issues. She said that part of the explanation could lie in the difference in perceptions of corruption and that it will take a long time to establish "ethical

universalism as the normative basis of governance“. Historical factors also need to be considered. One of the constraints on civil society empowerment that she identified was the lack of human and financial resources. She highlighted the need for funding that is independent of government and flexible small grants mechanisms to cut through red tape and increase the anti-corruption focus.

Discussion: Participants highlighted the fact that civil society can contribute to anti-corruption efforts and that it would benefit from targeted education and training. Other participants stressed the importance of political will and national strategies to address governmental corruption. The full fledged implementation of the UNCAC remains an important goal for states.

Main Suggestions:

- Governments need to have an appropriate legal and regulatory framework in place (including basic rights, such as freedom of expression and association), and non-governmental entities need to be established and funds mobilized in order to enable active and meaningful civil society participation in the fight against corruption.
- Governments need to pay more attention to the effective implementation of existing anti-corruption laws and regulations in order to effect change.
- Governments should seek more actively to include civil society representatives in the formulation, implementation, monitoring and evaluation of anti-corruption strategies and action plans. If civil society organizations are to effectively take up this role they need access to information, relevant training and education, and independent funding sources.

PANEL 2: Role of the media in uncovering public and private sector corruption

Overview: The panel dealt with the nexus between corruption and the media. Without a free media, civil society is handicapped as it lacks an important source of information enabling it to engage in public debate and anti-corruption activities. Freedom of the media and freedom of expression are among the basic human rights and are essential components of a democratic society. These principles are among the key OSCE commitments. Through investigative journalism and its findings, the public can learn about corrupt practices and what measures can be taken to bring the perpetrators to justice.

The panel was chaired by **Ambassador Ian Kelly**, Permanent Representative, United States Mission to the OSCE. It focused on the following elements:

- The need for free, independent and open media, including the protection of journalists and their sources, and the need for a supportive attitude on the part of authorities towards investigative journalism uncovering cases of corruption.
- Obligations of governmental actors and the establishment of the kind of legal framework necessary to facilitate the media's watchdog role (including allowing it to investigate large-scale corruption) and dismantling taboo areas around top-level political or business figures (such as the notion that they do not need to declare their assets and incomes and that they enjoy immunity from prosecution or investigation).

- New opportunities and responsibilities arising from social media, the Internet and other trans-national forms of information exchange, and the need for these new information sources to be analyzed, aggregated and fed into the political discourse.

Ms. Dunja Mijatović, Representative on Freedom of the Media, OSCE, said that the media can play an important role in the fight against corruption, but stressed that the primary responsibility for tackling such crimes lies with government (including the law enforcement agencies). However, an important pre-requisite is political will in fighting corruption (including providing the necessary legal environment for a free, independent and open media). She noted that the media constitutes more than a mere watchdog. Investigative journalists can uncover economic or financial crimes and political corruption cases. Such work raises public awareness and may result in political and legal action. However, investigative journalists are often subject to intimidation, defamation, violence and death threats when they expose corruption cases. She therefore underlined the pressing need to strengthen the protection of investigative journalists by, for example, not prosecuting journalists who release confidential information and by repealing defamation, anti-extremism and other restrictive legislation which is not absolutely necessary for state security and which negatively impact the reporting of corruption. Regarding the profession of journalism itself, she underlined the need to introduce good governance and anti-corruption issues into the curricula of journalism schools. She also noted the benefits of involving the OSCE in this work as it is able to address both corruption and media issues.

Mr. Martin Kreutner, EPAC/EACN President and Chair of the International Transition Team, International Anti-Corruption Academy, emphasized the fact that the media plays a key role in fighting corruption and needs to be independent in order to be able to serve as a watchdog. However, factual reporting and opinionated journalism are two separate issues which have to be differentiated. The risk of corruption within the media itself should not be disregarded. The media needs to be subject to checks and balances in order to be accountable, but governments should not undermine its freedom of expression by imposing overly restrictive regulative measures. According to Transparency International's Global Corruption Barometer 2010, EU countries have experienced an increase in corruption in the last three years, notably in the media. The barometer also records a notable increase in corruption in political parties and parliaments/legislatures.

Mr. Roberto Perez-Rocha, Senior Manager, Transparency International, Germany, focused on the need to uphold and defend the fundamental rights of freedom of information and expression (which encompass the protection of journalists and their integrity) in order to enable media to effectively contribute to the uncovering and exposure of corruption and other criminal activities. He made specific reference to Article 13 of the UNCAC, and regretted that there was still a sizeable gap between national and international commitments in this regard and the reality on the ground. He highlighted the dangers facing investigative journalists, given the high number of journalists covering corruption stories who had been threatened or killed. Therefore, he underlined the importance of governments ensuring a safe environment for and the protection of journalists. This included increasing the effectiveness and transparency of the investigation and prosecution of those who threaten or harm journalists. He then gave a positive example of how investigative journalism had

influenced new thinking and brought about change in Costa Rica, where a team of journalists had exposed a case of high-level international bribery to win public contracts. Apart from winning significant financial compensation for the damage caused to society by these actions, a new legal concept of “social damage” was created and is now being studied by lawyers in different parts of the world in order to convert it into a legal resource for international bribery cases; hence contributing to the reduction of such malpractice. He emphasized the need in many countries to strengthen practical co-operation between government, civil society and the media in order to achieve more results in anti-corruption work. He concluded by asking the OSCE to promote more effectively participating States’ commitments on freedom of information and expression and the notion that an independent and pluralistic media are essential to a free and open society and accountable systems of government, and thus to take all necessary measures to counter threats, violence and/or crimes against journalists.

Mr. William Bourdon, President of the SHERPA Association, France, concentrated his remarks on the role of the media and NGO reports in the exposure of a grand corruption case in France. He noted the challenges that NGOs faced in accessing court proceedings. Mr. Bourdon also highlighted the role of the media in fighting corruption in the judiciary. Effective anti-corruption measures require cooperation between civil society, the judiciary and journalists.

Discussion: The ensuing discussion focused on the necessity of protecting journalists investigating corruption cases and creating incentives for the government to increase the legal protection of those who investigate and report on corruption. It was pointed out that journalists take high risks but receive little recognition or acclaim for their efforts, and that this situation has to change. Participants also raised the requirement of standardized anti-corruption strategies and the fact that NGOs need access to technical information in order to be able to disclose corruption cases (for example, in cases involving stolen assets).

Main Suggestions:

- The OSCE should continue to promote OSCE participating States’ commitments on freedom of information and expression and against violence towards journalists. It should also continue to promote the notion that an independent and pluralistic media is essential to a free and open society and accountable systems of government. Such efforts are essential to enabling media to effectively perform watchdog and investigator functions and uncover corruption cases involving politicians and business leaders.
- The OSCE could assist its participating States in providing the framework and environment necessary for incorporating media as one actor in the fight against corruption, thus promoting a more comprehensive approach.
- The media can also be susceptible to corruption and needs to have checks and balances, but governments should take care not to undermine its freedom of expression by introducing laws that are too restrictive.
- Journalism schools can also heighten the awareness of corruption and instill an ethical code of conduct among young journalists by introducing good governance and anti-corruption issues into their curricula.

PANEL 3: Transparency in public procurement – the role of civil society

Overview: It is in the overall national interest to ensure integrity, objectivity and non-corruption in public procurement. Public procurement accounts for an average of between 15 per cent and 25 per cent of countries' GDP. Therefore, it poses a great temptation for some actors, both on the buyers' and the suppliers' side, to manipulate processes for their personal gain. Corruption in this sphere can amount to sizeable sums, and has a particularly devastating effect on public services. Therefore, preventing corruption and the misuse and waste of public resources in this sphere is paramount.

The panel was chaired by **Mr. Alec Dolan**, Head of the Procurement Strategy Group, Department of Justice and Equality, Ireland, and it concentrated on the following thematic areas:

- Regulatory reforms that introduce transparency and accountability and allow for the participation of civil society in government bidding/awards committees and mechanisms for monitoring public procurement contracts.
- E-procurement and public hearings.
- Protection for whistleblowers.

Mr. Alec Dolan focused his introductory remarks on the EU Commission's public procurement principles and Ireland's public procurement practices. According to him, EU procurement directives promoting proportionality, fairness and transparency were not very effective until developments in technology and a cluster of important legal cases (and consequently revised directives) improved Ireland's capacity to implement the directives. In Ireland, there are three innovative strands of regulatory developments promoting transparency and accountability and limiting the capacity for corruption in public procurement: the Remedies Directive on the information required to be provided to suppliers, the establishment of a National Procurement Service and the establishment of the e-tenders website to support e-auctions and e-submissions from across Europe. He added that the electronic tools are also cost-effective. He then stressed the importance of keeping a formal wall between buyers and sellers in order to avoid the possibility of bribery and the provision of inducements to win a contract. Having an adequate whistleblower protection regime in place in respect of public procurement plays an important role in ensuring that there are more safety checks and that the public procurement process is perceived as fair, non-corrupt and cost-conscious.

Ms. Caroline Nicholas, Senior Legal Officer, International Trade Law Division, Office of Legal Affairs (UNCITRAL), concentrated her presentation on recent reforms and initiatives aimed at introducing more transparency in public procurement in the OSCE region. Both the UNCITRAL Model Law on Procurement of Goods, Construction and Services (which assists States in modernizing their laws on procurement procedures) and existing EU directives on procurement serve as examples of important transparency mechanisms. Another important tool is e-procurement, which is becoming more common. However, for civil society to effectively monitor and participate in public hearings, it needs to develop its capacity by building up independent expertise and monitoring resources (in addition to having access to information from state institutions, especially from state procurement agencies and/or agencies dealing with material reserves). To allow civil society to take up a more participatory role, political will is essential. Progress in this regard is being made in many

OSCE countries. For example, in Lithuania, whistleblower protection is being strengthened and in Serbia a new law on free access to information has been passed. However, a common challenge still remains obtaining and accessing reliable data so that civil society can effectively monitor public procurement processes. Moreover, it is important to broaden further co-operation among and between international and national organizations and NGOs.

Ms. Nilli Even Chen Hochwald, Director of the Economic Department, Movement for Quality Government (MQG), Israel, described the work and achievements of her organization. The MQG is the main organization fighting corruption and inadequate administration in Israel and evolved from a civil protest movement. It tries to ensure sound administration and strengthened democratic values. Its modes of action include continuous interaction with decision-makers, state officials and the media. Its work has prompted increased transparency in state contracts and tenders and state budgetary flows. The MQG has also uncovered a grand business corruption case in Israel – the Investment Center case, where public funds were given away unlawfully to factories and businesses, even though they did not fulfill the grant criteria. The successful work of the MQG has resulted in the allocation of increased resources to law enforcement in Israel. The MQG, as a major whistleblower, has not suffered from threats; it operates freely and receives no funding from the state.

Ms. Nuripa Mukanova, Secretary General, Anti-Corruption Business Council, Kyrgyzstan, presented Kyrgyzstan's anti-corruption efforts in the area of public procurement. Kyrgyzstan amended its Public Procurement law in 2009, bringing it into compliance with the requirements of the UNCITRAL model law. The majority of corruption cases in public procurement – perceived as one of the most corrupt sectors in Kyrgyzstan – occur either before or after the award of a procurement contract. This is often a consequence of poor law enforcement and the lack of active civil society participation. The Anti-Corruption Business Council (ABC) works on reducing corruption risks in public procurement by setting up a co-operation model with state agencies to ensure a strong coalition of interests and the consolidation of the efforts of all involved stakeholders. Recent initiatives include amendments to the public procurement law which will, if adopted, introduce e-procurement, e-reverse auctions, the formulation of annual procurement plans and a new multi-stakeholder consultation framework (involving government, civil society and the business sector). In addition to the increased attention being paid to the higher levels of transparency and accountability needed in public procurement, efforts are also underway to develop ethical codes of conduct and "integrity training" for civil servants involved in the procurement process. The ABC has submitted a proposal to the Kyrgyz parliament to set up a council that would be instrumental in policy formulation, parliament monitoring and securing civil society participation. The OSCE Centre in Bishkek is helping to set up the council and to implement a joint anti-corruption action plan.

Ms. Ruta Mrazauskaitė, Project Coordinator, Transparency International, Lithuania, outlined the public procurement situation in Lithuania. Research conducted by Transparency International Lithuania shows that there is no whistleblower culture or specific legislation in Lithuania. Understanding the complexity of corruption in public procurement requires specific knowledge. Citizens demonstrated a passive attitude and fear of reporting corruption, both in the sphere of public procurement and in general. Transparency International has supported the development of whistleblower protection and training for staff in buying (ministries, etc.)

and supplying organizations, empowering them to act as whistleblowers. To achieve more transparency in public procurement, a holistic approach is needed that includes legal regulation, a safe environment for whistleblowers and proper reporting mechanisms.

An additional intervention by **Mr. Demosthenes Chryssikos**, Criminal Justice Officer, Corruption and Economic Crime Branch, UNODC, Vienna, focused on whistleblower protection through the implementation of Article 33 of the UNCAC (which deals with criminalization and law enforcement). He suggested that concrete steps be taken by States Parties of the UN Convention against Corruption, such as the development of an adequate policy framework, reporting guidelines, competent authorities (such as ombudsmen) to whom people could report corruption, and adequate measures that would protect whistleblowers and encourage them to report on corruption. He underlined the need for states, when drawing up whistleblower legislation, to carefully determine the form of protection a reporting person might need, paying particular attention to the criminalization of threats, intimidation and retaliation, potential effects on financial and career prospects, and the need for anonymity. Therefore, states also need to consider creating legal provisions protecting a reporting person against loss of employment or being professionally discriminated against.

Main Suggestions:

To avoid corruption in public procurement, governments need to take a holistic approach that includes the following:

- Introducing new transparency and accountability measures and tools such as e-procurement, e-reverse auctions, annual procurement plans and new multi-stakeholder consultation frameworks that would comprise government authorities and representatives of civil society and the business sector. For example, the new UNCITRAL Model Law on Procurement of Goods, Construction and Services can help governments to modernize their laws on procurement procedures.
- Assisting civil society organizations to develop independent expertise and monitoring resources in order to effectively monitor public procurement processes and participate in public hearings.
- Giving civil society access to relevant information from state institutions (especially from state procurement agencies and/or other similar agencies), and including civil society representatives in the procurement process.
- Providing adequate legal protection for whistleblowers, including a policy framework, necessary institutions and adequate reporting mechanisms to encourage public officials, employees, private persons and media representatives to report suspicions of corruption. (The protection of whistleblowers is also prescribed in article 33 of the UNCAC.)
- Developing ethical codes of conduct and integrity training for civil servants involved in the procurement process.
- Fostering cooperation among and between international and national organizations and NGOs.
- Increasing efforts regarding law enforcement and follow-up mechanisms.

PANEL 4: Transparency and accountability in the public management of natural resources

Overview: Transparency and accountability in the public management of natural resources (particularly in extractive industries) and enhanced civil participation is of vital importance. However, finding appropriate ways to enforce transparency and accountability in the public management of natural resources remains a challenge. So too does developing effective means of fostering collaboration between NGOs, citizens, governments and/or the extractive companies.

Ambassador Ron Van Dartel, Head of Delegation, Permanent Representation of the Netherlands to the OSCE, moderated the panel. It concentrated on the following themes:

- Public reporting on revenues and expenditures; (dis)investments and acquisitions.
- Natural resource security through transparency.
- Transparency and the investment climate.

Mr. Daniel Simons, Legal Counsel, Greenpeace International, Netherlands, focused on NGOs' use of access to information (ATI) laws to hold public authorities accountable for poor resource management and to discourage unsustainable investments. NGOs have, for example, used these laws to generate pressure for reform in the case of over-fishing in the Atlantic and the possible risks to stability and the environment of an "oil rush" in the Arctic sea. Requesting access to documentation can be an important way for NGOs to get to know what is being planned and what is happening. Mr. Simons viewed Article 13 of UNCAC as a positive provision but emphasized that States Parties to the Convention would need to provide further guidance on how to ensure the increased participation of civil society, NGOs and community-based groups in the fight against corruption, including ensuring that civil society, NGOs and community-based groups have effective access to information and are able to contribute to decision-making processes. The OSCE, as an international player in the field of ATI, could take a lead in this regard, as the vast majority of its participating States have adopted national ATI laws, and are signatories to ATI treaties such as the Aarhus Convention and the Council of Europe Convention on Access to Official Documents. These treaties could provide a blueprint for effective access to information. He also highlighted challenges related to slowness or a refusal to disclose information and the need for an effective appeals mechanism.

Ms. Janar Jandosova, Director of the Sange Research Centre, Kazakhstan, outlined the manifestation of corruption in extractive countries, where "resource windfalls" sometimes encourage governments to engage in "rent-seeking". Democratization can be a powerful tool in reducing corruption in resource-rich countries. The Extractive Industries Transparency Initiative (EITI) can serve as one important tool for overseeing oil revenues. Another is the role of civil society – it can demand information on government decisions (including contract disclosures), draw the attention of the media to cases of bribery and the embezzlement of public resources and educate the public on the negative impacts of large-scale corruption on other public programmes (e.g. education, health care and infrastructure) and sustainable development.

Mr. Brendan O'Donnell, Senior Campaigner/Oil Campaign, Global Witness, UK, discussed how citizens can benefit from natural resource wealth. To avoid the temptation to engage in corruption, governments should fully disclose all relevant fiscal information by observing budget transparency. This also helps to maintain public trust in the government. He then presented the new mandatory regulation in the United States, namely the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, which obliges US-listed companies that are engaged in natural resource extraction anywhere in the world to report amounts paid to governments in their annual filings to the Securities and Exchange Commission. This new kind of disclosure requirement is now also taking hold elsewhere (for example, at the Hong Kong Stock Exchange). Furthermore, Mr. O'Donnell stressed that it was important for countries to participate in the EITI's voluntary process and that the EITI be expanded to cover more countries.

Discussion: The discussion centered on the challenges arising from multinational companies' activities in the extractive industry sector. Participants underlined the importance of shared responsibility when evaluating the performance of such companies and governments in this sector. Many participants noted that the OCEEA Roundtable served as an excellent platform for different stakeholders to exchange views on these issues.

Main Suggestions:

- States Parties to the UNCAC should provide further guidance on the implementation of Article 13 to ensure the increased participation of civil society, NGOs and community-based groups in the fight against corruption. This includes ensuring that civil society, NGOs and community-based groups have effective access to information and are able to contribute to decision-making processes. This should be made part of the compliance review process.
- The OSCE could take a lead in promoting appropriate access to information laws and effective appeals mechanisms aimed at overcoming slowness/refusal to disclose information, as many of its participating States are signatories to international treaties on access to information, such as the Aarhus Convention and the Council of Europe Convention on Access to Official Documents. Such treaties could serve as blueprints for access to information laws.
- The Extractive Industries Transparency Initiative can serve as an important tool for increasing oversight and transparency in the extractive industries.
- The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act could serve as a good practice model for other countries.

CONCLUDING SESSION

In his closing remarks, **Mr. Goran Svilanović**, Co-ordinator of OSCE Economic and Environmental Activities, gave a short summary of the main findings, areas of agreement and suggestions arising from the panel discussions.

Mr. Svilanović concluded the meeting by saying that the outcomes of the Roundtable could serve to build more effective and inclusive partnerships between governments, civil society, media and the private sector in the OSCE participating States and Partners for Co-operation countries aimed at improving governance and eliminating corruption. The OCEEA could contribute by providing assistance through regional and national initiatives to strengthen NGOs' capacity to contribute to the lawmaking, monitoring and evaluation processes, and by promoting increased transparency in the financial management of public procurement and natural resources. However, to be successful in its efforts, the OCEEA needs to work closely with its participating States, other OSCE dimensions and Field Operations, as well as with external NGOs and international organizations.

ANNEX

ANNEX: AGENDA



Organization for Security and Co-operation in Europe

Office of the Co-ordinator of OSCE
Economic and Environmental Activities

Vienna, 4 July 2011

OCEEA Roundtable

“On the road to Marrakesh: the role of civil society in fighting corruption”

5 July 2011, Vienna, Hofburg/Bibliotheksaal

Background

Weak governance, ineffective institutions, lack of rule of law as well as lack of transparency and accountability provide an ample environment for corruption. The World Bank estimates that more than 1 trillion USD are paid in bribes each year.

Corruption affects the ability of citizens to access public institutions and services on equal grounds, and to participate in democratic governance. It also distorts the business environment, weakens public service delivery, and negatively impacts on economic growth and sustainable development. When the negative effects of corruption are compounded over time, they may lead to social instability and contribute to conflict as recently witnessed in Northern Africa and the Middle East.

However, corruption is a complex and difficult-to-tackle, national and transnational phenomenon that requires a comprehensive and co-operative approach, which does not only give the governments the responsibility for its prevention and eradication, but also strongly needs to include the civil society and the private sector for the work to be effective.

The civil society including media can play an important role in combating corruption. Active engagement of civil society, if the proper legal framework is in place, can bring in additional perspectives to legislative, judicial and institutional reforms under consideration. It can also help in monitoring governments' actions and decisions, for example in areas such as privatization processes, use of strategic natural resources, procurement procedures, construction contracts and public expenditure. Furthermore, it can be an effective vehicle to create public awareness and bring about more transparency.

However, for civil society to realize its full potential it requires that there are appropriate legal and regulatory frameworks in place, including basic rights such as the freedom of expression, association, establishment of non-governmental entities and of mobilizing funding. Furthermore, it requires that civil society has access to information and knowledge and is included as a serious partner in the overall efforts to combat corruption. But it also places responsibilities on civil society organizations, requiring that they are open to a high degree of public scrutiny to ensure that they uphold the same accountability standards and level of competence as people in public office or private companies.

A free and independent media ranks alongside an independent judiciary as counter-forces to corruption in public life. It plays an important role in uncovering and exposing fraud, corruption and other criminal activities. Without such a source, civil society is crippled as it lacks an important

information channel. As many journalists and media outlets that dare expose large scale corruption, often face severe consequences from threats to their lives to closure of their business, it is essential that governments provide the necessary legal guarantees of freedom of expression and protection if they are serious about uprooting corruption. Recent technological advances (like Internet and social networks) have introduced new communication means for individuals and civil society to disseminate and exchange information which is making it increasingly more difficult for corrupt actors to go on unnoticed and with impunity.

Awareness of the damaging effects of corruption on sustainable economic development and social stability has grown over the years, which is visible in a number of national, regional and international anti-corruption initiatives. A significant expression of commitment by states to fight corruption was the adoption on international level of the United Nations Convention against Corruption (UNCAC) in 2003 and a resolution in 2009, whereby the State Parties to the Convention agreed to establish a Review Mechanism for the implementation of the Convention. The role of the civil society in fighting corruption is also acknowledged by the Convention in its Article 13.

In the OSCE context, participating States have also given the Organization a mandate to promote good governance and combat corruption and money laundering. In particular the OSCE Ministerial Council Decision No. 11/04 on Combating Corruption tasks the OCEEA to upon request of the OSCE participating States provide support to the implementation of the UNCAC.

The Office of the Co-ordinator of OSCE Economic and Environmental Activities will organize a Roundtable on 5 July in Vienna to further raise awareness of the importance of strengthening the role of the civil society in the fight against corruption including money laundering. At the Roundtable the following issues will be discussed:

- Building a well informed and engaged civil society in the fight against corruption
- Role of the media in uncovering public and private sector corruption
- Transparency in public procurement - role of civil society
- Transparency and accountability in public management of natural resources

Participants

The Roundtable is intended for OSCE Delegations, OSCE Partners for Co-operation and representatives of relevant public institutions, civil society organizations and private sector as well as International Organizations.

The Roundtable is expected to facilitate the exchange of innovative practices and models between and among OSCE participating States and Partners for Co-operation. The discussions should help identify advances as well as challenges and needed actions. It should also assist OSCE participating States and Partners for Co-operation in their preparation for the civil society segment taking place in connection with the 4th Conference of the States Parties to the UNCAC in Marrakech from 24 to 28 October 2011.

The Roundtable is made possible thanks to the voluntary contributions provided by the United States, France, Morocco, Switzerland, Austria and Lithuania.

AGENDA

09.00 – 09.30

Opening

- **Mr. Andrius Krivas**, Minister Counsellor, Deputy Head of Mission, Lithuanian 2011 OSCE Chairmanship
- **Mr. Goran Svilanović**, Co-ordinator of OSCE Economic and Environmental Activities
- **Ambassador Omar Zniber**, Permanent Mission of the Kingdom of Morocco to Vienna
- **Ms. Jo Dedeyne-Amann**, Chief, Implementation Support Section, Corruption and Economic Crime Section, UNODC

09.30 – 11.00

Panel 1: Building a well informed and engaged civil society in the fight against corruption

- Necessary legal and regulatory frameworks affording civil society the basic rights of freedom of expression, association, establishment of non-governmental entities and of funds mobilization
- Access to seeking, receiving, publishing and disseminating information about corruption at national, regional and local levels
- Understanding the links between economic corruption and political corruption, and the role of civil society
- Availability of anti-corruption training and education opportunities

Moderator: **Mr. Goran Svilanović**, Co-ordinator of OSCE Economic and Environmental Activities

Speakers: **Prof. Azeddine Akesbi**, Member of the National Council of "Transparency Morocco", Morocco
Mr. Asso Prii, Executive Director, Transparency International, Estonia
Mr. Thomas Vennen, Head, Democratization Department, Office for Democratic Institutions and Human Rights, OSCE
Ms. Cristina Ana, Executive Director, Romanian Academic Society

Discussion

11.00 – 11.20

Coffee/Tea break

11.20 – 12.50

Panel 2: Role of the media in uncovering public and private sector corruption

- The need for free, independent and open media, including the protection of journalists and their sources and a supportive attitude of authorities to investigative journalism are a prerequisite for media's role in uncovering corrupt practices
- Obligations of governmental actors and the necessary (legal) framework needs to be established in order to facilitate media's watchdog role, including allowing for investigating large-scale corruption and dismantling taboo areas around top-level political or business figures
- New opportunities and responsibilities arise with social media, the Internet and other trans-national forms of information exchange. Such data exchange needs to be analyzed, aggregated and fed into the political discourse.

Moderator: **Ambassador Ian Kelly**, Permanent Representative, United States Mission to the OSCE

Speakers: **Ms. Dunja Mijatović**, Representative on Freedom of the Media, OSCE
Mr. Martin Kreutner, EPAC/EACN President and Chair of the International Transition Team of the International Anti-Corruption Academy
Mr. Roberto Perez-Rocha, Senior Manager, Transparency International, Germany
Mr. William Bourdon, President of SHERPA Association, France

Discussion

12.50 – 14.00 **Lunch break**

14.00 – 15.30 **Panel 3: Transparency in public procurement - role of civil society**

- Regulatory reforms that introduce transparency and accountability and allow for civil society participation in government bidding/awards committees and monitoring mechanisms of public procurement contracts
- E-procurement and public hearings
- Whistleblowers' protection

Moderator: **Mr. Alec Dolan**, Head of the Procurement Strategy Group, Department of Justice and Equality, Ireland

Speakers: **Ms. Caroline Nicholas**, Senior Legal Officer, United Nations International Trade Law Division, Office of Legal Affairs (UNCITRAL)
Ms. Nilli Even Chen Hochwald, Director of the Economic Department, The Movement for Quality Government, Israel
Ms. Nuripa Mukanova, Secretary General, Anti-Corruption Business Council, Kyrgyzstan
Ms. Ruta Mrazauskaitė, Project Coordinator, Transparency International, Lithuania

Discussion

15.30 – 15.50 **Coffee/Tea break**

15.50 – 17.10 **Panel 4: Transparency and accountability in public management of natural resources**

- Public reporting on revenues and expenditures; (dis)investments and acquisitions
- Natural resource security through transparency
- Transparency and the investment climate

Moderator: **Ambassador Ron Van Dartel**, Head of Delegation, Permanent Representation of the Netherlands to the OSCE

Speakers: **Mr. Daniel Simons**, Legal Counsel, Greenpeace International, Netherlands
Ms. Janar Jandosova, Director of Sange Research Centre, Kazakhstan
Mr. Brendan O'Donnell, Senior Campaigner/Oil Campaign, Global Witness, UK

Discussion

17.10 – 17.20 **Summing up and closing**

Mr. Goran Svilanović, Co-ordinator of OSCE Economic and Environmental Activities

This report was prepared by the Office of the Co-ordinator of OSCE Economic and Environmental Activities in August 2011.

You can also access it online at www.osce.org/eea.

■ The Organization for Security and Co-operation in Europe works for **stability, prosperity and democracy** in 56 States through political dialogue about shared values and through practical work that makes a lasting difference.

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